

# Government Sector Finance Act 2018 (GSF Act) Fact Sheet

## Government Officer: Roles and Responsibilities

Wednesday, 16 October 2024

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**Disclaimer:** This is guidance material only and does not replace reading the legislation.

### At a glance

- A government officer is an employee of a GSF agency, the head of a GSF agency, a statutory officer who exercises functions in relation to a Public Service agency or anyone else prescribed to be a government officer in the regulations.
- The delegation provisions within the GSF Act enable the Minister, Treasurer and accountable authority to delegate and subdelegate a broader set of functions to government officers.
- A government officer is responsible for ensuring that expenditure for the State or a GSF agency is done in a way that is authorised i.e., under delegation or under the authority of law.

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### Who is a government officer?

A government officer is a person who is:

- an employee of a GSF agency (including an employee seconded from another GSF agency)
- the head of a GSF agency
- a statutory officer who exercises 'head of agency' functions in relation to a Public Service agency (refer Schedule 1 of the *Government Sector Employment Act 2013 (GSE Act)*, or who have been delegated functions in respect of a Public Service agency under sections 27 or 32 of the GSE Act) ([section 2.9\(1\)](#) of the GSF Act).

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### Who is not a government officer?

The GSF Act specifies that the following are not a government officer:

- the Governor, Lieutenant-Governor or Administrator of the State
- a Minister, a member of the Executive Council or a Parliamentary Secretary
- a member of the Legislative Council or the Legislative Assembly
- a judicial officer within the meaning of the *Judicial Officers Act 1986* (including staff of the Judicial Commission of NSW employed under that Act)
- an officer or employee of either House of Parliament or under the control of the President or Speaker (or both)

- a person employed under the *Members of Parliament Staff Act 2013*
- a member of the governing body of a GSF agency (for example, a member of a Board where the Board is the accountable authority of a GSF agency) who is not employed by the agency or other GSF agency
- a volunteer, consultant or contractor of a GSF agency (unless prescribed)
- a person working for a GSF agency by way of secondment but who is not employed by a GSF agency
- any other person prescribed by the regulations not to be a government officer (see section 2.9(2) of the GSF Act).

## Roles and responsibilities

A government officer should be guided by the values and principles in the GSF Act ([section 3.7 of the GSF Act](#)) when exercising functions in connection with financial management.

Value	The government officer should -
Accountability	Take reasonable care so that the officer’s use of government resources and related money is efficient, effective and prudent.
Integrity	Place public interest over private interest and not use their position or information acquired in that position improperly.
Transparency	Ensure that any real or perceived conflicts of interest are effectively avoided, managed and disclosed to the appropriate entity as soon as possible.

A government officer may perform functions, such as authorising expenditure on behalf of the State, as a delegate. Under the GSF Act, a broad range of functions may be delegated, or subdelegated, to government officers by the responsible Minister and the accountable authority for the relevant GSF agency.

Treasurer’s directions may also confer administrative functions on government officers.

## What a government officer must do and cannot do under the GSF Act

A government officer must ensure that the expenditure of money for the State or a GSF agency is done in a way that is “authorised” ([section 5.5\(2\)](#) of the GSF Act). A government officer does not have authority to spend government money unless they hold a delegation or subdelegation that authorises the expenditure. “Authorised” has the meaning of [section 5.5\(3\)](#) of the GSF Act.

A government officer cannot make a gift of government property unless:

- the property was acquired for use as a gift
- the gift has been authorised by the Treasurer in writing
- the gift is made in accordance with Treasurer’s directions or
- the gift was authorised by or under any law (see section 5.6 of the GSF Act).

## A government officer can be liable for loss

A government officer is a 'person handling government resources' under the GSF Act, and the civil recovery provisions apply to them. A government officer:

- incurs a debt to the Crown if they contravene provisions around the gifting of government property as a result of:
  - dishonesty
  - misconduct or
  - a deliberate or serious disregard of reasonable standards of care by the person ([section 9.15](#) of the GSF Act)
- incurs a debt to the Crown if there is a loss of government resources or related money, and the person caused or contributed to the loss by:
  - misconduct or
  - a deliberate or serious disregard of reasonable standards of care ([section 9.16](#) of the GSF Act).

A debt incurred is recoverable by the Treasurer (unless waived under [section 9.18\(4\)](#) of the GSF Act). However, proceedings can only be commenced with the agreement of the Attorney General (or his/her delegate).

See [Part 9 Division 9.4 of the GSF Act](#) for more information on the civil recovery provisions.

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## Need more information?

Refer to NSW Treasury website *Government Sector Finance Act 2018* page to find more Fact Sheets.

Email the Financial Management Legislation team at [Legislation@treasury.nsw.gov.au](mailto:Legislation@treasury.nsw.gov.au)

For legal advice, refer to your agency's legal team in the first instance.