FINANCIAL DELEGATIONS
BETTER PRACTICE GUIDELINE

January 2007

CONTENTS

ATTACHMENTS

1. Introduction

The purpose of this 'better practice guideline' is to provide information about the delegation of powers[1] within the ACT Government. It primarily focuses on the delegation of Agency Chief Executives powers under the *Financial Management Act 1996* (FMA) and the *Public Sector Management Act 1994* (PSMA).

The intention of this 'better practice guideline' is not to cover all possible aspects of delegation, but rather provide broad guidance regarding the management of financial delegations. The guideline is accessible on the Accounting Branch website http://www.treasury.act.gov.au/accounting/html/guidelines.htm.

1.1 What is delegation?

Essentially, delegation is the efficient allocation of powers to people with the appropriate ability and/or experience.

Delegation is necessary in order for senior management to achieve all required tasks in a timely manner. This applies to all industry sectors, including Government.

A delegate is "a person invested with the authority to carry out the functions, powers and duties of, or to act on behalf of, or represent, others".[2] The *Legislation Act 2001* defines a delegate as the '….occupant of the position nominated."[3]

From an ACT Government perspective, a delegate is a person who occupies an official position within the ACT Government, that position having been assigned authorities or powers by the Chief Minister, or a Minister, or a Chief Executive by way of delegation.

[1] All references to "powers" includes a reference of functions as provided by Section 6 of the *Australian Capital Territory (Self-Government) Act 1988*
[2] Butterworths Concise Australian Legal Dictionary (1997)
[3] Section 233(2) *Legislation Act 2001*

2. Legislative framework

An understanding of the ACT Government system assists with the development of an understanding for delegation processes.

The regulatory framework for the Territory's financial management has its basis in the following Acts:

- *Australian Capital Territory (Self-Government) Act 1988*;
- *Legislation Act 2001*;
- *Financial Management Act 1996*; and
- *Public Sector Management Act 1994*.

Attachment A provides a summary delegations legislative framework chart.

Australian Capital Territory (Self-Government) Act 1988

The Act details the powers of the Legislative Assembly, the Chief Minister and other Ministers.

The power to perform the actions and operations of the ACT Government is derived from Part V of the Self-Government Act. In particular Section 37 of the Self-Government Act details the powers of 'The Executive', that is, the Chief Minister and other Ministers.

Given the number of responsibilities Ministers have, it is impractical for Ministers to personally perform all matters associated with Territory governance. As a result, Ministers delegate these functions[4] to appropriate officers of government agencies, usually Chief Executives.

[4] Section 254A *Legislation Act 2001*

Legislation Act 2001

Part 19.4 deals with delegations.

The *Legislation Act 2001* (Legislation Act) applies to all Acts made by the Legislative Assembly.

Part 19.4 of the Act explains delegations and Section 230 of the Legislation Act states that Part 19.4 applies if a law authorises or requires an entity (the appointer) to delegate.

The key sections in Part 19.4 are:

- Section 232 *Delegation must be in writing*;
- Section 233 *Delegation may be made by name or position*;
- Section 236 *Power to delegate may not be delegated*;
- Section 238 *Appointer responsible for delegated function*;
- Section 240 *Appointer may exercise delegated function*; and
- Section 241 *Delegation not affected by appointer changes*.

Delegation must be in writing

"A delegation must be, or evidenced, by writing signed by the appointer."[5] Where a delegate exercises a delegation in writing it is essential that he/she signs the relevant documentation in person. Signature stamps and signing for and/or on behalf of a delegate are not permissible and will render the action invalid.

Delegation may be made by name or position

Although the Legislation Act provides that delegations may be made by name or position, financial delegations should be assigned to position titles or position numbers, rather than occupants of positions. Having delegations assigned to a position means that any occupant of the position is automatically entitled to exercise the delegations associated with the position. If delegations are assigned by name to individuals, maintenance of delegations is increased and delegations may not be capable of being exercised if the delegate is absent.

[5] Section 232 *Legislation Act 2001*

However, it is the person currently occupying a particular position to which a delegation has been made who can exercise that delegation. This person may be the substantive or acting occupant of the position. It is important that people acting in positions are aware of, and possess the skills to adequately exercise, the delegations made to their positions.

Power to delegate may not be delegated

"The power to delegate may not be delegated by the appointer."[6] That is, the appointer (for example, a Minister or Chief Executive) will always retain control over all delegations they have assigned to exercise the appointer's power. If the power to delegate could be delegated, there would be no effective control.

Appointer responsible for delegated function

"The delegation of a function, or part of a function, does not relieve the appointer of the appointer's obligation to ensure that the function is properly exercised."[7] For example, an appointer may delegate a function to another person. However, the appointer has responsibility to ensure that the appointee is sufficiently able to exercise the delegation power, for example, has been properly trained and is fully aware of delegation limits.

