



**Australian Government**  
**Department of Employment**

**Senate Standing Committee on  
Education and Employment Legislation**

**Inquiry into the  
Fair Entitlements Guarantee Amendment Bill 2014**

**Submission of the  
Department of Employment**

## Table of Contents

Introduction	3
Purpose of the submission	3
Historical context	4
Development of the Employee Entitlement Schemes	4
Annual assistance paid under the Schemes	5
Redundancy pay entitlements	7
Cost of redundancy entitlements paid under the Schemes	7
Industry profile of redundancy entitlements paid under the Schemes	9
FEG Amendment Bill – redundancy cap	11
FEG Amendment Bill – technical amendments	12
Taking reasonable steps to pursue a debt	13
Establishing a funding source for appeal matters	14
Attachment A	15
Attachment B	16
Attachment C	17
Attachment D	18
Attachment E	19
Attachment F	20
Attachment G	21

## Introduction

1. The Department of Employment (the Department) welcomes the opportunity to make a written submission to the Senate Education and Employment Legislation Committee inquiry into the Fair Entitlements Guarantee Amendment Bill 2014 (the Bill).
2. The Bill was introduced into the House of Representatives on 4 September 2014 and seeks to implement the Government's 2014-15 Budget announcement to align the maximum redundancy pay entitlement under the Fair Entitlements Guarantee (FEG) with the maximum set by the National Employment Standards contained in the *Fair Work Act 2009*.
3. The Bill also makes a number of technical amendments to clarify the operation of the *Fair Entitlements Guarantee Act 2012* (the FEG Act).
4. These technical amendments will:
  - ensure that the death of a person does not prevent the person being eligible for a payment under the scheme;
  - clarify that a debt owed by a claimant to his or her employer is able to be offset proportionally against any of the claimant's employment entitlements paid under the scheme; and
  - make clear that deductions required by law (e.g. child support payments and pay as you go taxation) will be deducted from a FEG payment at the point the payment is made to the claimant.
5. The Bill also:
  - shifts the consideration of whether a claimant took reasonable steps to pursue a debt from being a condition of eligibility for an advance to being a factor in calculating the amount of the advance, enabling more flexible and fair outcomes for claimants; and
  - establishes a funding source in the FEG Act for certain legal costs associated with appeals of decisions made by the Department to the Administrative Appeals Tribunal.

## Purpose of the submission

6. This submission addresses each provision in the Bill.
7. The submission also provides an historical context on the FEG and its predecessor schemes with particular regard to the changing treatment of the redundancy pay entitlement under the schemes.

## Historical Context

### *Development of the Employee Entitlement Schemes*

8. The FEG provides financial assistance (called an ‘advance’) to cover five employment entitlements for eligible employees who lose their job due to the liquidation or bankruptcy of their employer. The five employment entitlements covered include:
  - unpaid wages (up to 13 weeks);
  - unpaid annual leave;
  - unpaid long service leave;
  - payment in lieu of notice (up to 5 weeks); and
  - redundancy pay (up to 4 weeks per full year of service).
9. The first employee entitlement protection scheme of this nature was the Employee Entitlements Support Scheme (EESS) introduced on 1 January 2000. At that time, there was much debate about the issue of what to do when employees lost their accrued entitlements and their jobs as a result of business insolvency and whether taxpayers or business should find a solution to the problem.
10. Prior to the introduction of the EESS, employees who lost accrued employment entitlements through the liquidation or bankruptcy of their employer had no protection and had to rely on funds being available in the winding up of their employer.
11. A key consideration in the design of the EESS was whether it was reasonable for employees to expect that Governments should guarantee 100 per cent of their lost entitlements. The Government at the time proposed a safety net to support workers whose employers had not made provision for them. In providing a safety net level of support, the Government was also very conscious of the need to minimise the risk of ‘moral hazard’ that such a scheme presented, that is, that some employers would accept a higher level of risk because there was a taxpayer funded safety net available if needed to cover their employee entitlement obligations.
12. There is some evidence of the existence of moral hazard in the Scheme. As the Scheme has become more generous over time, the percentage of employers who used the Scheme for unpaid workers entitlements grew from 16.8 per cent in 2006-07 to 20.5 per cent in 2012-13.
13. EESS was designed to protect employee entitlements up to a total payment of 29 weeks’ pay at ordinary time rates, subject to a maximum overall amount of \$20,000. The payment could comprise:
  - unpaid wages - up to 4 weeks;
  - annual leave - up to 4 weeks (which must have been accrued in the last year);
  - long service leave – up to 12 weeks;
  - payment in lieu of notice – up to 5 weeks; and
  - redundancy pay – up to 4 weeks.

14. The General Employee Entitlements and Redundancy Scheme (GEERS) was established in September 2001 to replace EESS. GEERS was fully funded by the Commonwealth which differed from the State/Commonwealth co-contribution model under EESS. Assistance was initially available under GEERS to employees who were terminated because their employer had become insolvent and certain insolvency appointments had occurred, including the appointment of an administrator or (in certain circumstances) a receiver.
15. On implementation, GEERS provided financial assistance in respect of five employment entitlements - unpaid wages, annual leave, long service leave, payment in lieu of notice and redundancy pay. Payments were uncapped except for redundancy pay, which was capped at 8 weeks.
16. The FEG was implemented from 5 December 2012 in line with the Labor Government's 2010 Election Commitment *Protecting Workers' Entitlements*. In addition to increasing the amount of redundancy pay available from 16 weeks to 4 weeks for each year of service, the *Protecting Workers' Entitlements* package included the commitment to enshrine the GEERS arrangements in legislation.
17. The policy parameters of the schemes, including the extent to which particular employment entitlements were protected, have changed over time to reflect experience in administering the schemes and Government policy. In particular, over the life of the schemes:
  - the wages entitlement changed from uncapped to a capped amount of 3 months from 1 November 2006;
  - unpaid annual leave and unpaid long service leave has remained uncapped;
  - payment in lieu of notice changed from an uncapped amount to a capped amount of 5 weeks from 15 December 2008; and
  - redundancy entitlements changed from a capped amount of 8 weeks to a capped amount of 16 weeks on 22 August 2006 and then a capped amount of 4 weeks for each year of service from 1 January 2011.
18. The table at [Attachment A](#) sets out changes to the scheme parameters in GEERS and FEG since 2001.

