

TWU Submission

SECURE JOBS BETTER PAY BILL



TWU
Carrying Australia

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THE TRANSPORT WORKERS UNION

The Transport Workers' Union of Australia (TWU) represents tens of thousands of men and women in Australia's aviation, oil, waste management, gas, road transport, passenger vehicles and freight logistics industries. With over one hundred years' experience, the TWU has been proactive in establishing fair, safe and sustainable industry standards that improve the lives and safety of transport workers, their families and the community. The TWU covers all workers in the aviation industry, including in ground handling, fleet presentation, airline catering, refuelling, guest services, security screening, cabin crew, and pilots.



EXECUTIVE SUMMARY

The TWU supports the ACTU's submission to the inquiry in full, which provides detail, research and case studies to demonstrate the need to get wages moving and give workers a fairer opportunity to bargain.

This submission provides context to the ways in which the current bargaining system is failing to capture all workers or provide protection against unilateral attacks on wages and conditions. The aviation industry, under the Joyce-led regime at Qantas, is the prime example for the decline in wages, conditions and secure jobs in line with deliberate tactics to disenfranchise workers and evade enterprise bargaining rights.

The growth of executive bonuses tied to the degradation and splintering of the aviation workforce, most notably in the illegal sackings of 1,700 ground staff, has created an environment of feast and famine. Good quality jobs, safety and service are sacrificed by contractors to win work from the largest, wealthiest, and most domineering airline - Qantas. Airport contractors have little choice but to cannibalise their workforce to remain in the game and workers have little opportunity to bargain better terms and conditions from their employer whose hands are tied.

The consequences of the barren airport landscape in terms of good, secure jobs has been a mass exodus of skilled workers, high turnover, inexperience, understaffing and ultimately the destruction of safety and service standards. Workers, the industry, and the traveling public are suffering, and Australian taxpayers who bailed out Qantas to the tune of more than \$2 billion have been ripped off spectacularly.

It must be noted that the unique nature of the aviation industry as well as the depths to which it has fallen due to privatisation and monstrous attacks on the workforce, requires further targeted regulation. However, the Secure Jobs Better Pay Bill would – as expressed in the title - enable both workers and aviation businesses to make significant improvements to the job security, pay and conditions of the workforce and in turn, help aviation to get back on its feet.

The aviation industry, under the Joyce-led regime at Qantas, is the prime example for the decline in wages, conditions and secure jobs

A GAMED SYSTEM

To understand aviation's demise, we must look back to long before the pandemic, when the deliberate evasion of enterprise bargaining began at Joyce-led Qantas.

In the decade prior to the pandemic, **the gap between overpaid executives and workers was widening considerably**. In 2018, Alan Joyce was the highest-paid CEO in Australia and highest-paid airline executive in the world, earning \$24 million. At the same time, workers were struggling to recover from an 18-month wage freeze imposed by the airline in 2014-2016.

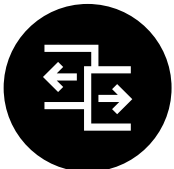
A systematic regime involving the setting up of subsidiaries, outsourcing to labour providers, grounding of the fleet to shut down modest protected industrial action, and unilateral wage freezes were all tactics employed by Qantas management with the express aim of lowering wages and undermining the collective bargaining system.

Since the pandemic, and Qantas' success in illegally outsourcing ground crew and ensuring they were not reinstated, management has used the threat of outsourcing in at least two enterprise bargaining negotiations to strongarm workers into signing away their entitlements, including in an ongoing dispute with domestic cabin crew.

Earlier in 2022, Qantas took what has been described as the additional 'nuclear option' of applying to terminate its agreement with international cabin crew. This was a clear example of Qantas laying down the law, after 97% of crew voted down a deal that would have reduced their job security and roster stability. With some workers standing to lose 70% of their salary if their agreement was terminated, crew had little choice but to agree to the previous deal, forced to sign away their work-life balance and grapple with caring responsibilities.

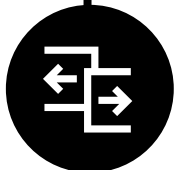
TIMELINE OF FRAGMENTATION

Qantas Group Ground Handling



2004 — **SUBSIDIARY**

As CEO of Jetstar, Alan Joyce sets up 'Express Ground Handling' to employ workers on lower pay and conditions for ground handling on Jetstar aircraft.



