



Queensland Council Unions

Submission to the Independent Inquiry into Insecure Work

20 January 2012

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Introduction

The Queensland Council of Unions (QCU) is the peak union body in Queensland, with 35 affiliated unions covering around 350 000 Queensland workers. The QCU is the state branch of the Australian Council of Trade Unions (ACTU).

The QCU is committed to improving the working, economic and social lives of Queensland workers. Providing individual workers with the option to work on a full time basis if so desired is one avenue towards achieving this goal. Employees should not be forced into part time, casual or temporary employment simply because the employer does not want a full time workforce. The employment relationship between a worker and his/her employer should allow the worker to have a say in their preferred employment status.

Over the past decade there has been a significant decrease in the level of full time employment to the extent that the full time employment rate in this country has reduced from around 80% to around 60%. This has reduced the opportunity for workers to secure full time employment which has resulted in a reduced standard of living for these workers and their families.

In this submission, we detail the impacts of insecure employment on employees and their families; examine the reasons for the increase in insecure employment and offer solutions.

It is the strong view of the QCU that in overall terms, the increase in insecure employment has been to the detriment of workers. As a consequence, measures need to be put in place to curb this ongoing and increasing trend.

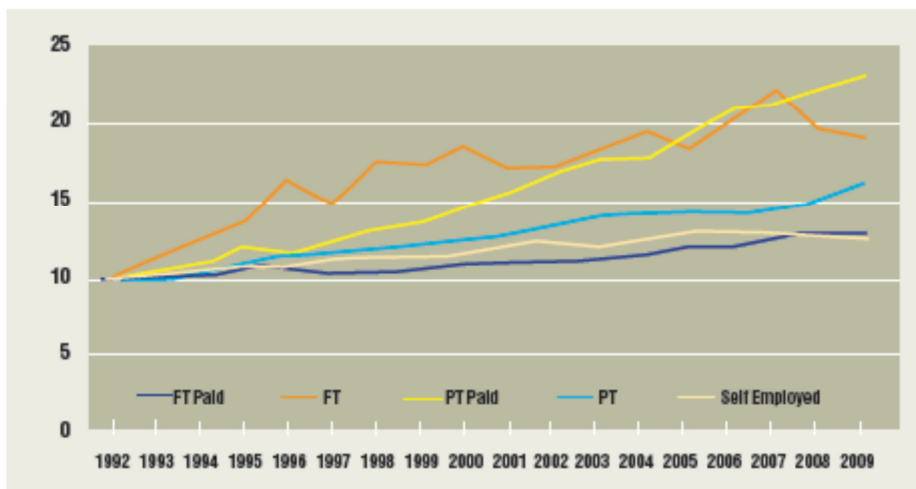
The QCU supports this Inquiry as it will highlight the problems caused by insecure work and should lead to the Federal Government developing and implementing solutions. Obtaining secure employment will not only lead to better lives for employees but will be of benefit to employers as greater productivity and profits should be the by-product of a more stable and contented workforce.

The financial burden on the Federal Government will reduce as a larger percentage of employees in full time work will result in reduced numbers of people seeking social security and other benefits and will lessen the burden on the old age pension as more citizens will be able to fund their retirement.

The chart below demonstrates the increase in non-standard employment from 1992 to 2009 and the resultant decline in full time employment particularly since 2007.¹

