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EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 8001766/2024

Held in Glasgow by Video on 4 September 2026

Employment Judge D O'Dempsey

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A Goldberg

**Claimant
In person**

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Mormair Ltd

**Respondent
Represented by
Mrs Findlay (Director)**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that it does not have territorial jurisdiction to consider the Claimant's claims which are accordingly dismissed.

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REASONS

Introduction

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1. The Claimant brings claims for unfair dismissal and for other sums owed. I heard this preliminary point on whether the Scottish Employment Tribunal has territorial jurisdiction to hear the Claimant's claims against the Respondent on 4 September 2026. The parties provided me with two bundles of documents running to (a) around 404 pages and (b) a slimmer volume of 194 pages. There

E.T. Z4 (WR)

was some confusion between the parties, both of whom are effectively self representing, as to how they should go about agreeing the bundle for the hearing; it appeared to me that later, brief, case management orders had not made plain to them the dates by which construction of the further bundle was to occur and although there had been a time table set out for the interactive co-operation in construction of an earlier bundle (the 404 page version), the parties did not appear to have applied the learning they could have applied from those earlier case management directions to the construction of the new bundle.

2. In the event the Respondent agreed that the 404 page bundle could be used as the Claimant wished. This saved a little bit of time, for which the tribunal is grateful. There may, as a result of the two bundles (both of which were referred to by the parties at various times) and the fact that there appeared to be an at least one page discrepancy between my bundle and that of the parties, be certain variances in page numbers to which I refer below. I have attempted to keep those to a minimum, and where possible I copied the relevant passage from a document to which I was referred into my notes, so that the references below ought to pick out the text to which I was referred.

3. The Claimant then stated that he wished to produce a witness statement, which he also referred to as an opening note. The Respondent pointed out that there had been a discussion at the earlier case management hearing as to whether witness statements were going to be used. I was told that witness statements were going to be used for the merits hearing but that nothing had been said about their use in relation to today's hearing. The Claimant in any event had not served this document on the Respondent prior to the hearing, and therefore it seemed to me that it was wholly inappropriate to treat it as a witness statement, and that the ordinary approach in Scotland should be applied so that the Claimant would need to give any evidence he wished to give by oral examination in chief.

4. I did consider the Claimant's position and I considered the overriding objective. It seemed to me the preliminary point was likely to involve quite a lot of

documentation and the parties ultimately agreed that the fairest of course would be to permit the Claimant to use the document as an opening note. He could then adopt the documents that he wished to rely on in his evidence he would of course need to give oral evidence of matter which was not contained in documents to which he had referred.

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5. I accordingly heard evidence in chief from the Claimant after he had read out his opening note in full. He was then cross examined. I gave the Respondent, prior to that process, time to read the opening note and to reflect on whether the Respondent wished to ask questions arising from it in cross examination.
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- The Respondent did cross examine the Claimant. In both the Claimants case and in the Respondents case I checked with them (because they are both effectively self representing) that they had asked all the questions that they wished to ask and in the Claimant's case that he had given all of the evidence that he wished to give.
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6. After a shortened luncheon adjournment I heard submissions from the Respondent. The Respondent supplied to me a written closing. I ensured that this was sent to the Claimant and that he had sufficient time to read it. As I had permitted the Claimant to read out the whole of his opening statement, which took a considerable period of time, I had made it clear that I would allow him less time in his closing statement than I would allow to the Respondent. Both
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- parties appeared to be content with these arrangements.
7. I had been hoping to give an oral judgement at the end of the day, but in the light of the material with which I had been presented both in documentary terms and in terms of the arguments presented, I felt it necessary to reserve my
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- judgment. I now give reasons for my judgement which I have reached after considering all the factors to which I was referred.

Relevant law

The statutory framework

8. Section 94(1) of the Employment Rights Act 1996 (“the ERA 1996”) confers on an employee the right not to be unfairly dismissed. The ERA 1996 is silent as to its territorial scope.
9. The territorial scope of section 94(1) falls to be determined by the courts as a matter of statutory construction. Territorial scope must be distinguished from the “extent” of a statute. Section 244 of the ERA 1996 provides that the Act “extends” to England, Wales and Scotland. The House of Lords confirmed in *Lawson v Serco Ltd* [2006] UKHL 3, this means only that the ERA forms part of the law of Great Britain; it does not form part of the law of any other territory. However, the persons and matters which the legislation affects may be wider than its geographical extent (*Transocean International Resources Ltd v Russell EATS* 0074/05).
10. Territorial scope is also a question separate from (i) applicable or governing law and (ii) international jurisdiction (that is, which country’s courts may hear the dispute)(*Simpson v Intralinks Ltd* UKEAT/0593/11/RN; *Stena Drilling Pte Ltd v Smith* [2024] EAT 57).

Lawson v Serco

11. In *Lawson v Serco Ltd* [2006] UKHL 3 the House of Lords held (Lord Hoffmann leading the judgment) that the question of territorial scope is always one of statutory construction. It is an inquiry into the person with respect to whom Parliament is presumed to be legislating. Citing Lord Wilberforce in *Clark v Oceanic Contractors Inc* [1983] 2 AC 130, at 152, Lord Hoffmann framed the question as: “Who ... is within the legislative grasp, or intendment, of the statute...?” Legislation is *prima facie* territorial. Lord Hoffmann emphasised that the question is one of law, albeit one involving judgment in the application of the law to the facts.
12. The standard, normal or paradigm case to which section 94(1) applies is the employee who is working in Great Britain at the time of his or her dismissal. A casual visitor to Great Britain does not thereby acquire the protection of the section.

13. Lord Hoffmann identified categories of employee who, though not working in Great Britain at the date of dismissal, may nevertheless fall within the territorial scope of the statute.
14. One of these was what can be categorized as expatriate employees. An employee who lives and works entirely or almost entirely abroad will only be within the scope of the statute in exceptional cases. "Something more" than recruitment in Britain by a British employer is required. Lord Hoffmann gave two principal examples: first, an employee working for a British employer in what amounts, for practical purposes, to an extra-territorial British enclave abroad (such as the RAF base on Ascension Island); and secondly, an employee posted abroad by a British employer for the purposes of a business carried on in Great Britain (such as a foreign correspondent of a British newspaper). Lord Hoffmann accepted that other expatriates may qualify, but said that they would need "equally strong" connections with Great Britain and British employment law.
15. Lord Hoffmann observed: "The circumstances would have to be unusual for an employee who works and is based abroad to come within the scope of British labour legislation. But I think that there are some who do...". He further held that British ownership of the employer, or the fact that the employee is British or was recruited in Britain so that the relationship was "rooted and forged" there, is not in itself sufficient. "Something more is necessary."

