

2013-2014

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Health Workforce Australia (Abolition)  
Bill 2014**

**No.     , 2014**

*(Health)*

**A Bill for an Act to abolish Health Workforce  
Australia, and for related purposes**



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1     **A Bill for an Act to abolish Health Workforce**  
2     **Australia, and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Health Workforce Australia*  
6                     *(Abolition) Act 2014*.

7     **2 Commencement**

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

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
3. Schedule 1, Parts 2 and 3	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

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

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

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule  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

1 **Schedule 1—Amendments**

2 **Part 1—Royal Assent**

3 *Health Workforce Australia Act 2009*

4 **1 Subsection 4(3)**

5 Repeal the subsection, substitute:

- 6 (3) The seal of Health Workforce Australia is to be kept in the custody  
7 of the CEO, and is not to be used except as authorised by the CEO.

8 **2 Section 7**

9 Repeal the section.

10 **3 Subsection 28(1)**

11 Omit “Board”, substitute “Minister”.

12 **4 Subsection 28(2)**

13 Repeal the subsection, substitute:

- 14 (2) The Minister may appoint a person to act as the CEO for a period  
15 of more than 12 months.

16 **5 Subsection 31(2)**

17 Omit “Chair” (wherever occurring), substitute “Minister”.

18 **6 Subsection 31(3)**

19 Repeal the subsection.

20 **7 Section 32**

21 Omit “Board”, substitute “Minister”.

22 **8 Subsections 33(1) and (2)**

23 Omit “Chair” (wherever occurring), substitute “Minister”.

24 **9 Subsection 33(3)**

25 Repeal the subsection.

1 **10 Subsection 34(1)**

2 Omit “Board”, substitute “Minister”.

3 **11 Subsection 34(2)**

4 Repeal the subsection.

5 **12 Subsection 34(3)**

6 Omit “Board”, substitute “Minister”.

7 **13 Paragraph 34(3)(d)**

8 Omit “, except with the Chair’s approval,”.

9 **14 Subsection 34(4)**

10 Repeal the subsection.

11 **15 Section 35**

12 Omit “Board”, substitute “Minister”.

13 **16 After section 38**

14 Insert:

15 **38A Delegation**

16 (1) The Minister may, by writing, delegate all or any of his or her  
17 powers and functions under this Part to a person.

18 (2) The delegate must be:

19 (a) the Secretary of the Department; or

20 (b) an SES employee, or acting SES employee, in the  
21 Department.

22 Note: The expressions *SES employee* and *acting SES employee* are defined  
23 in the *Acts Interpretation Act 1901*.

24 (3) In exercising powers or functions under a delegation, the delegate  
25 must comply with any directions of the Minister.

26 **17 Section 40**

27 Omit “or a direction”.



1 **18 Termination of appointment of members**

2 An appointment of a person as a member under section 11 or 13 of the  
3 *Health Workforce Australia Act 2009* that is in force immediately  
4 before the commencement of this item is, by force of this item,  
5 terminated on that commencement.

1 **Part 2—Repeals at Proclamation date**

2 ***Health Workforce Australia Act 2009***

3 **19 The whole of the Act**

4 Repeal the Act.

1 **Part 3—Transitional provisions**

2 **Division 1—Introduction**

3 **20 Definitions**

4 In this Part:

5 **asset** means:

- 6 (a) any legal or equitable estate or interest in real or personal  
7 property, whether actual, contingent or prospective; and  
8 (b) any right, power, privilege or immunity, whether actual,  
9 contingent or prospective.

10 **assets official**, in relation to an asset other than land, means the person  
11 or authority who:

- 12 (a) under a law of the Commonwealth, a State or a Territory; or  
13 (b) under a trust instrument; or  
14 (c) otherwise;

15 has responsibility for keeping a register in relation to assets of the kind  
16 concerned.

17 **commencement time** means the commencement of Part 2 of this  
18 Schedule.

19 **HWA** means Health Workforce Australia.

20 **land** means any legal or equitable estate or interest in real property,  
21 whether actual, contingent or prospective.

22 **land registration official**, in relation to land, means the Registrar of  
23 Titles or other proper officer of the State or Territory in which the land  
24 is situated.

25 **liability** means any liability, duty or obligation, whether actual,  
26 contingent or prospective.

27 **Secretary** means the Secretary of the Department.

28 **Division 2—Transfer of assets and liabilities**

29 **21 Vesting of assets of HWA**

- 30 (1) This item applies to the assets of HWA immediately before the  
31 commencement time.

