



EMPLOYMENT TRIBUNALS

Claimants: Mr D Berry & others
(see attached Schedule)

Respondents: 1 Coates LSF Ltd (in administration)
2 Secretary of State for BEIS

HEARD AT: Manchester **ON:** 24 August 2017

BEFORE: Employment Judge Tom Ryan

Appearances:

For the claimants: Mr S Woodhouse, Solicitor

For the 1st respondent: No attendance

For the 2nd respondent: Written representations

JUDGMENT

1. This judgment is made pursuant to rule 21 of the Employment Tribunals Rules of Procedure 2013 upon the administrator of the first respondent having informed the tribunal that no objection was made to judgment being entered in respect of these claims to the effect of the terms set out below.
2. The claimants' complaints under s.189 of the Trade Union and Labour Relations (Consolidation) Act 2002 are well-founded.
3. The first respondent is ordered to pay remuneration to each claimant for the period of 90 days commencing on 4 October 2016.
4. By regulation 6 of the Employment Tribunal (Recoupment of Job Seekers Allowance and Income Support) Regulations 1998 the first respondent is required to give to the Secretary of State, in writing, within the period of 10 days from 24 August 2017, the following information:
 - 4.1. the name, address and national insurance number of each claimant;
 - 4.2. the date of termination of the employment of each such employee.

5. Where it is not reasonably practicable for the first respondent to comply with regulation 6 within the period above stated it shall comply as soon as reasonably practicable thereafter.
6. The first respondent's attention is drawn to the explanation of the effect of regulations 7 and 8 of the said Regulations in the Notice annexed to this judgment.

Employment Judge T Ryan

Dated: 24 August 2017

JUDGMENT SENT TO THE PARTIES ON

31 August 2017

FOR THE SECRETARY TO THE TRIBUNALS

Schedule

2404393/2016	Mr D Preston
2400056/2017	Mr A Berry
2400057/2017	Mr J Birch
2400058/2017	Mr C Bushell
2400059/2017	Mr P Bushell
2400060/2017	Mr P Byrne
2400061/2017	Mr D Conway
2400062/2017	Mr E Cowley
2400063/2017	Mr A Currie
2400064/2017	Mr R Davies
2400065/2017	Mr C Derbyshire
2400066/2017	Mr J Dunseath
2400067/2017	Mr L Fierek
2400068/2017	Mr G Gow
2400069/2017	Mr S Hallsworth
2400070/2017	Mr P Holding
2400071/2017	Mr J Hollingsworth
2400072/2017	Mr A Hughes
2400073/2017	Mr D Jackson
2400074/2017	Mr S Jackson
2400075/2017	Mr S Lesiak
2400076/2017	Mr M Levens
2400077/2017	Mr D Liggat
2400078/2017	Mr J Matthews
2400079/2017	Mr P Maiden
2400080/2017	Mr C Marshall
2400081/2017	Mr A Mayor
2400082/2017	Mr M Mazur
2400083/2017	Mr P McEveley
2400084/2017	Mr P Millward
2400085/2017	Mr D Paluskiewicz
2400086/2017	Mr D Pieluszczyk
2400087/2017	Mr J Piskor
2400088/2017	Mr J Riley
2400089/2017	Mr D Soffe
2400090/2017	Mr G Shaw
2400091/2017	Mr J Thorbinson

Claimant: Mr A Berry & Others

Respondent: Coates LSF Limited - In Administration

**ANNEX TO THE JUDGMENT
(PROTECTIVE AWARDS)**

Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance and Income Support

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Regulation 5(2)(b), SI 2010 No 2429 Reg.5.

The respondent is under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the less of:

- (i) the amount (less any tax or social security contributions which fall to be deducted the refrom by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR
- (ii) the amount paid by way of or paid as on account of Jobseeker's Allowance, income-related Employment and Support Allowance or Income

**Case Numbers: 2404393/2016 & others
(see attached Schedule)**

Support to the employee for any period which coincides with any part of the protective period falling before the date described in (i) above.

The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondent will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.