Ravat v Halliburton: the unifying principle

16. The unifying principle was stated by the Supreme Court in *Ravat v Halliburton Manufacturing & Services Ltd* [2012] UKSC 1. Mr Ravat was a British citizen living in Preston. He was employed by a United Kingdom company. He worked on a rotational or commuter basis, spending 28 days in Libya and 28 days at home. He was paid in sterling into a United Kingdom bank account, on United Kingdom pay and pension structures, and he paid United Kingdom income tax and national insurance contributions.

17. Lord Hope, delivering the judgment of the Court, formulated the general principle as one of sufficient connection. At paragraph 29, he stated:

5 "The question of law is whether section 94(1) applies to this particular employment. The question of fact is whether the connection between the circumstances of the employment and Great Britain and with British employment law was sufficiently strong to enable it to be said that it would be appropriate for the employee to have a claim for unfair dismissal in Great Britain."

10 18. The starting point (paragraph 27 of the judgment) is that the employment relationship must have a stronger connection with Great Britain than with the foreign country where the employee works. The general rule is that the place of employment is decisive, but it is not an absolute rule. The open-ended language of section 94(1) leaves room for exceptions where the connection with Great Britain is sufficiently strong.

15 19. Importantly, Lord Hope held that those who are not truly expatriate — that is, those who do not both live and work abroad — need not meet the high "exceptional" standard applicable to true expatriates. Mr Ravat's home in Great Britain, with the consequences that flowed from it for his terms and conditions, made the burden of showing sufficient connection less onerous.

20 20. Ravat effectively subsumed the Lawson v Serco categories into a single overriding principle of sufficient connection, although those categories remain useful as indicators of the kinds of case in which the requisite connection may or may not be found.

Duncombe

25 21. In Duncombe v Secretary of State for Children, Schools and Families [2011] UKSC 36, Lady Hale emphasised that the examples given in Lawson v Serco are no more than illustrations of a general principle. At paragraph 8, she said: "it is a mistake to try and torture the circumstances of one employment to make it fit one of the examples given [in Lawson v Serco], for they are merely
30 examples of the application of the general principle." She continued: "It is therefore clear that the right will only exceptionally cover employees who are working or based abroad. The principle appears to be that the employment

must have much stronger connections both with Great Britain and with British employment law than with any other system of law."

22. In *Duncombe*, teachers in European Schools were held to constitute an exceptional case with an "overwhelmingly closer connection" with Great Britain and British employment law. The employer was the United Kingdom Government (which Lady Hale described as the closest connection an employer can have); the contracts were governed by English law; the employees were employed in international enclaves with no particular connection to the host country; and they did not pay local taxes.

Sufficient connection

23. The nature of the sufficient connection question — and the degree of appellate restraint appropriate to its determination — was considered by the Court of Appeal in *British Council v Jeffery and Green v SIG Trading Ltd* [2018] EWCA Civ 2253. Underhill LJ held that the sufficient connection question is a question of law to be determined by an evaluation of the underlying facts.

24. The Court of Appeal further held that, in the generality of cases, Parliament is taken to have intended that an expatriate worker — that is, someone who lives and works in a particular foreign country, even if British and employed by a British employer — will be subject to the law of the country where he or she works and will not enjoy the protection of the ERA 1996. Exceptional cases require factors connecting the employment to Great Britain and British employment law which pull sufficiently strongly to overcome the territorial pull of the place of work. This was described as "the sufficient connection question". It is important to note that it is the employment relationship that is the focus and its connection to Great Britain and British employment law.

25. In *Cable News International Inc v Bhatti* [2025] EAT 63, the Employment Appeal Tribunal confirmed that the question of law is whether the individual is within the territorial scope of the statute. The characterisation of the employment (for example, as peripatetic) is relevant to, but not itself, the

question of law; the sufficiency of connection is an evaluative judgment for the tribunal.

The three categories

26. In *Ravis v Simmons & Simmons LLP* UKEAT/0085/18, the Employment
5 Appeal Tribunal, applying *Ravat*, *Lawson* and *Bates van Winkelhof*, identified three broad categories into which cases may fall. They are a useful guide, but cannot replace or modify the authorities from which they are derived:

Type (a): The Claimant worked in Great Britain at the relevant time or period. In such a case, territorial jurisdiction is established.

- 10 Type (b): The Claimant worked outside Great Britain. There is a presumption against jurisdiction. It may be rebutted only if something exceptional puts the case into a category where the employment has much stronger connections with Great Britain and British employment law than with any other system. This is a question of fact and degree.

- 15 Type (c): The Claimant lived and worked for at least part of the time in Great Britain. In such a case, the claim need not be "truly exceptional". No comparative exercise of the kind required in a type (b) case is necessary. There need merely be a sufficiently strong connection with Great Britain and British employment law.

20 Relevant factors

27. The assessment of sufficient connection is multifactorial. No single factor is determinative; the weight to be given to any particular factor is a matter for the tribunal. The following, which are not exhaustive, have been recognised as relevant connecting factors in the authorities:

- 25 (i) Where the employee was recruited. The place of recruitment may be a relevant factor, although recruitment in Great Britain is not alone sufficient (*Lawson v Serco*, per Lord Hoffmann).

- 5 (ii) Where the work is done. In *Lodge v Dignity & Choice in Dying* UKEAT/0252/14, an Australian citizen employed by a British company as Head of Finance, working remotely from Australia for the benefit of the London operation, was held to be within the territorial scope of the ERA 1996. The fact that she was a "virtual employee" did not take her outside the statute.
- 10 (iii) Where the employee is based. In *Fuller v United Healthcare Services Inc* UKEAT/0464/13, a United States citizen spending approximately 49 per cent of his working time in the United Kingdom was held to fall outside the territorial scope of the statute. He had not given up his United States base and the contract had an "overwhelmingly close connection" with the United States. The employee's base may change over time; the strength of connection is not immutable: *Cable News International Inc v Bhatti* [2025] EAT 15 63 (peripatetic journalist whose base changed from Bangkok to London from 1 March 2017); *Yacht Management Co Ltd v Gordon* [2024] EAT 33 (stewardess whose Scottish home was held to be her base, as her duties began and ended there).
- 20 (iv) The parties' choice of governing law. An express choice of law clause is a relevant factor: *British Council v Jeffery / Green v SIG Trading Ltd* [2018] EWCA Civ 2253. Greater weight may be given to a specifically negotiated clause than to a standard off-the-shelf term. In *Green v SIG Trading Ltd* [2017] UKEAT 0282/16, the employer's "convenience" explanation for using a standard United Kingdom 25 contract did not displace the objective assessment. In *Partners Group (UK) Ltd v Mulumba* UKEAT/0237/20/RN, it was held to be an error of law to fail to take the governing law provision into account.
- 30 (v) What has been said to the employee about which system of law applies. In *Hexagon Sociedad Anonima v Hepburn* UKEATS/0018/19, an exclusive jurisdiction clause in favour of the

