



# EMPLOYMENT TRIBUNALS

**Claimants:** Mrs C Noble and others (see schedule)

**Respondents:** 1) Rivington Biscuits Ltd (in Administration)  
2) Secretary of State for Business, Energy & Innovation Strategy  
3) Rivington Biscuits Ltd

On the information before the Employment Judge, with no responses having been presented by the first and third respondents and the response of the second respondent being treated as written representations,

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

1 The judgment of the tribunal is that the claim is well-founded in that the first respondent failed to comply with its statutory collective consultation obligations under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 before proposed redundancy dismissals took effect at its establishment at Ormsley Close, Hindley Industrial Estate, Wigan, Greater Manchester, WN2 4HR on 13 December 2016. The tribunal makes a protective award against the first respondent in respect of all claimants named in the schedule dismissed by reason of redundancy at that establishment and the respondent is ordered to pay remuneration to such claimants for a protected period of 90 days beginning on 13 December 2016.

2 The first and third respondents are the same company which is in administration and the administrators' consent to the commencement of the proceedings has been given.

3 All monetary claims other than for a protective award are dismissed upon withdrawal by the claimants.

4 The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these protective awards.

5 No order for fees as costs under Rule 75(1)(b) is made, although the claimants have paid fees in connection with this claim. In R (on the application of UNISON) v Lord

Chancellor [2017] UKSC 51 the Supreme Court decided that it was unlawful for Her Majesty's Courts and Tribunals Service (HMCTS) to charge fees of this nature. HMCTS has undertaken to repay such fees. In these circumstances, I shall draw to the attention of HMCTS that this is a case in which fees have been paid and are therefore to be refunded to the claimant. The details of the repayment scheme are a matter for HMCTS.

## **REASONS**

1 By a claim form presented on 10 April 2017, the claimants each claimed a protective award in respect of their dismissals for redundancy on or after 13 December 2016 when the respondent's business ceased trading and went into administration.

2 No response was presented but the respondent's administrators gave consent by email dated 10 March 2017 for the proceedings to be brought. They also wrote to the Tribunal on 20 24 May 2017, explaining briefly their appointment as administrators on 13 December 2016. Since the claim was not resisted, no "special circumstances defence" at Section 188(7) TULRCA was pursued and this Judgment is made pursuant to Rule 21 without hearing evidence.

3 From the information provided, the Tribunal makes the following findings. The first respondent was a biscuit manufacturer with its establishment in Hindley where approximately 128 people worked. The administrators were appointed on 13 December 2016 since it had run out of raw materials and had no funds to pay wages; although it carried on employing some workers until it finally ceased trading at about the end of February 2017, approximately 100 workers were dismissed on 13 December 2016 with no warning or consultation. There was no independent trade union recognised for collective bargaining and no employee representatives for redundancy consultation. No consultation within the meaning of Section 188(2) and (4) was carried out before the first redundancy dismissals were put into effect.

4 In these circumstances, the respondent is in breach of the duty under Section 188 and the Tribunal makes an award in favour of all claimants named in the schedule who were dismissed as redundant on or after 13 December 2016 due to the cessation of business for the maximum protected period of 90 days commencing on 13 December 2016.

5 By letter dated 9 August 2017, the claimants withdrew all monetary claims other than the protective award claims.

6 Recoupment

The first respondent and its administrators are advised of the provisions of Regulation 5 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996, such that, within 10 days of the decision in these proceedings being promulgated or as soon as is reasonably practicable, the first respondent must comply with the provisions of Regulation 6 of the 1996 Regulations and, in particular, must supply to the Secretary of State the following information in writing:

**Case No: 2401822/2017  
& others (see schedule)**

- (a) the name, address and national insurance number of every employee to whom the award relates; and
- (b) the date of termination of the employment of each such employee.

7 The first respondent will not be required to make any payment under the protective awards made until it has received a recoupment notice from the Secretary of State or notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State must normally serve such recoupment notice or notification on the employer within 21 days of receipt of the required information from the respondent.

