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| ***This is a sample instrument of delegation and is to be modified and used at the discretion of each Accountable Authority.*** |

This is a pro forma instrument provided to assist GSF agencies with implementing provisions of the GSF Act. If used, please review and complete the instruments in a manner which ensures that they meet the legislative requirements and your agency’s needs

**INSTRUMENT OF DELEGATION UNDER THE**

***GOVERNMENT SECTOR FINANCE ACT 2018* (NSW)**

Pursuant to section 9.11 of the *Government Sector Finance Act 2018* (“the *GSF Act*”), *I* ***[Name],*** ***[Official title]*,** hereby delegate those functions and powers that are specified in the column marked “Function” in Schedule 1 to the persons referred to in the column marked “Delegate” in Schedule 1.

These delegations are made in my capacity as the Accountable Authority for **[insert agency]**, for the purposes of the *GSF Act*.

A delegation of functions under this instrument:

1. authorises a delegate to subdelegate a delegated function, in accordance with the column marked “Subdelegation” in Schedule 1;
2. is subject to the conditions identified in Schedule 2;
3. withdraws and replaces any delegation of a comparable function previously made by myself or my predecessors in office under any of the following:

* *Public Finance and Audit Act 1983*;
* *Public Authorities (Financial Arrangements) Act 1987*;
* *Annual Reports (Departments) Act 1985*; or
* *Annual Reports (Statutory Bodies) Act 1984*; and

1. remains in full force and effect until withdrawn, modified or varied by me or my successors in office.

Terms used in this instrument have the same meaning as they carry in the *GSF Act*, unless otherwise indicated.

*<Signature>*

**[Name]**

**[Official title]**

Date: 2018

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| ***Delete options and instruction boxes as applicable*** |

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| ***Guidance note – to be deleted***  **Persons to whom an Accountable Authority may delegate his/her functions**   * In relation to functions under the GSF Act and certain functions under other Acts and financial arrangements (see s.9.7(1)), to:   + A government officer (or a government officer of a kind) of the agency   + Any other entity (or entity of a kind) prescribed by the regulations.   The delegates listed above may subdelegate their delegated functions to persons or entities as specified in section 9.11(4) of the *GSF Act*.  This guidance note contains a summary only and is not intended to be a substitute for a review of the relevant sections of the *GSF Act*. |

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| ***Delete functions below as applicable.***  ***The column marked ‘Delegate’ should indicate the person/role to whom the ‘Function’ is to be delegated.***  ***The column marked ‘Subdelegation’ should be marked with a Y/N response to indicate whether the subdelegation of that function is allowed.***  ***If the Accountable Authority permits the delegate to subdelegate to all classes of person specific in section 9.11(4), the column should indicate “Yes – per GSF Act, 9.11(4)”. If it is intended for a function to be subdelegable to a narrower group of people than those specified under section 9.11(4), this should be indicated in the column as well – for example, by indicating “Yes”, and then identifying relevant limitations (an example is provided at line item 1). Alternatively, an Accountable Authority may exclude a particular delegate’s ability to subdelegate a particular function, in which case the column should be marked “no”.***  ***Division 9.2 of the GSF Act authorises delegation of functions that arise both under that Act, and under other legislation, but this pro-forma instrument only deals with functions arising under the GSF Act. Functions arising under other legislation can be added to this instrument and the section and name of that Act should be identified in the column marked ‘Section (GSF Act, unless otherwise indicated)’.***  ***Please note that this sample instrument does not include financial delegations (for example, for the expenditure of money under an Appropriation Act) as Accountable Authorities do not have the authorisation to expend money except under a delegation. An example of a financial delegation can be found in the Pro forma delegation instrument for Ministers on the Treasury website. This can be added to an Accountable Authority’s delegation instrument if the Accountable Authority has received a financial delegation from a Minister and wishes to further subdelegate that power.*** |

