



# Employment Protection (Consolidation) Act 1978

## 1978 CHAPTER 44

### PART V

#### UNFAIR DISMISSAL

##### *Meaning of unfair dismissal*

#### **[<sup>F1</sup>56A Exclusion of s. 56 in certain cases.**

- (1) Section 56 shall not apply in relation to an employee if—
  - (a) immediately before [<sup>F2</sup>the end of her maternity leave period (or, if it ends by reason of dismissal, immediately before the dismissal)] the number of employees employed by her employer, added to the number employed by any associated employer of his, did not exceed five, and
  - (b) it is not reasonably practicable for the employer (who may be the same employer or a successor of his) to permit her to return to work in accordance with [<sup>F2</sup>section 39] or for him or an associated employer to offer her employment under a contract of employment satisfying the conditions specified in subsection (3).
- (2) Section 56 shall not apply in relation to an employee if—
  - (a) it is not reasonably practicable for a reason other than redundancy for the employer (who may be the same employer or a successor of his) to permit her to return to work in accordance with [<sup>F2</sup>section 39], and
  - (b) he or an associated employer offers her employment under a contract of employment satisfying the conditions specified in subsection (3), and
  - (c) she accepts or unreasonably refuses that offer.
- (3) the conditions referred to in subsections (1) and (2) are—

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*Status: Point in time view as at 03/07/1994. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Section 56A. (See end of Document for details)*

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- (a) that the work to be done under the contract is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances; and
  - (b) that the provisions of the contract as to the capacity and place in which she is to be employed and as to the other terms and conditions of her employment are not substantially less favourable to her than if she had returned to work in accordance with [<sup>F2</sup>section 39].
- (4) Where on complaint of unfair dismissal any question arises as to whether the operation of section 56 is excluded by subsection (1) or (2), it shall be for the employer to show that the provisions of that subsection were satisfied in relation to the complainant.]

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#### **Textual Amendments**

- F1** S. 56A inserted with saving by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), **s. 12** and [S.I. 1980/1170](#), **art. 4, Sch. 3**
- F2** Words in [s. 56A\(1\)\(a\)\(b\)\(2\)\(a\)\(3\)\(b\)](#) substituted (10.6.1994) by [1993 c. 19, s. 49\(2\)](#), **Sch. 8 para. 13** (a)(b); [S.I. 1994/1365](#), **art. 2, Sch.**

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#### **Modifications etc. (not altering text)**

- C1** [S. 56A\(1\)](#) excluded by [S.I. 1981/847](#), **art. 2(1)**

**Status:**

Point in time view as at 03/07/1994. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Section 56A.