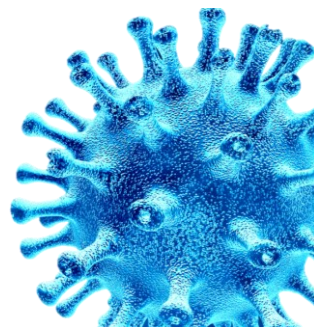




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Today's Webinar

- **Employment Law**
- **Data Privacy**
- **Payroll**



Lesson 1: Employee Representatives

2

Employment Law



3

We forgot about them!

- If employees have no recognised union representative, you'll have to appoint or elect a representative from amongst the affected employees.
- Employee representatives, whether union, elected or appointed, are a legal requirement in organisations employing 50 or more employees.
- There should be as many representatives as there are categories, each chosen from their respective category.



Lesson 1: Employee Representatives

4

We forgot about them!

- Employee representatives must be consulted on:
 - Business development and activity;
 - Organisation economic situation;
 - Situation, structure and development of employment, and anticipatory measures to any existent threats;
 - Changes likely to affect work organisation or other employment relations, including specifically **redundancies**.



Lesson 1: Employee Representatives

5

Are we doomed?

- Probation period - what should we have done or what can we do? Still in time?



Lesson 2: Probation Period

6

The most used article during COVID-19

- Unless in such case as is otherwise provided by this Act, if a contract of service between an employee and his employer or a collective agreement entered into between the employer and the recognised union representatives, provides for any conditions of employment, including conditions relating to the termination of the contract, less favourable to the employee than those specified in or under this Act, they shall have effect as if for those conditions less favourable to the employee there were substituted the conditions specified in or under this Act:
- Provided that, in exceptional cases, the employer in agreement with the employee or union representatives may provide for different conditions of employment than those specified in or under this Act as long as such agreement is a temporary measure to avoid redundancies and as long as it is approved by the Director, which approval needs to be reviewed every four weeks.



Lesson 3: Article 42

7

New challenges!

- Dealing with discipline
- Dealing with performance
- Dealing with Well-being



Lesson 4: Dealing with Remote working

8

New forms!

- Professional standards of communication may dwindle upon a shift to more informal methods of communication, such as instant messaging (issues of misinterpretation of the sense/tone behind messages may arise)
- Misconduct can occur in a more covert or even anonymous environment with less chance of their being workplace witnesses, what with employers having less direct control over their staff



Lesson 5: Dealing with Online Harassment

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Leave entitlements

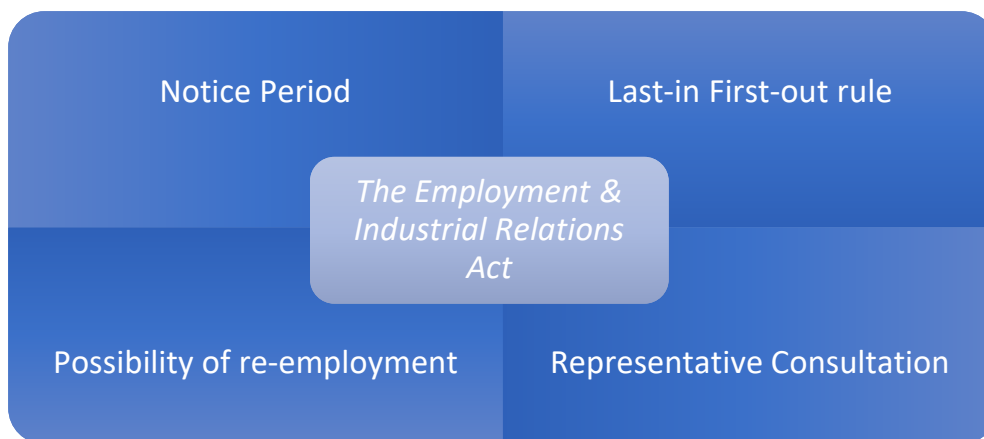
- Quarantine Leave
- Sick leave
- Forced leave
- Annual leave



Lesson 6: Leave entitlements

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Redundancy Rules



Lesson 7: Redundancies

11

LIFO

- Priority protection must be given to employees who have been working with the company the longest.
- If a redundancy of a certain class of employees is to occur, the employee in that same class who joined the company last is to be made redundant.
- The EIRA defines “**class**” as:
 - “groups or categories listed in a collective agreement”; or in the absence of a collective agreement -
 - “the work performed or expected to be performed independently of the title or name given to the post”



Lesson 7: Redundancies

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Case Study - Lara Boffa vs Philip Toledo Ltd

What did the Tribunal note in this case?