Within the Westminster system of government there exists a balance between the Minister, being responsible for all activities of the Department, and the Chief Executive and individual officers being held accountable for their actions. This same situation exists in regard to the exercise of delegations. Although in a more general sense, responsibility is maintained by the Minister or Chief Executive, individuals exercising delegations are personally accountable for specific decisions made as a delegate.

Appointer may exercise delegated function

This section recognises that delegation pursuant to Section 233 of the Legislation Act, while enabling delegates to exercise powers in their own right, does not result in the power being removed from the appointer. The appointer can still exercise the powers as necessary.

[6] Section 236(2) *Legislation Act 2001*
[7] Section 238 *Legislation Act 2001*

Delegation not affected by appointer changes

Where legislation gives an appointer the power to delegate, a change in the appointer's position will not result in a delegation ceasing to have effect. For example, a delegation will continue to have effect where there has been a change in the Chief Executive of a department or agency.

Financial Management Act 1996

Sections 31 and 55 detail the responsibilities of Chief Executives.

The *Financial Management Act 1996* (FMA) is the source of most financial delegations.

Chief Executive's financial responsibilities are mainly derived from sections 31 and 55. Section 31 addresses the *responsibilities of chief executives of departments*, and Section 55 addresses the *responsibilities of chief executive officers - Territory authorities*.

Apart from Chief Executive responsibilities, the FMA also gives a number of powers exclusively to the Treasurer. In order to expedite financial administration, the Treasurer can delegate most of those powers. Listed below are some of the delegations that the Treasurer has under the FMA. These are managed by the Department of Treasury as opposed to Chief Executive delegations, which are managed by individual agencies:

- Investing or borrowing money [*Sections 38, 40, 53, 58(1)(c), 59(1) and (2)*].
- Approving guarantees [*Section 47(2)*].
- Act of grace payments [*Sections 130(1) and (4)*].
- Waiver of debt [*Section 131*].
- Payments in relation to deceased estates [*Section 132*].

Public Sector Management Act 1994

Division 3.5 deals with powers of delegation.

The *Public Sector Management Act 1994* (PSMA) provides the legislative framework regarding the powers and responsibilities for the majority of employees in the ACT Public Service. The PSMA is supported by the *Public Sector Management Standards* (Standards) (subordinate law).

Division 3.5 of the PSMA deals with powers of delegation and provides that Chief Executives, under Section 36(4)(a), may delegate to a public sector officer all, or any, of their powers under the PSMA, or under any other law. It should be noted that a public sector officer is defined in PSMA Section 36 (1) as:

> *"(a) an officer or employee; or*
>
> *(b) a statutory office-holder; or*
>
> *(c) a person exercising a function on behalf of the Territory*[8] *otherwise than as –*
>
> > *(i) an officer or employee; or*
> >
> > *(ii) a statutory office-holder."*

Section 36(4)(b) also allows Chief Executives to "sub-delegate to a public sector officer all or any of the powers delegated to him or her under a law other than" the PSMA. It should be noted, however, that Chief Executives can only delegate or sub-delegate a power where he or she considers that the task to be performed by the person requires the exercise of that power.[9] The power to sub-delegate only applies to Chief Executives. Other officers receiving a delegation cannot sub-delegate the power to another officer.

---

[8] This includes contractors. See section "temporary employees and contractors"

[9] *Public Sector Management Act 1994 Section 36(5)*

3. Managing delegations

The FMA and the PSMA establishes the legislative framework through which Chief Executives are accountable to their relevant Minister for the management of their department or Territory authority.

3.1 Responsibilities

Chief Executives

Chief Executives of departments are responsible to their Minister for their department's administration and business[10]. This includes ensuring that the expenditure of the department does not exceed the limit of its appropriations and adequate control over assets and liabilities.[11] Similarly, Chief Executive Officers of Territory authorities are responsible to their Minister for ensuring that expenses incurred, and payments made, by the authority are properly authorised.[12]

Sections 36(4)(a) and 36(4)(b) of the PSMA allows Chief Executives to delegate or sub-delegate to a public sector officer all, or any, of their powers. To delegate their powers, a formal, written and signed 'instrument of delegation' by the Chief Executive is required.

For example, in accordance with Section 31 of the FMA, all Directors within the Department of Treasury have devolved to them by the Chief Executive, the responsibility and authority to approve proposals to spend public monies and to enter into commitments on behalf of the Department within the confines of a monetary limit (for their respective branch) and to the extent that there are funds remaining in the approved branch budget.

To assist Chief Executives in meeting their responsibilities under sections 31 and 55 of the FMA, Chief Executive Financial Instructions (CEFIs) were implemented.

