

STATES OF JERSEY



STATES OF JERSEY LAW 1966, AS AMENDED: DELEGATION OF FUNCTIONS- HEALTH AND SOCIAL SERVICES COMMITTEE

Presented to the States on 18th February 2003
by the Health and Social Services Committee

STATES GREFFE

REPORT

On 15th January 2003, the Health and Social Services Committee made an Act delegating certain of its functions under Article 36A of the States of Jersey Law 1966, as amended.

The terms of the delegation were recorded in an Act of the Committee as follows -

“A18. The Committee, with reference to Act No. A3, dated 12th January 2000, of the Committee as previously constituted, received a report from the Strategic Planning and Legislation Manager setting out the details of certain functions of the Health and Social Services Committee which had been delegated to the Committee’s officers in accordance with Article 36A of the States of Jersey Law 1966, as amended.

The Committee confirmed its approval for the continued delegation of functions as set out in the schedule to the above report (designated Committee Paper CP/HSS/01/03) and to the extent specified in that report and agreed to inform the Greffier of the States accordingly.

The Committee also considered a proposal, following the advice of the Chief Officers Planning for Transition Group, that the exercise of delegated functions should not be routinely included on Committee agendas. A record of the exercise of delegated functions would be kept by the Department and be available to Committee members on request. The rationale for this proposal was that, as Committees prepared for the introduction of ministerial government, they should focus their attention on strategic matters and remove from their agendas routine matters which were simply included for notification.

The Committee, however, was concerned that this proposal might be contrary to the movement towards greater transparency and freedom of information about government decisions. It decided that it would wish to take a broader view of the issue and requested further background information on the criteria for what was and was not currently notified to the Committee and on the practice of other Committees. In the meantime, it was agreed that the status quo, in terms of reporting the exercise of delegated functions to the Committee, should be maintained.

The President undertook to write to the President of the Policy and Resources Committee on this matter.”

COMMITTEE PAPER

HEALTH AND SOCIAL SERVICES COMMITTEE

STATES OF JERSEY LAW 1966, AS AMENDED

1. Introduction

The States of Jersey (Amendment No. 5) Law 1996 enabled Committees of the States to delegate any functions conferred upon or vested in it under a law, to -

- (a) its President; or
- (b) a sub-committee of its members; or
- (c) an officer.

The Committee should be aware that whenever a delegated function is exercised this is taken to be a decision of the Committee, although this does not mean the Committee as a body may not make the decision or re-visit a decision taken on its behalf.

The attached list comprises those functions that have been previously delegated by Act of the Committee and published in the form of an 'R.C.' report presented to the States.

The Health and Social Services Committee has been advised that, on the formation of each new Committee, it should review and confirm those functions that it wishes to delegate.

2. Recommendations

The Committee is recommended to -

- (a) approve the functions previously delegated, as listed in the attached schedule, to the officers and to the extent specified in that schedule;
- (b) inform the Greffier of the States that it wishes to continue to delegate those functions previously approved.

**STATES OF JERSEY LAW 1966, AS AMENDED:
DELEGATION OF FUNCTIONS - HEALTH AND SOCIAL SERVICES**

SCHEDULE OF DELEGATED FUNCTIONS

Approved by the Health and Social Services Committee with effect from 19th December 1996-

Legislation:	Health Care (Registration) (Jersey) Law 1995.
Delegate:	Medical Officer of Health or, in his absence, his Deputy.
Functions delegated:	Article 3- approval of registration of persons in registrable occupations.
Scope of delegation:	Authority to approve registrations if the applicant meets the conditions specified in Article 3(a) or (b) of the Law. Delegated authority does <u>not</u> extend to the refusal or cancellation or registration, application of conditions, consideration of appeals or on registration, the removal of a name from a register.

