



# **Jobs and Skills Australia Amendment Act 2023**

**No. 54, 2023**

**An Act to amend the *Jobs and Skills Australia Act  
2022*, and for related purposes**

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



---

## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
<b>Schedule 1—Amendments</b>		<b>3</b>
	<i>Jobs and Skills Australia Act 2022</i>	3





# **Jobs and Skills Australia Amendment Act 2023**

**No. 54, 2023**

---

---

**An Act to amend the *Jobs and Skills Australia Act 2022*, and for related purposes**

[Assented to 17 August 2023]

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Jobs and Skills Australia Amendment Act 2023*.

---

## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	18 August 2023

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

---

## Schedule 1—Amendments

### *Jobs and Skills Australia Act 2022*

#### **1 Section 3**

Omit “such as the role of the JSA Director and administrative matters”, substitute “such as the establishment of the JSA Commissioner, JSA Deputy Commissioners and Ministerial Advisory Board”.

#### **2 Section 4 (after the heading)**

Insert:

In this Act:

#### **3 Section 4**

Insert:

*Chair* means the Chair of the Ministerial Advisory Board.

*Commissioner* means the JSA Commissioner or a JSA Deputy Commissioner.

*JSA Commissioner* means the Jobs and Skills Australia Commissioner.

*JSA Deputy Commissioner* means a Jobs and Skills Australia Deputy Commissioner.

#### **4 Section 4 (definition of JSA Director)**

Repeal the definition.

#### **5 Section 4**

Insert:

*Ministerial Advisory Board* means the Ministerial Advisory Board established under section 16A.

#### **6 At the end of section 5**

Add:

; and (c) to consult broadly on the performance of its functions.

## **7 Section 7**

Repeal the section, substitute:

## **7 Composition**

Jobs and Skills Australia consists of the following:

- (a) the JSA Commissioner;
- (b) the JSA Deputy Commissioners;
- (c) staff made available to assist the JSA Commissioner under sections 14 and 15.

## **8 Section 8 (note)**

Repeal the note, substitute:

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

## **9 Subsection 9(1)**

Omit “(1)”.

## **10 Subparagraph 9(1)(a)(ii)**

After “apprenticeships”, insert “, VET and higher education”.

## **11 Subparagraphs 9(1)(a)(iv) and (vi)**

Repeal the subparagraphs.

## **12 At the end of paragraph 9(1)(a)**

Add:

- (viii) the impact of workplace arrangements, including insecure work, on economic and social outcomes;

## **13 After paragraph 9(1)(c)**

Insert:



- 
- (ca) to identify labour market imbalances and analyse the demand and supply of skills;
  - (cb) to analyse skills needs and workforce needs, including in regional, rural and remote Australia, and in relation to migration;
  - (cc) to undertake studies, including on opportunities to improve employment, VET and higher education outcomes for cohorts of individuals that have historically experienced labour market disadvantage and exclusion, and support, where appropriate, the evaluation of outcomes of relevant programs and the measurement of targets for these cohorts;
  - (cd) to contribute to industry consultation forums;

#### **14 Subsections 9(2) to (4)**

Repeal the subsections.

#### **15 At the end of Part 2**

Add:

#### **10A JSA Commissioner must prepare annual work plan**

- (1) The JSA Commissioner must prepare a work plan, in writing, for each financial year beginning on or after 1 July 2023.
- (2) The work plan for a financial year must set out the key outcomes and priorities for the JSA Commissioner for the financial year.
- (3) In preparing a work plan for a financial year, the JSA Commissioner:
  - (a) must consult with:
    - (i) the Minister; and
    - (ii) the Ministerial Advisory Board; and
  - (b) may consult with:
    - (i) any other Ministers; and
    - (ii) any other person that the JSA Commissioner considers appropriate; and
  - (c) must invite public submissions.

- (4) The JSA Commissioner must publish the work plan for a financial year on the Jobs and Skills Australia website as soon as practicable after it has been finalised.
- (5) A work plan prepared under subsection (1) is not a legislative instrument.

**16 Part 3 (heading)**

Omit “**JSA Director and staff assisting**”, substitute “**JSA Commissioner, JSA Deputy Commissioners, staff assisting and Ministerial Advisory Board**”.