These instructions were developed to provide an integral control mechanism for Chief Executives to ensure the efficient and effective financial management of ACT Government entities. The CEFIs should include schedules of all delegations issued by the Chief Executive. Model CEFIs can be accessed from the Accounting Branch website http://www.treasury.act.gov.au/accounting/html/guidelines.htm then select "Better Practice Guidelines" and click on Chief Executive Financial Instructions.

[10] Section 29(2)(a) *Public Sector Management Act 1994*
[11] Section 31(2)(a*) Financial Management Act 1996*
[12] Sections 55(3)(a) and (c) *Financial Management Act 1996*

In practice the management of financial delegations is administered by the Chief Financial Officer on behalf of the Chief Executive.

In summary, Chief Executives/Chief Financial Officers have a responsibility to ensure that:

- delegations are made in writing under the hand of the person holding the position as defined in the legislation;
- delegations are made to positions at the most appropriate level in the department in terms of decision-making;
- delegations clearly state the maximum authority levels;
- delegations are current, documented and readily available to staff (including placement of the delegations on the agency's intranet); and
- the appropriateness of delegations be reviewed on a regular basis, particularly following the reorganisation, or restructure of an agency or when the duties for a position are substantially varied, or the position assumes a new role or responsibility.

Supervisors

Supervisors who have staff that hold delegations have the following responsibilities:

- ensure staff holding a delegation understand the powers and limitations, and responsibilities of their delegations;

  Provide new staff, and existing staff members who are promoted, a statement detailing the delegations attached to their position.

- staff exercising delegated authorities receive training at a level sufficient to enable them to carry out their responsibilities;
- ensure staff holding delegations possess the skills and knowledge to effectively exercise them; and
- ensure that any acting arrangements are actioned within the Human Resource System (that is, temporary transfers or similar) to provide evidence of the period for which the person occupies the position.

Staff

Staff with delegations, are responsible to the Chief Executive for the results of exercising their delegations. Staff responsibilities pertaining to delegations include the following:

- where staff are assigned certain delegations, they should check that the appropriate authority has been given;

  This authority must be in writing. Staff can check whether they have this authority by sighting the instrument of delegation. For financial delegations, this should be available from the staff member's supervisor, or the agency's corporate administration area.

- staff with delegated authority should not exercise that authority where it would involve a conflict of interest;

  Delegated officers should not authorise transactions relating to themselves or a family member/organisation with which they have a personal or business relationship. For example, they should not approve any form of remuneration or payment that relates to themselves, for instance, travel or reimbursement of expenses. This action creates a conflict of interest whereby the agency concerned may be exposed to fraud.

  Authorisation of transactions for a delegated officer must be by the officer's supervisor, assuming the supervisor holds the appropriate delegation. If the supervisor does not hold the appropriate delegation, then authorisation is to occur by another delegated officer of at least the same level. Authorisation is not to occur by subordinate staff.

  The only exception to this rule would be in regard to approval of expenditure for the Chief Executive Officer. In this situation it would be appropriate for the Deputy Chief Executive Officer to approve the expenditure for the Chief Executive Officer.

- staff that hold delegated authority must become familiar with the delegation policies and guidelines, and have an appropriate understanding and knowledge of the requirements of relevant legislation, CEFIs, departmental policies and guidelines relating to the delegation they hold;

- approval of transactions and/or payments must not exceed the delegation holder's monetary, delegated authority and be limited to the position's area of organisational responsibility;

For example, a staff member may have a delegation to approve expenditure up to $10,000 [inclusive of Goods and Services Tax (GST)]. If they are asked to sign for an expense item in excess of this amount, they cannot sign it. It must be taken to an officer with appropriate delegation. Under no circumstances should a single large transaction, which may exceed the delegated limit of authority for an officer, be split into multiple, smaller, transactions that then fall within the levels of delegated authority for that officer.

- staff acting in a position, need to be aware of the delegations assigned to that position; and
- staff holding a delegation, cannot sub-delegate to any other officer of another position any portion of their delegation.

Temporary Employees and Contractors

Where a department experiences staffing shortages, it is common practice for departments to employ a temporary employee,[13] or engage a contractor.

In either situation, it will often be important for the temporary employee or contractor to exercise certain delegations to perform their functions, particularly where they are filling temporary vacancies.

Where a contractor is engaged, as they are not permanent officers of the ACT public service, when exercising delegations it may be appropriate to place tighter restrictions or implement higher levels of scrutiny.

3.2 How to determine what actions require a delegation

Sections 31 and 55 of the FMA specify the financial responsibilities for Chief Executives of departments and Territory authorities. In this discussion, the use of the term ‘Chief Executive’ will be taken to include the term ‘Chief Executive Officer’.

Both Sections 31 and 55 include a general requirement for Chief Executives to be efficient and effective in the management of their agencies, as well as the following specific financial management responsibilities:

- ensure that expenses/payments are properly authorised *[Sections 31(2)(a) and 55(3)(a)]*;
- maintain adequate control over assets *[Sections 31(2)(e) and 55(3)(g)]*; and

[13] Section 106 of the *Public Sector Management Act 1994*

- maintain adequate control over the incurring of liabilities *[Sections 31(2)(f) and 55(3)(h)]*.

