

# Jobs and Skills Australia Ministerial Advisory Board

## Terms of Reference

### Purpose

The *Jobs and Skills Australia Act 2022* (JSA Act), which is at [Attachment A](#), establishes the Jobs and Skills Australia (JSA) Ministerial Advisory Board (the Advisory Board). The intended purpose of the JSA Advisory Board is to provide expert, independent advice and insight to the JSA Commissioner (the Commissioner) and the Minister for Skills and Training (the Minister) on the performance of JSA's legislated functions (see s 9 of the JSA Act).

### Role of the Advisory Board

The Advisory Board will:

- support the Commissioner in developing independent advice to Government on the legislated functions, and ensure a voice for tripartite partners and others in addressing skills, labour market and workforce development needs
- provide advice to the Commissioner during the development of annual work plans
- provide feedback on terms of reference for capacity studies, cohort analyses and regional assessments
- make recommendations to the Commissioner to inform the key outcomes and priorities of JSA's work
- provide advice to the Minister
- bring skills, knowledge, expertise and experience to topics that impact JSA's work
- where relevant and appropriate, consult widely and seek insights from stakeholders and others on specific skills and workforce issues, as part of normal preparation time for a board meeting<sup>1</sup>, to inform their advice to the Minister and the Commissioner.

The Advisory Board will provide this advice through scheduled meetings, or on an as-needs basis as requested by the Minister or the Commissioner.

A member of the Advisory Board must act in an impartial and independent manner in relation to the giving of advice to Minister and the Commissioner (s 16B(6) of the JSA Act).

The Commissioner must have regard to relevant advice given to the Commissioner by the Advisory Board (s 16A(3) of the JSA Act). The Commissioner ultimately holds independent responsibility for all decisions made in performing JSA's functions.

### Membership

Members are appointed by the Minister. The Advisory Board consists of a Chair; 2 members representing the states and territories; 4 members representing employee organisations; 4 members representing employer organisations; and not more than 4 other members (who must not be a representative of employee or employer organisations).

A list of members is included at [Attachment B](#) of this Terms of Reference. The Advisory Board and the details of its members, including any remuneration, may also be referenced on the JSA website, the Department of Employment and Workplace Relations' (Department's) website, in the Australian Government Directory and in the Department's annual reporting processes.

### Roles of members

Members are expected to actively contribute their knowledge and expertise to inform and provide advice to the Commissioner on matters of importance to the Advisory Board and JSA.

---

<sup>1</sup> Members should refer to the Confidentiality and Remuneration sections of the Terms of Reference for more information.

**Members representing the States and Territories** are expected to work with their other State and Territory counterparts to provide consolidated views. State and Territory representatives are also expected to work with other government departments and agencies within their respective jurisdictions on matters of importance for JSA to inform their advice to the Advisory Board.

As part of normal preparation, **members representing employee or employer organisations** are expected to work with member organisations and/or individual members to represent the broad views of their respective constituents in providing advice to the Advisory Board. They may also be expected to report back to those members and member organisations to provide advice from the Advisory Board.

As part of normal preparation, **members** that may be representing other sectors or stakeholder groups are expected to engage appropriately with other organisations and individuals within their area of expertise to inform their advice to the Advisory Board.

#### Resignation or termination of members (in accordance with ss 16D and 16E of Part 3 the JSA Act)

A member may resign from the Advisory Board by giving the Minister a written resignation (s 16D(1) of the JSA Act). 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 (s 16D(2) of the JSA Act).

The Minister may terminate the appointment of an Advisory Board member in accordance with the s 16E of the JSA Act.

#### Chair

The Chair will preside at all meetings of the Advisory Board at which the Chair is present. The role of the Chair is to:

- support the Commissioner by providing leadership and ensuring active participation and good conduct by members during Advisory Board deliberations
- chair meetings according to the Advisory Board's Terms of Reference
- promote and encourage active participation at each Advisory Board meeting from all members
- jointly determine the agenda for each meeting, with the Commissioner
- certify the total time each member claims for the purposes of payment of daily fees<sup>2</sup>.

The Chair may also meet with the Minister for Skills and Training to report on the operations and deliberations of the Advisory Board.

