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STATUTORY INSTRUMENTS

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**1996 No. 1919**

**The Employment Rights (Northern Ireland) Order 1996**

PART XI

UNFAIR DISMISSAL

CHAPTER III

SUPPLEMENTARY

**Death of employer or employee**

**168.**—(1) Where—

- (a) an employer has given notice to an employee to terminate his contract of employment, and
- (b) before that termination the employee or the employer dies,

this Part applies as if the contract had been duly terminated by the employer by notice expiring on the date of the death.

(2) Where—

- (a) an employee's contract of employment has been terminated,
- (b) by virtue of paragraph (2) or (4) of Article 129 a date later than the effective date of termination as defined in paragraph (1) of that Article is to be treated for certain purposes as the effective date of termination, and
- (c) the employer or the employee dies before that date,

paragraph (2) or (4) of Article 129 applies as if the notice referred to in that paragraph as required by Article 118 expired on the date of the death.

(3) Where an employee has died, Articles 147 to 150 do not apply; and, accordingly, if the industrial tribunal finds that the grounds of the complaint are well-founded, the case shall be treated as falling within Article 146(4) as a case in which no order is made under Article 147.

(4) Paragraph (3) does not prejudice an order for reinstatement or re-engagement made before the employee's death.

(5) Where an order for reinstatement or re-engagement has been made and the employee dies before the order is complied with—

- (a) if the employer has before the death refused to reinstate or re-engage the employee in accordance with the order, paragraphs (3) to (6) of Article 151 apply, and an award shall be made under paragraph (3)(b) of that Article, unless the employer satisfies the tribunal that it was not practicable at the time of the refusal to comply with the order, and
- (b) if there has been no such refusal, paragraphs (1) and (2) of that Article apply if the employer fails to comply with any ancillary terms of the order which remain capable of fulfilment after the employee's death as they would apply to such a failure to comply fully with the terms of an order where the employee had been reinstated or re-engaged.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Rights (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

## Awards against third parties

**169.**—(1) If in proceedings before an industrial tribunal on a complaint of unfair dismissal either the employer or the complainant claims—

- (a) that the employer was induced to dismiss the complainant by pressure which a trade union or other person exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so, and
- (b) that the pressure was exercised because the complainant was not a member of any trade union or of a particular trade union or of one of a number of particular trade unions,

the employer or the complainant may request the tribunal to direct that the person who he claims exercised the pressure be joined as a party to the proceedings.

(2) The request shall be granted if it is made before the hearing of the complaint begins, but may be refused after that time; and no such request may be made after the tribunal has made an award of compensation for unfair dismissal or an order under Article 147.

(3) Where a person has been so joined as a party to the proceedings and the tribunal—

- (a) makes an award of compensation for unfair dismissal, and
- (b) finds that the claim mentioned in paragraph (1) is well-founded,

the tribunal may order that the compensation shall be paid by that person instead of the employer, or partly by that person and partly by the employer, as the tribunal may consider just and equitable.

## [<sup>F1</sup>Application to police

**169A.**—(1) For the purposes of Article 132, and of the other provisions of this Part so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of Article 132, the holding, otherwise than under a contract of employment, of the office of constable shall be treated as employment by the relevant officer under a contract of employment.

(2) In this Article “the relevant officer”

[ in relation to a police officer, means the Chief Constable;]

<sup>F2</sup>(a)

<sup>F3</sup>(b) in relation to a person holding office under section 9(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service) means the Director General of the National Criminal Intelligence Service; and

(c) in relation to any other person holding the office of constable, means the person who has the direction and control of the body of constables in question.]

**F1** 1997 NI 16

**F2** 2000 c. 32

**F3** prosp. rep. by 2005 c. 15

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