Unless the Chief Executive is to personally undertake performance of these financial control processes, then related functions associated with the operation of these controls will be delegated to other officers. As a result, agencies will need to ensure that these specific financial control processes are covered by delegations.

Although actions required to meet each of the specific financial control processes may involve performance of a variety of individual actions, there generally exists either a single, or a smaller number of key actions. An example is in relation to the payment of moneys (not the initial approval for expenditure, which is a separate process).

Actions associated with this process range from recording of invoice details into the financial system to production of a cheque or electronic funds transfer.

Identification is required of the key process and/or processes to ensure that the FMA financial responsibility requirement is met. In this example for the payment of moneys, the key control would be the authorisation of the payment into the financial system as this action causes generation of payment processes. It is the key quality control process to ensure the validity of payments made.

Significant control processes associated with the payment of moneys for which delegations are not considered necessary would include the recording of invoice details into the financial system, signing of cheques and review of payment details by a senior finance officer. Although a delegation may not be required, specific procedures should exist in regard to operation for each of these significant financial processes, for example, in the CEFIs.

In regard to the general requirement included under Sections 31 and 55 for Chief Executives to be efficient and effective in the management of their agencies, other than delegations in regard to specific responsibilities stated in the FMA, agencies may identify other key areas where delegations are considered appropriate, for example, determination of revenue amounts, other than those requiring Ministerial approval.[14]

[14] Generally, any charge that is to be levied on the public requires Ministerial approval.

A common feature of determining when a delegation is necessary is when a key financial decision is required to be made. This contrasts with a financial process occurring ‘downstream’ as a result of the key decision. In the latter situation it is not considered that a delegation is necessary, instead process requirements can be specified through administrative guidelines, for example, CEFIs.

Minimum recommended delegations for use by agencies are included in Attachment B. With regard to the specific Chief Executive responsibilities included in Sections 31 and 55 of the FMA, delegations are specifically included in Attachment B for ‘Authorisation of Expenditure’ and ‘Control of Assets’. Specific delegations are not included for the control of liabilities, as this action is already covered through the exercise of other delegations, for example, for the authorisation of expenditure, or human resources delegations for the appointment of staff.

3.3 Issuing, reissuing and withdrawing delegations

Issuing delegations

When issuing a delegation the following should be adhered to:

- the delegation should be in writing and issued to a position title or position number, not to a person; and
- the delegation instrument should clearly identify the delegate, the section of the legislation that allows the delegation, and the power being delegated.

Reissuing delegations

Amendments made to a statutory provision that is delegated does not invalidate any prior instrument of delegation, it continues to apply to the section, as amended[15]. It is therefore unnecessary to reissue the delegation.

Where the Treasurer has delegated power derived from the FMA and the relevant legislative provisions are amended, the Department of Treasury will determine whether it is necessary to reissue delegations.

If legislative provisions relating to Chief Executive delegations are amended, agencies will need to review delegations to ascertain whether they will need to be reissued.

[15] Section 102 *Legislation Act 2001*

It should be noted that when a delegation is repealed or withdrawn, this does not render any previous, duly authorised actions as invalid. Note also that a delegation is not negated through a change in the person occupying the position that holds a delegation. Therefore, new delegations are not required where a staff member, of the position that holds the delegation, changes. However, it may be necessary to familiarise the new staff member with their delegations and the skills required to exercise them.

Withdrawing delegations

Section 237 of the Legislation Act allows the appointer to withdraw a delegation at any time, either in whole or in part. For example "if the power to delegate is exercisable only with the Minister's approval, the power to revoke the delegation is exercisable only with the Minister's approval."[16]

In instances where there is a transfer of functions between departments, delegations cease. For example, where there is a transfer of function from one department (the originating department), to another (the receiving department), delegations of power to officers within the originating department who are responsible for performing those functions will cease to have effect at the time the functions, together with relevant staff, are transferred.

New delegations will need to be made for staff holding the equivalent position in the receiving department. Those new delegations should be made as soon as practicable after the creation of the equivalent positions, as the new Chief Executive will be held accountable for any decisions exercised under their delegations.

The delegations register for both the originating and receiving department are to be amended accordingly.

Similar considerations apply in the case of discontinued departments. Delegations of power to officers of that department will cease to have effect at the time the department is discontinued. If the functions performed by the discontinued department are transferred to another department (the receiving department) the usual course is to create positions in the receiving department equivalent to the positions in the discontinued department. New instruments of delegation should be made as soon as possible for staff holding the equivalent position in the receiving department.

