

STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – TREASURY AND RESOURCES

**Presented to the States on 24th December 2008
by the Minister for Treasury and Resources**

STATES GREFFE

REPORT

On 22nd December 2008, the Minister for Treasury and Resources made a Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 in respect of the legislation as detailed below.

The terms of the delegation were recorded in a Ministerial Decision as follows –

1. Purpose of the Report

1.1 To propose that –

- certain functions of the Public Finances (Jersey) Law 2005 (the Finance Law) (including those in Regulations approved under that Law and financial directions) and other areas of administration, be delegated from the Minister for Treasury and Resources to the Treasurer or another person as nominated by the Treasurer (instances may arise where it is necessary or appropriate for the Treasurer to delegate certain powers); and
- the Minister confirms certain decisions in relation to matters covered by the Finance Law.

2. Background

2.1 Under Article 27 of the States of Jersey Law 2005 a Minister may delegate, wholly or partly, functions conferred upon them by any Law to either an Assistant Minister or an officer.

2.2 In order to ensure that the public finances are managed efficiently and effectively it is recommended that the following areas of administration be delegated as indicated. This should ensure that the Minister is able to deal with major issues whilst allowing the Treasury to deal with the more administrative arrangements. This report details the functions and scope of the delegations recommended, together with the relevant Article in the Law or Regulations, and additional delegations under manpower Regulations and the States' Standing Orders.

2.3 There are also a number of areas where the Minister is asked to make certain decisions to enable the Law to be administered smoothly.

2.4 The following delegation replaces the delegations made with MD-TR-2006-0003, MD-TR-2006-0005, MD-TR-2006-0011 and MD-TR-2008-0069.

3. Comments

The following tables indicate the activities which it is recommended are delegated and decisions made. In order to assist the reader, the table indicates the relevant Articles and sub-paragraphs of the Law and provides a brief summary of what is included in the Law. The table also indicates what it is recommended be delegated and to whom. In line with the format of the Law, references to the Minister are to the Minister for Treasury and Resources.

3.1

Articles from the Law: (8) Estimates to be provided; and (10) Estimates for the States Assembly and its services	To enable the preparation of the Annual Business Plan and Budget, the Law enables the Minister to request that estimates be provided by States funded bodies (including ministerial and non-ministerial bodies and the States Assembly) in respect of the following financial year for revenue expenditure, income, and capital projects scheduled to start or continue in that year.
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	<p>In addition, the Minister can request details of income that may arise from the disposal of assets, and for any other income of the States.</p> <p>The Minister may request information for other time periods and is able to specify the format and time scale to which the aforementioned estimates be provided within.</p>
Recommended delegation:	It is recommended that the above Ministerial responsibilities be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer.

3.2

Article 14– Expenditure Approval, heads of expenditure and withdrawals from the consolidated fund Sub-paragraph 14(6)& (7) refers	This sub-paragraph of the Law empowers the Minister to authorise a States funded body (Sfb) to use any additional income it may generate over and above the estimate approved by the States in the Annual Business Plan.
Ministerial Decision:	<p>It is recommended that the Minister agree that States funded bodies be allowed to retain and use additional income in instances where –</p> <ul style="list-style-type: none"> (a) any such income and associated additional expenditure match; and (b) the additional income is in excess of increased expenditure required to generate that income but the excess income is not more than 10% (or £500,000 for a States trading operation and £100,000 for all other States funded bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured.

3.3

<p>Article 15 – Permitted variations Sub-paragraph 15(1)(a) refers</p>	<p>This sub-paragraph of the Law enables the Minister to approve the transfer of funds from one head of expenditure to another head of expenditure (a head of expenditure being either:</p> <ul style="list-style-type: none"> • the annual net revenue budget of a States funded body; or • the amount allocated for each capital project).
<p>Recommended delegation:</p> <p>Ministerial Decision:</p>	<p>Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer, to agree non-contentious transfers between expenditure heads up to £100,000.</p> <p>It is recommended that the Minister agrees that funds can be transferred, without further approval by the Minister, in instances where there is a transfer of responsibility and administration of a service which has been agreed by the States and the relevant Ministers agree in respect of the funds to be transferred. Such decisions must be notified to the Treasurer.</p>

