

STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – ECONOMIC DEVELOPMENT

**Presented to the States on 24th January 2006
by the Minister for Economic Development**

STATES GREFFE

REPORT

On 22nd December 2005, the Minister for Economic Development made a decision delegating certain of his functions under the legislation as listed in the ministerial decision below.

The terms of the delegation were recorded in a ministerial decision as follows –

Law	Function	Delegate
Agricultural Returns (Jersey) Law 1947	The collecting and collating of agriculture and fisheries statistics.	Director of the Rural Economy
Agricultural (Loans and Guarantees) (Jersey) Law 1974	Applications for new loans and deferments, and general administration of the Scheme are carried out at Officer level (Rural Economy and Treasury and Resources).	The Finance Director is delegated to take appropriate action with borrowers who are in arrears with repayments.
Subordinate Agriculture (Loans) (Jersey) Regulations 1974	The Agriculture Loans Board does not now exist but recommendations could be made to Minister from the Director of the Rural Economy. This would only be for deferments as the scheme is no longer available for new loans.	The Minister will continue to consider cases only where a formal decision is required to give the Law Officers instructions to carry out certain functions, i.e. registering of new loans, changes in security and legal action.
Agricultural Marketing (Jersey) Law 1953	Administration of all subordinate legislation.	Director of the Rural Economy
Subordinate Milk Marketing Scheme (Approval) (Jersey) Act 1954 Milk Marketing (Registration of Producers) (Jersey) Order 1954 Milk Marketing (Polls) (Jersey) Order 1954 Sale of Milk (Jersey) Order 1961 Maincrop Potato Marketing Scheme (Approval) (Jersey) Act 1968		

Law	Function	Delegate
<p>Maincrop Potato Marketing (Registration of Producers) (Jersey) Order 1968</p> <p>Maincrop Potato Marketing (Polls) (Jersey) Order 1968</p>		
<p>Financial Services Commission (Jersey) Law</p>	<p>Article 6 transfer to the Commission the function of supervising banks and other deposit taking institutions under the Banking Business Law, insurance business under the Insurance Business Law and collective investment funds and the functionaries of such funds under the Collective Investment Funds Law. In addition, the article charges the Commission (largely acting through the registrar, a Commission appointee) with administering the Borrowing Control Law, the Registration of Business Names Law, the Companies Law, the Limited Partnerships Law and the Limited Liability Partnerships Law.</p>	<p>The Jersey Financial Services Commission.</p> <p>In practice, much of the manner in which the Commission carries out these responsibilities is set out in the Financial Services (Jersey) Law.</p>
<p>Regulation 8J in Part IIA of the Gambling (Gaming and Lotteries) (Jersey) Regulation 1965</p>	<p>The granting, renewal, cancellation and transfer of licences. Applicants must already be in possession of a bookmaker's licence and have undergone a 'fit and proper person' test, the application must be in the correct form and accompanied by the requisite fee.</p>	<p>The Gambling Controller or the Director of Regulatory Services</p>

Law	Function	Delegate
Gambling (Licensing Provisions) (Jersey) Regulations 1965	In pursuance of paragraph (13) of Regulation 6 of the Regulations, the authority to approve the appointment of a person to act as manager of a licensed betting or credit betting office, on the condition that the person was fit and proper to carry on the licence, subject to appropriate background reports.	The Gambling Controller or the Director of Regulatory Services
Gambling (Licensing Provisions) (Jersey) Regulations 1965, as amended, Regulation 6	<p>In accordance with paragraph (15), to approve the appointment of an officer where a body corporate is the holder of a licence.</p> <p>In accordance with paragraph (16), to approve any change to the lay-out of the premises to which a current amusement premises licence, track licence or betting office licence (other than a credit betting office licence) relates, which affects the means of access thereto.</p>	The Gambling Controller or the Director of Regulatory Services
The Regulation of Undertakings and Development (Jersey) Law 1973, as amended Part II of the Law – Article 2	<p>To grant subject to condition –</p> <p>(a) Applications relating to specialist contracts involving a non-local firm where no local firm is available to undertake the work;</p> <p>(b) Applications where the Minister has previously granted a consent in principle and where the licence to be issued is in accordance with the terms of the “in principle” consent;</p> <p>To grant subject to condition or to refuse –</p>	The Director of the Population Office and, in his absence, the Director of Regulation of Undertakings and Development or Senior Regulation of Undertakings and Development Law Officer

