

The Senate

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Economics  
Legislation Committee

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Australian Workforce and Productivity Agency  
Repeal Bill 2014 [Provisions]

June 2014

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# Senate Economics Legislation Committee

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# Chapter 1

## Introduction

### Referral of the bill

1.1 On 15 May 2014 the Senate passed the following resolution:

To ensure appropriate consideration of time critical bills by Senate committees, the provisions of all bills introduced into the House of Representatives after 15 May 2014 and up to and including 5 June 2014 that contain substantive provisions commencing on or before 1 July 2014 (together with the provisions of any related bill) are referred to committees for inquiry and report by 16 June 2014.<sup>1</sup>

1.2 On 4 June 2014 the Australian Workforce and Productivity Agency Repeal Bill 2014 (the bill) was introduced into the House of Representatives by the Hon Ian MacFarlane, Minister for Industry.<sup>2</sup>

1.3 Accordingly, once introduced, the provisions of the bill stood referred to the Senate Economics Legislation Committee for inquiry and report by the 16 June 2014.

### Purpose of the bill

1.4 The purpose of the bill is to abolish the Australian Workforce and Productivity Agency (AWPA) by repealing the *Australian Workforce and Productivity Agency Act 2008* in its entirety.<sup>3</sup>

### Conduct of the inquiry

1.5 The committee advertised the inquiry on its website and invited a number of stakeholders to make submissions by 12 June 2014. The committee received nine submissions, all of which are available on the committee's website.<sup>4</sup> The committee received three late submissions but was unable to incorporate fully their views in the report. A list of all submissions can be found in the Appendix.

### Background

#### *The government's Smaller Government Reform Agenda*

1.6 The government has committed to a *Smaller Government Reform Agenda* to drive efficiency and budget savings for the Commonwealth by reducing the number of

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1 *Journals of the Senate*, No. 29—Thursday, 15 May 2014, p. 821.

2 *House of Representatives Hansard*, Wednesday 4 June 2014, p. 1; *Proof House of Representatives Votes and Proceedings* No 44, Wednesday 4 June 2014, p. P533.

3 *Explanatory Memorandum*, p. 5; See also Schedule 1, Australian Workforce and Productivity Agency Repeal Bill 2014.

4 See [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics)

government agencies. Soon after the 2013 election, the government implemented the first phase of this agenda by reducing the number of government bodies by 40.<sup>5</sup>

1.7 Following the election, the government also set up the National Commission of Audit (the commission) to review all Commonwealth expenditure. The commission's report advised government to 'Reduce the number of non-principal government bodies.'<sup>6</sup> Based on information provided by departments and through other research undertaken, the commission identified 696 non-principal bodies that existed at the Commonwealth level (including councils, boards and committees). In examining the potential for rationalisation of these non-principal bodies, the Principles of Good Government guided the commission along with the propositions that:

- the Commonwealth should consider withdrawing from activities outside its areas of core responsibilities;
- portfolio departments should undertake policy work, while agencies should deliver programmes and services;
- as far as practicable, bodies should be incorporated into the portfolio department;
- organisations and bodies should have clear accountability and focus, with defined roles and performance management measures; and
- the need for independence alone does not justify the establishment of a new operational body.

1.8 With regard to advisory bodies, such as AWPA, the commission recognised that it was appropriate for the government to seek the views and obtain advice from experts outside of government. It stated further, however:

harnessing expertise and advice should be core business for departments which does not necessitate dedicated bodies.

The existence of an advisory body adds an additional layer of participation and administrative overhead, which needs to be balanced against the efficiency and effectiveness of obtaining this advice and guidance.<sup>7</sup>

1.9 The commission recommended that AWPA be consolidated into the Department of Industry.<sup>8</sup>

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5 A list of many of these is included in Senator the Hon Mathias Cormann, Minister for Finance, *Delivering A Smaller, More Rational Government*, Press Release 13 May 2014.

6 Recommendation 14, National Commission of Audit, *Towards Responsible Government, The Report of the National Commission of Audit, Phase Two* (March 2014), p. xxvi.

7 National Commission of Audit, *Towards Responsible Government, The Report of the National Commission of Audit, Phase Two* (March 2014), p. 88.