### ***Annual assistance paid under the Schemes***

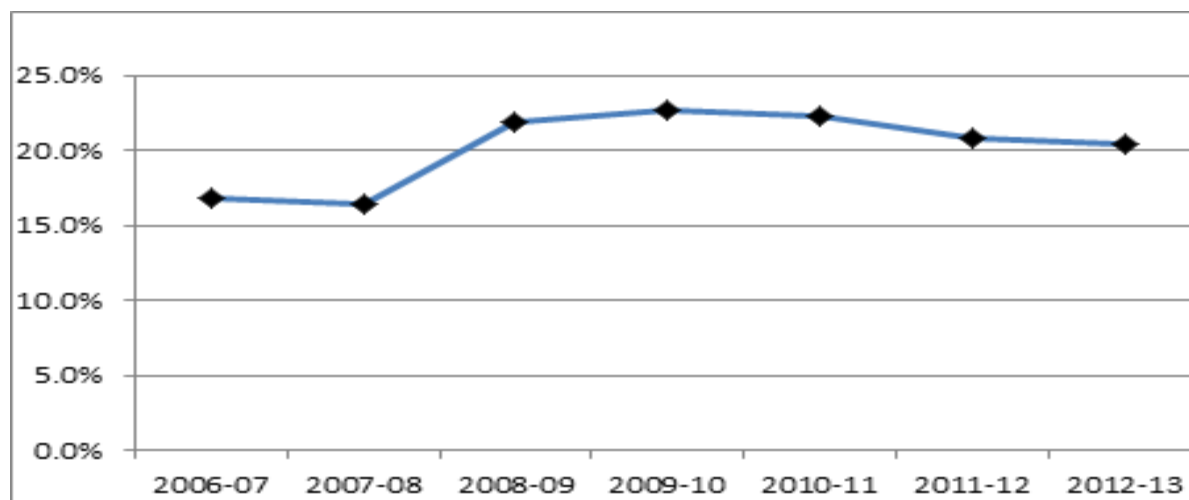
19. The increased generosity of benefits is reflected in the Government payments made to claimants over time. The amount of assistance paid under the schemes has increased significantly in line with the rise in the number of insolvencies and claimants requiring assistance, the movement in employment conditions and variation to entitlement thresholds under the schemes. Demand has increased from 8,626 claimants being paid \$72.97 million in 2006- 07 to 16,019 claimants being paid \$261.65 million in 2012- 13 (see Table 1).

**Table 1: Annual amount of assistance paid 2006-07 to 2012-13**

Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Claimants	8,626	7,808	11,027	15,565	15,413	13,929	16,019
Payments	\$72.97m	\$60.8m	\$99.8m	\$154.1m	\$151.3m	\$195.5m	\$261.65m

20. Demand varies from year to year and is impacted by a wide range of factors including:
- the number of insolvencies that occur in that year;
  - the proportion of those insolvencies involving unpaid employee entitlements;
  - the number of redundant employees who proceed to submit a claim;
  - the nature of employees' employment conditions;
  - the length of service of individual employees; and
  - the extent to which eligible employee entitlements are unpaid.
21. The Department's claim information and insolvency statistics sourced from the Australian Securities and Investment Commission illustrate that in 2012-13, 20.5 per cent of companies entering liquidation required unpaid entitlements to be met under FEG or GEERS - that is, 11212 companies entered liquidation and 2296 new cases were established under FEG and GEERS. This was higher than 16.8 per cent in 2006-07 but lower than 22.7 per cent in 2009-10. Chart 1 shows the relationship between companies entering liquidation and reliance on employee assistance schemes. Data underpinning the chart is provided at [Attachment B](#).

**Chart 1: FEG or GEERS cases proportional to the number of companies entering liquidation**



Source: ASIC Series 2 insolvency appointments - includes appointment type of provisional wind up, court wind up and creditors wind up

## Redundancy pay entitlements

22. As noted above, when EESS was introduced, up to 4 weeks redundancy pay could be included in the overall entitlement paid to claimants. On commencement of GEERS redundancy pay was capped at 8 weeks reflecting the federal award standard prevailing at the time as decided by the then Australian Conciliation and Arbitration Commission in the 1984 Termination Change and Redundancy Case.<sup>1</sup>
23. In August 2006 the cap on redundancy pay under GEERS was lifted to 16 weeks. This brought the maximum amount payable into line with the maximum payment available under the 2004 Redundancy Case by the former Australian Industrial Relations Commission (now the Fair Work Commission).<sup>2</sup>
24. In December 2008, the scheme parameters were amended so that redundancy pay was not paid in transfer of business situations where the employee was offered a job with the new operator of the business within 14 days doing the same work and with the same terms and conditions of employment.
25. The 16 week cap on the redundancy pay entitlement under GEERS remained in place until 1 January 2011 when the cap was increased to four weeks' pay for every year of service in line with the Labor Government's 2010 Election Commitment *Protecting Workers' Entitlements*.