- No restructuring plan had been made to ultimately justify the redundancy;
- No consultations or opportunity to appeal;
- It appeared suspicious that in such a wide restructuring process, the claimant was the only manager who was made redundant.
- The Tribunal noted that the redundancy was clearly a 'clean' way to solve the issues which arose between the claimant and another employee.
- The claimant's 'alternative' carried a much lower salary and put her at an ambiguous position with regard to other employees of whom she was the superior.



Lesson 7: Redundancies

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Case Study - Lara Boffa vs Philip Toledo Ltd

What did the Tribunal note in this case?

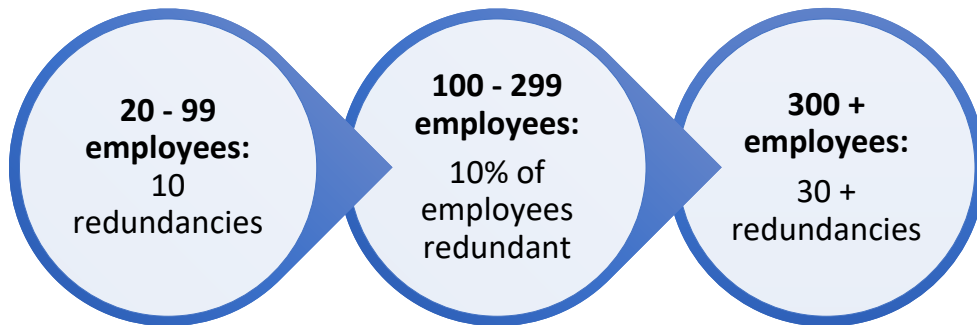
- Although the 'role' was abolished, all responsibilities thereof had been transferred to others.
- Employer did not prove that the redundancy was the only reason why it terminated employment;
- The employer's opinion cannot be regarded as the gospel truth if it is challenged by the employee;



Lesson 7: Redundancies

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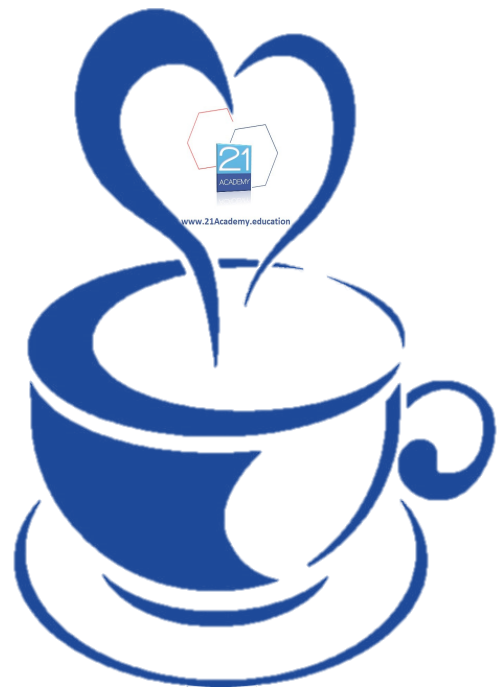
Collective Redundancies



Lesson 7: Redundancies

15

15 minutes break...



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Data Privacy



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GDPR & the Pandemic

- Unobstructed processing of justified personal data
- Less intrusive data processing
- Identification of existing short comings
- While we were alienated
- Way forward



Data Privacy

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Unobstructed processing

“Emergency is a legal condition which may legitimise restrictions of freedoms provided these restrictions are proportionate and limited to the emergency period.”



