



Jobs and Skills Australia Act 2022

No. 51, 2022

**An Act to establish Jobs and Skills Australia, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Jobs and Skills Australia Act 2022

No. 51, 2022

An Act to establish Jobs and Skills Australia, and for related purposes

[Assented to 9 November 2022]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the *Jobs and Skills Australia Act 2022*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after the end of the period of 7 days beginning on the day this Act receives the Royal Assent.	16 November 2022

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline of this Act

This Act establishes Jobs and Skills Australia, sets out the functions of Jobs and Skills Australia and deals with other matters such as the role of the JSA Director and administrative matters.

4 Definitions

JSA Director means the Jobs and Skills Australia Director.

paid work means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

rules means the rules made under section 30.

Secretary means the Secretary of the Department.

VET means vocational education and training.

VET course has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

Part 2—Establishment and functions of Jobs and Skills Australia

5 Simplified outline of this Part

This Part establishes Jobs and Skills Australia and sets out the functions of Jobs and Skills Australia.

The main functions are:

- (a) to provide advice to the Minister and to the Secretary on Australia's current and emerging labour market (including workforce needs and priorities) and Australia's current, emerging and future skills and training needs and priorities (including in relation to apprenticeships); and
- (b) to provide reports on the labour market and workforce skills and training needs and priorities to assist with government policy development and program delivery.

6 Establishment

Jobs and Skills Australia is established by this section.

7 Composition

Jobs and Skills Australia consists of the following:

- (a) the JSA Director;
- (b) staff made available to assist the JSA Director under sections 14 and 15.

8 Part of the Department for certain purposes

For the purposes of paragraph (a) of the definition of Department of State in section 8 of the *Public Governance, Performance and*

Accountability Act 2013, Jobs and Skills Australia is prescribed in relation to the Department.

Note: This means the JSA Director and the staff assisting the JSA Director are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

9 Functions of Jobs and Skills Australia

- (1) Jobs and Skills Australia has the following functions:
- (a) to provide advice to the Minister or the Secretary in relation to the following:
 - (i) Australia's current and emerging labour market, including advice on workforce needs and priorities;
 - (ii) Australia's current, emerging and future skills and training needs and priorities (including in relation to apprenticeships);
 - (iii) the adequacy of the Australian system for providing VET, including training outcomes;
 - (iv) issues relating to skills and training, and workforce needs, in regional, rural and remote Australia;
 - (v) pathways into VET and pathways between VET and higher education;
 - (vi) opportunities to improve employment, VET and higher education outcomes for cohorts of individuals that have historically experienced labour market disadvantage and exclusion;
 - (vii) opportunities to remove barriers to achieving gender equality in the provision of training and in the labour market, and opportunities to improve gender equality outcomes;
 - (b) to prepare capacity studies, including for emerging and growing industries and occupations;
 - (c) to undertake workforce forecasting, assess workforce skills requirements and undertake cross-industry workforce analysis;
 - (d) to undertake research and analysis on the resourcing and funding requirements for registered training organisations (within the meaning of the *National Vocational Education*

Section 10

- and Training Regulator Act 2011*) to deliver accessible quality VET courses;
- (e) to inform the public about the matters mentioned in paragraphs (a) to (d);
 - (f) to collect, analyse, share and publish data and other information about the matters mentioned in paragraphs (a) to (d) to inform policy development and program delivery; and
 - (g) any other function that:
 - (i) is conferred on Jobs and Skills Australia by the rules, by this Act or by any other law of the Commonwealth; or
 - (ii) is incidental or conducive to the performance of the above functions.
- (2) Jobs and Skills Australia must, before the end of each calendar year beginning on or after 1 January 2023, prepare and give to the Minister a report on Australia’s current, emerging and future skills and training needs and priorities (including in relation to apprenticeships) during the calendar year.
- (3) The Minister must table the report in each House of the Parliament:
- (a) within the period of 14 calendar days after receiving the report; or
 - (b) if no sitting day of the relevant House occurs within that period—on the next sitting day of that House after the end of that period.
- (4) Jobs and Skills Australia must, within 14 calendar days after giving the report to the Minister, publish the report:
- (a) on the Department’s website; or
 - (b) if the rules specify another manner in which the report is to be published—in that manner.

10 Performance of functions

In performing its functions, Jobs and Skills Australia must, where appropriate, consult and work with the following:

- (a) State and Territory governments;
- (b) relevant authorities of State and Territory governments;

- (c) employers, unions, training providers, universities and other industry stakeholders, and other persons or bodies with an interest in the labour market, workforce skills or workforce training needs.

Section 11

Part 3—Establishment and functions of the JSA Director and staff assisting

11 Simplified outline of this Part

This Part establishes the office of the JSA Director and sets out the JSA Director's role and functions and the staff assisting the JSA Director.

12 JSA Director

There is to be a Jobs and Skills Australia Director.

13 Functions of the JSA Director

The functions of the JSA Director are:

- (a) to assist Jobs and Skills Australia in the performance of its functions; and
- (b) such other functions as are conferred on the JSA Director by the rules, this Act or any other law of the Commonwealth; and
- (c) to do anything incidental or conducive to the performance of any of the above functions.

