

Bumping This is where an individual's job continues but there is a reduction somewhere else in the organisation for the same number of people to carry out the work.

Certification Officer The official organisation that holds the list of independent trade unions and adjudicates as to their independence or not.

Cessation of work Work that has permanently or temporarily ceased to exist.

Collective agreement Any agreement or arrangement made by or on behalf of one or more trade unions and one or more employers, or employers' associations, which relates to one or more of the matters mentioned in **s 178(2) TULRCA**.

Compulsory maternity leave This is not to be less than two weeks in length, commencing with the day on which childbirth occurs, and it is included in the maternity leave period.

Constructive dismissal This is where an employee terminates the contract with or without notice in circumstances such that he or she is contractually entitled to terminate it without notice by reason of the employer's conduct.

Contract of employment A contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.

Direct discrimination When a person is treated, on a forbidden ground, less favourably than a comparable person is or would be treated by the employer.

Disability-related discrimination When an employer discriminates against a disabled person and when it is for a reason related to his or her disability; the treatment is less favourable than the treatment given, or that would have been given, to others to whom the reason does not or would not apply, and the employer cannot show that the treatment in question can be justified.

Economic entity An organised grouping of resources that has the objective of pursuing an economic activity, whether or not that activity is central or ancillary (**reg 3(2) TUPE**).

Employee An individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment: **s 230 ERA**.

Employee shareholder A person who receives a minimum of £2,000 paid up shares in a company but relinquishes certain statutory rights including a remedy for being unfairly dismissed.

Expected week of childbirth The week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur.

Express terms Those terms that are expressly stated to form part of the contract. They may be oral or in writing.

Flexible working This concerns the right of some employees to request to vary their hours of work for the purposes of caring for certain dependants. If the employer grants the variation, that change is permanent.

Gender reassignment This is a process that is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process.

Harassment This is said to occur when a person engages in unwanted conduct that has the purpose or effect of violating that other person's dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment.

Implied term in fact Where there is a gap in the contract of employment it is possible to imply a term if a court or tribunal can be persuaded that it is necessary to do so in the circumstances of the particular case.

Implied terms in law These are terms that are regarded by the courts and tribunals as being inherent in all contracts of employment.

Independent trade union A trade union that is judged not to be under the domination or control of an employer or a group of employers and is not liable to interference by an employer, arising out of the provision of financial or material support or by any other means whatsoever, tending towards such control.

Indirect discrimination (sex) A person discriminates against a woman if he applies to her a provision, criterion, or practice which he applies or would apply equally to a man, but which is such that it would be to the detriment of a considerably larger proportion of women than of men, and which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and which is to her detriment. Justification involves the employer proving that she used 'proportionate means of achieving a legitimate aim'.

Instant dismissal This has no legal definition but refers to a dismissal without investigation or enquiry.

Limited-term contract A contract that terminates by virtue of a limiting event such as the end of a war.

Limiting event There are three categories: the expiry of a fixed term; the performance of a specific task; or the occurrence of an event or failure of an event to occur.

Maternity leave A statutory period of leave to which women who are pregnant or who have recently given birth are entitled.

Night-time A period that is not less than seven hours in length and includes the hours of midnight to 5 am.

Night-worker A worker who, as a normal course, works at least three hours of working time during 'night-time' or is a worker who is likely, during 'night-time', to work a certain proportion of his or her annual working time as defined by a collective or workforce agreement.

Obligatory period The minimum period that the employer is required to give by virtue of **s 86(1) ERA** or the contract of employment.

Occupational requirement There are certain situations, when it is an essential part of the nature of the job, where it is permissible to use sex, racial origin, religious or other belief, or sexual orientation as a criterion in the selection of an applicant or in providing access to promotion and training.

Parental leave Time off associated with a child of less than 18 years of age that entitles the employee to a period of 18 weeks' unpaid leave per child. This must not be confused with shared parental leave (see chapter 6).

Paternity leave This is a period of leave given for the purpose of caring for a child or supporting the child's mother. This leave must be taken between the date of the birth and a date 56 days thereafter.

Protected characteristic The **Equality Act 2010** lists nine protected characteristics. These are the characteristics, such as sex or race, in relation to which discrimination is unlawful.

Reasonable adjustments Where the disabled person is placed at a substantial disadvantage compared to persons who are not disabled because of a provision, criterion, or practice applied by or on behalf of an employer, or any physical feature of premises occupied by an employer, it is the duty of the employer to take reasonable steps, in all the circumstances of the case, to prevent the provision, criterion, practice, or feature from having that effect.

Recognition Recognition in relation to a trade union means the recognition of the union by an employer, or two or more associated employers, to any extent for the purpose of collective bargaining. It may be achieved voluntarily or through statute.

Relevant agreement A workforce agreement, a provision of a collective agreement that forms part of a contract between the worker and the employer, or any other agreement in writing that is legally enforceable as between employer and worker.

Relevant insolvency proceedings Insolvency proceedings that have been opened in relation to the transferor not with a view to the liquidation of the assets of the transferor and that are under the supervision of an insolvency practitioner.

Restrictive covenant An express clause in the contract of employment that restrains competition by employees when they leave.

Service provision change A transfer that takes place when an undertaking first contracts out some part of its activities to a contractor, when such a contract is taken over by another contractor, and when the client takes back the activity in-house from a contractor.

Service-related pay and benefits This may include salary scales, holiday, etc, all or some of which may be related to length of service.

Summary dismissal This occurs where the employer terminates the contract of employment without notice.

Trade dispute A dispute between workers and their employer that relates wholly or mainly to terms and conditions of employment, engagement, or non-engagement or termination or suspension of employment; allocation of work or the duties of employment as between workers or groups of workers; matters of discipline; membership or non-membership of a trade union; facilities for officials of trade unions; and the machinery for negotiation or consultation about these matters.

Transferee employer The employer to whom staff are transferred in a **TUPE** transfer.

Transferor employer The employer from whom staff are transferred in a TUPE transfer.

Union official Someone who is an officer of the union or branch of it, or someone who is elected or appointed in accordance with the rules to be a representative of its members or some of them.

Vicarious liability Employers are liable to third parties for the torts committed by employees in the course of their employment. For a special application of this doctrine in discrimination law, see chapter 5.

Victimisation When a person is treated less favourably than other persons are treated or would be treated in the particular circumstances, and the reason that the person is victimised is because that person has brought proceedings or exercised rights under any of the relevant Acts.

Wages Any sum payable to the worker in connection with his employment (**s 27(1) ERA**).

Worker An individual who has entered into, or works under, a contract of employment or 'any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual': see **s 230 ERA**.

Workforce agreement An agreement is a workforce agreement if it is in writing; it has effect for a specified period not exceeding five years; it applies to all the relevant members of a workforce or all the relevant members who belong to a particular group; it is signed by the representatives of the group; copies of the agreement are readily available for reading prior to the signing.

Working time Any period during which the worker is working, at the employer's disposal and carrying out the worker's activity or duties; any period during which the worker is receiving relevant training; any additional period that is to be treated as working time for the purpose of the **WTR** under a relevant agreement.

Young worker An individual who is at least 15 years of age, over the compulsory school leaving age, and who has not yet attained the age of 18 years.