



# IRISH CONGRESS TRADE UNIONS

SECTION 7 OF THE FINANCE ACT 2004

## **BRIEFING NOTE**

NEW EXEMPTIONS FROM INCOME TAX IN RESPECT OF

PAYMENTS MADE UNDER EMPLOYMENT LAW

## 1. Introduction

- 1.1. Congress has secured significant improvements in respect of the tax treatment of awards made under employment protection legislation. The *Finance Act 2004*, which has just come into force, provides that awards from employment bodies are exempt from income tax, as long as they are not awards in respect of remuneration. The exemption includes awards arising from Mediation and “out of court” settlements.
- 1.2. Income taxation will continue to apply to the elements of the claim that are made in respect of remuneration and as a consequence the apportioning of the different elements of a claim is set to become of much greater importance.

## 2. Background

- 2.1. The situation that Congress persuaded the Minister for Finance to address in the 2004 Budget was that tax law relating to employment income was being unfairly applied to compensation awards made under employment law, except for awards arising under redundancy and unfair dismissals these have their own exemptions that will continue to apply. (See Annex ii for detailed information on the exemptions that apply to redundancy and dismissals)
- 2.2. The relevant Sections of the Taxes Consolidation Act 1997 relied upon for this income tax approach were Section 122 which generally taxes all employment income and Section 123 which provides a statutory exemption from taxation to income arising from redundancy and removal from employment.

## 3. The New Provisions

- 3.1. The Finance Act 2004 provides for additional statutory exemptions which will now apply to payments made under a “*relevant Act*” by a “*relevant authority*”.

3.2. The Finance Act 2004 describes a *“relevant Act”* widely as

“an enactment that contains provisions for –

- a) the protection of employees rights and entitlements, or
- b) the obligations of employers towards employees

This will mean that all current and future employment rights legislation is capable of benefiting from these exclusions.

3.3. The *relevant Authorities* are specifically identified in the Finance Act as:

- Rights Commissioners
- The Director of Equality Investigations - The Equality Tribunal
- The Employment Appeals Tribunal
- The Labour Court
- The Circuit Court
- The High Court

3.4. The tax exemption also applies to awards made through the alternative dispute resolution process of Mediation this is confirmed in Section 7(2).

3.5. The Section goes onto to confirm that the income tax exemption applies to awards arising from (i) decisions, (ii) recommendations and (iii) determinations. In this respect an order made by the Circuit Court will be regarded as a recommendation, decision or determination.

#### **4. Settlements are also exempt**

4.1. The Finance Act 2004 makes provision for the income tax exemption to apply in circumstances where a settlement can be reached without the case being heard (Section 7(3)).

4.2. This was an essential improvement secured by Congress after the publication of the Finance Bill. Affiliated unions have identified that many of the disputes between employees and employers concerning the infringement

of employees' rights and entitlements or employers obligations are settled by agreement without referral to a relevant authority.

4.3. There are conditions that will apply to settlements and these are set out in Section 7(4) of the Act. In brief they require :

- (i) That the settlement must be put in writing
- (ii) That a copy of the settlement must be retained by the employer for six years
- (iii) That copies of the settlement must be given to Revenue Commissioners if requested
- (iv) That the settlement is for a genuine claim, the actual words used are a *bona fide* claim.
- (v) The claim must arise under legislation, under a "relevant act" which contains provisions for the protection of employees' rights and entitlements.
- (vi) That had the claim not been settled by agreement then it would likely have been the subject of a recommendation, determination or decision under the relevant Act.
- (vii) The settlement amount cannot exceed the maximum payment which could have been made under the Act in relation to the claim.
- (viii) The settlement cannot be between connected parties.

## 5. Taxation of Awards

5.1. The income tax exemption applies to that part of the award that is *not* made in respect of actual loss of remuneration.

Examples of where the exemptions will *not* apply include:

The remuneration or arrears of remuneration arising from the non payment of wages, say in respect of a payment of a claim under the Organisation of Working Time Act 1997 for holiday pay, will not be able to avail of the exemption.

Likewise payment of arrears of remuneration arising from a claim under the Employment Equality Act 1998 will also fall outside the scope of the exemptions.

- 5.2. It is important to clarify here that where awards are calculated by reference to remuneration, but are not made in respect of remuneration, for example compensation made in respect of harassment these awards will qualify for the new exemption.

