



Australian Government

Fair Work
OMBUDSMAN

ENFORCEABLE UNDERTAKING

This undertaking is **given** by The Luck Bird Pty Ltd (ABN: 62622869443 / ACN: 622869443) and **accepted** by the Fair Work Ombudsman pursuant to section 715 of the *Fair Work Act 2009* (Cth).

ENFORCEABLE UNDERTAKING

PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by The Luck Bird Pty Ltd trading as Carlucci's of Templestowe (ABN: 62622869443 / ACN: 622869443) of 134 James Street Templestowe VIC 3106 (**Luck Bird**).

COMMENCEMENT OF ENFORCEABLE UNDERTAKING

2. This Undertaking comes into effect when:
 - a) the Undertaking is executed by Luck Bird; and
 - b) the FWO accepts the Undertaking so executed (**Commencement Date**).

BACKGROUND:

3. Luck Bird operates within the restaurant industry in Victoria. The business provides restaurant-style dining and operates from 8am until late seven days per week.
4. Luck Bird employs approximately 30 employees at any given time, engaging a mix of full-time, part-time and casual employees. The applicable industrial instrument for employee entitlements is the *Restaurant Industry Award 2020* (**Award**).
5. On 9 October 2024, the FWO conducted a site inspection of Luck Bird as part of its Manningham West Proactive Compliance Activity. Following the site inspection, the FWO commenced an investigation of Luck Bird to assess its compliance with the Award and the FW Act.
6. The FWO investigation determined that certain full-time, part-time and casual adult and junior employees (**Affected Employees**) were underpaid their hourly rate, as well as overtime entitlements, late night penalties, weekend penalties and public holiday penalties.

7. On 27 August 2025 the FWO issued a Findings of Contravention Letter (**Contravention Letter**) to Luck Bird detailing it contravened section 45 and section 90(2) of the FW Act between the period 19 June 2023 to 6 July 2025 (**Relevant Period**).
8. The FWO acknowledges that Luck Bird has taken steps to rectify the contraventions outlined in the Contravention Letter, including the rectification of underpayments to affected employees during the Relevant Period, as detailed in clause 11 below. The FWO further acknowledges Luck Bird's commitment to establish and implement systems and processes to avoid any future non-compliance with its workplace relations obligations, including but not limited to, the Undertakings in clause 13 below.

ADMISSIONS

9. The FWO has a reasonable belief, and Luck Bird admits that, between the Relevant Period Luck Bird contravened:
 - a) Section 45 of the FW Act by failing to pay each Affected Employee the amount or amounts to which that employee was entitled under the Award as set out below:
 - (i) Clause 11.1 (Loading for casual employees)
 - (ii) Clause 18.1 (Minimum Hourly Rates for part-time and casual employees)
 - (iii) Clause 18.2 (Minimum Hourly Rates for junior casual employees)
 - (iv) Clause 24.2 and 24.4 (Penalty Rates)
 - (v) Clause 23.4 (Overtime Rates)
 - (vi) Clause 25.3 (Annual Leave Loading)
 - b) Section 90(2) of the FW Act by failing to pay annual leave loading entitlements to the Affected Employees on termination of their employment.
10. The contraventions referred to in clause 9 do not include:
 - a) any contraventions which relate to or arise as a consequence of Luck Bird failing to correctly apply the Award or FW Act to any employee who is not one of the Affected Employees, or because of any failure by Luck Bird to correctly apply clauses of the Award or FW Act to an Affected Employee that are not set out in clause 9 above; or
 - b) any contraventions which have not yet occurred at the date that this Undertaking is offered by Luck Bird (whether or not those contraventions are identified in the independent audits described at clause 16 below). For the avoidance of doubt this Undertaking is not given in respect of any contravention which has not occurred on

the date which it is offered by Luck Bird and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any such contravention; or

- c) any contraventions of the Award or FW Act by Luck Bird which occurred outside of the Relevant Period.