**SCHEDULE 1 – Delegations**

| **Item** | **Function** | **Delegate** | **Subdelegation** | **Section**  ***(GSF Act, unless otherwise indicated)*** |
| --- | --- | --- | --- | --- |
| **1. General delegations** | | | | |
| *General – Key concepts – new GSF agencies* | | | | |
|  | *Give notice to the Treasurer and Auditor-General of the agency becoming a GSF agency* | *Chief Operating Officer* | *e.g only: Yes - but only to government officers of the agency who are employed as Public Service senior executives under the Government Sector Employment Act 2013.* | *Section 2.8(1)* |
| **2. Roles and responsibilities - Consultation matters (regulations, directions and determinations)** | | | | |
|  | Be consulted with by the Treasurer (or the Treasurer’s delegate) about:   * proposed directions under section 5.4 regarding the payment by **[insert agency name]**, or a part of **[insert agency name]**, of financial distributions (if relevant); * the closing of any bank accounts of **[insert agency name]** by the Treasurer under section 6.18 |  | *e.g. No* | Section 5.4 and Section 6.18  (see also section 3.5, concerning consultation procedures) |
| **3. Financial services and arrangements** | | | | |
| *Financial services* | | | | |
|  | Open, close or operate banking accounts of **[insert agency name]** in accordance with Treasurer’s directions |  |  | Section 6.19 |
| *Financial arrangements* | | | | |
|  | Enter into a financial arrangement for or on behalf of **[insert agency name]**, that the agency is authorised to enter and has all the functions of the agency for that purpose.   |  | | --- | | *Note: this will only apply where the GSF agency is not a legal person (such as a body corporate). Where the GSF agency is a legal person, any delegation will need to be by the agency itself.* | |  |  | Section 6.22(3) |
| **4. Financial and annual reporting** | | | | |
| *Financial reporting* | | | | |
|  | *Annual GSF financial statements* - give annual GSF financial statements for **[insert agency name]** to the Auditor-General   |  | | --- | | ***This item will commence on 1 July 2019.*** | |  |  | Section 7.6 |
|  | *Special purpose financial reports* - Prepare special purpose financial reports in accordance with a direction by the Treasurer.   |  | | --- | | ***This item will commence on 1 July 2019.*** | |  |  | Section 7.9(3) |
| *Annual reporting* | | | | |
|  | Give annual reporting information to the responsible Minister   |  | | --- | | ***This item will commence on 1 July 2019.*** | |  |  | Section 7.12(2)(b) |
| **5. Information sharing** | | | | |
|  | Comply with a request by the Treasurer under section 9.2 of the Act, to provide relevant agency information of **[insert agency name]** for the purposes of decisions about resource allocation made by or for the Government. |  |  | Section 9.5(1) |
|  | Comply with a request by a responsible Minister under section 9.3 of the Act, to provide relevant agency information of **[insert agency name]** for the purposes of decisions about resource allocation made by or for the Government |  |  | Section 9.5(1) |
|  | Provide the Treasurer or other Minister with a written notice of the reason for not complying with a request under Section 9.2 or 9.3, where it is considered that the request does not need to be complied with because the disclosure of the information is prohibited by other legislation. |  |  | Section 9.5(3) |
|  | Share relevant agency information of **[insert agency name]** in response to a request made under Division 9.1 by the Treasurer or a responsible Minister of the Treasury, for the purposes of decisions about resource allocation made by or for the Government. |  |  | Section 9.5(1) |
| **6. Separate GSF agencies only** | | | | |
|  | Give to the Treasurer or other Minister who gave or made the requirement a written document stating the reason for non-compliance with a relevant Treasurer’s direction or Minister’s information requirement as soon as practicable after it is decided not to comply. |  |  | Section 2.5(5)(a) |

**SCHEDULE 2 – Conditions on Delegations**

***[The content of these conditions, whether they are expressed in specific or general terms, and whether they are listed in a table or not, are all policy matters for each delegating Accountable Authority.]***