

Preface

This book was first written because Thomas Kibling and I were constantly asked to recommend a book which covered the wide range of employment problems in a clear and practical form. There was no obvious book to recommend and we wrote this book to fill the gap. In particular, we aimed to provide lay advisers, trade union officials and lawyers with a handbook which is a real support in identifying the relevant law and issues of evidence and which can be used as a self-contained guide while running unfair dismissal and discrimination cases. The book therefore devotes as much space to evidence, precedents and checklists as to setting out the law. Due to this practical emphasis, further research may be necessary on the law itself in new, developing, specialist or complex areas.

For a clear overview of the contents and lay-out of the book, it is best to look at the contents list on pages xi-xvi. Employment law is a large subject, which has simply exploded over the years, especially as a result of European influence. The book now is almost twice as long as the first edition. It is not possible to cover the whole of employment law and all the rules and permutations in a small textbook. Inevitably there are some omissions and certain topics have been covered in more detail than others. I have tried to deal most thoroughly with subjects which frequently come up for advisers of low-paid workers. Because of its complexity, discrimination law has been treated in the greatest detail. At certain points in the book, I express views on points of law which are untested or could be challenged. I am happy to hear other arguments and I may be proved wrong – it's important always to keep an open mind.

Since 2010, a sequence of Conservative-led governments have systematically cut back on employment rights, as well as making radical changes to the tribunal system by removing non-legal members from unfair dismissal claims, introducing pre-claim conciliation and most devastatingly, charging fees. In July 2017, the Supreme Court declared the fees order unlawful under both v

domestic and EU law because it had the effect of preventing access to justice.

An area of much uncertainty for the future is the effect of Britain leaving the European Union. The government says that the Repeal Bill will convert rights contained in the EU Treaty and directives into UK law and that where rights have been extended by judgments of the Court of Justice of the European Union (CJEU), those rights will continue to be protected in the UK after Brexit, with those judgments having the same precedent status as the Supreme Court's own judgments. This leaves open the question of future CJEU decisions on the meaning of EU derived rights, which presumably will not have any precedent status. It also means that in future such rights will be subject to political change by any majority party in parliament without the bulwark of Europe as a safeguard.

Meanwhile in the UK, the issue of basic employment rights (minimum pay and holidays) for workers in the so-called gig economy has attracted a great deal of media attention, with test cases regarding the employment status of Uber taxi drivers, couriers and others. Increasing numbers working on zero hours contracts are also a particularly vulnerable group.

Some employment rights are available only to employees working under a contract of employment, others are available to workers generally. In early editions, we used the generic word 'worker'. Since the fifth edition, I have tried to use the appropriate terminology when dealing with each right. However, this can become awkward in some contexts and it is most important to check the start of each section to see who is covered. Unless specified, where the word 'worker' is used, it is not confined to the definition of 'worker' followed in certain legislation.

The internet is now an invaluable access source for reports, guidance and Codes. As these are often badly sign-posted and hard to find on the host websites, I have tried to give the exact web addresses. Unfortunately these tend to be long and cumbersome and very frequently change. If you find they are out of date, try looking through the sitemap. The internal search engines rarely help, but it sometimes works if you type in the full name of a report. Surprisingly often, the best bet is to type the name of what you want into Google. A fair amount of information is available on the GOV.UK site, although in a simplified form.

Regarding cases and statutory references in the footnotes, 'SI' stands for 'statutory instrument' and can be accessed on the legislation.gov.uk website. Cases with the 'UKEAT' reference can