



New South Wales

Jobs for NSW Act 2015 No 25

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New South Wales

Jobs for NSW Act 2015 No 25

Act No 25, 2015

An Act with respect to providing incentives for economic development and job creation; to establish Jobs for NSW and the Jobs for NSW Fund; and for other purposes. [Assented to 28 September 2015]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Jobs for NSW Act 2015*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Objects of Act

The objects of this Act are as follows:

- (a) to facilitate the creation of new jobs in New South Wales in a way that is responsive to changes in the economy,
- (b) to facilitate the development and attraction of new businesses, and the consolidation of existing businesses, in New South Wales,
- (c) to establish Jobs for NSW to utilise high level private sector business experience to provide strategic advice to government for the purpose of creating jobs and driving investment in New South Wales,
- (d) to facilitate the provision of innovative, cost-effective and strategically targeted incentives for economic development in New South Wales.

4 Definitions

- (1) In this Act:

Department means the Department of Industry, Skills and Regional Development.

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

Fund means the Jobs for NSW Fund established under section 12.

jobs creation incentive includes a grant of money, a financial guarantee, an investment or the provision of advice or a support program.

Jobs for NSW means the body established under section 5.

Secretary means the Secretary of the Department.

- (2) Notes included in this Act do not form part of this Act.

Part 2 Jobs for NSW

5 Establishment of Jobs for NSW

- (1) There is established by this Act a body with the name Jobs for NSW.
- (2) Jobs for NSW is to consist of the following 7 members:
 - (a) 4 members appointed by the Minister,
 - (b) 1 member appointed by the Minister for Regional Development,
 - (c) the Secretary of the Department of Industry, Skills and Regional Development or a nominee of that Secretary,
 - (d) the Secretary of the Department of Premier and Cabinet or a nominee of that Secretary.
- (3) Of the members appointed by the Minister, one is, in and by the instrument of appointment or another instrument, to be appointed Chairperson of Jobs for NSW.
- (4) In appointing a member, a Minister is to have regard to ensuring that the members of Jobs for NSW as a whole have demonstrated commercial acumen and knowledge of, and senior business experience in, growing jobs and improving industry competitiveness.
- (5) A member appointed by a Minister holds office as a part-time member.
- (6) Jobs for NSW may use, and act under, the name Jobs for NSW Board.

6 Functions of Jobs for NSW

- (1) Jobs for NSW has the following functions:
 - (a) to advise the Minister on opportunities for developing the New South Wales economy,
 - (b) to identify opportunities to attract new businesses to New South Wales,
 - (c) to advise the Minister on impediments to, and opportunities for, improving and expanding competitive advantage in New South Wales,
 - (d) to develop a strategy to deliver cost-effective and strategically targeted support for economic development in New South Wales,
 - (e) to call for proposals for which jobs creation incentives may be granted under this Act, to assess proposals and to make recommendations to the Minister about proposals,
 - (f) to prepare and recommend to the Minister for approval criteria for eligibility for jobs creation incentives and for assessment of proposals for which the incentives may be granted,
 - (g) to assess any such proposals according to the eligibility and assessment criteria approved from time to time for that purpose by the Minister and to make recommendations to the Minister about the proposals and approval of jobs creation incentives,
 - (h) to provide advice about business advisory services in New South Wales,
 - (i) to provide advice about employment matters related to the carrying out of its functions,
 - (j) any other functions prescribed by the regulations for the purposes of this section.
- (2) Jobs for NSW has any other functions that are conferred or imposed on it by or under this or any other Act.

7 Ministerial control

Jobs for NSW is subject to the direction and control of the Minister, except in relation to the preparation and contents of any report, strategy, recommendation or advice provided to the Minister by Jobs for NSW.

8 Annual report on operations of Jobs for NSW

- (1) Jobs for NSW is to prepare an annual report for each year commencing on 1 July setting out the following:
 - (a) particulars of jobs creation incentives paid for from the Fund during the reporting year,
 - (b) particulars of the total amount of payments made from the Fund for jobs creation incentives for proposals in rural and regional areas outside the metropolitan areas of Sydney, Wollongong and Newcastle, including whether that amount is at least 30% of the total payments made from the Fund for jobs creation incentives,
 - (c) particulars of its operations during the year,
 - (d) any other matter it considers appropriate to report on.
- (2) The report is to be provided to the Minister not later than 1 October following the end of the year for which the report is prepared.
- (3) The Minister may make the whole or any part of a report publicly available.

