

Government Sector Finance Act 2018

The summary of the Minister’s functions in the GSF Act 2018

Last updated; June 2019

Disclaimer: This document should be used as guidance material only, for more information please refer to the legislation and please check the website for updates.

Purpose; The purpose of this factsheet is to summarise the functions, and *delegable functions*, conferred on the Minister under the *GSF Act 2018*. This is not designed as a technical guide to the Act and does not replace familiarity with the provisions of the legislation.

Some functions listed here may be delegated in accordance with Part 9 of the GSF Act. Functions that require a formal delegation instrument, called *delegable functions*, are defined in s9.7 of the GSF Act. These functions require a formal delegation instrument, that must be written in accordance with s49 of the *Interpretation act 1987*

Generally, the functions that are conferred on the Minister are able to be delegated, except the power of delegation and there are limitations on the delegation of the information Access functions in Division 9.1.

It is important to note that when a function has been delegated, responsibility for that function remains with the original owner of the function
For more information please refer to the legislation and the resources available on the [website](#)

Key	
	Denotes a delegable function that requires a formal delegation instrument.
	Denotes that a function that, while the Treasurer / Minister may seek assistance from staff, does not require a formal delegation instrument.
	Denotes a function under the Legislation but the concept delegation does not apply
	Denotes a function that may not be delegated. That is; it is the function must be executed by the person specified.



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Item	Function	GSF Act provision	Section
Part 1 – Preliminary			
1.	All entities covered by the scope of the Act must comply with the Act, whether or not in Australia	<i>It is the intention of the Parliament of New South Wales that the operation of this Act should, as far as possible, include operation in relation to the activities of Ministers, GSF agencies, accountable authorities for GSF agencies and government officers whether occurring in or outside the territorial limits of the State.</i>	1.7(1)
Part 2 – Key concepts			
2.	Responsible Minister must be consulted by the Treasurer, or delegate, about proposed determinations regarding annual reporting period	<i>The Treasurer must consult both the Auditor-General and the responsible Minister for a GSF agency in accordance with section 3.5 about any proposed different annual reporting period for determination for the purposes of subsection (2).</i>	2.10(4)
Part 3 – Roles and responsibilities			
3.	May (but need not) be consulted on Treasurer's directions	<i>Except to the extent required by this Act or the regulations, the Treasurer may (but need not) consult with responsible Ministers for GSF agencies or any other persons or entities that the Treasurer considers appropriate before giving Treasurer's directions.</i>	3.1(5)
4.	Treasurer's directions do not apply to a Minister (except for provisions in part 6)	<i>Subject to subsection (2), the Treasurer's directions do not apply to any of the following:</i> a) <i>a Minister (even if the Minister falls within a GSF agency of a kind to which the directions otherwise apply),</i>	3.3(1) (a)
5.	Consent to the inclusion of a particular provision in a Treasurer direction that applies to a particular GSF agency for which the Minister is the responsible Minister.	<i>A provision of the Treasurer's directions may be limited in its application to a particular GSF agency but only if the provision is included with the consent of the responsible Minister for the agency.</i>	3.3(4)

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6.	May be consulted on consultation matters , relevant to the Minister, with regards to Treasurer's directions	The Treasurer must consult each entity specified by the consultation provision as an entity that must be consulted about a consultation matter before recommending the making of regulations, or giving directions or making determinations, that include the matter.	3.5(2)
Item	Function	GSF Act provision	Section
Part 4 – Budget appropriations and Special Deposits Account			
7.	Is considered to have an appropriation, when the agency receives or recovers deemed appropriation money.	4.6 Money to be paid out of Consolidated Fund or Special Deposits Account only if authorised ... 4.7 (1) The responsible Minister for a GSF agency is taken to have been given an appropriation out of the Consolidated Fund under the authority of this section, at the time the agency receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered.	4.6 and 4.7(1)
8.	May nominate a responsible manager for a SDA	(a) a person nominated from time to time by the Minister who administers the account or the legislation under which the account is established, or	4.16(2)
Part 5 – Expenditure and gifts			
9.	May impose terms and conditions on delegations and subdelegations relating to expenditure functions.	A Minister who delegates an appropriation expenditure function under Division 9.2 may impose terms and conditions on the delegation and also on any sub delegation so as to limit the purpose for which expenditure may be committed or incurred, or payments authorised, under the delegation or a sub delegation.	5.2(2)
10.	Must ensure terms and conditions on delegation of above are appropriate	The Minister must ensure that the terms and conditions imposed are not inconsistent with the purposes for which the appropriation was given.	5.2(3)
11.	Must be consulted on directions to be made concerning payment of financial distributions to Treasurer	The Treasurer must consult both the accountable authority and responsible Minister for the GSF agency in accordance with section 3.5 about proposed directions to be given to the agency under this section 5.4.	5.4(3)