Scottish courts and tribunals was relevant where it created an expectation on the part of the employee and there were other connections with Great Britain. Without such other connections, reliance on such a clause alone would amount to "forum shopping".

5 (vi) Where the relationship is managed operationally and from an HR perspective; where the employee is paid and in what currency. In
10 Bates van Winkelhof v Clyde & Co (ET/2200549/11; CA [2012] EWCA Civ 1207), a member of a limited liability partnership working in Tanzania was found to have very strong connections with Great Britain (she worked partly in Great Britain, the LLP agreement was governed by English law, she was paid from London, and she appeared on the Law Society website). By contrast, in Nica v Xian Jiaotong Liverpool University UKEAT/0041/17, an employee working in China, paid in Chinese
15 currency under a contract governed by Chinese law, was held to have no jurisdiction.

(vii) Membership of the Civil Service Pension Scheme and the nature and public character of the employer. In Jeffery v British Council UKEAT/0036/16, a United Kingdom citizen recruited in the United
20 Kingdom and working wholly abroad was found to have a sufficiently strong connection with Great Britain. Membership of the Civil Service Pension Scheme was an exceptional factor pointing strongly to Great Britain, alongside a contract governed by United Kingdom law, notional United Kingdom-rate tax, and employment
25 by a public body with an important place in British public life.

(viii) Where the employee pays tax and social security, and steps taken to influence this. In Olsen v Gearbulk Services Ltd UKEAT/0345/14, a peripatetic employee living in Switzerland and working for a Bermudian company, under a contract subject to
30 Bermudian law and jurisdiction, who had structured his arrangements to avoid the United Kingdom tax regime, was held to

have an insufficient connection with Great Britain despite working more days in the United Kingdom than in any other single country.

(ix) Where the employer is registered and where the business is based.

5 In *Powell v OMV Exploration & Production Ltd* UKEAT/0131/13, an "international commuter" living in Great Britain but employed by an Isle of Man company managed from Austria, working in Dubai, fell outside the scope of the statute. The employer was not British and had no United Kingdom place of business; the essential work was performed extra-territorially; and the employee had spent only
10 approximately 20 working days in the United Kingdom.

(x) The nature of the employer and whether the employee represents Great Britain abroad. In *Rogers v Deputy Commander* UKEAT/0455/12, a German national employed on a British military base in Germany, married to a British soldier, was held to have an
15 insufficient connection with Great Britain; the case was distinguished from *Ministry of Defence v Wallis* [2011] EWCA Civ 231.

(xi) Lack of local redress or state/diplomatic immunity. These are relevant but not determinative factors, and do not trump other
20 considerations: *Bryant v Foreign and Commonwealth Office* [2003] UKEAT 174; *Hamam v British Embassy in Cairo* [2020] IRLR 574; *Rajabov v Foreign and Commonwealth Office* [2022] EAT 112.

Irrelevant or non-decisive factors

28. Certain matters have been held to be irrelevant or non-decisive:

25 (i) Nationality. Nationality is not a relevant factor: *Aldabe v Standard Chartered Bank* [2012] EWCA Civ 1393 (employee recruited internationally to work in Singapore; the contract was not "rooted and forged in Britain"; the place of employment was decisive). Residence may be relevant, but is not decisive.

- 5 (ii) Status as a dependant. Status as a dependant of a service member is irrelevant. In *Ministry of Defence v Wallis* [2011] EWCA Civ 231, British citizens who were married to armed forces members and who worked at NATO headquarters schools were held to have jurisdiction; their dependant status did not defeat the strong connections with Great Britain.
- 10 (iii) The relative merits of the competing foreign labour law system. In *Dhunna v CreditSights Ltd* [2014] EWCA Civ 1238, it was held that the comparison relates to the relative strength of connection, not the relative merits of competing systems of labour law. What was contemplated at the time the contract was entered into is also irrelevant.
- 15 (iv) The employer's subjective explanation. In *Green v SIG Trading Ltd* [2017] UKEAT 0282/16, the employer's subjective explanation for its choice of contractual terms did not displace the objective assessment.

Employees not working at the time of dismissal

- 20 29. Where an employee is not working at the time of dismissal — for example, by reason of sickness absence, maternity leave, or suspension — the tribunal must, following *YKK Europe Ltd v Heneghan* UKEAT/0271/09: (i) identify the *Lawson v Serco* category into which the employee falls; and then (ii) consider a number of factors including: why the employee was absent and the length of absence before dismissal; where the employee was ordinarily working or based and for how long before the absence; where the employee would have been working at the date of dismissal but for the absence; whether there was an active employment relationship between the onset of absence and the date of dismissal; where the contract was operated from at the date of dismissal; and whether the tribunal would have had jurisdiction at the date the absence began.

30 Timing of sufficient connection

30. Where the tribunal finds that the connection with Great Britain evolved over time so that the employment came within the territorial scope of the statute at a particular point, the tribunal must identify when that occurred. Failure to do so is an error of law, relevant to the determination of which claims may be heard: *Partners Group (UK) Ltd v Mulumba* UKEAT/0237/20/RN.

Summary

31. Drawing the foregoing principles together, the law may be summarised as follows. First, the territorial scope of section 94(1) of the ERA 1996 is a question of statutory construction; it is a question of law, albeit one to be determined by an evaluation of the underlying facts. Secondly, the standard or paradigm case is the employee who is working in Great Britain at the time of his or her dismissal. Thirdly, where the employee is not working in Great Britain at the date of dismissal, the test is whether there is a sufficiently strong connection between the circumstances of the employment, Great Britain and British employment law (*Ravat v Halliburton Manufacturing & Services Ltd* [2012] UKSC 1). Fourthly, where the Claimant is a true expatriate — that is, both living and working abroad — the connection must be exceptional or overwhelmingly strong; but where the Claimant lives or works for at least part of the time in Great Britain, the burden is less onerous and no comparative exercise of the kind required in a true expatriate case is necessary. Fifthly, the assessment is multifactorial and fact-sensitive.