2008 — **SUBSIDIARY**

As CEO of Qantas Group, Alan Joyce sets up 'Qantas Ground Services' (QGS) to employ part-time workers on lower pay and conditions to perform the same duties on Qantas aircraft as Qantas Airways Limited (QAL) workers.

Qantas vows never to hire another worker under the QAL enterprise agreement.



2011 — **GROUNDING OF FLEET**

By grounding the fleet, Alan Joyce successfully puts a stop to modest protected industrial action over job security from QAL ground handling workers.



Circa 2015 — **OUTSOURCING**

Qantas begins its outsourcing of ground handling at some of its smaller regional ports to Swissport (roughly 10% of the business)



2020 — **OUTSOURCING**

On 30 November 2020, Qantas announces its rejection of workers' EY-supported in-house bid for their own jobs. It outsources all ground handling and fleet presentation operations, other than for QLink regional flights in Sydney (roughly 90% of the business)



2021 & 2022 — **OUTSOURCING RULED ILLEGAL**

Four Federal Court judges unanimously agree that the 2020 outsourcing of around 1700 workers was unlawful for its motivations to avoid collective bargaining and possible protected industrial action.

Qantas tells the Federal Court it would retrench workers again if ordered to reinstate them.

A SPLINTERED WORKFORCE

Qantas recently revealed in a response on notice to the Senate^[1] that it has 17 subsidiaries that act as employing entities across its international and domestic operations, employing roughly half the Qantas Group workforce.

Further, Qantas engages 21 contractors to provide labour across cabin crew (2), engineering (5), ground handling, fleet presentation and catering (9), freight (4) and above the wing (1).

At Qantas Freight, Sydney airport, there are six different employers with six different agreements. In 2012, Qantas acquired AAE. Despite the agreement for those workers carrying over, Qantas found a rebranding loophole to avoid a clause in the agreement which stated all workers at the site must be paid equally. In doing so, it was able to introduce its lower-paying subsidiary QGS, followed by three labour-hire companies.

Where AAE has approximately 95% full-time staff on good pay and conditions, QGS is 95% part-time with lower pay and conditions, and insecure workers at the three labour-hire companies paid at basic Award rates and conditions.

Illegally outsourced ground handling and fleet presentation work for Qantas and Jetstar across Australia is now performed by predominantly part-time or casual workers under eight different labour providers, all with different pay and conditions:

- **Swissport**
- **Dnata**
- **Menzies**
- **Star Aviation**
- **Oceania**
- **Cabin Services Australia**
- **Northwest Aviation Services**
- **Qantas Ground Services (QLink Sydney only)**

This trajectory demonstrates the deliberate dismantling of the workforce engaged under Qantas Airways Limited (QAL) enterprise agreements with workers' pay rates and entitlements which had been built up over decades.

[1] <https://www.aph.gov.au/DocumentStore.ashx?id=f5aaa3de-2b30-4074-8cf2-e4922b725430>

OMNIPOTENT COMMERCIAL INFLUENCE

Qantas splintering its workforce into numerous subsidiary companies and contractors allows the airline to position itself at the head of a destructively competitive labour market based on the lowest cost, rather than quality jobs and safety standards. Qantas is able to completely bypass bargaining with workers, while dictating what it pays for labour through lowest-cost contracts.

As the major airline in Australia, Qantas uses its lions share of the market to play airport companies off against one another in a race to the bottom. Contractors have little choice but to keep wages low and jobs insecure to make any scrap of profit.

Qantas workers facing the prospect of their jobs being outsourced went through the painful exercise of preparing an In-House Bid with the support of Ernst and Young, which described the process as “unrealistic and unattainable” for workers.[2] The Ernst & Young report stated Qantas management needed to provide an assessment of how Qantas would maintain minimum standards if it made the cost cuts.

The criteria for the bid process was based purely on cost-cutting, including the replacement of old equipment, much of which is currently used by the labour providers the work was contracted out to, like Swissport.

Qantas denies responsibility for the pay and conditions of workers at the contractors it engages. When asked by Senator Tony Sheldon if Qantas ensures the workers its contractors engage are paid a living wage, CEO of International and Domestic Andrew David replied “What’s a living wage?”[3]

Workers at the labour providers contracted to carry out illegally outsourced ground handling and fleet presentation work are lower paid including overtime rates, predominantly part-time or casual, and are pressured to rush and cut corners on safety due to chronic understaffing and high turnover.