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12.	<p>May authorise an act of grace payment*</p> <p><i>*The delegation of this authorisation is limited by s5.7(4). This function may be delegated only to the AA for the Agency or a person employed of an agency which the Minister is responsible.</i></p>	<p><i>A Minister may, if satisfied that there are special circumstances or circumstances of a kind prescribed by the regulations, authorise an amount to be paid to a person on behalf of the State (an act of grace payment) under this section even though the payment is not:</i></p> <ul style="list-style-type: none"> <i>(a) otherwise authorised by or under law, or</i> <i>(b) required to meet an obligation.</i> 	5.7(1)
13.	<p>May impose terms and conditions on an act of grace payment</p> <p><i>*The delegation of this authorisation is limited by s5.7(4). This function may be delegated only to the AA for the Agency or a person employed of an agency which the Minister is responsible.</i></p>	<p><i>An act of grace payment is subject to any terms and conditions that the Minister may decide to impose.</i></p>	5.7(2)
14.	<p>May delegate the function making Act of grace payments only to the Accountable Authority or an employee of the agency for which the Minister is responsible</p>	<p><i>The Minister may delegate the function of making act of grace payments (including in relation to the imposition of terms and conditions for payments) only to:</i></p> <ul style="list-style-type: none"> <i>(a) An accountable authority for a GSF agency, or</i> <i>(b) Any person employed in or by a Public Service agency if the agency is responsible to the Minister under an administrative arrangements order made for the purpose of section 50C of the Constitution Act 1902, or</i> <i>(c) Any other entity (or an entity of a kind) prescribed by the regulations.</i> 	5.7(4)

Item	Function	GSF Act provision	Section
Part 6 – Financial services and arrangements			
15.	Must not contravene Part 6. For the purpose of Part 6, the Minister is treated as AA and GSF Agency	<p>(1) <i>For the purposes of this Part, each Minister (except the Treasurer) is to be treated as both a GSF agency and the accountable authority for the agency.</i></p> <p>(2) <i>To avoid doubt, an accountable authority for a GSF agency or government officer cannot do anything for or on behalf of a GSF agency that would contravene this Part if it were done directly by the agency.</i></p>	6.1 (1)
16.	Exercise certain functions, on behalf of a GSF Agency, under Part 6, including under a financial arrangement approval.	<p><i>Any function that is expressed to be conferred on a GSF agency by or under this Part may, if the agency is not a person, be exercised for or on behalf of the agency by:</i></p> <p>...</p> <p>(a) <i>For an agency that is not an independent non-corporate GSF agency – the responsible Minister or the accountable authority for the agency,</i></p>	6.2(1)
17.	Minister may not manage the affairs of an agency if the agency is not already subject to the control of that Minister	<p><i>This section does not:</i></p> <p>...</p> <p>(b) <i>authorise or permit the responsible Minister for a GSF agency to manage the affairs of the agency to the extent that the agency is not already subject to the direct control of the minister</i></p>	6.2(2)
18.	If Treasurer's directions require it, the Minister on behalf of the GSF Agency, must use a particular banking or financial service	<p><i>Without limiting subsection (1), the Treasurer's directions may:</i></p> <p>(a) <i>require a GSF agency or government officer to use a particular banking or other financial service provided under a State financial service agreement, and</i></p>	6.15(2)
19.	May, as a GSF Agency, enter in to authorised financial arrangements for the agency	<p><i>Powers to enter financial arrangements</i></p> <p><i>To avoid doubt, a GSF agency may do all things that are necessary or convenient to be done in connection with entering into authorised financial arrangements for the agency, including (without limitation) doing the following:</i></p> <p>(a) <i>entering into any contract, agreement or other transaction,</i></p> <p>(b) <i>incurring any obligations under a contract, agreement or other transaction,</i></p> <p>(c) <i>making any payment (including in advance) under a contract, agreement or other transaction,</i></p> <p>(d) <i>providing or making any covenants or promises (including absolute and unconditional ones),</i></p>	6.22 (5)