Issues

32. The issue before me is whether the Claimant's employment relationship had a sufficiently strong connection with Scottish employment law and Scotland that the Scottish Employment Tribunal has jurisdiction to hear his complaints.

Findings in fact

33. The Tribunal makes the following findings in fact.

34. The Respondent, Mormair Ltd, is a company incorporated in Scotland. Mr Ryan Findlay was the founder and controlling figure within the business. The Claimant, Mr Allan Goldberg, is a South African engineer and inventor associated with the development of a compressed liquid circulation ("CLC") generator technology. The Respondent's business proposition depended substantially upon the development and commercial exploitation of that technology.
35. The parties' relationship began as a commercial collaboration centred upon the Claimant's technology and his existing South African engineering network. The Claimant had developed the technology through Resonant Nuteq, a South African enterprise with which he remained closely associated. The documents show that it was the intention of the Respondent to bring the innovative technology to the UK if funding could be secured for it.
36. On 30 January 2023 the parties entered into a Director Service Agreement under which the Claimant was appointed Chief Technology Officer of the Respondent. The agreement provided for a salary of £120,000 per annum and contained a number of features ordinarily associated with a British employment contract. It referred expressly to the Employment Rights Act 1996, contained a Scots law clause, and included provisions contemplating the resolution of employment disputes through mechanisms associated with British employment law.
37. The Claimant was subsequently appointed as a director of Mormair and became a person with significant control. The Claimant was a person with significant integration into the Respondent.
38. Throughout the entirety of the employment relationship the Claimant resided in South Africa. It appears to be common ground that he never travelled to the United Kingdom during the employment, never worked physically in Great Britain, never obtained a UK visa, never held a National Insurance number and never paid UK income tax. It is also common ground that he was paid into a South African bank account.

39. The Claimant's physical presence in South Africa reflected the developmental stage of the project. It was also where he was doing the work on that developmental phase.
- 5 40. The Respondent's ultimate objective was to commercialise and deploy the technology within the United Kingdom.
- 10 41. The documents in the bundle, grant applications, business plans and investor documents produced by Mormair repeatedly present Mormair as a Scottish undertaking and describe anticipated deployment in the United Kingdom. The Innovate UK, SBRI and CLIMATES applications identify the Claimant as Mormair's CTO and present the business as pursuing opportunities within the United Kingdom energy market.
- 15 42. The Director Service Agreement was governed by Scots law. The shareholders' agreement and company constitutional arrangements similarly referred to Scottish law and Scottish courts. The parties plainly intended that the relationship should be governed by Scots law.
43. All engineering activity occurred in South Africa. The prototype was developed there, and the Claimant worked alongside South African engineers. The project depended upon South African resources, facilities and expertise throughout the period of employment.
- 20 44. No relocation date was ever agreed, no visa application was ever made, no relocation package was discussed and no move to the United Kingdom was operationally required before the contemplated deployment stage of the project. It was, however, plainly the intention of the parties that once that phase was completed there would be an operational need for the Claimant to be in the UK.
- 25 45. I note as background and without making any findings in fact binding on another court or tribunal that it appears that the employment relationship deteriorated during the spring of 2024 and there were disputes concerning funding, intellectual property, project management and remuneration. The evidence includes extensive communications between the Claimant and Mr
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Findlay concerning salary, technical documentation, grant applications and the future direction of the business. Those exchanges culminated in the Claimant's removal from his position as CTO and subsequently as a director of the company in June 2024.

5 46. An earlier Preliminary Hearing before Employment Judge Hendry determined that the Claimant was an employee and that the Director Service Agreement constituted a genuine and binding contract of employment. I do not find that the earlier judgment makes any relevant findings on the intentions of the parties in the context of territorial jurisdiction.

10 47. It seems that the Claimant was recruited for his existing technological expertise, his intellectual property and his access to South African engineering resources. The grant applications and business materials repeatedly describe work being undertaken through existing South African technical arrangements.

15 48. Examining the documents to which I was referred I find that during the Operational Phase of the process, the intention was to operate from the UK. The Innovate UK, CLIMATES and SBRI materials consistently present Mormair not as a South African business but as a Scottish or UK business seeking to commercialise technology within the United Kingdom. They describe:

20 (i) Deployment into UK energy markets.

 (ii) Relationships with National Grid.

 (iii) UK manufacturing opportunities.

 (iv) UK supply-chain resilience.

 (v) Middlesbrough as a prospective hub.

25 (vi) UK industrial deployment opportunities

49. The Innovate UK material in particular describes Britain as the preferred location for commercial deployment and contrasts this with continued operation in South Africa.
50. The Claimant was expected, I find, to be a central figure in the future business, which would be located in Great Britain but it is unclear whether that would have been in Scotland or England and Wales. I have to ask whether it is likely that the Respondent intended the Claimant to remain in South Africa at that point, and I conclude that it is more likely than not that that he would thereafter work in the UK. However I cannot conclude that there was a settled intention on the part of the Respondent that this would occur. It seems to me that it was contingent on successful conclusion of the pre-operational phase.
51. There was no firm agreement that the Claimant would relocate at any particular time. There is no evidence, for example, of an operational trigger which would require relocation.
52. The documents establish an intention that the Claimant would continue to work physically in South Africa during the pre-operational phase whilst the technology was being developed and tested. The documents establish an intention that Mormair's future commercial operations would be centred upon UK deployment and UK business opportunities. However, I do not find that the parties had reached any sufficiently definite agreement as to precisely where the Claimant himself would perform his duties once that operational phase was reached. The evidence establishes an intention concerning the future location of the business more clearly than it establishes an intention concerning the future location of the Claimant. I find that this is because the difference between the development and operational phase of the relationship was significant and the operational phase of the relationship was contingent. The practical reality was that the Claimant did all his work up to the time of the dismissal in South Africa.

Respondent's submissions

53. Both parties made written submissions. I am grateful for them. It is no disrespect that I do not lay them out verbatim. I include a summary here.

54. The Respondent submitted that the applicable test is that set out in *Lawson v Serco Ltd* and *Ravat v Halliburton Manufacturing and Services Ltd*; that the Claimant was plainly an expatriate worker and that the presumption was therefore against territorial jurisdiction.

