

# Hemp Industry Instrument of Delegation 2021

under the

*Hemp Industry Act 2008*

I, GARY BARNES, Secretary of Regional NSW, in pursuance of section 41 of the *Hemp Industry Act 2008*, make the following Instrument of Delegation.

Dated this 4<sup>th</sup> day of November 2021

A handwritten signature in black ink, appearing to read 'Gary Barnes', written in a cursive style.

**GARY BARNES**

**Secretary**

**Regional NSW**

## Part 1 Preliminary

### 1. Name

This Instrument is the *Hemp 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.

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

*inspector* means a person appointed under section 18 of the Act.

*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 *Hemp Industry Act 2008*.

*the Regulation* means the *Hemp 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 Hemp Industry Instrument of Delegation 2016**

Pursuant to section 41 of the Act, the Hemp Industry Instrument of Delegation 2016 published in NSW Government Gazette No. 29 of 22 April 2016 at pages 918 to 921 is revoked, as is any instrument of delegation revived as a result of this revocation.

## Schedule 1 – Delegate categories

<b>Column 1</b>	<b>Column 2</b>
Delegate Category	Delegate Band or Grade
<b>A</b>	Senior Executive Band 3 Senior Executive Band 2 Senior Executive Band 1
<b>B</b>	Senior Executive Band 3 Senior Executive Band 2 Senior Executive Band 1 Administrative and Clerical Officer Grade 9 or above
<b>C</b>	Inspector

## Schedule 2 – Hemp Industry Act 2008

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate category
3	Meaning of 'corresponding authority'	A
4	Meaning of 'close associate'	A
5	Grant a licence authorising a person to cultivate or supply low-THC hemp	A
7	Approval of the form and fee for a licence application and requiring information and documents with respect to an application	A
8	Carry out investigations and inquiries to determine an application	A
9	Determination of suitability of applicant and close associates of the applicant	A
10	Determination of a licence application	A
12	Power to impose, vary or revoke a condition on a licence at any time	A
13	Determination of applications for renewal of licences	A
14	Determination of applications for transfer of licences	A
15	Suspension of licences and power to authorise another person to deal with hemp during a period of suspension	A
16	Revocation of a licence	A
18	Appointment of inspectors	A
19	Issue inspector with approved form of identification	A
21	Require a person to provide information or records <i>Note: section 21(1) of the Act also authorises this function to be exercised by an inspector (delegate category C)</i>	B
23	Direct a licence holder to carry out works or other actions to rectify a breach of licence or cause the works or actions to be carried out <i>Note: section 23(1) of the Act also authorises this function to be exercised by an inspector (delegate category C)</i>	A
29	Require the owner or occupier of a premises to provide reasonable assistance and facilities	A
31	Require a corporation to nominate a representative for the purpose of answering questions	A, C

<b>Column 1</b> Section	<b>Column 2</b> Summary of functions delegated	<b>Column 3</b> Delegate category
36(3)	Provide directions for destruction of forfeited low-THC hemp	A
36(4)	Authorise a person to take possession of low-THC hemp that has been forfeited so it can be cultivated or supplied for a specified purpose	A
37	Enter into arrangements with a relevant agency for the supply of information	A
39	Waive part or all of any fee payable	A

### Schedule 3 – Hemp Industry Regulation 2016

<b>Column 1</b> Clause	<b>Column 2</b> Summary of functions delegated	<b>Column 3</b> Delegate category
5(3)	Refuse to grant an application for renewal of a licence if the current licence information has changed	A
7(3)	Refuse to grant an application for transfer of a licence if the current licence information has changed	A
10(2)	Exempt a licensee from the condition in clause 10(1)(h) in the circumstances considered appropriate	A
12	Notify licensee of time and manner for making annual report	B
13	Direction in relation to payment of annual licence fee	B