

www.reddifund.com.au

T: (08) 9481 0259

F: (08) 9321 1441

E: info@reddifund.com.au

Level 1, Unit 2/44 Parliament Place

West Perth W.A. 6005

PO Box 432, West Perth W.A. 6872



The Inquiry Secretariat
Inquiry into Wage Theft
Private Sector Labour Relations Division
Department of Mines, Industry Regulation and Safety
Locked Bag 14
CLOISTERS SQUARE WA 6850

By email: wagetheftinquiry@dmirs.wa.gov.au

21 March 2019

Dear Sir/Madam,

Inquiry into Wage Theft.

The Directors of ReddiFund submit the attached Submission for consideration in the Inquiry into Wage Theft.

We look forward to your response.

If you have any questions, please do not hesitate to contact the undersigned on 9481 0259.

Yours sincerely

Kieron Gubbins
Chief Executive Officer

Introduction:

ReddiFund (formerly the WA Construction Industry Redundancy Fund) was established in June 1989 to give effect to a redundancy award provision which provided redundancy entitlements to workers in the Building and Construction Industry in Western Australia. The Fund is an Approved Worker Entitlement Fund (AWEF) under the *Fringe Benefits Tax Assessment Act 1986*.

The 'sponsors' of ReddiFund are:

- Construction Forestry Mining Energy Union of Western Australia (CFMEU WA).
- Master Builders Association of Western Australia (MBA WA).
- Master Plumbers and Gas Fitters Association of Western Australia (MPGA WA).
- Construction Contractors Association of Western Australia (CCA WA).

The Independent Chairman is Colin Emmott who up until recently was a senior partner of accounting firm HLB Mann Judd.

Approved Worker Entitlement Funds provide workers with the financial security and income stability to survive cycles in the economy. The funds have been established to provide benefits to mostly daily hire employees who would otherwise be entitled to award-based benefits on termination of employment, in circumstances where the industry has largely transitioned to project based work rather than permanent employment.

Problem:

ReddiFund ("Fund") as previously mentioned is an Approved Workers Entitlement Fund which provides Employers the opportunity to meet their Redundancy Entitlements under Clause 17 of the Federal Award "Building & Construction General On-Site Award 2010" ("Federal Award") by contributing voluntarily into the Fund.

The compliance and enforcement mechanisms in place to ensure workers are paid their redundancy entitlements in line with the above award are basically non-existent in the Building and Construction Industry.

The Federal Award covering redundancy permits employers to accrue worker entitlements on their balance sheet unlike the statutory requirements for Long Service Leave and Superannuation Contributions required to be paid to third parties.

Compliance under the Federal Award for redundancy entitlements is very questionable given the high number of payouts under the Fair Entitlement Guarantee with Western Australia well above its percentage of the Australian total market share as shown in tables below.

In addition there are no Compliance Officers or Tools of Enforcement to ensure employers are compliant with the Federal Award.

It appears the only compliance currently taking place in the Building and Construction Industry is where an Employer has an Enterprise Bargaining Agreement ("EBA") with the CFMEU WA ("Union").

A concerning trend in the WA Building and Construction Industry is the rising Redundancy Entitlement claims in both numbers and amounts made to the Fair Entitlement Guarantee which is clearly highlighted by the following tables:

Summary of Fair Entitlement Guarantee Claims in the Australian Building and Construction Industry over the past 4 Financial Years:

Fin year	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
2014/2015	81	614	7	648	297	49	1206	365	3267
2015/2016	34	514	9	713	229	10	659	393	2561
2016/2017	52	448	41	772	201	114	777	530	2935
2017/2018	76	363	15	778	168	7	513	506	2426
Grand Total	243	1939	72	2911	895	180	3155	1794	11189

Row Labels	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Grand Total
2014/2015	\$404,877	\$3,527,525	\$20,328	\$3,508,115	\$1,441,884	\$254,443	\$6,861,691	\$1,963,031	\$17,981,895
2015/2016	\$163,808	\$2,681,759	\$0	\$3,638,543	\$1,108,188	\$20,799	\$3,796,000	\$1,851,189	\$13,260,286
2016/2017	\$196,526	\$2,236,985	\$386,674	\$3,754,934	\$1,573,888	\$312,850	\$2,324,559	\$3,885,634	\$14,672,049
2017/2018	\$328,629	\$915,998	\$90,754	\$4,570,530	\$646,373	\$21,294	\$1,183,492	\$3,303,836	\$11,060,905
Grand Total	\$1,093,839	\$9,362,267	\$497,757	\$15,472,122	\$4,770,332	\$609,387	\$14,165,742	\$11,003,690	\$56,975,136

Fin Year	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
2014/2015	6	40	1	55	23	7	74	35	241
2015/2016	3	40		40	13	2	57	27	182
2016/2017	5	48	2	53	11	4	50	38	211
2017/2018	2	37	3	45	11		44	33	175
Grand Total	16	165	6	193	58	13	225	133	809

As clearly shown in the tables above the number of claims and amounts for Western Australia well exceeds the **estimated 10%** it makes up in the Australian Building and Construction Industry overall.

WA Results (WA Represents approximately 10% of the Australian Building and Construction Industry)			
Fin Year	Number of claims	Amount paid	Number of Companies
2014-2015	11.0%	11.0%	18.0%
2015-2016	15.3%	13.9%	14.8%
2016-2017	18.0%	26.5%	18.0%
2017-2018	20.8%	29.8%	18.8%

The trend in Western Australia for Construction Companies not to provision or cover Workers Redundancy Entitlements continues to expose the FEG to further payouts and ultimately not address the issue of non-compliance by these companies to the Federal Award (Building and Construction General Onsite Award 2010).