- 1 (2) At the commencement time, the assets cease to be assets of HWA and  
2 become assets of the Commonwealth without any conveyance, transfer  
3 or assignment. The Commonwealth becomes the successor in law in  
4 relation to the assets.

## 5 **22 Vesting of liabilities of HWA**

- 6 (1) This item applies to the liabilities of HWA immediately before the  
7 commencement time.
- 8 (2) At the commencement time, the liabilities cease to be liabilities of  
9 HWA and become liabilities of the Commonwealth without any  
10 conveyance, transfer or assignment. The Commonwealth becomes the  
11 successor in law in relation to the liabilities.

## 12 **23 Transfers of land may be registered**

- 13 (1) This item applies if:  
14 (a) any land vests in the Commonwealth under this Division; and  
15 (b) there is lodged with a land registration official a certificate  
16 that:  
17 (i) is signed by the Minister; and  
18 (ii) identifies the land, whether by reference to a map or  
19 otherwise; and  
20 (iii) states that the land has become vested in the  
21 Commonwealth under this Division.
- 22 (2) The land registration official may:  
23 (a) register the matter in a way that is the same as, or similar to,  
24 the way in which dealings in land of that kind are registered;  
25 and  
26 (b) deal with, and give effect to, the certificate.
- 27 (3) A certificate under paragraph (1)(b) is not a legislative instrument.

## 28 **24 Certificates relating to vesting of assets other than land**

- 29 (1) This item applies if:  
30 (a) an asset other than land vests in the Commonwealth under  
31 this Division; and  
32 (b) there is lodged with an assets official a certificate that:  
33 (i) is signed by the Minister; and
-

- 1 (ii) identifies the asset; and  
2 (iii) states that the asset has become vested in the  
3 Commonwealth under this Division.
- 4 (2) The assets official may:  
5 (a) deal with, and give effect to, the certificate as if it were a  
6 proper and appropriate instrument for transactions in relation  
7 to assets of that kind; and  
8 (b) make such entries in the register in relation to assets of that  
9 kind as are necessary, having regard to the effect of this  
10 Division.
- 11 (3) A certificate made under paragraph (1)(b) is not a legislative  
12 instrument.

### 13 **Division 3—Transfer of other matters**

#### 14 **25 Acts of HWA to be attributed to the Commonwealth**

- 15 (1) This item applies to anything done by, or in relation to, HWA before the  
16 commencement time.
- 17 (2) After the commencement time, the thing has effect as if it had been  
18 done by, or in relation to, the Commonwealth.

#### 19 **26 Substitution of the Commonwealth as a party to certain** 20 **pending proceedings**

- 21 (1) This item applies if any proceedings to which HWA was a party were  
22 pending in any court or tribunal immediately before the commencement  
23 time.
- 24 (2) The Commonwealth is substituted for HWA, from the commencement  
25 time, as a party to those proceedings.

#### 26 **27 Transfer of records to the Department**

- 27 (1) This item applies to any records or documents that were in the  
28 possession of HWA immediately before the commencement time.
- 29 (2) The records and documents are to be transferred to the Department after  
30 the commencement time.

1 Note: The records and documents are Commonwealth records for the purposes of the *Archives*  
2 *Act 1983*.

## 3 **28 Transfer of Ombudsman investigations**

4 If:

- 5 (a) before the commencement time, a complaint was made to the  
6 Ombudsman, or the Ombudsman began an investigation,  
7 under the *Ombudsman Act 1976* in relation to an action taken  
8 by HWA; and  
9 (b) immediately before the commencement time, the  
10 Ombudsman had not finally disposed of the matter in  
11 accordance with the *Ombudsman Act 1976*;

12 the *Ombudsman Act 1976* applies after the commencement time as if  
13 that action had been taken by the Department.

## 14 **29 References in certain instruments to HWA**

15 (1) If:

- 16 (a) an instrument was in force immediately before the  
17 commencement time; and  
18 (b) a reference is made in the instrument to HWA; and  
19 (c) the instrument is an instrument covered by one or more of the  
20 following subparagraphs:  
21 (i) an instrument that was made by HWA;  
22 (ii) an instrument to which HWA was a party;  
23 (iii) an instrument that was given to, or in favour of, HWA;  
24 (iv) an instrument under which any right or liability accrues  
25 or may accrue to HWA;  
26 (v) any other instrument in which a reference is made to  
27 HWA;

28 the reference has effect after the commencement time as if it were a  
29 reference to the Commonwealth.