## 6. Tax Treatment of Global Awards

- 6.1. An examination of recommendations, determinations and decisions shows that it is not unusual for awards to be made for a global amount that includes all aspects of the claim. The global award is made without identifying the exact amount attached to each element of the claim. This happens even though the initial claim made will have included all of the different elements comprising the claim.
- 6.2. It is likely in the future that the awards from the various adjudication bodies will identify specifically the constituent elements of the awards, importantly the elements made directly in respect of remuneration. This separation will clearly have consequences for the income tax liability arising from the award and consequently the net amount for the employee.
- 6.3. Where the award is not apportioned between the different elements of the claim it is possible that Revenue will consider the full amount to be taxable.
- 6.4. Where the awards are apportioned between the different elements of the claim the tax treatment would be as follows

Element of Award	Tax Treatment
Reimbursement of salary or wages	Taxable under the provisions of section 112 of the Taxes Consolidation Act, 1997.
Statutory redundancy	Exempt from tax under the provisions of section 203 of the Taxes Consolidation Act, 1997.
Extra statutory redundancy	Taxable under the provisions of section 123 of the Taxes Consolidation Act, 1997 subject to the exemptions outlined in paragraph 7.
Compensation for the wrong done	Exempt from tax under the provisions of section 7 Finance Act, 2004

Costs	Exempt from tax provided the payment does no more than cover expenses actually incurred
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- 6.5. To assist in understanding the application of the new statutory exemptions Appendix (iii) contains examples of actual cases from the Labour Court, The Equality Tribunal and Rights Commissioners with the tax treatment that would apply if the decision, determination or recommendation was made today.

## **7. These exemptions are now in force**

- 7.1. Section 7(2) of the Act provides that these income tax exemptions apply to payments made on or after 4<sup>th</sup> February 2004. The legislation is clear in that the date applies to the actual date of payment.
- 7.2. The employer will make the income tax deduction and return. The income tax will be charged at the current income tax level that applies to the individual concerned.
- 7.3. An individual can apply to the Inspector of Taxes for an adjustment in circumstances where they had a lower level of taxation during the year to which the award applies.

## Appendix 1

## Actual Provisions in the Finance Act 2004

### 7.—The Principal Act is amended in Chapter 1 of Part 7 by

inserting the following after section 192:

“192A.—(1) In this section—

[2004.] *Finance Act 2004*. [No. 8.]

Pt.1 S.7 ‘relevant Act’ means an enactment which contains provisions for the protection of employees’ rights and entitlements or for the obligations of employers towards their employees; ‘relevant authority’ means any of the following—

a rights commissioner,  
the Director of Equality Investigations,  
the Employment Appeals Tribunal,  
the Labour Court,  
the Circuit Court, or  
the High Court.

(2) Subject to subsections (3) and (5), this section applies to a payment under a relevant Act, to an employee or former employee by his or her employer or former employer, as the case may be, which is made, on or after 4 February 2004, in accordance with a recommendation, decision or a determination by a relevant authority in accordance with the provisions of that Act.

(3) A payment made in accordance with a settlement arrived at under a mediation process provided for in a relevant Act shall be treated as if it had been made in accordance with a recommendation, decision or determination under that Act of a relevant authority.

(4) (a) Subject to subsection (5) and without prejudice to any of the terms or conditions of an agreement referred to in this subsection, this section shall apply to a payment—

made, on or after 4 February 2004, under an agreement evidenced in writing, being an agreement between persons who are not connected with each other (within the meaning of section 10), in settlement of a claim which—

had it been made to a relevant authority,  
would have been a *bona fide* claim made  
under the provisions of a relevant Act,  
is evidenced in writing, and  
had the claim not been settled by the agreement,  
is likely to have been the subject of  
a recommendation, decision or determination  
under that Act by a relevant authority  
that a payment be made to the  
person making the claim,  
the amount of which does not exceed the

maximum payment which, in accordance with a decision or determination by a relevant authority (other than the Circuit Court or the High Court) under the relevant Act, could have been made under that Act in relation to the claim, had the claim not been settled by agreement, and where—  
9

[No. 8.] *Finance Act 2004*. [2004.]

Pt.1 S.7

Exemption in respect of certain benefits-in-kind.

10

copies of the agreement and the statement of claim are kept and retained by the employer, by or on behalf of whom the payment was made, for a period of six years from the day on which the payment was made, and

the employer has made copies of the agreement and the statement of claim available to an officer of the Revenue Commissioners where the officer has requested the employer to make those copies available to him or her.