[16] Example provided under Section 237 *Legislation Act 2001*

3.4 What you cannot delegate

The principle of delegation is that the powers in legislation can be delegated, except for the power to delegate, or where legislation specifically does not allow delegation.

The following are examples of decisions that cannot be delegated:

- the power to delegate; and

  Section 236(1) of the Legislation Act states, "the appointer may not delegate the appointer's power to delegate."

- borrowing money on behalf of the ACT Government.

  Section 44 of the FMA states that the power of the Treasurer to approve Territory Authority borrowings under Section 42(a) is not delegable.

4. Application issues for specific delegations

4.1 Whole of Government

The FMA gives a number of powers exclusively to the Treasurer. In order to expedite financial administration, the Treasurer can delegate most of those powers. As a general rule, delegations relating to whole of government issues are managed by the Department of Treasury. For example:

- Treasurer's Advance [*Section 18(2)*];
- opening and maintaining a banking account for the purposes of the Territory [*Section 33*]; and
- authorising the payment of money out of the Territory banking account in accordance with an appropriation [*Section 37(1)*].

4.2 Revenue

(a) Approval for setting of revenue charges

Generally, it is recommended that a delegation be in place for those revenue items that do not require Ministerial approval, for instance, internal trading charges. Examples of internal trading charges include fees for publications, procurement, and records management.

(b) Write-off of debt

A 'write-off' of a debt may be appropriate where the likely costs of recovery action will exceed the benefits of collection. Before a debt can be written-off from the books, approval is required by a delegated officer. This approval must be in writing.

4.3 Expenditure

(a) Approval of expenditure

Where an officer has a delegated authority to approve expenditure, before exercising that delegated authority the officer must be satisfied in regard to the following:

- that the expenditure would be in accordance with the approved budget for that year, both in regard to dollar amount and the purpose of the expenditure;

- that the incurring of the expenditure has been approved;

  This may be through a purchase order request (where purchased orders are used), subscription notice or travel requisition.

In some circumstances, particularly where purchase orders are not used, no written prior approval will exist, for example, for electricity and gas charges. In these circumstances the key process is to ensure that the goods have been received, or the services have been provided, and that they relate to official use.

- the expenditure is necessary and reasonable;
- the expenditure is coded correctly and accurately portrays the nature of the expenditure incurred; and
- the expenditure is within your delegation limit.

Decisions made pursuant to the delegation to spend, may be subject to scrutiny and/or audit review. Therefore, all expenditure approvals are to be documented. The minimum requirement is for each payment invoice to be signed and approved by a person holding the relevant delegated authority for the type and level of expenditure concerned.

(b) Write-off of Assets

To ensure that proper control is maintained over assets, a delegation is required for the write-off of assets, for example, property, plant and equipment. The officer approving the write-off of the asset is responsible for deciding whether:

- the write-off of the asset is appropriate;
- the process to be followed is consistent with the Chief Executive Financial Instructions of the Agency and any other guidelines or instructions; and
- adequate records of the write-off exist for management, audit and review purposes.[17]

4.4 Procurement

The procurement of goods and services undertaken by Government agencies must be conducted in accordance with the *Government Procurement Act 2001*, the *Government Procurement (Approved Procurement Units) Guideline 2002 (No 1)*, the *Government Procurement (Principles) Guideline 2002 (No 2)*, the *Government Procurement (Quotation and Tender Thresholds) Guideline 2003 (No 1)*, and any other legislation or other relevant Government policy obligations under which the agency conducts procurement.[18]

[17] CEFI Chapter 6.1 Asset Management - http://www.treasury.act.gov.au/accounting/html/guidelines.htm

[18] When procuring goods and services, agencies should refer to the “basis website”, www.basis.act.gov.au. The basis website provides information on ACT Government Procurement Policy, Principles and Guidelines.

4.5 *Act of grace payments*

The application of the power provided under Section 130 of the FMA to make act of grace payments is discretionary. Act of grace payments are generally approved by the Treasurer or delegate where the Treasurer or delegate considers it appropriate to do so because of special circumstances.

Act of grace payments are a method of providing, amongst other things, equitable remedies to persons[19] who may have been unintentionally disadvantaged by the effects of ACT Government legislation, actions or omissions and who have no other viable means of redress.

The Treasurer or delegate uses their discretion to approve each act of grace request on a case-by-case basis. Generally, the conditions under which act of grace claims are determined can broadly be characterised as where the Territory considers it has a moral obligation, as opposed to a legal obligation, to provide redress.

Act of grace payments cannot be made unless:

- there are special circumstances that warrant such a payment by the Treasurer or their delegate; and
- the payment is not otherwise authorised by law; or
- the payment is not required to meet a legal liability of the Government.[20]

4.6 *Waiver of debt*

The authority for waiver of debt is provided under Section 131 of the FMA. A waiver permanently prohibits the future recovery of a debt. That is, once a debt has been waived, recovery of the debt cannot be pursued at a later date. A waiver occurs when one party can legally demand the strict performance of a contract, for example, payment of an amount, but relinquishes that right in full or in part.

