



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART V

UNFAIR DISMISSAL

Meaning of unfair dismissal

57 General provisions relating to fairness of dismissal

- (1) In determining for the purposes of this Part whether the dismissal of an employee was fair or unfair, it shall be for the employer to show—
 - (a) what was the reason (or, if there was more than one, the principal reason) for the dismissal, and
 - (b) that it was a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.
- (2) In subsection (1)(b) the reference to a reason falling within this subsection is a reference to a reason which—
 - (a) related to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do, or
 - (b) related to the conduct of the employee, or
 - (c) was that the employee was redundant, or
 - (d) was that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.
- (3) Where the employer has fulfilled the requirements of subsection (1), then, subject to sections 58 to 62, the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether the employer can satisfy the tribunal that in the circumstances (having regard to equity

Status: This is the original version (as it was originally enacted).

and the substantial merits of the case) he acted reasonably in treating it as a sufficient reason for dismissing the employee.

(4) In this section, in relation to an employee.—

- (a) " capability " means capability assessed by reference to skill, aptitude, health or any other physical or mental quality;
- (b) " qualifications " means any degree, diploma or other academic, technical or professional qualification relevant to the position which the employee held.