



Fair Work
OMBUDSMAN

ENFORCEABLE UNDERTAKING

This undertaking is **given** by Thai Kee Grocer Pty Ltd and **accepted** by the Fair Work Ombudsman pursuant to section 715 of the *Fair Work Act 2009*.

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 Thai Kee Grocer Pty Ltd (ABN 92 655 584 231) trading as Gong Grocer World Square (**TKG**), of Shop S801, World Square Shopping Centre, 644 George Street, Sydney NSW 2000.

COMMENCEMENT OF ENFORCEABLE UNDERTAKING

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

BACKGROUND

3. TKG operates a retail supermarket in the World Square shopping centre in Sydney, New South Wales.
4. TKG employs approximately 30 employees, primarily as retail assistants. TKG's business operation is covered by the *General Retail Industry Award 2020* (**Retail Award**).
5. In January 2025 the FWO commenced an audit of TKG's compliance with the FW Act and the Retail Award.
6. Shortly after receiving notice of the FWO's audit, TKG informed the FWO that its own review of its compliance status had identified significant underpayments to current and former employees. TKG committed to rectifying these underpayments in full and to implementing reforms to its business processes that would prevent their recurrence.
7. Between February and September 2025 TKG worked closely with the FWO to identify all contraventions of the FW Act and the Retail Award and to calculate the resulting underpayments.
8. TKG's review of its compliance status identified that during the period from 21 August 2023 to 23 February 2025 (**Relevant Period**), TKG had contravened the FW Act and the Retail Award by underpaying 104 employees (the **Affected Employees**) a total of \$480,276.95 (inclusive of superannuation) (**Underpayments**).
9. These underpayments arose by way of TKG's failure to pay the Affected Employees at least the minimum rates applicable under the Retail Award for ordinary hours, weekend work, overtime, allowances and leave loading, as well as the minimum rates applicable

to annual leave and personal/carer's leave under the FW Act.

10. As detailed below at clauses [16] and [17], TKG has rectified the Underpayments in full.
11. The FWO acknowledges the cooperation and openness of TKG in quantifying and rectifying the identified Underpayments.
12. The FWO also acknowledges the actions already taken by TKG to establish and implement systems to avoid any future non-compliance with its workplace relations obligations. The FWO further acknowledges TKG's commitment to take further steps to prevent the recurrence of contraventions of Commonwealth workplace laws, including through the Undertakings set out in clauses 19 to 51 below.
13. In consideration of these matters, the FWO accepts this Undertaking, the terms of which are set out below.

ADMISSIONS

14. The FWO has a reasonable belief, and TKG admits, that TKG contravened:
 - a. Section 45 of the FW Act (contravention of a modern award), by contravening the following terms of the Retail Award:
 - i. clause 11.1 (casual loading)
 - ii. clause 17.1 (minimum rates for part-time, full-time and casual employees)
 - iii. clause 19.3 (special clothing allowance)
 - iv. clause 21.2(c) (overtime rates)
 - v. clause 22.1 (penalty rates)
 - vi. clause 28.3 (additional payment for annual leave)
 - b. Section 44 of the FW Act (contravention of the National Employment Standards) by contravening the following terms of the National Employment Standards:
 - i. section 90(1) of the FW Act (payment for annual leave taken during employment)
 - ii. section 90(2) of the FW Act (payment for annual leave on termination of employment)
 - iii. section 99 of the FW Act (payment for personal/carer's leave)
15. The contraventions referred to in clause 14 do not include:
 - a. any contraventions which relate to or to correctly apply the FW Act or Retail Award to any employee who is not one of the Affected Employees, or because of any failure by TKG to correctly apply sections of the FW Act or clauses of the

Retail Award to an Affected Employee that are not set out in clause [14] above;
or

- b. any contraventions which have not yet occurred at the date that this Undertaking is offered by TKG (whether or not those contraventions are identified in the independent audit at clauses 21 to 38 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 TKG 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 Retail Award or FW Act by TKG which occurred outside of the Relevant Period.

