**PUBLIC ADMINISTRATION ACT 2004**

**DELEGATION OF CHIEF EXECUTIVE OFFICER’S FUNCTIONS, DUTIES AND POWERS**

**INSTRUMENT OF DELEGATION**

1. **AUTHORITY**

I, Craig Alexander Robertson, Chief Executive Officer of the Victorian Skills Authority, make this instrument of delegation under section 18 of the **Public Administration Act 2004***.*

1. **COMMENCEMENT**

This instrument takes effect on the day it is made.

1. **DEFINITIONS**

In this Delegation:

1. words and phrases have the same meaning as in the Act unless otherwise stated;
2. ***Act*** means the **Public Administration Act 2004***;*
3. ***action*** means a decision and includes refusal to take an action;
4. ***Authority*** means the Victorian Skills Authority;
5. ***CEO*** means the Chief Executive Officer of the Victorian Skills Authority.
6. ***delegate*** means a person to whom a power, function or duty is delegated under clause 4(1) of this Delegation;
7. ***delegated power*** means a power delegated by the CEO under clause 4(1);
8. ***delegation*** means this instrument of delegation including the Schedules to this instrument;
9. ***Department*** means the Department of Education and Training;
10. ***Victorian Skills Authority*** means the Administrative Office on 1 July 2021 by Order of the Governor in Council, dated 29 July 2021, under the **Public Administration Act 2004**.
11. **DELEGATION**
12. The CEO delegates the powers and functions set out in columns 2 and 3 of Schedule 1 to a person occupying or acting in a position that is captured by the delegate level described in column 4 of Schedule 1.
13. Prior to the exercise of any power or function, the delegate must consider whether the matter –
	1. is of such importance that it should be submitted to; or
	2. possesses special features which should be considered by,

 a delegate at a higher level or the CEO.

1. If the delegate considers, pursuant to subclause (2)(i) or (ii), that a matter should be considered by or submitted to the CEO, the delegate must first refer the matter to the Executive Director, People Division, Department of Education and Training.
2. The delegates must observe and comply with the limitations and conditions in clause 6 of this instrument and in column 4 of Schedule 1.
3. Any delegation involving the expenditure of funds is also subject to the delegate having the relevant financial delegation to approve that level of expenditure under the *Financial Management Act 1994.*
4. **POSITION TITLE**

A change in the position title of a delegate does not, in and of itself, affect the operation of this delegation in respect of the delegate.

1. **GENERAL LIMITATIONS AND CONDITIONS**
2. This delegation does not include the power to sub-delegate any of the delegated powers, functions or duties.
3. This delegation does not prevent the exercise, performance or discharge by the CEO of a delegated power.
4. In any particular case, where notice is given to a delegate by the CEO that the CEO intends to exercise, perform or discharge a delegated power, the delegate must not commence, or must immediately cease, to exercise, discharge or perform the delegated power.
5. The delegate must:
6. act in a manner consistent with the general duties and functions of the CEO of the Authority under the Act and consistent with the objects and purposes of the Act;
7. conform with any specific limitations imposed by the CEO on the exercise of a delegated power or function, including those published on the Department’s human resources website;
8. not take any action inconsistent with:
	* 1. the Act;
		2. any applicable Commonwealth legislation, including any applicable Federal Award or Enterprise Agreement;
		3. any applicable Victorian legislation, including any regulations or standards made under the Act;
9. comply with the law on the exercise of delegated functions (in particular, with the rules of administrative law);
10. only exercise the delegation in respect of persons other than the delegate; and
11. except in the case of a Level 1 delegate, only exercise a delegated power for purposes that are directly related to the delegate’s functions and duties within the Authority.

Dated this 28day of October **2021**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chief Executive Officer**

**Victorian Skills Authority**

**SCHEDULE 1**

**PUBLIC ADMINISTRATION ACT 2004**

**DELEGATION OF POWERS, FUNCTIONS AND DUTIES**

**OF THE CHIEF EXECUTIVE OFFICER OF THE VICTORIAN SKILLS AUTHORITY**

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**POWERS AND FUNCTIONS**

| **Source of authority/power** | *Public Administration Act 2004,* Part 3 – Public Service Employment |
| --- | --- |
| **Holder of power/function** | CEO (Victorian Skills Authority) |
| **Authority type** | Delegation |

