



Treasury Portfolio Governance (Australian Office of Financial Management) Instrument 2023

I, Steven Kennedy, Secretary to the Department of the Treasury, make the following instrument.

Dated 27 February 2023

Dr Steven Kennedy
Secretary
Department of the Treasury

Contents

Part 1—Preliminary	1
1 Name	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
Part 2—Delegations and authorisations relating to the Australian Office of Financial Management	3
5 Delegation under the <i>Australian Public Service Commissioner’s Directions 2022</i>	3
6 Authorisation under the <i>Fair Work Regulations 2009</i>	3
7 Sub-delegation under the <i>Governance of Australian Government Superannuation Schemes Act 2011</i>	3
8 Delegation under the <i>Long Service Leave (Commonwealth Employees) Act 1976</i>	4
9 Delegation under the <i>Maternity Leave (Commonwealth Employees) Act 1973</i>	4
10 Appointments under the <i>Public Interest Disclosure Act 2013</i>	4
11 Delegation under the <i>Public Service Act 1999</i>	4
12 Delegation under the <i>Public Service Classification Rules 2000</i>	5
13 Delegation under the <i>Public Service Regulations 1999</i>	5
14 Delegation under the <i>Safety, Rehabilitation and Compensation Act 1988</i>	5
Part 3—Revocation of previous delegations, authorisations and appointments	7
15 Revocations.....	7

Part 1—Preliminary

1 Name

This instrument is the *Treasury Portfolio Governance (Australian Office of Financial Management) Instrument 2023*.

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 day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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) *Australian Public Service Commissioner's Directions 2022*; and
- (b) *Fair Work Regulations 2009*; and
- (c) *Governance of Australian Government Superannuation Schemes Act 2011*; and
- (d) *Long Service Leave (Commonwealth Employees) Act 1976*; and
- (e) *Maternity Leave (Commonwealth Employees) Act 1973*; and
- (f) *Public Interest Disclosure Act 2013*; and
- (g) *Public Service Act 1999*; and
- (h) *Public Service Classification Rules 2000*; and
- (i) *Public Service Regulations 1999*; and
- (j) *Safety, Rehabilitation and Compensation Act 1988*.

4 Definitions

In this instrument:

AOFM means the Australian Office of Financial Management.

Section 4

CEO, in relation to the AOFM, means the SES employee, or acting SES employee, holding, occupying or performing the duties of the Chief Executive Officer of the AOFM.

Treasury means the Department of the Treasury.

Part 2—Delegations and authorisations relating to the Australian Office of Financial Management

5 Delegation under the *Australian Public Service Commissioner’s Directions 2022*

- (1) Under subsection 69(1) of the *Australian Public Service Commissioner’s Directions 2022*, the CEO of the AOFM is delegated all of the Secretary to the Treasury’s powers or functions under that instrument.
- (2) Under subsection 69(5) of the *Australian Public Service Commissioner’s Directions 2022*, a delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
 - (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity.

6 Authorisation under the *Fair Work Regulations 2009*

Under item 2 in the table in Schedule 6.3 to the *Fair Work Regulations 2009*, the CEO of the AOFM is authorised as the employing authority of employees employed under the *Public Service Act 1999* (other than SES employees or acting SES employees) that are holding or occupying positions, or performing duties, within the AOFM.

7 Sub-delegation under the *Governance of Australian Government Superannuation Schemes Act 2011*

- (1) Under subsection 36(5) of the *Governance of Australian Government Superannuation Schemes Act 2011*, the CEO of the AOFM is sub-delegated the powers of the Commonwealth Superannuation Corporation under the following provisions:
 - (a) subsections 11(1), 13(1) and 14(1) of the *Superannuation Act 1976*; and
 - (b) regulations 6, 8E, 10 and 15 of the *Superannuation (CSS) Salary Regulations 1978*; and
 - (c) the definition of “partial contributor” in section 3 of the *Superannuation Act 1976* as modified by the Schedule to the *Superannuation (CSS) Approved Part-time Employees Regulations*.

Note: The delegation of the above powers to accountable authorities by the Commonwealth Superannuation Corporation is contained in the *Governance of Australian Government Superannuation Schemes Act 2011 (Commonwealth Superannuation Corporation to non-CSC employers) Delegation* made on 18 November 2021.