Law	Function	Delegate
	<p>Applications in accordance with the Minister's statement of policy (attached), with the exception of –</p> <p>To attach conditions to licences granted –</p> <p>(a) That the undertaking is carried on in accordance with the information presented;</p> <p>(b) That the member(s) of staff to be engaged shall be restricted to those who have full residential qualifications, or have been ordinarily resident in the Island for at least five consecutive years immediately preceding the date of their engagement;</p> <p>(c) That the member(s) of staff to be engaged who do not have full residential qualifications and have not been ordinarily resident in the Island for at least five consecutive years immediately preceding the date of their engagement shall be restricted to a named individual, or number of staff;</p> <p>(d) That no transaction or arrangement effecting any change in the direct or indirect beneficial ownership of the licence holder or in those responsible for its direction or control shall be entered into without the prior consent of the Finance and Economics Minister.</p>	

Law	Function	Delegate
<p>The Regulation of Undertakings and Development (Jersey) Law 1973, as amended Part III of the Law – Article 3</p>	<p>To grant subject to condition or to refuse –</p> <p>Applications in accordance with the Minister’s statement of policy (attached);</p> <p>To attach the following conditions to licences granted –</p> <p>(a) That all persons to whom part of the contract is let or sub-let shall be residentially qualified, or firms long established in the Island, unless the agreement of the Finance and Economics Minister has otherwise been obtained;</p> <p>(b) That the development is undertaken in accordance with the information presented.</p>	<p>The Director of the Population Office and, in his absence, the Director of Regulation of Undertakings and Development or Senior Regulation of Undertakings and Development Law Officer</p>
<p>Hawkers and Non-Resident Traders’ (Jersey) Law</p>	<p>Although ED is responsible for the Law and it does receive applications for reductions from time to time, in effect, the Parish of St. Helier carries out the administrative functions of the Law on behalf of the Minister. Article 2(6) of the Law empowers the Minister to appoint another authority.</p>	<p>The Director of Regulatory Services</p>
<p>Air Transport Permits (Jersey) Law 1998</p>	<p>The power to prevent unauthorized flights by either giving a direction to the person appearing to be in command of the aircraft to be used that he shall not permit the aircraft to take off, or by detaining the aircraft until he is satisfied that the aircraft will not be so used.</p>	<p>The Director of Policy and Strategy or, in his absence, the Executive Director of the Economic Development Department.</p>

Law	Function	Delegate
	<p>The Authority to grant, vary, suspend or revoke permits.</p> <ul style="list-style-type: none"> • To grant or vary a permit upon the terms proposed in the application, upon terms other than those proposed in the application or to refuse to grant a permit. • To suspend a permit at any time when a suspension of the air transport licence, route licence or permission of the Secretary of State, which also authorizes the flights to, which the permit relates is in effect. • To revoke a permit if a revocation of the air transport licence, route licence or permission of the Secretary of State, which also authorizes the flights to which the permit relates, takes effect. <p>To vary, suspend or revoke a permit other than on application by the permit holder pursuant to Articles 3 or 7, as the case may be.</p>	
Tourism Law	<p>Approval of Registrations where all required standards are met.</p> <p>Approval of Transfers and Managements where all requirements are met.</p>	<p>Director of Regulatory Services or, in his absence, the Executive Director of the Economic Development Department.</p>
Licensing Law	<p>Attend at all Assemblies on behalf of the Minister and answer on any matter the Assembly requests. The Assembly will not grant any application regarding Tourism registered premises unless the Minister has previously approved all matters.</p>	<p>Director of Regulatory or, in his absence, the Executive Director of the Economic Development Department</p>

Law	Function	Delegate
Places of Refreshment Law.	Approval of all Registrations where all required standards are met. Approval of Transfers and Managements where all requirements are met.	Director of Regulatory Services or, in his absence, the Executive Director of the Economic Development Department.
Policing of Beaches Regulations.	Approval of any element within the legislation where requirements are met. (Note: In the past, two members of the Committee were asked to oversee the approval of new Concessionaires so that the process is transparent.)	Director of Regulatory Services or, in his absence, the Executive Director of the Economic Development Department.
States Treasury Code of Directions No. 26	Approval of grants up to a maximum of £5,000	Director of Jersey Marketing and Promotion or, in his absence, the Executive Director of the Economic Development Department
States Treasury Code of Directions No. 10	Authorised signatories for all financial purposes, including ordering of goods, certification of batches of invoices, journals and cash requisitions.	<p><u>Economic Development</u> Chief Executive Officer Executive Director TEP Director Director of Rural Economy Director of Regulatory Services Corporate Strategy and Policy Executive Finance Director</p> <p><u>Jersey Airport</u> Airport Director Director of Finance Financial Services Manager</p> <p><u>Jersey Post</u> Chief Executive Officer Finance Director Director – Human Resources Director – Marketing and Fulfilment Director – Postal Operations and Logistics Director – Business Services</p>