8 National Commission of Audit, *Towards Responsible Government, The Report of the National Commission of Audit, Phase Two* (March 2014), p. 137.



1.10 In May 2014, Senator the Hon Mathias Cormann, Minister for Finance (the Minister), released a Ministerial Paper, *Smaller and More Rational Government 2014–15*. This outlined further initiatives announced as part of the 2014–15 Budget:

The Smaller Government initiatives announced in the 2014–15 Federal Budget are part of a methodical ongoing effort to reduce the total number of Australian Government bodies. These decisions build on steps taken shortly after the 2013 election to abolish unnecessary advisory bodies and boards, take steps towards our first major privatisation and abolish a number of agencies including statutory authorities.<sup>9</sup>

1.11 The Media Release for the launch of this Ministerial Paper stated these initiatives would:

...eliminate duplication, remove waste, streamline Government services and reduce the cost of government administration for taxpayers...[and] deliver net savings of about \$500 million over the forward estimates.<sup>10</sup>

1.12 AWPAs are not explicitly mentioned by name in this Ministerial Paper or Media Release. However, the Explanatory Memorandum for the bill states its proposed abolition is 'part of the Government's commitment to streamline its advisory arrangements and to rationalise the number of portfolio bodies across government'.<sup>11</sup>

### ***The Australian Workforce and Productivity Agency***

#### *Primary functions*

1.13 The primary function of AWPAs is to provide expert advice to the Minister for Industry on:

- Australia's current, emerging and future workforce development needs;
- Australia's current, emerging and future workforce skills needs;
- improving the productivity of the Australian workforce; [and]
- the allocation of Commonwealth funding [to address these issues] (including through the National Workforce Development Fund).<sup>12</sup>

1.14 To achieve this function, AWPAs engage directly with many stakeholders across different sectors, including government, industry, education and training, and unions.<sup>13</sup>

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9 Senator the Hon Mathias Cormann, Minister for Finance, *Smaller and More Rational Government 2014–15*, Ministerial Paper, May 2014, p. 5.

10 Senator the Hon Mathias Cormann, Minister for Finance, *Delivering A Smaller, More Rational Government*, Press Release 13 May 2014.

11 *Explanatory Memorandum*, p. 2.

12 Section 6, Australian Workforce and Productivity Agency Act 2008.

13 AWPAs, 'About us' at [www.awpa.gov.au/about-us/Pages/default.aspx](http://www.awpa.gov.au/about-us/Pages/default.aspx) (accessed 10 June 2014).

### *Establishment and history*

1.15 AWPAs were established as an independent statutory body on 1 July 2012 by the *Australian Workforce and Productivity Agency Act 2008*, by which Skills Australia was transformed into AWPAs, a new organisation with new membership and some added functions.<sup>14</sup>

1.16 AWPAs maintained the primary function of Skills Australia, providing expert advice to the Minister on Australia's current, emerging and future workforce development and workforce skills needs.<sup>15</sup>

1.17 However, AWPAs's board was given three extra members, and a new provision that stipulated this must include union representation. Moreover, AWPAs was also endowed with some new functions. These changes included:

- three additional board members (for a total of nine members in addition to the Chair);
- the provision that the Board must contain member(s) who have experience in the 'representation of employees' (i.e. unions)—alongside the provisions for Skills Australia's board to include representatives of academia, education and training providers, economics, and industry;
- provision for the existing Skills Australia appointments to committees to be terminated upon the enacting of the *Australian Workforce and Productivity Agency Act 2008*; and
- two additional primary functions:
  - advising the Minister on improving the productivity of the Australian workforce; and
  - a responsibility to advise the Minister on the allocation of Commonwealth funding, including through the National Workforce Development Fund, also established in 2012.<sup>16</sup>

### **Financial savings, regulatory impact and human rights issues**

1.18 The bill will result in a small amount of financial savings, primarily from the abolition of AWPAs's board.<sup>17</sup>

1.19 The Office of Best Practice Regulation has confirmed that the repeal of the bill will not require a regulatory impact statement, as it will not have more than a minor regulatory impact on business, community organisations or individuals.<sup>18</sup>

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14 AWPAs, 'About us' at [www.awpa.gov.au/about-us/Pages/default.aspx](http://www.awpa.gov.au/about-us/Pages/default.aspx) (accessed 10 June 2014).

