



EMPLOYMENT TRIBUNALS

Claimants:

Grahame Howett
Carl Graham
Louise Dawkes
Andrew Fullam
Ian Court
Stephen Grey
Daniel McMahon
Guy Murphy
Michael Bradley
Lisa Wigfield
Steven Owen
Stacey Goodwin
Rebecca Edwards
Daniel Ryan
Warren Lockhart
John Jackson
Peter Luke

1st Respondent: GT Realisations Ltd – In Administration
(Formerly GasTag Limited)

2nd Respondent: The Secretary of State for Business, Energy and
Industrial Strategy

Heard at: Liverpool **On:** 23 November 2021

Before: Employment Judge Ord

Representation:

Claimant: Mr Lassey (Counsel)
1st Respondent: Not appearing
2nd Respondent: Not appearing

JUDGMENT

1. The complaint that the 1st respondent failed to comply with a requirement of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is well-founded.

2. Protective Award

2.1. The claimants named above were employed by the 1st respondent.

2.2. As a result of the company going into administration on 14th October 2020, the claimants named above were dismissed by the 1st respondent by reason of redundancy on that date.

2.3. In relation to the claimants named above, the 1st respondent failed to adequately comply with a requirement of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and the claim for a protective award brought under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 succeeds.

2.4. The 1st respondent is ordered to pay remuneration to the claimants named in the attached schedule for a protected period of 90 days beginning on 14th October 2020 (being the date on which the first of the dismissals to which the complaint relates took effect).

2.5. All further proceedings of the claimants in this action be stayed.

2.6. The recoupment regulations apply to this award.

3. Preferential debts

3.1. Subject to the normal categories of preferential debts set out in Schedule 6 of the Insolvency Act 1986, any payments made by the 1st respondent (rather than the Secretary of State) pursuant to this judgment will be paid as an unsecured dividend.

4. Costs

4.1. There shall be no order as to costs and each party shall bear their own costs in these proceedings.

**Case No: 2401668/2021
& Others
(see attached schedule)**

JUDGMENT SENT TO THE PARTIES ON
7 December 2021

FOR THE TRIBUNAL OFFICE

Notes

1. Neither party objected to the hearing taking place on a remote video platform.
2. Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided, they will be displayed on the tribunal's online register of judgments, which is visible to internet searches.

**Case No: 2401668/2021
& Others
(see attached schedule)**

Schedule of claimants entitled to a protective award for a 90 day period and who are within the scope of this judgment.

Case Number	Claimant Name
2401668/2021	Mr Grahame Howett
2401669/2021	Mr Carl Graham
2401670/2021	Mrs Louise Dawkes
2401671/2021	Mr Andrew Fullam
2401672/2021	Mr Ian Court
2401673/2021	Mr Stephen Grey
2401674/2021	Mr Daniel Ross McMahon
2401675/2021	Mr Guy Murphy
2401676/2021	Mr Michael Bradley
2401677/2021	Ms Lisa Wigfield
2401678/2021	Mr Steven Owen
2401679/2021	Mr Stacey Goodwin
2401680/2021	Ms Rebecca Edwards
2401681/2021	Mr Daniel Ryan
2401682/2021	Mr Warren Lockhart
2401683/2021	Mr John Jackson
2401684/2021	Mr Peter Luke

**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 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

**Case No: 2401668/2021
& Others
(see attached schedule)**

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.