Public Governance, Performance and Accountability (Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities) Delegation 2014

I, Mathias Hubert Paul Cormann, Minister for Finance, make this Delegation under section 107 of the Public Governance, Performance and Accountability Act 2013.

Dated: 30 June 2014

MATHIAS HUBERT PAUL CORMANN
Minister for Finance
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Part 1 Preliminary

1 Name of Delegation

This Delegation is the Public Governance, Performance and Accountability (Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities) Delegation 2014.

2 Commencement

This Delegation commences upon signature.

3 Interpretation

In this Delegation, words and phrases have the same meaning as in the Public Governance, Performance and Accountability Act 2013 (PGPA Act) unless otherwise stated below.

Unless otherwise stated, a reference to non-Finance accountable authorities of non-corporate Commonwealth entities means the accountable authority for each non-corporate Commonwealth entity except the Finance Secretary, and includes an accountable authority for such an entity created after this delegation is made.

Where, on the commencement of this Delegation, the accountable authority for a particular non-corporate Commonwealth entity (the first entity) may exercise a delegated power or function in relation to a matter, and responsibility for that matter is later transferred to another Commonwealth entity (the second entity), then this Delegation has effect in relation to the accountable authority for the second entity, in relation to that matter, as it had effect in relation to the accountable authority for the first entity.

Note: Section 34AA of the Acts Interpretation Act 1901 also makes it clear that delegations can apply to classes of positions or offices, including positions or offices in that class created after the Delegation is made.
Part 2 Delegations and directions under section 107 of the Act

4 Delegations (section 107 of the Act)

(1) Delegations under Schedule 1 are made under subsection 107(1) of the Act.

(2) The delegates for the purposes of subsection 107 (1) of the Act are the persons for the time being holding, occupying or performing the duties of the positions specified in row 3 of a table in Schedule 1.

(3) The delegates are delegated the power, function or duty of the Finance Minister under the provision of the Act and the PGPA Rule mentioned in row 2 of Schedule 1 and Schedule 2.

Note: Under clause 107, the Finance Minister can generally delegate their powers to an official of a non-corporate Commonwealth entity. However, the following powers cannot be delegated at all:

- subsection 57(b) (Borrowing by corporate Commonwealth entities);
- subsection 71(1) and (2) (Minister to record approval of decision to spend relevant money);
- subsection 72(1) (Minister to inform Parliament of certain events);
- section 75 (transfer of functions);
- section 78 (establishment of special accounts by the Finance Minister);
- section 85 (Commonwealth’s involvement in companies);
- section 87 (establishing new corporate Commonwealth entities);
- section 101 (the rules) providing a general power to make subsidiary legislation; and
- part 4-1A which is about some other instruments made under the PGPA Act.

5 Directions (section 107 of the Act)

(1) Directions in Schedule 1 and Schedule 2 are made under subsection 107(4) of the Act.

(2) Each delegation in Schedule 1 is subject to the directions contained in Division 2 of the relevant Part of Schedule 1.

(3) Each delegation in Schedule 2 is subject to the directions contained in Division 2 of the relevant Part of Schedule 2.
Schedule 1  Delegations under the Act

Part 1  Delegation under section 53 of the Act – Banking by the Commonwealth in Australia

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 53</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To enter into agreements with any bank for the conduct of banking business of the Commonwealth, including opening and maintaining bank accounts</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance accountable authorities of non-corporate Commonwealth entities</td>
</tr>
</tbody>
</table>

Note: Subsection 53(2) states that the agreement with a bank must not provide for overdraft drawings by the Commonwealth unless it provides for each drawing to be repaid within 30 days, and it must be in accordance with any requirements prescribed by the rules.

Division 2  Directions

1.1  Scope of delegation
This delegation applies in relation to bank accounts that are opened and maintained in Australia.

1.2  Effective management of cash
The delegate must ensure that any relevant agreement provides for cash to be managed in an effective manner, consistent with any written requirements issued by the Department of Finance under section 36 of the PGPA Act for that purpose.

1.3  Consolidation of Commonwealth cash
Any relevant agreement must provide for processes to be in place to allow Commonwealth cash held in Australia to be consolidated each day within the Official Public Account held with the Reserve Bank of Australia.

