



19 April 2023

Attorney-General

Crimes (Theft by Employer) Amendment Bill – Consistency with the New Zealand Bill of Rights Act 1990

Our Ref: ATT395/382

1. We advise on the consistency of the Crimes (Theft by Employer) Amendment Bill (**the Bill**) with rights affirmed by the New Zealand Bill of Rights Act 1990 (**the Bill of Rights Act**). The Bill is a Member's bill, drawn from the ballot on 6 April 2023.
2. We could find no inconsistency with the Bill of Rights Act. The bill is therefore **consistent** with it. As the Bill is short, we have **appended** it to this vetting advice.

The Bill

3. The purpose of the Bill is to clarify and simplify liability in theft for an employer who does not pay their employee's wages; and assist employees in understanding their right to be paid what they are entitled to by law. The Bill creates a new offence designed to capture employers who owe wages and intentionally do not pay them to an employee.
4. The Bill proposes to insert a new offence provision into the Crimes Act 1961 that applies when an employer intentionally fails to pay an employee any money owed in relation to the employment. The proposed offence provides that an intentional failure to pay will constitute theft. A penalty of up to one year imprisonment, or a maximum fine of \$5,000 is provided for individuals, and "in any other case", a fine not exceeding \$30,000.

Consistency with the Bill of Rights Act

5. We have considered the Bill's consistency with the Bill of Rights Act. We do not consider it engages any of the rights protected. The Bill does not engage the due process rights protected by s 25 of the Bill of Rights Act as it does not concern matters of process; nor does it purport to have retrospective application. Its aim is to create a simplified criminal offence directly applicable to employees' rights to payment as already prescribed in law.
6. We therefore consider the Bill is consistent with the Bill of Rights Act.

Review of this advice

- 7. In accordance with Crown Law’s policies, this advice has been peer reviewed by Matthew McMenam, Crown Counsel.



Zoe Hamill
Crown Counsel

~~Noted~~ / ~~Approved~~ / ~~Not Approved~~



Hon David Parker
Attorney-General
1 / 5 / 2023

Encl.