

Case Nos. 2418257/2020 & others
(see schedule)
2419499/2020 & others
(see schedule)
2419478/2020 & others
(see schedule)
2419459/2020 & others
(see schedule)



EMPLOYMENT TRIBUNALS

Claimants:

1. Mr A Carter & others (see schedule)
2. Mr T Armstrong & others (see schedule)
3. Miss M Bate & others (see schedule)
4. Mr A Aslam and others (see schedule)

Respondents:

1. Cruden Construction Limited (in administration)
2. Cruden Property Services Limited (in administration)
3. Cruden Group Limited (in administration)
4. The Secretary of State for Business, Energy and Industrial Strategy

Heard at: Manchester (by CVP)

On: 31 January 2022

Before: Employment Judge Ainscough

REPRESENTATION:

Claimants:

- (1) Mr Brand – Solicitor
- (2) Mr Kerfoot - Counsel

Respondents: not in attendance

JUDGMENT

The judgment of the Tribunal is that:

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1. The claimants' complaints under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") of a failure by the first and second respondents to comply with the requirements of section 188 of the 1992 Act are well-founded.
2. The Tribunal orders that the first respondent by way of a protective award under section 189(3) of the 1992 Act, pay to the first, second and third groups of claimants a payment equivalent to remuneration for the period of 90 days beginning on 31 July 2020.
3. The Tribunal orders that the second respondent by way of a protective award under section 189(3) of the 1992 Act, pay to the fourth group of claimants a payment equivalent to remuneration for the period of 90 days beginning on 31 July 2020.
4. The claims against the third respondent are unsuccessful and are dismissed.
5. The fourth respondent was joined as an interested party and did not contest the claims.
6. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.

Employment Judge Ainscough
Date: 31 January 2022

JUDGMENT SENT TO THE PARTIES ON
1 February 2022

FOR THE TRIBUNAL OFFICE

Note

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.

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SCHEDULE 1

2418257/2020	Mr Anthony Carter
2418258/2020	Mr Peter Connor
2418259/2020	Mr Stephen Connor
2418260/2020	Mr Ian Edmundson
2418261/2020	Mr Andrew Hall
2418262/2020	Mr Robert Hudson
2418263/2020	Mr Leonard McGee
2418264/2020	Mr Keith Noonan
2418265/2020	Mr David Thompson
2418266/2020	Mr Tommy Long

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SCHEDULE 2

2419499/2020	Mr Thomas Armstrong
2419500/2020	Mr Dave Attwood
2419501/2020	Mr Colin Banner
2419502/2020	Mrs Katrina Bate
2419503/2020	Mr Peter Blake
2419504/2020	Mr Jonathan Bradbury
2419505/2020	Ms Gillian Carter
2419506/2020	Mr Stuart Catterall
2419507/2020	Mr Kevin Duffy
2419508/2020	Mrs Jill Flint
2419509/2020	Mr William Flynn
2419510/2020	Mr Adam Forde
2419511/2020	Mr Sean Foster
2419512/2020	Mr Nelson Freitas
2419513/2020	Mr Anthony Gardam
2419514/2020	Mr Stephen Garnett
2419515/2020	Mrs Pauline Griffin
2419516/2020	Mr Philip Grogan
2419517/2020	Mr Martin Healer
2419518/2020	Mr Mark Holmes
2419519/2020	Mr Paul Hunter
2419520/2020	Mr Daniel Kyffin
2419521/2020	Mrs Catherine Lewis
2419522/2020	Mr Francis Logan
2419523/2020	Mr Keith Love
2419524/2020	Mr Carl Lyons
2419525/2020	Mr Stuart McCall
2419526/2020	Mr Caolan McCool
2419527/2020	Mr Paul Mooney
2419528/2020	Mr Connor Osborne
2419529/2020	Mr Matthew Peet
2419530/2020	Mr Alexander Pierce
2419531/2020	Mr Matthew Reynolds
2419532/2020	Mr Christopher Spencer
2419533/2020	Miss Maureen Sullivan
2419534/2020	Mr Paul Unsworth

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2419535/2020	Mrs Susan Upton
2419536/2020	Miss Danielle Upton
2419537/2020	Miss Nicola Upton
2419538/2020	Mr Stephen Vaughan
2419539/2020	Mrs Jade Ward
2419540/2020	Mr Paul Welsh
2419541/2020	Mr Steven Woods

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SCHEDULE 3

2419478/2020	Miss Megan Bate
2419479/2020	Mr Kenneth Humphreys
2419480/2020	Mr Michael Owen
2419481/2020	Mrs Ashlea Paterson
2419482/2020	Mrs Michelle Swarbrick

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SCHEDULE 4

2419459/2020	Mr Asif Aslam
2419460/2020	Mr Dean Asquith
2419461/2020	Mr Craig Burns
2419462/2020	Mr Anthony Burns
2419463/2020	Mr Desmond Cleary
2419464/2020	Mr Christopher Doney
2419465/2020	Mr Keith Gawthorpe
2419466/2020	Mr Geoffrey Gilluley
2419467/2020	Mr Peter Kelly
2419468/2020	Miss Kate Large
2419469/2020	Mr Michael Lucas
2419470/2020	Mr Michael Manning
2419471/2020	Mr Lee McCullough
2419472/2020	Mrs Rachael McMullen
2419473/2020	Mr Samuel Miller
2419474/2020	Miss Lucy Mulligan
2419475/2020	Mr John Powell
2419476/2020	Mr Paul Simpson
2419477/2020	Mr David Walker

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**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

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(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.