1.4  Interest
Any interest earned on Commonwealth bank accounts must be transferred to the Official Public Account.

1.5  Notification of opening or closing bank accounts
The delegate must notify the Department of Finance as soon as practicable when a new bank account is opened or an existing bank account is closed.

1.6  Future Fund Management Agency
The accountable authority of the Future Fund Management Agency is not required to comply with subparagraph 1.3 and 1.4.
Part 2  Delegation under section 53 of the Act – Banking by the Commonwealth (to specified accountable authorities for banking business outside Australia)

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 53</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To enter into agreements with any bank for the conduct of banking business of the Commonwealth, including opening and maintaining bank accounts</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance accountable authorities of non-corporate Commonwealth entities listed in the table in Division 2</td>
</tr>
</tbody>
</table>

Note: Subsection 53(2) states that the agreement with a bank must not provide for overdraft drawings by the Commonwealth unless it provides for each drawing to be repaid within 30 days and it must be in accordance with any requirements prescribed by the rules.

Division 2  Directions

2.1  Scope of delegation

This delegation applies in relation to opening and maintaining bank accounts outside Australia.

2.2  Special directions - Limitation to specified countries

This delegation applies to the delegates mentioned in column 2 of the following table only in relation to bank accounts in the countries specified in column 3:

<table>
<thead>
<tr>
<th>Item</th>
<th>Delegate</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Electoral Commissioner of the Australian Electoral Commission</td>
<td>Indonesia, Papua New Guinea, Solomon Islands, Vanuatu, East Timor</td>
</tr>
<tr>
<td>2</td>
<td>Commissioner of Police of the Australian Federal Police</td>
<td>Cyprus, Indonesia, Mauritius, Nauru, Papua New Guinea, Solomon Islands, Vanuatu</td>
</tr>
<tr>
<td>3</td>
<td>Accountable authority of the Australian Secret Intelligence Service</td>
<td>All countries</td>
</tr>
<tr>
<td>4</td>
<td>Accountable authority of the Australian Security Intelligence Organisation</td>
<td>All countries</td>
</tr>
<tr>
<td>5</td>
<td>Accountable authority of the Australian Trade</td>
<td>All countries</td>
</tr>
<tr>
<td></td>
<td>Commission</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>------------</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Accountable authority of the Department of Agriculture</td>
<td>Indonesia</td>
</tr>
<tr>
<td>7</td>
<td>Accountable authority of the Department of Defence</td>
<td>All countries</td>
</tr>
<tr>
<td>8</td>
<td>Accountable authority of the Defence Materiel Organisation</td>
<td>United States of America</td>
</tr>
<tr>
<td>9</td>
<td>Accountable authority of the Department of Foreign Affairs and Trade</td>
<td>All countries</td>
</tr>
<tr>
<td>10</td>
<td>Accountable authority of the Department of Human Services</td>
<td>Austria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Israel, Italy, Netherlands, New Zealand, Norway, People’s Republic of China, Portugal, Singapore, Spain, Sweden, Turkey, United Kingdom, United States of America</td>
</tr>
<tr>
<td>11</td>
<td>Accountable authority of the Department of Immigration and Border-Protection</td>
<td>All countries</td>
</tr>
<tr>
<td>12</td>
<td>Accountable authority of the Department of Infrastructure and Regional Development</td>
<td>Canada</td>
</tr>
<tr>
<td>13</td>
<td>Accountable authority of the Department of Veterans’ Affairs</td>
<td>France, Papua New Guinea, Thailand, Turkey</td>
</tr>
</tbody>
</table>
Part 3  Delegation under section 56 of the Act – Borrowing by the Commonwealth for overdraft facilities with overseas banks

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 56</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td><strong>Summary of function or power</strong></td>
<td>On behalf of the Commonwealth, to enter into agreements for borrowing of money, by obtaining an advance on overdraft with overseas banks</td>
</tr>
<tr>
<td>3</td>
<td><strong>Delegates</strong></td>
<td>Accountable authority for the Department of Foreign Affairs and Trade</td>
</tr>
</tbody>
</table>

Note: Subsection 56(3) provides that the agreement must require the amount borrowed to be repaid by the Commonwealth within 90 days and it must be in accordance with any requirements prescribed by the rules.

Division 2  Directions

3.1  **Scope of delegation**

(1) The accountable authority for the Department of Foreign Affairs and Trade may only delegate the functions and powers contained in this delegation to an official of the Department of Foreign Affairs and Trade.

