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A REMINDER ON COLLECTIVE REDUNDANCY NOTIFICATIONS

A recent judgment has confirmed the consequences faced by administrators who fail to adhere to the correct requirements for notifying the Redundancy Payments Service (“the RPS”) of proposed collective redundancies.

When an employee is made redundant, provided he or she has at least two years uninterrupted employment, that individual is normally entitled to statutory redundancy pay (“SRP”).

If there are insufficient funds available to meet SRP liabilities, the payments are met by the National Insurance Fund. When more than 20 people are to be made redundant, the RPS must be informed in advance otherwise those in control of a company may face prosecution and a fine of up to £5,000.

The notice period for filing Form HR1: Advance Notification of Redundancies with the RPS is contained within the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).

The requirement is to notify the RPS via Form HR1 of a proposal to dismiss 20 or more employees as redundant at any one site.

The minimum period for notification and consultation with the RPS for between 20 to 99 redundancies at any one site is at least 30 days before the first dismissal. However, where 100 or more redundancies are involved at any one site the notification and consultation period is increased to 45 days before the first dismissal.

Form HR1 states “*If you have given less than the required 30/45 day notification please give reason for late notification*”.

In *Palmer & Anor, R (on the Application of) v Northern Derbyshire Magistrates’ Court [2021] EWHC 3013* an administrator was found guilty of failing to file Form HR1 on time.

West Coast Capital (USC) Limited (“the Company”) entered administration on 13 January 2015. The following day all of the approximately 200 staff at the Company’s warehouse in Glasgow were made redundant with immediate effect. On that same day the HR1 Form was signed and dated by the joint administrator.

On 30 January 2015, the RPS contacted the administrator and asked whether HR1 had been filed. The HR1 was received by the RPS on 4th February 2015. In July 2015 the administrator and the director of the Company were charged.

The administrator of the Company argued that he was not “*a director, manager, secretary or similar officer of the company*” and therefore he was not guilty of an offence.

Following a judicial review in November 2021 the Court disagreed stating: “*Parliament must have intended that in principle anyone with responsibility for the day to day management and control of the corporate entity should be capable of being fixed with personal liability for the employer’s failure to give the statutory notices which they had brought about*”.

Editor’s note

Administrators are placed in a difficult position. As a pre-appointment matter they must check that the directors have lodged Form HR1 if 20 or more employees are to be made redundant at any one site.



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