



EMPLOYMENT TRIBUNALS

Claimants: Mrs V McKechnie
Mr D Pinchen
Mr R Manning

Respondent: 1. Lagan Construction Group Limited – In administration
2. The Secretary of State for Business, Energy and Industrial Strategy

HELD AT: Manchester **ON:** 29th April 2019

BEFORE: Employment Judge Howard
Members: Mrs C Linney
Ms JA Beards

REPRESENTATION:

Claimant: In person
Respondents: Not in attendance

Judgment

The complaint that the first respondent failed to comply with the requirements of section 188 and/or 188A Trade Union and Labour Relations (Consolidation) Act 1992 succeeds in the case of the first claimant; Mrs V McKechnie.

I make a protective award in respect of the employees of the respondent dismissed on 8th March 2018 who were members of the first respondent's administrative and finance team.

The first respondent is ordered to pay remuneration calculated in accordance with S190 TULCRA for the protected period to the individual claimant.

The protected period is from 8th March 2018 to 6th June 2018, being 90 days.

The complaint fails in the cases of the second and third claimants; Mr D Pinchen and Mr R Manning and those claims are dismissed.

Employment Judge Howard
Date 30th April 2019

JUDGMENT SENT TO THE PARTIES ON

10 May 2019

FOR THE TRIBUNAL OFFICE

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THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2404532/2018, 1303971/2018, 2404575/2018**

Name case(s):	of	Mrs V McKechnie Mr R Manning Mr D Pinchen	v	1. Lagan Construction Group Limited – In administration 2. The Secretary of State for Business, Energy and Industrial Strategy
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The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant decision day" is: **10 May 2019**

"the calculation day" is: **11 May 2019**

"the stipulated rate of interest" is: **8%**

For the Employment Tribunal Office

Claimants: Mrs V McKechnie, Mr R Manning, Mr D Pinchen

Respondents: 1. Lagan Construction Group Limited – In administration
2. The Secretary of State for Business, Energy and Industrial
Strategy

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

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

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:

- (a) 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

- (b) (i) the amount paid by way of or paid as on account of jobseeker's allowance, income-related employment and support allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date described in (a) above; or
- (ii) in the case of an employee entitled to an award of universal credit for any period ("the UC period") which coincides with any part of the period to which the prescribed element is attributable, any amount paid by way of or on account of universal credit for the UC period that would not have been paid if the person's earned income for that period was the same as immediately before the period to which the prescribed element is attributable.

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.