

Status: Point in time view as at 01/04/1991.

*Changes to legislation: There are currently no known outstanding effects for the
Employment Protection (Consolidation) Act 1978, Part II. (See end of Document for details)*

SCHEDULES

SCHEDULE 12

DEATH OF EMPLOYEE OR EMPLOYER

Modifications etc. (not altering text)

- C1** Sch. 12 extended (E.W.) (3.1.1995) by 1994 c. 40, ss. 20, 82(2), **Sch. 8 para. 22**
Sch. 12 extended (*prosp.*) by 1995 c. 26, ss. **46(4)(c)**, 180(1) (with s. 121(5))
Sch. 12 extended (E.W.) (26.8.1994) by 1994 c. 20, s. 4, **Sch. 4 para. 22**; S.I. 1994/1841, **art. 2**

PART II

UNFAIR DISMISSAL

Introductory

- 7 In this Part of this Schedule “the unfair dismissal provisions” means Part V of this Act and this Schedule.

Death during notice period

- 8 Where an employer has given notice to an employee to terminate his contract of employment and before that termination the employee or the employer dies, the unfair dismissal provisions shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the death.

- [^{F19} Where—
- (a) the employee’s contract of employment has been terminated; and
 - (b) by virtue of subsection (5) or (6) of section 55 a date later than the effective date of termination as defined in subsection (4) of that section is to be treated as the effective date of termination for the purposes of certain of the unfair dismissal provisions; and
 - (c) before that later date the employer or the employee dies;
- subsection (5) or, as the case may be, (6) shall have effect as if the notice referred to in that section as required by section 49 would have expired on the date of the death.]

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Textual Amendments

- F1** Para. 9 substituted by Employment Act 1982 (c. 46, SIF 43:5), **Sch. 3 para. 28** with saving in S.I. 1982/1656, **Sch. 2**

Remedies for unfair dismissal

- 10 Where an employee has died, then, unless an order for reinstatement or re-engagement has already been made, section 69 shall 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 section 68(2) as a case in which no order is made under section 69.
- 11 If 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, section 71(2) and (3) shall apply and an award shall be made under section 71(2)(b) unless the employer satisfies the tribunal that it was not practicable at the time of the refusal to comply with the order;
 - (b) if there has been no such refusal, section 71(1) shall 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 it would apply to such a failure to comply fully with the terms of an order where the employee had been reinstated or re-engaged.

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