



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

made under the *Australian Public Service Commissioner's Directions 2022*; *Fair Work Regulations 2009*; *Governance of Australian Government Superannuation Schemes Act 2011*; *Long Service Leave (Commonwealth Employees) Act 1976*; *Maternity Leave (Commonwealth Employees) Act 1973*; *Public Interest Disclosure Act 2013*; *Public Service Act 1999*; *Public Service Classification Rules 2000*; *Public Service Regulations 2023*; and the *Safety, Rehabilitation and Compensation Act 1988*.

## **Compilation No. 01**

**Compilation date:** 13 April 2023

**Includes amendments up to:** *Treasury Portfolio Governance Amendment (2023 Measures No. 1) Instrument 2023*

Prepared by The Treasury

# About this compilation

## **This compilation**

This is a compilation of the *Treasury Portfolio Governance (Australian Office of Financial Management) Instrument 2023* that shows the text of the law as amended and in force on 13 April 2023 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

## **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

## **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

## **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

## **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name

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

### 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 2023*; and
- (j) *Safety, Rehabilitation and Compensation Act 1988*.

### 4 Definitions

In this instrument:

**AOFM** means the Australian Office of Financial Management.

**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.

Section 5

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## 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;
- (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.

## Section 11

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### 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 2023*

- (1) Under subsection 105(3) of the *Public Service Regulations 2023*, the CEO of the AOFM is delegated all of the Secretary to the Treasury's powers or functions under that instrument.
- (2) Under subsection 105(8) of the *Public Service Regulations 2023*, 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.



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**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.
- (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.

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

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## Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No. = Number(s)	SLI = Select Legislative Instrument
	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

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**Endnote 3—Legislation history**

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Treasury Portfolio Governance (Australian Office of Financial Management) Instrument 2023	27 February 2023 (F2023N00033)	28 February 2023	—
Treasury Portfolio Governance Amendment (2023 Measures No. 1) Instrument 2023	12 April 2023 (F2023N00074)	13 April 2023	—

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
s2	rep s48D LA
s3	am F2023N00074
s13	am F2023N00074