| **Column 1** | Column 2 | Column 3 | Column 4 |
| --- | --- | --- | --- |
| **Delegation****Reference No** | Public Administration Act 2004 Reference | Description of Power/Function | Delegate Level and Limitation |
| PS 1.1 | Division 4-EmployeesSection 20(1)-Employment &retirement | Create positions and determine classifications, or abolish a position. | Level 1 |
| PS 1.2 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the reclassification of a position on vacancy. | Level 1 |
| PS 1.3 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve movement between a value range within an employee’s current classification following a job resizing review. | Level 1Level 2 |
| PS 1.4 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the advertisement of a vacant position internal to the Public Service. | Level 1Level 2 |
| PS 1.5 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the advertisement of a vacant position external to the public service. | Level 1 |
| PS 1.6 | Division 4-Employees Section 20(1)-Employment &retirement | Employ a person in an advertised position. | Level 1Level 2 |
| PS 1.7 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the employment of fixed term employees for a period of six months or less without advertisement. | Level 1**Note:** Delegates must comply with the whole of government Job and Skills Exchange Recruitment policy. |
| PS 1.8 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve employment of casual employees.  | Level 1Level 2 |
| PS 1.9 | Division 4-EmployeesSection 20(1)-Employment &retirement | Transfer or promote an employee to an advertised position following a merit-based recruitment process. | Level 1Level 2**Note:** Delegates must comply with any Public Sector Employment Principles and Standards employment standards issued by the Public Sector Standards Commissioner. |
| PS 1.10 | Division 4-EmployeesSection 20(1)-Employment &retirement | Conduct pre-employment screening checks and determine whether a preferred applicant is suitable or unsuitable for employment, transfer or promotion. | Level 1Level 5 |
| PS 1.11 | Division 4-EmployeesSection 20(1)-Employment &retirement | Enter into secondment arrangements with other bodies. | Level 1Level 2 |
| PS 1.12 | Division 6-Transfer of employeesSection 28(1)-Transfer directed by public servicebody Head or public entity | Transfer an employee to another public service body or to a public entity with the approval of the Head of the other public service body, or of the public entity concerned, on terms and conditions of employment that are no less favourable overall. | Level 1 |
| PS 1.13 | Division 6-Transfer ofemployeesSection 28(1A)-Transferdirected by public servicebody Head or public entity | Approve the transfer of an employee of a public entity to the Authority, if a public entity considers it appropriate to do so, on terms and conditions of employment that are no less favourable overall. | Level 1 |
| PS 1.14 | Division 4-EmployeesSection 20(1)-Employment &retirement | Administratively transfer an employee within the Authority. | Level 1Level 2Level 3The administrative transfer of an employee requires the review of the Level 1 delegate.An administrative transfer to a lower classified position cannot occur without the consent of the employee.Where an employee transfers to another Branch within the Authority:* a Level 3 delegate from the receiving Branch must approve the transfer; and
* the Level 3 delegate in the Branch from which the employee is being transferred must endorse the transfer.

