

Applicable Legislation for Delegations

Legislation	Relevant Sections	Applicable Delegations
Local Government Act 1995	<p>5.18 <i>Register of delegations to committees</i> A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.</p> <p>5.42. <i>Delegation of some powers and duties to CEO</i> (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under — (a) this Act other than those referred to in section 5.43; or (b) the Planning and Development Act 2005 section 214(2), (3) or (5). * Absolute majority required. (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.</p> <p>5.43. <i>Limits on delegations to CEO</i> A local government cannot delegate to a CEO any of the following powers or duties - (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph; (c) appointing an auditor; (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph; (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100; (f) borrowing money on behalf of the local government; (g) hearing or determining an objection of a kind referred to in section 9.5; (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government; (h) any power or duty that requires the approval of the Minister or the Governor; (i) such other powers or duties as may be prescribed.</p> <p>5.44. <i>CEO may delegate powers and duties to other employees</i> (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation. (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation. (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local</p>	<p>LGA1 Activities Requiring Approval LGA2 Administering the Local Government (Miscellaneous Provisions) Act 1960 LGA3 Applications to Main Roads WA for the installation of Regulatory Signs LGA4 Appointment of Acting CEO LGA5 Approval of Signage within Active Reserves LGA6 Approval to use Council Property for Activities Involving the Sale, or Supply and Consumption of Liquor LGA7 Approve Applications for Public Health Initiatives LGA8 Broome Recreation and Aquatic Centre – Trading hours, Extension of LGA9 Broome Street Number Markers LGA10 Waiving and refunding of fees for applications administered by Development Services LGA11 Cape Leveque Road, Wet Season Closure and Load Limits LGA12 Council Chambers LGA13 Declaring A Vehicle To Be An Abandoned Vehicle Wreck LGA14 Disposal and Acquisition of Assets (Other than Land) LGA15 Disposal of Impounded Vehicles and Goods LGA16 Disposing of Sick Or Injured Impounded Animals LGA17 Execution of Documents – Authorisation without Common Seal LGA18 Insurance LGA19 Investment of Surplus Funds LGA20 Local Government (Uniform Local Provisions) Regulations 1996, Consent Permission or Approvals LGA21 Management Orders, Acceptance of LGA22 Municipal / Trust Fund, Authorisation of Payments, including Creditors LGA23 Operational – Authorised Officers, Appointment of LGA24 Operational – Community Sponsorship Program LGA25 Operational – Contract Price Variations LGA26 Operational – Legal Representation, Costs Indemnification LGA27 Permits, Road Trains and Extra Mass LGA28 Private Works LGA29 Purchase Orders, Issue of LGA30 Rates and Service Charges - Agreements LGA31 Rates, Unpaid – Power for Sale LGA32 Rating and Service Charges, Caveat LGA33 Rating and Service Charges, Legal Action for Recovery LGA34 Recovery of Rates and Service Charges – Leased Properties LGA35 Road Closures, General and Temporary LGA36 Significant Tree Register LGA37 Tenders for Goods and Services LGA38 Trading Licences LGA39 Write Off of Debts Up to \$1,000 LGA40 Lease Agreements – Community Storage Facility and Staff Housing LGA41 Panels of Pre-qualified Suppliers</p>

	<p>government to the CEO under section 5.42, but in the case of such a power or duty —</p> <p>(a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and</p> <p>(b) the exercise of that power or the discharge of that duty by the CEO's delegate,</p> <p>are subject to any conditions imposed by the local government on its delegation to the CEO.</p> <p>(4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.</p> <p>(5) In subsections (3) and (4) – conditions includes qualifications, limitations or exceptions.</p> <p>5.45. Other matters relevant to delegations under this Division</p> <p>(1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984-</p> <p>(a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and</p> <p>(b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.</p> <p>(2) Nothing in this Division is to be read as preventing -</p> <p>(a) a local government from performing any of its functions by acting through a person other than the CEO; or</p> <p>(b) a CEO from performing any of his or her functions by acting through another person.</p> <p>5.46. Register of, and records relevant to, delegations to CEO and employees</p> <p>(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.</p> <p>(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.</p> <p>(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.</p>	
<p>Building Act 2011</p>	<p>127. Delegation: special permit authorities and local governments</p> <p>(1) A special permit authority or a local government may delegate any of its powers or duties as a permit authority under another provision of this Act.</p> <p>(2) A delegation of a special permit authority's powers or duties may be only to an employee of the special permit authority, or to an employee of one of the legal entities that comprise the special permit authority.</p> <p>(3) A delegation of a local government's powers or duties may be only to a local government employee.</p> <p>(4) The delegation must be in writing executed by or on behalf of the delegator.</p>	<p>BA1 Administering the Building Act 2011 BA2 Encroachment, Access and Works on Shire Owned or Managed Land BA3 Seeking Consent to Affect Other Land</p>

