

**REGISTER OF  
ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA02/349

**TITLE:** Vrachnas Betabake Pty Ltd Enterprise Agreement 2002

**I.R.C. NO:** IRC2/6093

**DATE APPROVED/COMMENCEMENT:** 25 November 2002/1 November 2002

**TERM:** 12 months (1 November 2003)

**NEW AGREEMENT OR  
VARIATION:** Replaces EA02/380

**GAZETTAL REFERENCE:** 20 December 2002

**DATE TERMINATED:** 25 November 2002

**NUMBER OF PAGES:** 10

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** Applies to employees at the Vrachnas Betabake site located at 312 Horsley Road, Milperra NSW 2214, who fall within the coverage of the Pastrycooks (Specified Wholesalers) Award

**PARTIES:** Vrachnas Betabake Pty Ltd -&- the National Union of Workers, New South Wales Branch



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**VRACHNAS BETABAKE PTY LTD**  
**ENTERPRISE AGREEMENT 2002**

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**BETWEEN**

**VRACHNAS BETABAKE PTY. LTD.**

**AND**

**NATIONAL UNION OF WORKERS N.S.W. BRANCH**

**AND**

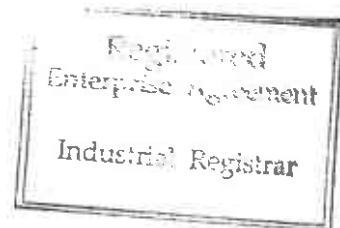
**VRACHNAS BETABAKE PTY. LTD. AWARD EMPLOYEES**

**UNDER CHAPTER 2, PART 2, ENTERPRISE AGREEMENTS  
INDUSTRIAL RELATIONS ACT 1996**



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1. **TITLE**

This Enterprise Agreement shall be known as the *Vrachnas Betabake Pty. Ltd. Enterprise Agreement 2002 (the Agreement)*.

2. **APPLICATION OF AGREEMENT**

The Agreement shall apply at the Vrachnas Betabake site located at 312 Horsley Road, Milperra NSW 2214, in respect of all the employees of the Company whose employment is within the coverage of the *Pastrycooks (Specified Wholesalers) Consolidated Award (the Award)*.

3. **PARTIES BOUND**

The Agreement shall be binding on:

- 3.1 Vrachnas Betabake Pty. Ltd. (**the Company**);
- 3.2 National Union of Workers New South Wales Branch (**the Union**);
- 3.3 The employees of the Company referred to in Clause (**the Employees**).



4. **DATE AND PERIOD OF OPERATION**

Subject to its certification by the Industrial Relations Commission of NSW, this Agreement shall take effect on and from 1 November 2002 and shall remain in operation for a period of twelve months.

5. **AIMS AND OBJECTIVES**

Flexible application of the terms and conditions set out in the Award and this document will be a key feature of the Agreement. To this end the following is agreed:

- 5.1 The employees and the Union have agreed to introduce work practice changes that will improve the Company's productivity, efficiency, competitiveness and profitability.
- 5.2 Employees are to perform a wide range of duties, including work which is incidental or peripheral to their main task or functions.
- 5.3 Employees shall perform such work as is reasonable and lawfully required of them by the Company including accepting instruction from authorised personnel.
- 5.4 Employees shall take all reasonable steps to achieve quality, accuracy, and completion of any job or task assigned, however these must be within the scope of skills that the employee has.
- 5.5 Employees shall not impose any restrictions or limitations on a reasonable review of work methods or standard work times.

## 6. WAGE INCREASES

Employees will receive the same increases to their ordinary rates of pay and allowances as prescribed by the "2003 State Wage Case" decision on the first full pay period commencing on after the decision is handed down by the NSW Industrial Relations Commission.

## 7. AWARD CONDITIONS GENERALLY TO APPLY AT THE SITE

7.1 The employees and the Union agree that the provisions of the Award represent the terms and conditions of employment to be applied to the employees at the site, except as a consequence of the application of the following:-

7.1.1 The overaward payments paid to employees by the Company;

7.1.2 The Site Shift Allowances of:

- 20% - Afternoon Shift,
- 40% - Night Shifts,
- 50% - Early Starts for drivers.