RECTIFICATION OF UNDERPAYMENTS

- 11. Luck Bird confirms the following amount has been paid to 38 Affected Employees (and or their superannuation fund where relevant) in rectification of the contraventions in clause 9:
 - a. \$194,010.88 inclusive of:
 - i. \$ 173,224 in wages
 - ii. \$ 20,786.88 in superannuation
- 12. Luck Bird declares that these amounts satisfy all entitlements owing to the Affected Employees in relation to the contraventions identified in clause 9 with respect to the Relevant Period.

UNDERTAKINGS

- 13. Luck Bird will take the actions set out at clause 14 to clause 48 (inclusive) below.

Independent Audit

- 14. Luck Bird must, at its cost, engage an appropriately qualified, experienced, external and independent accounting professional or employment law specialist (**Independent Auditor**) to conduct at least one audit of Luck Bird's compliance with the FW Act and *Fair Work Regulations 2009 (Cth)* (**FW Regulations**) in relation to the Award and any future industrial instruments that may replace it (**Audits**). A second Audit may be required, at the FWO's discretion, in accordance with the conditions outlined in clauses 22-28 below.
- 15. Luck Bird will notify the FWO of its proposed Independent Auditor by no later than three months after the Commencement Date. The FWO may in its sole discretion approve the Independent Auditor in writing or otherwise require Luck Bird to propose other Independent Auditors until the FWO has approved in writing an Independent Auditor. The Independent Auditor must be approved by the FWO in writing before being engaged by

Luck Bird.

16. Luck Bird must ensure that the Audits conducted by the Independent Auditor includes:
 - a. an assessment of all employees past and present during the relevant audit period to whom the Award (or any replacement industrial instrument) applies, across a range of classifications, locations and employment types (including full-time, part-time and casual), during the relevant audit period (**Audit Employees**) in respect of their employment by Luck Bird;
 - b. an assessment of whether the Audit Employees have been correctly classified by Luck Bird;
 - c. an assessment of whether the pay and conditions of the Audit Employees during the relevant audit period is in compliance with the FW Act and FW Regulations and the Award (or replacement industrial instrument);
 - d. the production of a written report on each of the Audits setting out the Independent Auditor's findings, and the facts and circumstances surrounding them, to the FWO; and
 - e. that each of the written reports referred to in (d) above contain the following declarations from the Independent Auditor:
 - i. the Independent Auditor has no actual, potential or perceived conflict of interest in providing the report to the FWO;
 - ii. notwithstanding that the Independent Auditor is retained by Luck Bird, the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from Luck Bird in preparing the report;
 - iii. the report is provided in accordance with applicable professional standards (which will be listed in the report); and
 - iv. the report is provided to the FWO for its benefit and the FWO can rely on the report.

The First Audit

17. Luck Bird must ensure the Independent Auditor commences the first of the Audits by no later than six months after the Commencement Date (**First Audit**).
18. The relevant audit period for the First Audit must be at least two full pay periods (one of which includes a public holiday) falling within the period April 2026.

19. Within four months of the Commencement Date Luck Bird will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
20. Luck Bird will use its best endeavours to ensure the Independent Auditor provides a draft written report of the Audit directly to the FWO within nine months of the Commencement Date setting out the draft Audit findings, and the facts and circumstances supporting the Audit findings. Luck Bird will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Luck Bird without the FWO's approval.
21. Luck Bird will use its best endeavours to ensure the Independent Auditor finalises the Audit and provides a written report of the first Audit (**First Audit Report**) directly to the FWO within four weeks of the FWO providing any comments on the draft report to the Independent Auditor.

