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| ***This is a sample instrument of subdelegation only, and is to be modified and used by each Delegate, within the conditions imposed.*** |

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 SUBDELEGATION UNDER THE**

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

Pursuant to section 9.9(5) of the *Government Sector Finance Act 2018* (“the *GSF Act*”), *I,* ***[Name, title]***, hereby subdelegate those functions and powers that are specified in the column marked “Function” in Schedule 1 to the persons referred to in the column marked “Subdelegate” in Schedule 1.

This delegation is made in my capacity as the Accountable Authority for ***[insert GSF agency name]***, for the purposes of the *GSF Act*.

A subdelegation of functions under this instrument:

1. authorises a subdelegate to subdelegate a function delegated to me at the time of making this instrument, in accordance with the column marked “Further subdelegation” in Schedule 1;
2. is subject to the conditions identified in Schedule 2;
3. remains in full force and effect until:

* withdrawn, modified or varied by me or my successors in office; or
* in respect of a particular subdelegated function – the delegation of the function to me or my successors in office is withdrawn, modified or varied by the delegator, in a manner inconsistent with the subdelegation.

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

*<Signature>*

**[Name]**

**[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 subdelegate his/her functions**   * In relation to functions, under the GSF Act and under other Acts (see Items 3-4 and 6-7 of s.9.9(5)), 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.   (Subject to the limitations imposed by section 9.9(7))  The subdelegates listed above may subdelegate their subdelegated functions to persons or entities as specified in section 9.9(6) of the *GSF Act*.  An accountable authority may only subdelegate a function which has been delegated to him or her.  This guidance note is 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 ‘Subdelegate’ should indicate the person to whom the ‘Function’ is to be subdelegated.***  ***The column marked Further 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 subdelegate to subdelegate to all classes of person specific in section 9.9(5), the column should indicate “Yes – per GSF Act, 9.9(5)”. If it is intended for a function to be subdelegable to a narrower group of people than those specified under section 9.9(5), this should be indicated in the column as well – for example, by indicating “Yes”, and then identifying relevant limitations. Alternatively, an Accountable Authority may exclude a particular subdelegate’s ability to subdelegate a particular function, in which case the column should be marked “no” (s 9.9(7)).***  ***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)’.*** |

**SCHEDULE 1 – Subelegations**

| **Item** | **Function** | **Subdelegate** | **Further subdelegation** | **Section**  ***(GSF Act, unless otherwise indicated)*** |
| --- | --- | --- | --- | --- |
| **E.g. General delegations** | | | | |
| *Consultation matters* | | | | |
|  | Be consulted by the Treasurer in accordance with section 3.5 about any proposed determination of a different annual reporting period for **[GSF agency]**. |  |  | Section 2.10(4) |
|  | Consent to the inclusion of a particular provision in a Treasurer’s direction that is limited in its application to a particular GSF agency for which the Minister is the responsible Minister. |  |  | Section 3.3(4) |
|  | Be consulted by the Treasurer (or the Treasurer’s delegate) in accordance with section 3.5 about proposed directions concerning records and other information to be kept concerning the performance of an agency for which the Minister is the responsible Minister. |  |  | Section 8.2(3) |
| **E.g. Financial delegations – annual *Appropriation Act***   |  | | --- | | ***Financial delegations generally require detail around the purposes for which a delegate may authorise expenditure, and the ceiling up to which they may expend. Please note that financial delegation limits are inclusive of GST.***  ***For each purpose for which expenditure is authorised, the quantum and appropriate delegate should be identified. An example is provided, but it may be more appropriate to create a separate delegation instrument for financial delegations if more detail and additional line items are needed. Where subdelegation is authorised in relation to financial expenditure, the delegate will need to make a detailed instrument of subdelegation to give the relevant officers the authority to commit/incur expenditure.***  ***It may also be appropriate to add line items for the delegation of expenditure functions in respect of deemed appropriations, where relevant.*** | | | | | |
|  | *Example: Commit or incur general expenditure for the work of the Department:* |  |  | *Section 9.7(1)(b),*  *Each annual Appropriation Act* |
| *- Amounts up to $5,000,000* | *Deputy Secretary* | *No* |
| *- Amounts up to $500,000* | *Deputy Secretary* | *Yes – but only to government officers of the Department who are (i) employed in the senior executive service or (ii) employed as a Clerk Grade 11-12 or above* |
| *- Amounts up to $5,000* | *Clerk Grade 11-12* | *No* |
|  | *Example: Commit or incur expenditure on special projects:* |  |  | *Section 9.7(1)(b),*  *Each annual Appropriation Act* |
| *- Amounts up to $5,000,000* | *Deputy Secretary* | *No* |
| **E.g. Financial delegations – *[INSERT SDA ACCOUNT OR FUND NAME]***   |  | | --- | | ***Each SDA account or fund should be identified individually. Each SDA account or fund will have a discrete set of permissible payment purposes which will need to be identified and inserted as an individual line item with a quantum and an appropriate delegate, if it is intended that the Minister delegate these functions in that level of detail. An example is provided below.***  ***Please note that financial delegation limits are inclusive of GST.***  ***If the Minister prefers to delegate the function of making payments from the SDA account or fund to a single person or a class of persons, that can be dealt with in a single line item but may require a more detailed sub-delegation instrument.*** | | | | | |
| *Financial delegations with respect to [INSERT SDA ACCOUNT OR FUND NAME]* | | | | |
|  | *Example: Payment of administrative expenses related to [insert account or fund name]:* |  |  | *Section 9.7(1)(d)*  *[insert name of relevant Act, if relevant]* |
| *- Amounts up to $5,000,000* | *Deputy Secretary* | *No* |
| *- Amounts up to $500,000* | *Deputy Secretary* | *Yes – but only to government officers of the Department who are (i) employed in the senior executive service or (ii) employed as a Clerk Grade 11-12 or above)* |
| *- Amounts up to $5,000* | *Clerk Grade 11-12* | *No* |
| **E.g. Separate GSF agency delegable functions**   |  | | --- | | ***A ‘separate GSF agency delegable function’ is defined by section 9.7(2) of the Act, and is delegable and subdelegable to a limited class of delegates and subdelegates in accordance with sections 9.9(3) and 9.9(5).***  ***An example has been provided below for financial delegations made with respect to funds appropriated to the Minister. Other delegations could include any of the other functions specified above (such as a consultation matter).*** | | | | | |
| *Separate GSF agency delegable functions in relation to [insert name of separate GSF agency]* | | | | |
| *Financial Delegations – annual Appropriation Act* | | | | |
|  | *Example: Commit or incur general expenditure for the work of the agency:* |  |  | *Section 9.7(1)(b),*  *Each annual Appropriation Act* |
| *- Amounts up to $5,000,000* | *Government officers who are employed in the senior executive service* | *No* |  |
| *- Amounts up to $500,000* | *Government officers who are (i) employed in the senior executive service or (ii) employed as a Clerk Grade 11-12 or above)* | No |  |
|  | *Etc.* |  |  |  |

**SCHEDULE 2 – Conditions on subdelegations**

***[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 subdelegator. These may include conditions imposed under section 5.2 of the GSF Act]***