

**AWUEQ  
AWU QUEENSLAND BRANCH**

Level 13, 333 Adelaide Street, Brisbane QLD 4000

GPO Box 88 Brisbane QLD 4001

T: 1800 298 753 E: [secretary@awu.org.au](mailto:secretary@awu.org.au) W: [www.qld.awu.net.au](http://www.qld.awu.net.au)**STRONGER  
TOGETHER**

ABN 54 942 536 069 (AWUEQ) ABN 28 853 022 982 (AWU)

30 July 2020

Ms Leanne Linard MP  
Member for Nudgee  
Chair  
Education, Employment and Small Business Committee

Dear Chair

**RE: CRIMINAL CODE AND OTHER LEGISLATION (WAGE THEFT) AMENDMENT BILL**

The Australian Workers' Union (AWU) represents workers across a diverse range of industries in Queensland including but not limited to pastoral, agriculture, construction, hospitality, retail, tourism, health, aged care, manufacturing, disability care, mining, construction and local government.

The AWU have had many members who work across these industries and others who have been impacted by wage theft.

The AWU has undertaken many wage claims for members in recent years that are worth millions of dollars and can attest to the propensity of many employers to underpay workers.

Further, this practice occurs predominately in employment situations where there is an imbalance of power between the employer and the employee eg. where the member has been engaged through a precarious employment arrangement and/or the employer has other forms of leverage to terminate the arrangement or coerce the worker.

AWU members attest that this practice is not just restricted to wages but also superannuation, alleged recovery of wages and the false accrual of different types of accrued leave etc

Many of our members consider it a 'business model' of certain grub employers to extract as much free time and labour from workers as possible. The impact on these workers and their families is severe, not just making ends meet in the present, but also the reducing the ability to retire with dignity in the future.

The AWU have surveyed our membership across a number of industries in preparation of this submission.

Overall 98.52% of respondents said that they supported making wage theft a crime.

Below are a selection of statements from our members who took the time to respond to the Committee indicating why they support making wage theft a crime:

"To protect the income of workers that struggle to meet day to day bills". – Mark,  
Manufacturing

Secretary/ Branch Secretary: Steve Baker

"Companies and businesses need to be held accountable for the time and money they steal from workers. It is a crime for workers to steal from workplaces, it should work both ways." - Johnathan, Mining

"Too many young people get ripped off by employers trying to pull the wool over their eyes." - Neil, Manufacturing

"Wage theft is endemic in my industry, (Hospitality), I have had to deal with it in the majority of roles in the industry and as soon as you raise an issue you are targeted and usually sacked as it is cheaper to pay out one employee an unlawful termination payment than to back pay all employees." – Brett, Hospitality

"Twice I have been a victim of my super taken from me, from past employers. I lost thousands of dollars. So hard when I was in my fifties. They have got away with it...not much fun to have to keep working, when I should of been thinking about retiring." – Jenny, Health Care

"This issue is important to me as I work hard to earn the money to support my 3 children and my wife. I need the money to take care of my family and when it is taken away...they take my hard work away." – Ramesh, Health

"All workers deserve to be paid what they are entitled to, without having to fight for every cent. Companies who exploit their workers in underhand ways need to be penalised for their actions." - Vera, Aged Care

"We as workers adapt constantly to a changing world, productivity has never been higher. Yet we are treated with disdain, bullied to accept a lesser portion of what we deserve." – Karl, Local Government

"Workers keep losing their entitlements and having to do more work for less money. There is no job security and many employers use this to force people to accept lower wages and conditions to keep their positions. And some employers prey on people who are not aware of their rights. We should all be entitled to a fair days pay for a fair days work." – Pamela, Retail

"There are a lot of us that struggle to make ends meet and live from pay to pay. Being paid our fair wages and entitlements is what we work for." – Debbie, Retail

"Upholds the rights of workers to receive the correct wage for the work the employee has done by keeping up to date with ongoing pay rises in accordance with award wages agreements that have been put in place" – Christine, Community Services

"Because too many people are losing what they're entitled to by employers not giving them what they are entitled to and getting away with it." – Margaret, Construction

## **CRIMINALISING THE THEFT OF WAGES AND OTHER PAYMENTS**

Secretary: Steve Baker

The AWU supports the proposed amendment to make wage theft an offence under the Criminal Code where the conduct is proven to be deliberate or reckless.

Workers have been subject to prosecution under the Code for allegedly stealing from an employer and it is only fair that employers be subject to criminal proceedings for stealing from their workers.

The AWU submits that the criminalisation of wage theft will provide an incentive for grub employers not to opt for a wage theft business model.

The AWU raises some concerns with the proposed Bill where improvement could be made:

- Theft by employers doesn't always occur by withholding wages and other entitlements. It can also be undertaken through other arrangements such as requiring the worker to repay a proportion of wages after payment has been made. The definition of theft should be considered in a wider context;
- There are a number of instruments which require an employer to pay a worker outside of an Act or an agreement such as an Award, a Directive, an employment contract or custom and practice and this needs to be considered and addressed;
- The AWU also has concerns how workers reporting the offence of wage theft will be able to ensure the allegations, investigation and any prosecution is not lost amongst all the other offences that the Police Service and the Director of Public Prosecutions deal with. The AWU submits that there needs to be proper co-ordination of how workers can raise incidences of theft and how the relevant agencies can ensure that the allegations are prioritised and that timely action is taken and decisions the agencies may or may not take are transparent.

## RECOVERY OF WAGES

The AWU supports the ability of workers and registered unions to be able to access the State Magistrates Court to recover the underpayment of wages. This will make such recoveries much easier, cheaper and more informal for all the parties.

The AWU raises some concerns with the proposed Bill where improvement could be made:

- The AWU submits that conciliation in relation to wage recovery matters should be mandatory in all circumstances. An employer should be required to conciliate and try to resolve a matter as simply and timely manner as possible;
- The AWU also submits that claims should be dealt with in an informal and expeditious manner and as such should be dealt with by lay advocates from registered employee organisations not lawyers.

Secretary: Steve Baker

The AWU submits that at the end of the day, one of the most effective way to ensure that the imbalance in power between employers and workers is corrected is by improving the ability of workers and their registered unions to educate, organise, grow and represent workers.

Whether it be through right of entry, assisting workers to join unions at their request, providing access to delegates for members, ensuring consultation, preventing adverse action and mandating representational rights. Empowering members and their registered unions provide power to workers to ensure that grub employers are accountable for their actions and as Pamela says, to ensure that where “employers prey on people who are not aware of their rights”, they are kept in check.

If you require any further information in relation to this matter please contact [REDACTED] on [REDACTED]  
[REDACTED]

Yours Sincerely

A handwritten signature in black ink, appearing to read 'S. Baker', followed by a horizontal line and a period.

**STEVE BAKER**  
**SECRETARY**

Secretary: Steve Baker