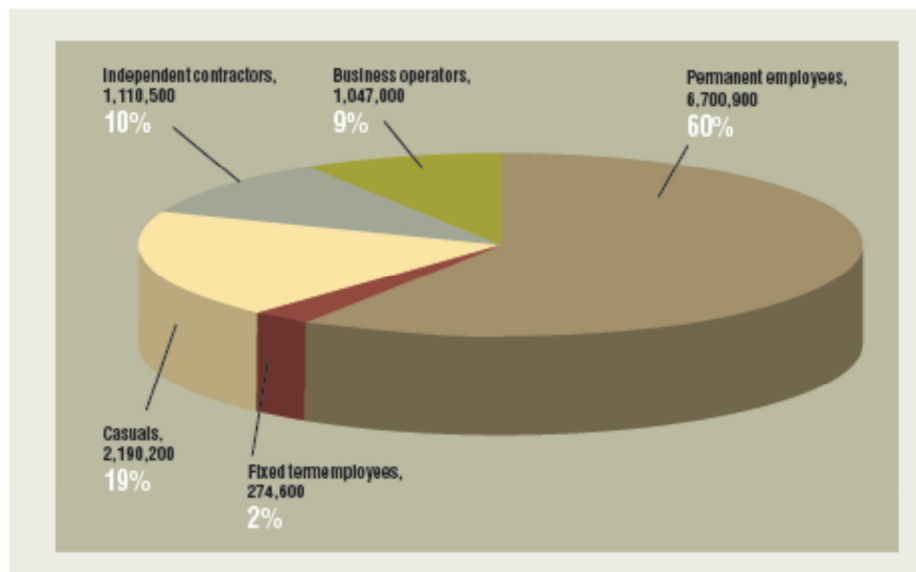
¹ Australian Council of Trade Unions, 2011. *Insecure work, anxious lives: the growing crisis of insecure work in Australia*. ACTU.

Figure 1: Growth in non-standard forms of employment, 1992 – 2009, Base Index = 100 ¹



The chart below shows the percentage of Australian workers in each of the different categories of employment. The significant statistic is that only 60% of workers are in full time employment.²

Figure 2: Forms of employment, Australia, 2010. ²



² Australian Council of Trade Unions, 2011. *Insecure work, anxious lives: the growing crisis of insecure work in Australia*. ACTU.

Chapter1 Terms of Reference

The Terms of Reference³ are set out below:

The ACTU is committed to consulting widely with the Australian community and invites all interested stakeholders to make written submissions. Public hearings will be held around Australia during February and March 2012.

The ACTU has asked the panel, chaired by the Hon Brian Howe, to consult and report on the issue of insecure work in Australia. The Inquiry panel has been asked to consider:

- *The extent of insecure work in Australia;*
- *The causes of insecure work and its prevalence in modern Australia;*
- *The workers that are most at risk of insecure work and why;*
- *The level of compliance with applicable labour laws and any barriers to their effective enforcement;*
- *The effect of insecure work on:*
 - o *Financial security,*
 - o *Occupational health and safety of workers and workplaces,*
 - o *Wellbeing and health of workers outside the workplace, including impact on family and other relationships,*
 - o *Training and skills development,*
 - o *Career progression and opportunities,*
 - o *Regional communities, Social inclusion,*
 - o *Community organisations;*
- *The social and economic cost of insecure work to employees, employers, government, and the Australian community;*
- *The rights and entitlements/working conditions that can best assist to provide security for workers;*
- *Relevant international human rights and labour standards.*

The Inquiry will provide recommendations to address any negative effects that it identifies as being associated with insecure work and/or insecure work itself. Without otherwise limiting the nature of the recommendations the independent Inquiry may wish to make, in formulating its recommendations it must have regard to:

- *International examples of effective measures that can be taken;*
- *Protections that currently exist that could be effective if better enforced and/or which require amendment;*
- *Additional measures that can be taken by:*
 - o *Unions,*
 - o *Employers,*
 - o *Government.*

³ ACTU, 2011. *Secure Jobs. Better Future*. <<http://securejobs.org.au/independent-inquiry-into-insecure-work-in-australia/terms-of-reference/>> as at January 16, 2012.

Usually in making a submission to an Inquiry such as this, individuals and organisations comment on and/or make submissions on some or all of the headings listed in the Terms of Reference. On this occasion the Queensland Council of Unions is making submissions concerning certain parts of the Terms of Reference only. Our submission focuses on the Queensland experience with respect to insecure employment and the issues we see as more significant.

We have determined to adopt this approach as the submission of the ACTU - our parent body - will cover all issues. Further we are aware the individual case studies will bring to the Inquiry anecdotal data that will show the extent of the problem and its impacts on the lives of workers.

Chapter 2 What is Insecure Work?

The ACTU report *Insecure Work, Anxious Lives* sets out the differences between secure and insecure employment. In doing so it indicates that workers afforded the following rights can be considered to have secure employment:

- *Fair and predictable pay and hours of work;*
- *A say about how, where and when they work and to be consulted about change;*
- *Access to important conditions, like annual leave, paid sick leave, overtime, penalty rates and long service leave;*
- *Quality skills and training, and career opportunities; and*
- *A healthy and safe work environment.*⁴

Workers in insecure employment do not have many of these rights. Fortunately workers in secure work are able to rely upon these basic employment rights that are the cornerstone upon which democratic societies are built.