7.1.3 The provisions of this Agreement relating to employees changing from full-time to part-time employment as set out in Clause 8;

7.1.4 The probationary employment provisions set out in 7.4;

7.1.5 Any other provisions set out in this Agreement that are inconsistent with the provisions of the Award.

## 7.2 Flexible Application of Award provisions

The employees and the Union acknowledge the right of the Company to apply the terms of the Award in a flexible manner to meet the needs of customers and the requirements of the business. Such flexibility would be on the condition that the Company at all times complies with the terms and conditions prescribed by the Award.

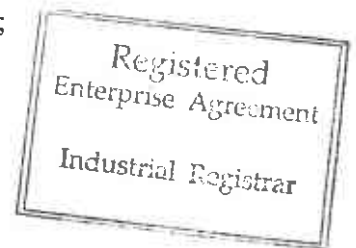
## 7.3 Flexible Application of Hours of Work

7.3.1 As part of the commitment in 7.2 by the employees and the Union it is accepted that the Company may alter the start and finish times of employees hours of work and the method by which employees work their ordinary hours in accordance with Clause 5 of the Award.

A specific example of hours flexibility will be the introduction of the following changes to the flexiday provisions of Drivers.

From the commencement of this Agreement the 12 flexidays accrued by such employees over each 12 month period of service shall be taken as follows:

- (a) In each year 6 flexidays shall be "banked" (i.e. accumulated) and then such untaken flexidays shall be "cashed out" (i.e. payment in lieu made) at an employee's normal rate of pay;



plus

- (b) In each year 6 flexidays shall be accrued and taken as a flexiday off. These 6 flexidays will be taken at times mutually agreed between the Company and the employees concerned to suit the operational requirements of the business, such as, for example during the quieter production periods of the year. The Company may replace a flexiday off with a substitute flexiday in order to meet emergencies or to address unexpected operational difficulties. The substitute flexiday shall be taken on a day agreed to between the Company and an individual employee or between the Company and the majority of employees concerned.

#### **7.4 Probationary Period for New Employees**

It is agreed that new weekly employees, who are affected by the notice of termination provisions of Clause 2 (ii) of PART 1 - General, of the Award, are employed on a probationary basis for the first month of employment.

### **8. EMPLOYEES TO CHANGE FROM FULL TIME TO PART TIME EMPLOYMENT TO REFLECT FLUCTUATIONS IN DEMAND**



#### **8.1 Fluctuations In Demand for Full-Time Labour**

The employees and the Union recognise that each year there are fluctuations in the level of full-time employees required by the Company because of changes in client demand for products and that this is a feature of the industry within which the Company operates and competes.

#### **8.2 Preferred Approach**

The parties agree that it is preferable for some full-time employees to transfer to part-time employment during these quieter times and then back to full-time employment when demand again increases rather than replacing full-time employees with either part-time or casual employees.

#### **8.3 Arrangements for Full-Time to Part-Time Employment then Back**

When a fluctuation in the Company's labour requirements occurs as a result of a temporary reduction in demand for the Company's products the Company will identify both the number of full-time positions it needs to be changed to part-time positions and the period for which the temporary change will last. The Company will then:

- (a) Advise all full-time weekly employees working in the section(s) in which there is a need to reduce the number of full-time employees to part-time employees of the number of part-time positions required.
- (b) The Company shall invite employees in the affected section to volunteer to transfer from full-time to part-time employment for the duration of the quiet period. No employee will be forced to transfer.
- (c) If the required number of employees volunteer then the volunteers shall transfer to part-time employment from the date nominated by the Company.

- (d) If more employees volunteer than are required the Company will choose from the volunteers which employees will transfer to part-time employment.
- (e) It must be recognised that if an insufficient number of employees volunteer for transfer to part-time employment the Company will need to review the size of its workforce, which may result in redundancies. Any employee who is made redundant as a result of the implementation of the review outcome shall receive redundancy benefits as per clause 9 of the Agreement.
- (f) At the end of the period of temporary reduction in demand for the Company's products, those employees who have transferred from full-time to part-time employment in accordance with subclause (c), (d) or (e) will revert back to full-time employment from the date nominated by the Company.
- (g) Where an employee who has been temporarily transferred to part-time employment under this provision is terminated or resigns the employee's accrued entitlements on termination shall be calculated as if the employee had been employed on a full-time basis.
  - (i) An employee who has been temporarily transferred to part-time employment under this provision shall continue to accrue annual leave and long service leave as if the employee had continued to be employed on a full time basis.
  - (ii) Other benefits would be available to the employee during this period in the same manner as would apply to any other part-time employee, in order to avoid an increase in the employees benefits.

