

Poppy Industry Instrument of Delegation 2021

under the

Poppy Industry Act 2016

I, GARY BARNES, Secretary of Regional NSW, in pursuance of section 42 of the *Poppy Industry Act 2016*, make the following Instrument of Delegation.

Dated this 4th day of November 2021



GARY BARNES
Secretary
Regional NSW

Part 1 Preliminary

1. Name

This Instrument is the *Poppy Industry Instrument of Delegation 2021*.

2. Commencement

This Instrument commences on the day on which it is signed.

3. Interpretation

(1) In this Instrument:

Administrative and Clerical Officer Grade 9 or above means a person employed by the Department as an Administrative and Clerical Officer at Grade 9 or above in accordance with the Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007, and whose responsibilities relate to the administration or execution of the Act.

Food Safety Officer Grade 5 or above means a person employed by the Department as a Food Safety Officer at Grade 5 or above level in accordance with the Crown Employees (Department of Industry) Food Safety Officers Award, and whose responsibilities relate to the administration or execution of the Act.

function includes a power, authority or duty, and ***exercise*** a function includes perform a duty.

Senior Executive Band 1 means a senior executive employed by the Department in Band 1 under the *Government Sector Employment Act 2013* or an employee with an equivalent salary level, and whose responsibilities relate to the administration or execution of the Act.

Senior Executive Band 2 means a senior executive employed by the Department in Band 2 under the *Government Sector Employment Act 2013* or an employee with an equivalent salary level, and whose responsibilities relate to the administration or execution of the Act .

Senior Executive Band 3 means a Senior Executive employed in the Department in Band 3 under the *Government Sector Employment Act 2013* or an employee with an equivalent salary level, and whose responsibilities relate to the administration or execution of the Act .

the Act means the *Poppy Industry Act 2016*.

the Department means Regional NSW.

the Regulation means the *Poppy Industry Regulation 2016*.

- (2) The summary of a function delegated in Column 2 of Schedules 2 and 3 is only for general explanation and does not limit the delegation of a function under the provisions identified in Column 1 of those Schedules.

Part 2 Delegations

4. Delegation of functions

- (1) The functions conferred or imposed on the Secretary under the Act in Column 1 of Schedules 2 and 3 are delegated to any person assigned to the delegate category specified in Column 3 of Schedules 2 and 3. Delegate categories are defined in Schedule 1.
- (2) The person assigned to a delegate band or grade specified in Column 2 of Schedule 1 includes any person who is for the time being acting in that band or at that grade.

5. Revocation of Poppy Industry Instrument of Delegation (Secretary) (No 1) 2017

Pursuant to section 42 of the Act, the Poppy Industry Instrument of Delegation (Secretary) (No. 1) 2017 published in NSW Government Gazette No. 120 of 23 December 2016 at pages 3801 to 3807 is revoked, as is any instrument of delegation revived as a result of this revocation.

Schedule 1 – Delegate categories

Column 1 Delegate Category	Column 2 Delegate Band or Grade
A	Senior Executive Band 3 Senior Executive Band 2 Senior Executive Band 1
B	Senior Executive Band 3 Senior Executive Band 2 Senior Executive Band 1 Administrative and Clerical Officer Grade 9 or above
C	Senior Executive Band 3 Senior Executive Band 2 Senior Executive Band 1 Administrative and Clerical Officer Grade 9 or above Food Safety Officer Grade 5 or above

Schedule 2 – Poppy Industry Act 2016

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate category
Part 2, Licences and permits		
8(f)	Approval of form of notice of alteration or cessation of an arrangement	A
8(g)	Determination of requirements for, and approval of, risk management plan for cultivation licence	A
9(d)	Approval of form of notice of alteration or cessation of an arrangement	A
9(e)	Determination of requirements for, and approval of, risk management plan for processing licence	A
11(f)	Specify conditions of licence and permit	A
13(1)	Grant or renew licence	A
13(2)	Grant permit	A
13(5)	Accept late application for renewal of licence	A
13(6)	Notify applicant of decision to grant or refuse renewal application	A
14(3)	Require payment of penalty for default of annual fee for cultivation licence	B
15	Amend licence on renewal of the licence	A
17	Approve the surrender of a licence or permit	B
18(1)(a)	Approval of form for applications	A
18(1)(b)(i)(A)	Determination of requirements for risk management plan	A
18(1)(b)(ii)	Require other material to accompany application for grant or renewal of licence	B
18(1)(c)	Determine fee for inspection required for determination of application	A
18(2) and (3)	Require further information or evidence for determination of application and refuse an application if applicant does not comply	A
18(4)	Determine an application	A
19	Refuse an application for grant, renewal or amendment of a licence or permit	A

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate category
20	Cause an audit of operations of licence or permit	C
21(1)	Suspend, cancel or amend licence or permit.	A
21(3)	Decide to suspend licence or permit for a specified period of time, until certain conditions are met, or until further order	A
21(5) and (6)	If cancelling licence or permit, also disqualify the holder from obtaining licence or permit	A
21(8)	Take specified action and recover the cost from holder of cancelled or suspended licence or permit	A
21(9)	Give notice of action proposed to be taken under section 21, provide reasons for decision and allow holder to make submissions.	A
21(11)	Cause notice of suspension or cancellation of licence or permit to be given to the Commissioner of Police and holder of related licence or permit	A
22(1)	Order specified action to be taken on expiry, cancellation or surrender of licence	C
22(5)	Take specified action on expiry, cancellation or surrender of licence and recover the cost of doing so.	A
23(1)	Refer matters to the Commissioner of Police	B
Part 3, Authorised officers		
26(1)	Appoint authorised officers	A
26(4)	Revoke an appointment, or vary, revoke or impose conditions on the appointment	A
27	Issue an authorised officer with an identity card	A
28	Direct authorised officer to dispose of alkaloid poppies or material derived from alkaloid poppies	A
39(1)	Appoint an analyst to provide evidentiary certificate	A
39(2)	Sign an evidentiary certificate	B
45	Enter into an information sharing arrangement	A

Schedule 3 – Poppy Industry Regulation 2016

Column 1 Clause	Column 2 Summary of functions delegated	Column 3 Delegate category
16	Approve person to be holder of licence or permit upon death of holder of licence or permit	A
Sch 2, item 2(5)	Publish notice of adjusted inflation amount on NSW Legislation website	B