(i) On being so requested by an officer of the Revenue Commissioners, an employer shall make available to the officer all copies of—

such agreements as are referred to in paragraph entered into by or on behalf of the employer, and

the statements of claim related to those agreements, kept and retained by the employer in accordance with subparagraph (iii) of that paragraph.

(ii) The officer may examine and take extracts from or copies of any documents made available to him or her under this subsection.

(5) This section shall not apply to so much of a payment under a relevant Act or an agreement referred to in subsection

(4) as is—

a payment, however described, in respect of remuneration including arrears of remuneration, or

a payment referred to in section 123(1) or 480(2)(a).

(6) Payments to which this section applies shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.’’.



## Appendix II

EXEMPTIONS AVAILABLE IN RESPECT OF REDUNDANCY / TERMINATION  
PAYMENTS

While a payment made in connection with, or otherwise as a consequence of, the termination of the holding of an employment is within the charge to tax, such payment or part thereof may be relieved from that charge. In brief, the amount of such payment that is exempt from tax is more commonly known as the *basic exemption*, the *increased exemption*, or, if higher, the *Standard Capital Superannuation Benefit (SCSB)*.

Basic Exemption	<p>The basic exemption consists of two parts -</p> <p>a flat rate exemption of €10,160; plus</p> <p>€765 for each complete year of service in the employment</p> <p>For example, for an individual with 5 complete years of service with an employer, the first €13,985 [i.e. €10,160 + (€765 X 5)] of a redundancy payment from that employer is exempt from tax.</p>
(i) Increased exemption	<p>(ii) <b><i>The basic exemption above can be increased by up to a further €10,000 in certain circumstances depending on the person's entitlements (if any) under the employer's pension scheme.</i></b></p>
Standard Capital Superannuation Benefit (SCSB)	<p><b><i>The SCSB is calculated by reference to the following formula:</i></b></p> $\frac{A \times B - C}{15}$ <p>Where:</p> <p><b>A</b> is the average annual remuneration for the last 36 months service to date of termination</p> <p><b>B</b> is the number of complete years of service</p> <p><b>C</b> is the value of any tax free lump sum received/receivable under an approved pension scheme.</p> <p><b><i>[This relief generally benefits those with high earnings and long service]</i></b></p>

In the case of payments awarded under the Unfair Dismissals Act 1977 – 2001, while within the charge to tax, these may (depending on the amounts involved) in most cases be covered by the statutory exemptions<sup>1</sup> available.

<sup>1</sup> Revenue Information Leaflet IT21, sets out the details of the exemptions and reliefs available with regard to redundancy payments.

**Appendix iii****EXAMPLES****1.****Labour Court****SECTION 8(1)(A), ANTI-DISCRIMINATION (PAY) ACT, 1974****SUBJECT:**

Appeal against Equality Officer's Recommendation

**BACKGROUND:**

The worker concerned is employed by the Company as a Crèche Supervisor. The Union submitted a claim to an Equality Officer on behalf of the named female worker that she is entitled to the same rate of pay as that paid to fourteen named male comparators in terms of Section 3(c) of the Anti-Discrimination (Pay) Act, 1974.

The Equality Officer found that that the named female worker performs "like work" with that performed by each of the named male comparators in terms of Section 3(c) of the Anti-Discrimination (Pay) Act, 1974. She recommended that the Company pay the claimant the same rate of remuneration as that paid to each of the named male comparators i.e. the 7.5% differential. Payment should be made for three years in advance of the date of the claim.

The Company appealed the Recommendation to the Labour Court.

**DETERMINATION :**

The Labour Court determined that the claimant was entitled to a responsibility allowance equal to 7.5% of her basic rate, plus a pay adjustment equal to that paid to comparator E (who is in receipt of highest rate of pay adjustment), namely £20 (25.39 Euros) per week. The resultant arrears should be paid retrospective to the 27th of March 1995.

**Tax Treatment under new legislation**

The award made represents arrears of remuneration chargeable to tax under section 112 of the Taxes Consolidation Act 1997. The new exemption would not apply.

*Example 2***INDUSTRIAL RELATIONS ACTS, 1946 TO 1990 SECTION 13(9),  
INDUSTRIAL RELATIONS ACT, 1969****SUBJECT:**

Appeal of Rights Commissioner's Recommendation concerning alleged unfair dismissal.

