

A warm welcome from us all at Mackinnons to our latest offering of the Highlight magazine.

As we approach summer and the lighter nights we hope that you will still find time to find some interesting reading in this edition. Many of the articles will be of particular interest to our clients in the fishing industry who we hope to see at the Skipper Expo in Aberdeen on 27 & 28 May 2016. We will be there at stand 98 and look forward to seeing as many of you as possible.

In this edition we look at the European Maritime and Fisheries Fund Grant Scheme and the issue of foreign nationals' right to work in the UK. Also important to note is the change in the law requiring all companies and LLPs to maintain a Register of Persons with Significant Control and some helpful guidance can be found inside on this.



We will be at the Skipper Expo on 27th – 28th May 2016.

Please come and visit us at
— STAND 98 —

Finally, we include some good news regarding well-earned promotions within Mackinnons and a few things we have been doing to support the local community.

We look forward to hosting two seminars in June, details of which can be found on the back page.

Best wishes to you all.

Caroline E Cumming, Partner
caroline@mackinnons.com

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The European Maritime and Fisheries Fund

The European Maritime and Fisheries Fund (EMFF) is the main fund for the EU's maritime and fisheries sectors for the period 2014 to 2020. The EMFF replaces the European Fisheries Fund (EFF) which covered the period 2007 to 2013.

The EMFF primarily provides support for sustainable development within the fishing and aquaculture sectors. The scheme is intended to assist fishermen in their transition to more sustainable fishing whilst allowing local communities to diversify and provide much needed finance for certain projects.

The Operational Programme was adopted by the European Commission in late 2015 and the Scottish Government opened applications on 18 January 2016.

Projects that can demonstrate sustainable economic growth in the fisheries and aquaculture sectors, offer support to local communities to implement the Common Fisheries Policy (CFP) and particular aspects thereof (for example the landing obligation) and support technological advances and innovation will be given particular consideration.

Eligibility requirements depend upon the applicant and the project and the application process itself varies depending upon the grant sought. The main aims of the EMFF shall however apply regardless; namely:-

- ensure the fisheries and aquaculture sectors become more sustainable
- conservation of the marine environment
- support growth and the development of jobs in coastal communities

Marine Scotland has developed specific guidance depending upon the project and this can be found at <http://www.gov.scot/Topics/marine/grants-subsidies>.



Graham Jones - Partner



Signet Accreditation in Employment Law

Earlier this year, Nicola Gray attained the status of Signet Accreditation in Employment Law. She joins an elite band of only 10 such solicitors in Scotland and the achievement underlines her sound legal judgement and ability to advise Mackinnons' clients with assurance and awareness of all the issues. The Society of Writers to Her Majesty's Signet is one of the world's oldest independent professional bodies and such accreditation is not issued lightly.

The Right to Work and Unfair Dismissal



Nicola Gray - Associate

When employing staff, employers must ensure that the prospective employee has the right to work in the UK. If an individual is found to be working illegally, the employer may face a fine of up to £20,000, per employee. Most British and EEA nationals have the right to work in the UK, which includes the UKCS, without having to obtain any additional permission from the Home Office. However, the employer should still complete appropriate checks when hiring staff to ensure that the prospective employee has the right to work before making any offer of employment. Thereafter, employers should periodically check the employee's right to work in order to ensure that they do not fall foul of any illegal practices. Where the employer reasonably believes that the employee has lost their right to work in the UK, for whatever reason, a fair termination of employment may be achieved on two possible grounds:

1. Due to a "statutory restriction" – where the employer concludes that continuing to engage the individual would breach a legal provision, or
2. "Some other substantial reason" – where the employer genuinely and reasonably believes that continuing to employ the individual may breach a statutory restriction.

For details of a recent case where the use of these two grounds was considered, and where the employer was unable to obtain conclusive evidence of the employee's right to work in the UK, please see our website.

Missing - Presumed Alive?

Ever since the high profile case of John Darwin faking his own death in an apparent canoeing accident, the issue of proof of death has been brought more sharply into focus, particularly regarding life assurance payments.

In Scotland, the legal position, where there is doubt, still requires the family to wait 7 years before they may apply to declare a missing person as deceased.

Where a mariner is thought to have died, providing there is some independent witness evidence of the person's last whereabouts, the Scottish Courts may be prepared to make a much earlier declaration of death based on this information.

In England and Wales, the Darwin case has led to a review of the system and the introduction of the Presumption of Death Act 2013 which aims to bring matters into line with Scotland. There have been many examples of public campaigns in respect of missing persons and the change is therefore to be welcomed.

Unfortunately, where, as in the fishing industry, crews who are not resident in the UK but have come to work from non-EU/EEA countries, this continues to present difficulties.

Actions may need to be taken within the missing person's country of residence. What is clear is that, without some compelling evidence of the individual being lost at sea, insurers will be reluctant to make payments under life policies.

On any view, such tragic cases are distressful enough for next of kin without the legal process compounding and delaying matters. Legal advice should be sought as early as possible with a view to gathering any supporting evidence. Early intervention may potentially avoid litigation.

As an aside, recent case law for fatal claims in Scotland shows a marked trend towards larger awards being given to next of kin.

Whilst no sum of money can ever bring back the loss or adequately compensate for same, this is again an area where it is always important to take appropriate legal advice.

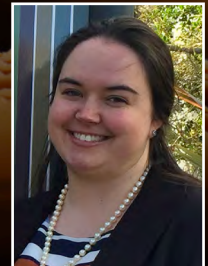


Martin Sinclair - Partner



CONGRATULATIONS ...

Within the Dispute Resolution and Commercial Teams, we are delighted to announce the promotion of Sarah Polson and Kirstin Ejsmont to Associate level with effect from 1st April. This also recognises their hard endeavour and underlines our commitment to delivering an excellent quality service to our clients.