55. It relied principally on *Green v SIG Trading Ltd* and *Creditsights Ltd v Dhunna* ([2014] EWCA Civ 1238), submitting that both cases involved Claimants with materially stronger British connections than the present Claimant and yet both were held to fall outside the territorial scope of British employment legislation. It argued that the Claimant's position was weaker still because he never worked in, visited, paid tax in, or obtained a right to work in the United Kingdom. I will say immediately that I did not proceed on the basis of the invited comparative exercise; the proper approach is for me to evaluate the factors as I have done below.

56. The Respondent accepted that certain features pointed towards Scotland. It accepted that *Mormair* was a Scottish company; that the Director Service Agreement was governed by Scots law; that it referred to the Employment Rights Act 1996 and Employment Tribunal procedures; that the Claimant was a director, person with significant control and shareholder; and that company administration was conducted from the United Kingdom. However, it submitted that such factors were relevant but not decisive and could not themselves confer territorial jurisdiction.

57. The Respondent submitted that the practical reality of the relationship pointed overwhelmingly towards South Africa. I did not entirely accept that submission, as the discussion below demonstrates. The practical reality was that the parties had entered into an agreement under which both intended to operate the contract so that if the development phase moved to the operational phase the Claimant's services would have been required in Great Britain.

58. The Respondent argued that the Claimant's work was directed towards a South African undertaking involving South African engineering resources and a South African development programme. It submitted that any future UK deployment remained aspirational. No deployment occurred during the Claimant's employment, no relocation arrangements were made, no visa was applied for, and no UK operating phase ever materialised.

59. The Respondent also submitted that the Claimant's reliance upon future UK plans was undermined by unresolved intellectual property ownership issues identified in a February 2024 legal audit. It argued that Mormair did not possess secure rights to the underlying technology and that proposals for future UK manufacture and deployment therefore remained speculative rather than operational realities.

60. Finally, the Respondent submitted that the Tribunal should focus on the substance of the relationship rather than contractual labels. It argued that, viewed realistically, the Claimant's employment was centred in South Africa throughout. The Scottish contractual and corporate connections were insufficient, individually or collectively, to overcome what it described as the overwhelming territorial pull of South Africa. It therefore invited the Tribunal to conclude that the connection with Great Britain and British employment law was not sufficiently strong to confer territorial jurisdiction and to dismiss the claim.

61. I discuss these points further below.

Claimant's submissions

62. The Claimant submitted that, although he lived and physically worked in South Africa throughout the employment, the employment relationship had a sufficiently strong connection with Great Britain and British employment law to satisfy the test in *Lawson v Serco Ltd* ([2006] UKHL 3) and *Ravat v Halliburton Manufacturing and Services Ltd* ([2012] UKSC 1). He accepted that the case fell within the "Type (b)" category of worker identified in *Ravisy*

v Simmons & Simmons LLP, but contended that the required stronger connection was established when the relationship was viewed as a whole.

63. The Claimant relied heavily on the legal and corporate framework of the relationship. He referred to the Director Service Agreement (Joint Bundle pp.206-245), in particular:

Clause 25: "Employment Rights Act 1996. The information in this agreement constitutes a written statement of the terms of employment of the employee in accordance with the Employment Rights Act 1996" (JB p.238).

Clause 29: "The formation, existence, construction, validation, performance, and all aspects whatsoever of this agreement shall be governed by and construed in accordance with the Law of Scotland and the parties prorogate to the jurisdiction of the Courts of Scotland" (JB p.241).

The grievance procedure providing for "ACAS Arbitration and any subsequent Employment Tribunal Action" (JB p.244).

64. All of these I accept plainly point towards the contract being operated under UK law and in particular the law of Scotland. He also relied on the governing law and jurisdiction clauses in the shareholders' agreement and articles of association, each of which adopted Scottish law and Scottish courts.

65. The Claimant submitted that there was no equivalent South African employment, corporate or dispute-resolution framework governing his relationship with Mormair. The Claimant did not produce any evidence to those that this was the case.

66. The Claimant relied on Mormair's Scottish corporate identity. He referred to the certificate of incorporation, his appointment as director, shareholder and person with significant control, and the Respondent's statement in its ET3 that Mormair had "never had a presence in South Africa".

67. The Claimant further relied upon contemporaneous communications with Ryan Findlay. He referred to a message stating:

"You really have no idea how contract law works in Scotland do you" (JB pp.73-78 / 267-268),

and a further message:

"This will be a matter for the Scottish Courts to decide" (JB p.275).

68. He submitted that these exchanges demonstrated the parties' contemporary understanding that disputes arising from the relationship would be governed by Scottish law and determined by Scottish courts.

5 69. The Claimant's principal factual case was that South Africa was the location of the prototype and engineering activity during a development phase, whereas the business itself was structured around future UK commercialisation and deployment.

10 70. In support of that proposition he relied upon the Innovate UK Loan Application (JB pp.339 onwards). He referred in particular to statements that:

"our primary target market is the UK National-Grid and its users" (JB pp.340-341 and 347),

and:

"We need this public sector loan to bring the innovation to the UK" (JB p.360).

15 71. He also relied upon passages which described Britain as the preferred operational location and South Africa as a "less optimal location". JB pp.359-360.

20 72. The Claimant referred extensively to the CLIMATES project documents (JB pp.20-42), which described Mormair as the lead organisation and identified him as:

"Allan Goldberg: CTO/Board Member" (JB p.30),

and:

"CTO Allan Goldberg will coordinate R&D and engineering activity" (JB p.36).

25 73. He submitted that these documents demonstrated a UK-led programme in which Resonant Nuteq was a subcontractor reporting through him as Mormair's CTO.