(2) This delegation only applies in relation to overdraft facilities that are to be opened and maintained outside Australia.

(3) The delegate must ensure that any agreements relating to the provision of overdraft facilities are for a maximum amount of $1 million, with the sum of all agreements not totalling more than $10 million.

(4) The delegate must ensure that the overdraft facility is only accessed in situations where funds cannot be transferred from Australia in time for a specific payment.

3.2  **Standard fees and charges etc**

(1) Where an overdraft facility is opened, in accordance with an agreement that provides for the charging of fees by the bank, the delegate must ensure that the amount incurs only the bank’s standard fees and charges.

(2) The delegate must also ensure that arrangements are put in place to debit any fees and charges to a relevant departmental appropriation.

3.3  **Annual review of overdraft facilities**

The delegate must, at least annually, review all the entity’s overdraft facilities and be satisfied of the continuing need for those facilities with a view to maintaining the minimum number necessary.
Part 4    Delegation under section 56 of the Act – Borrowing by the Commonwealth for the issue to, and use by, the Commonwealth of credit cards or credit vouchers

Division 1    Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 56</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Provision of Act</strong></td>
<td>Section 56</td>
</tr>
<tr>
<td>2</td>
<td><strong>Summary of function or power</strong></td>
<td>On behalf of the Commonwealth, to enter into agreements under the Act, for borrowing money, by obtaining credit by way of credit card or credit voucher</td>
</tr>
<tr>
<td>3</td>
<td><strong>Delegates</strong></td>
<td>Non-Finance accountable authorities of non-corporate Commonwealth entities</td>
</tr>
</tbody>
</table>

Note: Subsection 56(3) provides that the agreement must require the amount borrowed to be repaid by the Commonwealth within 90 days and it must be in accordance with any requirement prescribed by the rules.

Division 2    Directions

4.1    Only for issue and use of credit cards and credit vouchers

The delegate is permitted to enter into agreements only for the issue to, and use by, the Commonwealth of credit cards or credit vouchers.
Part 5  Delegation under section 58 of the Act – Investment by the Commonwealth

Division 1  Delegations

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 58</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To invest relevant money in any authorised investment on behalf of the Commonwealth or to authorise the re-investment upon maturity of the proceeds of an authorised investment</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance accountable authorities of non-corporate Commonwealth entities listed in the table in Division 2</td>
</tr>
</tbody>
</table>

Note: Delegates must ensure that the investment of relevant money is consistent with the requirements of section 58 of the Act, including being limited to the authorised investments described in subsection 58(8) and the rules.

Division 2  Direction

5.1  Account from which amounts can be invested

A delegate mentioned in column 2 of an item in the following table is permitted to invest only amounts standing to the credit of a Special Account listed in column 3 of the item.

<table>
<thead>
<tr>
<th>Item</th>
<th>Accountable Authority for this Entity</th>
<th>Special Accounts</th>
</tr>
</thead>
</table>
| 1    | Australian Securities and Investments Commission | ASIC Deregistered Companies Trust Moneys Special Account  
ASIC Security Deposits Special Account  
ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account |
| 2    | Department of Agriculture | National Residue Survey Account |
| 3    | Department of Prime Minister and Cabinet | Aboriginal and Torres Strait Islander Land Account  
Aboriginals Benefit Account |
| 4    | Department of Industry | Science and Technology Donations/Sponsorship Special Account  
Ranger Rehabilitation Special Account |
| 5    | Department of Veterans’ Affairs | Defence Service Homes Insurance Special Account  
Military Death Claim Compensation Special Account |
| 6    | Family Court and Federal Circuit Court | Litigants’ Fund Special Account |
| 7    | Federal Court of Australia | Federal Court of Australia Litigants’ Fund Special Account |
5.2 **Maximum return on investment**

In investing the balance of a Special Account, or authorising the re-investment of the proceeds of an investment, the delegate must take all reasonable steps to obtain the maximum return available on authorised investments, consistent with the requirements, including particular cash-flow requirements, of sound financial management of the Account.

5.3 **Notification to Australian Office of Financial Management for large amounts**

Before making any investment or authorising any re-investment involving an amount of $15 million or more, the delegate must provide details of the proposed investment or re-investment to the Australian Office of Financial Management.

