



**Khaled El-Sheikh Pty Ltd (Administrators Appointed) ACN 089 155 948
Trading as Tristar Medical Group (Tristar)**

Circular to Employees

Keith Crawford and I were appointed joint and several Administrators (**Administrators**) of Tristar on 24 May 2022.

Background

As Administrators, we have assumed control of Tristar's affairs and have entered into possession of its assets. The Administrators are undertaking an urgent assessment of Tristar's operations and intend to maintain services on a 'business as usual' basis while options for a sale and/or recapitalisation are explored.

All instructions relating to the management of Tristar will now be issued by the Administrators or by my authorised personnel, through your normal reporting channels.

The key objective of a voluntary administration is to restructure the business or transfer it to a new owner. In these circumstances, it is usually the case that employee entitlements are either transferred to the new owner or dealt with as part of a Deed of Company Arrangement (**DOCA**). However, in the event there are insufficient assets to meet employee entitlements and the entity is placed into liquidation, there is a government scheme called the Fair Entitlements Guarantee scheme which, subject to meeting the eligibility criteria, provides access to some or all of your pre-appointment entitlements.

Wages

Employees are asked to continue their normal duties unless advised differently. Wages and entitlements for continued employment during the administration will be paid by the Administrators.

Please note that the Administrators do not adopt any employment or other contract you may have with Tristar.

Pre-appointment entitlements

Claims against Tristar for certain categories of employee entitlements (wages, superannuation and redundancy) for the period prior to my appointment, may receive priority payment under the *Corporations Act*. However, there may be other higher-ranking payment priorities.

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 Tristar's asset position determined, you will be advised further.

A fact sheet for the Fair Entitlements Guarantee scheme which may provide access to some or all of your pre-administration entitlements is enclosed for your information.

Creditor meetings

An initial meeting of creditors of Tristar, which includes employees, will be held on Friday 3 June 2022. Notice of the meeting time will be advised to you by the Administrators shortly.

At the initial meeting, the Administrators will explain the administration process, and creditors will have the opportunity to appoint a committee of inspection and nominate an alternative administrator, if they so wish. You are not obliged to attend this meeting in person.

In the future, a second meeting of creditors will be held, at which the Administrators will present the results of their investigation into the financial position of Tristar and provide a recommendation on the best course of action for Tristar.



Other matters and contact details

A schedule setting out the responsibilities of employees of a company under administration is enclosed for your guidance. The Administrators and their staff will now issue all instructions concerning the management of Tristar. Please refer to your usual line managers in relation to day-to-day operations.

We have included a "Frequently Asked Questions" document which may assist if you have any queries about the process.

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 the Administrators by email to FM-tristaremployees@mcgrathnicol.com. For further information about this engagement, please refer to the Tristar Medical Group creditor page of the McGrathNicol website (www.mcgrathnicol.com/creditors).

Thank you in advance for your assistance and cooperation.

Dated: 26 May 2022

A handwritten signature in black ink, appearing to read 'Matthew Caddy', enclosed in a light grey rectangular box.

Matthew Caddy
Joint and Several Administrator

Enclosures:

- 1 Fair Entitlements Guarantee fact sheet
- 2 Schedule of responsibilities of officers and employees
- 3 ASIC "Insolvency information for directors, employees, creditors and shareholders" information sheet
- 4 Frequently Asked Questions



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](#).

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 (eg: 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. Where employment ends on or after 1 July 2021, the indexed maximum weekly wage cap is \$2,529 (see ss. 5 and 26–27 of the FEG Act). This means that if you earned more than \$2,529 per week, your FEG assistance can only be calculated based on a weekly wage rate of \$2,529 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

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](#).

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.



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Responsibilities of Officers and Employees

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

- All documents issued by the company must have "(Administrators Appointed)" after the company name where it first appears on the document.
- When a company is placed under administration, the powers of the directors and other officers are suspended. However, under certain circumstances, and only with the consent of the Administrators, those powers may continue. Some obligations of the directors will continue to apply, for example the obligation to lodge Annual Statements with ASIC.
- The Administrators may carry on the business and may employ or remove an officer or employee for this purpose.
- Without the express written authority of the Administrators:
 - No order for goods or services will be placed that has not been signed personally by the Administrators, or a person nominated by the Administrators.
 - No goods will be accepted by the company from any source whatsoever that are not the subject of an order signed by the Administrators, or the nominated representative of the Administrators.
 - 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 Administrators.
- No assets of the company will be removed from the company's custody without the written approval of the Administrators.
- 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 Administrators and may only be dealt with by the Administrators.

If you have any queries, please contact the Administrators by email to FM-tristaremployees@mcgrathnicol.com.



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.