All employers and governments need to take responsibility for the provision of these basic rights to all workers. One way to achieve this outcome is to reduce the level of insecure employment.

Insecure work can be defined as work that is not full time but generally it takes the following forms:

- casual work
- fixed term work
- contracting
- labour hire
- seasonal work

The QCU acknowledges that some of these categories of employment are necessary to deal with certain types of work. This could mean the engagement of a casual worker to deal with seasonal, intermittent and short peaks of work and fixed term contract work is one way of backfilling a permanent worker on an extended period of leave.

Unfortunately, there are too many cases where workers are employed in one of the categories listed above, not in a legitimate circumstance but simply because the employer does not want to offer the employee a full time position. **The QCU purports that the employer has transferred the risk to the employee.** However this diminution of responsibility by employers hoping to maximise profits often has a negative impact on the worker and his/her family.

In making this claim we acknowledge that some employees prefer to work on a casual basis or enter into part time engagements for a variety of reasons, usually to accommodate family and caring responsibilities and the like. These employees deserve to have the right to work on the basis they choose as long as the choice lies with the employee.

⁴ Australian Council of Trade Unions, 2011. *Insecure work, anxious lives: the growing crisis of insecure work in Australia*. ACTU.

Chapter 3 Impact of Insecure Work on Workers, Families and the Community

Workers engaged in insecure work face:-

- no or limited job security;
- less than full time hours;
- reduced access to professional development and on the job training;
- income insecurity;
- greater exposure to work related injuries;
- greater risk of termination of employment; and
- fewer representation rights.

Currently, employees engaged in insecure work are often part of the cohort of workers who earn low incomes and therefore struggle to support their families. In a lot of cases the majority of the income is spent on providing the necessities of life. This places pressure on these families to provide the basics for their children such as food, clothing, health care and education. We argue children raised in these circumstances are exposed to undue hardship.

These families rely on the support of relatives, governments and the community (charity and friends) to survive. Access to full time employment will improve this situation as they will have more money to provide these basic necessities. In the future, one of the long term impacts of sustained low income is that workers will not have saved sufficient money throughout their working life to provide for themselves and their dependent/s in retirement.

Workers engaged in insecure employment will have saved limited or no money during their working lives.

Superannuation contributions and benefits are linked to the quantum of income an employee earns and the number of hours dictates income for workers engaged in insecure work, therefore, these employees will have limited superannuation benefits to rely upon in retirement. Women are particularly vulnerable in terms of superannuation retirement benefits due to breaks in service, such as caring for children and child-rearing, inadequate access to and cost of childcare and lack of flexible work arrangements in the workplace. Statistics outlined in Chapter 4 show that in percentage terms, there are more women in insecure employment.

The combination of these factors will mean the Federal Government will have to at least partly fund their retirement.

The financial burden that will be placed on government to look after employees as more and more non full time workers retire will become a major financial problem which will require innovative solutions if the trend towards a casualised workforce is not addressed.

Chapter 4 The Queensland Experience

In this state the total number of people employed is 2 348 200 with 1 677 200 employed in full time work. Around 70% of employees are engaged in full time employment.

Whilst this percentage is marginally better than the national average it is well short of 90% or 100% full time work.

One of the potential reasons for this variation may be the two speed economy that we are currently experiencing in this state.

The workers employed in those industries that are booming (such as the mining sector) are earning above average incomes and have access to full time employment. However workers in industries such as hospitality, tourism and retail are facing tough times as these industries are struggling to remain viable. In these industries in particular, insecure employment is a significant issue. Therefore the suggestion that employees in Queensland are protected from tough economic times because of the mining boom is inaccurate.