15 Leonie Doyle, *Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012*, Parliamentary Library Bills Digest no. 128, 2011–12 (8 May 2012), p. 6.

16 Leonie Doyle, *Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012*, Parliamentary Library Bills Digest no. 128, 2011–12 (8 May 2012), pp. 6–7.

17 *Explanatory Memorandum*, p. 2.

18 *Explanatory Memorandum*, p. 2.

1.20 The bill does not raise any human rights or freedom issues, and is compatible with Australia's international obligations.<sup>19</sup>

### **Structure of this report**

1.21 The report is structured in two chapters—this introductory chapter, which has provided background on the AWPA and the context for its abolition; and chapter 2, which looks at the provisions of the bill and discusses the issues raised by submissions.

### **Acknowledgements**

1.22 The committee would like to thank all individuals and organisations that participated in the inquiry, particularly given the tight timeframes requested for submissions.

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19 *Explanatory Memorandum*, p. 3.



## Chapter 2

### Key provisions of the bill and issues raised

#### Key provisions of the bill

2.1 The provisions of the Australian Workforce and Productivity Agency Repeal Bill 2014 (the bill) will repeal the *Australian Workforce and Productivity Agency Act 2008* in its entirety and abolish the Australian Workforce and Productivity Agency (AWPA).<sup>1</sup>

2.2 Upon its abolition, AWPA will be integrated into the Department of Industry (Industry), so that its expertise and functions will not be lost to government. Schedule 1 of the bill states:

The new arrangements will put the Department in the best place to deliver its core functions more efficiently. The change will streamline processes and strengthen resources and capability across the portfolio and provide stronger linkages between skills and industry sectors.<sup>2</sup>

#### Issues raised with the committee

2.3 The committee received nine submissions. These raised a range of issues concerning the bill, which will be discussed in turn, including:

- general support for the bill;
- opposition to the bill;
- the need for the government to recognise AWPA's achievements; and
- the need for government to focus on future workforce needs and skills development.

#### *Support for the bill*

2.4 The Department of Industry (Industry) outlined how the government's Smaller Government Reform Agenda is designed to 'ensure the public service is as efficient, as effective and as accountable as possible'.<sup>3</sup>

2.5 According to Industry, AWPA's staff and functions would be transferred into the department, commenting this would not require an independent statutory framework, as AWPA's functions are 'consistent with other public policy functions carried out by Government Departments'.<sup>4</sup>

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1 *Explanatory Memorandum*, p. 5; See also Schedule 1, Australian Workforce and Productivity Agency Repeal Bill 2014.

2 Schedule 1, Australian Workforce and Productivity Agency Repeal Bill 2014; See also *Explanatory Memorandum*, p. 5.

3 *Submission 4*, p. 1.

4 *Submission 4*, p. 2.

2.6 Industry indicated that the consolidation of AWPA into the department would allow it to 'deliver on its core functions more efficiently'.<sup>5</sup> In particular, its submission noted potential improvements that consolidation would bring to the department:

The new arrangements will streamline processes and strengthen the resources and the capability of the Department of Industry to provide targeted advice to the Minister for Industry. The proposed change will also facilitate stronger linkages between the skills and industry functions of the Department, and improve accountability by instituting direct reporting lines through the Secretary of the Department.<sup>6</sup>

2.7 The Department also drew the committee's attention to the financial efficiencies coming from the incorporation of AWPA into the department, mostly from 'reduced corporate overheads and the removal of the AWPA board'.<sup>7</sup>

2.8 Industry outlined a future work plan for the department's continuation of AWPA's research, analysis and advisory roles. Its submission stated that 'Activities undertaken by AWPA will continue to be priorities for the Department', including:

- the development of the Skilled Occupation List that is used across government and industry (which identifies occupations where independent skilled migrants will assist in meeting the medium and long term skill needs of the Australian economy);
- sectoral studies on workforce development and skills needs in areas of key industry priority to inform the Minister and industry; and
- other advice on workforce development and skills issues that relate to productivity in Australia.<sup>8</sup>

2.9 The Restaurant and Catering Industry Association (R&CA) supported the abolition of AWPA as part of 'the government's commitment to rationalising the number of portfolio bodies across government by streamlining its advisory arrangements'.<sup>9</sup>

2.10 R&CA noted it had been openly critical of the level of industry direction of AWPA's functions and the independence of its analysis.<sup>10</sup>

2.11 Moreover, R&CA told the committee that AWPA's advisory, research and administrative functions for the funding of Vocational Education and Training (VET) was 'duplicating the work of other bodies', such as the Industry Skills Council, the National Centre for Vocational Education Research and the Department of Industry.

