

UNIONLINE SCOTLAND & GMB SCOTLAND WIN LANDMARK CASE RESCINDING TEMPORARY SUSPENSION ORDER



At Dundee Sheriff Court, UnionLine Scotland acted for a care worker from the city in a successful appeal to rescind a six month temporary suspension order imposed on its client by the Scottish Social Services Council's Fitness to Practice Panel.

This is the first such successful appeal in Scotland.

Brian McLaughlin, head of employment law at UnionLine Scotland, "Our client had first been investigated by the SSSC [the regulatory body for Support and Social workers in Scotland] in 2015 for allegations of misconduct which he disputed. The SSSC took a decision at that time not to seek a suspension.

"Our client continued to work for the same employer, receiving glowing assessments, for a further two years when the SSSC saw fit to refer him to a Fitness to Practice Panel in respect of the same allegations. They recommended that our client be temporarily suspended while investigations into the allegations took place. Such a practice of suspending workers – while necessary in some cases – is all too common."

A freedom of information request carried out by UnionLine Scotland showed that over 90 per cent of preliminary hearings result in a suspension order being granted. This compares

to between nine and 32 per cent for doctors.

Mr McLaughlin said that being suspended, even for a matter of months, can have "devastating consequences for already low paid workers" and that "In the private sector in particular employers are often unable to redeploy workers who then lose their livelihood."

He added: "Our client was fortunate in that he had supportive employers who redeployed him, albeit at a lower wage rate. GMB Scotland have been campaigning long and hard to highlight the iniquities in the SSSC disciplinary process and its punitive effect on their members. UnionLine Scotland were happy to take up the challenge and appeal the suspension order."

Counsel for the appellant, **Dorothy Bain QC**, argued that decision to suspend the care worker was unreasonable, not proportionate, was not necessary for the protection of the public and was not in the public interest.

Sheriff Alison Smith agreed and directed that the suspension order have no effect.

Mr McLaughlin said: "UnionLine Scotland are thrilled with this success both for the member, but also for the many GMB and other low paid workers who will benefit from the decision."

MINIMUM WAGE INCREASE

The National Minimum Wage Regulations 2018 have been laid before parliament.

They provide for the annual increase to the minimum wage and national living wage with effect from 1st April 2018 as follows:-

25+ - £7.83	(previously £7.50)
21-24 - £7.38	(previously £7.05)
18-20 - £5.90	(previously £5.60)
18 - £4.20	(previously £4.05)

The accommodation offset will be £7.00 per day (previously £6.40).

PAYSLIPS

The Employment Rights Act (itemised pay statement) Order 2018 was laid before Parliament this month.

It requires payslips to state number of hours being paid where wages vary according to time worked; either as an aggregate number of hours or as separate figures for different types of work (or rate of pay).

It comes into force on 6 April 2019.



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KEY TAX CHANGES IMPACTING PAYMENTS UNDER SETTLEMENT AGREEMENTS FROM 6TH APRIL 2018 - WHAT YOU NEED TO KNOW

The new rules in relation to tax come into effect from 6 April 2018. These rules will only apply where the employment terminates on or after 6 April 2018. HMRC are in the process of drafting detailed guidance on the application of the new rules and hope to publish it in the Employment Income Manual before 6 April.

TERMINATION PAYMENTS

The new legislation splits an employee's termination payment into two types of payments;

- Payments that can still benefit from the £30,000 threshold
- Payments that cannot benefit from the £30,000 threshold

PILONs (PAYMENTS IN LIEU OF NOTICE)

All PILONs will be both taxable and subject to Class 1 National Insurance Contributions (NICs).

The employer must identify the amount of basic pay that the employee would have received if they had worked their notice period, even if the employee leaves the employment part way through their notice period and regardless of whether there is a PILON clause in their contract of employment.

The amount will be treated as earnings and will not be subject to the £30,000 Income Tax exemption.



BONUS

Expected bonus income will be treated as earnings, this includes any bonus that the employee would have received (if their employment had continued long enough) during their notice, or at another time but which relates to the time before their employment ended or the time that would have been their notice period. 'Bonus' includes commission, incentives or anything similar.

PAYMENTS FOR INJURY TO FEELINGS - DISCRIMINATION

Payments for injury to feelings will only be exempt from tax if they relate to a psychiatric injury or other recognised medical condition.

FOREIGN SERVICE RELIEF

Currently, termination payments to UK resident employees can be exempt (in whole or in part) if they relate to periods spent working outside of the UK. This exemption will be removed from April 2018.

OTHER PAYMENTS

Statutory redundancy is exempt from Income Tax and NICs. Legal fees are also exempt from Income Tax and NICs.

PAYMENTS EXCEEDING £30,000

Employer NICs will be due on any balance over £30,000. This will align tax and employer NICs, but will increase the cost of termination payment for employers.

INCREASE IN UK COMPENSATION LIMITS FROM 6 APRIL 2018

The government has announced new limits on certain employment tribunal awards and other amounts payable under employment legislation. The two key changes to be aware of are:

- The limit on the compensatory award for "ordinary" unfair dismissal will increase from £80,541 to **£83,682**
- The maximum amount of a week's pay for the purposes of calculating statutory redundancy payments and the basic award in unfair dismissal claims will increase from £489 to **£508**.

These new limits will apply to dismissals that take effect on or after 6 April 2018.

Note that the cap on the compensatory award for "ordinary" unfair dismissal is the lower of the statutory limit set out above and 52 weeks' pay of the individual concerned.



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