---

<sup>2</sup> This requirement is set out in the Part-time Officer Holder Determination by the Remuneration Tribunal where:

- For an office holder other than the Chair, daily fees may only be paid after the Chair certifies the total time claimed by the office holder, including any official travel time.
- However, if the Chair is absent from a meeting, the office holder's daily fees which relate to that meeting may only be paid after the nominated presiding officer for the meeting certifies the total time claimed by the office holder for the day or days to which those fees relate.

### Deputy Chairs

The Minister for Skills and Training will select 2 Deputy Chairs of the Advisory Board:

- one from the members representing employer organisations
- one from the members representing employee organisations.

In addition to their role as a member, the role of the Deputy Chair is to support the Chair, as requested, relating to matters of the Advisory Board. If the Chair is not present at a meeting but a Deputy Chair is present, a Deputy Chair will preside. If there is more than one Deputy Chair, the role of presiding over meetings in the Chairs absence will rotate between the Deputy Chairs.

The Deputy Chair who presides over a meeting will continue to receive the same remuneration as other Advisory Board Members (they are not entitled to the Chair's remuneration rate).

### **Advisory Board Meetings**

The Advisory Board will meet a minimum of 4 times per year, and may hold additional meetings if required, in consultation with the Commissioner.

Meetings may be held in-person or virtually via video conferencing facilities. Video conferencing will be made available for members unable to attend a meeting in-person.

### Quorum

A quorum for Advisory Board meetings will consist of the Chair (or the Deputy Chair who is presiding over the meeting on their behalf), at least half of the appointed members and require at least one member from each of the member categories (Employee organisation, Employer organisation, State and Territory representative, and other members).

Proxies are not counted in determining a quorum.

### Proxies

Members should advise the Chair, in writing, as soon as practicable in advance of a meeting regarding the appointment of a proxy. Subject to prior agreement by the Chair, if a member is unable to attend a meeting, a proxy may attend on their behalf.

Proxies are able to observe meetings with full speaking rights. However, proxies will not be able to participate in decision-making, or perform any of the functions or powers conferred on the Advisory Board under the *Jobs and Skills Australia Act 2022*.

Proxies are not remunerated and are not eligible for a travel allowance. On agreement by the Commissioner, a proxy may be entitled to reasonable travel expenses.

A proxy should hold similar skills, knowledge and experience to the Member. Proxies are required to act in an impartial and independent manner and uphold the spirit of this Terms of Reference, the JSA Act and the *Jobs and Skills Australia (Other Terms and Conditions of Appointment for Ministerial Advisory Board Members) Determination 2024*. Prior to participating, proxies may be required to provide conflict of interest declarations and confidentiality undertakings.

### Minister for Skills and Training

The Minister is not a member of the Advisory Board but may attend meetings at their discretion. The Minister may also nominate appropriate representatives from their office as observers or support staff to attend meetings.

Where the Minister is not in attendance, the Commissioner or a designated representative of the Minister's department, will represent the views of the Government on the Minister's behalf.

#### JSA Commissioner

The Commissioner is not a member of the Advisory Board but is an active participant and contributor in all meetings.

Consistent with section 16A(3) of the JSA Act, the Commissioner must have regard to any relevant advice given by the Ministerial Advisory Board. The Commissioner will update the Board on how advice of the Advisory Board was considered.

In the event the Commissioner is not present, they may delegate this role to an appropriate representative from JSA. The Commissioner will also provide advice received through the Advisory Board to the Minister for Skills and Training as required.

On agreement with the Chair, the Commissioner may bring appropriate representatives from JSA to meetings as observers or support staff.

#### Secretary of the Department of Employment and Workplace Relations

The Secretary of the Department is not a member of the Advisory Board but is an active participant and contributor in all meetings. The Secretary may delegate this role to a departmental Deputy Secretary, or other appropriate Senior Executive staff member. The Secretary, or their delegate, may also provide advice received through the Advisory Board to the Minister for Skills and Training as required.

On agreement with the Chair and the Commissioner, the Secretary may bring appropriate representatives from the Department of Employment and Workplace Relations to meetings as observers or support staff.

#### Observers

The Chair may invite observers or guests to speak on an ad-hoc basis in relation to specific agenda items and/or papers.

Prior to observing meetings, observers may be asked to provide conflict of interest declarations and confidentiality undertakings.