**17 Section 11 (paragraph beginning “This Part”)**

Repeal the paragraph, substitute:

<p>This Part establishes the office of the JSA Commissioner and JSA Deputy Commissioners and sets out the role and functions of the JSA Commissioner and JSA Deputy Commissioners. This Part also establishes the Ministerial Advisory Board and sets out the staff assisting the JSA Commissioner.</p>
---

**18 Section 12 (heading)**

Omit “**JSA Director**”, substitute “**JSA Commissioner**”.

**19 Section 12**

Omit “**Jobs and Skills Australia Director**”, substitute “**Jobs and Skills Australia Commissioner**”.

**20 Section 13 (heading)**

Omit “**JSA Director**”, substitute “**JSA Commissioner**”.

**21 Section 13**

Omit “**JSA Director**” (wherever occurring), substitute “**JSA Commissioner**”.

**22 After section 13**

Insert:

---

---

**13A JSA Deputy Commissioners**

There are to be up to 2 Jobs and Skills Australia Deputy Commissioners.

**13B Functions of a JSA Deputy Commissioner**

- (1) The functions of a JSA Deputy Commissioner are:
  - (a) to assist the JSA Commissioner in performing the JSA Commissioner's functions; and
  - (b) any other function conferred on the JSA Deputy Commissioner 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.
- (2) In performing those functions, a JSA Deputy Commissioner must comply with any directions of the JSA Commissioner.
- (3) A direction under subsection (2) is not a legislative instrument.

**23 Subsection 14(1)**

Repeal the subsection, substitute:

- (1) The staff assisting the JSA Commissioner are to be APS employees in the Department whose services are made available to the JSA Commissioner by the Secretary, in connection with the performance of any of the JSA Commissioner's functions.

**24 Subsection 14(2)**

Omit "JSA Director" (wherever occurring), substitute "JSA Commissioner".

**25 Section 15 (heading)**

Omit "JSA Director", substitute "JSA Commissioner".

**26 Subsections 15(1) and (2)**

Repeal the subsections, substitute:

- (1) The JSA Commissioner 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 Commissioner in connection with the performance of any of the JSA Commissioner's functions.

- (2) The JSA Commissioner may, on behalf of the Commonwealth, make an arrangement with the appropriate authority or officer of:
  - (a) a State or Territory government; or
  - (b) a State or Territory government authority;under which the government or authority makes officers or employees available to the JSA Commissioner to perform services in connection with the performance of any of the JSA Commissioner's functions.
- (3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse a State or Territory with respect to the services of a person to whom the arrangement related.
- (4) When performing services for the JSA Commissioner under this section, a person is subject to the directions of the JSA Commissioner.

**27 Subsection 16(1)**

Omit "JSA Director", substitute "JSA Commissioner".

**28 Subsection 16(1)**

Omit "JSA Director's", substitute "JSA Commissioner's".

**29 Subsection 16(2)**

Omit "JSA Director", substitute "JSA Commissioner".

**30 After section 15**

Insert:

**15A Contractors**

The JSA Commissioner may, on behalf of the Commonwealth, engage persons under a written agreement to assist the JSA Commissioner to perform or exercise the functions or powers of the JSA Commissioner.

---

**31 At the end of Part 3**

Add:

**16A Establishment and functions of the Ministerial Advisory Board**

- (1) The Minister must, within 12 months beginning on the commencement of this section, establish, in writing, a Ministerial Advisory Board to advise:
  - (a) the Minister; and
  - (b) the JSA Commissioner;in relation to the performance of the functions of Jobs and Skills Australia.
- (2) The Minister must determine in relation to the Ministerial Advisory Board:
  - (a) the Ministerial Advisory Board's terms of reference; and
  - (b) the terms and conditions of appointment of the members of the Ministerial Advisory Board, other than the terms and conditions provided for under this Part; and
  - (c) the procedures to be followed by the Ministerial Advisory Board.
- (3) In performing the JSA Commissioner's functions under this Part, the Commissioner must have regard to any relevant advice given to the JSA Commissioner by the Ministerial Advisory Board.
- (4) Subsection (3) does not, by implication, limit the matters to which the Commissioner may have regard.