<table>
<thead>
<tr>
<th>Item</th>
<th>Accountable Authority for this Entity</th>
<th>Special Accounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>National Blood Authority</td>
<td>National Managed Fund (Blood and Blood Products) Special Account</td>
</tr>
</tbody>
</table>
Part 6  Delegation under section 60 of the Act – Indemnities, guarantees or warranties by the Commonwealth

Division 1  Delegation

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<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 60</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To grant an indemnity, guarantee or warranty on behalf of the Commonwealth</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance accountable authorities, of non-corporate Commonwealth entities</td>
</tr>
</tbody>
</table>

Division 2  Directions

6.1  Scope of delegation

(1) This delegation extends only to arrangements consisting of or including indemnities, guarantees or warranties, on behalf of the Commonwealth as described in clauses 6.3 to 6.5 but subject to paragraphs (2) and (3).

(2) A delegate cannot grant a guarantee for the payment of any amount of principal or interest due on a loan.

(3) A delegate cannot grant an indemnity that would meet the costs of civil or criminal penalties of the indemnified party.

(4) A delegate is delegated, the power to delegate this power of the Finance Minister under the provision of the Act.

6.2  Principles

When exercising the delegation, the delegate must consider two overarching policy principles:

(a) that risks should be borne by the party best placed to manage them; and

(b) benefits to the Commonwealth should outweigh the risks involved.

6.3  Arrangements consisting of or including indemnities, guarantees or warranties

(1) The delegate may grant an indemnity, guarantee or warranty, involving a contingent liability in relation to an event, if:

(a) the delegate is satisfied that:

   i. the likelihood of the event occurring is remote (less than 5% chance); and

   ii. the most probable expenditure that would need to be made in accordance with the arrangement, if the event occurred, would not be significant (less than $30 million).
(2) The delegate may grant an indemnity, guarantee or warranty, involving a contingent liability in relation to an event in circumstances not coming within subclause (1) where the Finance Minister has approved the grant in writing.

6.4 Arrangements in accordance with a decision of Cabinet, the National Security Committee of Cabinet or the Prime Minister

Notwithstanding the above, the delegate may grant an indemnity, guarantee or warranty, if the indemnity, guarantee or warranty has been explicitly agreed in a decision of:
(a) Cabinet; or
(b) the National Security Committee of Cabinet (NSC) or its successor; or
(c) the Prime Minister.

6.5 Arrangements in accordance with a determination of the Finance Minister

The delegate may grant an indemnity, guarantee or warranty if the exercise of the power is in accordance with a written determination of the Finance Minister.
### Part 7  Delegation under section 63 of the Act – Waiver of amounts owing to the Commonwealth (to the accountable authority of the Australian Securities and Investments Commission)

**Division 1  Delegation**

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 63</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2</strong></td>
<td><strong>Summary of function or power</strong></td>
<td>To waive an amount owing to the Commonwealth</td>
</tr>
<tr>
<td><strong>3</strong></td>
<td><strong>Delegates</strong></td>
<td>Accountable authority of Australian Securities and Investments Commission</td>
</tr>
</tbody>
</table>

Note: Subsection 63(2) provides that a waiver of an amount owing to the Commonwealth must be in accordance with any requirements prescribed by the rules.

**Division 2  Directions**

#### 7.1 Amount that can be waived

The delegate may waive the Commonwealth’s right to fees payable under the *Corporations Act 2001* of amounts up to $5,000 for any one fee.

#### 7.2 Applications for waiver to be in writing

A delegate must not consider an application for waiver of a fee unless the application is in writing. In each case, the onus is on the applicant to produce supporting evidence to substantiate the application.

#### 7.3 Extraneous circumstances must exist

A delegate must not exercise the power under subsection 63 (1) of the Act unless satisfied that circumstances exist, outside the control of the officers of the applicant company or its representatives, which make it reasonable for the Commonwealth to do so.

#### 7.4 Consideration of extent of cause of circumstances

In determining whether a fee should be waived in whole or part, a delegate must consider the extent to which the company’s officers or its representatives contributed to the circumstances of the matter.