## Cost of redundancy entitlements paid under the Schemes

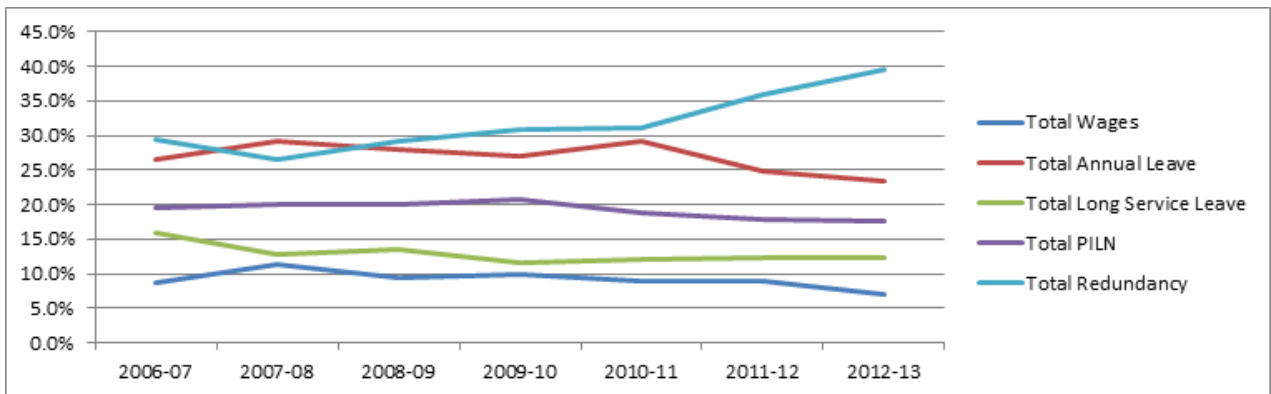
26. The proportion of total scheme expenditure attributable to the redundancy pay entitlements has trended upwards since the entitlement cap was increased from 16 weeks to four weeks per year of service was introduced on 1 January 2011.
27. In 2006-07 redundancy pay entitlements accounted for 29.5 per cent of scheme costs. This rose to 36.0 per cent in 2011-12 and 39.6 per cent in 2012-13. The proportion of total scheme expenditure for the other employment entitlements covered under the scheme remained relatively stable over this period. This is illustrated in Chart 2, data underpinning the chart is provided at [Attachment C](#).
28. Since the implementation of the increased redundancy cap on 1 January 2011 the dollar value of redundancy pay entitlements has increased disproportionately to other entitlement types covered by the schemes. Redundancy payments increased from \$21.2 million in 2006-07 to \$102.2 million in 2012-13. Chart 3 shows that while the dollar value of all entitlements has increased over time, the trajectory of increased payments for the redundancy pay entitlement since 1 January 2011 has exceeded other entitlements paid under the schemes. Data underpinning the chart is provided at [Attachment C](#).

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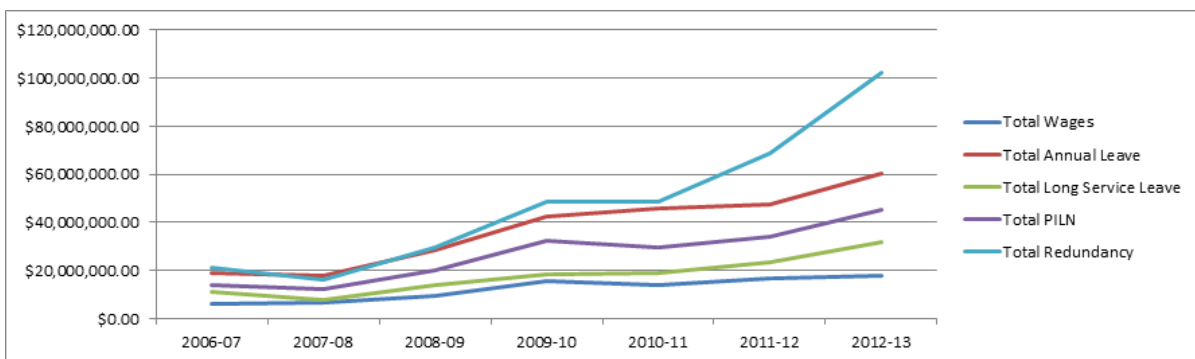
<sup>1</sup> Termination Change and Redundancy Case, Decision 2 August 1984, Print F6230.

<sup>2</sup> Redundancy Case, Decision PR032004 and Supplementary Decision PR062004, Giudice J, Ross VP, Smith C and Deegan C.

**Chart 2: Proportion of scheme expenditure by entitlement type**



**Chart 3: Scheme expenditure by entitlement type**



29. The value of redundancy payments made to individual claimants varies significantly having regard to their conditions of service, length of service and rate of pay. Since the implementation of the increased redundancy cap on 1 January 2011 the highest payment made to an individual was \$297,693. Over the period 1 January 2011 to 30 June 2013, there have been 64 claimants paid redundancy entitlements of \$100,000 or more under FEG and GEERS. A further 11 claimants were paid in excess of \$100,000 for their redundancy entitlement over 2013-14.
30. The number of claimants paid 16 or more weeks of redundancy pay under GEERS or FEG has trended upwards since 1 January 2011, from 722 claimants in 2011-12 to 1,131 claimants in 2012-13.