Law	Function	Delegate
Skills Strategy and Implementation Plan	<ul style="list-style-type: none"> • Approval of grants in accordance with the Minister approved Skills Strategy and Implementation Plan • Authority to enter into annual service level agreements for the provision of services or products required to deliver the Skills Strategy. 	TEP Director or, in his absence, the Executive Director of the Economic Development Department
Harbours (Jersey) Regulations 1962, as amended, Part 1 (Powers of Minister).	<p>To restrict access to harbours (Regulation 1), removal of unserviceable vessels and other obstructions (Regulation 2), circulation and parking of vehicles (Regulation 4) and posting of notices (Regulation 5).</p> <p>Any action taken by the Harbour Master/Deputy Harbour Master must conform with Shipping legislation and conventions in force in Jersey and with any codes of practice approved by the Minister.</p>	Harbour Master/Deputy Harbour Master.
Harbours (Jersey) Regulations 1962, as amended, Part 3 (Duties of Master and Owner).	<p>Action to be taken under Regulation 7(2) following failure of a master to carry out directions of the Harbour Master/Deputy Harbour Master requiring movement of a vessel.</p> <p>To conform to agreed Ministerial policies and codes of practice.</p>	Harbour Master/Deputy Harbour Master.

Law	Function	Delegate
<p>Harbours (Jersey) Regulations 1962, as amended, Part 4 (Provisions governing ships bringing petroleum spirit into a harbour) and Part 5 (Provisions governing the conveyance, loading and unloading of explosives).</p>	<p>To authorise an officer to discharge the functions of inspection to ascertain whether the requirements of Parts 4 (Regulation 24) and 5 (Regulation 35) of the Regulations are being carried out.</p> <p>Any professional fees required, or provision of facilities, to be within annual budget or agreed contingency budget.</p>	<p>Harbour Master/Deputy Harbour Master</p>
<p>Harbours (Jersey) Regulations 1962, as amended, Part 7 (Loading and Unloading etc.)</p>	<p>To oversee the procedure for the charging for goods left on a harbour under Regulation 45 (2) and 45(3). Charges and any reduction in the amounts to be as stated in the Regulations.</p>	<p>Harbours Chief Executive/Commercial Director</p>
<p>Harbours (Jersey) Regulations 1962, as amended, Part 8 (General)</p>	<p>Functions under Regulation 47 (Damage by vessels in harbour) with respect to persons answerable for any damage, and persons liable to make good any such damage, including power to detain a vessel and obtain security for the amount of damage done.</p> <p>Valuation of cost to make good damage to be based on independent professional report.</p>	<p>Harbour Master/Deputy Harbour Master.</p>
<p>Harbours (Jersey) Regulations 1962, as amended, Part 8 (General).</p>	<p>Giving permission under Regulation 49(1) (a) through to 1(e) and 1(g) for any of the following – fixing notices; use of vessels as houseboats; use of firearms; public address or performance; soliciting or collecting; lighting fireworks. Any permission given to fall within the scope of any policies or codes of practice approved by the Minister.</p>	<p>Harbour Master/Deputy Harbour Master.</p>

