



# **Skills Australia Act 2008**

**No. 10, 2008**

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Contents

<b>Part 1—Preliminary</b>	1
1 Short title .....	1
2 Commencement .....	2
3 Definitions .....	2
4 Objects .....	2
<b>Part 2—Establishment and functions of Skills Australia</b>	3
5 Establishment .....	3
6 Functions .....	3
7 Minister may give directions to Skills Australia .....	4
<b>Part 3—Constitution and membership of Skills Australia</b>	5
8 Constitution .....	5
9 Appointment of members .....	5
10 Term of appointment .....	5
11 Acting appointments .....	5
12 Members' remuneration .....	6
13 Leave of absence .....	6
14 Disclosure of interests to the Minister .....	7
15 Disclosure of interests to Skills Australia .....	7
16 Other terms and conditions .....	8
17 Resignation .....	8
18 Termination of appointment .....	8
<b>Part 4—Meetings of Skills Australia</b>	9
19 Convening meetings .....	9
20 Presiding at meetings .....	9
21 Quorum .....	9
22 Voting at meetings .....	10
23 Conduct of meetings .....	10
24 Decisions without meetings .....	10
25 Committees .....	11
<b>Part 5—Miscellaneous</b>	12
26 Staff assisting Skills Australia .....	12
27 Annual reports .....	12
28 Delegation .....	12
29 Regulations .....	12





# Skills Australia Act 2008

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

[Assented to 20 March 2008]

The Parliament of Australia enacts:

### Part 1—Preliminary

#### 1 Short title

This Act may be cited as the *Skills Australia Act 2008*.

Section 2

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**2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

**3 Definitions**

In this Act:

*Australia*, when used in a geographical sense, includes the external Territories.

*Chair* means the Chair of Skills Australia.

*member* means a member of Skills Australia and includes the Chair.

*Skills Australia* means the body established by section 5.

**4 Objects**

The object of this Act is to provide for expert and independent advice in relation to Australia's workforce skills needs and workforce development needs, in order to:

- (a) identify training priorities to respond to those needs; and
- (b) increase workforce participation; and
- (c) improve productivity and competitiveness; and
- (d) identify and address skills shortages; and
- (e) promote the development of a highly skilled workforce.

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

### **5 Establishment**

Skills Australia is established by this section.

### **6 Functions**

*Primary function—providing advice to the Minister*

- (1) Skills Australia has the primary function of providing advice to the Minister on matters relating to the following:
  - (a) Australia's current, emerging and future workforce development needs;
  - (b) Australia's current, emerging and future workforce skills needs.
- (2) Skills Australia is to provide advice under subsection (1) as it thinks fit and on request by the Minister.

*Additional functions*

- (3) For the purposes of providing that advice, Skills Australia has the following additional functions:
  - (a) analysing current, emerging and future workforce skills needs across industry sectors;
  - (b) assessing:
    - (i) research relating to workforce development needs; and
    - (ii) information from persons and bodies with an interest in workforce development needs;
  - (c) developing and maintaining relationships with:
    - (i) the States and Territories, and relevant authorities of the States and Territories; and
    - (ii) other persons and bodies with an interest in workforce development needs or workforce skills needs.

**Section 7**

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- (4) Skills Australia also has:
  - (a) the function of informing the public about matters relating to Australia's workforce development needs and workforce skills needs; and
  - (b) any functions that the Minister, by writing, directs Skills Australia to perform; and
  - (c) any other functions conferred on it by this Act or any other law.
- (5) A direction made under paragraph (4)(b) is not a legislative instrument.

**7 Minister may give directions to Skills Australia**

- (1) The Minister may give written directions to Skills Australia about the performance of its functions.
- (2) Directions given by the Minister under subsection (1) must be of a general nature only.
- (3) The Minister must not give directions about the content of any advice that may be given to the Minister by Skills Australia.
- (4) Skills Australia must comply with any direction given by the Minister under subsection (1).
- (5) A direction given by the Minister under subsection (1) is not a legislative instrument.

## **Part 3—Constitution and membership of Skills Australia**

### **8 Constitution**

Skills Australia consists of:

- (a) the Chair; and
- (b) 6 other members.

Note: Section 18B of the *Acts Interpretation Act 1901* deals with the title of the Chair.

### **9 Appointment of members**

- (1) Members (including the Chair) are to be appointed by the Minister by written instrument.
- (2) In making appointments, the Minister must ensure that the members of Skills Australia have, between them, experience in:
  - (a) academia; and
  - (b) the provision of education or training; and
  - (c) economics; and
  - (d) industry.
- (3) A member is to be appointed on a part-time basis.

### **10 Term of appointment**

A member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: A member is eligible for reappointment: see subsection 33(4A) of the *Acts Interpretation Act 1901*.

### **11 Acting appointments**

- (1) The Minister may appoint a member to act as the Chair:

## Section 12

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- (a) during a vacancy in the office of Chair, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) The Minister may appoint a person to act as a member:
- (a) during a vacancy in the office of a member, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when a member is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: Section 33A of the *Acts Interpretation Act 1901* has rules that apply to acting appointments.

- (3) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
- (a) the occasion for the appointment had not arisen; or
  - (b) there was a defect or irregularity in connection with the appointment; or
  - (c) the appointment had ceased to have effect; or
  - (d) the occasion to act had not arisen or had ceased.