**Table 2: Claimants paid more than 16 weeks redundancy pay**

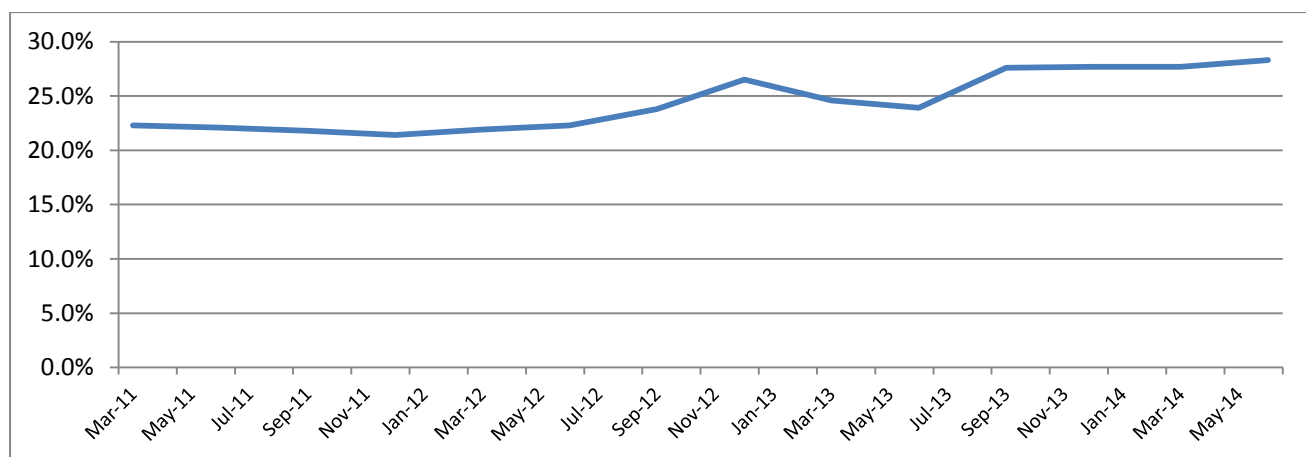
Year	Claimants paid	Amount paid	Claimants paid more than 16 weeks	Proportion of claimants paid more than 16 weeks
2010-11*	6,396	\$48,519,233	150	2.3%
2011-12	6,399	\$68,524,663	722	11.3%
2012-13	8,395	\$101,161,155	1,131	13.5%

\*reflects a part year effect based on commencement date of increased redundancy pay entitlements



31. The Workplace Agreements Database (WAD) maintained by the Department, contains information on all known federal enterprise agreements that have operated since the introduction of the Enterprise Bargaining Principle in October 1991 and that have been subsequently provided to the Department. Currently the database holds information on approximately 130,000 approved enterprise agreements, with over 200 data items coded for each agreement.
32. WAD data shows that the number of Agreements which provide an average of redundancy pay of four weeks or more for each year of service has remained relatively stable since the higher redundancy cap was introduced under GEERS on 1 January 2011 – 5.3 per cent at 30 June 2012, 4.8 per cent at 31 December 2013 and 5.2 per cent at 30 June 2014.
33. However, the incidence of agreements which provide a total maximum redundancy payment of more than 16 weeks has increased from 22.3 per cent in Quarter 1 of 2011 to 28.3 per cent in Quarter 2 of 2014.

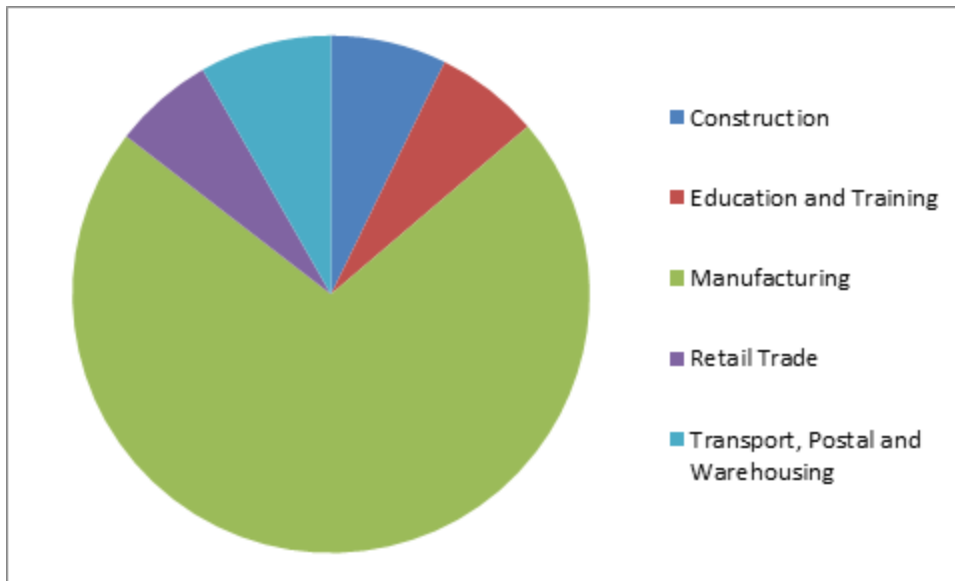
**Chart 4 – Proportion of workplace Agreements with 16 weeks or more redundancy**



### **Industry profile on redundancy entitlements paid under the schemes**

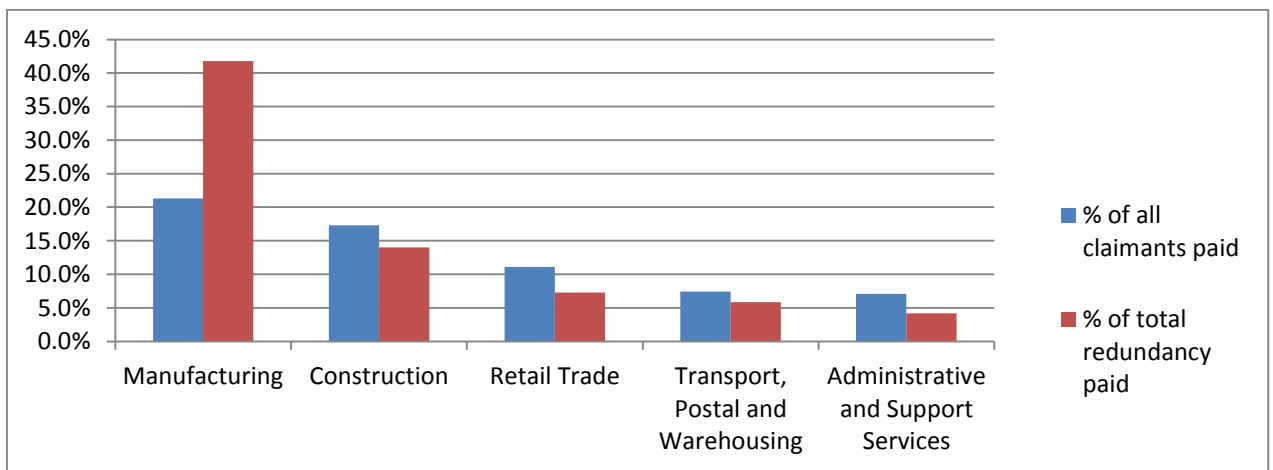
34. Analysis of scheme data shows that 60 per cent of claimants who were paid more than 16 weeks redundancy pay were in the Manufacturing industry. Seven per cent were in the Transport, Postal and Warehousing industry, 6 per cent were in the Construction industry, 5.4 per cent were in the Education and Training industry and 5.2 per cent were in the Retail Trade industry. Chart 5 shows the spread of claimants receiving 16 weeks or more in redundancy pay by industry. Data underpinning the chart is provided at [Attachment D](#).