3.4

<p>Article 15 – Permitted variations Sub-paragraph 15(1)(b) and (2) refers</p>	<p>This sub-paragraph empowers the Minister to allow a States-funded body, in the case of revenue expenditure, to carry funds forward to the following financial year and report to the States, the approval given, in periods no longer than 6 months.</p>
<p>Ministerial Decision:</p>	<p>It is recommended that the Minister agrees that Departments can automatically carry forward to the following financial year up to 1% of their gross revenue head of expenditure or £200,000 (whichever is the larger).</p>

3.5

<p>Article 15 – Permitted variations Sub-paragraph 15(3) refers</p>	<p>This sub-paragraph of the Law empowers the Minister to authorise a States-funded body to make use of income from the sale of an asset for the acquisition of a replacement or other asset.</p>
<p>Recommended delegations:</p>	<p><i>Delegation 1:</i> Authority be delegated to the Treasurer, or in his absence another officer nominated by the Treasurer, to agree non-contentious requests for the use of sale proceeds where the net balance over the residual value of the asset sold is less than £100,000.</p>
	<p><i>Delegation 2:</i> Authority be delegated to an Accounting Officer to make use of up to £5,000 where the net balance over the residual value of the asset sold is less than £5,000.</p>

3.6

<p>Article 22 of the Law– Minister and Treasurer may be authorised to borrow; and</p> <p>Regulation No. 9– Minister’s authority to borrow money in the name of and behalf of the States.</p> <p>Regulation No. 10– Power of the Minister to delegate functions – borrowing</p>	<p>Both the Law and Regulations allow the Minister to delegate (where they so wish) to the Treasurer minor borrowing transactions which, in summary, include:</p> <ul style="list-style-type: none"> • short-term bank overdrafts/overdraft facilities and temporary loans (these must not exceed more than 25% of the previous year’s income from taxation). • other minor borrowing – up to £1 million in any one transaction in a financial year so long as the total amount borrowed does not exceed £3 million in that year, the total amount outstanding in this way does not exceed £20 million and with all such borrowing having a maximum repayment period of 10 years. • borrowing for a States trading operation where additional income or tangible savings arising from the underlying expenditure meet the costs of the borrowing. • other parameters specifically agreed by the States.
<p>Recommended delegation:</p>	<p><i>Delegation 1:</i> Authority be delegated to the Treasurer to agree short-term bank overdrafts/overdraft facilities and temporary loans within the parameters set in the Law up to £10 million.</p> <p><i>Delegation 2:</i> Authority be delegated to the Treasurer to agree minor borrowing up to £100,000 in any one financial year (up to a maximum of £500,000), with no transaction to exceed £10,000 and repayment periods of 5 years or less. (Treasurer is not able to delegate his borrowing responsibilities to any other officers.)</p>

3.7

<p>Article 27 – Returns of States trading operations to be agreed sub-paragraphs (1) and (2)(a), (b), (c) and (d) refer</p>	<p>These sub-paragraphs empower the Minister to request States trading operations to enter into discussions and provide estimates in respect of the business activities during the succeeding financial year. The estimates should include income and expenditure, estimated contribution to the income of the States, estimate of any surplus of income over expenditure or estimated deficit, to be debited to trading fund and shall take into account capital expenditure details.</p>
<p>Recommended delegation:</p>	<p>Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer, to request the necessary estimates from the States trading operations.</p>

3.8	Article 33– Treasurer to open bank accounts Sub-paragraphs 33(1) and (4)	These sub-paragraphs allow the Treasurer to open, operate and maintain bank accounts with a bank(s) approved by the Minister for the operation of the consolidated fund and for the proper administration of this or any other Law.
	Recommended delegation:	Authority be delegated to the Treasurer to carry out this function without recourse to the Minister, provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.
3.9	Article 33– Treasurer to open bank accounts Sub-paragraph 33(3)	This sub-paragraph empowers the Minister to agree that money in the consolidated fund may be used to incur expenditure that will subsequently be recharged – for example the approval of stock accounts and other rechargeable accounts.
	Recommended delegation:	Authority be delegated to the Treasurer, or in his absence another officer as nominated by the Treasurer, to approve all rechargeable and stock accounts.
3.10	Article 34 of the Law Financial directions	This Article enables the Treasurer to issue financial directions with the approval of the Minister.
	Recommended delegation:	Authority be delegated to the Treasurer, or in his absence another person as nominated by the Treasurer, to issue Financial Directions that he deems to be required. (This authority shall not extend to those financial directions which propose the delegation of responsibility from the Minister to an officer without the Minister having already agreed those delegations.)
3.11	Regulation No. 18 Trust assets bank accounts	This Regulation states that Trust money should be held in a bank account with a bank(s) approved by the Minister (unless a Trust document specifies a certain bank).
	Recommended delegation:	Authority be delegated to the Treasurer to carry out this function without recourse to the Minister, provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.
3.12	Anti-Inflation Strategy (P.125/2000)	The States, in the Anti-Inflation Strategy, agreed that increases in States charges should be limited to a maximum of 2.5% a year, with any exceptions, in extremely compelling cases only, to be subject to prior approval by the Finance and Economics Committee (now the Minister for Treasury and Resources).