While Qantas denies its influence over pay and conditions, it asserts its influence in disciplining workers and dictating terms to contractors. Workers have reported to the TWU that they’re told by management that the contracted company will be financially penalised by Qantas if a flight is delayed by a ground or baggage issue.

[2] <https://www.twu.com.au/press/qantas-outsourcing-bid-unattainable-unrealistic-ey-report-to-go-before-fair-work/>

[3] <https://www.thesaturdaypaper.com.au/news/economy/2022/06/18/inside-the-qantas-saga-it-wonder-they-can-get-plane-the-ground#hrd>

Recently, a viral video came to light of a baggage handler at Qantas contractor Menzies throwing luggage aggressively. Qantas told the media that the worker had been stood down pending an investigation.

Several TWU delegates with decades of experience in aviation reported that after their illegal outsourcing, they applied for numerous jobs at the contractors who received the work but were repeatedly unsuccessful. One worker told the TWU he'd made it to an interview where he was told he was perfect for the job and asked when he could start, only to never hear from the company again. A friend working at the contractor later confided that "someone didn't like him at Qantas", implying this had prevented him from getting the job.

LIFELONG CAREER TO LAST RESORT

A job at Qantas in any department was once a sought-after career with family members working side by side. Now, work carried out on Qantas planes is done by workers looking over their shoulders for an opportunity to leave the industry for something fairer, safer and more secure.

A June 2022 TWU survey of over 1,100 of the illegally outsourced workers[4], showed 56% had more than 10 years' experience. Of those who worked full-time under QAL agreements, 44% had more than 20 years' experience.

In contrast, an October 2022 TWU survey of 165 Swissport workers[5] – who had picked up the jobs of illegally outsourced Qantas workers – revealed 59% had less than one year's experience. In addition, 90% of the workers were part-time or casual, 81% were concerned about understaffing as a safety issue, and 76% said they were considering leaving their job.

Swissport workers:

90%

part-time or casual

81%

concerned about understaffing
as a safety issue

76%

were considering leaving
their job

[4] <https://www.twu.com.au/wp-content/uploads/2022/06/Qantas-survey-infographic-7.pdf>

[5] <https://www.twu.com.au/wp-content/uploads/2022/09/Swissport-safety-survey-infographic-1.pdf>

SWISSPORT: A CASE STUDY

Swissport operates a low-cost model to win contracts from airlines over competitors. Until severe airport chaos and understaffing pressured Swissport to advertise some full-time positions, workers were all engaged on a 'permanent part-time' basis or as casuals.

Swissport is a hostile company to unions and its workforce, known for its intimidation tactics to keep wages and conditions low, a poor safety record, deliberate understaffing of rosters, evasion of overtime and penalty rates, and a high turnover of staff.

The company's downward pressure on the industry arises out of an enterprise agreement, voted up by workers misled into thinking it would improve their pay. The agreement was approved in 2012 despite union objections, and in place until 2020 when it was quashed by the Fair Work Commission. This enterprise agreement allowed for:

- **Just 60 hours guaranteed a month (no weekly guarantee);**
- **Shift lengths of only three hours;**
- **Split shifts which were prohibited by the Award;**
- **Below award rates for weekends, Good Friday, Christmas and public holidays; and**
- **Absence of payment for overtime, night work and relevant aviation allowances per the minimum standards in the Airline Operations - Ground Staff Award.**

These conditions meant many Swissport workers have struggled with daily life, unable to earn enough money and continually desperate to pick up extra hours.

In 2017, an exposé by the media revealed low paid Swissport workers were sleeping at the airports between split shifts[6], often at the airport for 12 hours but paid for only six.

Media also revealed that the working conditions had compromised safety with high injury rates among workers[7]. Failures at Swissport on security and safety were also exposed[8].

[6] <https://www.smh.com.au/business/workplace/wages-agreement-terminated-for-airport-workers-who-slept-at-terminal-between-shifts-20190806-p52egw.html>

[7] <https://www.abc.net.au/7.30/airport-workers-speak-out-about-poor-work/8371230>

[8] <https://www.smh.com.au/national/workers-point-to-security-flaws-at-canberra-and-perth-airports-20170803-gxousf.html>

The 2012 enterprise agreement was in place paying thousands of workers below award rates for over seven years before it was terminated by the Fair Work Commission in 2019, with its final days of operation in early 2020[9]. By then Swissport had failed already to get its 2017 enterprise agreement approved[10] and had lost a Federal Court case seeking approval for its split shifts[11].