RECTIFICATION OF UNDERPAYMENTS

- 16. TKG confirms the following amount has been paid to the Affected Employees (and/or their superannuation fund, where relevant) in rectification of the contraventions set out in clause 14:
 - a. \$ \$480,276.95 inclusive of:
 - i. \$ 446,379.23 in wages
 - ii. \$ 33,897.72 in superannuation
 - b. TKG declares that these amounts satisfy all entitlements owing to the Affected Employees in relation to the contraventions identified in clause 14 with respect to the Relevant Period.
- 17. In addition, TKG has made payment of \$19,563.24 in interest to the Affected Employees.

UNDERTAKINGS

- 18. TKG will take the actions set out at clauses 19 to 51 below.

Workplace relations systems and processes

Workplace relations systems and processes

- 19. Within 60 days of the Commencement Date, TKG will provide the FWO with detailed information about the systems and processes that it has implemented to ensure compliance with its obligations under the FW Act and the Retail Award (and any future replacement instrument). In particular, TKG will provide a written report which will include the following:

- a. details of the HR specialist engaged by TKG to review its practices,
 - b. an overview of the scope of the above engagement,
 - c. a summary of all actions taken by TKG after the Relevant Period to ensure its compliance with the Retail Award and/or the FW Act,
 - d. a copy of a payslip issued by TKG to an employee within 60 days prior to the provision of the written report,
 - e. the employee timesheet corresponding to the payslip referred to in subclause (d) above,
 - f. an example of an employment contract, and
 - g. an overview of the number of employees employed at the time of the report, including a numerical breakdown of the applicable industrial instruments, the status and classifications of employees under each industrial instrument.
20. The FWO may, within 28 days of receiving the information under clause 19, seek reasonable further information regarding workplace relations systems and processes from TKG by issuing a written notice to TKG specifying the additional information required. TKG must provide the information specified in such a notice within 28 days of receipt.

Independent Audit

21. TKG must, at its cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (**Independent Auditor**) to conduct two audits of TKG's compliance with the FW Act and *Fair Work Regulations 2009* (Cth) (**FW Regulations**) in relation to the Retail Award and any replacement industrial instruments that may replace it (**Audits**).
22. TKG 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 TKG 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 TKG.
23. TKG must ensure that each of the Audits conducted by the Independent Auditor includes:
- a. an assessment of the greater of either 10 employees or 15% of all employees to whom the Retail Award (or any replacement industrial instrument) applies, across a range of classifications and employment types during the relevant audit

- period (**Sampled Employees**) in respect of their employment by TKG;
- b. an assessment of whether the Sampled Employees have been correctly classified by TKG;
 - c. an assessment of whether the pay and conditions of the Sampled Employees during the relevant audit period is in compliance with the FW Act and FW Regulations and the Retail 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 contains 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 TKG the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from TKG 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

- 24. TKG must ensure the Independent Auditor commences the first of the Audits by no later than eleven months after the Commencement Date (**First Audit**).
- 25. The relevant audit period for the First Audit must be at least two full pay periods falling within March 2027.
- 26. Within nine months of the Commencement Date TKG will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
- 27. TKG will use its best endeavours to ensure the Independent Auditor provides a draft written report of the First Audit directly to the FWO within 14 months of the Commencement Date setting out the draft First Audit findings, and the facts and circumstances supporting the First Audit findings. TKG will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to TKG without

the FWO's approval.

28. TKG will use its best endeavours to ensure the Independent Auditor finalises the First 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

29. TKG must ensure the Independent Auditor commences the second of the Audits by no later than 23 months after the Commencement Date (**Second Audit**).
30. The relevant audit period for the Second Audit must be at least two full pay periods falling within March 2028.
31. Within 21 months of the Commencement Date, TKG will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the Second Audit.
32. TKG will use its best endeavours to ensure the Independent Auditor provides a draft written report of the Second Audit directly to the FWO within 26 months of the Commencement Date, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings. TKG will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to TKG without the FWO's approval.
33. TKG 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.

Outcome of Audits

34. If any of the Audits identify underpayments to any current or former employees, TKG 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 and rectify any underpayments that are identified.
35. TKG will provide to the FWO reasonable evidence of such rectification within 90 days of being informed by the FWO of the requirement to undertake the reconciliation.