Recommended delegation:	Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer to agree non-contentious fee/charge increases which do not require subsequent States approval; or in instances where fees are being increased in line with the “User Pays” principle.
Ministerial Decision:	The Minister agrees that approval for increases which are in line with statute or with a formula which has already received States or his approval do not require further approval.

3.13

Standing Order 21 and P.67/1999 – Regulation of Public Sector Employees	This proposition charges the Minister for Treasury and Resources to regulate the number of persons that may be employed by the States of Jersey in any area of the States administration, excluding those States’ departments that report to The States trading operations, in accordance with the principles contained within the Regulation of Undertakings legislation and the policy statement issued by the then Finance and Economics Committee in respect of the application of the Regulation of Undertakings to the private sector, effective from 10th November 1998.
Recommended delegation:	Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer for agreeing non-contentious increases to States manpower.

3.14

Regulation 22 of the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005	“Money standing to the credit of the trading fund of a States trading operation may also be used, with the approval of the Minister, for a capital project of the trading operation if – (a) the amount approved by the States for the project as part of an annual business plan has proved to be insufficient; or (b) the project arises from a contingency that could not have been reasonably foreseen at the time the estimates of the States trading operation were submitted to the Minister in accordance with Article 8 of the 2005 Law for inclusion as part of an annual business plan.”
Recommended delegation:	Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer for any further approvals under Regulation 22(2) of the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 where the amount concerned is less than £100,000.

3.15

States Standing Orders – No. 168	This standing order applies to the following actions – (a) the disposal, acquisition, letting or rental of land on behalf of the public of Jersey; (b) the grant or acquisition of rights or servitudes over land on behalf of the public of Jersey; (c) the renewal, extension or variation of any lease of land on behalf of the public of Jersey; (d) the approval of plans for the construction or alterations of buildings where the work is to be funded wholly or partly by money voted by the States.
Recommended delegation:	(a) Authority to be delegated to the Assistant Minister, Treasury and Resources (Deputy Le Fondré of St. Lawrence) all powers and responsibilities arising under Standing Order 168; and (b) to the Director, Property Holdings, and in his absence the Assistant Director – Finance and Investment, the power to approve: <ul style="list-style-type: none">• Any acquisition or disposal of land or property on behalf of the public for a consideration of less than £150,000;• Any grant or acceptance on behalf of the public of any servitude or right in, on, over or under land by way of gift or for a sum of less than £50,000 or £12,500 a year;• The letting on behalf of the public to any person or body for a term certain of any land or property for a rent payable on commencement of less than £50,000 a year;• The rent on behalf of the public from any person or body for a term certain of any land or property for a rent payable on commencement of less than £50,000 a year; and• The renewal, extension or variation of any lease where the value is less than £50,000 a year.

3.16

Contract signing	Signing of contract on behalf of the Minister for Treasury and Resources.
Recommended delegation:	<p>For contracts entered into by the Minister for Treasury and Resources, for work commissioned by Property Holdings responsibility for signing the contract is delegated to:</p> <ul style="list-style-type: none">• The Assistant Minister, Treasury and Resources (Deputy Le Fondré of St Lawrence), for contracts between £1,000,000 and £5,000,000;• The Director of Property Holdings, or in his absence the Assistant Director - Finance and Investment for contracts with a value up to £1,000,000. <p>In accordance with Article 28 of the States of Jersey Law, the Minister for Treasury and Resources delegates to the Assistant Minister, Treasury and Resources (Deputy Le Fondré of St. Lawrence) and to the Director, and in his absence the Assistant Director – Finance and Investment, Property Holdings, the power to authorise the Attorney General and the Greffier of the States to pass any contracts on behalf of the public of Jersey that may be necessary in regard to land transactions approved by the Minister or his delegates under Standing Order 168.</p> <p>For non-Property Holdings contracts, the Minister delegates responsibility for signing contracts to the Treasurer of the States.</p>