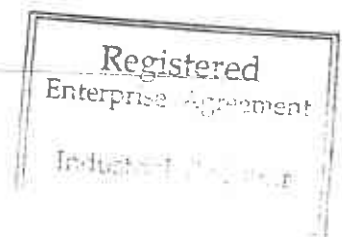
## 9. REDUNDANCY

9.1 All current employees are eligible for redundancy including all permanent and casual employees with twelve months continuous service.

9.2 Payment to employees, no later than the time of termination, of

- (a) Four weeks ordinary pay, in lieu of notice.
- (b) Four weeks ordinary pay for each year of employment and pro rata for incomplete years of service calculated on the basis of a full month's service.
- (c) All accrued untaken sick leave entitlement up to date of termination.
- (d) Accrued, untaken, annual leave together with 17% leave loading or greater, up to the date of termination.
- (e) A payment for long service leave to be made to all redundant employees who have completed three years service or greater, at the time of ceasing employment. This payment to be calculated to completed years and months of service.

9.3 Employees over the 45 years an extra four weeks ordinary pay.



**9.4 Re-engagement:**

An employee who is made redundant and is subsequently re-employed by the employer within six months of having been made redundant shall have continuity of employment so long as all statutory repayments are repaid.

**9.5 Employee's Estate:**

In the event an employee dies while under notice of redundancy, an employee's entitlements under the redundancy scheme are to be paid into the employee's estate.

**9.6** Where a plant or section of a plant is to be closed down on a given date and the company wishes to maintain production past that date then the company must pay an attendance bonus on an additional days pay at the ordinary rate of pay for each completed week of service.

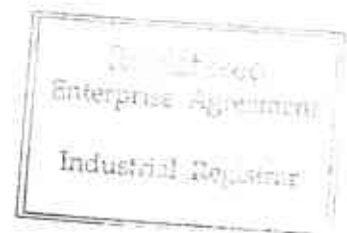
**9.7** Permit the employee to take leave of up to 32 hours without loss of pay, during the period of notice for the purpose of attending interviews for other employment. At times agreed mutually with the employer and production of evidence may be requested that the interview has been attended for the purpose of the payment of this allowance.

**9.8** Employee under notice of redundancy who finds other employment may leave at any time during the period of notice and receive full entitlements under final agreement as of the date of termination.

**9.9** All payments referred to are based on the weekly shop rate applying at the date of redundancy.

**9.10** All redundant employees shall have preference of re-employment with the company should positions become available. This provision is valid for twelve months.

**9.11** Superannuation payments to be in accordance with the trust deed of the Employee Superannuation Plan.





## 10. GRIEVANCE & DISPUTES PROCEDURE

Subject to the Industrial Relations Act 1996, any grievance or dispute shall be dealt with in the following manner: -

- 10.1** The aim of this procedure is to ensure that grievances or disputes are prevented or resolved as quickly as possible at the level they occur in the workplace.
- 10.2** When a dispute or grievance arises the following steps are to be followed:
- Step 1:** The issue is to be discussed between the employee(s) involved and the immediate supervisor. If the issue remains unresolved follow Step 2.
- Step 2:** The matter shall be referred to the Managing Director by either the supervisor or the employee(s) involved. The employee(s) may refer the issue to the Managing Director either by phone on (02) 9792-3485 or in writing or by any other appropriate means. The Managing Director shall attempt to resolve the issue. If the issue remains unresolved follow Step 3.
- Step 3:** The matter shall be discussed between the Managing Director, the Supervisor, the employee(s) involved and, if the employees choose, a representative of the employee(s). The employee(s) representative may be either a union site delegate, a Union official or any other party nominated by the employee(s). If the issue remains unresolved follow Step 4.
- Step 4:** If the matter in dispute is not resolved it may be submitted by either party to the Industrial Relations Commission of NSW for conciliation and, where this fails, arbitration. The arbitrated decision of the IRC shall be final, subject to any appeal process available in accordance with the Act, and shall be accepted by the parties.
- 10.3** At any stage in the procedure after consultation between the parties has taken place, either party may ask for and be entitled to receive a response to their representations within a reasonable time. If there is undue delay on the part of the other party in responding to representations, the party complaining of the delay may, after giving notice of their intention to do so, take the matter to a higher level in the procedure.
- 10.4** While this procedure is being followed, normal work must continue, provided that no employee shall be required to perform any task which may affect the employees health or safety.