**Chart 5: Proportion of claimants with more than 16 weeks redundancy pay by industry**



35. For the five top industries redundancy payments for claimants paid more than 16 weeks ranged from \$4,525.20 to \$297,693.22, with the median redundancy payment ranging from \$16,332.80 in the Retail Trade industry to \$34,576.76 in the Manufacturing industry. Further data on the range of individual payments made to claimants for redundancy entitlements, including minimum, median and maximum amounts by industry is at [Attachment E](#).
36. Analysis of all claims paid between 1 July 2006 and 30 June 2013 shows that while 21 per cent of the claims were from employees in the Manufacturing industry, such claims accounted for 42 per cent of the total redundancy pay assistance paid under the scheme. Chart 6 shows the relationship between the number of claimants receiving a redundancy pay entitlement and the amount of assistance for the five main sectors that account for claims. Data underpinning the chart and additional industry data is provided at [Attachment F](#).

**Chart 6: Proportion of claimants paid and proportion of total redundancy paid by industry**



37. Across all industries, 778 claimants (39 per cent) who were paid in excess of 16 weeks redundancy pay received between 16 and 20 weeks. A further 376 (19 per cent) received between 20 and 30 weeks' pay and 267 (13 per cent) received between 30 and 40 weeks' pay. Table 4 provides further breakdown by the number of weeks paid and a full analysis by industry is provided at [Attachment G](#).

**Table 4: Number of weeks redundancy paid to claimants receiving more than 16 weeks**

16 to 20 weeks	21 to 30 weeks	31 to 40 weeks	41 to 50 weeks	51 to 60 weeks	61 to 70 weeks	71 to to 80 weeks	81 to 90 weeks	91 to 100 weeks	> 100 weeks	Total
778	367	267	170	142	95	86	32	31	24	2001

### **FEG Amendment Bill – redundancy cap**

38. The Bill seeks to change the redundancy cap threshold to a maximum payment of 16 weeks' pay in line with the maximum payment available for redundancy under the National Employment Standards.
39. The National Employment Standards are 10 minimum employment entitlements that have to be provided to all employees. Together with the national minimum wage, they make up the minimum entitlements for employees in Australia. An award, agreement or employment contract cannot exclude, or provide conditions that are less than the national minimum wage or the National Employment Standards.
40. All employees who are in the national workplace relations system are covered by the National Employment Standards regardless of the award, registered agreement or employment contract that applies. Their application to most employees and employers in Australia means the National Employment Standards are an appropriate safety net reference for redundancy entitlements under the FEG.
41. While the provisions of the National Employment Standards reduce a redundancy payment from 16 to 12 weeks after 10 years' service, it is not intended to apply that latter reduction under the FEG.
42. This 16 week cap relates only to the redundancy pay entitlements available under FEG, it does not operate as an overall cap of entitlements payable under the scheme. In addition to a maximum payment of 16 weeks for redundancy pay, employees will still be able to receive assistance for up to 13 weeks unpaid wages, all accrued annual leave and long service leave that is left unpaid, and up to five weeks payment in lieu of notice.
43. Subject to passage of the Bill, the amended redundancy cap is intended to take effect for all insolvency events occurring on or after 1 January 2015. Accordingly, existing claims from people whose employer became insolvent prior to this date will continue to have coverage for the precursor redundancy cap arrangements of 4 weeks for each year of service.

## **FEG Amendment Bill – technical amendments**

44. The Bill includes three technical amendments which are intended to remove some existing ambiguity in the operation of the scheme identified over the past 18 months in administering claims under the legislation. These amendments will not have an overall detrimental or negative impact on claimants

### ***Payments made to deceased estate***

45. The FEG Act currently contains no provisions on how to deal with a claim where an employee has died.
46. Including a specific provision in the legislation will put beyond doubt that death does not affect eligibility for payment under the Act. This amendment will confirm that the next of kin or the Estate will be able to lodge, or otherwise progress a claim already lodged prior to the death of the employee so that payments can be made in a timely manner.

### ***Offsetting debts***

47. In the normal course of the employment relationship, if an employee owes a debt to the employer, the employer would have recourse to deducting that amount from any entitlements payable on the end of employment. The nature of the end of employment does not matter in this regard.
48. When a FEG payment is made to an employee for their unpaid employment entitlements, the Commonwealth has the same rights to receive payment from the liquidator or bankruptcy trustee as the former employee would be entitled to. Effectively the Commonwealth stands in the shoes of the former employee in terms of priority for payments under the Corporations Act or the Bankruptcy Act.
49. To protect these recovery rights, the Commonwealth ensures that the appointed liquidator recognises the entire value of the payment made under FEG. A liquidator would be obliged to ensure any debts owed to an employer are taken into account when settling amounts paid to employee creditors. If a payment under FEG entirely disregarded any debt otherwise owed by the employee to the employer, the Commonwealth's recovery rights would be compromised as the liquidator would not recognise the Commonwealth as creditor for the portion of that debt.
50. For this reason section 17 the FEG Act facilitates the offsetting of debts owed by the employee to their employer against the employment entitlements paid under the scheme.
51. The existing wording in the FEG Act is unclear in terms of dealing with debts that relate to a particular entitlement paid under the scheme. For example, a claimant may have taken annual leave before it has accrued and therefore has a debt owing to the employer for annual leave. The current wording in the legislation is capable of an unintended interpretation that the annual leave debt cannot be offset against the other entitlements paid under the scheme.

