CONTENTS

List of figures x
Abbreviations xi
List of cases cited xiii
Author biographies xxxix
Preface to the 15th edition xl
CIPD qualifications map xli
Walkthrough of textbook features and online resources xliv

O1 The sources and institutions of employment law 1

Chapter overview 1

- 1.1 Civil and criminal law 2
- 1.2 Legislation and Codes of Practice 2
- 1.3 Common law and the court hierarchy 3
- 1.4 European Union law 5
- 1.5 The key institutions 7

Notes 13

O2 Formation of the contract of employment (1): the sources of terms 16

Chapter overview 16

- 2.1 Contracts of employment 17
- 2.2 Express terms and statutory statements 18
- 2.3 Collective agreements 24
- 2.4 Workforce agreements 26
- 2.5 Works rules and policy guidance 27
- 2.6 Custom and practice 28
- 2.7 Terms implied by statute and regulations 29
- 2.8 Terms implied by the common law 29

Notes 30

O3 Formation of the contract of employment (2): implied terms of law 33

Chapter overview 33

- 3.1 Duties of the employer 34
- 3.2 Duties of the employee 42
- 3.3 Public interest disclosures 46
- 3.4 The law governing inventions and copyright 49

Notes 51

04 Recruitment and selection 55

Chapter overview 55

- 4.1 Employment status 56
- 4.2 Employee shareholders 59
- 4.3 Outsourcing 59
- 4.4 Fixed-term or indefinite contract? 60
- 4.5 Part-time or full-time? 62
- 4.6 Zero-hours contracts 65
- 4.7 Should a probationary period be imposed? 71
- 4.8 Regulatory constraints 71

Notes 74

O5 Pay issues 77

Chapter overview 77

- 5.1 The duty to pay wages 77
- 5.2 The national minimum wage and the national living wage 80
- 5.3 Pay statements 86
- 5.4 Guarantee payments 87
- 5.5 Calculating guarantee payments 87
- 5.6 Pay and sickness 88
- 5.7 Statutory sick pay 90
- 5.8 Suspension on medical grounds 91
- 5.9 Automatic pensions enrolment 92

Notes 93

O6 Discrimination against employees (1) 96

Chapter overview 96

- 6.1 Equality law 97
- 6.2 The protected characteristics 98
- 6.3 Prohibited conduct 109
- 6.4 Harassment and victimisation 118
- 6.5 Like-for-like comparison 120
- 6.6 Discrimination at work 121

Notes 122

O7 Discrimination (2): lawful discrimination, vicarious liability, burden of proof, enforcement and equality of terms 125

Chapter overview 125

- 7.1 Lawful discrimination: the exceptions 126
- 7.2 An employer's vicarious liability for discrimination by employees 135
- 7.3 The burden of proof in discrimination claims 137
- 7.4 Enforcement 139

Contents vii

- 7.5 The Equality and Human Rights Commission 139
- 7.6 Public sector equality duty 140

Notes 151

O8 Parental rights 155

Chapter overview 155

- 8.1 Time off for antenatal care 156
- 8.2 Maternity leave 156
- 8.3 Statutory maternity pay 162
- 8.4 Shared parental leave 164
- 8.5 Parental leave 166
- 8.6 Parental bereavement leave and pay 169
- 8.7 Paternity leave 169
- 8.8 Protection from detriment and dismissal 171
- 8.9 Adoption leave 171
- 8.10 Time off for dependants 173
- 8.11 Flexible working 176
- 8.12 Risk assessment 178

Notes 180

O9 Health and safety at work 183

Chapter overview 183

- 9.1 Injury prevention and injury compensation 184
- 9.2 The Health and Safety at Work Act 1974 184
- 9.3 The Health and Safety at Work etc Act 1974 186
- 9.4 Regulations 189
- 9.5 Inspection and enforcement 197
- 9.6 Offences 200
- 9.7 Protection from Harassment Act 1997 202
- 9.8 The Framework Agreement 204
- 9.9 Why have women been particularly vulnerable? 205
- 9.10 The law today 205

Notes 206

10 The regulation of working time 212

Chapter overview 212

- 10.1 The Working Time Regulations 1998 212
- 10.2 Time off for trade union duties and activities 226
- 10.3 Time off for employee representatives and employee trustees of pension funds 231
- 10.4 Time off for study or training 232
- 10.5 Time off to look for work 232

Notes 233

11 Variation, breach and termination of the contract of employment at common law 237

Chapter overview 237

- 11.1 Variation 238
- 11.2 Breach of contract 239
- 11.3 Automatic termination: frustration 241
- 11.4 Termination without notice: summary dismissal 242
- 11.5 Termination with notice 243
- 11.6 Remedies for wrongful dismissal 244

Notes 246

12 Unfair dismissal (1): exclusions and the meaning of dismissal 249

Chapter overview 249

- 12.1 Exclusions and qualifications 249
- 12.2 The meaning of dismissal 250
- 12.3 Constructive dismissal 253
- 12.4 The effective and relevant date of termination 256

Notes 259

13 Unfair dismissal (2): potentially fair reasons and the concept of reasonableness 262

Chapter overview 262

- 13.1 Giving a reason for dismissal 263
- 13.2 Automatically unfair dismissal 264
- 13.3 Potentially fair reasons for dismissal 267
- 13.4 Industrial action and lack of jurisdiction 274
- 13.5 Reasonableness in the circumstances 275
- 13.6 The Code of Practice and procedural fairness 277

Notes 281

14 Redundancy 285

Chapter overview 285

- 14.1 Qualifications and exclusions 285
- 14.2 The definition of redundancy 286
- 14.3 Offers of alternative employment 288
- 14.4 Unfair redundancy 290
- 14.5 Consultation 292

Notes 295

15 Unfair dismissal and redundancy claims 298

Chapter overview 298

- 15.1 Making a claim 299
- 15.2 Conciliation and settlement agreements 301
- 15.3 Arbitration 302

Contents ix

- 15.4 The remedies for unfair dismissal 303
- 15.5 Awards of compensation 306
- 15.6 Calculating a redundancy payment 311
- 15.7 Employee rights on insolvency 311

Notes 313

16 Continuity of employment and transfers of undertakings 317

Chapter overview 317

- 16.1 Continuity of employment 318
- 16.2 A week's pay 323
- 16.3 Transfers of undertakings 324

Notes 335

17 Information and consultation 338

Chapter overview 338

- 17.1 Introduction: duties to inform and consult 339
- 17.2 Transnational information and consultation 339
- 17.3 Information and consultation requirements in the UK 343
- 17.4 The Information and Consultation Regulations 2004 343
- 17.5 Confidentiality 347
- 17.6 Penalties and protection 348
- 17.7 Collective redundancies 348
- 17.8 Transfers of undertakings 355
- 17.9 Health and safety 357

Notes 363

18 Trade unions and collective bargaining 366

Chapter overview 366

- 18.1 Trade unions and Certificates of Independence 367
- 18.2 Recognition 370
- 18.3 Statutory recognition procedures 370
- 18.4 Disclosure of information for collective bargaining 373
- 18.5 The legal enforceability of collective agreements 375
- 18.6 Discrimination on the grounds of trade union membership or activities 376
- 18.7 Industrial action 380
- 18.8 Picketing 386
- 18.9 Union responsibility for the acts of its members and officials 388
- 18.10 Remedies 389
- 18.11 Industrial action that affects the supply of goods or services to an individual 391

Notes 392

Glossary 395

Index 398