Section 131 allows the Treasurer or delegate, on behalf of the Territory, to waive the Territory's right to payment of an amount payable to the Territory, or to allow the payment by instalments.

[19] Section 160 *Legislation Act 2001* states that any reference to a person includes a reference to an individual as well as a corporation.

[20] Section 130(1) *Financial Management Act 1996*

It should be noted that all practical means must be taken to recover debts due to the Territory. However, in exceptional circumstances the Treasurer or delegate can waive debts due to the Territory.

Alternatively, as circumstances require, the Treasurer or delegate, may accept a reasonable request for the payment of an outstanding amount by instalments.

If a debt is waived, it then needs to be removed from the books of the agency. ‘Write-off’ action is the accounting process to remove the debt from the books. It is different to a waiver, as a write-off does not extinguish the legal right of the Territory to collect a debt.

Before a debt can be written-off from the books approval is required by a delegated officer. This approval must be in writing.

5. Frequently asked questions

How do I know if I am a delegate?

- Check your agency's delegations register. If your position is on the register, you are a delegate. The register will describe the authority you possess and any limitations which the appointer has applied to your delegation.
- When a new delegate is appointed, the principal delegate, usually the Chief Executive, or the superior of the delegate, is responsible for informing the new delegate of the delegations associated with the position and the limitations.

What do I do when a staff member who has a delegation of authority, leaves their position?

- There is no requirement to do anything in relation to issuing a new delegation, as the authority has been assigned to the position, not the staff member.
- However, you should ensure that any subsequent occupants of the position are reflected in the Human Resource System against that position, and that they possess the appropriate level of skills to effectively exercise the delegations assigned to the position.

As Section 232 of the Legislation Act 2001 states that a delegation must be in writing, is an electronic signature sufficient?

- If an Australian Capital Territory law requires information to be given in writing, the requirement is deemed to be met if the information is given electronically as provided by virtue of section 9 of the *Electronic Transactions Act 2001* (ETA).
- Section 9 allows a person to satisfy a legal requirement for a manual signature by using an electronic signature provided:
  (a) a method is used to identify the person and to indicate the person's approval of the information communicated; and
  (b) the method was reliable and was appropriate for the purposes of the information communicated; and
  (c) the person to whom the signature is required to be given consents to that requirement.

Can a Chief Executive sub-delegate their power to waive debts?

- Yes. In accordance with section 36(4)(b) of the PSMA Chief Executives may sub-delegate powers delegated to them by the Treasurer under the FMA, including the power to waive debts. The power to sub-delegate only applies to Chief Executives. Other officers receiving a delegation cannot sub-delegate the power to another officer.

FINANCIAL MANAGEMENT

DELEGATIONS LEGISLATIVE FRAMEWORK

LEGISLATIVE ASSEMBLY
Identifies the Minister(s) responsible for the function(s)

→

MINISTERS
Accountable to Legislative Assembly

→

CHIEF EXECUTIVE
Accountable to Minister

Australian Capital Territory (Self-Government) Act 1988

Section 37 – General powers of Executive (Chief Minister and Ministers)

Section 43 – Ministerial portfolios

Legislation Act 2001 – Part 19.6

Section 254A Delegation by Minster

Powers, pursuant to; -

Legislation Act 2001 – Part 19.4
Sections 232 to 242 Delegations

↓

Financial Management Act 1996 - S.31 & S.55
Responsibilities of Chief Executives
Section 31 - Departments
Section 55 - Territory Authorities

↓

Public Sector Management Act 1994
Section 36(4)(a) – Chief Executives may delegate to a public sector officer

↓

TO NOMINATED POSITIONS WITHIN AGENCY
Accountable to Chief Executive
Adhering to Chief Executive Financial Instructions which outlines delegations and procedures

MODEL FINANCIAL DELEGATIONS

FOR AGENCIES

INSTRUMENT OF AUTHORISATION FOR THE PURPOSES OF CHIEF EXECUTIVE'S DELEGATIONS

MODEL FINANCIAL DELEGATIONS FOR AGENCIES

INSTRUMENT OF AUTHORISATION FOR THE PURPOSES OF CHIEF EXECUTIVE'S DELEGATIONS

I, Xxxxx Xxxxxxx, Chief Executive, pursuant to the powers vested in me in accordance with Section 31 *(or Section 55 for Territory authorities)* of the *Financial Management Act 1996*, as delegated under Section 254A of the *Legislation Act 2001*, hereby authorise the persons occupying, or for the time being performing the duties of an office in Example Agency *(insert name of department or agency)* detailed in the attached Schedules dated July 2007, to exercise the powers or perform the functions specified in the Schedules in respect of:

- Revenue - Schedule D(1)
- Authorisation of Expenditure - Schedule D(2)
- Authorisation of Payments – Schedule D(3)
- Control of Assets - Schedule D(4)

All previous authorisations containing delegations as set out in the attached pages are hereby revoked with effect from this date.