**16B Members of the Ministerial Advisory Board**

- (1) The Ministerial Advisory Board consists of the following members:
  - (a) a Chair;
  - (b) 2 members representing the interests of the States and Territories;
  - (c) 4 members representing employee organisations;
  - (d) 4 members representing employer organisations;
  - (e) not more than 4 other members.

- (1A) A person appointed to the Ministerial Advisory Board under paragraph (1)(e) must not be a representative of:
- (a) employee organisations; or
  - (b) employer organisations.
- (2) Each member of the Ministerial Advisory Board is to be appointed by the Minister by written instrument, on a part-time basis.
- (3) A member of the Ministerial Advisory Board holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (4) A person is not eligible for appointment to the Ministerial Advisory Board unless the Minister is satisfied that the person has:
- (a) substantial experience or knowledge in at least one of the following fields:
    - (i) VET;
    - (ii) higher education;
    - (iii) industry;
    - (iv) employment;
    - (v) industrial relations (including trade unions);
    - (vi) labour market analysis;
    - (vii) workforce planning;
    - (viii) economics;
    - (ix) governance;
    - (ixa) regional, rural and remote Australia;
    - (x) any other appropriate field of expertise; or
  - (b) lived experience of disadvantage in the labour market; or
  - (c) experience as a representative of people with lived experience of disadvantage in the labour market.
- (5) A member of the Ministerial Advisory Board is not an official of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.
- (6) A member of the Ministerial Advisory Board must act in an impartial and independent manner in relation to the giving of advice to the Minister and the JSA Commissioner.
-

---

**16C Remuneration of members of the Ministerial Advisory Board**

- (1) A member of the Ministerial Advisory Board 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 member is to be paid the remuneration that is prescribed by the rules.
- (2) However, a member of the Ministerial Advisory Board is not entitled to be paid this remuneration if the member holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of:
  - (a) a State; or
  - (b) a corporation (a **public statutory corporation**) established for a public purpose by a State law, other than a tertiary education institution; or
  - (c) a company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by a State; or
  - (d) a company in which all the stock or shares are beneficially owned by a State or by a public statutory corporation.

Note: A similar rule applies to a member of the Ministerial Advisory Board who has a similar relationship with the Commonwealth or a Territory: see subsection 7(11) of the *Remuneration Tribunal Act 1973*.

- (3) A member of the Ministerial Advisory Board is to be paid the allowances that are prescribed by the rules.
- (4) This section (except subsection (2)) has effect subject to the *Remuneration Tribunal Act 1973*.

**16D Resignation of members of the Ministerial Advisory Board**

- (1) A member of the Ministerial Advisory Board may resign from the Ministerial Advisory Board 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.

### **16E Termination of members of the Ministerial Advisory Board**

- (1) The Minister may terminate the appointment of a member of the Ministerial Advisory Board:
  - (a) for misbehaviour; or
  - (b) if the member is unable to perform the duties of a member of the committee because of physical or mental incapacity.
- (2) The Minister may terminate the appointment of a member of the Ministerial Advisory Board if:
  - (a) the member:
    - (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 member's creditors; or
    - (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
  - (b) the member fails to comply with subsection 16B(6) (which deals with giving advice in an impartial and independent manner).

### **16F Disclosure of interests to the Minister**

A member of the Ministerial Advisory Board must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

### **16G Disclosure of interests to the Ministerial Advisory Board**

- (1) A member of the Ministerial Advisory Board who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Ministerial Advisory Board must disclose the nature of the interest to a meeting of the Ministerial Advisory Board.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the knowledge of the member of the Ministerial Advisory Board.



- 
- (3) The disclosure must be recorded in the minutes of the meeting of the Ministerial Advisory Board.
  - (4) Unless the Ministerial Advisory Board otherwise determines, the member of the Ministerial Advisory Board:
    - (a) must not be present during any deliberation by the Ministerial Advisory Board on the matter; and
    - (b) must not take part in any decision of the Ministerial Advisory Board with respect to the matter.
  - (5) For the purposes of making a determination under subsection (4), the Ministerial Advisory Board member:
    - (a) must not be present during any deliberation of the Ministerial Advisory Board for the purpose of making the determination; and
    - (b) must not take part in making the determination.
  - (6) A determination under subsection (4) must be recorded in the minutes of the meeting of the Ministerial Advisory Board.

