



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART X

#### UNFAIR DISMISSAL

#### CHAPTER I

##### RIGHT NOT TO BE UNFAIRLY DISMISSED

##### *Fairness*

### 105 Redundancy

- (1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if—
  - (a) the reason (or, if more than one, the principal reason) for the dismissal is that the employee was redundant,
  - (b) it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer, and
  - (c) it is shown that any of subsections (2) to (7) applies.
- (2) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in any of paragraphs (a) to (d) of subsection (1) of section 99 (read with subsection (2) of that section) or subsection (3) of that section (and any requirements of the paragraph, or subsection, not relating to the reason are satisfied).
- (3) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in subsection (1) of section 100 (read with subsections (2) and (3) of that section).

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*Status: This is the original version (as it was originally enacted).*

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- (4) This subsection applies if either—
- (a) the employee was a protected shop worker or an opted-out shop worker, or a protected betting worker or an opted-out betting worker, and the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in subsection (1) of section 101 (read with subsection (2) of that section), or
  - (b) the employee was a shop worker or a betting worker and the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in subsection (3) of that section.
- (5) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in section 102(1).
- (6) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in section 103.
- (7) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in subsection (1) of section 104 (read with subsections (2) and (3) of that section).
- (8) For the purposes of section 36(2)(b) or 41(1)(b), the appropriate date in relation to this section is the effective date of termination.
- (9) In this Part “redundancy case” means a case where paragraphs (a) and (b) of subsection (1) of this section are satisfied.