74. The Claimant also relied on Mormair's website and BAIS sales materials (JB pp.13-19), which described future deployment of generators, relationships with EDF and planned UK deployment projects.
75. The Claimant referred to payroll correspondence from Hayley Henretty stating:
5 "for a South African resident being paid by a UK company" (JB p.249).
76. He submitted that this contemporaneous description reflected the reality that he was the employee of a UK company notwithstanding his overseas residence.
- 10 77. The Claimant further relied on the Shell, Glass Futures and SBRI materials as demonstrating anticipated UK deployment and industrialisation activities for which he would be responsible as CTO. JB pp.281-282, 327-329, 340 and related documents.
- 15 78. The Claimant's opening also contained the following assertions which were not, from the material before me, supported by specific documentary references and were **not** repeated in his oral evidence:
- That the technology was stalled at Technology Readiness Level 6/7 because of unpaid engineering costs arising from MyWealth's failure to provide promised funding.
- 20 That the anticipated eight-month reduced-salary period corresponded to an expectation that the technology would progress from TRL6/7 to TRL9 commercial prototypes within that time.
- That South African engineering debt prolonged the development stage beyond the original expectations of the parties.
- 25 That the Saudi Aramco opportunity had, to his knowledge, reached contractual stage and was expected to be worth approximately US\$1.25 million.
79. Accordingly I could not take account of that material. However I should add that even if I had accepted those points as evidence they would have made
30 no difference to my conclusion, as they appear to me to be largely irrelevant to what I have to consider or even if relevant of very little weight.

80. By contrast, the following points were not merely advanced in opening but were also reflected in the Claimant's oral evidence and I did consider these, and attach weight to them:

5 That the business was intended to operate in two phases, namely a South African development phase followed by UK-centred commercial deployment.

That his CTO role was not tied to one country but followed the development and deployment of the technology.

That Resonant Nuteq acted as a subcontractor rather than as his employer.

10 That Mormair remained the UK lead organisation whilst Resonant provided technical resources within South Africa.

That the Claimant's presence in South Africa arose from the location of the prototype and engineering resources rather than because his employment was attached to a South African undertaking.

15 81. In summary, the Claimant's case was that the physical location of the development work in South Africa should not be treated as determinative. He submitted that the Tribunal should instead look at the relationship as a whole, including the identity of the employer, the governing law provisions, the Scottish corporate structure, the administration of the relationship, the absence of any South African Mormair employment framework, and the
20 documentary evidence showing an intended programme of UK manufacture, commercialisation and deployment. He contended that these matters demonstrated a substantially stronger connection with Great Britain and British employment law than with South Africa.

Discussion

25 82. I considered the case of **Creditsights Ltd v Dhunna [2014] EWCA Civ 1238** in some detail which I accepts correctly states the law which also applies to Scotland. A Claimant who both lives and works abroad at the time of dismissal falls outside the territorial scope of the Employment Rights Act 1996 unless he can demonstrate a sufficiently strong connection with Great Britain
30 and British employment law to displace the general rule that the place of employment is decisive. The required inquiry is not a comparison of the merits

of different legal systems but an assessment of the strength of the Claimant's connection with Great Britain and British employment law.

(1) Territorial jurisdiction depends upon the connection between the employment relationship and Great Britain

- 5 83. The Court approved Lord Hoffmann's observation in *Lawson* that the question is: "what connection between Great Britain and the employment relationship is required" for British employment legislation to apply. Paragraph 20. The focus is therefore the employment relationship itself rather than corporate nationality or formal contractual labels.

10 **(2) The general rule remains that the place of employment is decisive**

84. The Court endorsed Lord Hope's statement in *Ravat* that: "the employment relationship must have a stronger connection with Great Britain than with the foreign country where the employee works" and that "the general rule is that the place of employment is decisive". Paragraph 32 quoting *Ravat* at [27].

15 **(3) For a true expatriate an especially strong connection is required**

85. The Court adopted Lord Hope's analysis in *Ravat* that: "The case of those who are truly expatriate because they not only work but also live outside Great Britain requires an especially strong connection with Great Britain and British employment law before an exception can be made for them." (Paragraph 32
20 quoting *Ravat* at [28]).

(4) The inquiry is comparative, but not comparative between legal systems

86. A central point in the judgment is the rejection of the argument that tribunals should compare the quality or scope of foreign employment law with British
25 employment law. The Court held: "The relative merits of any competing systems of law have, however, no part in the inquiry". Paragraph 40.

87. The Court continued: "The object of the exercise is simply to decide whether an employee is able to except himself from the general rule by demonstrating

that he has sufficiently strong connections with Great Britain and British employment law." Paragraph 40.

- 5 88. This passage is directly relevant to the Claimant's submission that there was no equivalent South African employment framework. In so far as the Claimant seeks to suggest that the lack of equivalent employment law framework is relevant, I reject that submission.

The Relationship must be assessed at a particular time

(1) The statutory right is engaged by the dismissal

- 10 89. The Court recognised that the issue is whether the Claimant can invoke section 94 ERA in respect of his dismissal. (Paragraphs 1-2). The relevant question therefore concerns the nature of the employment relationship when the statutory right is alleged to have been infringed.

(2) What matters is not what was contemplated when the contract was made

- 15 90. The clearest statement appears at paragraph 43: "Lord Hoffmann made it clear in *Lawson*, at [27], that what counts is whether or not the employee was working in Great Britain at the time of his dismissal, rather than what was contemplated when his employment contract was made". (Paragraph 43).

- 20 91. Here it was plainly contemplated that when the Operational phase of the contractual relationship started the Claimant would probably have to move and be in the UK. However in *Dhunna* the Court expressly contrasted:

(i) Original expectations and intentions when the contract was entered into; and

(ii) The reality of the employment relationship when dismissal occurred.

- 25 92. The latter is what matters. In the Claimant's case although it is clear that there was an intention at a later phase of the employment relationship for a move to the UK, there was no such intention at the time of the dismissal.

(3) Territorial jurisdiction depends on the actual employment relationship, not future or historic expectations

93. The employment tribunal had examined where Mr Dhunna was actually working at dismissal and concluded: "The reality of the situation was that he had moved from the United Kingdom and severed his links with it." Paragraph 21 (paragraph 12.6 of the ET reasons, adopted by the EWCA). The England and Wales Court of Appeal approved that approach. Paragraphs 43-44.

94. The significance is that the Court focused on the relationship as it actually existed when the claim arose, not on previous links with Britain and it seems to me that this logic ought to apply to future contingent intentions, such as a different phase of the employment relationship should certain funding become available.

(4) Historic connections do not answer the question

95. The Court specifically recognised that Mr Dhunna:

- (i) Originally worked in London.
- (ii) Had been employed under an English contract.
- (iii) Worked for a company incorporated in England and Wales.

Paragraphs 8-11, 43.

96. However, it held that those features were insufficient because the relevant inquiry concerned his position when dismissed. Paragraph 43.