Approved by the Health and Social Services Committee with effect from 7th May 1997 -

Legislation:	Termination of Pregnancy (Jersey) Law 1997.
Delegate:	Director of General and Acute Services or, in his absence, Manager - Division of Surgery and Anaesthesia.
Functions delegated:	Article 6(1) and (3) - to approve and to maintain a list of approved registered medical practitioners for the purposes of the Law.
Scope of delegation:	Approval of any registered medical practitioner who is a consultant or associate specialist employed by the Health and Social Services Committee.

Legislation:	Termination of Pregnancy (Jersey) Law 1997.
Delegate:	Director of General and Acute Services or, in his absence, Manager - Division of Surgery and Anaesthesia.
Functions delegated:	Article 6(2) and (3) - to authorise and to maintain a list of approved registered medical practitioners who are authorised to carry out terminations of pregnancy in accordance with the Law.
Scope of delegation:	Authorisation of any approved registered medical practitioner employed by the Health and Social Services Committee who is practising in obstetrics and gynaecology.

Legislation:	Food and Drugs (Jersey) Law 1966.
Delegate:	Chief Environmental Health Officer or, in his absence, his nominated deputy.
Functions delegated:	Article 11 paragraphs (1), (2) and (3) - to determine whether oysters may be landed in the Island without danger to the public health; and to decide whether any oysters landed are unfit for human consumption.
Scope of delegation:	<ul style="list-style-type: none"> (a) to authorise the landing of oysters, according to paragraph (1)- i.e. provided that they do not constitute a danger to the public health; (b) to require the confiscation or destruction of oysters according to the provisions of paragraph (2); (c) to direct that oysters be confiscation or otherwise dealt with according to the provisions of paragraph (3).

Legislation:	Food and Drugs (Jersey) Law 1966.
Delegate:	Chief Environmental Health Officer or, in his absence, his nominated deputy.
Functions delegated:	To determine, according to Article 54, whether - <ul style="list-style-type: none"> (a) an offence appears to have been committed under the Law; and (b) a person might reasonably establish a defence that the contravention was due to the act or default of another person.
Scope of delegation:	To recommend proceedings are taken against the person who is considered to have committed the offence, according to Article 54 paragraph (3).

Legislation:	Food and Drugs (Jersey) Law 1966.
Delegate:	Chief Environmental Health Officer or, in his absence, his nominated deputy.
Functions delegated:	To obtain information as to the ownership of premises, as described in Article 62, to enable the Committee to perform any of its functions under the Law.
Scope of delegation:	To require the occupier of any premises, and any person who either directly or indirectly receives rent in respect of any premises, to state in writing the nature of his own interest in those premises and the name and address of any other person known to him as having an interest in those premises.

Legislation:	Food Hygiene (General Provisions) (Jersey) Order 1967 (R&O 4915).
Delegate:	Chief Environmental Health Officer or, in his absence, his nominated deputy.
Functions delegated:	<p>Article 33 paragraphs (2) and (3) - to determine -</p> <p>(a) in relation to any food premises or stall situated in a market, whether facilities required under the provisions of Articles 17, 18, 19 or 21 of the Order are made available by the authority responsible for administration of the market;</p> <p>(b) in respect of any food premises, stall or vehicle, whether by reason of restricted accommodation or other special circumstances it is reasonable to grant exemption in regard to certain requirements.</p>
Scope of delegation:	<p>To grant a certificate of exemption according to the provisions of Article 33, paragraphs (2) or (3) of the Order.</p> <p>Authority is reserved to the Committee in respect of refusal of exemption, specification of a time period or withdrawal of exemption.</p>

Legislation:	Food Hygiene (General Provisions) (Jersey) Order 1967, as amended by R&Os 4953 and 5493.
Delegate:	Chief Environmental Health Officer or, in his absence, his nominated deputy.
Functions delegated:	<p>Article 31(1) - to determine whether meat imported into the Island is in closed containers of an approved type.</p> <p>Article 31(2) - to determine whether meat imported in contravention of Article 31(1) shall be permitted to remain in the Island.</p> <p>Article 31(3) - to determine whether the place where imported meat is to be conveyed is approved.</p>
Scope of delegation:	<p>(a) Approval of closed containers for the purpose of importing meat into the Island by ship according to paragraph (1) of Article 31;</p> <p>(b) to permit meat which has been imported in contravention of Article 31(1) to remain in the Island;</p> <p>(c) approval of the places to which meat imported into the Island (in accordance with paragraph (1) of Article 31) may be conveyed in unopened containers.</p> <p>Authority is reserved to the Committee as follows - that it may direct (under Article 31(2)) that meat imported in contravention of Article 31(1) shall be re-exported by and at the expense of the importer.</p>