#### Agenda

The agenda for Advisory Board meetings will be determined jointly by the Chair and the JSA Commissioner. A draft agenda will be provided by the Secretariat to support agenda setting. Advisory Board members will be encouraged to provide suggestions on topics or issues to be considered for future meetings.

The Secretariat will provide the agenda prior to each meeting with a short synopsis of each item, to enable members to review and consider any possible conflicts of interest they may have. Members must inform the Secretariat via email, detailing any conflict, prior to the meeting. The Chair and JSA Commissioner will jointly consider the possible conflict and determine a course of action.

The Chair will lead the meetings and ensure they remain focused on the content of the agenda.

#### Out-of-session deliberations

Out-of-session deliberations will be permitted with agreement between the Chair and the Commissioner. All out-of-session deliberations and actions will be recorded in the outcome notes of the next scheduled Advisory Board meeting.

### **Secretariat Support**

Secretariat support will be provided by JSA. The Secretariat will organise all meetings as required including scheduling facilities, organising travel and recording daily rates for each member.

The Secretariat, through the Chair and the Commissioner will be responsible for:

- drafting meeting agendas
- producing and distributing supporting papers recording outcomes of meetings
- circulating outcome notes

An issues and action item register will be maintained and provided to all members at each meeting.

A short communique will be published for stakeholders on JSA's website. Communiques will outline the discussions at a high level and provide, where possible, the anticipated forward agenda for the next meeting to allow members to consult with their membership base prior to each meeting.

The Secretariat will develop protocols relating to the above functions.

### **Conduct, Confidentiality and Disclosure of Interests**

All members will be required to abide by this Terms of Reference and the *Jobs and Skills Australia Act 2022*.

A member of the Advisory Board, including the Chair, must act in an impartial and independent manner in relation to the giving of advice to the Minister and the Commissioner.

#### Disclosure of Interests

Members will be expected to bring their full range of skills, knowledge and experience to matters reviewed and discussed at Advisory Board meetings. However, all members 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 (s 16F of the JSA Act).

Members will complete conflict of interest declarations at the commencement of each meeting of the Advisory Board.

At the start of each meeting the Chair will identify any real or apparent conflict of interest declared and will ask members for any further declarations, or updates to existing declarations, prior to the meeting commencing. Members must also make a declaration as soon as possible if they become aware of a conflict of interest during Advisory Board discussions.

Declarations will be noted in the minutes and, where appropriate, members will be asked to leave the room (if meetings are being held face to face) or disconnect from the video conference until advised by the Secretariat to reconnect for each relevant agenda item or discussions relating to that matter. Members will not be provided with the minutes for any agenda item where they have declared a conflict of interest.

Should a member not declare a conflict of interest prior to an item being discussed (or as soon as it is realised a conflict exists), the Minister will consider the appropriateness of that member's appointment to the Advisory Board.

#### Confidentiality

Advisory Board members may have access to, or become aware of, confidential information as part of their role, about JSA or another entity. Members must comply with the confidentiality requirements set through the *Jobs and Skills Australia (Other Terms and Conditions of Appointment for Ministerial Advisory Board Members) Determination 2024*.

Members must not disclose confidential information to a third party and must only use confidential information for the purpose of their participation in the Advisory Board (noting the Determination has further information about disclosure of information and your obligations). Where Advisory

Board meetings include confidential information relating to members or the business being discussed, members are required to respect principles of confidentiality.

Advisory Board members must not use information obtained by them in the course of their duties as a member to gain, directly or indirectly, a pecuniary or other advantage for themselves, those they are representing, or for any other person or body.

All consultation conducted by Advisory Board members external to the group must not involve disclosure of confidential information.

Members should discuss any concerns or questions they have regarding limitations on consultation and confidentiality with the JSA Commissioner or the Secretariat.

### Media

Members of the Advisory Board are permitted to engage with the media in their personal or employed capacity. However, members must not discuss Advisory Board deliberations or make media or public comment on behalf of the Advisory Board, JSA or the Minister unless expressly agreed by the Chair, the Minister and JSA Commissioner. Members contacted by the media in relation to any matters concerning JSA or the Advisory Board must immediately refer the enquiry to the JSA Communications team [media@jobsandskills.gov.au](mailto:media@jobsandskills.gov.au) and advise the Commissioner as soon as practicable. For clarity these limitations, are not intended to preclude members of the Advisory Board engaging with media in their personal or employed capacity on skills, jobs and workforce issues.