Regional Employment Judge Parkin

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Date: 29 August 2017

JUDGMENT SENT TO THE PARTIES ON

5 September 2017

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE

## ***Multiple Schedule***

<b><i>Case Number</i></b>	<b><i>Case Name</i></b>
2401822/2017	Mrs Caroline Noble -v- Rivington Biscuits Limited (in administration) & Others
2401823/2017	Mr Alan Adamson -v- Rivington Biscuits Limited (in administration) & Others
2401824/2017	Ms Andrea Gibbons -v- Rivington Biscuits Limited (in administration) & Others
2401825/2017	Ms Andrea Stout -v- Rivington Biscuits Limited (in administration) & Others
2401826/2017	Ms Ann Aspey -v- Rivington Biscuits Limited (in administration) & Others
2401827/2017	Ms Ann Marie Hoyle -v- Rivington Biscuits Limited (in administration) & Others
2401828/2017	Miss Anna Laszlo -v- Rivington Biscuits Limited (in administration) & Others
2401829/2017	Miss Beatrix Palmi -v- Rivington Biscuits Limited (in administration) & Others
2401830/2017	Ms Bev Dale -v- Rivington Biscuits Limited (in administration) & Others
2401831/2017	Mr Birute Savickiene -v- Rivington Biscuits Limited (in administration) & Others
2401833/2017	Miss Cassie Sumner -v- Rivington Biscuits Limited (in administration) & Others
2401834/2017	Mr Christopher Kennelly -v- Rivington Biscuits Limited (in administration) & Others
2401835/2017	Ms Clare Tattersall -v- Rivington Biscuits Limited (in administration) & Others
2401836/2017	Mr Craig Yates -v- Rivington Biscuits Limited (in administration) & Others
2401837/2017	Mr Danguole Puriene -v- Rivington Biscuits Limited (in administration) & Others
2401838/2017	Ms Debbie Wyke -v- Rivington Biscuits Limited (in administration) & Others
2401839/2017	Mrs Deborah Kelly -v- Rivington Biscuits Limited (in administration) & Others
2401840/2017	Mrs Deborah Riley -v- Rivington Biscuits Limited (in administration) & Others
2401841/2017	Mrs Deborah Turner -v- Rivington Biscuits Limited (in administration) & Others
2401842/2017	Mr Dennis Miller -v- Rivington Biscuits Limited (in administration) & Others
2401843/2017	Mr Eric Bekoe -v- Rivington Biscuits Limited (in administration) & Others
2401844/2017	Mrs Gemma Tidmarsh -v- Rivington Biscuits Limited (in administration) & Others
2401845/2017	Mrs Jacqueline Prescott -v- Rivington Biscuits Limited (in administration) & Others
2401846/2017	Mr James Bimson -v- Rivington Biscuits Limited (in administration) & Others
2401847/2017	Mr James Bolton -v- Rivington Biscuits Limited (in administration) & Others
2401848/2017	Mr John Brierly -v- Rivington Biscuits Limited (in administration) & Others
2401849/2017	Mr John Holden -v- Rivington Biscuits Limited (in administration) & Others
2401850/2017	Mr Jonas Puras -v- Rivington Biscuits Limited (in administration) & Others
2401851/2017	Miss Jordan Reid -v- Rivington Biscuits Limited (in administration) & Others
2401852/2017	Miss Jowita Kozina -v- Rivington Biscuits Limited (in administration) & Others
2401853/2017	Ms Julie Clark -v- Rivington Biscuits Limited (in administration) & Others
2401854/2017	Mr Kevin Johnson -v- Rivington Biscuits Limited (in administration) & Others
2401855/2017	Mr Lucasz Pozniak -v- Rivington Biscuits Limited (in administration) & Others
2401856/2017	Mrs Lynn Pilkington -v- Rivington Biscuits Limited (in administration) & Others
2401857/2017	Mr Marian Pavlenko -v- Rivington Biscuits Limited (in administration) & Others
2401858/2017	Mrs Maureen Coupe -v- Rivington Biscuits Limited (in administration) & Others
2401859/2017	Mr Michael Atkins -v- Rivington Biscuits Limited (in administration) & Others
2401860/2017	Ms Michelle Ainscough -v- Rivington Biscuits Limited (in administration) & Others
2401861/2017	Mr Nabeel Mehdi -v- Rivington Biscuits Limited (in administration) & Others
2401862/2017	Mrs Patricia Hughes -v- Rivington Biscuits Limited (in administration) & Others
2401863/2017	Mr Paul Bamber -v- Rivington Biscuits Limited (in administration) & Others
2401864/2017	Ms Paulina Warchol -v- Rivington Biscuits Limited (in administration) & Others