Specific matters which may warrant a fee being waived, in whole or part, include:

(a) the delay in lodgement is fully or partly the fault of ASIC; or

(b) the company’s books have been seized by the Police, ASIC or other government body. The seizure must be unrelated to the company’s failure to
lodge documents. Where a company’s accountant withholds books for non-payment of professional fees, a fee must not be waived; or
(d) where late lodgement is as a result of a Court not issuing a signed copy of an Order in time; or
(e) records are damaged or destroyed by flood, fire, storm or other disaster allowing insufficient time for their reconstruction; or
(f) exceptional circumstances delayed lodgement – e.g. illness/accident prevent all responsible persons from lodging within the specified period, an accounting firm merges and notifies in bulk the resulting change of name or address under which company auditors or liquidators practice; or
(g) delay in lodgement is caused by a variable industrial dispute (e.g. a postal strike); or
(h) the document is required to be prepared or signed overseas and there is a limited period for lodgement.
Part 8  Delegation under section 63 of the Act – Waiver of amounts owing to the Commonwealth (to the accountable authority of ComSuper)

Division 1  Delegation

<table>
<thead>
<tr>
<th></th>
<th>Provision of Act</th>
<th>Section 63</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Summary of function or power</td>
<td>To waive the Commonwealth’s right to payment of an amount owing to the Commonwealth</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Accountable authority of ComSuper</td>
</tr>
</tbody>
</table>

Note: Subsection 63(2) provides that a waiver of an amount owing to the Commonwealth must be in accordance with any requirements prescribed by the rules.

Division 2  Directions

8.1 Waiving the Commonwealth’s right to payment

The delegate can waive the Commonwealth’s right to payments in relation to a benefit, pension, allowance or other payment under the following Acts (as amended):

(a) the *Papua New Guinea (Staffing Assistance) Act 1973;*

(b) the *Papua New Guinea (Staffing Assistance) Termination Act 1976;*

(c) the *Defence Force Retirement and Death Benefits Act 1973;*

(d) Defence Forces Retirement and Death Benefits (Pension Increases) Acts;

(e) Defence Forces Retirement Benefits Acts;

(f) the *Defence Forces Retirement Benefits Fund (Distribution of Surplus to Pensioners) Act 1976;*

(g) Defence Forces Retirement Benefits (Pension Increases) Acts;

(h) the *Defence Forces Special Retirement Benefits Act 1960; and*

(i) the *Military Superannuation and Benefits Act 1991.*

8.2 Scope of delegation

A delegate must not exercise the power under subsection 63 (1) of the Act unless satisfied that:

(a) the repayment would cause hardship to the individual; and

(b) the debt was fully or partly the fault of the Commonwealth or was the result of an error by the Commonwealth.
Part 9  Delegation under section 63 of the Act – Otherwise modify the terms and conditions of amounts owing to the Commonwealth

Division 1  Delegation

<table>
<thead>
<tr>
<th>1</th>
<th>Provision of Act</th>
<th>Section 63</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Summary of function or power</td>
<td>To allow payment by instalments, or defer the time for payment of an amount owing to the Commonwealth</td>
</tr>
<tr>
<td>3</td>
<td>Delegates</td>
<td>Non-Finance accountable authorities of non-corporate Commonwealth entities</td>
</tr>
</tbody>
</table>

Note: Subsection 63(2) provides that the modification of the terms on which an amount owing is to be paid to the Commonwealth must be in accordance with any requirements prescribed by the rules.

Division 2  Directions

9.1  Generally amounts owing to the Commonwealth are to be paid in full

(1)  The delegate must have regard to the basic principle that, unless otherwise allowed by law (for example, under statute or contract), amounts owing to the Commonwealth should be paid in full immediately they become due.

(2)  In a situation where it is not possible or reasonable for an amount to be paid in full immediately and in the absence of any statutory right of the debtor to do otherwise, consideration may be given to contracting with the debtor to allow payment of the amount by instalments or in full at a deferred date.

9.2  Scope of delegation

The delegate may only modify the terms and conditions to:

(a)  defer the time for payment of an amount owing to the Commonwealth; and

(b)  allow payment by instalments of an amount owing to the Commonwealth.

9.3  Specific requirements

(1)  The delegate must comply with the following directions.

Cases of hardship

(2)  In a situation of claimed hardship, the delegate must:

(a)  require the debtor to provide evidence (by a statutory declaration or other means) sufficient to satisfy the delegate that it would be unreasonable to require the debtor to discharge the debt otherwise than by instalments or at a deferred date; and

(b)  have regard to the Commonwealth’s interests not being subordinate to other creditors of the same ranking.
Instalments

(3) When allowing *payment by instalments*, the delegate must impose conditions on such payment with the object of ensuring that the Commonwealth recovers the amount as soon as is reasonably practicable, having regard to the debtor’s ability to repay.

