

ENFORCEABLE UNDERTAKING

Between

The Commonwealth of Australia

(as represented by the Office of the Fair Work Ombudsman)

and

Boon Seah trading as Royel Bakehouse (ABN 17976186289)

Section 715 ENFORCEABLE UNDERTAKING

Parties

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) by:
Boon Seah trading as Royel Bakehouse (ABN 17976186289)
for the purposes of section 715 of the *Fair Work Act 2009* (**FW Act**).

Commencement of Undertaking

2. This Undertaking comes into effect when:
 - a. the Undertaking is executed by Boon Seah; and
 - b. the FWO accepts the Undertaking so executed.
3. Upon the commencement of this Undertaking, Boon Seah undertakes to assume the obligations set out below.

Background

4. Boon Seah is the operator of the business known as Royel Bakehouse in Hobart, Tasmania.
5. Royel Bakehouse is a retail outlet selling food and beverages primarily for takeaway consumption.
6. In March 2015 the FWO commenced an investigation of Royel Bakehouse following complaints from an employee of Royel Bakehouse.
7. Between 8 February 2014 and 30 March 2015, Boon Seah trading as Royel Bakehouse employed 5 employees (the Employees). The Employees performed sales duties.
8. The terms and conditions of the Employees' employment were governed by the *Fast Food Industry Award 2010* (Fast Food Award) and the *Fair Work Act 2009* (FW Act). The employees were engaged as Fast Food Employee Level 1.
9. As a result of the investigation, the FWO determined that Boon Seah trading as Royel Bakehouse had contravened provisions of the FW Act and the Fast Food Award by failing to pay the minimum entitlements from the Fast Food Award. As a result of the contraventions the Employees listed in Attachment A were underpaid a total of \$19256.54. Boon Seah has voluntarily rectified the underpayments.

Contraventions

10. The FWO has determined, and Boon Seah admits, that Boon Seah trading as Royel Bakehouse contravened section 45 of the FW Act by failing to comply with the following provisions of the Fast Food Award:
 - a. Clause 17 by failing to pay adult employees the applicable minimum wage
 - b. Clause 13 by failing to pay casual employees a casual loading
11. The FWO has determined, and Boon Seah admits, that Boon Seah trading as Royel Bakehouse also contravened:
12. Section 535 of the FW Act by failing to make and keep employee records as prescribed by the Fair Work Regulations 2009.
13. Section 536 of the FW Act by failing to provide payslips to the Employees.

Undertakings

14. For the purposes of section 715 of the FW Act, Boon Seah undertakes to:

Future Workplace relations compliance

- a. Ensure compliance at all times and in all respects with applicable Commonwealth of Australia workplace laws and instruments, including but not limited to the Fast Food Award and the FW Act, by developing systems and processes to ensure ongoing compliance with those requirements;
- b. Issue pay slips to employees within one working day of paying an amount to the employee in relation to the performance of work.

Workplace Notice

- c. place a notice within the workplace which is accessible to all employees (**Workplace Notice**) within 28 days of the execution of this Undertaking in the terms set out in Attachment B;
- d. provide a copy of the **Workplace Notice** and written details of how the **Workplace Notice** has been displayed within 7 days of publication/display of the notice;

Self-audits and Reporting

- e. have completed by an external accounting professional (e.g. Certified Practising Accountant), audit specialist or employment law specialist (at the expense of Boon Seah), by no earlier than 11 calendar months but no later than 12 calendar months from the execution of this undertaking, an audit of its compliance with Commonwealth workplace laws. Specifically:
15. Boon Seah must demonstrate compliance relating to the wages and entitlements of its employees and the Contraventions identified; and
 16. the audit is to include the one (1) full single pay period after the commencement of the eleventh month of the execution of this Undertaking; and
 17. Boon Seah must provide a copy of the audit to the FWO within seven (7) days of its completion.

Acknowledgements

18. Boon Seah acknowledges that:


- a. the FWO may make this Undertaking (including any attachments) available for public inspection, including by posting it to its website at www.fairwork.gov.au (subject to the FWO taking any necessary steps to redact the names of individuals not party to the Undertaking);
- b. the FWO may release a copy of this Undertaking pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
- c. the FWO may issue a media release in relation to this Undertaking and from time to time, publicly refer to the Undertaking and its terms;
- d. the admissions made in the Undertaking may be relied upon by the FWO in respect of any future decision about enforcement action to be taken in relation to any future non-compliance with Commonwealth workplace relations obligations by Boon Seah;
- e. consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the

conduct set out in this Undertaking;

- f. if the FWO considers that Boon Seah has contravened any of the terms of this this Undertaking the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act;
- g. consistent with section 715(3) of the FW Act, Boon Seah may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO.

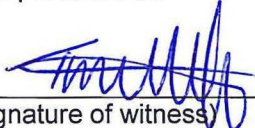
Executed as an undertaking

EXECUTED by [insert party]:

Boon Seah 
[insert party]

3/7/15
(Date)

in the presence of:


(Signature of witness)

Tegan Elise Mander
(Name of witness)


ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:


[Insert name and role of Delegate]

20 JULY 2015.
(Date)

Delegate for the FAIR WORK OMBUDSMAN

in the presence of:


(Signature of witness)

PIA MORGAN
(Name of Witness)

Attachment A – Summary of underpayments

Name	Position	Underpayment
[REDACTED]	Fast Food Employee Level 1	\$4670.21
[REDACTED]	Fast Food Employee Level 1	\$9674.97
[REDACTED]	Fast Food Employee Level 1	\$770.18
[REDACTED]	Fast Food Employee Level 1	\$4141.18
Total Underpayments		\$19256.54

Contraventions of Fair Work Act 2009 and the Fast Food Award 2010 by Boon Seah trading as Royel Bakehouse

We refer to the investigation conducted by the Office of the Fair Work Ombudsman (**FWO**) into allegations that Boon Seah trading as Royel Bakehouse contravened the *Fair Work Act 2009* and the *Fast Food Award 2010*.

Boon Seah owns the Royel Bakehouse located at Shop 207A Centrepoint Arcade Murray Street Hobart TAS 7001 and no previous contraventions of Commonwealth workplace laws have been determined against Royel Bakehouse or Boon Seah.

The FWO has found that Boon Seah contravened the *Fair Work Act 2009* and the *Fast Food Award 2010* by:

- failing to pay the minimum wage for ordinary hours worked
- failing to pay casual loading to employees employed on a casual basis
- failing to keep and maintain appropriate records
- failing to provide payslips

Boon Seah has formally admitted to FWO that these contraventions occurred and has entered into an Enforceable Undertaking with the FWO (available at www.fairwork.gov.au) committing to a number of measures to remedy the contraventions, including rectifying the underpayments.

Boon Seah expresses his sincere regret and apologises for the conduct which resulted in the contraventions. Furthermore, Boon Seah gives a commitment that such conduct will not occur again and that he will comply with all requirements of the Commonwealth workplace relations laws in the future.

Anyone can contact the FWO via the website at www.fairwork.gov.au or the Infoline on 13 13 94 to check their rates of pay and Award terms and conditions.

Boon Seah

Owner – Royel Bakehouse