Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012

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Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012

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Portfolio: Tertiary Education, Skills, Science and Research
Commencement: 1 July 2012

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill amends the Skills Australia Act 2008 to establish the Australian Workforce and Productivity Agency (the ‘Agency’) in place of Skills Australia. The Agency will assume the functions of Skills Australia, and will have additional membership and responsibilities. The Bill implements measures announced in the 2011–12 Budget.

Background

Skills Australia was established by the Skills Australia Act 2008 and commenced operations in April of that year. It was one of the Rudd Government’s initiatives to address skills shortages by supplying independent research, analysis and advice to government on Australia’s skill needs.  

The Agency was announced in the 2011–12 Budget (in the Budget papers and related media it was initially named the National Workforce and Productivity Agency). The Budget indicated that the new Agency would develop sectoral workforce development plans, undertake research, consult industry and disseminate information on workforce planning issues.

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The Agency would also have responsibility for administering the National Workforce Development Fund. This fund is worth a total of $558 million over four years and incorporates the $200 million Critical Skills Investment Fund announced in the 2010–11 Budget.3

In September 2011 the then Minister for Tertiary Education, Skills, Jobs and Workplace Relations announced the Government would ‘bring forward the work’ of the Agency.4 An interim board was appointed and commenced on 1 October 2011 – nine months ahead of schedule. In a speech to the National Press Club the Minister attributed the urgency of the new arrangements to rapid change in key industry sectors and workforce pressures exerted by the ‘patchwork economy’.5

Skills Australia states:

On 21 September 2011, Senator the Hon Chris Evans, the then Minister for Tertiary Education, Skills, Jobs and Workplace Relations, announced that Government will bring forward the work of the National Workforce and Productivity Agency to 1 October 2011. At that time, the Skills Australia Board was joined by three additional Members to form a Skills Australia transition advisory committee which will operate as the interim board of the National Workforce and Productivity Agency. The three additional Members are Mr Paul Howes, Mr Peter Anderson, and Dr John Edwards.6

Skills Australia’s Business Plan 2011 contains a transition plan for the shift to the new Agency.7 The transition plan includes consulting with stakeholders, developing operational procedures for the Agency and setting up systems to support the administration of the National Workforce Development Fund.

In her second reading speech, the Parliamentary Secretary for Higher Education and Skills, Sharon Bird, described the rationale for the proposed new Agency:

• industry and union partners had called for an increased focus on workplace productivity and better linkages between skills funding and industry needs and

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3. Ibid. Note however comments at p. 7 of this Digest, that the Bill does not actually confer the function of ‘administering’ the Fund.

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Skills Australia (in its national workforce development strategy) recommended a new partnership approach to workforce development involving government, industry and enterprises. The proposed establishment of the Agency and the National Workforce Development Fund form part of the broader government agenda for vocational education and training, in which responsibility is shared by the Commonwealth and the states and territories. The Council of Australian Governments (COAG) has established a National Agreement for Skills and Workforce Development that sets out the relationship between the parties.

### Committee consideration


Written submissions to the inquiry were sought by 12 April 2012. There were nine submissions. Overall, they are supportive of and welcome the amendments, including the:

- shift in focus from ‘training’ to workforce development
- change of name of the body
- expanded membership of the body
- new role in provision of research and analysis and
- new role in provision of advice on Commonwealth funding.

Issues raised in the submissions include potential inconsistency in the membership categories and possible need for clarification on the scope of advice on Commonwealth funding (see Key issues below).

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Key issues

Title

Passage of the Bill will amend the Act’s title from Skills Australia Act 2008 to the Australian Workforce and Productivity Agency Act 2008.

Membership

Size of the board

The Bill proposes three (3) additional Board members (taking the total membership to a Chair plus nine other members). Three additional members have already been appointed to an interim Australian Workforce and Productivity Agency board that commenced on 1 October 2011. The new members are Mr Paul Howes, Mr Peter Anderson and Dr John Edwards.  

Makeup of the board

There is a proposed additional category of membership. The Board must now contain member(s) who have experience in ‘the representation of employees’. The proposed new subsection 9(2) of the Act would read:

(2) In making appointments, the Minister must ensure that the members of the Australian Workforce and Productivity Agency have, between them, experience in:

(a) academia; and

(b) the provision of education or training; and

(c) economics; and

(d) industry; and

(e) the representation of employees.

The submissions from the Australian Chamber of Commerce and Industry (ACCI) and Restaurant and Catering Australia argue that the new requirement for employee representation should be

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10. Skills Australia, ‘Meet the Board Members and CEO’, op. cit.
12. Ibid., Restaurant and Catering Australia, submission dated 12 April 2012.

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matched with a requirement for employer representation. The Bill retains a requirement for ‘industry’ representation, however this is not defined. Their recommendation is that proposed paragraph 9(2)(d) of the Act be changed from ‘industry’ to ‘the representation of employers’ to add clarity and resolve this apparent inconsistency.