A 2018 enterprise agreement also had a long saga at the Fair Work Commission, suffering two rejections and requiring several undertakings for it to pass in 2021. The TWU maintains that it leaves workers worse off than the Award and is now too complicated for workers to understand their entitlements.

Despite all of this, plus a dreadful safety record including 134 injuries of a Sydney staff of 324 in just one year, Qantas awarded Swissport the majority of its outsourced jobs at the largest ports - Sydney and Melbourne domestic, and Canberra.

EXPLOITING THE 'VANISHING WINDOW OF OPPORTUNITY'

Four Federal Court judges unanimously agreed that Qantas outsourcing around 1700 workers was at least in part motivated to avoid collective bargaining and possible protected industrial action.

COVID-19 presented the perfect opportunity for Qantas management to carry out its decade-long plan to outsource its ground operations workforce. An internal Qantas document which surfaced in evidence before the Federal Court outlined a 2020 Vision strategy for the airline including "BTW (below the wing) ground handling exited" by 2020[12].

[9] <https://www.smh.com.au/business/workplace/wages-agreement-terminated-for-airport-workers-who-slept-at-terminal-between-shifts-20190806-p52egw.html>

[10] <https://www.theguardian.com/australia-news/2017/aug/31/wage-deal-that-union-said-ripped-off-airport-workers-rejected-by-fair-work>

[11] <https://www.smh.com.au/business/workplace/airport-workers-should-not-be-used-and-abused-court-rules-against-airport-split-shifts-20190125-p50trd.html>

[12] <https://www.smh.com.au/business/companies/qantas-pandemic-ground-crew-exit-had-been-on-the-cards-for-a-decade-20200907-p55t4x.html>

Further evidence from an internal Qantas presentation cited ‘vanishing window of opportunity’ under ‘Prioritisation Criteria’ for ‘Ground Handling model/outsourcing approach’. The slide was further annotated by then Chief Operating Officer Paul Jones to say “+open EBAs 2020 DEC” – referring to the QAL and QGS ground handling enterprise agreement negotiations.

In his judgment, Justice Lee wrote:

“

Further, despite his evidence to the contrary, at the time when Mr Jones wrote “+open EBAs 2020 DEC”, I am reasonably satisfied that Mr Jones believed that one reason for pursuing outsourcing in 2020 was to avoid Qantas being in a position where it had to bargain with the Union and its members from December 2020 and face the prospect of industrial action – just when he then considered (regrettably over-optimistically) that flights might just be getting back to some degree of normality in 2021.

”

The ‘vanishing window of opportunity’ was referred to in further evidence, and clearly demonstrated that workers were outsourced under the cover of the pandemic to avoid enterprise bargaining rights.

In addition to the unlawful outsourcing, Qantas carried out an overzealous redundancy programme, gutting the airline of roughly 9,000 workers despite being the largest recipient of JobKeeper in Australia, to the tune of \$856 million[13]. In large part, the redundancies would have removed swathes of QAL workers on higher wages and full-time contracts from the business, with Qantas now on a frantic recruitment drive with pay and conditions in accordance with inferior subsidiary agreements.

[13] <https://www.afr.com/politics/federal/big-business-hands-back-267m-in-jobkeeper-cash-20211207-p59fj1#:~:text=Qantas%20received%20the%20largest%20share,%24157%20million%20for%20Star%20Entertainment.>

THE IMPACT OF A GAMED SYSTEM

The severe detriment to working families caused by Qantas' evasion of enterprise bargaining rights clearly demonstrates the importance of a fair bargaining system to lift wages and conditions, protect secure jobs and ensure safe standards.

The TWU's June 2022 survey of outsourced Qantas workers, taken roughly 18 months after they lost their jobs, showed almost half of the workers were still unemployed or relying on casual work.

Of those that had found work, 70% said they were worse off in their new jobs. Only a quarter remained in aviation, while 43% had to retrain or reskill.

Unilateral wage freezes not only bypass enterprise bargaining negotiations but have a lasting impact on lifetime wages and superannuation. Analysis by the Australia Institute Centre for Future Work showed some Jetstar workers could lose over \$200,000 in lifetime incomes and superannuation because of the 2014-16 wage freeze^[14].

