



EMPLOYMENT TRIBUNALS

Claimants: Mr R Stocks and 18 Others (listed on the attached schedule)

Respondents: 1. Sellers Containers Limited (in Administration)
2. The Secretary of State for Business, Energy and Industrial Strategy

JUDGMENT

1. The judgment of the Tribunal is that the claimants' complaint presented under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 of a failure by the first respondent to comply with the requirements of section 188 of the 1992 Act is well-founded.
2. The Tribunal orders the first respondent by way of a protective award under section 189(3) of the 1992 Act to pay to the claimants listed on the attached schedule who were dismissed by reason of redundancy on or after 22 July 2019 a payment equivalent to remuneration for the period of 90 days beginning on 22 July 2019.
3. The Recoupment Regulations apply.

Employment Judge Batten
5 November 2021

JUDGMENT SENT TO THE PARTIES ON
5 November 2021

FOR THE TRIBUNAL OFFICE

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**Case Nos: 2414370/2019 & Others
(listed on the attached schedule)**

Case Number	Claimant Name
2413663/2019	Mr David Jones
2414370/2019	Mr Ricky Stocks
2414371/2019	Mr Adam Brooks
2414372/2019	Mr Kirk Carter
2414373/2019	Mr Yvan Davies
2414374/2019	Mr Anthony Diagostina
2414375/2019	Mr Miguel Dominguez Galera
2414376/2019	Mr Philip Jones
2414377/2019	Mr Robert Kirton
2414378/2019	Mr Derek Lee
2414379/2019	Mr Michael Marsden
2414380/2019	Mr James McCarey
2414381/2019	Mr Mark Ostell
2414382/2019	Mr Sean Power
2414383/2019	Mr Christopher Shaw
2414384/2019	Mr Piotr Tercjak
2414385/2019	Mr Mike Ward
2414386/2019	Mr Rammond Yole
2414387/2019	Mr Joe Jervis

Claimants: Mr R Stocks & Others

Respondent: Sellers Containers Limited (In Administration)

**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 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

**Case Nos: 2414370/2019 & Others
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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.