52. The Bill removes any ambiguity to provide that in a situation similar to that outlined in paragraph 49 above, the debt (e.g. for the annual leave taken but not accrued) can be offset proportionally against the claimant's other employment entitlements that are payable under the scheme.
53. The employee will not be disadvantaged through this amendment as it would be assumed that if the amount was not deducted from the FEG payment, the liquidator would otherwise pursue recovery of the debt directly from the employee.

#### ***Treatment of amounts required to be withheld by law***

54. There are a range of Commonwealth, State or Territory laws that may require amounts to be withheld by employers from the employment entitlements of their employees, such as pay as you go taxation or child support. A payment of employment entitlements under FEG is subject to the same legal requirements in relation to those withholding amounts.
55. The treatment of legally required deductions from entitlements paid under the FEG is only referenced in section 24 of the FEG Act which deals with the deduction of pay as you go taxation from the wages entitlement. This has resulted in confusion for some claimants who have questioned why pay as you go taxation has been deducted from all entitlements when the FEG Act does not require it.
56. The Bill makes it clear that deductions required by law (e.g. child support payments and pay as you go taxation) will be deducted from a FEG payment at the point the payment is made to the claimant.

#### **Taking reasonable steps to pursue a debt**

57. Section 10 of the FEG Act sets down the conditions for a claimant to be eligible for assistance under the scheme. One of these conditions is that a claimant must have taken reasonable steps to pursue any unpaid entitlements that were already owed to them prior to the liquidation taking place.
58. The Explanatory Memorandum to the FEG Act provided guidance on the intention of the provision and how to apply it. The Explanatory Memorandum noted that "the qualifier 'reasonable steps' will ensure that the decision maker is able to consider each individual's situation on its own merits and avoid unjust outcomes".
59. The wording in the FEG Act operates with the unintended effect that if a part of an employee's unpaid entitlements is considered to have not been reasonably pursued, they will not be eligible for any payment under the scheme, even that part of the unpaid employment entitlements that are reasonably pursued.
60. If applied literally, this would have an unduly harsh outcome for employees and would be at odds with the intended operation of the provisions. The Bill seeks to

address this unintended narrowing of the provision by shifting the requirement for a person to take reasonable steps to pursue a debt from a consideration under eligibility criteria to a consideration under calculating the amount of entitlements owed.

61. Under the proposed amendment a fairer and more flexible approach will be available so that a claimant can still be paid those entitlements that are unaffected by the 'did not reasonably steps to pursue' rule. This will provide a more beneficial outcome for employees.

### **Establishing funding source for appeal matters**

62. Section 51 of the FEG Act provides that the Consolidated Revenue Fund is appropriated for the purposes of payments made under the FEG Act. This means that costs associated with payments to claimants, including the entitlements payable under FEG and fees associated with obtaining services from insolvency practitioners to verify and distribute payments, are able to be drawn from the FEG special appropriation.
63. The Bill seeks to amend the provisions so that the Consolidated Revenue Fund is also appropriated for external legal costs incurred by the Department in relation to applications to the Administrative Appeals Tribunal to appeal a decision made by the Department or an appeal to a court in respect of such an application.
64. This will not impact on the amount of funds available to pay claimants under the scheme.

Changes to scheme parameters since 2001

Variation	Eligibility	Wages	Annual Leave	Long Service Leave	Payment in Lieu of Notice	Redundancy
September 2001 (GEERS)	<ul style="list-style-type: none"> <li>Excluded employees<sup>3</sup> ineligible for assistance</li> <li>Employee who resigned ineligible for assistance</li> <li>Assistance available if in administration</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> <li>Underpaid wages excluded</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 8 weeks</li> </ul>
1 November 2005 (GEERS)	<ul style="list-style-type: none"> <li>Extended coverage to include employees who resigned up to 6 mths before appointment of IP</li> <li>Extended coverage to Excluded employees with assistance capped at \$3500</li> <li>Restricted coverage to apply only where liquidation had occurred</li> <li>Restricted coverage to Australian citizens and permanent residents and SCV holders only</li> </ul>	<ul style="list-style-type: none"> <li>Unpaid wages – no Cap</li> <li>Underpaid Wages – capped at 3 months prior to administration</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>unchanged</li> </ul>
22 August 2006 (GEERS)	<ul style="list-style-type: none"> <li>Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 16 weeks</li> </ul>
1 November 2006 (GEERS)	<ul style="list-style-type: none"> <li>Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>Unpaid and underpaid wages capped at 3 months</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>Unchanged</li> </ul>
15 December 2008 (GEERS)	<ul style="list-style-type: none"> <li>Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 3 months</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 5 weeks</li> <li>Not paid in Transfer of Business where employee offered job on same terms within 14 days</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 16 weeks</li> <li>Not paid in Transfer of Business where employee offered job on same terms within 14 days</li> </ul>
1 January 2011 (GEERS)	<ul style="list-style-type: none"> <li>Excluded Employees ineligible for assistance</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 3 months</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 5 weeks</li> <li>ToB restriction</li> </ul>	<ul style="list-style-type: none"> <li>Cap increased to 4 weeks for every year of service</li> <li>ToB restriction</li> </ul>
5 December 2012 (FEG)	<ul style="list-style-type: none"> <li>Removed eligibility considerations for Deed of Company Arrangements</li> <li>Prescribed 12 month timeframe to lodge claim</li> <li>Capacity to pay entitlements for work performed after date of administration where cost not met by IP</li> <li>Inclusion of TCF Contract Outworkers from 15 May 2013</li> <li>Simplified ToB considerations from 1 July 2014</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 3 months</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>No Cap</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 5 weeks</li> <li>ToB restriction</li> </ul>	<ul style="list-style-type: none"> <li>Capped at 4 weeks for every year of service</li> <li>ToB restriction</li> </ul>

