



# EMPLOYMENT TRIBUNALS

**Claimants:** USDAW

**Respondents:**

1. Lockwoods Liverpool Limited (in Administration)
2. The Secretary of State for Business, Energy and Industrial Strategy

**HELD AT:** Liverpool **ON:** 11<sup>th</sup> June 2019

**BEFORE:** Employment Judge T. Vincent Ryan

## REPRESENTATION:

**Claimant:** Ms. R. Dixon, Legal Advisor

**Respondent:** R1 absent; R2 by written representations.

## JUDGMENT

1. The first respondent failed to comply with section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992.
2. The tribunal makes a protective award in respect of all the first respondent's employees, other than its Directors, who were employed at Unit 13, Bridle Way, Liverpool L30 4UA and who were made redundant on 14<sup>th</sup> November 2018.
3. The first respondent must pay remuneration to all the claimants for the period of 90 days beginning on 14<sup>th</sup> November 2018.
4. The first respondent is reminded of its obligations under regulation 6 of the Employment Protection (Recoupment of Benefits) Regulations 1996 to provide employee information to the Department for Work and Pensions. The tribunal also reminds the first respondent of the effect of regulation 7 of those regulations, namely that the protective award is stayed until the Department serves a recoupment notice or indicates that no such notice is to be served. By regulation 8, the first respondent will be under a duty to make payments to

the Department of the amounts set out in the recoupment notice. The first respondent should consult the regulations themselves for their full meaning.

Employment Judge T.V. Ryan

DATE: 11.06.19

SENT TO THE PARTIES ON

26 June 2019

FOR THE TRIBUNAL OFFICE

Note – Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party makes a request in writing within 14 days of the date on which this judgment was sent to the parties. If written reasons are provided, they will be displayed on the tribunal's website.



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2402030/2019**

Name of case(s): **Udaw** v **Lockwoods Liverpool Limited  
(in Administration)  
The Secretary of State For  
Business, Energy & Industrial  
Strategy**

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: **26 June 2019**

"the calculation day" is: **27 June 2019**

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

MISS H KRUSZYNA  
For the Employment Tribunal Office

## INTEREST ON TRIBUNAL AWARDS

### **GUIDANCE NOTE**

1. This guidance note should be read in conjunction with the booklet, 'The Judgment' which can be found on our website at [www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426](http://www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426)

If you do not have access to the internet, paper copies can be obtained by telephoning the tribunal office dealing with the claim.

2. The Employment Tribunals (Interest) Order 1990 provides for interest to be paid on employment tribunal awards (excluding sums representing costs or expenses) if they remain wholly or partly unpaid more than 14 days after the date on which the Tribunal's judgment is recorded as having been sent to the parties, which is known as "the relevant decision day".

3. The date from which interest starts to accrue is the day immediately following the relevant decision day and is called "the calculation day". The dates of both the relevant decision day and the calculation day that apply in your case are recorded on the Notice attached to the judgment. If you have received a judgment and subsequently request reasons (see 'The Judgment' booklet) the date of the relevant judgment day will remain unchanged.

4. "Interest" means simple interest accruing from day to day on such part of the sum of money awarded by the tribunal for the time being remaining unpaid. Interest does not accrue on deductions such as Tax and/or National Insurance Contributions that are to be paid to the appropriate authorities. Neither does interest accrue on any sums which the Secretary of State has claimed in a recoupment notice (see 'The Judgment' booklet).

5. Where the sum awarded is varied upon a review of the judgment by the Employment Tribunal or upon appeal to the Employment Appeal Tribunal or a higher appellate court, then interest will accrue in the same way (from "the calculation day"), but on the award as varied by the higher court and not on the sum originally awarded by the Tribunal.

6. 'The Judgment' booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.

**Claimant:** Usdaw

**Respondents:** Lockwoods Liverpool Limited (in Administration)  
The Secretary of State For Business, Energy & 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 therefrom 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.