All of these claims could have been avoided if Redundancy Entitlements for building and construction workers were legislated and contributions required to be lodged with an Approved Worker Entitlement Fund. There are 8 Approved Worker Entitlement Funds in Australia.

The time taken to have a claim processed through FEG once all documentation has been received has reduced over the past years, however it is currently 8.3 weeks which still remains as a significant time for anyone who is out of work and not receiving an income.

Average FEG processing time	
Fin Year	Weeks
2014-2015	21.5
2015-2016	10.4
2016-2017	10.1
2017-2018	8.3

Source: FEG Policy, Systems, and Finance Team | Fair Entitlements Guarantee | Australian Government Department of Jobs and Small Business via Email 21 March 2019

On numerous occasions we have had workers phone or visit our office only to be advised there are no redundancy entitlements held for them.

Stronger protection of Workers Redundancy Entitlements needs to be addressed as evidenced not only by the above FEG tables but also the number of workers who do not pursue their previous employer for various reasons and ultimately foregoing their redundancy entitlements.

As highlighted in the below table the number of companies going into External Administration from Western Australia continues to grow which is of concern and ultimately impacting on the payment of workers entitlements.

Industry														
Period	Accommodation & food services	Agriculture, forestry & fishing	Construction	Education & training	Other financial services	Health care & social assistance	Information media & telecommunications	Manufacturing	Mining	Rental, hiring & real estate services	Retail trade	Transport, postal & warehousing	Wholesale trade	Total
2013-14	819	218	1,802	69	136	85	222	472	146	318	765	478	221	9,822
2014-15	754	176	1,591	48	113	70	195	406	240	230	698	500	167	7,989
2015-16	927	150	1,647	159	129	75	175	374	301	215	702	460	154	5,468
2016-17	803	112	1,509	127	111	81	178	284	154	204	570	391	126	4,650
2017-18	952	138	1,354	88	79	73	136	233	90	161	597	375	116	4,392

Source: ASIC Website – Insolvency Statistics Series 1

Financial Year	Industry	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia	Total
2017-18	Construction	28	457	16	282	57	6	366	162	1,354
2016-17	Construction	34	590	10	279	50	9	421	218	1,611
2015-16	Construction	36	808	14	377	68	8	473	180	1,964
2014-15	Construction	33	705	13	284	78	19	504	134	1,770
2013-14	Construction	65	881	6	399	74	28	541	159	2,153
2012-13	Construction	33	1,050	7	497	69	14	448	127	2,245
	Total	229	4,491	66	2,098	396	84	2,753	980	11,097

Source: ASIC Website – Insolvency Statistics Series 3.1

Objective:

Why we are pushing for reform in the building and construction industry:

- The building and construction industry accounts for a significant percentage of all insolvencies in Australia.
- Protection of Workers Redundancy Entitlements
- Compliance of Workers Redundancy Entitlements within the building and construction industry by Employers.
- Lodgement of Workers Redundancy Entitlements with an Approved Worker Entitlement Fund.

ReddiFund has been supporting the WA Building and Construction Industry since 1989 with the following outcomes:

- Over \$230,000,000 has been received for Worker's Redundancy Entitlements
- Over \$195,000,000 has been paid out in Worker's Redundancy Claims.
- Over 101,000 claims have been processed for workers in the Building and Construction Industry in WA.
- Redundancy Claims are processed within 48 hours.

A summary over the past 4 financial years reveals:

Financial Year	Number of Claims	Gross Amount Paid out
2014-2015	1691	\$11,771,288
2015-2016	1658	\$11,257,330
2016-2017	1145	\$9,252,702
2017-2018	1670	\$7,168,376
Total	6164	\$39,449,696

Financial Year	ReddiFund Active Members	WA Workers contributed for in MyLeave *	ReddiFund Active members percentage of WA Workers
2014-2015	2820	76,271	3.69%
2015-2016	2183	76,592	2.85%
2016-2017	2019	68,134	2.96%
2017-2018	1841	63,796	2.88%

* Source: MyLeave (Construction Industry Long Service Leave Scheme).

Under the Building and Construction Industry General Onsite Award 2010 it is voluntary to contribute Redundancy Entitlements into ReddiFund as the Company has the option to accrue these benefits on their Balance Sheet. The evidence of the number of claims and amounts paid by FEG confirms that these Redundancy Entitlements should be lodged with a Worker Approved Entitlement Fund to protect both the Worker and the Government, especially in its capacity as a client.

All of these claims could have been avoided if Redundancy Entitlements for building and construction workers were legislated on State Government Building and Infrastructure Projects that these Redundancy Contributions are required to be lodged with an Approved Workers Entitlement Fund. There are 8 Approved Worker Entitlement Funds throughout Australia.

Any surpluses generated by ReddiFund have gone back into the Building and Construction Industry in WA for the benefits of workers which over the past 5 years has provided over \$2m in financial support to **MATES IN Construction WA**, an industry specific suicide prevention Not for Profit organisation.

Summary:

This effectively means that employees are not receiving their full wage entitlements under the Award as employers have clearly shown that they are either unwilling or unable to provide for redundancy.

As such there needs to be a mechanism in place to ensure that these entitlements are paid for. Worker Entitlement Funds provide such a mechanism.

Recommendations:

- All State Government Building & Construction and Infrastructure Projects to have the workers redundancy entitlements lodged with an Approved Workers Entitlement Fund to ensure compliance met under the Federal Award.
- No fees will apply for Employer Members and Employee Members who utilise an Approved Worker Entitlement Fund for provision of Redundancy Entitlements.
- Online access for both Employer and Employee Members to view transactions and balances.
- Ability by Employers to print out transaction records for compliance checks or declarations.