Law	Function	Delegate
<p>Harbours (Jersey) Regulations 1962, as amended, Part 8 (General)</p>	<p>Giving permission to engage in any trade or business activity under Regulation 49 (1) (f) and the setting of any terms and conditions under Regulation 49(2). Any permission given or withdrawal of such permission to fall within the scope of any policies or codes of practice approved by the Minister.</p>	<p>Harbours Commercial Director</p>
<p>Boats and Surf-Riding (Control) (Jersey) Regulations 1969, as amended, Part 1 (Provisions as to Surf-Riding)</p>	<p>To oversee the registration and insurance procedures and the issue of certificates, concerning surf-riding. Any fees required to be as stated in the Regulation. The design of forms, certificates and discs to be determined by the delegate. Cancellation of the certificate to be within the clearly stated procedures of these Regulations.</p>	<p>Harbours Chief Executive/Commercial Director</p>
<p>Boats and Surf-Riding (Control) (Jersey) Regulations 1969, as amended, Part 2 (Registration of Sail Boards)</p>	<p>To oversee the registration and insurance procedures and the issue of certificates, concerning sail boards. Any fees required to be as stated in the Regulation. The design of forms, certificates and discs to be determined by the delegate. Cancellation of the certificate to be within the clearly stated procedures of these Regulations.</p>	<p>Harbours Chief Executive/Commercial Director</p>
<p>Boats and Surf-Riding (Control) (Jersey) Regulations 1969, as amended, Part 3, (Registration of Boats)</p>	<p>To oversee the registration procedures and issue of certificates of registration for boats.</p> <p>Any fees required to be as stated in the Regulation. The design of forms and certificates to be determined by the delegate.</p>	<p>Harbours Chief Executive/Commercial Director.</p>

Law	Function	Delegate
Boats and Surf-Riding (Control) (Jersey) Regulations 1969, as amended, Part 4, (Control of Boats Plying for Hire)	For boats to ply for hire (except where operating from the beach). To grant a licence (Regulations 14 and 15) and to revoke, suspend or vary a licence (Regulations 16 and 17).	Harbours Chief Executive
Boats and Surf-Riding (Control) (Jersey) Regulations 1969, as amended, Part 5 (Control of Passenger Boats Plying for Hire etc.)	<p>For passenger boats to ply for hire between places in the Island: to grant a licence (Regulations 25 and 26) and to revoke, suspend, vary or refuse a licence (Regulations 27 and 28).</p> <p>Any fees required to be as stated in the Regulation. The design of forms and licences to be determined by the delegate. Any revocation, suspension or variation of the licence to be within the clearly stated procedures of these Regulations and with due regard to the advice of the Harbour Master/Deputy Harbour Master.</p>	Harbours Chief Executive
Boats and Surf-Riding (Control) (Jersey) Regulations 1969, as amended, Part 6 (Registration and Marking of Speed Boats)	<p>To oversee the registration and marking of speed boats and to issue the relevant certificate of registration (Regulations 32, 33 and 34). To ensure compliance with the insurance obligations of the owner (Regulation 35). Any fees required to be as stated in the Regulation. The design of forms to be determined by the delegate. Cancellation of the certificate to be within the clearly stated procedures of these Regulations.</p>	Harbours Chief Executive/Commercial Director

Law	Function	Delegate
Shipping (Tonnage) (Jersey) Regulations 2004	<p>To appoint appropriately qualified authorized measurers and surveyors, as defined in Regulation 1.</p> <p>The Registrar shall only appoint the said measurers and surveyors for the purpose of their functions under the Tonnage Regulations.</p>	Registrar of Shipping
Shipping (Fishing Vessels – Safety Training) (Jersey) Order 2004	<p>To grant exemptions from the requirement for safety training under Article 4.</p> <p>Exemption may apply to fishermen operating vessels under 6 metres in length and where they have attended the approved alternative training. Temporary exemptions for those who have not attended any approved training must be time-limited and dependent on there being on-board safety and emergency briefings.</p>	Harbour Master/Deputy Harbour Master
Shipping (Survey and Certification) (Jersey) Order 2005 Article 1 (2)(j), regarding U.K. Regulation 11	<p>To issue a Passenger Certificate in accordance with the associated U.K. Regulation 11(a) and recognise equivalent U.K. certification in accordance with the associated U.K. Regulation 11(b).</p> <p>The Harbour Master/Deputy Harbour Master shall only issue and recognise certificates where the appropriate survey or surveys have been satisfactorily completed.</p>	Harbour Master/Deputy Harbour Master
Shipping (Survey and Certification) (Jersey) Order 2005 Article 1, regarding U.K. Regulation 19	<p>To cancel a certificate issued to a Jersey ship in accordance with the associated U.K. Regulation 19(1) and to require the surrender of such a certificate in accordance with the associated U.K. Regulation 19(2).</p>	Harbour Master/Deputy Harbour Master