**BACKGROUND:**

The worker concerned commenced employment with the Company in 1978. In the period 1993 to 1996, the worker was absent from work on sick leave for considerable periods of time. The dispute concerned the question of whether the worker resigned from her position with the Company in January 1997. The Company's position was that the worker resigned from her position and that she made this clear in conversation with a member of management on the 13th of January, 1997. The Union rejected management's version of the conversation. It argued that management's assertion that she resigned in January 1997 is not evidenced by any correspondence. The Union accepted that a conversation took place in which the worker indicated to management that she would not be in a position to return to work in the foreseeable future. The dispute was referred to a Rights Commissioner for investigation and recommendation. The Rights Commissioner's findings and Recommendation were as follows:-

*"While I accept that the claimant was very ill for a long period, I have come to the conclusion that she did resign her position, although she may not have been fully aware of the consequences of her actions at the time. I, therefore, recommend in favour to the Company."*

The Rights Commissioner's Recommendation was appealed by the Union to the Labour Court under Section 13(9) of the Industrial Relations Act, 1969.

**DECISION :**

The Labour Court taking into account all of the issues in this case, upheld the appeal and awarded the claimant £2,000 in compensation.

**Tax Treatment under new legislation**

The compensation is a payment to which section 123 of the Taxes Consolidation Act, 1997 applies – a payment made in connection with or otherwise as a consequence of the termination of the employee's employment. Accordingly the new exemption would not apply to it. However it would be covered by the statutory exemption of €10,160 contained in section 201 of the Taxes Consolidation Act 1997

***Example 3*****Subject:**

Alleged unfair dismissal of the worker in contravention of Section 27 of the Employment Equality Act, 1977.

**Recommendation:**

The worker in this case complained to the Labour Court under Section 27 of the Employment Equality act, 1977 that she had been dismissed from her employment in contravention of Section 3(4) of the Act. The worker was employed as an Accounts Assistant.

The contract contained the terms and conditions of employment. There was no mention in the contract that the worker would be required to wear a uniform.

On the worker's first day of work, she was informed that she would be required to wear a uniform; she was informed that all the female staff were required to wear a uniform and that the male staff were required to dress neatly with shirts and ties. The worker refused to wear a uniform, and was ultimately dismissed.

The Court investigated the complaint in accordance with Section 26 of the Act and heard submissions on behalf of the Company and on behalf of the worker.

The Court found that the requirement to wear a uniform was discrimination against the worker within the meaning of the Act, and that there was a contravention of Section 3(4) of the Act in relation to the worker's dismissal. Section 3(4) provides that a person shall be taken to discriminate against an employee if he does not offer or afford to that person the same terms of employment and working conditions as he affords to another person where the circumstances in which both such persons are employed are not materially different.

In this case, the Court was satisfied that the complainant suffered a loss of career opportunity at a crucial stage in her career, as well as a considerable amount of anxiety and distress. In the circumstances, the Court assessed reasonable compensation as the sum of £4,000.

### **Tax Treatment under the new legislation**

As the payment was made in connection with the termination of the employment, it would not be exempt under the new legislation. It would be chargeable under section 123 of the Taxes Consolidation Act, 1997. However, it would be covered by the statutory exemption of €10,160 contained in section 201 of the Act

## Examples

### Equality Tribunal

#### *Example 1*

Employment - Selection Process - Promotion - Prima Facie Case - Family Status - Marital Status - Age - Direct Discrimination - Employment Equality Act, 1998: sections 2, 6, and 8

#### *Background*

The complainant alleged that she had been discriminated against on grounds of marital status, family status and age when the respondent failed to promote her to the position of Head Cashier at one of its Dublin branches, following an internal competition.

#### *Conclusions*

The Equality Officer found that the complainant was equally as qualified as the successful candidate for the post. He also held that the respondent's failure to conduct the selection process in an open and transparent manner, when combined with the fact that the complainant and the successful candidate possessed different characteristics in relation to marital status, family status and age, was sufficient to establish a prima facie case of discrimination. In addition, he held that it was necessary for an Equality Officer to examine the totality of the evidence submitted by the complainant in assessing whether or not she had discharged the evidential burden required of her in the first instance. Finally, he found that the respondent had failed to rebut the presumption of discrimination raised by the complainant.



*Decision*

The Equality Officer held that the respondent had discriminated against the complainant on grounds of marital status, family status and age, contrary to the Employment Equality Act, 1998, in the manner in which it conducted its selection process for the position of Head Cashier.