Interest

(4) The delegate must:

(a) ordinarily impose interest at the 90 day bank-accepted bill rate (available from the Reserve Bank of Australia); and

(b) not impose interest at a higher rate than the 90 day bank-accepted bill rate; and

(c) if a lesser rate of interest, or no interest, is imposed – record in writing the reasons for doing so.

*Note 1:* A reason for not imposing interest, or imposing less than the specified rate, is that, in the particular case, the imposition of interest would cause undue financial hardship.

*Note 2:* This direction does not apply to Court-awarded judgment debts, as provision for interest will usually be made in the laws of the State or Territory in which judgment was obtained.

Information to be given to debtor

(5) If the delegate decides to modify the terms and conditions, of an amount owing to the Commonwealth:

(a) the debtor must be informed in writing of the following matters:
   (i) the amount owing to the Commonwealth;
   (ii) the date or dates when payment is due;
   (iii) the interest rate (if any);
   (iv) any other matter the delegate considers relevant, taking into account the evidence of hardship;
   (v) the conditions of acceptance specified in subdivision 9.4; and

(b) the debtor must confirm, in writing, acceptance of the matters specified above.

*Note:* If the debtor does not confirm, in writing, acceptance of the conditions specified then the amounts owing to the Commonwealth should be paid in full when they become due.

9.4 Conditions

The conditions of acceptance of payment of a debt by instalments or at a deferred date are as follows:

(a) the delegate may, at any time, review and, if necessary, revise the arrangements to determine whether different conditions should be imposed, taking into account the debtor’s ability to pay; and

(b) if the debtor is an official, upon termination of employment, or other engagement, with the Commonwealth, the amount outstanding must be set off against any final moneys due; and

(c) any default of the conditions may result in legal action being commenced to recover the amount owing; and

(d) if legal action is commenced, the Commonwealth may seek to recover its costs from the debtor.
Part 10    Delegation under section 66 of the Act – Gifts of relevant property

Division 1    Delegation

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Division 2    Directions

10.1    No authorising the gifting of military firearms

A delegate must not authorise a gift of military firearms.

10.2    Overarching Principles

(1)    When contemplating whether to authorise a gift of relevant property, a delegate must consider the overarching principles that, if appropriate to do so, the relevant property should be:

(a)    agreed to be transferred with or without payment to another government entity within Australia (including State or Territory governments); or

(b)    sold at market value, where it is economical to do so.

(2)    A departure from the Commonwealth’s overarching principles, encompassing disposal by gift, is permitted if the relevant property in question is:

(a)    genuinely surplus to the entity’s requirements; and

(b)    is either:

i.    of historical or symbolic significance in relation to the proposed recipient; or

ii.    holds other special significance for the proposed recipient, and there are compelling reasons to justify its gifting to that recipient; or

iii.    of low value and

   a.    otherwise uneconomical to dispose of; or

   b.    the gifting supports the achievement of an Australian Government policy objective.

(3)    If a gift of relevant property is being contemplated, the delegate is to consider whether authorising in a particular case would create an onerous or undesirable precedent. If the gift would create that precedent, it must be refused.
Example: If it would be difficult, in equity, for the Commonwealth not to approve other requests for such gifts and which would in that way lead to significant losses of Commonwealth revenues.

(4) For this reason, the delegate would need publicly defensible and objective grounds to justify favouring the person or organisation with the gift, ahead of other potential recipients.

10.3 Reasonable estimate to be obtained

(1) A delegate must not exercise the power under section 66 of the Act before obtaining a reasonable estimate of the market value of the relevant property proposed to be gifted.

(2) If this is not possible, the delegate must use their discretion in assigning a notional value, and must record the basis for determining the value of the property.
Part 11  Delegation under section 77 of the Act – Repayments by the Commonwealth

Division 1  Delegation

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Division 2  Directions

[There are no directions]
Schedule 2   Delegations under the PGPA Rule

Part 1   Delegations under section 25 of the PGPA Rule-
Payment of amount owed to person at time of death

Division 1   Delegation

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Division 2   Directions

[There are no directions]