The figures in the following table details the employment rates in Queensland for full time and other workers in this state:⁵

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LABOUR FORCE STATUS (AGED 15 YEARS & OVER)—Queensland

	TREND					SEASONALLY ADJUSTED					Civilian population aged 15 years and over
	Employed full time	Total employed	Total unemployed	Unemployment rate	Participation rate	Employed full time	Total employed	Total unemployed	Unemployment rate	Participation rate	
	'000	'000	'000	%	%	'000	'000	'000	%	%	
	MALES										
November 2008	1 056.6	1 219.7	50.8	4.0	74.1	1 068.1	1 225.0	51.4	4.0	74.4	1 714.6
November 2009	1 033.5	1 217.2	77.6	6.0	73.6	1 031.7	1 213.2	77.8	6.0	73.4	1 758.8
2010											
November	1 064.7	1 258.6	71.5	5.4	73.8	1 063.9	1 261.0	70.7	5.3	73.9	1 802.1
December	1 064.8	1 258.8	72.4	5.4	73.8	1 073.4	1 268.4	75.6	5.6	74.5	1 803.6
2011											
January	1 065.0	1 258.0	72.5	5.4	73.7	1 053.5	1 257.0	72.5	5.5	73.6	1 805.6
February	1 065.3	1 256.4	71.6	5.4	73.5	1 068.1	1 248.7	70.7	5.4	73.0	1 807.7
March	1 065.6	1 255.1	70.5	5.3	73.3	1 067.4	1 252.3	71.5	5.4	73.2	1 809.6
April	1 066.0	1 254.6	70.0	5.3	73.1	1 067.0	1 257.4	70.0	5.3	73.3	1 811.7
May	1 065.9	1 255.0	70.6	5.3	73.1	1 064.8	1 258.8	70.4	5.3	73.3	1 813.9
June	1 065.9	1 256.5	72.0	5.4	73.2	1 067.9	1 257.3	64.1	4.8	72.8	1 816.0
July	1 066.3	1 258.5	73.7	5.5	73.3	1 065.5	1 254.5	76.9	5.8	73.3	1 817.5
August	1 067.3	1 260.7	75.1	5.6	73.4	1 064.5	1 258.2	83.1	6.2	73.7	1 819.1
September	1 069.0	1 263.4	75.9	5.7	73.5	1 065.6	1 262.8	73.2	5.5	73.4	1 820.6
October	1 071.0	1 266.2	76.1	5.7	73.7	1 075.9	1 271.8	75.4	5.6	73.9	1 822.6
November	1 072.9	1 268.8	76.0	5.7	73.7	1 074.8	1 269.4	73.2	5.5	73.6	1 824.6

⁵ Australian Bureau of Statistics. *Labour Force*. November, 2011.