<sup>3</sup> Excluded Employee as defined by the Corporations Act 2001 is an employee who has been a Director of the company at any time within the 12 months prior to, or any time since, administration, as well as an employee who has been or is a spouse or relative of a Director at any time within the 12 months prior to, or any time since, administration.

**FEG and GEERS cases proportional to the number of companies entering liquidation  
(1 July 2006 to 30 June 2013)**

<b>Year</b>	<b>Number of companies entering liquidation*</b>	<b>Number of companies where a former employee makes a claim for GEERS or FEG assistance</b>	<b>% of FEG or GEERS cases compared to number of companies entering liquidation*</b>
<b>2006-07</b>	8262	1390	16.8%
<b>2007-08</b>	8612	1416	16.4%
<b>2008-09</b>	9954	2176	21.9%
<b>2009-10</b>	9392	2132	22.7%
<b>2010-11</b>	9801	2183	22.3%
<b>2011-12</b>	10846	2264	20.9%
<b>2012-13</b>	11212	2296	20.5%

\* Sourced from ASIC series 2 insolvency appointments data and includes appointment type of provisional wind up, court wind up and creditors wind up



**FEG and GEERS expenditure by entitlement type  
(1 July 2006 to 30 June 2013)**

<b>Year</b>	<b>Total Wages</b>	<b>Total Annual Leave</b>	<b>Total Long Service Leave</b>	<b>Total Payment in Lieu of Notice</b>	<b>Total Redundancy Pay</b>	<b>Grand Total*</b>
<b>2006-07</b>	\$6,245,916.40	\$19,125,164.70	\$11,433,497.64	\$14,176,148.01	\$21,355,158.63	\$72,335,885.38
<b>2007-08</b>	\$6,892,560.28	\$17,691,133.35	\$7,790,316.34	\$12,132,150.25	\$16,065,647.48	\$60,571,807.70
<b>2008-09</b>	\$9,681,445.98	\$28,544,379.34	\$13,804,711.71	\$20,323,595.20	\$29,759,700.60	\$102,113,832.83
<b>2009-10</b>	\$15,601,864.11	\$42,639,554.94	\$18,214,664.89	\$32,725,179.18	\$48,515,137.32	\$157,696,400.44
<b>2010-11</b>	\$14,046,915.62	\$45,590,066.03	\$18,928,218.82	\$29,391,671.25	\$48,519,232.53	\$156,476,104.25
<b>2011-12</b>	\$16,995,617.76	\$47,525,359.97	\$23,693,139.18	\$34,052,365.36	\$68,719,375.41	\$190,985,857.68
<b>2012-13</b>	\$18,052,182.54	\$60,483,583.02	\$31,985,377.10	\$45,335,136.65	\$102,239,042.84	\$258,095,322.15

\*Note Grand Total will not be exact due to entitlement mapping anomalies between the business and finance systems.

<b>Year</b>	<b>Total Wages</b>	<b>Total Annual Leave</b>	<b>Total Long Service Leave</b>	<b>Total Payment in Lieu of Notice</b>	<b>Total Redundancy Pay</b>
<b>2006-07</b>	8.6%	26.4%	15.8%	19.6%	29.5%
<b>2007-08</b>	11.4%	29.2%	12.9%	20.0%	26.5%
<b>2008-09</b>	9.5%	28.0%	13.5%	19.9%	29.1%
<b>2009-10</b>	9.9%	27.0%	11.6%	20.8%	30.8%
<b>2010-11</b>	9.0%	29.1%	12.1%	18.8%	31.0%
<b>2011-12</b>	8.9%	24.9%	12.4%	17.8%	36.0%
<b>2012-13</b>	7.0%	23.4%	12.4%	17.6%	39.6%

**Proportion of claimants with more than 16 weeks redundancy pay by industry  
(1 January 2011 to 30 June 2013)**

<b>Industry</b>	<b>Claimants Paid more than 16 weeks</b>	<b>% of total number of claimants paid more than 16 weeks</b>
Accommodation and Food Services	58	2.9%
Administrative and Support Services	9	0.4%
Agriculture, Forestry and Fishing	16	0.8%
Arts and Recreation Services	16	0.8%
Construction	121	6.0%
Education and Training	109	5.4%
Electricity, Gas, Water and Waste Services	15	0.7%
Financial and Insurance Services	16	0.8%
Health Care and Social Assistance	50	2.5%
Information Media and Telecommunications	91	4.5%
Manufacturing	1198	59.9%
Mining	9	0.4%
Other Services	19	0.9%
Professional, Scientific and Technical Services	2	0.1%
Public Administration and Safety	2	0.1%
Rental, Hiring and Real Estate Services	4	0.2%
Retail Trade	105	5.2%
Transport, Postal and Warehousing	138	6.9%
Wholesale Trade	23	1.1%