Data Privacy

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Unobstructed processing

- visitors or employees to provide specific health information in the context of COVID-19
- necessary to reveal the name of the employee(s) who contracted the virus (e.g. in a preventive context)
- processing of travel information
- quarantine leave & wage supplements



Data Privacy

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Less intrusive data processing

- Contact tracing API
 - Application Programming Interface
 - Software intermediary that allows two applications to talk to each other
- Decentralised storage system for data
- User-controlled sharing and privacy settings

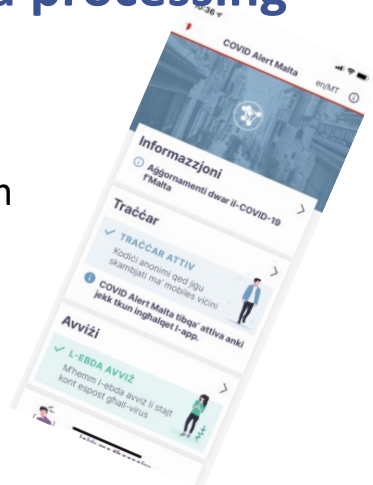


Data Privacy

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Less intrusive data processing

- Only stores data that is vital to the legal basis for sharing the data (contact tracing) - storage limitation principle
- Data is stored on everyone's individual device, known as decentralisation - reduce potential security risks



Data Privacy

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Identification of short comings

- Teleworking
- Websites
- Contracts of Employment
- Other practices



Data Privacy

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Identification of short comings

- Teleworking
 - Infrastructure security
 - Use of employees' equipment
 - Lack of policies and procedures
 - No training



Data Privacy

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Identification of short comings

- Websites
 - Policies & Notices
 - Terms & Conditions
 - Payment Gateways
 - SSL
 - Use of photographs

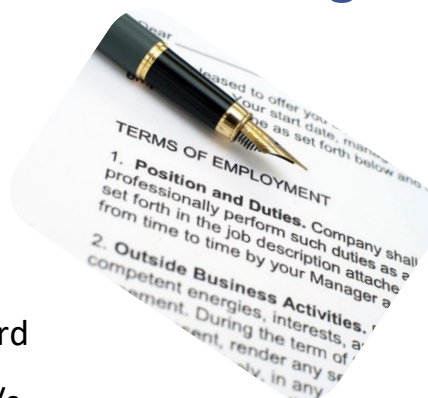


Data Privacy

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Identification of short comings

- Contracts of Employment
 - Reference to DPA Cap. 440
 - Lack of confidentiality clauses
 - No reference to Privacy Standard
 - No reference to Privacy Notice/s



Data Privacy

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Identification of short comings

- Other practices
 - Visitors' lists
 - Introduction of monitoring systems
 - Sick Leave management



Data Privacy

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While we were alienated

- IDPC publishing decisions
- US Privacy Shield invalidated
- Brexit got closer



Data Privacy

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While we were alienated

- IDPC publishing decisions

Data Protection Complaint	Personal data undergoing processing was partially provided following a right of access request. Privacy Policy not satisfying the transparency requirements	Infringement of Articles 13 and 15 GDPR	Administrative fine of €20 000, in terms of Article 83.2 GDPR
Data Protection Complaint	Unauthorized use of personal data leading to employment disciplinary proceedings	Infringement of Articles 5.1(c) and 6.1 GDPR	Reprimand and instructions, in terms of Article 58.2 GDPR
Data Protection Complaint	Installation of CCTV cameras at an establishment without affixing proper signage	Infringement of Articles 13 and 5.1 GDPR	Reprimand and instructions, in terms of Article 58.2 GDPR
Personal Data Breach	Disclosure of personal email addresses to all the recipients of the email	Infringement of Article 32.1(b) GDPR	Administrative fine of €2 500, in terms of Article 58.2 (f) GDPR



Data Privacy

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Way Forward

- Review your data audit or do one
- Review policies & procedures
- Data transferred to the UK or US?
- Employee Awareness



Data Privacy

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Payroll



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End of year Submission

- Last wage supplement will be till 1st of January 2021
- Cross checking of payslips with ME Transfers
- Cross checking of National Insurance with ME Emails



Data Privacy

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End of year Submission

- Last wage supplement will be till 1st of January 2021
- Cross checking of payslips with ME Transfers
- Cross checking of National Insurance with ME Emails



Payroll

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End of year Submission

- Payroll software set for end of year
- Updated according to the FS5, FS3 and FS7 for 2020
- Was the total amount given to the employee?



Payroll

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End of year Submission

- Are you ready for a DIER Audit?
- Are you aware of all the guidelines issued
- Did you follow them?



Payroll

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Question Time

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