### 12 Members' remuneration

- (1) A member 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.
- (2) A member is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### 13 Leave of absence

- (1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.

- (2) The Chair may grant leave of absence to any other member on the terms and conditions that the Chair determines.

#### **14 Disclosure of interests to the Minister**

A member 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.

#### **15 Disclosure of interests to Skills Australia**

- (1) A member who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by Skills Australia must disclose the nature of the interest to a meeting of Skills Australia.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of Skills Australia.
- (4) Unless Skills Australia otherwise determines, the member:
- (a) must not be present during any deliberation by Skills Australia on the matter; and
  - (b) must not take part in any decision of Skills Australia with respect to the matter.
- (5) For the purposes of making a determination under subsection (4), the member:
- (a) must not be present during any deliberation of Skills Australia 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 Skills Australia.

Section 16

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**16 Other terms and conditions**

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

**17 Resignation**

- (1) A member may resign his or her 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.

**18 Termination of appointment**

- (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of a member 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 his or her creditors; or
    - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of Skills Australia; or
  - (c) the member fails, without reasonable excuse, to comply with section 14 or 15 (disclosure of interests); or
  - (d) the Minister is satisfied that the performance of the member has been unsatisfactory for a significant period.

## **Part 4—Meetings of Skills Australia**

### **19 Convening meetings**

- (1) Skills Australia must hold the meetings that are necessary for the efficient performance of its functions.
- (2) Meetings are to be held at the times and places that Skills Australia determines.

Note: See also section 33B of the *Acts Interpretation Act 1901*, which contains extra rules about meetings by telephone etc.

- (3) The Chair:
  - (a) may convene a meeting; and
  - (b) must convene a meeting if requested in writing by:
    - (i) 3 or more other members; or
    - (ii) the Minister.

### **20 Presiding at meetings**

- (1) The Chair must preside at all meetings at which he or she is present.
- (2) If the Chair is not present at a meeting, the other members present must appoint one of their number to preside.

### **21 Quorum**

- (1) At a meeting of Skills Australia a quorum is constituted by a majority of the current members.
- (2) However, if:
  - (a) section 15 prevents a member from participating in the deliberations or decisions of Skills Australia with respect to a particular matter; and
  - (b) when the member leaves the meeting concerned there is no longer a quorum present;

## Section 22

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those remaining members constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

### **22 Voting at meetings**

- (1) A question arising at a meeting is to be determined by a majority of the votes of the members present and voting.
- (2) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

### **23 Conduct of meetings**

- (1) Skills Australia may regulate proceedings at its meetings as it considers appropriate.
- (2) Skills Australia must ensure that minutes of its meetings are kept.

### **24 Decisions without meetings**

- (1) Skills Australia is taken to have made a decision at a meeting if:
  - (a) without a meeting, a majority of the members entitled to vote on the proposed decision indicate agreement with the decision; and
  - (b) that agreement is indicated in accordance with the method determined by Skills Australia under subsection (2); and
  - (c) all the members were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.
- (2) Subsection (1) applies only if Skills Australia:
  - (a) has determined that it may make decisions of that kind without meeting; and
  - (b) has determined the method by which members are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a member is not entitled to vote on a proposed decision if the member would not have been

entitled to vote on that proposal if the matter had been considered at a meeting of Skills Australia.

- (4) Skills Australia must keep a record of decisions made in accordance with this section.

## **25 Committees**

- (1) Skills Australia may, by writing, establish committees to assist it in performing any of its functions.
- (2) Skills Australia must not establish a committee without the approval of the Minister.
- (3) A committee consists of such individuals as Skills Australia from time to time appoints, by writing, to the committee.

Note: For reappointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

- (4) A committee may be constituted:
- (a) wholly by members; or
  - (b) partly by members and partly by other individuals.
- (5) The Chair of a committee must be a member.
- (6) Skills Australia may give a committee written directions as to:
- (a) the way in which the committee is to carry out its task; and
  - (b) procedures to be followed in relation to its meetings; and
  - (c) the disclosure by members of the committee of interests in matters being considered by the committee.
- (7) A member of a committee is to be paid the remuneration and allowances (if any) that the Minister determines.
- (8) An appointment to a committee is not a public office within the meaning of the *Remuneration Tribunal Act 1973*.
- (9) The following are not legislative instruments:
- (a) an instrument under subsection (1);
  - (b) an approval made in writing under subsection (2);
  - (c) a direction under subsection (6).

## Part 5—Miscellaneous

### 26 Staff assisting Skills Australia

The staff assisting Skills Australia are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary of the Department.

### 27 Annual reports

- (1) Skills Australia must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on Skills Australia's operations during that year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) Skills Australia must include in the report details of any directions given to it by the Minister under paragraph 6(4)(b) or subsection 7(1) during the year.

### 28 Delegation

- (1) The Minister may, by writing, delegate any or all of his or her functions and powers under this Act (other than a function or power under section 6, 7, 9, 11 or 18) to:
  - (a) the Secretary of the Department; or
  - (b) an SES employee or acting SES employee in the Department.
- (2) In exercising functions or powers delegated under subsection (1), the delegate must comply with any directions of the Minister.

### 29 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or

Section 29

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(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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*[Minister's second reading speech made in—  
House of Representatives on 13 February 2008  
Senate on 12 March 2008]*

(11/08)

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