



Ministerial Powers (ASIC) Delegations 2021

I, Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy, and Minister for Women's Economic Security, make the following delegations.

Dated 12 April 2021

Jane Hume
Minister for Superannuation, Financial Services and the Digital Economy
Minister for Women's Economic Security

Contents

Part 1—Preliminary	1
1 Name	1
2 Commencement	1
3 Authority.....	1
4 Schedules	1
5 Definitions	1
Part 2—Delegations under the Business Names Registration Act	3
6 Delegation of the Minister’s functions and powers.....	3
7 Direction to the delegate	3
Part 3—Delegations under the Corporations Act	4
8 Delegation of the Minister’s powers under Chapter 7.....	4
9 Delegation of the Minister’s powers relating to names	5
10 Directions to the delegate.....	6
Part 4—Delegations under the Mutual Assistance in Business Regulation Act	7
11 Delegation of the Minister’s powers and functions.....	7
Schedule 1—Repeals	8
<i>Ministerial Powers (ASIC) Delegation 2019</i>	8

Part 1—Preliminary

1 Name

This instrument is the *Ministerial Powers (ASIC) Delegations 2021*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the day after this instrument is registered; and (b) 15 April 2021.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Business Names Registration Act 2011*; and
- (b) the *Corporations Act 2001*; and
- (c) the *Mutual Assistance in Business Regulation Act 1992*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: Paragraph 13(1)(b) of the *Legislation Act 2003* has the effect that expressions have the same meaning in this instrument as in the *Business Names Registration Act 2011*, *Corporations Act 2001* and *Mutual Assistance in Business Regulation Act 1992* as appropriate and as in force from time to time.

In this instrument:

ASIC means the Australian Securities and Investments Commission.

ATO means the Australian Taxation Office.

Section 5

member, in relation to ASIC, has the same meaning as in section 9 of the *Australian Securities and Investments Commission Act 2001*.

senior staff member has the same meaning as in the *Australian Securities and Investments Commission Act 2001*.

staff member has the same meaning as in the *Australian Securities and Investments Commission Act 2001*.

Part 2—Delegations under the Business Names Registration Act

6 Delegation of the Minister's functions and powers

- (1) Under subsection 80(1) of the *Business Names Registration Act 2011*, the Minister's functions and powers under subsections 27(2), 28(2) and 32(3) of that Act are delegated to the persons holding, occupying or performing the duties of each of the following offices and positions in ASIC:
- (a) a member of ASIC;
 - (b) a senior staff member who is:
 - (i) an Executive Director;
 - (ii) a Senior Executive Leader;
 - (iii) a Senior Executive Specialist.

Note: Subsections 27(2), 28(2) and 32(3) are prescribed by section 13 of the *Business Names Registration Regulations 2011*.

- (2) Under subsection 80(1) of the *Business Names Registration Act 2011*, the Minister's functions and powers under subsections 27(2), 28(2) and 32(3) of that Act are delegated to senior staff members holding, occupying or performing the duties of each of the following offices and positions in the ATO whose services are being made available to assist ASIC in connection with the performance or exercise of ASIC's functions and powers:
- (a) the Deputy Registrar;
 - (b) a Deputy Commissioner;
 - (c) an Assistant Commissioner.

7 Direction to the delegate

For the purposes of subsection 80(2) of *Business Names Registration Act 2011*, a person delegated a function or power under section 6 of this instrument, must have regard to the *Guidelines for Ministerial Consent to Business Names under the Business Names Registration Act 2011* (July 2015), as published on the ASIC website, when exercising the power or function.

Section 8

Part 3—Delegations under the Corporations Act

8 Delegation of the Minister's powers under Chapter 7

(1) Under subsection 1101J(1) of the *Corporations Act 2001*, each of the Minister's powers under a provision of the *Corporations Act 2001* specified in an item of the following table is delegated to the persons holding, occupying or performing the duties of each of the following offices and positions in ASIC:

- (a) a member of ASIC;
- (b) a senior staff member.

Item	Provisions of the <i>Corporations Act 2001</i>	Description of the function or power
<i>Licensed markets</i>		
1	section 791C	Issue/revoke/vary an exemption from all or specified provisions of Part 7.2 of the Corporations Act
2	section 792F	Direct audit of annual report
3	section 792H	Approve change of country by foreign licensee
4	section 793E	Disallow changes to operating rules
5	section 794A	Issue/vary/revoke directions
6	section 794B	Require a special report including an audited special report
7	section 795B	Issue domestic and overseas licence
8	section 795C	Gazette the licence
9	section 796A	Impose/vary/revoke conditions on licence
10	section 797A	Vary licence to take into account name change
11	section 797B	Immediately suspend or cancel licence
12	section 797C	Suspend or cancel licence following hearing and report
13	section 797D	Effect of suspension
14	section 797E	Vary or revoke suspension
15	section 797F	Publication of notice of suspension or cancellation
16	section 798M	Issue/revoke/vary exemption from all or specified provisions of Part 7.2A of the Corporations Act
<i>Licensed CS facilities</i>		
17	section 820C	Issue/revoke/vary exemption from all or specified provisions of Part 7.3 of the Corporations Act
18	section 821E	Direct audit of annual report
19	section 821F	Approve change of country by foreign licensee
20	section 822E	Disallow changes to operating rules
21	section 823A	Issue/vary/revoke directions
22	section 823B	Require a special report including an audited special report
23	section 824B	Issue domestic and overseas licence
24	section 824C	Gazette the licence
25	section 825A	Impose/vary/revoke conditions on licence