**Khaled El-Sheikh Pty Ltd (Administrators Appointed) ACN 089 155 948
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Circular to Employees

Employee Frequently Asked Questions

26 May 2022

Keith Crawford and Matthew Caddy were appointed joint and several Administrators (**Administrators**) of Tristar on 24 May 2022.

The purpose of this document is to answer some frequently asked questions that employees may have about the Administration. The Administrators will update employees regularly on the status of the Administration and employment matters, particularly in the early phases while the Administrators urgently undertake a financial and operational assessment of Tristar.

Employees should direct any additional questions to their supervisor/manager in the first instance, who will then feed questions to the Administrators' representatives. The Administrators will add to this document as required and updated versions may be accessed on the Tristar Medical Group creditor page of McGrathNicol's website www.mcgrathnicol.com under "Creditors".

In this document, any reference to wages includes employees paid either on hourly-based or salary-based wages.

The Administrators act as agents of Tristar. By issuing this information sheet, the Administrators are not adopting any contract of employment that exists, or may have existed, between any employee of Tristar.



What happens to my employment?

Your employment will continue as normal and employees are asked to continue with their usual duties unless instructed otherwise.

Whilst the Administrators do not personally adopt your employment contract, the Administrators will pay wages in accordance with your current contract, award, Enterprise Bargaining Agreement or other industrial instrument.

The Administrators are personally responsible for paying employee wages for work completed after the time of their appointment (for most employees, this is for work completed on or after 25 May 2022).

The funds will be drawn from the Administrators' bank account and wages paid by the Administrators will refer to 'Administrators Appointed' on payslips.

How certain is my continued employment?

The Administrators' review of staffing requirements will be ongoing and subject to their obligation to endeavour to maximise the realisations from Tristar's assets.

Further communications will be provided to staff as and when there is greater clarity around options available to the Administrators and as the strategy evolves.

What happens to my entitlements?

Claims against Tristar for certain categories of employee entitlements, for the period prior to the Administrators' appointment, may receive priority under the *Corporations Act 2001 (Cth)*.

The Administrators are presently undertaking an urgent review of the asset position of Tristar to determine if there are sufficient realisable assets to meet employees' pre-administration claims. As soon as the position of prior-ranking claims has been clarified and Tristar's asset position determined, the Administrators will advise you further.

In the event there are insufficient assets to meet employees' pre-administration claims, employees may be able to make a claim through the Federal Government's Fair Entitlements Guarantee Scheme (**FEG**). Further details in relation to this scheme are provided below. Please note that this scheme is only available in a liquidation scenario, and is not available to employees who are not permanent residents of Australia.

Will my outstanding wages be paid up to date?

This week's payroll will be processed in the normal course. Employees will be informed should a delay arise due to the change in Tristar's banking arrangements.

Will I continue to be paid my wages?

Yes. While the Administrators do not personally adopt your employment contract whilst employed, the Administrators will pay wages in accordance with your current contract, award, Enterprise Bargaining Agreement or other industrial instrument for the period from their appointment.



Will my superannuation be paid?

The Administrators will attend to payment of superannuation following the date of their appointment by making payment to your nominated superannuation fund.

Any superannuation entitlement that was not remitted to your superannuation fund by Tristar for the period prior to the Administrators' appointment will form part of the claim you have against Tristar. The Administrators are presently assessing this and will communicate with you further as soon as possible.

Will other deductions continue to be made from my wages such as private health, child support, salary sacrifice, and novated lease payments?

Yes, the Administrators will deduct payments and remit to third parties for the period following the date of their appointment. Any deductions that were not remitted to third parties from your wages by Tristar prior to the Administrators' appointment will form part of the claim you have against Tristar.

What will happen if I have to make child support payments?

All scheduled child support payments will be processed in the normal payment structure that was in place prior to the Administrators' appointment.

Can I claim an expense reimbursement?

Employees should not be incurring any out of pocket expenses during the administration period without prior consent of the Administrators.

Outstanding pre-appointment out of pocket expenses will be assessed by the Administrators prior to a decision being made on employee reimbursements.

What do I do if I need to travel?

If you need to arrange travel or accommodation, please speak with your manager prior to booking.

Any requests to book travel will be assessed on a case-by-case basis.

Will I continue to accrue leave?

Yes, during the Administration you will continue to accrue annual, long service and sick leave and other entitlements.

Can I still take sick leave?

Leave should be applied for in the normal course for consideration by your supervisor or manager, who should then consult with the Administrators. Any new applications for leave will be considered on a case by case basis.

I have been approved to take leave after 24 May 2022. Can I still take leave and will it be paid?

Pre-appointment leave will be assessed by the Administrators on a case by case basis.



I would like to take leave in the future but have not put in a leave request form. What should I do?

Leave should be applied for in the normal course for consideration by your supervisor or manager, who should then consult with the Administrators.

Will I receive a payment summary for FY22?

