



EMPLOYMENT TRIBUNALS

Claimants: Mr J Goddard & Others
(see attached schedule)

First Respondent: Genlec Electrical Contractors Limited (In Administration)

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

JUDGMENT

The judgment of the Tribunal is that:-

1. The first respondent has failed to comply with the requirements of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992. The claimants' claim for a protective award brought under S189 of that Act succeeds.
2. The first respondent is ordered to pay to the employees of the respondent, named in the attached schedule, remuneration for a protected period of 90 days from 18th August 2021.
3. The recoupment regulations apply to this award.

Employment Judge Howard
1st March 2022

**Case Nos 2414416/2021 & others (see
attached schedule)**

JUDGMENT SENT TO THE PARTIES ON
4 March 2022

FOR THE SECRETARY OF THE TRIBUNALS

**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

Case Nos 2414416/2021 & others (see attached schedule)

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.

SCHEDULE

2414416/2021	Mr James Goddard
2414417/2021	Mr Mark Green
2414418/2021	Mr Sam Southworth
2414419/2021	Miss Elinor Sale
2414420/2021	Mr John Lawrence
2414421/2021	Ms Amanda Burke
2414422/2021	Mr Lewis Bailey
2414423/2021	Ms Donna Gollop
2414424/2021	Mr Colin Burgess
2414425/2021	Mr Garry Culshaw
2414426/2021	Mr Kade McKenna
2414427/2021	Mr James Walker
2414428/2021	Mr Dale Kenny
2414429/2021	Mr Peter Goodier
2414430/2021	Mr Stephen Crosthwaite