Legislation:	Milk and Dairies (General Provisions) (Jersey) Order 1992 (R&O 8349).
Delegate:	Chief Environmental Health Officer or, in his absence, his nominated deputy.
Functions delegated:	To determine whether it may be necessary and proper for the purposes of the Food and Drugs (Jersey) Law 1966 and the above Order to cause inspections to be made of dairies and dairy farms, or persons in and about such places, under the provisions of Article 4 of the Order.
Scope of delegation:	To cause such inspections to be made.

Legislation:	Nursing Agencies (Jersey) Law 1978.
Delegate:	Medical Officer of Health or, in his absence, his Deputy.
Functions delegated:	Article 2(2)- grant or renewal of licences only, according to the provisions of the Law.
Scope of delegation:	Delegated functions do not include authority to attach conditions to the grant of a licence under Article 2(2); to refuse or revoke a licence under Article 2(4); or to hear an appeal under Article 2(5).

Legislation:	Loi (1922) sur la Santé Publique (Sages Femmes).
Delegate:	Medical Officer of Health or, in his absence, his Deputy.
Functions delegated:	Article (2)- to authorise and maintain a register of persons authorised to practice as midwives under the Law.
Scope of delegation:	Delegated functions do not include authority to refuse authorisation, or to suspend or revoke authorisation of a midwife under Article 7.

Legislation:	Misuse of Drugs (Jersey) Law 1978.
Delegate:	Medical Officer of Health or, in his absence, his Deputy.
Functions delegated:	To require a practitioner, pharmacist or person conducting a pharmacy business to furnish information in regard to specified drugs and to serve a notice to that effect.
Scope of delegation:	The information required should extend to particulars specified under the provisions of Article 13(1) and (2) of the Law, including details of the prescription or supply of drugs, and details of the practitioners prescribing drugs.

Legislation:	Nursing and Residential Homes (Jersey) Law 1994, as amended by Article 7(2) of the Termination of Pregnancy (Jersey) Law 1997.
Delegate:	Medical Officer of Health or, in his absence, his Deputy.
Functions delegated:	<ul style="list-style-type: none"> (a) To maintain a register for each class of home to which the 1994 Law applies, according to Article 4(1) of the 1994 Law; (b) to register a person in respect of a home to which the 1994 Law applies, according to Article 4(6); (c) to enter the particulars specified in accordance with Article 4(7)(b) and 4(8)(b) of the 1994 Law (as amended); (d) to specify the conditions required under Article 6(1) of the 1994 Law; (e) to give notice in respect of an application for registration, under Article 9(1) and Article 10(1) of the 1994 Law.
Scope of delegation:	<p>Delegated authority does <u>not</u> extend to -</p> <ul style="list-style-type: none"> (f) attachment of conditions by virtue of Article 6(2) and (2A); (g) variation or removal of conditions, or imposition of additional conditions, by virtue of Article 6(3); (h) refusal or cancellation of a registration (Articles 7 and 8), or consideration of any objections or representations according to Article 9(5) of the 1994 Law.