Who are you contracting with?

The Panamanian law firm Mossack Fonseca hit the headlines for a few days in early April following a major leak of data to a German newspaper showing that complex corporate structures were created in a bid to conceal the identity of the ultimate owner.

How appropriate that in the same week a key change to UK company law came into force via the Small Business, Enterprise and Employment Act 2015. This Act introduced the requirement for all UK companies and LLPs to create and maintain a register of Persons with Significant Control ("PSC Register").

The 2015 Act introduced a number of changes to UK company law and the PSC Register is just one measure designed to increase corporate transparency around beneficial ownership while at the same time streamlining the company administration process.

All UK companies and LLPs must by now have created a PSC Register. There is no set format for this however it is required to contain certain information. The PSC Register will form part of the statutory books of the company or LLP.

From 30 June 2016, the Annual Return will be replaced with an annual 'confirmation statement'. At the same time as submitting their 'confirmation statement', the company or LLP must also submit their PSC Register to the Registrar of Companies. There is a continuing obligation on companies and LLPs to keep the PSC Register up to date.

Failure to create and maintain a PSC Register is a criminal offence.



Kirstin Ejsmont - Associate

What makes Mackinnons different?



Pat Gray - Partner

Let's forget for a moment stuffy title deeds, contracts of employment, wills and court actions and instead think of people and the communities we serve.

The ethos throughout Mackinnons is that "people matter" whether they may be clients or our staff and we believe that in 2016 this sets us apart from many ...

We have acted for lots of our clients over generations so we fully understand what they require from us. Our aim is to create strong, personal long-term relationships whether they be private individuals or multi-nationals.



Equally important to us are our staff, many of whom have grown and developed with us over the years and whose unfailing support is invaluable.

We recognise and appreciate the communities

in which we do business and perhaps never more so than in the early days of 2016 when much of Lower and Upper Deeside was ravaged by the effects of severe flooding.

Over the years Mackinnons partners and staff have raised thousands of pounds for local charities, hospitals and community groups and although we are only into

May, this year has already seen charity walks, 10K runs, Valentine's Day coffee mornings and other fund raisers all designed to put something back into the local communities upon whom we are so reliant and proud to be part of.

Although progressive and modern in our approach we are still small enough to care. We believe this is what makes us different from others

Seminars

FIVE HOT TOPICS in a changing commercial market...

Come and hear from our employment team on

Tuesday 14th June 2016

Mackinnons
Ballater Road, Aboyne,
Aberdeenshire AB34 5HN
6.00pm - 7.30pm

Please RSVP by 10th June 2016 to: Fiona Stevenson
013398 87665
Email: fionas@mackinnons.com

Come and hear from our commercial and employment teams on

Thursday 30th June 2016

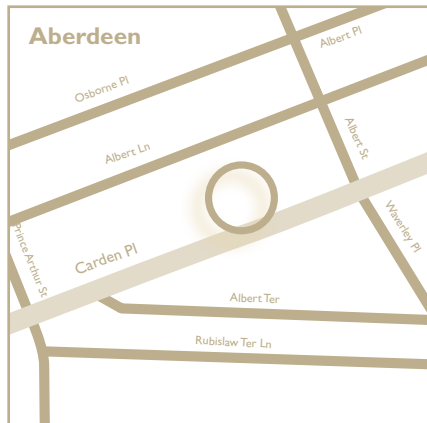
Mackinnons
14 Carden Place,
Aberdeen AB10 1UR
8.30am - 10.00am

Please RSVP by 28th June 2016 to: Nicola Elder
01224 632 464
Email: nicola@mackinnons.com

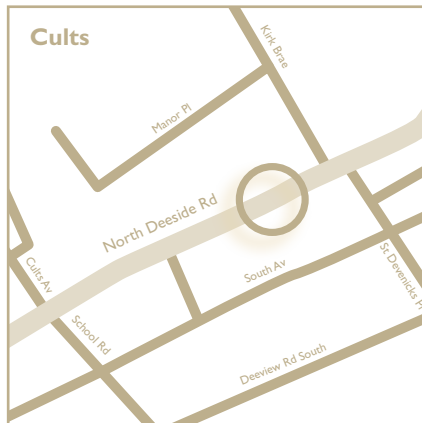
STOP PRESS...

Mackinnons are delighted to welcome to the firm this summer, **Jaclyn Russell**, who will join us as an Associate in our Private Client Department. Having worked previously in Edinburgh and Aberdeen, Jaclyn will bring with her a wealth of experience in tax and estate planning, wills, trusts and exequities.

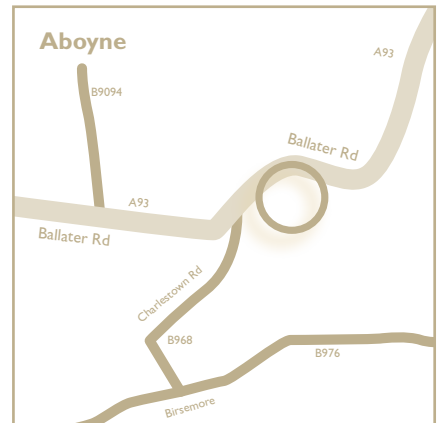
Offices located at:



14 Carden Place
Aberdeen AB10 1UR
Tel: 01224 632464



379 North Deeside Road
Cults, Aberdeen AB15 9SX
Tel: 01224 868687



Ballater Road
Aboyne, Aberdeenshire AB34 5HN
Tel: 013398 87665

www.mackinnons.com

Use your smart phone to scan this code or visit www.mackinnons.com for more information.