- (2) A sub-delegate under subsection (1) is directed to exercise the powers in a manner consistent with all of the following:
 - (a) a power must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;

Section 8

- (b) a power must *not* be exercised with respect to any matter which may benefit the sub-delegate in their personal capacity.

8 Delegation under the *Long Service Leave (Commonwealth Employees) Act 1976*

- (1) Under subsection 9(1) of the *Long Service Leave (Commonwealth Employees) Act 1976*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions under that Act.
- (2) Under subsection 9(4) of the *Long Service Leave (Commonwealth Employees) Act 1976*, a delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
 - (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity.

9 Delegation under the *Maternity Leave (Commonwealth Employees) Act 1973*

- (1) Under subsection 11(1) of the *Maternity Leave (Commonwealth Employees) Act 1973*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions under that Act.
- (2) Under subsection 11(4) of the *Maternity Leave (Commonwealth Employees) Act 1973*, a delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
 - (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity.

10 Appointments under the *Public Interest Disclosure Act 2013*

Under section 36 of the *Public Interest Disclosure Act 2013*, each person holding, occupying or performing the duties of each of the following offices or positions in the AOFM, is appointed as an authorised officer for the purposes of that Act:

- (a) the CEO;
- (b) the Chief Risk and Assurance Officer;
- (c) the Manager, Human Resources;
- (d) if an office or position covered by a preceding paragraph ceases to exist or is renamed—all of the offices or positions with similar functions or responsibilities.

11 Delegation under the *Public Service Act 1999*

- (1) Under subsection 78(7) of the *Public Service Act 1999*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions under that Act (other than powers under section 73 of that Act).

- (2) Under subsection 78(11) of the *Public Service Act 1999*, a delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
- (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity;
 - (c) a power of function must only be exercised in a manner consistent with any direction issued by the Prime Minister, Public Service Minister or Australian Public Service Commissioner, under the *Public Service Act 1999*, to which the Secretary to the Treasury is subject.

12 Delegation under the *Public Service Classification Rules 2000*

- (1) Under subrule 13(1) of the *Public Service Classification Rules 2000*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions under that instrument.
- (2) Under subrule 13(6) of the *Public Service Classification Rules 2000*, a delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
- (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity.

13 Delegation under the *Public Service Regulations 1999*

- (1) Under subregulation 9.3(3) of the *Public Service Regulations 1999*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions under that instrument.
- (2) Under subregulation 9.3(8) of the *Public Service Regulations 1999*, a delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
- (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity;
 - (c) a power of function must only be exercised in a manner consistent with any direction issued by the Prime Minister, Public Service Minister or Australian Public Service Commissioner, under the *Public Service Act 1999*, to which the Secretary to the Treasury is subject.

14 Delegation under the *Safety, Rehabilitation and Compensation Act 1988*

- (1) Under section 41A of the *Safety, Rehabilitation and Compensation Act 1988*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions as a rehabilitation authority under sections 36 and 37 of that Act.

Section 14

- (2) A delegate under subsection (1) is directed to exercise the powers or functions in a manner consistent with all of the following:
- (a) a power or function must only be exercised with respect to employees holding or occupying positions, or performing duties, within the AOFM;
 - (b) a power or function must *not* be exercised with respect to any matter which may benefit the delegate in their personal capacity.
- (3) Each person holding, occupying or performing the duties of each of the following offices or positions in the AOFM, is authorised to give a written notice to Comcare under subsection 114A(1) of the *Safety, Rehabilitation and Compensation Act 1988* for and on behalf of the Secretary:
- (a) the CEO;
 - (b) the Manager, Human Resources;
 - (c) if an office or position covered by a preceding paragraph ceases to exist or is renamed—all of the offices or positions with similar functions or responsibilities.

Part 3—Revocation of previous delegations, authorisations and appointments

15 Revocations

- (1) All previous delegations, authorisations and appointments to the CEO of the AOFM, or any other person holding, occupying or performing the duties of an office or position in the AOFM, under an Act or instrument referred to in Part 2, are revoked.
- (2) To avoid doubt, subsection (1) does not affect any appointment of a person as the CEO of the AOFM.