



Lead.Connect.

Criminal Code and Other Legislation (Wage Theft) Amendment Bill 2020

J ODwyer / July 2020



Introduction

Master Electricians Australia (MEA) is the trade association representing electrical contractors recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. Our website is www.masterelectricians.com.au

MEA appreciates the opportunity to review and comment on the legislation as drafted. MEA is pleased that the proposed legislation has utilised the criminal code to prosecute actual wage theft and provided a different opportunity for employers and employees to resolve inadvertent mistakes of payment through a consultative non formalised system prior to entering arbitration.

MEA has no comments to make regarding the Criminal Code changes as drafted. We believe that prosecution of these intentional and criminal behaviours is best left to the Police for investigation and the DPP for prosecution. MEA supports all criminal behaviour being investigated and prosecuted under the relevant legislation of the Police and the DPP.

MEA also sees merit in the legislation for the correction of underpayments through a process of conciliation through the Industrial Magistrates Court. There are some concerns regarding the complexity that will now be created when plaintiffs are deciding how to initiate a claim.

Federal system employees have for the last 10 years been informed that the Fair Work Ombudsmen FWO (and its preceding equivalents) are responsible for investigating and resolving complaints. The FWO has detailed information regarding the process for dealing with claims under \$20,000. A copy of the guide for reference is here [FWO small claims guide](#).

A major concern with the proposed process is where claims have been commenced in multiple agencies. . For example, a claimant may commence a claim through the FWO Inspectors and then subsequently decide to enter the proposed Queensland process after speaking with representatives or lawyer or may lodge a complaint with Queensland Police. It is foreseeable that employers will receive claims from all three agencies. It is imperative that multiple claims regarding the same employees and circumstances are identified and that employers receive clear information regarding which claims take precedence and which claims will not be able to continue. It is imperative multiple claims do not create competing timelines, responsibilities, or obligations on employers, nor place responsibility on Employers to resolve what may be costly jurisdictional argument about which case will proceed first. Claimants representatives registry officials of the Federal Circuit Court IMC of Qld and Queensland Police / DPP must ensure clashes of jurisdiction do not occur. Prosecuting agencies must clearly resolve these issues at no cost to employers.

In the event of competing jurisdictions, it is not clear from the Queensland legislation or the explanatory notes or papers how this is addressed. It is imperative that these protections are put in place to ensure that Inspectors and Court officials are clear in the event an employer raises examples of more than one jurisdiction with officials. It is important that resolving jurisdiction clashes is competed prior to any formal proceedings such as conciliations or investigations are commenced to ensure reduced stress and cost is incurred.

MEA is also concerns regarding the mixed messaging between \$20,000 limits and those of state-based employees being \$50,000. We foresee issues whereby employees will not understand the difference between state and federal system employee and as such may have claims either initiated or refused based on the differing levels. Again, costing employers time and money in dealing with claims that may have no prospect of being approved.

We appreciate the time of the committee and for considering our comments regarding the legislation and accompanying explanatory memorandum



Jason O'Dwyer

Manager Policy and Advocacy