Factors Relevant to Territorial Jurisdiction

97. The exercise is obviously not a mathematical one. The Tribunal is not concerned with counting factors for and against jurisdiction. The question is whether, viewed in the round, this particular employment relationship had such an exceptionally strong connection with Scotland and British employment law that Parliament can be taken to have intended that the claimant should be entitled to invoke statutory employment rights in Scotland

notwithstanding that he lived and worked wholly in South Africa throughout the employment. I have nevertheless found it useful to identify the principal factors pointing in each direction and to evaluate their significance.

5 98. (i) Where the employee was recruited. The claimant was recruited by Mormair Ltd, a Scottish company. His employment relationship was created through that company and formalised by a Director Service Agreement governed by Scots law. He was recruited directly into the role of CTO, director, shareholder and person with significant control. The claimant's case is that he was recruited to assist Mormair in developing and commercialising technology
10 through a UK-centred business model directed towards UK deployment and commercial opportunities. On the other hand, the claimant was resident in South Africa when recruited, did not travel to the United Kingdom for recruitment discussions or negotiations, and the contract recorded his South African address and proceeded on the basis that he would work from South
15 Africa. This factor favours the claimant to a limited extent because recruitment was by a Scottish employer for a senior role within that company. However, he was recruited whilst living in South Africa and no part of the recruitment process occurred in Great Britain. It seems to me that the Respondent's submission on these points is to be preferred; these are factors mainly
20 negating Scottish territorial jurisdiction.

25 99. (ii) Where the work was done. The claimant's work was carried out for Mormair rather than a South African employer. Resonant Nuteq was a subcontractor and engineering resource rather than his employer. The grant documentation contemplated eventual UK commercialisation, UK industrial deployment, UK supply-chain resilience and participation in UK energy markets. The documents describe him as Mormair's CTO and technical lead. Nevertheless, these considerations are outweighed by the practical reality of the work performed during the employment. The claimant accepted that he physically worked in South Africa throughout, that the prototype was in South
30 Africa, that the engineering team worked there, that personnel reporting to him were located there, and that the first deployment was intended to occur there. He further accepted that no part of the project ever moved to the United

Kingdom during his employment and stated in re-examination that his role at the relevant time was developing the project in South Africa. Whilst the work may ultimately have been intended to support future UK deployment, that phase had not been reached. The claimant's position does not appear materially different from that of a specialist service provider carrying out development work abroad for a Scottish company. This factor strongly favours the respondent's broad submission.

100. (iii) Where the employee was based. The claimant's organisational attachment was always to Mormair in Scotland. He was a director, shareholder and person with significant control of that company. However, he resided in South Africa throughout. Clause 1.3.4 of the Director Service Agreement defined his principal place of employment as his place of residence. He accepted that his principal place of employment under the contract was South Africa. Mormair never required him to work elsewhere, no relocation date was fixed and no relocation arrangements were made. This factor strongly favours the respondent.

101. (iv) The parties' choice of governing law. The Director Service Agreement is governed by Scots law. It expressly refers to the Employment Rights Act 1996 and contains grievance provisions referring to ACAS and the Employment Tribunal. The Articles of Association and Shareholders' Agreement similarly adopt Scots law and Scottish jurisdiction provisions. These are significant factors in the claimant's favour and are directly relevant under the authorities. However, there is no evidence that the governing law provisions were specially negotiated, and the surrounding factual matrix demonstrates that the work was carried out in South Africa throughout. This is one of the claimant's stronger factors.

102. (v) What was said about the applicable legal system. The claimant relied upon statements made by Mr Findlay during disputes between the parties. Mr Findlay referred to "contract law in Scotland" and later stated that a dispute would be a matter for the "Scottish Courts". Those statements tend to support an assumption that disputes would be resolved under Scottish law. However,

the claimant accepted in cross-examination that the exchanges occurred during disputes concerning intellectual property and dismissal rather than discussions about where he worked. I therefore regard this factor as providing some support for the claimant, but only modest support.

- 5 103. (vi) Where the relationship was managed operationally and from an HR perspective, and where the employee was paid. The claimant's evidence was that Ryan and Valerie Findlay managed payroll, finance and administration from the United Kingdom. The onboarding process involved UK payroll administration and the claimant remained accountable to Mormair management. On the other hand, he was paid gross into a South African bank account, was not on PAYE, had no National Insurance number and used his own equipment and infrastructure. The management and administrative aspects of the relationship favour the claimant. The payroll, remuneration and practical arrangements favour the respondent. Overall, this is a mixed factor.
- 10
- 15 104. (vii) Membership of a public service pension scheme and the nature of the employer. The exceptional public-law features present in *Jeffery* are entirely absent. Mormair is a private commercial company and the claimant had no Civil Service Pension Scheme membership or comparable public-law connection. I do not regard this factor as carrying material weight either way.
- 20 105. (viii) Tax and social security. There is no evidence supporting Scotland on this factor. The claimant paid tax in South Africa, paid no UK income tax, held no National Insurance number and was never on PAYE. This factor strongly favours the respondent.
- 25 106. (ix) Where the employer was registered and where the business was based. Mormair was incorporated in Scotland. The claimant was a director, shareholder and person with significant control of that company. The respondent itself pleaded that Mormair had never had a presence in South Africa. Those are substantial Scottish connecting factors. However, the operational work carried out by the claimant remained in South Africa.
- 30 Overall, this factor favours the claimant.

107. (x) The nature of the employer and whether the employee represented Great Britain abroad. The claimant's case is that he represented a Scottish company abroad as its CTO and technical lead. In some respects there is an analogy with a foreign correspondent working abroad on behalf of a business based in Great Britain. The documents repeatedly describe UK commercial objectives and anticipated UK deployment. However, the claimant accepted that his day-to-day role consisted of development work in South Africa, that the engineering resources and development activity were located there, and that the project remained in the development phase throughout the employment. It appears to me that he was engaged in developing a Scottish company's technology abroad rather than undertaking work for a separate South African undertaking. However, I place limited weight on that factor because, until the development phase ended, his position appears little different from that of a specialist contractor or consultant supplying services from South Africa to a Scottish business.
108. (xi) Lack of local redress. The claimant emphasised that there was no South African Mormair employer, no South African Mormair corporate structure and no South African employment contract. However, he did not identify evidence demonstrating an absence of legal remedies in South Africa. In any event, the authorities indicate that this is a relevant but not determinative consideration. I therefore attach little weight to it. If I assume, however, that the Claimant is right and that there was no legal redress in relation to the Respondent in South Africa, it is a factor that favours the Claimant's submission in that the context of the other favourable factors is that the employment relationship takes place in a South African legal vacuum. That of course is one factor among others. Even if I assume it in the Claimant's favour, it does not seem to me to outweigh the factors favouring the Respondent's broad submission.
109. Taking all of those matters together, the factors against territorial jurisdiction outweigh those pointing towards it. There was plainly an intention that, if funding were secured and the project progressed successfully, the claimant would become involved in UK deployment and exploitation of the technology.