Dated this day of
Two Thousand and Seven.

Xxxx Xxxxxx

Chief Executive

INDEX

DELEGATION TYPE	DELEGATION DESCRIPTION	SCHEDULE NO.
Chief Executive	***Revenue*** - Determination of other charges ***Authorisation of Expenditure*** - Commitment and expenditure ***Authorisation of Payments*** - Payment checking ***Control of Assets*** - Write-off of irrecoverable debts	**D (1)** **D (1)(a)** **D (2)** **D (2)(a)** **D (3)** **D (3)(a)** **D (4)** **D (4)(a)**

SCHEDULE D (1) – REVENUE

D (1)(a) – Determination of other charges

Authorisation:

In accordance with the responsibilities vested in me under Section 31 *(Section 55 for Territory authorities)* of the *Financial Management Act 1996*, as delegated under Section 254A of the *Legislation Act 2001*, I hereby authorise the person performing the duties of each office specified in Columns 4 and 5, the powers specified in Column 3 under the Act specified in Column 2, subject to the limitations stated in Columns 6 and 7.

Responsibilities:

To determine levels of charges applicable to revenue sources, other than those determined by the Minister in accordance with current procedures, guidelines and policies, namely *Chief Executive Financial Instructions* and the *Fraud Control Plan*.

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Item	*Act*	*Powers*	*Position No*	*Section*	*Monetary Limit*	*Other limitations*
1	Financial Management Act 1996	To determine levels of charges applicable to revenue sources, other than those determined by the Minister.	Director			

……………………………….

Xxxxx Xxxxxx
Chief Executive

Date: dd / mm / yyyy

SCHEDULE D (2) – AUTHORISATION OF EXPENDITURE

D (2)(a) – Commitments and expenditure

Authorisation:

In accordance with the responsibilities vested in me under Section 31 *(Section 55 for Territory authorities)* of the *Financial Management Act 1996*, as delegated under Section 254A of the *Legislation Act 2001*, I hereby authorise the person performing the duties of each office specified in Columns 4 and 5, the powers specified in Column 3 under the Act specified in Column 2, subject to the limitations stated in Columns 6 and 7.

Responsibilities:

To approve the commitment of public monies in accordance with current procedures, guidelines and policies, namely *Chief Executive Financial Instructions*, *Purchasing Policy* and the *Fraud Control Plan*. Delegates must adhere to current Purchasing Policy and ensure that:
the best value for money is obtained;

- open, fair and effective competition is the method by which value for money is achieved; and
- administrative costs of purchasing are minimised.

<u>SCHEDULE D (2) – AUTHORISATION OF EXPENDITURE</u>

D (2)(a) – Commitments and expenditure (continued)

Column 1 *Item*	**Column 2** *Act*	**Column 3** *Powers*	**Column 4** *Position No*	**Column 5** *Section*	**Column 6** *Monetary Limit*	**Column 7** *Other limitations*
1	Financial Management Act 1996	To approve proposals to spend public monies and to enter into commitments on behalf of the Department in accordance with S31 *(S55 for Territory authorities).*	Director	All Business Units	Available Budget of Business Unit	1; 3
2	Financial Management Act 1996	To approve proposals to spend public monies and to enter into commitments on behalf of the Department in accordance with S31 *(S55 for Territory authorities).*	Cost Centre Manager	All Sections	Available Budget	1; 4
3.	Financial Management Act 1996	To approve proposals to spend public monies and to enter into commitments on behalf of the Department in accordance with S40(c).	Executive Director	Finance and Budget Division	Unlimited	For matters relating specifically to Rhodium finance leases for motor vehicles.
4.	Financial Management Act 1996	To approve proposals to spend public monies and to enter into commitments on behalf of the Department in accordance with S40(c).	Chief Finance Officer	Finance and Budget Division	Unlimited	For matters relating specifically to Rhodium finance leases for motor vehicles.

Xxxxx Xxxxxx

(initial only)

Other Limitations:

1. To the extent of funds remaining in approved budget.
2. For matters within the responsibility of the Cost Centre Codes within the business unit only.
3. For matters within the responsibility of the Section/Cost Centre.

Notes:

1. For risk management purposes, on individual claims the separation of the commitment and expenditure officer and the payment checking officer is recommended.
2. With regards to variations, a delegate may approve an increase if that increase plus other increases already approved, do not exceed their delegation limit. Where the increase does exceed the delegation limit, a delegate with the appropriate monetary limit is required to approve the commitment and expenditure.
3. Commitment includes contracts and contract variations, purchase orders/requisitions and agreements, letters of intent and any other form of commitment.
4. Expenditure relates to any expenditure of public moneys including petty cash, credit card and travel expenditure.
5. Petty cash holders are automatically commitment and expenditure delegates to an approved limit of any single petty cash transaction.
6. Credit card holders are automatically commitment and expenditure delegates to the limit of the transaction level of the card, and as a total, to the remaining available credit on the card.