14 Arrangements relating to staff of the Department

- (1) The staff assisting the JSA Director are to be APS employees in the Department whose services are made available to the JSA Director, by the Secretary, in connection with the performance of any of the JSA Director's functions.
- (2) When performing services for the JSA Director, the persons are subject to the directions of the JSA Director.

15 Other persons assisting the JSA Director

- (1) The JSA Director may also be assisted by employees of Agencies (within the meaning of the *Public Service Act 1999*) whose services are made available to the JSA Director in connection with the performance of any of the JSA Director's functions.
- (2) When performing services for the JSA Director, the employees are subject to the directions of the JSA Director.

16 Consultants

- (1) The JSA Director may, on behalf of the Commonwealth, engage consultants to assist in the performance of the JSA Director's functions.
- (2) The consultants are to be engaged on the terms and conditions that the JSA Director determines in writing.

Part 4—Administration

17 Simplified outline of this Part

This Part deals with administrative matters relating to the office of the JSA Director, including the appointment of the JSA Director and the terms and conditions on which the JSA Director holds office.

18 Appointment

- (1) The JSA Director is to be appointed by the Minister by written instrument, on a part-time or full-time basis.

Note: The JSA Director may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) The JSA Director holds office for the period specified in the instrument of appointment. The period must not exceed one year.

- (3) A person may only be appointed as the JSA Director if the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

19 Acting appointments

- (1) The Minister may, by written instrument, appoint a person to act as the JSA Director:
 - (a) during a vacancy in the office of the JSA Director (whether or not an appointment has previously been made to the office); or
 - (b) during any period when the JSA Director:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

- (2) A person may only be appointed to act as the JSA Director if the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

20 Remuneration

- (1) The JSA Director is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the JSA Director is to be paid the remuneration that is prescribed by the rules.
- (2) The JSA Director is to be paid the allowances that are prescribed by the rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

21 Leave of absence

- (1) If the JSA Director is appointed on a part-time basis, the Minister may grant leave of absence to the JSA Director on such terms and conditions as the Minister considers appropriate.
- (2) If the JSA Director is appointed on a full-time basis:
 - (a) the JSA Director has the recreation leave entitlements that are determined by the Remuneration Tribunal; and
 - (b) the Minister may grant the JSA Director leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

22 Engaging in other paid work

- (1) If the JSA Director is appointed on a part-time basis, the JSA Director must not engage in any paid work that, in the Minister's opinion, conflicts or could conflict with the proper performance of the JSA Director's functions.
- (2) If the JSA Director is appointed on a full-time basis, the JSA Director must not engage in paid work outside the duties of the JSA Director's office without the Minister's approval.

23 Other terms and conditions

The JSA Director holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

24 Resignation

- (1) The JSA Director may resign the JSA Director's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

25 Termination of appointment

- (1) The Minister may terminate the appointment of the JSA Director:
 - (a) for misbehaviour; or
 - (b) if the JSA Director is unable to perform the duties of the JSA Director's office because of physical or mental incapacity.
- (2) The Minister may terminate the appointment of the JSA Director if:
 - (a) the JSA Director:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with the JSA Director's creditors; or
 - (iv) makes an assignment of the JSA Director's remuneration for the benefit of the JSA Director's creditors; or
 - (b) the JSA Director is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) the JSA Director:
 - (i) if engaged on a part-time basis—engages in paid work that, in the Minister's opinion, conflicts or could conflict with the proper performance of the JSA Director's duties (see subsection 22(1)); or

- (ii) if engaged on a full-time basis—engages, except with the Minister’s approval, in paid work outside the duties of the JSA Director’s office (see subsection 22(2)); or
- (d) the JSA Director fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

Part 5—Miscellaneous

26 Simplified outline of this Part

This Part contains miscellaneous provisions, such as provisions about Ministerial directions, annual reports, delegations and the general rule-making power.

27 Ministerial directions

- (1) The Minister may give the JSA Director directions about the way in which the JSA Director is to carry out any of the functions of the JSA Director or of Jobs and Skills Australia.
- (2) However, the Minister must not give directions about the content of any advice that may be given by the JSA Director or Jobs and Skills Australia.
 - (2A) A direction under subsection (1) must be in writing.
 - (2B) The Minister must table a copy of each direction given under subsection (1) in each House of the Parliament as soon as practicable after giving the direction.
- (3) The JSA Director must comply with a direction under subsection (1).
- (4) A direction under subsection (1) is not a legislative instrument.

28 Annual report

The Secretary, when preparing the Department's annual report under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period, must include information in that report about the performance of Jobs and Skills Australia's functions during the period.

29 Delegation

- (1) The Minister may, in writing, delegate the Minister's powers under subsection 19(1) or 21(1) or paragraph 21(2)(b) to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or an acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) The JSA Director may, in writing, delegate all or any of the JSA Director's functions or powers under this Act to an SES employee, or an acting SES employee, in the Department.
- (3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister or JSA Director, as the case requires.

30 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

*[Minister's second reading speech made in—
House of Representatives on 27 July 2022
Senate on 27 September 2022]*

(57/22)