FEMALES											
November 2008	577.6	1 034.7	40.5	3.8	61.4	586.1	1 032.3	38.3	3.6	61.1	1 750.8
November 2009	576.6	1 038.8	64.0	5.8	61.4	577.2	1 032.8	66.0	6.0	61.2	1 796.2
2010											
November	592.6	1 071.9	66.8	5.9	61.9	605.8	1 078.1	65.7	5.7	62.2	1 839.5
December	596.3	1 072.9	66.8	5.9	61.9	592.1	1 072.2	71.2	6.2	62.1	1 841.9
2011											
January	598.4	1 072.9	66.0	5.8	61.8	603.9	1 077.1	64.0	5.6	61.9	1 844.2
February	599.0	1 072.6	64.6	5.7	61.6	589.9	1 060.4	66.2	5.9	61.0	1 846.6
March	598.9	1 073.2	63.1	5.6	61.5	604.8	1 070.3	63.7	5.6	61.3	1 848.9
April	598.8	1 074.5	62.3	5.5	61.4	599.8	1 084.2	59.5	5.2	61.8	1 851.2
May	599.7	1 076.4	62.3	5.5	61.4	598.3	1 075.8	59.6	5.2	61.3	1 853.6
June	601.6	1 078.1	63.2	5.5	61.5	596.1	1 076.5	65.5	5.7	61.5	1 855.9
July	603.7	1 079.2	64.4	5.6	61.6	605.4	1 080.0	62.4	5.5	61.5	1 857.7
August	605.7	1 079.8	65.6	5.7	61.6	605.5	1 078.1	72.8	6.3	61.9	1 859.6
September	607.3	1 080.6	66.6	5.8	61.6	612.7	1 078.4	60.8	5.3	61.2	1 861.4
October	608.4	1 081.2	67.5	5.9	61.6	610.4	1 087.9	66.7	5.8	61.9	1 863.8
November	608.9	1 082.3	68.1	5.9	61.7	602.3	1 078.9	70.1	6.1	61.6	1 866.2
PERSONS											
November 2008	1 634.2	2 254.3	91.3	3.9	67.7	1 654.1	2 257.3	89.6	3.8	67.7	3 465.4
November 2009	1 610.1	2 256.1	141.6	5.9	67.4	1 608.9	2 246.1	143.8	6.0	67.2	3 555.0
2010											
November	1 657.3	2 330.5	138.2	5.6	67.8	1 669.6	2 339.0	136.4	5.5	68.0	3 641.7
December	1 661.2	2 331.7	139.2	5.6	67.8	1 665.5	2 340.6	146.8	5.9	68.2	3 645.5
2011											
January	1 663.4	2 330.8	138.5	5.6	67.7	1 657.4	2 334.1	136.5	5.5	67.7	3 649.8
February	1 664.2	2 329.1	136.2	5.5	67.5	1 658.0	2 309.1	136.9	5.6	66.9	3 654.2
March	1 664.5	2 328.2	133.6	5.4	67.3	1 672.1	2 322.6	135.3	5.5	67.2	3 658.5
April	1 664.8	2 329.1	132.4	5.4	67.2	1 666.8	2 341.6	129.5	5.2	67.5	3 662.9
May	1 665.6	2 331.4	132.9	5.4	67.2	1 663.1	2 334.6	130.0	5.3	67.2	3 667.5
June	1 667.5	2 334.6	135.2	5.5	67.3	1 664.0	2 333.8	129.6	5.3	67.1	3 671.9
July	1 670.0	2 337.7	138.1	5.6	67.4	1 670.9	2 334.5	139.4	5.6	67.3	3 675.2
August	1 673.0	2 340.5	140.7	5.7	67.4	1 670.0	2 336.3	155.9	6.3	67.7	3 678.7
September	1 676.3	2 343.9	142.5	5.7	67.5	1 678.4	2 341.2	134.0	5.4	67.2	3 682.1
October	1 679.3	2 347.4	143.6	5.8	67.6	1 686.2	2 359.7	142.2	5.7	67.9	3 686.4
November	1 681.8	2 351.0	144.1	5.8	67.6	1 677.2	2 348.2	143.3	5.8	67.5	3 690.8

Chapter 5 Reasons for the Increase in Insecure Employment

The statistics (refer to ABS statistics provided in the Introduction) show that there has been a reduction in full time work and an increase in insecure work over the past two decades. To understand why this change has occurred it is necessary to examine the industrial environment for this period.

Firstly, enterprise bargaining had become the cornerstone of industrial relations systems in this country from the early 1990s. Negotiations at the workplace opened the door for individual employers through negotiation to make changes in their workplace in the pursuit of improving efficiency, effectiveness and productivity. Some of the changes sought by employers removed fundamental employee benefits and entitlements.

It is in this environment that some unenlightened employers have been able to remove casualisation limitation clauses and policies that ensured that full time work was at a high level and therefore available to employees. To achieve this end, employers usually advanced the argument that flexibility in the workplace is needed to maximise profits and that one way to achieve this outcome is to have less full time employees.

Secondly the introduction of the WorkChoices legislation - and its replacement the Fair Work Act - has entrenched the enterprise bargaining system and the concepts of seeking more efficient, effective and productive workforces. This transformation of the way pay increases are achieved has preconditioned employers and employees to change long-held work practices and entitlements such as secure employment.

Thirdly the introduction of modern awards to replace all other awards has (and will continue to as the existing awards are phased out) removed casualisation limitation clauses from awards where employers have not been able to convince employees to negotiate away such provisions through enterprise bargaining.

It is worth noting that Governments of both political persuasions have over this period introduced legislation that has allowed and assisted employers and businesses to dismantle long-standing full time work regimes in the interest of maximising profits.

These legislative changes which have moved the balance in power to employers has been to the detriment of the interests of employees obtaining full time work - a vital component of securing a living standard that can support the worker and his/her family.