Despite Alan Joyce making a \$24 million pay packet in 2018, it wasn't until 2019 that Qantas announced a small bonus scheme of \$2,000 to make up for the wage freeze. The bonus had restrictive conditions attached, tied to further wage suppression. Most workers never received the payment either because they challenged a substandard deal through protected industrial action, or were illegally outsourced before they had the opportunity to bargain a new agreement.

In 2022, Qantas repeated the tried and tested model. Following two years of stand-downs, to achieve a one-off \$5,000 payment, workers had to sign onto an agreement that included two years of wage freezes followed by two years of 2% increases. Meanwhile, Alan Joyce enjoyed a pay increase of 15% for FY21-22 as well as \$4 million in a bonus shares scheme.

[14] https://www.futurework.org.au/the_long_term_costs_of_frozen_wages

CUMULATIVE THREATS

Qantas management has created an environment of fear that undermines good faith bargaining. Workers have faced actual outsourcing, threats of outsourcing, agreement termination applications, 'bonus' bribes, and unilateral wage freezes.

The cumulative effect is that workers enter the bargain from a disempowered position knowing that Qantas expects them to sacrifice pay and conditions built up over decades.

Workers are fighting to hold on to whatever they can, rather than negotiating fairly with their employers to improve the lives of hardworking families in a sustainable way for the business.

A new report by the Centre for Future Work^[15] reviewed Qantas' attempt to terminate its agreement with international cabin crew.

The report said:

“

While the international flight crew agreement was the first EA targeted with this strategy, Qantas clearly intended to send a signal to other employee groups that they would face similar sanctions if they dared resist the company's wage suppression demands. Meanwhile, the deliberate shedding of experienced, trained staff left the airline woefully unprepared to serve customers when air travel did return - with resulting and well-reported chaos hamstringing Qantas's operations throughout the recovery.

”

[15] https://www.futurework.org.au/qantas_termination_threat_shows_why_ir_reform_is_crucial

SAFETY AND SERVICE STANDARDS PLUMMET

Since the illegal outsourcing, a number of serious safety incidents have occurred in ground handling.

A dossier[16] of serious safety incidents compiled by the TWU from staff memos sent to workers by Swissport revealed the company's appalling lack of enforced safety protocols and training, severe understaffing and shocking safety culture.

Between January and August, the dossier revealed numerous incidents at Sydney airport, including:

- **Firearms unloaded onto arrivals baggage carousels**
- **Dangerous goods loaded without the pilots' knowledge**
- **Passenger stairs removed while doors were open**
- **Cargo doors left open**
- **Vehicle collisions with refueling hoses**
- **Vehicle collisions and speeding causing equipment damage**
- **Workers continuing to work while injured**
- **Weight imbalances**

Several of the memos acknowledge understaffing as a safety issue. One memo says: "The business is acutely aware that our human resource levels are simply not at a sustainable level to meet the ongoing demand from the airlines."

Incidents such as vehicle collisions have also damaged equipment and aircraft at other contractors like Dnata and Menzies. Dnata workers were told in a memo they were not to use the term 'under the pump' to explain safety incidents.

Passengers have experienced the erosion of safety and service standards formerly associated with the flying kangaroo, which was in line with the premium prices charged by the airline.

[16] <https://www.twu.com.au/wp-content/uploads/2022/09/Swissport-infographic-3.pdf>

CONCLUSION

Qantas' plethora of tactics to avoid enterprise bargaining and associated rights has trashed the airline, abused workers, and left passengers stranded. It has also exposed the gaping flaws in the system.



Qantas acts more like a dictatorship than a business. Even when forecasting a \$1.2 billion profit for the first half of FY22, Qantas announced a 1% pay increase for workers achieving the airline a double win of a PR hit, and a reminder of who calls the shots. There was no mention of enterprise bargaining - the system for negotiating fair pay increases.



Aviation is a decimated industry. The pandemic grounded planes, but Joyce-led Qantas shifted the dynamics of the industry, skewing the economic make up of aviation towards ludicrous executive bonuses and shareholder dividends while systematically dismantling secure jobs and decent pay and conditions.



The aim of the game has been to disempower workers. The result is an industry on its knees. We must restore good, safe and secure jobs to aviation, and the best way to do that is to give workers a fair go.



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