Yes. The payroll team will prepare payment summaries for the period to 30 June 2022. These will be issued to you as normal after the end of the 2022 taxation year.

What happens to my pre-appointment leave balances?

You will have a claim against Tristar for entitlements that accrued before the Administrators' appointment. This includes your pre-administration leave accruals (including long service leave and annual leave).

How you claim or get access to your pre-administration entitlements will depend on the ultimate outcome of the Administration and value recovered from assets.

The Administrators will explore options to recapitalise or sell Tristar's business and assets as a going concern. If this is achieved, there may be an opportunity for ongoing employment and transfer of your pre-administration entitlements to a purchaser. Alternatively, a Deed of Company Arrangement (**DOCA**) or DOCAs may be received by the Administrators that may propose transfer of employment and pre-administration entitlements.

In the event there are insufficient circulating assets to meet employee entitlements and your employing entity goes into liquidation, there is a government scheme called the Fair Entitlements Guarantee scheme which may provide access to some or all of your pre-administration entitlements.

What is the Fair Entitlements Guarantee scheme?

In the event that your employing entity goes into liquidation, there is a Government scheme called the Fair Entitlements Guarantee Act (**FEG**). FEG assists eligible employees who have lost their employment due to the liquidation of their employer and who are owed certain employee entitlements.

FEG covers up to 13 weeks unpaid wages, annual leave, long service leave, up to five weeks payment in lieu of notice and up to 4 weeks redundancy pay for each year completed plus a pro-rata for each part year, subject to certain income limits. Please note, FEG is only applicable in the event of liquidation and is only applicable to eligible employees. The Administrators will provide more information on FEG in due course.

Please note that the eligibility of each claim is determined by the Attorney-General's Department (**Department**).

Are there any claim thresholds under the FEG scheme?

In the event your employing entity is placed into liquidation, the Department can pay what is owed to you under your existing terms and conditions of employment under the five basic entitlements, summarised below:

- wages – capped at 13 weeks
- annual leave
- long service leave
- payment in lieu of notice – capped at five weeks
- redundancy – capped at four weeks per full year of service



When calculating the amount of FEG assistance payable, the FEG maximum weekly wage is applied. The current indexed maximum weekly wage cap is \$2,529. This means that if you earn more than \$2,529 per week, your FEG assistance can only be calculated based on a weekly wage rate of \$2,529 per week.

For further information on the FEG scheme, including the claim process, please visit their website via <https://www.jobs.gov.au/fair-entitlements-guarantee-feg>.

Will I be entitled to a redundancy payment if my employment is ultimately terminated?

Some employees may be entitled to redundancies in the event their employment is terminated if provided for in their contracts or relevant industrial awards. If terminated, any redundancy payment forms a pre-administration claim against your employing entity. Please see question "*What happens to my entitlements*" above for further information in this regard.

What happens if I find another job or resign?

You will not be entitled to any redundancy payment if you resign.

What is the first meeting of creditors?

The Administrators are required to hold a meeting of creditors within eight business days of their appointment. This meeting will be convened for 3 June 2022.

Employees will receive formal notification of the meeting by 27 May 2022.

At the meeting, creditors are given the opportunity to replace the Administrators with alternative administrators and to form a committee of inspection. A committee of inspection may be formed, following a vote of creditors, to consult with the Administrators and receive reports on the conduct of the administration. A committee of inspection can also approve the Administrators' fees.

What is the second meeting of creditors?

The Administrators are required to hold a second meeting of creditors within approximately one month of their appointment, unless than otherwise extended by Court order.

You will receive formal notification of the meeting details ahead of that time.

The purpose of this meeting is predominantly for creditors to determine the future of Tristar. The options available to creditors can include returning control of Tristar back to its directors; executing a Deed of Company Arrangement if one is proposed; or, placing Tristar into liquidation.

Should I attend the creditor meetings?

As creditors, employees are entitled to attend the meetings of creditors. However, as the meetings will take place on a business day, it will not be possible for all employees to attend. The Administrators request that employees attend to their usual duties and ask a representative to act as their proxy, being another employee or a union representative.

A proxy form will be provided to you together with notice of the meeting and there will be further communications in this regard.



What is the role/authority of the Company director? Do we take direction from them or from the Administrators?

The Administrators make all financial and strategic decisions relating to Tristar and have ultimate executive control. The duties of director of the are suspended while the relevant entity of which he/she is a director is in Administration.

The Administrators continue to work with the Tristar's management and employees should continue to report to their supervisor/operations managers.

Where can I get information in relation to the administration?

Employees should direct any additional questions to their supervisor in the first instance. Additionally, employees can contact the Administrators via email to FM-tristaremployees@mcgrathnicol.com.

The Administrators will also add to this document as required and updated versions may be accessed on the Tristar Medical Group creditor page of the McGrathNicol website (www.mcgrathnicol.com) under "Creditors".