## 11. DISCIPLINARY PROCEDURES

The Application of the Provisions of this Clause shall be subject to the operation of PART 6 – UNFAIR DISMISSALS of the Industrial Relations Act 1996.  
The parties to the Agreement shall observe the following Disciplinary Procedures.

### 11.1 Disciplinary Procedure - Relating to Poor Work Performance or Unsatisfactory Conduct

Without limiting the scope of application of this procedure "poor work performance or unsatisfactory conduct" shall include the following:

- (a) Unacceptable work quality;
- (b) Unacceptable level or rate of work performance;
- (c) Unsafe work practices;
- (d) Wilfully failing to abide by reasonable and lawful directions;
- (e) Excessive absenteeism;
- (f) Abuse of sick leave entitlement.



Where it is alleged an employee's work performance or conduct is of a poor or unsatisfactory standard the following procedure will be adopted:

### 11.2 Interview Process

An interview of the employee should be conducted by the Company's representative. It is appropriate for another member of management to be present as well as the Union delegate (if requested by the employee or the Company if the employee is a member of the union) or other nominated or responsible employee acceptable to the employee being disciplined. At the time of the interview the employee should be informed of the nature of the problem and be given the opportunity to explain his/her actions. If the employee is not able to give a satisfactory explanation of his/or her actions then disciplinary action shall be taken by means of the issuing of a formal written warning, which shall record certain details of the interview, such as:

- (a) The nature of the alleged poor work performance or unsatisfactory conduct and the specific details.
- (b) The date/s of the alleged poor work performance or unsatisfactory conduct.
- (c) An explanation of the consequences of a continuation of such poor work performance or unsatisfactory conduct.
- (d) The date and time of the interview.
- (e) The signature of the parties present at the interview. If the employee being disciplined refuses to sign this fact should be recorded.

A copy of this written warning should be supplied to the employee concerned.

### 11.3 Discipline

If the written warning resulting from the initial interview is unsuccessful a further interview similarly constituted should then take place.

At that time management should produce further evidence of the continued poor work performance or unsatisfactory conduct and the employee should be given the opportunity to explain his/her continued poor work performance or unsatisfactory conduct.

If the explanation is deemed unsatisfactory management shall issue a further written warning. It may also be appropriate that additional disciplinary measures be taken and these may include:

- (a) Relocation in the work place;
- (b) Reclassification to a lower grade of work;
- (c) Restriction of Privileges;
- (d) Admonishments recorded on the employee's personal file.



These forms of disciplinary measures may be either permanent or of a temporary nature, in which case previous entitlements may then be restored provided the employee's work performance or conduct has improved in the intervening period. The employee shall be dismissed if these disciplinary measures are found not to be a satisfactory solution and the employee's unacceptable conduct continues.

### 11.4 Dismissal Following Disciplinary Procedure

The employee should be notified in writing of the dismissal and the reasons for same. If the employee is a member of the Union and the employee agrees, the Union delegate should be notified as soon as practicable that this course of action is to be taken.

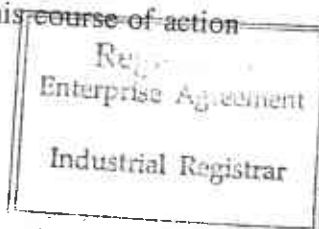
### 11.5 Instant Dismissal

The above procedures dealing with poor work performance or unsatisfactory conduct are not intended to interfere with the right of the Company to dismiss an employee without notice for serious misconduct that justifies instant dismissal.