Law	Function	Delegate
	The Harbour Master/Deputy Harbour Master shall only cancel or require surrender of such certificates where the certificate was issued on false or erroneous information or since any survey required by the associated Regulations, the structure, equipment or machinery has sustained damage or is otherwise deficient.	
States Treasury Code of Directions No. 26	Approval of grants up to a maximum of £5,000	Director of Jersey Marketing and Promotion or, in his absence, the Executive Director of the Economic Development Department
States Treasury Code of Directions No. 10	Authorised signatories for all financial purposes, including ordering of goods, certification of batches of invoices, journals and cash requisitions.	<p><u>Economic Development</u> Chief Executive Officer Executive Director TEP Director Director of Rural Economy Director of Regulatory Services Corporate Strategy and Policy Executive Finance Director</p> <p><u>Jersey Airport</u> Airport Director Director of Finance Financial Services Manager</p> <p><u>Jersey Post</u> Chief Executive Officer Finance Director Director – Human Resources Director – Marketing and Fulfilment Director – Postal Operations and Logistics Director – Business Services</p>
Airport Dues (Jersey) Law 1956	The reduction or waiving of any class of any Airport Due as set out in the current Airport Dues (Tariffs) (Jersey) Order.	Airport Director

Law	Function	Delegate
<p>Air Navigation (Jersey) Order 2000</p>	<p>Article 47. The authority to permit a helicopter to fly with a suspended load.</p> <p>Article 48. The authority to permit the dropping of articles for public health or measurement of weather conditions; surface icing or oil pollution and the dropping of wind drift indicators for parachuting.</p> <p>Article 49. The authority to permit parachute drops.</p> <p>Article 76. The authority to permit the flying of balloons, kites, airships, gliders and parascending parachutes.</p> <p>Article 76A. The authority to permit the flying of small aircraft such as used by the Jersey Model Aero Club, and to keep a register of the aircraft of the Club.</p> <p>Article 90. The authority to grant an exemption for helicopters to fly from or to land at places other than Jersey Airport.</p> <p>Article 116. The authority to exempt from the Air Navigation Order and the Rules of the Air made there under, certain persons, classes of persons, classes of aircraft and certain age groups and other users, such as model aircraft owners, from any of the provisions of the Air Navigation Order other than Articles 72, 102, 103, 104, 105, all of which relate to the powers of the Secretary of State, or Article 117, which relates to the ability to appeal to the Royal Court.</p>	<p>Airport Director</p>

Law	Function	Delegate
Air Navigation (No. 2) (Jersey) Order 1995, as extended to Jersey with modifications by the Air Navigation (Jersey) Order 2000	Article 118. Be an authorised person under the Law to act as Airport Director (when deputizing for the Airport Director).	Airport Director to deputize either – Mr. J. Buckley (Senior Air Traffic Control Officer) Mr. S. Read (Head of Customer Services) Mr. J. Snowdon (Chief Electronics Engineer) Mr. P. Wells (Head of Human Resources)
Standing Order 168	<p>Dealing with the granting of leases for which States approval is not required. These are described within the current Standing Orders relating to Certain Transactions in Land and include –</p> <p>(3) Clause 1(1)(e) – letting not exceeding 9 years for starting rent not exceeding £50,000 and letting not exceeding 99 years for starting rent not exceeding £40,000; and</p> <p>(4) Clause 1(1)(h) – the assignment of any unexpired portion or annulment of any lease.</p> <p>It is noted that the approval of the Treasury and Resources Department, through the delegated powers of the Treasurer of the States, would be required for any lease approved by Executive Board of Jersey Post, in accordance with the provisions of Standing Orders Relating to certain Transactions in Land.</p>	Airport Director

Law	Function	Delegate
	<p>Granting of concessions to permit trade at the Airport, such as car hire, shops and catering. The Department of Property Services had previously advised that for temporary occupation of land and accommodation, generally up to 12 months and not exceeding 3 years, a licence agreement could be entered into with the occupier by the Airport Director, rather than a lease.</p> <p>Delegation approval is sought to –</p> <p>(a) <i>Approve leases as described in Clauses 1(1)(e) and (h) of Standing Orders relating to Certain Transactions in Land, and any variations of such transactions;</i></p> <p>(b) <i>Approve and sign licence agreements for the temporary occupation of land or property; and,</i></p> <p>(c) <i>Approve Concessions to trade at the Airport provided that the terms of such a concession were, in general, no less favourable to the Department.</i></p>	