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below

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Approved by the Health and Social Services Committee - Act No. 9 of 1st October 1997

Legislation:	Nursing and Residential Homes (No. 2) (Jersey) Law 1997.
Delegate:	Medical Officer of Health or, in his absence, his Deputy.
Functions delegated:	<ul style="list-style-type: none"> (a) To register a person in respect of a nursing home, according to Article 3(1), and to request the particulars detailed in Article 3(3), i.e. whether or not the home is to receive women immediately before or after childbirth; (b) to determine whether or not premises are a residential home, according to Article 4(2)(a), and to serve a notice to that effect according to Article 4(2)(b); (c) to register a person in respect of a residential home, according to Article 4(3); (d) to register a person in respect of a mental nursing home, according to Article 5(2), and to request the particulars detailed in Article 5(3), i.e. whether or not it is proposed to receive patients liable to be detained under the 1969 Mental Health Law; (e) to serve a notice specifying proposals in regard to a number of persons or other conditions related to a registration, according to Article 7(2); and to issue a certificate according to Article 7(3).
Scope of delegation:	Delegated functions do <u>not</u> extend to the authority to consider any representations or appeals in regard to the conditions relating to a registration.

Approved by the Health and Social Services Committee with effect from 14th January 1998

Legislation:	Termination of Pregnancy (Fees) (Jersey) Order 1998 (R&O 9191).
Delegate:	Director of General and Acute Services or Manager - Division of Surgery and Anaesthesia.
Functions delegated:	Article (4) - to direct, in any particular case subject to the following guidelines, that no fee shall be payable for a termination of pregnancy.
Scope of delegation:	<p>Guidelines for waiving the fee are that, in the opinion of the officer -</p> <ul style="list-style-type: none"> • the woman' personal income from all sources (other than welfare payments and Social Security benefits) was less than £150 per week on average during the preceding four weeks, or • taking into consideration the woman's financial and other circumstances, even if earning more than £150 per week, the payment of a fee would cause her hardship. <p>In a case that the fee is <i>not</i> waived, and the woman does not accept that decision, an appeal may be made to the President of the Health and Social Services Committee whose decision will be final.</p>

Approved by the Health and Social Services Committee with effect from 1st April 1998

Legislation:	Ancillary Dental Workers (Jersey) Regulations 1974, as amended.
Delegate:	Medical Officer of Health, or Deputy.
Functions delegated:	<p>To maintain a roll for each class of ancillary dental worker, including the information specified in Article 8.</p> <p>To determine whether or not a person fulfils the requirements under Article 9 of the Law.</p>
Scope of delegation:	<p>To enrol an applicant according to Article 9.</p> <p>To retain a name on the roll according to Article 10.</p> <p>To restore a name to the roll according to Article 11.</p> <p>The Committee does <i>not</i> delegate the authority to refuse enrolment, to refuse retention on the roll or to refuse restoration of a name to the roll.</p>

Legislation:	Misuse of Drugs (Jersey) Law 1978 - Article 10, in conjunction with the Misuse of Drugs (Designation) (Jersey) Order 1989.
Delegate:	Medical Officer of Health, or Deputy.
Functions delegated:	To issue a licence under Article 10 paragraph (4)(b) of the Misuse of Drugs (Jersey) Law 1978, for a medical practitioner to prescribe amphetamine to patients.
Scope of delegation:	The delegation applies only - <ul style="list-style-type: none"> • in relation to a person for whom a licence has previously been issued by the Committee; and • according to the same terms and in compliance with the same conditions as applied to the previous licence; and • to permit issue of the licence for a period not exceeding 12 months.

Legislation:	Misuse of Drugs (Addicts) (Jersey) Order 1980 - Article 3.
Delegate:	Medical Officer of Health, or Deputy.
Functions delegated:	To issue a licence under Article 3 of the Misuse of Drugs (Addicts) (Jersey) Order 1980, for a doctor to prescribe controlled drugs or substances as specified in that Order to patients who have been statutorily notified under Article 2 of the same Order.
Scope of delegation:	The delegation applies only - <ul style="list-style-type: none"> • in relation to a person for whom a licence has previously been issued by the Committee; and • according to the same terms and in compliance with the same conditions as applied to the previous licence; and • to permit issue of the licence for a period not exceeding 12 months.

Approved by the Health and Social Services Committee with effect from 10th January 2001

Legislation:	Opticians (Registration) (Jersey) Law 1962.
Delegate:	Medical Officer of Health, or Deputy.
Functions delegated:	To register companies under Article 6 of the Opticians (Registration) (Jersey) Law 1962.
Scope of delegation:	Refusal of registration remains with the Committee.