The Second Audit (if required)

22. A requirement for a second audit (**Second Audit**) will only be triggered if, based on the First Audit Report, the FWO reasonably believes that significant, systemic and/or ongoing non-compliance with workplace laws is still occurring. In such circumstances, the FWO, at its discretion, may notify Luck Bird that the Second Audit is required.
23. If the FWO determines that a Second Audit is required:
 - a. the FWO will notify Luck Bird in writing of the requirement and the basis for its reasonable belief. Such notification must be provided not later than three months after provision of the First Audit Report;
 - b. unless otherwise agreed to, Luck Bird must adhere to the same requirements as the First Audit. If the FWO reasonably believes that the significant, systemic and/or ongoing non-compliance only impacts particular sub-groups of employees (e.g. employment status and employment classification) the FWO will limit the required scope of the Second Audit accordingly; and
 - c. the FWO will provide Luck Bird with a reasonable opportunity to comment on the proposed scope of the Second Audit and will give reasonable consideration to any comments provided before finalising the required scope.
24. Luck Bird must ensure the Independent Auditor commences the Second Audit by no later than three months following notification by the FWO of the requirement for the Second Audit.

25. The relevant audit period for the Second Audit must be at least two full pay periods (one of which includes a public holiday) falling within a period preceding six months of the audit being notified.
26. Unless specifically instructed by the FWO, the methodology to be used by the Independent Auditor to conduct the Second Audit will be the same as the methodology used by the Independent Auditor to conduct the First Audit.
27. Luck Bird will use its best endeavours to ensure the Independent Auditor provides a draft written report of the Second Audit directly to the FWO within nine months following the notification by the FWO of the requirement for the Second Audit, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings. Luck Bird will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Luck Bird without the FWO's approval.
28. Luck Bird will use its best endeavours to ensure the Independent Auditor finalises the Second Audit and provides a written report of the Second Audit (**Second Audit Report**) directly to the FWO within four weeks of FWO providing any comments on the draft report to the Independent Auditor. Luck Bird will ensure the Independent Auditor does not provide the written report, or a copy of the same, to Luck Bird without the FWO's approval.

Outcome of Audit

29. If either of the Audits identifies underpayments to any current or former employees, Luck Bird will:
 - a. rectify any underpayments identified in the relevant audit period; and
 - b. conduct a reconciliation of the amounts paid and owed to those employees in the 12 month period immediately before the relevant audit period, rectify any underpayments that are identified and provide the FWO with details of the reconciliation.
30. Luck Bird will provide to the FWO Reasonable Evidence of such rectification within 90 days of becoming aware of the requirement to undertake the reconciliation.
31. If any employees identified in the Audits as having underpayments owing to them cannot be located within 120 days of the conclusion of each Audit, Luck Bird will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. Luck Bird will complete the required documents supplied by the FWO for this purpose.
32. If requested by the FWO, Luck Bird will provide the FWO with all records and documents used

to conduct the Audits within 21 days of such a request.

Notification to Affected Employees

33. Within seven days of, but not before, the FWO publishing a media release on its website in respect of the Undertaking, Luck Bird will issue a letter (**Notification Letter**) in the form of Attachment A to all current employees.
34. Within 30 days of the Commencement Date, Luck Bird will provide the FWO with written assurance in the form of a letter or an email, to confirm that each Affected Employee has been issued with a copy of the Notification Letter.

Information on Future Compliance

35. Within 90 Days of the Commencement Date Luck Bird will provide the FWO with detailed information about the systems and processes that it is implementing to ensure compliance with its obligations under the FW Act and the Award (and any future replacement instrument).
36. The FWO may, within 30 days of receiving the information under clause 35, seek reasonable further information regarding the systems and processes from Luck Bird by issuing a written notice to Luck Bird specifying the additional information required. Luck Bird must provide the information specified in such a notice within 14 days of receipt.

Restaurant Industry Award 2020 Training Document

37. Luck Bird undertakes to develop and maintain a comprehensive *Restaurant Industry Award 2020* training document, to be provided to its Director/s (currently Louis Joseph Skoullou), managers and payroll employees, that demonstrates its thorough understanding of minimum rates of pay, penalty rates and overtime entitlements under the Award.
38. To comply with this obligation, Luck Bird must:
 - a. within 120 days of the Commencement Date, prepare a written document (**Training Document**) that:
 - i. clearly identifies all relevant minimum rates, penalty rates, allowances and other entitlements applicable to employees under the Award, including (but not limited to) those applicable to weekend work, public holidays, and late-night work;
 - ii. outlines overtime entitlements under the Award, including (but not limited to) when overtime applies and applicable overtime rates for full-time, part-time and

casual employees;