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5 *Submission 4*, pp 1–2.

6 *Submission 4*, p. 2.

7 *Submission 4*, p. 2.

8 *Submission 4*, p. 2.

9 *Submission 6*, p. 2.

10 *Submission 6*, p. 2.

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The Association suggested these agencies were already well positioned to take over APWA's role in the VET sector, which would avoid duplication.<sup>11</sup>

2.12 Both the Australian Council for Private Education and Training and TAFE Directors acknowledged the research that AWPA produced but also formed the view that its abolition would help to reduce unnecessary duplication.<sup>12</sup>

### **Opposition to the bill**

2.13 Some submissions opposed the provisions of the bill and its abolition of AWPA. Concerns were also raised about the transparency of the government's decision to undertake this measure.

#### ***Transparency of the decision to abolish AWPA***

2.14 ACTU expressed disappointment in the way the decision to abolish AWPA had been handled by government, and argued this decision had been made on ideological grounds, rather than on evidence about AWPA's performance:

The decision to abolish AWPA is not any reflection of the quality and professionalism of the work it has been doing. Instead, it is a casualty of the Government's catch all ideological disposition to deregulate and reduce the size of government.<sup>13</sup>

2.15 The Australian Council of Trade Unions (ACTU) noted that media speculation about the future of AWPA began in April 2014. It stated it was disappointed there was 'no formal statement from the Minister at [this] time; no public announcement or acknowledgement of the work AWPA has done, or explanation of why an agency doing good and important work was being abolished'. They noted that the decision to abolish AWPA was only announced and explained by the government when the bill was introduced to parliament.<sup>14</sup>

#### ***Opposition to the abolition of AWPA***

2.16 The ACTU argued AWPA was an 'invaluable source of independent tripartite advice, research and advocacy in relation to the national skills agenda'.<sup>15</sup> Moreover, this submission commented on AWPA's 'rigorous and disciplined approach' and its capacity for constructive engagement with all relevant stakeholders.<sup>16</sup>

2.17 Considering this expertise and established relationships with key stakeholders, ACTU told the committee that abolishing AWPA was a 'retrograde step'.<sup>17</sup>

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11 *Submission 6*, p. 2.

12 *Submissions 8 and 9*.

13 *Submission 5*, p. 2.

14 *Submission 5*, p. 2.

15 *Submission 5*, p. 1.

16 *Submission 5*, p. 1.

17 *Submission 5*, p. 2.

2.18 Professor Gavin Moodie and Dr Leesa Wheelahan submitted the bill should not be passed.<sup>18</sup> They argued the abolition of AWPA would result in government losing the Agency's extensive expertise and resources on workforce development, including substantial data.<sup>19</sup>

2.19 In their view, government departments would find it difficult to fulfil the roles AWPA took on, particularly offering 'independent advice on contentious issues' and promoting 'new ideas stimulating fresh thinking and innovation'.<sup>20</sup>

2.20 According to Professor Moodie and Dr Wheelahan, AWPA's independence and 'open and consultative' approach to engagement gave the Agency traction with stakeholders. They indicated that this was something the Commonwealth had struggled with on workforce development issues, particularly the states and territories, and industrial sectors.<sup>21</sup>

2.21 Dr Joanna Howe also opposed AWPA's abolition. She recognised the critical role it has had in identifying the skills needs of the Australian economy and argued not only for AWPA to be maintained but for its role to be expanded.<sup>22</sup>

### ***Recognition of AWPA's achievements***

2.22 Several submitters indicated to the committee that AWPA's contribution to workforce development should be recognised by the government.