30 (2) For the purposes of this item, *instrument*:

- 31 (a) includes:  
32 (i) a contract, undertaking, deed or agreement; and  
33 (ii) a notice, authority, order or instruction; and  
34 (iii) an instrument made under an Act or under regulations;  
35 but
-

- 1 (b) does not include an exempt instrument.
- 2 (3) For the purposes of this item, *exempt instrument* means:
- 3 (a) an Act; or
- 4 (b) an instrument made under this Act; or
- 5 (c) an instrument specified in an instrument under subitem (4).
- 6 (4) The Minister may, by legislative instrument, specify one or more
- 7 instruments for the purposes of paragraph (3)(c).

## 8 **Division 4—Annual reporting obligation**

### 9 **30 Final annual report**

10 The Secretary must prepare a report for HWA either under:

- 11 (a) item 31 if:
- 12 (i) the commencement time is on or after 1 July 2014; and
- 13 (ii) section 6 of the *Public Governance, Performance and*
- 14 *Accountability Act 2013* commences on 1 July 2014; or
- 15 (b) item 32 if:
- 16 (i) the commencement time is before 1 July 2014; or
- 17 (ii) section 6 of the *Public Governance, Performance and*
- 18 *Accountability Act 2013* does not commence on 1 July
- 19 2014.

### 20 **31 Final annual report based on new law**

#### 21 *Secretary to prepare report*

- 22 (1) The Secretary must prepare a report for HWA in accordance with
- 23 section 46 of the *Public Governance, Performance and Accountability*
- 24 *Act 2013* for the final reporting period.
- 25 (2) The *final reporting period* is the period that:
- 26 (a) begins:
- 27 (i) if the commencement time occurs in the financial year
- 28 beginning on 1 July 2014 and no report under section 9
- 29 of the *Commonwealth Authorities and Companies Act*
- 30 *1997* has been given to the Minister for the previous
- 31 financial year—at the beginning of the previous
- 32 financial year; or

- 1 (ii) if the commencement time occurs in a financial year  
2 beginning on or after 1 July 2015 and no report under  
3 46 of the *Public Governance, Performance and*  
4 *Accountability Act 2013* has been given to the Minister  
5 for the previous financial year—at the beginning of the  
6 previous financial year; or  
7 (iii) otherwise—at the beginning of the financial year in  
8 which the commencement time occurs; and  
9 (b) ends immediately before the commencement time.

10 ***Report to include financial statements***

- 11 (3) The report must include financial statements for the final reporting  
12 period.
- 13 (4) If the final reporting period begins on or after 1 July 2014, then the  
14 financial statements for the period must be prepared and audited in  
15 accordance with sections 42 and 43 of the *Public Governance,*  
16 *Performance and Accountability Act 2013*.
- 17 (5) However, if the final reporting period begins before 1 July 2014, then:  
18 (a) the financial statements relating to the part of the period that  
19 occurs on and after that day must be prepared and audited in  
20 accordance with sections 42 and 43 of the *Public*  
21 *Governance, Performance and Accountability Act 2013*; and  
22 (b) the financial statements relating to the part of the period that  
23 occurs before that day must be prepared and audited in  
24 accordance with Schedule 1 to the *Commonwealth*  
25 *Authorities and Companies Act 1997* and the Finance  
26 Minister's Orders referred to in that Schedule (as in force  
27 immediately before that day).
- 28 (6) For subitems (1) and (4) and paragraph (5)(a), sections 42, 43 and 46 of  
29 the *Public Governance, Performance and Accountability Act 2013*, and  
30 rules made for the purposes of those sections, apply as if:  
31 (a) references in those sections to the accountable authority were  
32 references to the Secretary; and  
33 (b) references in those sections to an annual report were  
34 references to the report; and  
35 (c) references in those sections to a reporting period were  
36 references to the final reporting period.



- 1 (7) For paragraph (5)(b), Schedule 1 to the *Commonwealth Authorities and*  
2 *Companies Act 1997*, and the Finance Minister's Orders referred to in  
3 that Schedule, as in force immediately before 1 July 2014, apply as if:  
4 (a) references in that Schedule, or those Orders, to the directors  
5 were references to the Secretary; and  
6 (b) references in that Schedule, or those Orders, to an annual  
7 report were references to the report; and  
8 (c) references in that Schedule, or those Orders, to a financial  
9 year were references to the final reporting period.

10 ***Secretary to give report to Minister***

- 11 (8) The Secretary must give the report to the Minister by the 15th day of the  
12 fourth month after the end of the final reporting period. The Minister  
13 may grant an extension of time in special circumstances.

