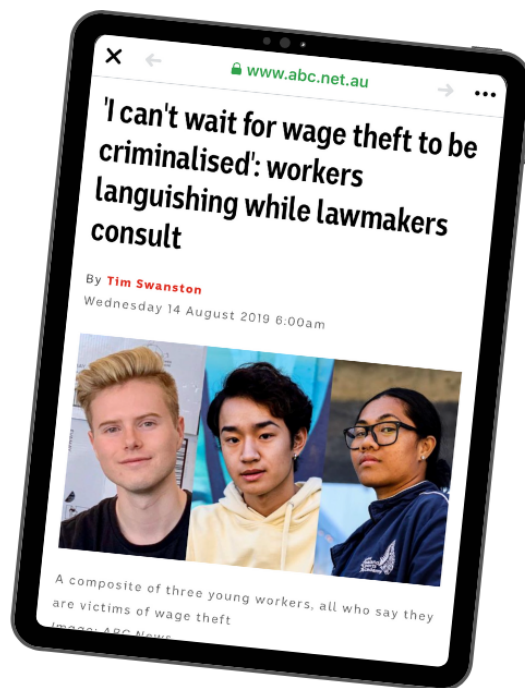


WAGE THEFT: REFORM FOR YOUNG WORKERS

YOUNG WORKERS HUB SUBMISSION | JULY 2020



Introduction

1. The Young Workers Hub (**YWH**) supports, educates and campaigns for young workers in Queensland. Established in 2018, the YWH has helped many young workers recover their wages and campaign for wage theft to be criminalised. It is well established that young workers are more likely to experience wage theft, among other forms of exploitation, due to lack of experience and formal education on their rights at work. Young workers in insecure work can find it difficult to speak up or seek help and can consider wage theft a rite of passage in some industries.
2. The YWH welcomes the introduction of the *Criminal Code and Other Legislation (Wage Theft) Amendment Bill 2020 (Qld)* (**the Bill**) and the opportunity to make submissions to the Queensland Parliament Education, Employment and Small Business Committee (**the Committee**). The YWH makes two key submissions to the Committee:

SUBMISSION ONE

That recovering stolen wages be more effective, including a compulsory conferencing mechanism;¹ and

SUBMISSION TWO

That the reporting process for alleged wage theft be clear and accessible.²

If adopted, these submissions will ensure the Bill's objectives are properly fulfilled.

Recovering Stolen Wages

3. In 2018, the YWH made submissions to the Inquiry into Wage Theft in Queensland, leading evidence that current enforcement mechanisms simply do not work for young people and are therefore not accessed.³ For young workers, as a demographic, the most important aspect of wage recovery mechanisms is that they are timely, cost effective and readily accessible.⁴ In 2018, the YWH submitted that current legal options assume young workers are in a position to:
 - a. pay the matter's application fee;
 - b. access pro bono legal assistance; and/or

¹ Recommendation 8 from *A fair day's pay for a fair day's work? Exposing the true cost of wage theft in Queensland*.

² Recommendation 15 from *A fair day's pay for a fair day's work? Exposing the true cost of wage theft in Queensland*.

³ Submission No. 19, Wage Theft: Reality for Young Workers [20].

⁴ Recommendation 15 from *A fair day's pay for a fair day's work? Exposing the true cost of wage theft in Queensland*.

- c. pay for a private representation by a legal practitioner.
4. For young people on minimum wage incomes,⁵ recovering stolen wages cannot require significant financial cost as recovery would not be pursued on the basis that procedural costs (e.g. legal fees) are greater than the amount that is to be recovered. In order to reduce the cost young workers may be faced with in formal proceedings, the Bill must have a strong emphasis on alternative dispute resolution, such as conciliation. This will benefit both applicants and the court system, by freeing up the tribunal in terms of the number of applications which will progress formally.

SUBMISSION ONE

That recovering stolen wages be more effective, including a compulsory conferencing mechanism.