## ***Multiple Schedule***

<b><i>Case Number</i></b>	<b><i>Case Name</i></b>
2401865/2017	Mr Peter Summers -v- Rivington Biscuits Limited (in administration) & Others
2401866/2017	Miss Rebecca Harcourt -v- Rivington Biscuits Limited (in administration) & Others
2401867/2017	Miss Rebecca Hough -v- Rivington Biscuits Limited (in administration) & Others
2401868/2017	Mr Robert Acs -v- Rivington Biscuits Limited (in administration) & Others
2401869/2017	Mr Robert Zoller -v- Rivington Biscuits Limited (in administration) & Others
2401870/2017	Mr Rungrudee Davies -v- Rivington Biscuits Limited (in administration) & Others
2401871/2017	Mr Ryan Morris -v- Rivington Biscuits Limited (in administration) & Others
2401872/2017	Mr Rytautas Jancauskas -v- Rivington Biscuits Limited (in administration) & Others
2401873/2017	Mrs Sarah Kittle -v- Rivington Biscuits Limited (in administration) & Others
2401874/2017	Mrs Sarah Mort -v- Rivington Biscuits Limited (in administration) & Others
2401875/2017	Mr Sean Smith -v- Rivington Biscuits Limited (in administration) & Others
2401876/2017	Mr Sergejus Strelcovas -v- Rivington Biscuits Limited (in administration) & Others
2401877/2017	Mrs Sharon Gregory -v- Rivington Biscuits Limited (in administration) & Others
2401878/2017	Mrs Sharon Schofield -v- Rivington Biscuits Limited (in administration) & Others
2401879/2017	Ms Shirley Ann Lomax -v- Rivington Biscuits Limited (in administration) & Others
2401880/2017	Mr Stephen Prescott -v- Rivington Biscuits Limited (in administration) & Others
2401881/2017	Mr Steven Greenwood -v- Rivington Biscuits Limited (in administration) & Others
2401882/2017	Ms Susan Taylor -v- Rivington Biscuits Limited (in administration) & Others
2401883/2017	Ms Tracy Morrison -v- Rivington Biscuits Limited (in administration) & Others
2401884/2017	Mrs Vaida Bernadickatie -v- Rivington Biscuits Limited (in administration) & Others
2401885/2017	Miss Vanessa Harlow -v- Rivington Biscuits Limited (in administration) & Others
2401886/2017	Mrs Viera Rakarova -v- Rivington Biscuits Limited (in administration) & Others
2401887/2017	Mr Vilius Savickas -v- Rivington Biscuits Limited (in administration) & Others
2401888/2017	Ms Vilma Ratkeviciute -v- Rivington Biscuits Limited (in administration) & Others
2401889/2017	Mr Vincent Kirkman -v- Rivington Biscuits Limited (in administration) & Others
2401890/2017	Mrs Virginija Vasiliauskaite -v- Rivington Biscuits Limited (in administration) & Others
2401891/2017	Ms Viv Dale -v- Rivington Biscuits Limited (in administration) & Others
2401892/2017	Mr William Speakman -v- Rivington Biscuits Limited (in administration) & Others
2401893/2017	Mr Neil Moore -v- Rivington Biscuits Limited (in administration) & Others