The Equality Officer ordered the respondent to pay the complainant €20,000 as compensation for the distress suffered by her as a result of the discrimination. He also ordered the respondent to take all necessary steps to ensure that the complainant is personally given appropriate advance notice of all vacancies for the position of Head Cashier in the company for a period of two years from the date of the decision; that she is afforded the opportunity to attend all training courses for Head Cashiers during that period and that the respondent is to commence a review of its selection procedures within three months of the date of the decision.

**Tax Treatment under new legislation**

The new exemption would apply to the payment.

**Example 2**

Employment - Promotion - Higher Pay Scales - Age - Promotion Assessments -  
Victimisation - The Employment Equality Act 1998 - section 6 (1) (f), (2) (a), (2)  
(f), 74(2), 82(1)

**Background**

The claimant was employed by a Government Department from 1985 to July 1999. He left that Department in July 1999 on promotion. The claimant claimed that he was discriminated against, by the Department when he was excluded from the higher pay scales applicable to senior members of his grade. In January 1999 he made a claim under the Employment Equality Act 1977, when two female HEOs who were junior to him were promoted. He withdrew that claim, but claimed that he was victimised by his employer subsequent to making it.

**Conclusions of the Equality officer.**

The Equality Officer found that the claimant was not awarded a higher pay scale or internal promotion based on assessments carried out on him. She found that the Department had not followed its own guidelines in their completion as it did not allow the claimant to sign off on three of them.

The Equality Officer noted that while the claimant was successful in an external competition in July 1999 for promotion, a revised assessment was made on him some weeks later which resulted in his not being considered for internal promotion.

Equality Officer considered that this promotion by an independent body indicated that his ability was not in question. She also found that a further assessment completed according to the guidelines in March 1999 was never used. The Equality Officer found that a new assessment which did not conform to guidelines was completed in December 1999 which resulted in the claimant being excluded from the higher scales. The employer was unable to explain why the assessment was carried out and the rating had been

reduced subsequent to March 1999. The Equality Officer found that the claimant had been discriminated against by the Department when it had not awarded him the higher pay scale. The Equality Officer considered that the claimant was treated in a discriminatory manner subsequent to the time he made a claim under the 1977 Act in a series of incidents and that these acts amounted to victimisation.

### *Decision*

The Equality Officer found that the Department discriminated against the claimant on age grounds in refusing to place him on the higher pay scale. She also found that the claimant was victimised by the Department in a series of incidents subsequent to his claim of January 1999 under the Employment Equality Act, 1977 which culminated with the refusal of the payment of the higher scale. The claimant was awarded the higher pay scale payment and compensation of 8,000 Euro in total in respect of both complaints.

The Department was ordered to review its equal opportunities policies particularly in relation to selection, promotion and recruitment procedures and to ensure that all its staff are fully aware of the provisions of the Employment Equality Act, 1998 with particular emphasis on the fact that they should not be victimised for seeking redress in good faith, of an act against them, that they perceive to be contrary to its provisions.

### **Tax Treatment under new legislation**

The new exemption would apply to the compensation payment of €8,000. However, the higher scale payment would be chargeable to tax under the provisions of section 112 of the Taxes Consolidation Act, 1997.

***Example 3***

Employment Equality Act, 1998 Sections 6 and 8 - Employment - Discriminatory treatment - Gender - Promotion - Victimisation

**Background**

The complainant alleges that she was discriminated against by the respondent on the gender ground in terms of Section 6(2)(a) of the Employment Equality Act, 1998 and contrary to Section 8 of that Act when she was not appointed to the position of Nursing Practice Development Co-ordinator and the successful applicant was male. She also contends that she was victimised when she sought to address her grievance at not being selected for the position. The respondent denies the allegations.

**Conclusions**

The Equality Officer found that the respondent did discriminate against the complainant in terms of Section 6(2)(a) of the Employment Equality Act, 1998. The Equality Officer found that the respondent failed to display fairness in its selection procedures in that it failed to give the complainant any recognition for meeting the essential requirement of five years post-registration experience in Mental Handicap whereas the successful male candidate did not meet this requirement. The Equality Officer also found that there was a lack of transparency in the marking for core/special competencies. In conclusion, the Equality Officer found that the respondent had failed to adequately discharge its burden of proof. In relation to the complainant's allegation of victimisation the Equality Officer found that the evidence did not support the allegation.

**Decision**

The Equality Officer ordered the respondent to implement fair and transparent selection procedures in future competitive competitions for employment and

promotions. The Equality Officer also ordered the respondent to pay the complainant compensation in the form of arrears of remuneration in the gross amount of €60,000 and compensation for the effects of the act of discrimination in the amount of €10,000.