…………………………………. Xxxxx Xxxxxx

Chief Executive

Date: dd / mm / yyyy

<u>SCHEDULE D (3) - AUTHORISATION OF PAYMENTS</u>

D (3)(a) – Payment checking

Authorisation:
In accordance with the responsibilities vested in me under Section 31 *(Section 55 for Territory authorities)* of the *Financial Management Act 1996*, as delegated under Section 254A of the *Legislation Act 2001*, I hereby authorise the person performing the duties of each office specified in Columns 4 and 5, the powers specified in Column 3 under the Act specified in Column 2, subject to the limitations stated in Columns 6 and 7.

Responsibilities:
To check claims for payment in accordance with current procedures, guidelines and policies, that is, Chief Executive Financial Instructions, Purchasing Policy and the Fraud Control Plan, to ensure that the:

- invoice has been correctly rendered, including meeting the requirements for a valid tax invoice;
- amount to be paid is correct;
- goods and/or services have been signed as received (for example, attendance at seminars);
- claim has not previously been paid; and
- expenditure has been duly approved and checked that the expenditure delegation has been performed by a different officer than who has the payment checking delegation; and to:
- review the reasonableness of coding.

Notes:
- The officer who initiates the cheque run is excluded from the payment checking delegation.
- Officers are not to check claims on which they are the payee.

SCHEDULE D (3) - AUTHORISATION OF PAYMENTS

D (3)(a) – Payment checking (continued)

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Item	*Act*	*Powers*	*Position No*	*Section*	*Monetary Limit*	*Other limitations*
1	Financial Management Act 1996	To check a claim for payment prior to payment occurring to ensure that the expenditure is duly authorised in accordance with S31 *(S55 for Territory authorities).*	Accounts Supervisor	Finance	N/A	Nil

……………………………………

Xxxxx Xxxxxx

Chief Executive

Date: dd / mm / yyyy

<u>SCHEDULE D (4) – CONTROL OF ASSETS</u>

D(4)(a) – Write-off of irrecoverable debt

Authorisation:
In accordance with the responsibilities vested in me under Section 31 *(Section 55 for Territory authorities)* of the *Financial Management Act 1996*, as delegated under Section 254A of the *Legislation Act 2001*, I hereby authorise the person performing the duties of each office specified in Columns 4 and 5, the powers specified in Column 3 under the Act specified in Column 2, subject to the limitations stated in Columns 6 and 7.

Responsibilities:
To write-off irrecoverable debts/revenue and losses/deficiencies of public monies in accordance with current procedures, guidelines and policies, including *Chief Executive Financial Instructions*.

In relation to irrecoverable debts, the delegate must be satisfied that:

- it is probable that the costs of recovery action will exceed the return; and
- the debt is irrecoverable at law, or the debtor is without funds and there is no reasonable prospect of their financial situation improving.

In relation to losses/deficiencies, the delegate must be satisfied that:

- proper investigation of the loss/deficiency has occurred; and
- any defects in security measures and control systems has been addressed to reduce the likelihood of the loss/deficiency occurring again.

SCHEDULE D (4) – CONTROL OF ASSETS

D(4)(a) – Write-off of irrecoverable debt (continued)

With regard to the write-off of an asset, the delegate must be satisfied with one of the following:

- loss of an asset; or
- theft of an asset; or
- the asset has become unserviceable; or
- the asset has become obsolete.

Notes:

In situations where assets cannot be located, write-off action should not occur until it is clear that the asset in question has been lost or stolen. Once approval to write-off the value of an asset has been obtained, the asset should be removed from the Register(s) of Assets and the relevant Agency account in a timely manner.

SCHEDULE D (4) – CONTROL OF ASSETS

D(4)(a) – Write-off of irrecoverable debt (continued)

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Item	*Act*	*Powers*	*Position No*	*Section*	*Monetary Limit*	*Other limitations*
1	Financial Management Act 1996	To write-off irrecoverable debts / revenue and losses / deficiencies of public monies including assets such as plant and equipment in accordance with S31 *(S55 for Territory authorities)*.	Director	Corporate Services	50,000	Nil
2	Financial Management Act 1996	To write-off irrecoverable debts / revenue and losses / deficiencies of public monies including assets such as plant and equipment in accordance with S31 *(S55 for Territory authorities)*.	Financial Controller	Corporate Finance	25,000	Nil

…………………………………….
Xxxxx Xxxxxx
Chief Executive

Date dd / mm / yyyy