To date, the membership of Skills Australia suggests that ‘industry’ in paragraph 9(2)(d) of the Act has been interpreted as including both employer and employee representation. (The Board includes a representative of the Australian Council of Trade Unions.) The submission from the Australian Manufacturing Workers’ Union also supports this interpretation, stating that ‘trade unions are legitimate industry bodies’. They nonetheless welcome a stronger union presence on the Board.

In its submission, the Australian Council for Private Education and Training (ACPET) calls for a training sector representative in the membership of the Agency. (The Board is required to have ‘experience in education or training’, but there is no training provider on the Board at present).

Reappointment of members

Part 3 of Schedule 1 of the Bill provides that, on commencement of the proposed amendments on 1 July 2012, existing appointments to Skills Australia will be terminated and established committees will cease to exist. This means that the members of the Board of the Agency will have to be reappointed and committees re-established.

Functions

The proposed new Agency will continue to have the same function as Skills Australia in providing advice to the Minister on Australia’s current, emerging and future workforce development and workforce skills needs.

The Bill proposes two additional primary functions in new paragraphs 6(1)(c) and (d) of the Act (set out at item 7 of Schedule 1 of the Bill). These are to provide advice to the Minister on improving the productivity of the Australian workforce and to provide advice to the Minister on the allocation of Commonwealth funding, including through the National Workforce Development Fund, to address Australia’s workforce development and skills needs and improve its productivity.

13. Ibid., Australian Manufacturing Workers Union, submission viewed 26 April 2012.
15. Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012, viewed 26 April 2012,
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fbillhome%2F%2Fr4757%22

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Improving productivity

The Bill proposes that the Agency will provide advice to the Minister on improving the productivity of the Australian workforce. It is not clear from the Bill or the Explanatory Memorandum how it will achieve this. However, the Minister’s address to the National Press Club highlights the role the Agency will play in ‘skills match-making’, ensuring that skilled workers are available to boom industries and that training is offered to workers affected by structural change. He also notes that one of the new members of the Agency will be a ‘productivity economist’.16

The submission from the NSW Department of Education and Communities notes the potential for duplication and overlap in this function, given that the Australian Productivity Commission also undertakes research on productivity. It recommends that the new Agency collaborate with the Productivity Commission and work closely with states and territories to ensure a more coordinated approach.17

Advising on allocation of funding

Under proposed new paragraph 6(1)(d) of the Act, at item 7 of Schedule 1 of the Bill, the new Agency will also provide advice on the allocation of Commonwealth funding (including through the National Workforce Development Fund).

The 2011–12 Budget papers state that the Agency will be responsible for ‘administering the National Workforce Development Fund’.18 This implies a more direct role in allocating funding than the wording of the Bill suggests.

The submission from the NSW Department of Education and Communities points out that the use of the word ‘including’ in proposed new paragraph 6(1)(d) of the Act leaves scope for the Agency to provide advice on Commonwealth funding more broadly:

While the Second Reading speech refers to the Agency as having a role in advising on policy direction and expenditure priorities for the National Workforce Development Fund, the wording in the Bill does not limit the Agency to providing advice on this Fund. The Act may need to clarify this ambiguity.19

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Assessing research

There is a new additional function in proposed paragraph 6(3)(ba) of the Act which is ‘assessing research relating to improving the productivity of the Australian workforce’. The wording of this function differs in the Budget papers. While the Budget papers stated that the Australian Workforce and Productivity Agency would ‘undertake research’ the Bill refers only to ‘assessing research’.\(^{20}\)

Submissions from both the ACCI and Restaurant and Catering Australia include an expectation that the Agency make use of both the Australian Bureau of Statistics (ABS) and the National Centre for Vocational Education Research (NCVER), in discharging this function.

Both ACCI and Restaurant and Catering Australia, respectively, expect that the Agency would also ‘conduct primary research where there are gaps’\(^{21}\) and ‘commission research where there are gaps in evidence’\(^{22}\).

Financial implications

The Explanatory Memorandum states that:

> The Government will provide $25.0 million over three years to establish the Australian Workforce and Productivity Agency. This is in addition to the current Skills Australia budget.\(^{23}\)

The Budget for Skills Australia for 2010–11 was $5.0 million.\(^{24}\) The increased funding would be required by the Agency in order to deliver on its additional functions and to support its expanded membership.

Skills Australia is supported by staff ‘made available for the purpose by the Secretary of the Department of Education, Employment and Workforce Relations (DEEWR)’.\(^{25}\) As at 30 June 2011, Skills Australia had 28 full time staff.\(^{26}\)

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22. Ibid., Restaurant and Catering Australia, submission dated 12 April 2012.
25. Ibid.
26. Ibid., p. 12.
It is expected that staffing would increase significantly as a result of the new funding and responsibilities of the Agency.

**Concluding comments**

The Bill seeks to formalise arrangements that have largely been in place since late 2011. From 1 July 2012, the Australian Workforce and Productivity Agency will replace Skills Australia and have more responsibilities, including provision of advice to the Minister on the allocation of Commonwealth funding to address matters of workforce development, skills needs and improving workforce productivity.
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