



**Fusion Farming Pty Ltd (In Liquidation)**  
**ACN 633 367 790**  
**(Fusion Farming)**  
**Circular to Employees**

William Harris and I were appointed Liquidators of Fusion Farming on 16 June 2021.

**Background**

As Liquidators, we have assumed control of Fusion Farming's affairs and have entered into possession of its assets. It is our intention to immediately commence a process to wind down the business and its affairs and as such, I regret to inform you that your employment with Fusion Farming will come to an end on the grounds of redundancy. A redundancy letter confirming your redundancy date will be provided to you separately.

**Pre-appointment entitlements**

Claims against Fusion Farming for certain categories of employee entitlements, for the period prior to my appointment, may receive priority payment under the *Corporations Act*. However, there may be other higher-ranking payment priorities. There must also be sufficient recovery of monies from a specific class of secured assets of Fusion Farming (after the costs of realising those assets) to fund payment of the priority claims.

At this point, we are unable to confirm whether there will be sufficient assets available to meet employees' pre-appointment claims. As soon as the position of prior-ranking claims has been clarified and Fusion Farming's asset position determined, you will be advised further.

Should there be insufficient funds to pay your eligible employee entitlements from Fusion Farming's assets, you may claim these entitlements from the Commonwealth of Australia Fair Entitlements Guarantee (**FEG**) Scheme. Attached is a FEG Fact Sheet. Further information about FEG (including the nature of entitlements covered) is available on the Department of Jobs and Small Business website <https://www.jobs.gov.au/fair-entitlements-guarantee-feg>.

**Company property**

Any company property you currently have in your possession, including, but not limited to, laptops, mobile phones, company credit cards or keys must be returned to one of my staff as soon as possible.

**Other matters and contact details**

A schedule setting out the responsibilities of employees of a company in liquidation is enclosed for your guidance. Our authorised personnel will now issue all instructions concerning the management of Fusion Farming.

A copy of the information sheet, "Insolvency information for directors, employees, creditors and shareholders", issued by the Australian Securities & Investments Commission (**ASIC**) is also enclosed for your information.

If you have any queries, please contact Shanna Evans on (07) 3333 9856.

Thank you in advance for your cooperation.

Dated: 17 June 2021

Anthony Connelly  
*Liquidator*

**Enclosures:**

- 1 Schedule of responsibilities of officers and employees
- 2 ASIC "Insolvency information for directors, employees, creditors and shareholders" information sheet
- 3 FEG Fact Sheet



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**Responsibilities of Officers and Employees**

The duties and responsibilities of the officers and employees of a company in liquidation are set out below for your guidance.

- All documents issued by the company must have "(In Liquidation)" after the company name where it first appears on the document.
- When a company is placed in liquidation, the powers of the directors and other officers are suspended. However, under certain circumstances, and only with the consent of the Liquidators, those powers may continue. Some obligations of the directors will continue to apply, for example the obligation to lodge Annual Statements with ASIC.
- The Liquidators may carry on the business and may employ or remove an officer or employee for this purpose.
- Without the express written authority of the Liquidators:
  - No order for goods or services will be placed that has not been signed personally by the Liquidators, or a person nominated by the Liquidators.
  - No goods will be accepted by the company from any source whatsoever that are not the subject of an order signed by the Liquidators, or the nominated representative of the Liquidators.
  - No credit will be incurred.
  - No payments will be made.
  - No goods will be returned to any supplier.
- All cash and cheques received will be passed to the Liquidators.
- No assets of the company will be removed from the company's custody without the written approval of the Liquidators.
- All assets are to be secured against theft, under lock and key.
- The entire assets and undertaking of the company are under the express and sole control and custodianship of the Liquidators and may only be dealt with by the Liquidators.

If you have any queries, please contact Shanna Evans on (07) 3333 9856.



**ASIC**  
Australian Securities &  
Investments Commission

## Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

### List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

### Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.



# What assistance can FEG provide?

This fact sheet provides information about what assistance is available under the Fair Entitlements Guarantee (FEG). FEG is a basic payment scheme providing financial assistance to employees who have lost their job due to the liquidation or bankruptcy of their employer and who are owed employee entitlements which are not able to be paid by their employer or from another source.

## The FEG Act

Decisions about eligibility for FEG assistance are made in accordance with the *Fair Entitlements Guarantee Act 2012* (FEG Act). FEG may apply to a person if their employer enters liquidation or bankruptcy (known as an 'insolvency event') and the person has certain unpaid employment entitlements owing to them. For more information about eligibility requirements for FEG please refer to the [Eligibility for FEG assistance](#) fact sheet available on the [FEG website](#) ([www.ag.gov.au/FEG](http://www.ag.gov.au/FEG)).