In such circumstances the following procedure should be followed prior to the dismissal of the employee:

- (a) An investigation should be conducted to establish the facts.
- (b) An interview of the employee should be conducted by the Company. It would be appropriate that at least two members of management be present.
- (c) It is appropriate for the Union delegate (if the employee is a member of the Union), or other nominated or responsible employee acceptable to the employee being disciplined, to also be present.
- (d) At the time of the interview the employee should be informed of the alleged misconduct and be given the opportunity to explain his/her actions.
- (e) If no satisfactory explanation is provided by the employee, the employee shall be dismissed.
- (f) The employee should be notified in writing of the dismissal and the reasons for same. If the employee is a member of the Union and the employee agrees, the

Union delegate should be notified as soon as practicable that this course of action is to be taken.



## 12. TRANSMISSION OF BUSINESS

12.1 For the purposes of the Agreement, where the business is transmitted from the Company (in this clause called the Transmittor) to another Company (in this clause called the Transmtee) and an employee who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmtee:

- (a)(i) the continuity of the employment and the service of the employee shall be deemed not to have been broken by reason of such transmission:
- (a)(ii) the period of service which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmtee:
- (a)(iii) the employee shall not have an entitlement to either severance pay or redundancy entitlements as a consequence of the transmission of the business:
- (b) In this clause **business** includes trade, process, business or occupation and includes part of any such business, and **transmission** includes the sale, transfer, conveyance, assignment or succession whether by agreement or by operation of law, and **transmitted** has a corresponding meaning.

### 12.2 Cashing Out of Sick Leave Above 228 Hours

- (a) Upon a transmission of business, employees who are employed at the time of transmission will have any sick leave entitlements above 30 days or 228 hours "cashed out" at their ordinary rate of pay by Vrachna's Betabake ("the transmittor"). Those employees will retain 30 days sick leave entitlement with the "transmtee" of the Company.
- (b) The cashing out of sick leave referred to in 12.2.(a) above will be a "once off" event.

## 13. NO EXTRA CLAIMS

It is a term of the Agreement that both the Union and the Employees undertake not to make or pursue any extra claims for either increases in wages or allowances or improvements in conditions of employment for the life of the Agreement.

**14. EMPLOYEE ENTITLEMENTS PROTECTION**

The Company will undertake to identify and implement a mutually satisfactory form of Employee Entitlements Protection during the term of the Agreement i.e. Insurance/Guarantee/Trust.

The Company reserves the right to review and relinquish any arrangements put in place should a mutually satisfactory Government Scheme be put in place -- subject to employees being no worse off in the Government Scheme.

**15. NOT TO BE USED AS A PRECEDENT**

The terms of this agreement shall not be used by any person, union or company in any manner whatsoever to obtain similar arrangements or benefits in any other plant, enterprise, business or company.

**16. ENDORSEMENT OF AGREEMENT**

The signatories below accept the terms of the Vrachnas Betabake Enterprise Agreement 2002 on behalf of their organisations and endorse its terms and in doing so declare that the Agreement is not entered into under duress by any party to it:

Signed on the 28<sup>TH</sup> day of October 2002

For and on behalf of VRACHNAS BETABAKE PTY. LTD.



Mr Clive Stuart  
Managing Director



For and on behalf of the NATIONAL UNION OF WORKERS, NSW Branch



Mr Derrick Belan  
Secretary - NSW Branch

RS:CAT4

HIS HONOUR:

INDUSTRIAL RELATIONS COMMISSION  
OF NEW SOUTH WALES

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MARKS J

MONDAY 25 NOVEMBER 2002

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**IRC02/6093 - VRACHNAS BETABAKE PTY LIMITED ENTERPRISE  
AGREEMENT 2002**

Application by Vrachnas Betabake Pty Limited for approval  
of enterprise agreement

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Ms Town as agent for the respondent  
Ms Hughes for the National Union of Workers New South  
Wales Branch

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HIS HONOUR: It's your application Ms Town, is that right?

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TOWN: That's correct.

HIS HONOUR: You seek to tender some written submissions,  
is that right?

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TOWN: Yes.

HIS HONOUR: And you rely on those submissions?

TOWN: Yes I do.

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HIS HONOUR: Have you read the submissions?

HUGHES: Yes.

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HIS HONOUR: What does the union say about them?

HUGHES: We don't object to the submissions being  
presented as an exhibit and also we concur that the  
agreement meets the requirements of the Act and the  
principles for approval.

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(For his Honour's decision see separate  
transcript.)

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