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		<p>(e) using a controlled entity of the GSF agency to do things the GSF agency can do under this Act,</p> <p>(f) in addition, for a joint financing arrangement:</p> <ul style="list-style-type: none">(i) delegate any function of the GSF agency to a participant in the arrangement, and(ii) agreeing to the exercise of any function of the GSF agency by a participant in the arrangement, and(iii) agreeing not to exercise any function of the GSF agency to the extent that an agreement for its exercise by a participant in the arrangement is in force, <p>(g) exercising any other functions specified in a financial arrangement approval.</p>	
20.	Recommend to the Treasurer that the Treasurer give a financial approval for a joint financing arrangement for a GSF Agency for whom the Minister is the responsible Minister	<p>However, the Treasurer may give a financial arrangement approval for a joint financing arrangement only on the recommendation of the responsible Minister for the GSF agency concerned.</p>	6.23(3)
21.	Must be consulted, by the Treasurer, about determinations about payments under this section.	<p>The amount is payable in the instalments, at the times, and with the interest as the Treasurer, after consultation with the responsible Minister for the agency may determine.</p>	6.32(2)
22.	Recommend a fund manager approval for a GSF agency for which the Minister is the responsible Minister.	<p>A funds manager approval may be given only on the recommendation of the responsible Minister for the GSF agency.</p>	6.35(3)

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Part 7 – Reporting			
23.	Exercise the power of full and free access to accounts and records of a GSF Agency for which the Minister is the responsible Minister	<i>The Treasurer and the responsible Minister for the GSF agency (or a person authorised by either of them) are entitled to full and free access to the accounts and records kept under this section, subject to any law that prohibits disclosure of particular information.</i>	7.5(2)
24.	Must table financial statements and audit report	<i>A copy of both the annual GSF financial statements and the audit report for them must be: (a) for a reporting GSF agency that is required under Division 7.3 to prepare annual reporting information for the period concerned—included in the annual reporting information tabled in Parliament for that period, or (b) for any other reporting GSF agency: (i) tabled by the responsible Minister for the agency in each House of Parliament as soon as practicable (but no later than within 5 months or any other period prescribed by the regulations) after the audit report is provided by the Auditor-General, and (ii) made publicly available by the accountable authority for the agency after it is tabled in the form or forms required by the regulations or the Treasurer’s directions.</i>	7.6(5)
25.	Must cause the reports relating to the SDA accounts, if they are not contained in the GSF Agency reports, to be tabled in Parliament	<i>If SDA account financial reports are not included in the annual reporting information for a GSF agency, the administering Minister for the account to which the reports relate is to cause them (along with any report of the Auditor-General on them) to be tabled in each House of Parliament within 5 months, or any other period prescribed by the regulations, after the end of the period to which the reports relate.</i>	7.8 (5)
26.	Will receive annual reporting information	<i>The annual reporting information must be: ... (b) given to the responsible Minister for the reporting GSF agency within the period agreed or directed by the Minister so as to enable it to be tabled in Parliament.</i>	7.12(2)
27.	Must table annual reporting information	<i>The responsible Minister for a reporting GSF agency is to cause the annual reporting information for the agency to be tabled in each House of Parliament as soon as practicable (but no later than within 5 months or any other period prescribed by the regulations) after the end of the annual reporting period for the agency.</i>	7.13

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Part 8 – Performance management of GSF agencies			
28.	May be consulted regarding the making of Treasurer's directions concerning Performance information	<i>The Treasurer must consult the responsible Minister for a GSF agency in accordance with section 3.5 about proposed directions affecting the agency concerning records and other information to be kept concerning the performance of the agency.</i>	8.2 (3)
Part 9 – Administration			
29.	May request, in writing, that accountable authority provide certain agency information in certain situations <i>*Performance information requests may only be delegated to another Minister or the Accountable Authority of the GSF Agency. s9.9(7)</i>	<i>A Minister may make a written request to the accountable authority for a GSF agency to provide the Minister with relevant agency information about the agency if:</i> (a) <i>the agency:</i> i. <i>has authority to pay out of the Consolidated Fund from appropriations made to the Minister or any other GSF agency for which the Minister is the responsible Minister, or</i> ii. <i>receives some or all of its funding from the Minister or any other GSF agency for which the Minister is the responsible Minister, or</i> iii. <i>is an agency for which the Minister is the responsible Minister, and</i> (b) <i>the request is for the purposes of decisions about resource allocation (whether for the agency or any other GSF agency for which the Minister is the responsible minister).</i>	9.3
30.	Will receive a written notice, from the Accountable Authority, of noncompliance with a request for information.	<i>An accountable authority for a GSF agency who considers that a request does not need to be complied with because the disclosure of the information is prohibited by other legislation must provide the Treasurer or other Minister who made the request with a written notice of the reason for not complying.</i>	9.5 (3)
31.	This division does not limit any information sharing under other laws.	<i>This Division does not limit the powers or other functions of the Treasurer, any other Minister or GSF agencies to obtain or share relevant agency information about GSF agencies under other provisions of this Act or under any other law.</i>	9.6
32.	May have functions delegated to them by the Treasurer	<i>The Treasurer may delegate any of the Treasurer's delegable functions (except functions concerning the giving of Treasurer's directions, separate GSF agency delegable functions or functions under Division *9.1) to:</i> (a) <i>another Minister, or</i>	9.8(1)(a)