36. 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, TKG will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. TKG will complete the required documents supplied by the FWO for this purpose.
37. If any of the Audits identify an underpayment of minimum entitlements to one or more employees, and the FWO reasonably believes that employees not included in the Audits are also likely to have been underpaid, TKG will engage the Independent Auditor to conduct a further audit of all its employees to whom the Retail Award (or any replacement industrial instrument) applies, as determined by the FWO (**Additional Audit**). Any Additional Audit must be paid for by TKG. Any Additional Audit must adhere to the same requirements as the First and Second Audit, as set out at clause 23 above (excepting that the audit will be of specified employees, not a sample), including approval of the auditor's proposed methodology and reporting.
38. If requested by the FWO, TKG will provide the FWO with all records and documents used to conduct any or all of the Audits (including any Additional Audit), within 21 days of such a request.

Contribution Payment

39. Within 28 days of the Commencement Date, TKG will make a contribution payment of \$75,000 to the Consolidated Revenue Fund.
40. TKG will provide evidence to the FWO of the contribution payment within 14 days of making payment to the Consolidated Revenue Fund.

Worker Voice

41. TKG is committed to listening to the views and perspectives of its employees.

Toolbox meetings

42. Within 30 days of the Commencement Date, TKG will commence paid 'toolbox' meetings, held every two months, with its employees. TKG will, as far as reasonably practicable, schedule these toolbox meetings at a time that maximises employee attendance.
43. The toolbox meetings will include the following agenda items:
 - a. an update from the employer/management on TKG'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.

44. TKG will:

- a. ensure the monthly toolbox meetings contain the agenda items (as set out in Clause 43 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.

Email inbox

45. Within 30 days of the Commencement Date, TKG 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**).

46. TKG 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**).

47. TKG 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.

Reporting Changes in Circumstances

48. TKG will notify the FWO of any changes of circumstances that impacts on TKG's ability to comply with the undertakings contained in this Undertaking, as soon as reasonably practicable after they become aware of such circumstances. Such circumstances include but are not limited to:
- a. a sale or potential sale (once a binding sale agreement has been entered into) of the business, or part of the business;
 - b. ceasing or an expectation of ceasing to trade; or
 - c. the business going into administration or liquidation.

Extensions of Time

49. TKG may request of the FWO an extension on 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.
50. 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

51. TKG must not, and 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

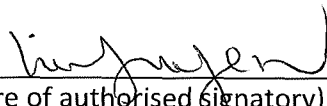
52. TKG acknowledges that:
- a. the FWO may:
 - i. make this Undertaking available on the FWO internet site at www.fairwork.gov.au;
 - ii. release a copy of this Undertaking pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - iii. issue a media release in relation to this Undertaking;

- iv. from time to time, publicly refer to the Undertaking and its terms; and
 - v. rely upon the admissions made by TKG set out in clause 14 above in respect of decisions taken regarding enforcement action in the event that TKG is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by TKG 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, TKG may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- d. if TKG 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 TKG in clause 14 above, and also in respect of the question of costs.

Executed as an undertaking

EXECUTED by an authorised person of Thai Kee Grocer Pty Ltd

LINH TRINH NGUYEN - DIRECTOR
(Name and position of authorised signatory)


(Signature of authorised signatory)

in the presence of:

Irene Ee
(Name of witness)


(Signature of witness)

08/07/2026
(Date)

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

Brodie Smith - Executive Director, Operations
(Name and role of Delegate)


(Signature of Delegate)

27 July 2026
(Date)

Delegate for the Fair Work Ombudsman

in the presence of:


(Signature of witness)

Crishna Budd
(Name of Witness)

Attachment A – Notification Email to Affected Employees

Dear [Name of employee]

As you may be aware, Thai Kee Grocer Pty Ltd (TKG) 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) and the *General Retail Industry Award 2020* relating to certain employees. Since identifying the contraventions, TKG 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 and former TKG employees

TKG 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 meetings with staff every two months. These meetings will provide an opportunity for you to ask questions and voice your views or concerns about employment conditions.

TKG 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 TKG 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.