## **32 Part 4**

Repeal the Part, substitute:

## **Part 4—Administration**

### **17 Simplified outline of this Part**

This Part deals with administrative matters relating to the office of the JSA Commissioner and JSA Deputy Commissioners. This includes the appointment of a Commissioner and the terms and conditions on which a Commissioner holds office.

### **18 Appointment of the JSA Commissioner**

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

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

- (2) The JSA Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (3) A person may only be appointed as the JSA Commissioner if the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

### 18A Appointment of a JSA Deputy Commissioner

- (1) A JSA Deputy Commissioner may be appointed by the Minister by written instrument, on a part-time or full-time basis.

Note: A JSA Deputy Commissioner may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) A JSA Deputy Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (3) A person may only be appointed as a JSA Deputy Commissioner 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 a Commissioner:
  - (a) during a vacancy in the office of a Commissioner (whether or not an appointment has previously been made to the office);  
or
  - (b) during any period when a Commissioner:
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

Note 1: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

Note 2: In this Act, **Commissioner** means the JSA Commissioner or a JSA Deputy Commissioner—see section 4.

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

---

## **20 Remuneration**

- (1) A Commissioner 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 Commissioner is to be paid the remuneration that is prescribed by the rules.
- (2) A Commissioner 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 a Commissioner is appointed on a part-time basis, the Minister may grant leave of absence to the Commissioner on such terms and conditions as the Minister considers appropriate.
- (2) If a Commissioner is appointed on a full-time basis:
  - (a) the Commissioner has the recreation leave entitlements that are determined by the Remuneration Tribunal; and
  - (b) the Minister may grant the Commissioner 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 a Commissioner is appointed on a part-time basis, the Commissioner must not engage in any paid work that, in the Minister's opinion, conflicts or could conflict with the proper performance of the Commissioner's functions.
- (2) If a Commissioner is appointed on a full-time basis, the Commissioner must not engage in paid work outside the duties of the Commissioner's office without the Minister's approval.

## **23 Other terms and conditions**

A Commissioner 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) A Commissioner may resign the Commissioner'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 a Commissioner:
  - (a) for misbehaviour; or
  - (b) if the Commissioner is unable to perform the duties of the Commissioner's office because of physical or mental incapacity.
- (2) The Minister may terminate the appointment of a Commissioner if:
  - (a) the Commissioner:
    - (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 Commissioner's creditors; or
    - (iv) makes an assignment of the Commissioner's remuneration for the benefit of the Commissioner's creditors; or
  - (b) the Commissioner is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (c) the Commissioner:
    - (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 Commissioner'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 Commissioner's office (see subsection 22(2)); or
  - (d) the Commissioner 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.

**33 Section 27**

Omit “JSA Director” (wherever occurring), substitute “JSA Commissioner”.

**34 After section 27**

Insert:

**27A Jobs and skills report**

- (1) 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.
- (2) 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.
- (3) Jobs and Skills Australia must, within 14 calendar days after giving the report to the Minister, publish the report:
  - (a) on the Jobs and Skills Australia website; or
  - (b) if the rules specify another manner in which the report is to be published—in that manner.

**35 Subsection 29(2)**

Repeal the subsection, substitute:

- (2) The JSA Commissioner may, in writing, delegate all or any of the JSA Commissioner’s functions or powers under this Act to:
  - (a) a JSA Deputy Commissioner;
  - (b) a SES employee, or an acting SES employee, in the Department.

**36 Subsection 29(3)**

Omit “JSA Director”, substitute “JSA Commissioner”.

**37 After section 29**

Insert:

**29A Review of operation of Act**

- (1) Before the end of the period of 2 years after the commencement of this section, the Minister must commence a review of the operation of this Act.
- (2) The Minister must cause to be prepared a report of the review under subsection (1).
- (3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sittings days of that House after the completion of the preparation of the report.

---

*[Minister’s second reading speech made in—  
House of Representatives on 22 March 2023  
Senate on 13 June 2023]*

(34/23)

---