



# EMPLOYMENT TRIBUNALS

**Claimants:** Mr G Pendlebury and Others  
(see attached schedule)

**Respondents:** 1. A & D Joinery Limited (in administration)  
2. Secretary of State for Business, Energy and Industrial  
Strategy

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

The judgment of the Tribunal is: -

1. The complaints of the claimants Mr G Pendlebury and all those listed in the attached Schedule, 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 protective award under Section 189(3) of the 1992 Act to pay Mr G Pendlebury and all those listed on the attached schedule a payment equivalent to remuneration for the period of 90 days beginning on 29 September 2021.
3. The Recoupment Regulations apply.

Employment Judge Ross  
20 June 2022

JUDGMENT SENT TO THE PARTIES ON  
21 June 2022  
AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE

**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 immediately before the period to which the prescribed element is attributable.

**2415336/21 & Others  
(see attached schedule)**

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.

**2415336/21 & Others  
(see attached schedule)**

<b>Case Number</b>	<b>Claimant Name</b>
2415336/2021	Mr Gary Pendlebury
2415337/2021	Mr Steven Peden
2415338/2021	Ms Charlene Gibbs
2415339/2021	Ms Rachel Cooper
2415340/2021	Mr Thomas Gibbs
2415341/2021	Ms Kelly Roscoe
2415342/2021	Mr Chris Sayers
2415343/2021	Mr Daniel Hunt
2415344/2021	Mr Daniel Gore
2415345/2021	Mr John Latchford
2415346/2021	Mr Craig Allen
2415347/2021	Ms Tracey Nye
2415348/2021	Mr Peter Boydell
2415349/2021	Mr David Timmins
2415350/2021	Mr Darren Peers
2415351/2021	Mr Ben Boydell
2415352/2021	Mr John Lyon
2415353/2021	Mr Gary Veevers
2415354/2021	Mr Nigel Chapman
2415355/2021	Ms Sharon Halliwell
2415356/2021	Mr Frederick Allen
2415357/2021	Mr John Clisham
2415358/2021	Mr Jaydan Hulme