




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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Record of Proceedings, 9 September 2020

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

 **Mr BERKMAN** (Maiwar—Grn) (2.22 pm): I rise to strongly support the Criminal Code and Other Legislation (Wage Theft) Amendment Bill 2020. I want to take the opportunity to applaud the government and, most importantly, the workers and their unions who have pushed this issue to the forefront. It has long been a sore injustice that the service station worker who pockets a chocolate bar faces a charge with a maximum penalty of imprisonment of five years—I think that is the current maximum. However, if that same worker in that same service station gets robbed by their boss of pay they have earned, that robbery is not even considered a crime.

It hardly needs repeating that wage theft, whether through direct underpayment, stinting on penalty rates, unpaid overtime, overcharging for accommodation or harsh deductions cost Queensland workers millions upon millions every year. We have heard already in this debate that wage theft in some form affects one in four Queensland workers. In my electorate of Maiwar there are thousands of casuals—young people and older folks—working in services, retail and hospitality who face a particularly sharp power imbalance, which means wage theft is easier for bosses to get away with. This bill will hopefully begin to shift that power imbalance. Of course, the best way to do that in the longer term is to build job security and for workers themselves to organise together in their own workplaces and with their unions.

The bill focuses on wilful, reckless or deliberate wage theft rather than accidental underpayment, as is appropriate for a criminal offence. It amends and expands the definition of stealing in the Criminal Code and provides that stealing includes a failure to pay an employee an amount payable to the employee in relation to the performance of work. That includes a wide range of conduct like unpaid hours or underpayment of hours; unpaid penalty rates; unreasonable deductions; unpaid superannuation; withholding entitlements; underpayment through intentionally misclassifying a worker, including wrong award, wrong classification, or by sham contracting and the misuse of ABNs; and authorised deductions that have not been applied as agreed.