	<p>(5) Except as provided for in subsection (6A), a person to whom a power or duty is delegated under this section cannot delegate that power or duty.</p> <p>(6A) The CEO of a local government may delegate to any other local government employee a power or duty of the local government that has been delegated to the CEO under this section but in the case of such a power or duty —</p> <p>(a) the CEO's power under this subsection to delegate the exercise of that power or the discharge of that duty; and</p> <p>(b) the exercise of that power or the discharge of that duty by the CEO's delegate,</p> <p>are subject to any conditions, qualifications, limitations or exceptions imposed by the local government on its delegation to the CEO.</p> <p>(6) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.</p> <p>(7) Nothing in this section limits the ability of the delegator to perform a function through an officer or agent.</p> <p>(8) In subsections (3) and (6A) —</p> <p>CEO means chief executive officer;</p> <p>local government employee, in relation to a local government, means a person employed by the local government under the Local Government Act 1995 section 5.36.</p>	
<p>Bush Fires Act 1954</p>	<p>48. Delegation by local governments</p> <p>(1) A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.</p> <p>(2) Performance by the chief executive officer of a local government of a function delegated under subsection (1) —</p> <p>(a) is taken to be in accordance with the terms of a delegation under this section, unless the contrary is shown; and</p> <p>(b) is to be treated as performance by the local government.</p> <p>(3) A delegation under this section does not include the power to subdelegate.</p> <p>(4) Nothing in this section is to be read as limiting the ability of a local government to act through its council, members of staff or agents in the normal course of business.</p>	<p>BFA Administering the Bush Fires Act 1954</p>
<p>Cat Act 2011</p>	<p>44. Delegation by local government</p> <p>(1) The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Act.</p> <p>(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.</p> <p>(3) A decision to delegate under this section is to be made by an absolute majority.</p>	<p>CA1 Administering the Cat Act 2011</p>

<p>Dog Act 1976</p>	<p>10AA. <i>Delegation of local government powers and duties</i> (1) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act. (2) The delegation must be in writing. (3) The delegation may expressly authorise the delegate to further delegate the power or duty. (4) A local government's chief executive officer who is exercising or performing a power or duty that has been delegated as authorised under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown. (5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.</p>	<p>DA1 Administering the Dog Act 1976</p>
<p>Food Act 2008</p>	<p>118. <i>Functions of enforcement agencies and delegation</i> (1) An enforcement agency has the functions in relation to the administration of this Act that are conferred or imposed on the agency by or under this Act or are delegated to the agency under this Act. (2) A function conferred or imposed on an enforcement agency may be delegated — (a) if the enforcement agency is the CEO — in accordance with section 117; or (b) if the enforcement agency is a local government or a person or body, or a person or body within a class of persons or bodies, prescribed by the regulations — subject to subsections (3) and (4), in accordance with the regulations. (3) Without limiting the Interpretation Act 1984 section 59, the performance by a delegate of an enforcement agency of a function delegated under subsection (2)(b) is subject to — (a) any condition or limitation imposed under section 119 on the performance by the enforcement agency of the function; and (b) any guidelines that the enforcement agency is required to adopt under section 120 in performing the function. (4) If — (a) regulations referred to in subsection (2)(b) expressly authorise a delegated function of an enforcement agency to be further delegated; and (b) the delegated function is further delegated to a person or body in accordance with those regulations, subsection (3) applies to the performance by the person or body of that function as if the function were performed and delegated as described in that subsection.</p>	<p>FA1 Administering the Food Act 2008</p>
<p>Health (Miscellaneous Provisions) Act 1911</p>	<p>26. <i>Powers of local government</i> Every local government is hereby authorised and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder: Provided that a local government may appoint and authorise any person to be its deputy, and in that capacity to exercise and</p>	<p>HA1 Health (Miscellaneous Provisions) Act 1911 – Appointment of Deputy to Meet Functions and Responsibilities of the Act</p>

	<p>discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or function.</p>	
<p>Planning and Development (Local Planning Schemes) Regulations 2015</p>	<p>82. Delegations by local government</p> <p>(1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.</p> <p>(2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.</p> <p>(3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.</p>	<p>PLA1 Built Strata Certificate of Approval – Forms 24 & 26</p> <p>PLA2 Certifying Premises Complies with Planning Laws</p> <p>PLA3 Certifying Premises Complies with Planning Laws – Motor Vehicles</p> <p>PLA4 Delegation to Waive/Refund Planning Fees</p> <p>PLA5 Determine Development Application</p> <p>PLA6 Gaming and Wagering, Applications & Renewals</p> <p>PLA7 Issue of Stop, Direction, Works Notices - Planning</p> <p>PLA8 Local Development Plans</p> <p>PLA9 Structure Plans</p> <p>PLA10 Subdivision and Amalgamation Applications & Clearance</p> <p>PLA11 Submit Responsible Authority Report</p>
<p>Public Health Act 2016</p>	<p>21. Enforcement agency may delegate</p> <p>(1) A power or duty conferred or imposed on an enforcement agency may be delegated —</p> <p>(a) if the enforcement agency is the Chief Health Officer, in accordance with section 9; or</p> <p>(b) if the enforcement agency is a local government, to —</p> <p>(i) the chief executive officer of the local government; or</p> <p>(ii) an authorised officer designated by the local government;</p> <p>or</p> <p>(c) if the enforcement agency is a person or body, or a person or body within a class of persons or bodies, prescribed by the regulations, to an authorised officer designated by the agency.</p> <p>(2) A delegation under subsection (1)(b) or (c) must be in writing.</p> <p>(3) Without limiting the Interpretation Act 1984 section 59, the exercise or performance by a delegate of an enforcement agency of a power or duty delegated under subsection (1)(b) or (c) is subject to any condition or restriction imposed under section 20 on the exercise or performance by the enforcement agency of the power or duty.</p> <p>(4) Subsection (5) applies if —</p> <p>(a) the regulations expressly authorise a delegated power or duty of an enforcement agency referred to in subsection (1)(b) or (c) to be further delegated; and</p> <p>(b) the delegated power or duty is further delegated to a person or body in accordance with those regulations.</p> <p>(5) If this subsection applies, subsection (3) applies to the exercise or performance by the person or body of that power or duty as if it were exercised or performed, and delegated, as described in subsection (3).</p>	<p>PHA1 Public Health Act 2016 – Appointment of Authorised Officers</p>

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