

STATEMENT BY THE GSLP/LIBERAL OPPOSITION

157/2008

23 December 2008

The Opposition notes that Mr Louis Montiel, the Minister responsible for restricting the basic award for unfair dismissal to the £2200 level introduced 16 years ago in 1992, considers that to bring this information to the attention of the public is misleading. In fact, what is misleading is his feeble attempt to defend the indefensible, unless it is an indication of a level of ignorance which would suggest that he learnt nothing about unfair dismissals in his years as District Officer of the TGWU.

It is not the analysis and the arguments of the Opposition that are disgraceful but the position of the Minister for Employment in defending the decision for which he is politically responsible and which he has not denied is contrary to the arguments put by the Union at Tribunals to raise the basic award above £2200.

The decision to freeze the award at the level of 16 years ago was introduced by a one line amendment published in the Gibraltar Gazette with no attempt to raise the matter publicly and encourage debate on an issue that will affect every person unfairly dismissed.

The compensatory award at the levels mentioned in Mr Montiel's reply will only be available to someone who fails to obtain employment in 2 years, in most cases, and even then the amount can be reduced if the former employer convinces the Tribunal that the unemployed person has not done enough to find a job

The basic award therefore is the only guaranteed sum. If there are Chairmen, as Mr Montiel claims, who are unsure if they have the legal power to provide an award above the £2200 minimum then the correct political reaction to this concern should have been to retain the flexibility introduced in 1992 but reword the section to make it clear that it was up to the Tribunal to award £2200 or such higher sum as it sees fit.

The compensatory award which Mr Montiel is trying to take the credit for has not been changed by him. The same formula which has operated all the time is being retained and therefore the Opposition criticism was not selectively using one argument instead of the other but simply addressing the change in the application of the law which Mr Montiel has introduced and for which he is answerable politically.

It is completely false to claim that under the amended rules employees are better off. The rules on the compensatory awards have not been amended to provide a higher formula but have simply been adjusted so as to provide legal cover to what was already happening, namely the link with whatever

happens to be the minimum wage at the time the Tribunal makes an award.

This in no way compensates for the freezing of the basic award since both a higher basic award and a link with the minimum wage have been applying up to now.

ENDS