



NEWS WITH CLOUT

Offering Corporate & Personal Solvency Solutions

March 2008

As most of you will be aware, the Federal Government set up the General Employee Entitlements & Redundancy Scheme ("GEERS") some time ago in an effort to protect employee's entitlements upon the liquidation or bankruptcy of their employer.

GEERS is administered by the Department of Education, Employment & Workplace Relations ("DEEWR") and overtime the Government has continued to tinker with the scheme and have recently made additional changes in an attempt to ensure employees are not left high and dry.

With the new changes in place, GEERS now covers the following:-

1. Unpaid and underpaid wages in the 3 months period prior to the appointment of an insolvency practitioner;
2. Unpaid annual leave;
3. Unpaid long service leave;
4. Unpaid pay in lieu of notice; and
5. Up to 8 weeks unpaid redundancy.

Unfortunately at this time, GEERS does not cover unpaid superannuation entitlements, however these entitlements are treated as a priority creditor before ordinary unsecured creditors under section 556 of the *Corporations Act, 2001* and section 109 of the *Bankruptcy Act, 1966*.

To be eligible for GEERS the company must have been placed into liquidation or the individual must be declared bankrupt. Employees are not entitled to GEERS if;

1. The company is in voluntary administration, subject to a deed of company arrangement or in receivership; or
2. The individual is subject to a personal insolvency agreement or debt agreement.

In addition, for employees to be eligible for GEERS they need to have:-

1. Lost their jobs because of the bankruptcy or liquidation of their employer;
2. Resigned following the appointment of an insolvency practitioner; or
3. Resigned or was terminated within 6 months of the appointment of an insolvency practitioner.

The Government also stipulates that to be eligible for GEERS an employee must submit an approved claim form within 12 months of losing their job.

As it currently stands only employees who are not directors, shareholders or the bankrupts or who are not related to the directors, shareholders or bankrupts are entitled to GEERS.

One major problem with this scheme as it currently stands is that employees may not see their entitlements for up to 16 weeks of DEEWR receiving the employee's claim form.

A brief run down on the procedures of administering a claim is as follows:-

1. Insolvency practitioner provides employees with a claim form or can be obtained from DEEWR's website;
2. Employees complete the claim form and lodge them with DEEWR;
3. Insolvency practitioner reviews the employment history and provides a detailed report and spreadsheet as to the employees entitlements to DEEWR;
4. DEEWR assess the report and spreadsheet and make a determination;
5. DEEWR then distribute the entitlements to the insolvency practitioner who then distributes the funds to eligible employees.

Further information on GEERS, including claim forms etc can be found at www.workplace.gov.au/geers.

As ever we welcome all your enquiries.



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