- iii. includes references to the relevant clauses of the Award;
- iv. demonstrates how the business intends to ensure ongoing compliance with these provisions (e.g. payroll systems, rostering practices, staff training); and
- v. includes links and directions for Directors, managers and payroll employees to resources available on the FWO website and online learning centre, including but not limited to:
 - A. the Restaurant Industry Award Summary Tool;
 - B. the Restaurant Industry Award Pay Guide;
 - C. Pay Slip and Record Keeping Fact Sheets.
- b. provide a copy of the Training Document to the FWO to review and approve prior to it being provided to any Luck Bird employees. Luck Bird agrees to address any deficiencies or inaccuracies identified by the FWO and resubmit a revised version to the FWO within 14 days of receiving such feedback.
- c. once approved by the FWO, provide a copy of the Training Document to be reviewed and signed by all current Directors, managers and payroll employees engaged by Luck Bird, and by any new Directors, managers or payroll employees engaged by Luck Bird within 14 days of commencement of appointment/employment.
- d. provide to the FWO within 180 days of the commencement of the Undertaking a list of all Directors, managers and payroll employees who have been provided the Training Document, including their names, roles and the dates each employee was provided and signed the Training Document.
- e. ensure the Training Document is reviewed and updated by Luck Bird at least once every 12 months to ensure information contained within the Training Document remains current in accordance with changes to the Award from time to time.

Worker Voice

39. Luck Bird is committed to listening to the views and perspectives of its employees.
40. Within 30 days of the Commencement Date, Luck Bird will commence paid monthly 'toolbox' meetings with its employees. Luck Bird will, as far as reasonably practicable, schedule these monthly toolbox meetings at a time that maximises employee attendance.
41. The toolbox meetings will include the following agenda items:
 - a. an update from the employer/management on Luck Bird's progress in meeting the

obligations set out in this Enforceable Undertaking, and

- b. an opportunity for employees to voice their views or concerns about employment conditions.

42. Luck Bird will:

- a. ensure the monthly toolbox meetings contain the agenda items (as set out in Clause 41 above) for a period of at least 12 months;
- b. take steps to respond to each matter raised by each employee and seek to resolve any issues within 14 days;
- c. notify the FWO of the nature of any issues that are not resolved within 30 days; and
- d. ensure minutes of each toolbox meeting are recorded, retained, and made available to the FWO upon request.

43. Within 30 days of the Commencement Date, Luck Bird will establish and operate an email inbox for all current employees to make enquiries in relation to entitlements, underpayments or related employment concerns (**Employee Inbox**).

44. Luck Bird will:

- a. ensure the Employee Inbox remains operational for a period of at least 12 months.
- b. communicate the existence and purpose of the Employee Inbox by way of physical flyers or notices made available in staff areas at the business and by email to all current employees in the form of Attachment A (**Notification Email**).

45. Luck Bird will:

- a. ensure the Notification Email is approved by the FWO before sending it to its employees.
- b. provide evidence to the FWO that the Notification Email has been sent to all current employees within 60 days of the Commencement Date;
- c. take steps to respond to each email enquiry received by the Employee Inbox and seek to resolve any issues within 14 days and notify the FWO of any issues that are not resolved within 21 days; and
- d. provide a list of enquiries received by the Employee Inbox to the FWO at the end of the 12 month period, which includes information about how the enquiries were resolved.

Extensions of Time

46. Luck Bird may make a written request to the FWO for an extension of a time specified for

completion of an obligation under this Undertaking. The FWO will not unreasonably withhold agreement on a request for an extension of time.

47. Where a time specified for undertaking an obligation under this Undertaking is contingent on or follows from the time specified for the completion of another obligation under this Undertaking, and that time for completion has been extended by the FWO, the time specified for completion of the later obligation is correspondingly extended by the same period.