### **Sub-committees**

The Advisory Board may establish strategic sub-committees, as Authority Business, on specific matters or key elements of JSA work where needed.

A sub-committee will be solely comprised of members of the Advisory Board. All work of the sub-committee will be remunerated.

Before the Advisory Board agrees to establish a sub-committee, the Chair in conjunction with the JSA Commissioner will agree the terms of reference including the authority, scope, membership, chair, secretariat and reporting requirements where required. Any sub-committees assembled to support the Advisory Board should reflect a diversity of lived experiences, views and cohorts wherever possible.

Advisory Board members, other than those members who fall within the scope of s 16C(2), will be remunerated for their participation sub-committees.

### **Reference or Working Groups**

The Advisory Board may establish reference or working groups on specific topics and will seek the views of networks and expertise outside the Advisory Board. Such groups may include both members of the Advisory Board, and invited members who are considered to have appropriate knowledge, expertise or networks to support their involvement in time-limited, subject specific reference or working groups. Any guest on reference or working groups may be required to enter into Confidentiality Agreements or other agreements as necessary to support their active participation and engagement.

Advisory Board members, other than those members who fall within the scope of s 16C(2), will be remunerated for their participation in reference or working groups. Any participants external to the Advisory Board will not be remunerated.

### Remuneration and Travel

Members are remunerated in accordance with the [Remuneration Tribunal \(Remuneration and Allowances for Holders of Part-time Public Office\) Determination](#) unless the member holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of State, a public statutory corporation, a company beneficially owned, or all stock or shares are owned by the State.

Part 4 of this Determination outlines the remuneration of Daily Fees and all the requirements of Advisory Board members. This includes certification of time, calculation of daily fees, authority business and travel time, consistent with the most current Remuneration Tribunal (Official Travel) Determination.

Section 16 C of the *Jobs and Skills Australia Act 2022* refers to the remuneration of members.

### Amendment, modification or variation

The Advisory Board may seek to amend, modify or vary this Terms of Reference, after consultation and agreement by Advisory Board members as part of regular meetings. Members must flag any proposed amendments or variations with the Chair and the Commissioner and seek to include these as a discussion item at the next meeting. Following agreement by Advisory Board members, any proposed amendments or variations must be approved by the Minister.

Approved amendments or variations are to be actioned by the Secretariat and noted in the version history of the Terms of Reference.

### Duration and Review Points

These Terms of Reference are effective from the date they are endorsed by the Minister for Skills and Training. The attachments to these Terms of Reference were current on that date.

The Advisory Board (including the Terms of Reference) will be reviewed as part of a broader statutory review which commence before 18 August 2025 (see s 29A of the JSA Act).

**Attachment A** Ministerial Advisory Board – List of Members

**Attachment B** *Jobs and Skills Australia Act 2022*

### Document Ownership and Version Control

Version	Date	Approver	Comments
0.1	26.06.2024		Draft as endorsed by the Ministerial Advisory Board.
1.0	04.09.2024	Minister Watt	Approved by Minister
1.1	27.05.2025		Updated Ministerial Advisory Board Membership List.
1.2	20.10.2025		Updated Ministerial Advisory Board Membership List.

## Attachment A - Jobs and Skills Australia - Ministerial Advisory Board Membership List

Name	Position
Ms Cath Bowtell	Chair
Mr Bran Black	Deputy Chair (Employer organisation)
Mr Liam O'Brien	Deputy Chair (Employee organisation)
Ms Lill Healy	Member (State and Territory representative)
Ms Jodie Wallace	Member (State and Territory representative)
Vacant	Member (Employer organisation)
Dr Caroline Smith	Member (Employer organisation)
Dr Jodie Trembath	Member (Employer organisation)
Ms Annie Butler	Member (Employee organisation)
Ms Correna Haythorpe	Member (Employee organisation)
Mr David Henry	Member (Employee organisation)
Prof Jack Beetson	Other Member
Prof Rae Cooper AO	Other Member
Ms El Gibbs	Other Member
Vacant	Other Member