## What assistance is available?

Under the FEG Act, the Attorney-General's Department (the department) can pay what is owed to you under your existing terms and conditions of employment for the five basic entitlements below. Some caps apply.

- **wages** – capped at 13 weeks (see s. 5 and s. 24)
- **annual leave** (see s. 20)
- **long service leave** (see s. 21)
- **payment in lieu of notice** – capped at 5 weeks (see s. 22)
- **redundancy pay** – capped at 4 weeks per full year of service (see s. 23)

FEG does not cover unpaid employer superannuation contributions required under the Superannuation Guarantee. If you have unremitted employer superannuation contributions you should contact the insolvency practitioner managing your former employer's affairs to discuss your rights as an employee creditor.

## Working out the amount of assistance FEG will pay

FEG assistance for unpaid entitlements is calculated based on your existing terms and conditions of employment (e.g. industrial award, enterprise agreement, contract of employment, National Employment Standard).

The department liaises with the insolvency practitioner managing the affairs of your employer to obtain as much information as possible on:

- your circumstances with the insolvent employer
- your salary/wage rate
- what entitlements have been left unpaid
- whether your employer has sufficient funds to pay those entitlements within a reasonable period.

The department will not pay FEG assistance for amounts that you have already been paid or amounts that are payable by another party (see s. 19 of the FEG Act). For example, if you are entitled to redundancy pay and your employer contributed to an industry redundancy fund, your unpaid redundancy should be paid by that fund and will not be paid under FEG. Similar arrangements may apply in some states or industries for long service leave.

## FEG maximum weekly wage

When calculating the amount of FEG assistance payable, the FEG maximum weekly wage is applied. The current indexed maximum weekly wage cap is \$2451 (see ss. 5 and 26–27 of the FEG Act). This means that if you earned more than \$2451 per week, your FEG assistance can only be calculated based on a weekly wage rate of \$2451 per week. The remaining unpaid entitlement for the portion of wages over that cap will need to be paid by the liquidator if funds become available.

## Recently agreed changes in terms and conditions

Any favourable changes to your terms and conditions of employment within 6 months of your employment ending may be disregarded (see s. 25). If the department considers it was not reasonable to expect that your employer would have been in a financial position to satisfy improved conditions, the amount of FEG assistance may be calculated as if the terms and conditions had not been changed.

## Other things that may affect the amount of FEG assistance paid

Under the FEG Act, the amount of FEG assistance payable may be reduced by any debts you owe to your former employer (see s. 17).

FEG assistance may also not be payable in circumstances where the insolvency practitioner expects to have sufficient funds to pay your employment entitlements in full within 112 days of you lodging an effective claim or the date of the insolvency event (whichever is later) (see s. 18).

## How can you help?

You should provide all the information and documents requested in the FEG claim form to establish that you meet the eligibility conditions.

For more information about the type of information you should provide please refer to the [How do I apply for FEG assistance](#) fact sheet available on the [FEG website](#).

The department will try to obtain as much information as possible from the insolvency practitioner about what you are owed. Sometimes, particularly if your employer had poor books and records, other information from your own records will be needed. If we contact you to ask for more information, getting that information to us quickly will help us to finalise your claim quickly.

## Want more information?

You can contact the FEG Hotline if you would like more information about eligibility for FEG assistance. To contact the FEG Hotline:

- phone 1300 135 040  
Mon - Fri, 9 am - 5 pm (AEST/ADST)
- email [FEG@jobs.gov.au](mailto:FEG@jobs.gov.au)

If you speak a language other than English, call the Translating and Interpreting Service (TIS) on 13 14 50 for free help anytime. If you speak an Indigenous language, call the Aboriginal Interpreter Service on 1800 334 944.

Further information is also available on the [FEG website](#) ([www.ag.gov.au/FEG](http://www.ag.gov.au/FEG)).

The information contained in this fact sheet is of a general nature and explains, in summary form, the intended operation of the *Fair Entitlements Guarantee Act 2012* - it is not legal advice. Where necessary, you should seek your own independent legal advice relevant to your particular circumstances. The Commonwealth does not make any representation or warranty about the accuracy, reliability, currency or completeness of the information contained in this fact sheet and is not liable for any loss resulting from any action taken or reliance made by you on the information contained in this fact sheet.