No Inconsistent Statements

48. Luck Bird must use its best endeavours to ensure that its officers, employees or agents do not make any statement or otherwise imply, either orally or in writing, anything that is inconsistent with admissions or acknowledgements contained in this Undertaking.

ACKNOWLEDGEMENTS

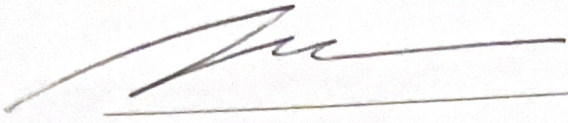
49. Luck Bird acknowledges that:
- a. the FWO may:
 - i. make this Undertaking available on the FWO Internet site at www.fairwork.gov.au;
 - ii. release a copy of this Undertaking pursuant to any relevant request under the *Freedom of Information Act 1982 (Cth)*;
 - iii. issue a media release in relation to this Undertaking;
 - iv. from time to time, publicly refer to the Undertaking and its terms; and
 - v. rely upon the admissions made by Luck Bird set out in clause 9 above in respect of decisions taken regarding enforcement action in the event that Luck Bird is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by Luck Bird to comply with its obligations under this Undertaking.
 - b. 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 herein;
 - c. consistent with section 715(3) of the FW Act, Luck Bird may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
 - d. if Luck Bird contravenes any of the terms of this Undertaking:
 - i. 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; and

- ii. this Undertaking may be provided to the Court as evidence of the admissions made by Luck Bird in clause 7 above, and also in respect of the question of costs.

Executed as an undertaking

EXECUTED by [insert party] in accordance with section 127(1) of the *Corporations Act 2001*:



(Signature of director)

(Signature of director/company secretary)

LOUIS J. SKOULLOS

(Name of director)

(Name of director/company secretary)

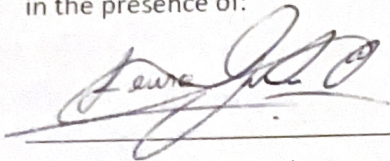
13/4/2026

(Date)

(Date)

in the presence of:

in the presence of:



(Signature of witness)

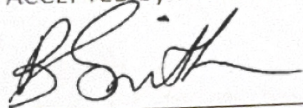
(Signature of witness)

Laura Guerrero Ortiz

(Name of witness)

(Name of witness)

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



Brodie Smith

14 April 2026

(Date)

Executive Director – Enforcement

Delegate for the FAIR WORK OMBUDSMAN

in the presence of:



(Signature of witness)

Alitia Dougall

(Name of Witness)

Attachment A – Notification to Affected Employees

(Date)

(Employee Name)

(Employee Address)

Dear [Name of employee]

As you may be aware, The Luck Bird Pty Ltd (**Luck Bird**) recently undertook an audit as part of an investigation by the Fair Work Ombudsman (**FWO**).

As a result of the audit, we have identified contraventions of the *Fair Work Act 2009* (Cth) in respect of certain provisions of the *Restaurant Industry Award 2020* relating to certain employees. Since identifying the contraventions, Luck Bird has undertaken a program of work to ensure all staff affected have been identified. We are pleased to confirm that we have completed the remediation process and have made backpayments, including superannuation, to all affected current employees and to all affected former employees who could be located.

Luck Bird has formally entered into an Enforceable Undertaking with the FWO, a copy of which will be available at www.fairwork.gov.au. As part of the Enforceable Undertaking, we have committed to a number of measures to ensure future compliance with Commonwealth workplace laws, including holding paid monthly ‘Toolbox’ meetings with staff. These meetings will provide an opportunity for you to ask questions and/or voice your views or concerns about employment conditions.

Luck Bird expresses its sincere regret that this has occurred and understands that you may have questions and concerns relating to this and other employment issues. To address these concerns, an email inbox has also been established and is being operated by Luck Bird to assist you with your enquiries. The email inbox is [Insert email inbox address]. We will make every attempt to resolve your enquiry within 14 days of receiving it and commit to maintaining open communication with you about the progress of your enquiry.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Sincerely,