**Note:** Delegates must comply with any Public Sector Employment Principles and Standards issued by the Victorian Public Sector Commissioner. |
| PS 1.15 | Division 4-EmployeesSection 20(1)-Employment &retirement | Unattach an employee from their position. | Level 1**Note**: An employee must not be unattached on terms and conditions that are less favourable overall. |
| PS 1.16 | Division 4-EmployeesSection 20(1)-Employment &retirement | Assign duties to employees consistent with their employment classification, skills and capabilities.  | Level 1Level 2Level 3 |
| PS 1.17 | Division 4-EmployeesSection 20(1)-Employment &retirement | Issue lawful instructions that must be observed by employees.  | Level 1Level 2 |
| PS 1.18 | Division 4-EmployeesSection 20(1)-Employment &retirement | Suspend employees from duty with pay. | Level 1 |
| PS 1.19 | Division 4-EmployeesSection 20(1)-Employment &retirement | Revoke the suspension of an employee from duty. | Level 1 |
| PS 1.20 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve an employee’s salary:at the base of the applicable grade or value range orup to 5% above the employee’s current salary or the base of the applicable grade or value range. | Level 1Level 2 |
| PS 1.21 | Division 4-EmployeesSection 20(1)-Employment &retirement | In exceptional circumstances, approve an employee’s salary:* more than 5% above the base of an applicable grade or value range
* more than 5% above an employee’s current salary
 | Level 1**Note**: an employee’s salary cannot exceed the maximum salary of the classification level and value range of the applicable position. |
| PS 1.22 | Division 4-EmployeesSection 20(1)-Employment &retirement | Assign higher duties to an employee for periods of five days or less. | Level 1Level 2 |
| PS 1.23 | Division 4-EmployeesSection 20(1)-Employment &retirement | Assign higher duties to an employee for periods greater than five days and approve payment of a higher duties allowance:* at the base of the applicable grade or value range or
* up to 5 % above the employee’s current salary or the base of the applicable grade or value range.
 | Level 1Level 2 |
| PS 1.24 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve payment of a higher duties allowance to an employee:more than 5% above the base of an applicable grade or value range ormore than 5% above the employee’s current salary. | Level 1Level 2**Note**: an employee’s salary cannot exceed the maximum salary of the classification level and value range of the applicable position. |
| PS 1.25 | Division 4-EmployeesSection 20(1)-Employment &retirement | Pay a gratuity to an employee in exceptional circumstances: * in respect of definite special work that is demonstrably of a higher work value
* in respect of definite special work that is in addition to normal duties; or
* for attraction and retention purposes.
 | Level 1**Note**: The payment of a gratuity can only be paid for a period of up to 12 months. |
| PS 1.26 | Division 4-EmployeesSection 20(1)-Employment &retirement | Authorise an employee to undertake shift work. | Level 1Level 2 |
| PS 1.27 | Division 4-EmployeesSection 20(1)-Employment &retirement | Direct an employee to stand-by duty. | Level 1Level 2 |
| PS 1.28 | Division 4-EmployeesSection 20(1)-Employment &retirement | Appoint an employee to perform first aid officer duties. | Level 1Level 2 |
| PS 1.29 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the payment of an allowance for the permanent relocation of an employee’s usual place of work. | Level 1Level 2 |
| PS 1.30 | Division 4-EmployeesSection 20(1)-Employment &retirement | Determine that it is reasonable and necessary for an employee to move residence as a result of relocation from one work location to another arising from promotion or transfer as a result of an advertised vacancy or redeployment.Approve the reimbursement of expenses for the relocation. | Level 1Level 2Note: The payment of allowances or reimbursement of expenses for relocation must be reviewed by the Level 1 delegate |
| PS 1.31 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the payment or reimbursement of personal expenses associated with work-related travel. | Level 1Level 2 |
| PS 1.32 | Division 4-EmployeesSection 20(1)-Employment &retirement | Pay allowances to employees, which are not otherwise specified in this instrument of delegation, that are specified under the *Victorian Public Service Agreement*. | Level 1Level 2 |
| PS 1.33 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the payment of overtime rates or grant time in lieu of payment of overtime rates to eligible employees. | Level 1Level 2 |
| PS 1.34 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve the payment of salary progression or top of grade or value range payment. | Level 1Level 2 |
| PS 1.35 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve all leave types specified under the *Victorian Public Service Enterprise Agreement*.  | Level 1Level 2Level 3Level 6 |
| PS 1.36 | Division 4-EmployeesSection 20(1)-Employment &retirement | Authorise periods of leave of absence for employees relating to:* personal/sick leave with or without certificate
* carer’s leave
* parental absence
* jury service leave
* blood donation leave
* an infectious disease or dangerous medical condition.
 | Level 3 Level 6**Note**: This power is also delegated to Level 1 and Level 2 delegates pursuant to PS 1.35. |
| PS 1.37 | Division 4-EmployeesSection 20(1)-Employment &retirement | Direct an employee to take a period or periods of annual leave where leave is in excess. | Level 1**Note**: Provided such a direction does not result in an annual leave balance of less than six weeks for a full-time employee.  |
| PS 1.38 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve full-time study leave with pay.  | Level 1Level 2 |