9 Appointment of advisory committees

- (1) The Minister may appoint any advisory committees that the Minister considers appropriate for the purposes of advising Jobs for NSW for the purposes of this Act.
- (2) Jobs for NSW may make recommendations to the Minister as to the appointment of advisory committees and their functions.
- (3) An advisory committee has the functions the Minister may from time to time determine for it.
- (4) Without limiting subsection (3), advisory committees may be appointed to consider issues relating to regional development, innovation and skills.
- (5) An advisory committee consists of the committee members appointed by the Minister.
- (6) An advisory committee member holds office for the period specified in the instrument of appointment of the committee member, but the appointment may be terminated by the Minister at any time.
- (7) One of the advisory committee members, in and by the instrument by which the committee member is appointed or another instrument made by the Minister, is to be appointed as chairperson of the committee.
- (8) An advisory committee member is entitled to be paid the fees and allowances (if any) determined from time to time by the Minister as to the committee member.
- (9) Subject to the regulations and any directions of the Minister, the procedure of an advisory committee appointed under this section is to be as determined by the advisory committee.
- (10) The Minister may dissolve an advisory committee appointed under this section.

10 Delegation

Jobs for NSW may delegate the exercise of any function of Jobs for NSW under this Act (other than this power of delegation) to:

- (a) the Secretary or any other person employed in the Department, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

11 Staff

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable Jobs for NSW to exercise its functions.

Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services Jobs for NSW makes use of) may be referred to as officers or employees, or members of staff, of Jobs for NSW.

Part 3 Jobs for NSW Fund

12 Jobs for NSW Fund

- (1) There is to be established in the Special Deposits Account a fund called the Jobs for NSW Fund.
- (2) The following may be paid into the Fund:
 - (a) all money appropriated by Parliament for the purposes of this Act,
 - (b) all other money received by Jobs for NSW or by the Minister for the purposes of this Act,
 - (c) any fees or charges paid under this Act,
 - (d) all money directed or authorised to be paid into the Fund under this or any other Act,
 - (e) the proceeds of the investment of money in the Fund.
- (3) The following may be paid out of the Fund:
 - (a) amounts for jobs creation incentives for proposals under this Act,
 - (b) the costs of administering this Act,
 - (c) all money directed or authorised to be paid out of the Fund under this or any other Act.
- (4) The Minister has control and management of the Fund.

13 Investment of Fund

The Minister may invest money in the Fund:

- (a) in any manner that is authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Minister to invest that money—in any manner authorised for the investment of trust funds.

Part 4 Miscellaneous

14 Delegation

The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to:

- (a) the Secretary or any other person employed in the Department, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

15 Disclosure of confidential information

Jobs for NSW may make arrangements for the protection of the confidentiality of commercial information provided by proponents of proposals for jobs creation incentives assessed under this Act.

16 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member of Jobs for NSW appointed by a Minister.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member appointed by a Minister or from accepting and retaining any remuneration payable to the person under this Act as a member.

17 Personal liability

- (1) A matter or thing done or omitted to be done by the Minister, the Secretary, Jobs for NSW, a member of Jobs for NSW or a person acting under the direction of the Minister, the Secretary, Jobs for NSW or a member of Jobs for NSW does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act (or any other Act that confers functions on Jobs for NSW), subject the Minister, the Secretary, a member of Jobs for NSW or the person so acting personally to any action, liability, claim or demand.
- (2) However, any such liability attaches instead to the Crown.

18 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following:
 - (a) the constitution of Jobs for NSW, including the term of office and remuneration of members and vacation of office by members,
 - (b) procedures for disclosure by members of Jobs for NSW of pecuniary interests in matters being considered by Jobs for NSW,
 - (c) general procedures for meetings of Jobs for NSW and the conduct of business at those meetings.

19 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Definition

In this Part:

existing development funds means money held by or on behalf of the Department or another Public Service agency:

- (a) for the purposes of the State Investment Attraction Scheme or the Regional Industries Investment Fund established by the Department, or
- (b) that is specified in writing by the Minister, with the concurrence of the Treasurer, as existing development funds for the purposes of this Part.

3 Payments from existing development funds

- (1) Existing development funds are to be paid into the Jobs for NSW Fund.
- (2) Existing development funds committed for use for financial assistance for specific purposes before being paid into the Fund must be paid from the Fund for those purposes, unless the Minister, with the concurrence of the Treasurer, otherwise directs.

4 Existing assistance applications

- (1) An application for funding from existing development funds made, but not finally determined, before the funds are paid into the Jobs for NSW Fund is to be determined as if it were a proposal made under this Act.
- (2) The applicant may, at the request of Jobs for NSW or on the applicant's initiative, amend the application for the purposes of this Act.

5 First annual report

- (1) Jobs for NSW must prepare an annual report in accordance with section 8 for the period commencing on the commencement of this Act and ending on 30 June following that commencement.
- (2) The report is to be provided to the Minister not later than the following 1 October.

[Second reading speech made in—
Legislative Assembly on 26 August 2015
Legislative Council on 9 September 2015]