# Jobs and Skills Australia Act 2022

No. 51, 2022

## Compilation No. 1

**Compilation date:** 18 August 2023

**Includes amendments up to:** Act No. 54, 2023

**Registered:** 29 August 2023

## About this compilation

### This compilation

This is a compilation of the *Jobs and Skills Australia Act 2022* that shows the text of the law as amended and in force on 18 August 2023 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

## Contents

## **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Simplified outline of this Act
- 4 Definitions

## **Part 2—Establishment and functions of Jobs and Skills Australia**

- 5 Simplified outline of this Part
- 6 Establishment
- 7 Composition
- 8 Part of the Department for certain purposes
- 9 Functions of Jobs and Skills Australia
- 10 Performance of functions
- 10A JSA Commissioner must prepare annual work plan

## **Part 3—Establishment and functions of the JSA Commissioner, JSA Deputy Commissioners, staff assisting and Ministerial Advisory Board**

- 11 Simplified outline of this Part
- 12 JSA Commissioner
- 13 Functions of the JSA Commissioner
- 13A JSA Deputy Commissioners
- 13B Functions of a JSA Deputy Commissioner
- 14 Arrangements relating to staff of the Department
- 15 Other persons assisting the JSA Commissioner
- 15A Contractors
- 16 Consultants
- 16A Establishment and functions of the Ministerial Advisory Board
- 16B Members of the Ministerial Advisory Board
- 16C Remuneration of members of the Ministerial Advisory Board
- 16D Resignation of members of the Ministerial Advisory Board
- 16E Termination of members of the Ministerial Advisory Board
- 16F Disclosure of interests to the Minister
- 16G Disclosure of interests to the Ministerial Advisory Board

## **Part 4—Administration**

- 17 Simplified outline of this Part
- 18 Appointment of the JSA Commissioner
- 18A Appointment of a JSA Deputy Commissioner
- 19 Acting appointments
- 20 Remuneration
- 21 Leave of absence
- 22 Engaging in other paid work
- 23 Other terms and conditions
- 24 Resignation
- 25 Termination of appointment

## **Part 5—Miscellaneous**

- 26 Simplified outline of this Part
- 27 Ministerial directions
- 27A Jobs and skills report
- 28 Annual report
- 29 Delegation
- 29A Review of operation of Act
- 30 Rules

## Endnotes

**Endnote 1—About the endnotes**

**Endnote 2—Abbreviation key**

**Endnote 3—Legislation history**

**Endnote 4—Amendment history**

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

## Part 1—Preliminary

### 1 Short title

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

### 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 establishment of the JSA Commissioner, JSA Deputy Commissioners and Ministerial Advisory Board.

### 4 Definitions

In this Act:

**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.

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

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

### 6 Establishment

Jobs and Skills Australia is established by this section.

### 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 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 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 Functions of Jobs and Skills Australia

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, VET and higher education);
  - (iii) the adequacy of the Australian system for providing VET, including training outcomes;
  - (v) pathways into VET and pathways between VET and higher education;
  - (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;
  - (viii) the impact of workplace arrangements, including insecure work, on economic and social 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;
  - (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;
- (d) to undertake research and analysis on the resourcing and funding requirements for registered training organisations (within the meaning of the *National Vocational Education 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.

## 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.

## **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.

## **Part 3—Establishment and functions of the JSA Commissioner, JSA Deputy Commissioners, staff assisting and Ministerial Advisory Board**

### **11 Simplified outline of this Part**

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.

### **12 JSA Commissioner**

There is to be a Jobs and Skills Australia Commissioner.

### **13 Functions of the JSA Commissioner**

The functions of the JSA Commissioner 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 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.

### **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.

### **14 Arrangements relating to staff of the Department**

- (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.
- (2) When performing services for the JSA Commissioner, the persons are subject to the directions of the JSA Commissioner.

### **15 Other persons assisting the JSA Commissioner**

- (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.

### **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.

### **16 Consultants**

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

## **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.

## **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.

## 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 Commissioner directions about the way in which the JSA Commissioner is to carry out any of the functions of the JSA Commissioner 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 Commissioner 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 Commissioner must comply with a direction under subsection (1).
- (4) A direction under subsection (1) is not a legislative instrument.

### 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.

### 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 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.

(3) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister or JSA Commissioner, as the case requires.

## 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.

## 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.