| PS 1.39 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve family violence leave. | Level 1Level 4**Note:** This power is also delegated to Level 2 delegates pursuant to PS 1.35. |
| PS 1.40 | Division 4-EmployeesSection 20(1)-Employment &retirement | Make payments to employees in lieu of long service leave. | Level 1Level 2Level 4 |
| PS 1.41 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve an employee’s request to cash out annual leave. | Level 1Level 2 |
| PS 1.42 | Division 4-EmployeesSection 20(1)-Employment &retirement | Recognise prior service with government bodies for the purposes of long service leave and personal leave.  | Level 1Level 4 |
| PS 1.43 | Division 4-EmployeesSection 20(1)-Employment &Retirement  | Confirm employment on completion of a period of probation. | Level 1Level 2 |
| PS 1.44 | Division 8 TerminationSection 33(1)-Termination of employment | Terminate the employment of an employee due to conduct or performance issues during or at the end of the probationary period. | Level 1Level 2 |
| PS 1.45 | Division 7-Restriction onEmployees Doing OtherWork Section 32(1) | Grant express permission for a full-time employee to:* engage in any other employment; or
* carry on any business, profession or trade.
 | Level 1Level 2 |
| PS 1.46 | Division 7-Restriction onEmployees Doing OtherWork Section 32(2) | Form the opinion that a part-time employee engaged in other employment of carrying on any business, profession or trade is in conflict with the proper performance of the employee’s duties. | Level 1Level 2 |
| PS 1.47 | Division 7-Restriction on Employees Doing Other WorkSection 32(3) | Withdraw permission to an employee to:engage in any other employment; orcarry on any business, profession or trade. | Level 1Level 2 |
| PS 1.48 | Division 8-TerminationSection 33(1)-Employment &Retirement (non-executives) | Terminate the employment of an employee:If the employee refuses a transfer to other duties under PS 1.12 and PS 1.13If the employee is found guilty of a criminal offence punishable by imprisonment committed before, but not dealt with until after the employee became an employeeon the grounds of serious misconductif the employee is considered inefficient or incompetent in the discharge of his or her dutiesif the employee has, in connection with his or her application for employment, given false or misleading information; orfor any other reason consistent with the terms and conditions of his or her employment. | Level 1 |
| PS 1.49 | Division 4-EmployeesSection 65(1)-Employment &retirement | Decide whether or not to adopt a recommendation made in a report of a review of actions.  | Level 1 |
| PS 1.50 | Division 4-EmployeesSection 20(1)-Employment &retirement | Implement a formal unsatisfactory work performance process. | Level 1Level 2Level 3 |
| PS 1.51 | Division 4-EmployeesSection 20(1)-Employment &retirement | Decide to commence formal counselling for unsatisfactory work performance.  | Level 1Level 2Level 3 |
| PS 1.52 | Division 4-EmployeesSection 20(1)-Employment &retirement | Issue a formal written warning to an employee for unsatisfactory work performance. | Level 1Level 2Level 3 |
| PS 1.53 | Division 4-EmployeesSection 20(1)-Employment &retirement | Issue a final written warning to an employee for unsatisfactory work performance. | Level 1Level 2 |
| PS 1.54 | Division 4-EmployeesSection 20(1)-Employment &retirement | Determine an unsatisfactory work performance outcome. | Level 1 |
| PS 1.55 | Division 4-EmployeesSection 20(1)-Employment &retirement | Commence a formal disciplinary process for misconduct. | Level 1Level 2 |
| PS 1.56 | Division 4-EmployeesSection 20(1)-Employment &retirement | Appoint a person to conduct an investigation in relation to a disciplinary process for misconduct, if required. | Level 1Level 2 |
| PS 1.57 | Division 4-EmployeesSection 20(1)-Employment &retirement | Advise an employee of an allegation of misconduct in writing. | Level 1Level 2 |
| PS 1.58 | Division 4-EmployeesSection 20(1)-Employment &retirement | Determine a disciplinary outcome for misconduct. | Level 1 |
| PS 1.59  | Division 4-EmployeesSection 20(1)-Employment &retirement | Direct the employee to provide a medical certificate where there is a genuine concern about the employee’s capacity to undertake his or her duties.  | Level 1Level 2Level 3 |
| PS 1.60 | Division 4-EmployeesSection 20(1)-Employment &retirement | Send a notice to an employee requiring production to the employer of a WWC clearance provided to the employee under the *Worker Screening Act 2020*. | Level 1Level 2Level 3 |
| PS 1.61 | Division 4-EmployeesSection 20(1)-Employment &retirement | Determine the work location(s) of an employee. | Level 1Level 2 |
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| PS 1.63 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve a position being shared between two or more employees through job-sharing arrangements. | Level 1Level 2 |
| PS 1.64 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve flexible working arrangements. | Level 1Level 2Level 3 |
| PS 1.65 | Division 4-EmployeesSection 20(1)-Employment &retirement | Consent to an employee entering into an individual flexibility arrangement. | Level 1 |
| PS 1.66 | Division 4-EmployeesSection 20(1)-Employment &retirement | Approve a purchased leave agreement. | Level 1Level 2 |

**SCHEDULE 2**

**OFFICES TO WHICH THE POWERS AND FUNCTIONS ARE DELEGATED**

**Level 1**

* Executive Director, People Division, Department of Education and Training

**Level 2**

* Executive Directors of the Victorian Skills Authority

**Level 3**

* Directors of the Victorian Skills Authority

**Level 4**

* Manager, Corporate People Services, People Division, Department of Education and Training

**Level 5**

* Manager, Employee Conduct, People Division, Department of Education and Training

**Level 6**

* Managers of the Victorian Skills Authority.