### **Tax Treatment under new legislation**

The compensation of €60,000 is in respect of arrears of remuneration and would be chargeable to tax under section 112 of the Taxes Consolidation Act, 1997. The compensation of €10,000 would be exempt under the new legislation.

## Examples

### Employment Appeals Tribunal

#### *Example 1*

#### Unfair Dismissals Acts 1977 to 1993

**Subject** Alleged Constructive Dismissal

## BACKGROUND

The worker concerned commenced employment with the employer in 1996 and resigned her employment in 2000. The claimant's case is that she was constructively dismissed in that the conduct of her employer and their treatment and attitude towards her left her no choice but to terminate her employment.

*Issue for Tribunal* – was whether claimant was dismissed by construction under the definition of dismissal under section 1(b) of the Unfair Dismissals Act and having regard to this definition and to the evidence and submissions to the Tribunal whether it was reasonable for claimant to terminate her contract of employment.

## DECISION

The Tribunal unanimously finds the claimant to have been constructively dismissed and as no evidence has been offered to rebut the presumption of unfairness the Tribunal determines the claimant was unfairly dismissed for the purposes of the Unfair Dismissals Act, 1997 to 1993. We do not find that the claimant contributed in any way to her dismissal.

Having found the claimant to have been unfairly dismissed, the Tribunal accepts that neither re-instatement nor re-engagement is a suitable remedy and the preferred redress is compensation. Both parties agree that since dismissal the claimant has been unfit for work by reason of illness and the Tribunal must now assess the extent of the financial loss suffered by the claimant.

The Tribunal estimates therefore, that because of her illness, the claimant will suffer financial loss for a period of almost two years from the date of dismissal. The Tribunal also accepts as not unreasonable the submission made on behalf of the claimant that, following recovery, a period of time will elapse before she will achieve a salary commensurate with that of her pre-dismissal earnings. The Tribunal assesses as reasonable, following recovery, that it will take a period of at least a year for the claimant to achieve similar earnings. We accept therefore that she will incur financial loss in this period.

No specific figure was given in respect of the claimant's net weekly loss as a result of her dismissal. A figure of £903.85 per week has been given in the T1A in respect of her weekly gross earnings which figure is indicative of the agreed yearly salary of £47,000 she was on at the time of dismissal. The Tribunal therefore estimates in all probability her average weekly net loss to be in the region of £500 per week. We accept she will have ongoing loss for the period she remains unfit for work and until she achieves similar employment.

In all the circumstances therefore, having regard to her loss to date and the time-frame accepted by the Tribunal for future loss we deem as just and equitable that the claimant be awarded compensation in the sum of £70,500.30 being the equivalent of 78 weeks remuneration (78 x £903.85) for unfair dismissal.

### **Tax treatment under the new legislation**

The compensation is a payment to which section 123 of the Taxes Consolidation Act, 1997 applies – a payment made in connection with or otherwise as a consequence of the termination of the employee's employment. The new exemption would not apply. It would be chargeable to tax subject to the exemptions.

**Example 2***PAYMENT OF WAGES ACT, 1991***Terms of Employment (Information) Act 1994**

**Subject** Appeal against the recommendations of the Rights Commissioner concerning alleged dismissal without notice and statutory entitlement to payments

**BACKGROUND**

The employee began work for the employer in June 2001. The employer had not furnished the employee with any written contract or terms of employment, nor did he provide him with any payslips. The employer submitted a P60 which described the employee's commencement date as September 2001.

The Rights Commissioner's Recommendation was appealed to the Employment Appeals Tribunal.

**DECISION**

The Tribunal accepted the evidence of the employee that he was unfairly dismissed from his employment without notice in 2002. The Tribunal found that the employer was clearly in breach of its statutory obligations pursuant to sections 3 and 5 of the Terms of Employment (Information) Act 1994. The Tribunal awarded the employee 4 weeks wages remuneration of £1,290 and his statutory entitlement of one weeks gross wages in lieu of notice.

**Tax Treatment under new legislation**

The payment of €1,290 in respect of remuneration would be chargeable to tax under section 112 of the Taxes Consolidation Act 1997. The new exemption would not apply.



The payment of one weeks gross wages in lieu of notice would be chargeable to tax under section 123 of the Taxes Consolidation Act, 1997, but would be covered by the basic exemption contained in section 201 of the Taxes Consolidation Act, 1997 (as outlined in Appendix ii).