He was deeply integrated into Mormair's corporate structure and the contractual framework was strongly Scottish in character. I have taken into account not only the employment contract itself but also the claimant's position as director, shareholder and person with significant control. In my view those arrangements form part of the broader employment relationship and consideration provided to him for his services.

110. Nevertheless, the authorities require an assessment of the employment relationship as it existed at the time of dismissal. At that time the claimant lived in South Africa, worked in South Africa, paid tax in South Africa, had no UK tax or National Insurance arrangements, had no right to work in the United Kingdom, and carried out all of his operational duties in South Africa. The contemplated UK deployment phase had not been reached. No generator had been deployed, no demonstration unit had been built, no relocation arrangements existed and no operational move to the United Kingdom had occurred.

111. I have also taken account of clause 4.6 of the Director Service Agreement, which contemplates overseas work but states that the employee will not ordinarily be expected to work outside the United Kingdom for more than one month continuously. The parties plainly did not operate the relationship in accordance with that provision. Further, clause 4.6 must be read with clause 1.3.4, which defined the claimant's principal place of employment as his South African residence. The claimant's position was that this reflected only the temporary development-stage location. In my view that submission has some force. The documents support a conclusion that the parties envisaged a period during which the claimant would work in South Africa whilst development continued, after which the focus of activity might move elsewhere. However, the authorities require the Tribunal to assess the relationship which actually existed, not the relationship which might have come into existence had future contingencies occurred.

112. The claimant's case contains a number of factors which create a real connection with Scotland. He was employed by a Scottish company. His

contract was governed by Scots law. The contract referred expressly to the Employment Rights Act 1996 and contemplated Employment Tribunal proceedings. He was also a director, shareholder and person with significant control of the Scottish company. The company's constitutional documents likewise adopted Scots law and Scottish jurisdiction clauses. The documentary material also demonstrates that Mormair's commercial ambitions were directed substantially towards future deployment and exploitation within the United Kingdom.

113. Those factors are sufficient to demonstrate that there was a connection with Scotland. The question, however, is not whether such a connection existed. The question posed by Lawson, Ravat, Dhunna, Green and the later authorities is whether the connection was **sufficiently strong**, at the material time, to overcome the ordinary territorial pull of the place where the employee lived and worked. The authorities emphasise that, in the case of a claimant who both lives and works abroad, an exceptionally strong connection is required before Parliament can be taken to have intended that British employment legislation should apply.

114. In my judgment, the difficulty for the claimant is that the factors pointing towards Scotland derive principally from the legal and corporate structure of the relationship and from the parties' intentions for the future. By contrast, the factors pointing towards South Africa derive from the practical reality of the employment relationship throughout its existence.

115. The claimant lived in South Africa throughout the employment. He worked there throughout. He never travelled to the United Kingdom during the employment or for recruitment. He paid no UK income tax. He held no National Insurance number. He was not on PAYE. He had no right to work in the United Kingdom and no visa application was ever made. He was paid into a South African bank account. His contract identified his South African residence as his principal place of employment. Mormair never required him to work elsewhere. No relocation date was fixed, no relocation package was discussed and no relocation process was commenced.

116. More significantly, the claimant accepted that the entirety of the work he actually performed during the employment consisted of developing the project in South Africa. The prototype was in South Africa. The engineering resources were in South Africa. The personnel reporting to him were located in South Africa. The first proposed deployment was to occur in South Africa. No component of the project ever moved to the United Kingdom during the period of employment. By the date of dismissal no generator had been deployed, no demonstration unit had been constructed, and the Glass Futures project had not proceeded. The claimant expressly accepted that relocation was not operationally necessary until technology deployment and that no such deployment had occurred by the date of his dismissal.
117. It is clear from the documentary evidence that the parties contemplated a future phase in which the technology might be deployed in the United Kingdom and in which the claimant's role might evolve accordingly. However, that future phase remained contingent. The Innovate UK loan application was unsuccessful. The CLIMATES programme had not commenced during the claimant's employment. No relocation arrangements had been made. No operational move to the United Kingdom had taken place. The anticipated UK deployment phase was therefore prospective rather than actual.
118. The authorities require the Tribunal to examine the employment relationship as it actually existed at the material time. In *Dhunna*, the Court of Appeal stated that what matters is whether the employee was working in Great Britain at the time of dismissal rather than what had been contemplated when the contract was made. Similarly, *Mulumba* emphasises that contractual expectations are relevant but that the Tribunal must examine how the employment relationship operated in practice and assess the position at the time of the matters complained of.
119. Applying that approach, I conclude that the claimant's case depends substantially upon the future relationship which the parties hoped would develop rather than the employment relationship which actually existed when he was dismissed. The evidence supports a finding that the parties intended

that, if funding was obtained and the project succeeded, the business would move towards UK deployment and exploitation. It does not establish that this future state of affairs had been reached, or that the claimant's employment had yet acquired the exceptionally strong territorial connection that the authorities require.

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120. The result is that, although the claimant had significant contractual, corporate and legal connections with Scotland, the day-to-day reality of the employment remained overwhelmingly South African. At the date of dismissal he was living in South Africa, working in South Africa, managing South African engineering resources, paying South African tax and carrying out development work entirely within South Africa. The intended future shift in the centre of gravity of the project had not occurred. In those circumstances, the connection with Scotland and British employment law was not sufficiently strong to displace the ordinary territorial pull of South Africa.

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121. I therefore conclude that the claimant has not established that his employment falls within the territorial scope of the Employment Rights Act 1996 and that the Tribunal lacks territorial jurisdiction to hear his claims.

15

Conclusion

122. In those circumstances, I am not persuaded that the employment relationship at the date of dismissal possessed the exceptionally strong connection with Scotland and British employment law that would be required to displace the ordinary territorial pull of South Africa. It follows that I do not consider that territorial jurisdiction has been established.

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123. In those circumstances, as the Employment Tribunal does not have jurisdiction, I dismiss the Claimant's claims.

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Date sent to parties

14 September 2026

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