



3 April 2025

Dear Associate,

AG2025/613 – Application by Qantas Airways Limited

We refer to the above matter and the submissions provided by Qantas in response to the concerns raised in the AFAP's F18 declaration.

The submissions from Qantas do not address the concerns raised by the AFAP that the *Qantas Airways Limited Pilots (Short Haul) Enterprise Agreement 2024 (EBA9) (Agreement)* does not comply with the requirements of the *Fair Work Act 2009 (Cth) (FW Act)* for the following reasons:

The objection based on s 186 of the *Fair Work Act 2009 (Cth)*

1. The scope of cl 11.13, that limits the capacity of the union to initiate a dispute about clauses that confer an entitlement on the union, does not conform with the following principles observed in Yallourn:
 - i. Once the employees (or a majority) have voted to approve an enterprise agreement that provides for a union to be a party (even on the assumption that it must give notice under s 201(2)), both those employees and their employer will have expressed agreement to the union becoming a party to the enterprise agreement, with all the rights of a party.
 - ii. A union covered by an agreement has a workplace right within the meaning of s. 341(1)(a) of the FW Act because it has a role or responsibility under the agreement and under various provisions of the Act to initiate or participate in a dispute settlement process within the within the meaning of ss 341(2)(j) and 186(6)) and to initiate other proceedings in relation to contravention of or compliance with the agreement.
 - iii. Since the union has a right to initiate proceedings in a Court, s 186(6) requires the Agreement to provide a procedure to resolve a dispute that would be litigated in such a matter, because that dispute would arise under the agreement, even if no individual employee had initiated a complaint (see s 540(2)).
 - iv. s 186(6)(a)(i) requires, “a procedure that requires or allows [the Commission] ... to settle disputes ... about **any matters** arising under the agreement” (emphasis added). Therefore, a dispute procedure that precludes unions who are parties covered by the agreement from initiating a dispute about a matter arising under it for which it has a workplace right, would defeat the purposes ss 186(6) and 341(1) are intended to serve.

AUSTRALIAN FEDERATION OF AIR PILOTS

MELBOURNE OFFICE
LEVEL 4 132-136 ALBERT RD
SOUTH MELBOURNE VIC 3205
T: 03 9928 5737 F: 03 9699 8799

BRISBANE OFFICE
33 MONTPELIER ROAD
BOWEN HILLS QLD 4006
T: 03 9928 5737 F: 03 9699 8799

E: ADMIN@AFAPORG.AU
WWW.AFAPORG.AU

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The objection concerning First Officers under Training (“FOTs”)

1. Qantas is incorrect to assert that the First Officers it labels First Officers under Training (FOTs) are not covered by *Air Pilots Award 2020* (the **Award**).
2. The pilots that Qantas label FOTs are all experienced commercial pilots who successfully apply for a pilot position at Qantas. These pilots are ineligible to apply or be accepted for these positions unless they already hold a commercial pilot’s licence and a significant amount of pilot experience.
3. The FOTs are then provided with training in a narrow body aircraft simulator (either B737 or A320 family) before doing a significant amount of “line training” in the aircraft. During this line training the FOTs occupy the right-hand seat (First Officer seat) and fly the aircraft on revenue flights (with passengers on board) for a number of months before being “cleared to line”.
4. Very simply, they are experienced pilots who apply for a pilot position and during the training occupy an aircraft control seat and fly the aircraft on revenue flights with passengers on board. To assert that they are not pilots covered by the Award is incorrect.
5. It should also be noted that clause 13 of the Award contains provisions specifically detailing pilot training and training arrangements. This reinforces that these pilots, whether under training or not, are covered by the Award. Clause 13.6 specifically refers to pilots under type rating training, even providing an ability for the employer to bond pilots. Clause 13.6(b) of the Award states (*emphasis added*):

“(b) For the avoidance of doubt a training bond can be entered into between an employer and a pilot only in respect of:

1. ***class and type rating training necessary to operate a particular aircraft, including the aircraft type for which the pilot was initially employed (including pre-employment training and initial class and type rating training);***
6. Under Clause 27.4 of the proposed Agreement, the annual salary rate for a FOT is \$80,838.55 until “cleared to line”.
7. The minimum annual salary rate for a B737 or A320 First Officer under the Award is \$127,214.88.
8. The AFAP maintains it concern that the Agreement is not capable of meeting the better off overall test in circumstances where these pilots (labelled FOTs) receive a salary \$46,376.33 less than they would be entitled under the Award for an indeterminate period before they are “cleared to line”. The period is indeterminate because situations out of the FOT’s control can extend a training program well beyond the expected training timeline. In the experience of our Qantas members and pilot representatives, while Qantas may aim to complete training up to “clear to line” status within a period

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MELBOURNE OFFICE
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SOUTH MELBOURNE VIC 3205
T: 03 9928 5737 F: 03 9699 8799

BRISBANE OFFICE
33 MONTPELIER ROAD
BOWEN HILLS QLD 4006
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WWW.AFAP.ORG.AU

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of 4-6 months, a training program up to “clear to line” status will commonly take 6-9 months, sometimes longer.

Proposed remedy

1. The AFAP reiterates its position that it would support the approval of the proposed Agreement if:
 - The new model disputes term for enterprise agreements (which provides for a union covered by the Agreement to initiate a dispute in its own right) replaces the current clause or the Applicant gives an undertaking to the same effect; and
 - The Applicant gives an undertaking to provide the minimum salary to a FOT equivalent to the salary of a Narrow Body Aircraft - First Officer classification under the Award until cleared to line.

Regards,

Patrick Larkins

Senior Industrial/Legal Officer



AUSTRALIAN FEDERATION OF AIR PILOTS

LEVEL 4, 132-136 ALBERT ROAD
SOUTH MELBOURNE, VIC 3205
T 03 9928 5737 F 03 9699 8199

WWW.AFAP.ORG.AU

Foundation Member of IFALPA

AUSTRALIAN FEDERATION OF AIR PILOTS

MELBOURNE OFFICE
LEVEL 4 132-136 ALBERT RD
SOUTH MELBOURNE VIC 3205
T: 03 9928 5737 F: 03 9699 8799

BRISBANE OFFICE
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