

*These notes refer to the Employment Relations Act 2004  
(c.24) which received Royal Assent on 16 September 2004*

# **EMPLOYMENT RELATIONS ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY**

#### **Part Three: Rights of Trade Union Members, Workers and Employees**

##### **Other rights of workers and employees**

Disapplication of qualifying period and upper age limit for unfair dismissal

259. **Section 35** replaces section 154 of the 1992 Act with a new section 154 altering the test that disapplies the qualifying period and the upper age limit provided by sections 108(1) and 109(1) of the Employment Rights Act 1996 in relation to complaints to employment tribunals of alleged breaches of sections 152 and 153 (dismissal or selection for redundancy on grounds related to union membership or activities). It has the effect of ensuring that the burden of proof lies on the employer to show the reason for dismissal in all complaints of unfair dismissal, or selection for redundancy, on trade union related grounds, including cases where the employee has less than a year's service or has passed the upper age limit.