Legislation:	Children (Jersey) Law 1969, Article 85(2)(c).
Delegate:	President of the Health and Social Services Committee.
Functions delegated:	To make an application to the Royal Court for the discharge of a parental rights order.

Legislation:	Children (Jersey) Law 1969, Article 30(9).
Delegate:	President of the Health and Social Services Committee.
Functions delegated:	To make an application through the Attorney General to the Royal Court for revocation of a Fit Person Order.
Legislation:	Children (Jersey) Law 1969, Article 32(1).
Delegate:	President of the Health and Social Services Committee.
Functions delegated:	To allow a child who is the subject of a Fit Person Order to be under the charge and control of a parent, guardian, relative or friend of the child.
Legislation:	Children (Jersey) Law 1969, Article 32(2).
Delegate:	President of the Health and Social Services Committee.
Functions delegated:	To make an application to the Royal Court to revoke a Fit Person Order no longer deemed necessary.

Approved 5th September 2001

Legislation:	Misuse of Drugs (Jersey) Law 1978, Article 4(2)(b).
Delegate:	Chief Pharmacist or nominated deputy.
Function delegated:	To issue a general licence to permit the importation or exportation of controlled drugs, as specified in the Second Schedule to the Law. The delegate may attach any conditions he deems appropriate.
Scope:	Licences are to be issued only to designated registered pharmacists. Licences may be issued as renewals or to pharmacists who have not previously been licensed for this purpose. The delegate may <u>not</u> refuse or revoke a licence, which should be considered by the Health and Social Services Committee. The duration of any licence shall not exceed a period of three years. The delegate may not issue a licence to himself.

Approved 1st August 2001

Legislation:	Nursing and Residential Homes (Jersey) Law 1994 - Article 6(2), (2A) and (3).
Delegate:	Medical Officer of Health or nominated deputy.
Function delegated:	The delegate may - (a) apply such conditions as he may consider appropriate for the purposes specified in Article 6(2) and 6(2A); (b) vary or remove any conditions for the time being in force in respect of a home by virtue of Article 6 of the Law; or (c) impose an additional condition, either on the application of a person registered in respect of it or without such an application.
It should be noted that this delegation modifies the scope of the Committee's previous delegation of functions under this Law, dated 7th May 1997 (R.C.1/98). <i>(see above)</i>	

Approved October 2001
Estates management - delegated authority

Legislation:	States of Jersey Standing Orders Relating to Certain Transactions in Land.
Delegate:	Chief Executive or Director of Estates, subject to the approval of the Finance and Economics Committee if required.
Functions delegated:	<ul style="list-style-type: none">• Acquisitions of property or land for development or redevelopment;• payment of compensation up to £20,000 in respect of acquisitions;• grant or acceptance of servitudes etc. by way of a gift or for a sum not in excess of £10,000 or £2,500 per year;• sale of land, buildings etc. for up to £20,000;• letting for not more than 9 years and not more than £20,000 per year, or for not more than 99 years and not more than £7,500 per year;• renting from persons on the same terms as letting (above);• assignment by the lessee of any unexpired portion of a lease or the annulment of a lease. <p>And in addition, certain estates, engineering, maintenance and accommodation matters, namely -</p> <ul style="list-style-type: none">• acceptance of tenders/entering into building or engineering contract commitments not exceeding £200,000, whether by formal contract documentation or purchase order;• appointment of consultants for construction, engineering or building project work;• to approve the issue of all essential contract variations and those non-essential variations which have a value of not more than £25,000;• to approve the list of contractors to carry out building maintenance or other maintenance work for the Committee;• application on behalf of the Committee to obtain consent under the Housing (Jersey) Law 1949, as amended, in connection with staff leased accommodation;• application on behalf of the Committee to obtain permission in respect of the Island Planning (Jersey) Law 1964 and the Building Bye-laws (Jersey) 1997.