



Reviewing a FEG decision

Decisions about eligibility for assistance and the amount of any assistance under the Fair Entitlements Guarantee (FEG) are made in accordance with the *Fair Entitlements Guarantee Act 2012* (FEG Act). This fact sheet provides general information about your right to a review of a FEG decision. All references to legislation below are references to the FEG Act.

What if I have a question about my FEG claim decision?

When you receive your FEG claim decision you may have questions about how that decision was made. For example, why your claim was found to be ineligible or why the amount of assistance paid was different to what you expected. Most of these questions will be answered in the reasons and explanations we include in your decision letter.

You can contact us to discuss your claim decision by contacting the FEG Hotline:

- phone 1300 135 040
Mon - Fri, 9 am - 5 pm (AEST/ADST)
- email FEG@dewr.gov.au

You might want to do this if:

- you need more information about how the decision was made on your claim
- you think the Department of Employment and Workplace Relations (the department) has made an error based on the facts of your claim
- you have new information related to your FEG claim.

What are my rights to a review?

Section 37 of the FEG Act allows the department to review your FEG decision if it is satisfied there is a good reason to do so. This is a s.37 review, and might occur if we receive new information about your claim.

Section 38 of the FEG Act also allows you to request a review of the department's decision on your claim. These are referred to as s.38 reviews. If the department conducts a s.37 review you will still maintain the right to lodge a formal request for an internal review of your FEG claim decision.

If you disagree with the department's s.38 review decision, you may apply to the Administrative Review Tribunal (ART) for a further review. Information about s.38 and ART reviews and how to apply is below.

Formal request for internal review – s.38 reviews

If you disagree with a decision about your eligibility for FEG assistance or a decision about the amount of assistance you are eligible for, you can apply for an internal review of that decision under s.38. You can request a review of either the original decision or departmental initiated review decision under s.37. You are not required to discuss your concerns with the department before lodging a formal request for internal review.

Please note that strict time limits apply and you must lodge your formal request for internal review within 28 days after the date of the decision notice (see section 38 of the FEG Act).

What should I include in my internal review application?

A formal request for internal review under s.38 must be made in writing. Your request should state that it is a request for internal review and you also must state the reasons why you are seeking a review. You should explain which parts of the decision you disagree with - all components of the decision, or only part of the decision. For example, if you were paid several categories of employee entitlements (wages, annual leave, redundancy) but only disagree with our decision about your annual leave entitlement, you should state this clearly and why you disagree with it.

Your request for review must also include any information or documents that you are relying on to support your reasons for seeking a review. Additional information will be particularly important in cases where you disagree with the information the insolvency practitioner has provided to us from the books and records of your former employer, or if you have further information which the department has not seen.

Below are some examples of the types of documents that may help us assess your application for review:

- signed contract of employment
- payslips
- PAYG payment summaries
- letter of offer of employment
- bank statements for the 13 weeks prior to the initial appointment of the insolvency practitioner (or if your employment ended before the appointment of an insolvency practitioner, bank statements for the 13 weeks prior to the end of your employment)
- bank statements for the 30 days immediately after your employment ended
- evidence of weekly or annual wage
- separation certificate
- letter of termination of employment
- signed timesheets
- evidence of salary sacrifice arrangements.

How do I apply for internal review?

Online lodgement is the easiest way to make a request for internal review under s.38.

If you have not already registered you can do so at [FEG Online Services](#). Once you have registered with FEG Online Services you can complete your review application online.

If you are unable to lodge your request for review online, you can submit a paper based request. The [review application](#) form is available on the [FEG website](#) (www.dewr.gov.au/fair-entitlements-guarantee) to assist you in this process. Paper based applications must be lodged with the department by:

- sending it to:
FEG Internal Reviews
Fair Entitlements Guarantee program
Department of Employment and Workplace Relations
GPO Box 9828
CANBERRA ACT 2601
- emailing it to FEGreviews@dewr.gov.au

Your application for review must be received by the department within 28 days of the decision notice (see section 38 of the FEG Act). If you send your application by post it is your responsibility to ensure it is received by the department within the 28 day timeframe.

How will my review be assessed?

The review officer will investigate the issues raised by you and consider any supporting information or documents you provided. The review officer will also consider relevant information already held by the department, including information received from the insolvency practitioner.

The review officer will then provide that information to a senior officer of the department who has not previously made a decision on your claim to make a decision about the review.

How long will the process take?

We aim to process requests for internal review as quickly as possible. The time taken to assess a review will depend on the complexity of the claim and whether we need to request additional information from you, the insolvency practitioner or other third parties. There is no statutory or standard timeframe for decisions.

What happens when we have made a decision?

Once we have made a s.37 or s.38 review decision, we will notify you in writing of the outcome. The decision may affirm, vary or set aside the decision being reviewed. The decision letter will set out the terms of, and reasons for, the decision and will notify you of any rights of further review.

We will then process any changes to your entitlements. If we decide you have been underpaid, we will pay you the difference.

If we decide you have been overpaid, we will send you a notice of debt due to the Commonwealth. You will be required to repay this debt within 30 days unless you contact the department to make alternative arrangements.

Review by the Administrative Review Tribunal (ART)

If you disagree with the department's s.38 internal review decision, you may apply to the ART for a further review of that decision. Before you apply to the ART, the department must have completed its s.38 internal review of your FEG claim decision.

The ART provides independent review of a wide range of administrative decisions made by the Australian Government and some non-government bodies. Decisions made by the ART are binding on both you and the department.

Section 40 of the FEG Act sets out which decisions under FEG are reviewable by the ART. Subject to certain limitations, the ART may review decisions about whether you are eligible for FEG assistance or the amount of FEG assistance you are eligible for. The ART cannot review a decision to reduce your FEG assistance due to debts you owe to your former employer.

How do I lodge an application with the ART?

Your application to the ART must be lodged in writing. You may use the forms available from the ART Registry in your capital city or from the ART website. A fee for lodgement may apply. Generally, you must lodge an application for review with the ART within 28 days of your s.38 review decision notice being given to you. For more information about lodging an application or applicable fees, please call the ART on 1800 228 333 or visit the [ART website \(www.art.gov.au\)](http://www.art.gov.au).

Want more information?

You can contact the FEG Hotline if you would like further information about your review rights under the FEG Act. To contact the FEG Hotline:

- phone 1300 135 040
Mon - Fri, 9 am - 5 pm (Canberra time)
- email FEG@dewr.gov.au

The department is unable to provide you with legal advice. However, we can provide you with general information about the process and steps involved.

If you speak a language other than English, please 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.

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.