



ASIC

Australian Securities & Investments Commission

INFORMATION SHEET 160

Disputes about employee entitlements

This information sheet explains:

- who to contact if you have a dispute with your employer about your employee entitlements,
- how to find out if the company you work for is in liquidation or external administration and who to contact about what your entitlements might be in this situation, and
- how to request ASIC to wind up a company if the company has been abandoned and you are still owed your employee entitlements.

What are disputes about employee entitlements?

Employee entitlements include wages or salary (your pay), annual leave, long service leave, sick leave, redundancy pay, superannuation and other benefits.

Disputes about employee entitlements could relate to:

- unpaid or incorrect wages or salary or your working conditions (e.g. entitlements such as annual leave, long service leave and sick leave), or
- failure by your employer to pay superannuation, withhold tax, or issue pay slips.

What you should do

Disputes about unpaid or incorrect wages or salary and working conditions	For disputes about your wages or salary, working conditions (e.g. leave) or workplace rights (e.g. if someone has tried to force you to sign an agreement), contact the Fair Work Ombudsman at www.fairwork.gov.au or call 13 13 94.
Failure to pay superannuation, withhold tax or issue pay slips	For failure by your employer to pay superannuation, withhold tax or issue pay slips, contact the Australian Taxation Office (ATO) at www.ato.gov.au or call 13 28 61.

Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Finding out if the company is in liquidation or external administration

If the company is in liquidation or external administration, you will most likely have been contacted by the liquidator or administrator. If so, report your concerns to the liquidator or administrator as they are best placed to investigate them.

To check if a company is in liquidation or external administration, you can do a business names or organisations search on ASIC Connect at www.connectonline.asic.gov.au or search the insolvency notices at insolvencynotices.asic.gov.au.

See also the information sheets listed under 'Where can I get more information?'

Employee entitlements if the company is in liquidation

If a company is in liquidation you may be able to claim unpaid entitlements through either the Fair Entitlements Guarantee (FEG) or the General Employee Entitlements and Redundancy Scheme (GEERS).

On 5 December 2012, the *Fair Entitlements Guarantee Act 2012* commenced, establishing the FEG as a legislative scheme to replace GEERS. For more information about the FEG visit www.deewr.gov.au/feg, call the FEG Hotline on 1300 135 040 or email FEG@deewr.gov.au.

GEERS will continue to operate for employer insolvency events that occurred before 5 December 2012. For more information about GEERS visit www.deewr.gov.au/geers, call the GEERS Hotline on 1300 135 040 or email GEERS@deewr.gov.au.

ASIC and employee entitlements

If a company is in liquidation or external administration, liquidators and administrators must report to ASIC if they suspect that anyone connected to the company may have committed an offence.

As there are a number of options available to employees and creditors to recover their money (see 'What you should do'), any action we take will generally be aimed at punishing misconduct, rather than recovering individual entitlements.

Generally, we do not act for individuals and will only take action where it will result in a greater impact in the market and benefit the general public more broadly.

However, ASIC has the power to wind up a company on certain grounds related to assisting employees to access GEERS or the FEG entitlements. For more information, see Regulatory Guide 242 *ASIC's power to wind up abandoned companies*.

Requests to ASIC to wind up abandoned companies

ASIC can use its discretion to decide whether to wind up an abandoned company and is not required to wind up an abandoned company in every situation.

In considering when to exercise its power to wind up a company, ASIC's primary consideration will be to facilitate employee access to GEERS or the FEG.

ASIC will then consider how government funds are best utilised to determine whether or not to wind up a company.

ASIC generally will not reinstate a company that has been deregistered in order to wind it up.

Employees of abandoned companies who are owed employee entitlements can submit a request to ASIC to wind up the company, see [Where ASIC can help](#) under 'Employment: wages and conditions'.

Where can I get more information?

- For information about ASIC's role, see www.asic.gov.au/our-role.
- For information about the laws we manage, see www.asic.gov.au/legislation.
- For more information about liquidation and voluntary administration, see Information Sheet 46 *Liquidation: A guide for employees* (INFO 46) and Information Sheet 75 *Voluntary administration: A guide for employees* (INFO 75) at www.asic.gov.au/infosheets.

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.