



# EMPLOYMENT TRIBUNALS

**Claimant**                    **Mr D Appleyard**

**Respondent**                **Coates Engineering (International) Ltd - in administration**

## JUDGMENT

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

The respondent not having presented a response and having notified the tribunal that it does not contest the proceedings the following judgment is made in favour of the claimant.

1. It is declared that the respondent failed to comply with the requirements of section 188 of the Trade Union & Labour Relations (Consolidation) Act 1992.
2. The tribunal makes a protective award in respect of the claimant.
3. The respondent is ordered to pay the claimant remuneration in respect of the period of 90 days commencing on 14 September 2016.
4. The provisions of regulations 5 & 6 of the Employment Protection (Recoupment of Benefits) Regulations 1996 apply to this award.
5. The respondent is ordered to reimburse the claimant in respect of the tribunal fee of £250.

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Employment Judge T Ryan 15 February 2017

JUDGMENT SENT TO THE PARTIES ON

22 February 2017

FOR THE TRIBUNAL OFFICE

**Claimant: Mr D Appleyard**

**Respondent: Coates Engineering (International) Ltd - In Administration**

**ANNEX TO THE JUDGMENT  
(PROTECTIVE AWARDS)**

Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance and Income Support

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Regulation 5(2)(b), SI 2010 No 2429 Reg.5.

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:

- (i) the amount (less any tax or social security contributions which fall to be deducted therefrom 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
- (ii) 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 protective period falling before the date described in (i) above.

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.