14 ***Minister to table report in Parliament***

- 15 (9) The Minister must table the report in each House of the Parliament as  
16 soon as practicable.

17 **32 Final annual report based on old law**

- 18 (1) The Secretary must prepare a report for HWA in accordance with  
19 Schedule 1 to the *Commonwealth Authorities and Companies Act 1997*  
20 for the final reporting period.
- 21 (2) The ***final reporting period*** is the period that:  
22 (a) begins:  
23 (i) if, at the commencement time, no report under section 9  
24 of the *Commonwealth Authorities and Companies Act*  
25 *1997* has been given to the Minister for the financial  
26 year ending before the commencement time—at the  
27 beginning of that financial year; or  
28 (ii) otherwise—at the beginning of the financial year in  
29 which the commencement time occurs; and  
30 (b) ends immediately before the commencement time.
- 31 (3) Schedule 1 to that Act, and the Finance Minister's Orders referred to in  
32 that Schedule, apply in relation to the report as if:  
33 (a) references in that Schedule, or those Orders, to the directors  
34 were references to the Secretary; and

- 1 (b) references in that Schedule, or those Orders, to an annual  
2 report were references to the report; and  
3 (c) references in that Schedule, or those Orders, to a financial  
4 year were references to the final reporting period.
- 5 (4) The Secretary must give the report to the Minister by the 15th day of the  
6 fourth month after the end of the final reporting period. The Minister  
7 may grant an extension of time in special circumstances.
- 8 (5) The Minister must table the report in each House of the Parliament as  
9 soon as practicable.

## 10 Division 5—Staff

### 11 33 No transfer of appointment, engagement or employment 12 of staff

- 13 (1) Nothing in this Part produces the result that the appointment,  
14 engagement or employment of an HWA officer has effect as if it were  
15 an appointment, engagement or employment of the person in relation to  
16 the Commonwealth.
- 17 (2) In this item:  
18 *HWA officer* means:  
19 (a) a member of the Board of HWA; or  
20 (b) an employee of HWA; or  
21 (c) a consultant engaged by HWA.

## 22 Division 6—Miscellaneous

### 23 34 Exemption from stamp duty and other State or Territory 24 taxes

- 25 (1) No stamp duty or other tax is payable under a law of a State or a  
26 Territory in respect of an exempt matter, or anything connected with an  
27 exempt matter.
- 28 (2) For the purposes of this item, an *exempt matter* is:  
29 (a) the vesting of an asset or liability under this Part; or  
30 (b) the operation of this Part in any other respect.
- 31 (3) The Minister may certify in writing:

- 1 (a) that a specified matter is an exempt matter; or  
2 (b) that a specified thing was connected with a specified exempt  
3 matter.

- 4 (4) In all courts, and for all purposes (other than for the purposes of  
5 criminal proceedings), a certificate under subitem (3) is prima facie  
6 evidence of the matters stated in the certificate.

### 7 **35 Certificates taken to be authentic**

8 A document that appears to be a certificate made or issued under a  
9 particular provision of this Part:

- 10 (a) is taken to be such a certificate; and  
11 (b) is taken to have been properly given;  
12 unless the contrary is established.

### 13 **36 Delegation by Minister**

- 14 (1) The Minister may, by writing, delegate all or any of his or her powers  
15 and functions under this Part to a person.
- 16 (2) The delegate must be:  
17 (a) the Secretary of the Department; or  
18 (b) an SES employee, or acting SES employee, in the  
19 Department.
- 20 Note: The expressions *SES employee* and *acting SES employee* are defined  
21 in the *Acts Interpretation Act 1901*.
- 22 (3) In exercising powers or functions under a delegation, the delegate must  
23 comply with any directions of the Minister.

### 24 **37 Compensation for acquisition of property**

- 25 (1) If the operation of this Schedule would result in an acquisition of  
26 property (within the meaning of paragraph 51(xxxi) of the Constitution)  
27 from a person otherwise than on just terms (within the meaning of that  
28 paragraph), the Commonwealth is liable to pay a reasonable amount of  
29 compensation to the person.
- 30 (2) If the Commonwealth and the person do not agree on the amount of the  
31 compensation, the person may institute proceedings in a court of  
32 competent jurisdiction for the recovery from the Commonwealth of  
33 such reasonable amount of compensation as the court determines.

1 **38 Transitional rules**

2           The Minister may, by legislative instrument, make rules in relation to  
3           transitional matters arising out of the amendments and repeals made by  
4           this Schedule.