2.23 The ACTU's submission made it clear it appreciated the work that AWPA had produced:

The ACTU wishes to place on record its appreciation of the work done by the Board and staff of the Australian Workplace and Productivity Agency, and its predecessor, Skills Australia.<sup>23</sup>

2.24 Professor Moodie and Dr Wheelahan were opposed to the abolition of AWPA, as previously noted. However, they stated that if the bill were passed it should be amended in two ways to recognise AWPA's achievements, namely:

- changing the bill's title to include the word 'recognition' (i.e. to become the Australian Workforce and Productivity Agency Recognition and Repeal Act 2014); and
- inserting a paragraph stating: 'The Parliament of Australia records its recognition of the work and achievements of the staff and board of the

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18 *Submission 1*, p. 1.

19 *Submission 1*, p. 2.

20 *Submission 1*, p. 2.

21 *Submission 1*, p. 2.

22 *Submission 7*, p. 1.

23 *Submission 5*, p. 3.



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Australian Workforce and Productivity Agency and of its predecessor Skills Australia'.<sup>24</sup>

2.25 Innovation and Business Skills Australia (IBSA) made a submission that outlined the positive role AWPAs has played in 'examining the current and emerging skills need across key sectors of the Australian economy'.<sup>25</sup> IBSA's submission stated it has:

...worked closely with AWPAs and has greatly appreciated the initiatives to improve productivity, management, innovation and skills utilisation in Australian workplaces. It is important also to acknowledge the high level of industry expertise on the AWPAs board which has made it an authority on the workforce development and skills needed to respond to industry needs. Their experience has greatly contributed to forward thinking beyond the bureaucratic frameworks.<sup>26</sup>

### **Committee View**

2.26 The committee considers the decision to integrate AWPAs functions and expertise into the Department of Industry was made in line with the government's *Smaller Government Reform Agenda*.

2.27 The agenda to make government smaller and more tightly focussed is a long-standing commitment of this government, which was taken to the last election. Its implementation will drive accountability and efficiency in the public sector, and generate significant budget savings for the Commonwealth.

2.28 Some submitters were concerned that the work undertaken by AWPAs has not been sufficiently recognised. The committee would like to note the Hon Ian MacFarlane, Minister for Industry, made particular mention of AWPAs achievements in his Second Reading Speech introducing the bill to parliament. He said:

The agency [AWPA] has made a valuable contribution to policy development and refinement in key areas of skills and workforce development. I would like to take this opportunity to thank all serving and prior board members for their involvement and engagement with the agency and its policy and research.

I took the opportunity to speak to each of the board members and thank them for their contribution. Many people have done a great deal to improve the productivity and skills of young people in particular, and the contribution of the board members should be acknowledged.<sup>27</sup>

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24 *Submission 1*, p. 1.

25 *Submission 2*, p. 1.

26 *Submission 2*, p. 1.

27 The Hon Ian MacFarlane, Minister for Industry, *Second Reading Speech, House of Representatives Hansard*, Wednesday 4 June 2014, p. 1.

2.29 The committee would also like to acknowledge the work of the board and staff of AWPA, and the important role the Agency has played in improving workforce development and productivity. The committee would also like to highlight the importance of lifting Australia's productivity across all sectors and ensuring Australia has the skilled workforce it needs to prosper in the future.

2.30 The committee notes that AWPA's knowledge and expertise will not be lost to government in its incorporation into the Department of Industry. Rather, the department is looking to draw on AWPA's significant capacities to improve its own approach to workforce development and lifting productivity.

2.31 The committee is encouraged by the department's work plan that sets out its commitment to the continuation of AWPA's research, analysis and advisory roles.

### **Recommendation 1**

**2.32 The committee recommends that the bill should be passed.**

**Senator David Bushby**  
**Chair**

# APPENDIX

## Submissions received

<b>Submission Number</b>	<b>Submitter</b>
1	Adjunct Professor Gavin Moodie (RMIT) and Dr Leesa Wheelahan (University of Toronto)
2	Innovation and Business Skills Australia
3	Community Services and Health Industry Skills Council
4	Department of Industry
5	Australian Council of Trade Unions
6	Restaurant and Catering Industry Association
7	Dr Joanna Howe, Adelaide Law School
8	TAFE Directors Australia
9	Australian Council for Private Education and Training