**Individual Redundancy Payments to Claimants paid more than 16 weeks  
(1 January 2011 to 30 June 2013)**

<b>Industry</b>	<b>Payments</b>	<b>Average</b>	<b>Minimum</b>	<b>Median</b>	<b>Maximum</b>
Public Administration and Safety	2	\$10,057.20	\$6,936.00	\$10,057.20	\$13,178.40
Professional, Scientific and Technical Services	2	\$28,644.60	\$4,950.00	\$28,644.60	\$52,339.20
Rental, Hiring and Real Estate Services	4	\$18,450.95	\$16,057.60	\$18,423.10	\$20,900.00
Administrative and Support Services	9	\$18,515.35	\$12,600.00	\$17,504.80	\$29,618.00
Mining	9	\$36,838.23	\$17,010.00	\$38,076.84	\$61,125.30
Electricity, Gas, Water and Waste Services	15	\$19,893.10	\$12,833.10	\$19,230.60	\$27,693.60
Arts and Recreation Services	16	\$28,789.53	\$12,052.80	\$27,463.63	\$47,271.60
Financial and Insurance Services	16	\$55,154.57	\$37,198.62	\$29,677.44	\$95,083.80
Agriculture, Forestry and Fishing	16	\$54,062.23	\$12,768.00	\$46,916.39	\$98,628.72
Other Services	19	\$26,256.40	\$10,560.00	\$22,379.81	\$58,461.44
Wholesale Trade	23	\$22,375.42	\$3,412.20	\$14,630.00	\$175,921.26
Health Care and Social Assistance	50	\$13,971.50	\$3,179.92	\$12,063.94	\$45,278.00
Accommodation and Food Services	58	\$40,854.50	\$8,002.00	\$26,155.42	\$262,861.42
Information Media and Telecommunications	91	\$29,694.50	\$10,692.00	\$28,242.45	\$71,703.21
Retail Trade	105	\$17,802.41	\$6,278.40	\$16,332.80	\$45,278.00
Education and Training	109	\$24,193.35	\$6,348.61	\$28,967.13	\$45,929.52
Construction	121	\$45,571.30	\$6,400.00	\$33,800.00	\$127,434.93
Transport, Postal and Warehousing	138	\$21,399.51	\$4,525.20	\$19,381.30	\$39,820.00
Manufacturing	1198	\$42,891.33	\$5,882.54	\$34,576.76	\$297,693.22

**Proportion of claimants paid and proportion of total redundancy paid by industry  
(1 July 2006 to 30 June 2013)**

<b>Industry</b>	<b>Claimants Paid</b>	<b>Redundancy Paid</b>	<b>% of all claimants paid</b>	<b>% of total redundancy paid</b>
Manufacturing	18889	\$139,962,464.15	21.3%	41.8%
Construction	15343	\$46,960,163.60	17.3%	14.0%
Retail Trade	9835	\$24,420,547.28	11.1%	7.3%
Transport, Postal and Warehousing	6586	\$19,643,175.90	7.4%	5.9%
Administrative and Support Services	6270	\$14,030,904.89	7.1%	4.2%
Other Services	5215	\$11,451,856.09	5.9%	3.4%
Accommodation and Food Services	4524	\$7,912,908.78	5.1%	2.4%
Education and Training	3715	\$11,334,111.42	4.2%	3.4%
Professional, Scientific and Technical Services	3337	\$7,436,285.05	3.8%	2.2%
Information Media and Telecommunications	2918	\$15,968,373.40	3.3%	4.8%
Health Care and Social Assistance	2869	\$9,295,971.59	3.2%	2.8%
Electricity, Gas, Water and Waste Services	1719	\$6,469,872.39	1.9%	1.9%
Wholesale Trade	1655	\$4,579,420.93	1.9%	1.4%
Arts and Recreation Services	1385	\$3,524,899.75	1.6%	1.1%
Agriculture, Forestry and Fishing	1142	\$4,887,400.91	1.3%	1.5%
Financial and Insurance Services	1019	\$3,393,714.71	1.2%	1.0%
Rental, Hiring and Real Estate Services	651	\$790,244.79	0.7%	0.2%
Public Administration and Safety	642	\$1,006,877.07	0.7%	0.3%
Mining	634	\$1,980,916.24	0.7%	0.6%
Unknown	232	\$123,185.87	0.3%	0.0%
<b>Grand Total</b>	<b>88580</b>	<b>\$335,173,294.81</b>	<b>100.0%</b>	<b>100.0%</b>

**Number of claimants paid more than 16 weeks redundancy pay by number of weeks paid  
(1 January 2011 to 30 June 2013)**

<b>Industry</b>	<b>16 to 20 weeks</b>	<b>21 to 30 weeks</b>	<b>31 to 40 weeks</b>	<b>41 to 50 weeks</b>	<b>51 to 60 weeks</b>	<b>61 to 70 weeks</b>	<b>71 to 80 weeks</b>	<b>81 to 90 weeks</b>	<b>91 to 100 weeks</b>	<b>&gt; 100 weeks</b>	<b>Grand Total</b>
Accommodation and Food Services	12	22	8	4		3	4		1	4	58
Administrative and Support Services	9										9
Agriculture, Forestry and Fishing	2	2	1	2	3		2	1	1	2	16
Arts and Recreation Services	16										16
Construction	52	34	10	12	11	2					121
Education and Training	57	52									109
Electricity, Gas, Water and Waste Services	15										15
Financial and Insurance Services	4	10		2							16
Health Care and Social Assistance	50										50
Information Media and Telecommunications	46	27	17	1							91
Manufacturing	253	213	211	148	126	90	79	31	29	18	1198
Mining	2	5	1		1						9
Other Services	13	4	1		1						19
Professional, Scientific and Technical Services	1			1							2
Public Administration and Safety	2										2
Rental, Hiring and Real Estate Services	4										4
Retail Trade	104	1									105
Transport, Postal and Warehousing	114	6	18								138
Wholesale Trade	22						1				23
<b>Grand Total</b>	<b>778</b>	<b>376</b>	<b>267</b>	<b>170</b>	<b>142</b>	<b>95</b>	<b>86</b>	<b>32</b>	<b>31</b>	<b>24</b>	<b>2001</b>