33.	May have functions under 9.1 delegated to them by the Treasurer	<i>The Treasurer may delegate any of the Treasurer's functions under Division 9.1 to:</i> <i>(a) another minister, or</i>	9.8(4) a
34.	May subdelegate any Treasurer's delegable functions to a permitted subdelegate	Subdelegations <i>A delegate of the Treasurer may subdelegate a delegated function as follows to a permitted subdelegate for the kind of delegate concerned:</i> <i>1 Other Minister Person (or a person of a kind) authorised by the Treasurer in the Minister's instrument of appointment as a delegate</i>	9.8 (5)1
35.	May delegate functions (except under Division 9.1) to certain government officeholders	<i>A Minister may delegate any of the Minister's delegable functions (except separate GSF agency delegable functions or functions under Division 9.1) to:</i> <i>(a) another Minister, or</i> <i>(b) the accountable authority for a GSF agency for which the Minister is the responsible Minister, or</i> <i>(b) a government officer (or a government officer of a kind) of a GSF agency for which the Minister is the responsible Minister, or</i> <i>(c) the Secretary of a Department, or</i> <i>(d) any other entity (or an entity of a kind) prescribed by the regulations.</i>	9.9 (2)
36.	May delegate any of the Minister's separate GSF Agency delegable functions to certain officers of the agency	<i>A Minister may delegate any of the Minister's separate GSF agency delegable functions in relation to a separate GSF agency to the accountable authority for the agency.</i>	9.9 (3)
37.	May delegate functions under division 9.1 to certain government officeholders	<i>A Minister may delegate any of the Minister's functions under Division 9.1 to:</i> <i>(a) another Minister, or</i> <i>(b) the Secretary of a Department.</i>	9.9 (4)

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38.	Certain items delegated by a Minister to another Minister may be sub-delegated to permitted subdelegates.	<p>Subdelegations <i>A delegate of a Minister may subdelegate a delegated function as follows to a permitted subdelegate for the kind of delegate concerned:</i></p> <p style="text-align: center;">1 Other Minister Any of the following:</p> <p style="margin-left: 40px;">(a) an accountable authority for a GSF agency for which that other Minister is the responsible Minister, (b) the Secretary of a Department, (c) a government officer (or a government officer of a kind) of a GSF agency for which that other Minister is the responsible Minister, (d) any other entity (or an entity of a kind) prescribed by the regulations as an entity to which the delegate can subdelegate</p>	9.9 (5) 1
39.	May direct in writing to limit subdelegation of functions delegated to AA of their GSF Agency	<p><i>Despite subsections (4), (5) and (6), the following delegable functions of an accountable authority of a GSF agency or a university or its controlled entities cannot be subdelegated:</i></p> <p style="margin-left: 40px;">(a) a function excluded from subdelegation by the delegate's or subdelegate's instrument of appointment as a delegate or subdelegate, (b) for the accountable authority for a GSF agency—a function that the responsible Minister for the agency has directed in writing cannot be subdelegated.</p>	9.11(7)
PHGR	Incurs debt to the Crown if they contravene section 5.6 deliberately	<p><i>A person handling government resources incurs a debt to the Crown if:</i></p> <p style="margin-left: 40px;">(a) the person contravenes section 5.6 (Gifts of government property), and (b) the person's contravention was the result of: (i) dishonesty by the person, or (ii) misconduct by the person, or (iii) a deliberate or serious disregard by the person of reasonable standards of care.</p>	9.15
PHGR	Incurs a debt to the Crown for loss of resources, under certain circumstances	<p><i>A person handling government resources incurs a debt to the Crown if:</i></p> <p style="margin-left: 40px;">(a) a loss of government resources or related money has occurred (including by way of deficiency, destruction or damage), and (b) at the time of the loss, the person had control of the resources, and (c) the loss occurred because of the person's negligence.</p>	9.16



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PHGR	Will be liable to pay the debt to the amount determined under this division	<p>(1) <i>The amount of debt that a person handling government resources is liable to pay in respect of debt incurred under this Division is so much of the loss of government resources or related money concerned as the court considers just and equitable having regard to:</i></p> <p>(a) <i>the person's share of the responsibility for the loss, and</i></p> <p>(b) <i>the amount or value of the loss.</i></p> <p>(2) <i>The amount or value of the loss is:</i></p> <p>(a) <i>for the loss of government money or related money—the amount of the loss, or</i></p> <p>(b) <i>for the loss of government property—the value of the property or the costs of repairing it (whichever is less), or</i></p> <p>(3) <i>To avoid doubt, a gift of government property to which section 9.15 applies is to be treated as a loss of government property for the purposes of this section.</i></p>	9.17 (1) (2) (3)
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Part 10 - Miscellaneous