5. The YWH strongly supports compulsory conferencing in wage theft recovery. Without the mandatory requirement, conciliation will likely not occur due to employer refusal and the majority of young workers likely unable to pursue prolonged court cases. The experience of YWH indicates that employers know young workers are less equipped and supported to recover wages and, as a consequence, the employer will often ignore emails, correspondence, letters of demand until the worker gives up. The Bill should therefore ensure informal conferencing is compulsory for all parties to an application.

Reporting Process

6. The YWH is unclear on the reporting methods under the Bill and recommends clarification in this area. The Bill should clearly set out the reporting process which includes:
 - a. a central reporting registry;
 - b. easy to understand bench books; and
 - c. easy to understand application forms.

Young workers and their representatives should be able to complete a pre-filled application form to the Industrial Division of the Magistrates Court. The experience of YWH in relation to these matters is that young workers want their stolen wages to be paid as soon as possible, so they can move on and plan for their future.

7. Notwithstanding wage theft will be a criminal act on passage of the Bill, the YWH submits that Department of Public Prosecutions, Queensland Police and related agencies should only be involved post compulsory conference taking place, once allegations of wage theft have been discussed and parties are aware of their likelihood of success.

⁵ E.g. Award wages in hospitality, retail, food and beverage industries.

8. This is an important step for a number of reasons:

- a. Young workers are unlikely to report wage theft to police;
- b. International students are unlikely to report wage theft to police;
- c. Undocumented workers are unlikely to report wage theft to police;
- d. Workers with a criminal history are unlikely to report wage theft to police; and
- e. Police are unlikely to have capacity or experience to deal with wage theft complaints.

SUBMISSION TWO

That the reporting process for alleged wage theft be clear and accessible.

9. In addition to the legislative aspects, an education campaign focused on worker and representative awareness is required. There must be a clear understanding of the procedure for reporting wage theft and pursuing wage recovery. Without this public clarification, workers will not be well placed to address wage theft and the legislation will not be effective. Currently, the Bill and explanatory footnotes are vague in this regard and require practical steps set out.

Declan Langlands, 22 hospitality

Declan Langlands was working at Pig N Whistle Riverside from March 2019 and was dismissed in October of the same year. Over the course of his employment at this venue, Declan was asked to give his debit card to the manager who made deductions from Declan's account. The reason given was that the till was not balanced (due to customer walk-outs).

10. The definition of stealing in the draft consultation Bill makes no reference to this form of wage theft and as such, there is the potential for employers to use this method in order to circumvent what is explicitly stated in the Bill regarding stealing property (wages). Therefore, YWH recommends a more inclusive, comprehensive definition of theft that includes these instances.

Lizzie Brown, 25 hospitality

I was told that they'd have to let myself, and the other original staff members go because they "didn't have enough money". I kept asking if I was going to be paid for the work I did on opening night and I never got an answer. I was owed around \$200 at this point. They had my bank details.

A few days later, I got a text telling me that I would be getting paid \$18 an hour and asked if that was okay. Because "we have hired new chef and it's expensive and we aren't making enough money yet to pay you the proper wage".

My coworker and I phoned fair work separately, who gave us the correct wage we should have (\$25 an hour) and we proved our duties as outlined in the role description we were given.

11. Lizzie worked for a hospitality business. She was informed that she would be paid well below what she is legally entitled to. Lizzie was only able to recover half of the \$450 owed to her. Even though this is below what she was entitled to for work performed, most young people are never able to recover what they are owed because they don't know how to report it, they don't have the financial resources to pursue a case, or it becomes too time consuming, so as to make it infeasible. In amending the *Criminal Code Act 1899* (Qld), such issues should be highlighted and addressed in order to deliver practical improvements to the system.

Conclusion

12. The YWH supports the Bill's intent and believes that the criminalisation of wage theft will have a positive impact on young people in the workplace. However, it is recommended that the Bill provide for compulsory conferencing and the reporting process of wage theft be made clearer.

The YWH welcomes the opportunity to give evidence before the committee. In addition, the YWH can provide workers who have been directly affected by wage theft to give evidence to the Committee.

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