Chapter 6 Solutions to Address the Issue

On the basis that changes to legislation assisted in creating this problem, changes to the existing legislation is not only necessary but is the best way to restore the industrial relationship between employers and employees back to a level playing field.

Firstly, the Federal Government can legislate to mandate insecure work limitation clauses be inserted into awards and certified agreements. Secondly, the Federal Government can legislate to mandate for the inclusion in awards and certified agreements clauses that require employers to consult unions on the make up of their workforce including the need to justify the employment of workers on any other basis than full time.

In a practical sense, employers would be required to provide to union employment data for each employee through the consultative mechanisms in the relevant industrial instrument. This provision which would also require employers to substantiate the engagement of workers as casuals, part time, contractors or as labour hire would also move the onus on justifying the need for all types of employment to employers.

Further unions would be able to refer disputed employment practices to Fair Work Australia which would be empowered to make rulings as to whether employees have been correctly employed. This power would extend to allowing Fair Work Australia to direct employers to alter the employment status of employees.

An example of such an arrangement is the power bestowed on the Queensland Public Service Commission Chief Executive Officer under section 149 of the Queensland Public Service Act (Review of Status of Temporary Employee) and under section 7.3 of Public Service Directive 20/10 Temporary Employment with respect to reviewing temporary employment within the public sector in Queensland. Clause 7.3 of the Directive is set out below⁶.

7.3 Review of temporary employment status

- (a) Where a temporary employee completes two years of continuous service in the same role in an agency, the agency must conduct a review of the temporary status of the employee.*
- (b) For the purposes of this clause, continuous service in the same role can include:*
 - (i) a role which is essentially the same (e.g. a payroll officer may provide a service to different client groups), or*
 - (ii) Rotation through a range of duties within a generic role description (e.g. rotation through financial and payroll processing duties under a generic entry-level role description).*
- (c) The review of temporary status referred to at section 7.3(a) also applies to non-continuous service where a temporary employee has performed a cumulative total of two years service in the same role in an agency, provided that the breaks in employment do not exceed a total of three months in the previous two year period.*
- (d) In conducting the review and deciding whether a temporary employee is to be converted to tenured status at level, the chief executive (or delegate) of the agency must:*

⁶ Queensland Public Service Commission, Section 149 of the Queensland Public Service Act (review of status of temporary employee), section 7.3 of Public Service Directive 20/10 Temporary Employment.

- (i) *establish whether the temporary circumstances continue to exist and if the role is ongoing*
 - (ii) *consider the availability of funding for the role*
 - (iii) *consider agency employees requiring placement*
 - (iv) *ensure the requirements of the recruitment and selection directive for advertising temporary vacancies above entry-level are met, and*
 - (v) *consider whether the person satisfactorily meets the agreed performance objectives of the role.*
- (e) *The review of the temporary status of the employee must be finalised, and the employee notified in writing of the decision, within 28 days of the employee becoming eligible for review.*

Thirdly, the Federal Government can legislate to mandate the insertion of full time employment maximisation clauses into awards. Such clauses will result in employers having to convert insecure positions into full time positions where there is no legitimate reason for the position to not be full time.

The State Government Departments Certified Agreement 2009 contains the following provisions at Clause 7.2 under Employment Security and Permanent Employment.⁷

7.2 Permanent Employment

The parties are committed to maximising permanent employment where possible. Casual or temporary forms of employment should only be utilised where permanent employment is not viable or appropriate. Agencies are encouraged to utilise workforce planning and management strategies to assist in determining the appropriate workforce mix for current and future needs.

These solutions should be pursued through the Federal Government review of the Fair Work Act which is scheduled to take place during the first part of 2012.

⁷ State Government Departments Certified Agreement 2009, Clause 7.2 - Employment Security and Permanent Employment

Recommendations

1. The QCU asserts that insecure work and the growing increase in such forms of insecure employment is highly detrimental to the interests of workers, their families, the community and the future economic prosperity of this nation.
2. The QCU calls on the Federal Government to amend the Fair Work Act to restore the power balance between workers and employers. This will be achieved by undertaking the solutions set out in chapter 6 and will have the effect of requiring employers to justify their employment practices and not simply employ workers in insecure employment because that best suits their business model and cuts down on their wages and on-costs.