

SCHEDULES

SCHEDULE 12

DEATH OF EMPLOYEE OR EMPLOYER

PART II

UNFAIR DISMISSAL

Introductory

- 8 In this Part of this Schedule " the unfair dismissal provisions " means so much of this Act (including this Schedule) and -the 1974 Act as relates to unfair dismissal.

Death during notice period

- 9 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.

- 10 Where the employee's contract of employment has been terminated by the employer and by virtue of paragraph 5(6) of Schedule 1 to the 1974 Act a date later than the effective date of termination as defined by sub-paragraph (5) of that paragraph is to be treated as the effective date of termination for the purposes of certain of the unfair dismissal provisions, and before that later date the employee or the employer dies, the said sub-paragraph (b) shall have effect as if the notice referred to in that sub-paragraph as required to be given by the employer would have expired on the death.

Remedies for unfair dismissal

- 11 Where an employee has died, then, unless an order for reinstatement or re-engagement has already been made, the unfair dismissal provisions relating to reinstatement and re-engagement 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 72(5) above as a case in which no order is made under section 71 above.

- 12 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 72(2) and (3) above shall apply and an award shall be made under section 72(2)(b) above unless the employer satisfies the tribunal that it was not practicable at the time of the refusal to comply with the order;

Status: This is the original version (as it was originally enacted).

- (b) if there has been no such refusal, section 72(1) above 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.