

HOW YOUR GEERS CLAIM WILL BE ASSESSED

The General Employee Entitlements and Redundancy Scheme (GEERS) is a **basic payment scheme** designed to assist employees who have lost their employment as a result of the insolvency of their employer and are owed certain employee entitlements.

The Department of Education, Employment and Workplace Relations administers the Scheme in accordance with the GEERS Operational Arrangements (OAs). The OAs are used to determine the eligibility of employees and the amount of any GEERS advance. The OAs are available on the department's website at deewr.gov.au/geers.

Who is eligible?

You **may** be eligible for GEERS assistance if you:

- lost your employment because your former employer became bankrupt or a liquidator was appointed **and** are owed employee entitlements
- lodge your claim **within** 12 months of losing your job or the date of which your former employer became bankrupt or went into liquidation, whichever is the later, and
- are entitled to reside permanently in Australia.

You **may** also be eligible for GEERS assistance if you:

- resigned following the appointment of an Insolvency Practitioner (IP) or
- resigned or your employment **was terminated** within six months before the appointment of an IP.

Who is not eligible?

You are **not** eligible to receive GEERS assistance if:

- your former employer is **under the control** of an administrator, a receiver manager, or is **subject to** a Deed of Company Arrangement, a Trust, a Personal Insolvency Agreement, or a Debt Agreement
- you were **not an employee**, i.e. if you were a contractor, sub-contractor or agent
- you lodge your claim **more than 12 months** after your employment was terminated or the date on which your former employer became bankrupt or entered into liquidation, whichever is the later
- you were employed by a partnership and **not all** partners are subject to insolvency, or
- you were an 'excluded employee' (including company directors, principals of bankrupt employers and their relatives) in the 12 month period before the appointment of the IP.

What you may be eligible for

You **may be** eligible to receive assistance under GEERS for the following employee entitlements:

- up to 3 months unpaid wages for the period prior to the appointment of the IP (including amounts deducted from your wages, such as for superannuation, but not passed on to your superannuation fund)
- unpaid annual leave
- unpaid long service leave
- up to a maximum of 5 weeks unpaid payment in lieu of notice, and
- up to a maximum of 4 weeks unpaid redundancy entitlement for each completed year of service you have with your employer.

If you earn **more** than the GEERS maximum annual wage (\$118 100 for 2011–2012¹) at the date that your employment ceased, your GEERS advance will be calculated as if you earned that amount.

¹ The maximum annual wage is indexed annually.

What is an eligible entitlement?

GEERS only covers the entitlements you are legally entitled to receive. Your assistance under GEERS will be calculated in accordance with your entitlements under legislation, an award, a statutory agreement or a written contract of employment, or otherwise as confirmed in writing at the time of the appointment of the IP.

For example, you will not necessarily receive redundancy pay of 4 weeks per year of service—the assistance you receive will be based on the redundancy entitlement provided for in your legal instrument.

Please contact the Fair Work Infoline on 13 13 94 (toll free) or your local state service, to assist you in determining your correct conditions of employment and entitlements.

Processing your claim

After receiving your Claim Form, the department will contact the IP who is managing the affairs of your former employer. The IP will be asked to verify your entitlements using the employer's records. If the IP cannot verify your details, the department may ask an independent GEERS contractor to do this, or you **may be** asked to complete a statutory declaration and provide the department with supporting documents.

Once your employment and entitlements have been verified, the department will process your claim.

The department aims to process your claim as quickly as possible. The time taken to determine your eligibility for GEERS may depend upon the department's ability to obtain sufficient information from you, the IP who is managing your former employer's affairs or any third party, where relevant.

The department will make your GEERS advance to the IP, who will deduct tax and forward the GEERS advance to you. In some cases the amount paid to you may differ from the amount you have put on your Claim Form. This may depend on the information received from the IP and your legal entitlements.

If you receive any payments towards your entitlements from any source connected with your employment, it will be taken into account when calculating your GEERS advance. You must advise the department if this happens.

GEERS advances are treated as advances under the *Corporations Act 2001*. This means that if funds become available during the insolvency process the department will seek to recover payments from the insolvent employer up to the amounts you received under GEERS.

Where the department's recovery rights are not protected, for example where your employer is subject to bankruptcy under the *Bankruptcy Act 1966*, you will be required to sign a Deed of Undertaking prior to payment being released.

The department informs Centrelink of any advances made; this may affect your Centrelink entitlements. To discuss the effect of GEERS payments please contact Centrelink on 13 10 21.

Requests for information

The department may require additional information from you to assess your claim. It is **important** that you reply to the department's requests, or contact us to make other arrangements **within 28 days** from the date of our request. If you **do not** respond within the required timeframe, you may be **deemed ineligible** for GEERS assistance.

It is also important that you update your details if you change your postal address or if any of the details provided in your original GEERS Claim Form change.

Further Information

For further information:

- Contact the IP managing your former employer's affairs
- Contact the GEERS Hotline on **1300 135 040**
- Email **GEERS@deewr.gov.au** or
- Visit the department's website: **deewr.gov.au/geers**