Item	Provisions of the <i>Corporations Act 2001</i>	Description of the function or power
26	section 826A	Vary licence
27	section 826B	Immediately suspend or cancel licence
28	section 826C	Suspend or cancel licence following hearing and report
29	section 826D	Effect of suspension
30	section 826E	Vary or revoke suspension
31	section 826F	Publication of notice of licence suspension or cancellation
<i>Compensation regimes for financial markets</i>		
32	section 881D	Consider whether market will be covered by Division 4 of Part 7.5 of the Corporations Act
33	section 882A	Approve compensation arrangements with grant of licence
34	section 882B	Approve compensation arrangements after licence is granted
35	section 882C	Revoke an approval of compensation arrangements
36	section 882D	Issue directions to licensee
37	section 884B	Disallow changes to compensation rules
38	section 884C	Approve changes to compensation arrangements
39	section 885B	Requirements for compensation arrangements to be adequate
40	section 885C	Adequacy of compensation arrangements – losses to be covered
41	section 885J	Adequacy of compensation arrangements - other matters to be taken into account
42	section 890H	Disallow changes to the operating rules of the Securities Exchanges Guarantee Corporation
43	section 892K	Request a risk assessment report
44	section 893B	Issue/revoke exemption from all or specified provisions of Part 7.5 (compensation regimes) and vary/revoke an exemption

Note: The description of a function or power in the table are to assist readers only. They are not intended to affect the interpretation nor limit the function or power referred to in the table.

9 Delegation of the Minister's powers relating to names

- (1) Under subsection 1345A(1A) of the *Corporations Act 2001*, the Minister's functions or powers under subsections 147(2), 601DC(2) and 1213B(6) of that Act are delegated to the persons holding, occupying or performing the duties of each of the following offices and positions in ASIC:
 - (a) a member of ASIC;
 - (b) a senior staff member who is:
 - (i) an Executive Director;
 - (ii) a Senior Executive Leader;
 - (iii) a Senior Executive Specialist.
- (2) Under subsection 1345(1A) of the *Corporation Act 2001*, the Minister's functions and powers under subsections 147(2), 601DC(2) and 1213B(6) of that Act are delegated to the senior staff members holding, occupying or performing the duties of each of the following offices and positions in the ATO whose

Section 10

services are being made available to assist ASIC in connection with the performance or exercise of ASIC's functions and powers:

- (a) the Deputy Registrar;
- (b) a Deputy Commissioner;
- (c) an Assistant Commissioner.

- (3) All previous delegations made under subsection 1345A(1A) of the *Corporations Act 2001* are revoked.

10 Directions to the delegate

- (1) A person delegated a function or power under section 8 of this instrument must have regard to the *Guidelines for the Exercise of Powers Delegated to ASIC under Chapter 7 of the Corporations Act 2001* (April 2019), as published on the Department of the Treasury's website, when exercising the power or function.
- (2) For the purposes of subsection 1345A(2) of *Corporations Act 2001*, a person delegated a function or power under section 9 of this instrument must have regard to the *Guidelines for Ministerial Consent to Body Corporate Names under the Corporations Act 2001* (January 2008), as published on the Department of the Treasury's website, when exercising the power or function.

Part 4—Delegations under the Mutual Assistance in Business Regulation Act

11 Delegation of the Minister’s powers and functions

- (1) Under subsection 22(2) of the *Mutual Assistance in Business Regulation Act 1992*, the Minister’s powers and functions under sections 7, 8 and 9 of that Act are delegated to the persons holding, occupying or performing the duties of each of the following offices and positions in ASIC:
 - (a) a member of ASIC;
 - (b) a Special Counsel in the Chief Legal Office;
 - (c) the Senior Executive Leader, Misconduct and Breach Reporting (position number 15403);
 - (d) the Senior Executive Leader, Financial Services Enforcement, Office of Enforcement (position number 5412);
 - (e) the Senior Executive Leader, Market Supervision (position number 4644);
 - (f) the Senior Executive Leader, International (position number 4195).

Schedule 1—Repeals

Ministerial Powers (ASIC) Delegation 2019

1 The whole of the instrument

Repeal the instrument.