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# STATES OF JERSEY



## **STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – TREASURY AND RESOURCES – REVISED DELEGATIONS MARCH 2012**

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**Presented to the States on 13th March 2012  
by the Minister for Treasury and Resources**

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**STATES GREFFE**

## REPORT

On 9th March 2012, the Minister for Treasury and Resources made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-TR-2012-0025, available at [www.gov.je](http://www.gov.je)).

The terms of the delegations, and the legislation under which those delegations were made, were recorded in a Report attached to the Ministerial Decision, as shown below –

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Article 28 of the States of Jersey Law 2005 permits a Minister to delegate, wholly or partly, functions to an Assistant Minister or an officer.

The Law states, *inter alia* –

### “28 Power of Minister to delegate functions

- (1) A Minister may delegate, wholly or partly, functions conferred upon or vested in the Minister by or under this Law or any other enactment or any enactment of the United Kingdom having effect in Jersey, to –
  - (a) one of his or her Assistant Ministers;
  - (b) an officer.
- (2) A Minister shall not delegate –
  - (a) any power to make an enactment;
  - (b) any power to decide an appeal under an enactment;
  - (c) any function the delegation of which is prohibited by an enactment.
- (3) The delegation of functions by a Minister under this Article shall not prevent the Minister exercising those functions personally.
- (4) Where any licence, permit or authorization is granted in purported exercise of functions delegated under paragraph (1), no criminal proceedings shall lie against any person for any act done, or omitted to be done, in good faith and in accordance with the terms of the licence, permit or authorization, by reason that the functions had not been delegated, or that any requirement attached to the delegation of the functions had not been complied with.
- (5) In this Article –
 

“Minister” includes the Chief Minister;

“officer” means a States’ employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005 and includes a member of the States of Jersey Police Force and an officer appointed under paragraph 1(1) of Part 1 of Schedule 2 to the Immigration Act 1971 as extended to Jersey by the Immigration (Jersey) Order 1993.
- (6) The States may by Regulations amend the definition “officer” in paragraph (5).”

Unless otherwise stated, any reference to an Article in this section is a reference to the Article so numbered in the Public Finances (Jersey) Law 2005. Likewise, any reference to a Regulation in this section is a reference to the Regulation so numbered in the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005.

## 1. Public Finances (Jersey) Law 2005 delegations

### 1.1 Annual Business Plan estimates

<b>Legislation:</b>	Article 8 – Estimates to be provided; and Article 10 – Estimates for the States Assembly and its services
<b>Delegate:</b>	Treasurer of the States, or in their absence, another person as nominated by the Treasurer.
<b>Function delegated and scope of delegation:</b>	<p>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.</p> <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 timescale to which the aforementioned estimates be provided within.</p>

### 1.2 Retention of income

<b>Legislation:</b>	Article 14 – Expenditure approval, heads of expenditure and withdrawals from the consolidated fund; Paragraphs (6) and (7) refer.
<b>Delegate:</b>	Treasurer of the States, or in their absence, another person as nominated by the Treasurer, to approve the use of additional surplus income of more than 10% (or in excess of £500,000 for a States trading operation and £100,000 for all other States-funded bodies) of the estimated income notified to the States and of a non-contentious nature may be used for additional expenditure.
<b>Function delegated and scope of delegation:</b>	These paragraphs of Article 14 of the Law empower the Minister to authorize a States-funded body to use any additional income it may generate over and above the estimate approved by the States in the Annual Business Plan.

	<p>The Minister agreed that States-funded bodies be allowed to retain and use additional income in instances where –</p> <p>(a) any such income and associated additional expenditure match; and</p> <p>(b) the additional income is in excess of increased expenditure (i.e. additional surplus income) required to generate that income but the excess income is not more than 10% (up to a maximum of £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.</p>
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### 1.3 Non-contentious transfers

<b>Legislation:</b>	Article 15 – Permitted variations; Sub-paragraph (1)(a) refers.
<b>Delegate:</b>	<p>Authority is delegated to the Treasurer of the States, or in their absence, another person as nominated by the Treasurer, to agree any non-contentious transfers between heads of expenditure with no financial limit where the transfer is <b>solely</b> to ensure that financial transactions are accurately reflected in the States' Accounts in accordance with GAAP.</p> <p>Authority is delegated to the Treasurer of the States, or in their absence, another person as nominated by the Treasurer, to agree any other non-contentious transfers between heads of expenditure up to £1,000,000.</p> <p>The Minister agreed 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>
<b>Function delegated and scope of delegation:</b>	<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"> <li>• the annual net revenue budget of a States-funded body; or</li> <li>• the amount allocated for each capital project).</li> </ul>

#### 1.4 Carry forwards

<b>Legislation:</b>	Article 15 – Permitted variations; Sub-paragraph (1)(b) and paragraph (2) refer.
<b>Delegate:</b>	The Minister agreed 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).
<b>Function delegated and scope of delegation:</b>	These paragraphs empower 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.

#### 1.5 Income from asset sales

<b>Legislation:</b>	Article 15 – Permitted variations; Paragraph (3) refers.
<b>Delegate:</b>	Treasurer of the States, or in their absence, another officer nominated by the Treasurer of the States, 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.  Accounting Officers to make use of up to £5,000 of income from the sale of an asset where the net balance over the residual value of the asset sold is less than £5,000.
<b>Function delegated and scope of delegation:</b>	This paragraph empowers the Minister to authorize a States-funded body to make use of income from the sale of an asset for the acquisition of a replacement or other asset.

#### 1.6 Borrowing

<b>Legislation:</b>	Article 22 – Minister and Treasurer may be authorized to borrow; and  Regulation 9 – authorizes the Minister to make certain borrowings in the name of, and on behalf of the States.  Regulation 10 – allows the Minister to delegate their power to borrow on behalf of the States to the Treasurer.
<b>Delegate:</b>	Authority is delegated to the Treasurer of the States to agree short-term bank overdrafts/overdraft facilities and temporary loans within the parameters set in the Law up to £10 million.

	Authority is delegated to the Treasurer of the States 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 <b>is not able to delegate</b> their borrowing responsibilities to any other officers.)
<b>Function delegated and scope of delegation:</b>	Both the Law and Regulations allow the Minister to delegate (where they so wish) to the Treasurer minor borrowing transactions which, in summary, include – <ul style="list-style-type: none"> <li>• short-term bank overdrafts/overdraft facilities and temporary loans (these must not exceed more than 25% of the previous year’s income from taxation);</li> <li>• 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;</li> <li>• borrowing for a States trading operation where additional income or tangible savings arising from the underlying expenditure meet the costs of the borrowing;</li> <li>• other parameters specifically agreed by the States.</li> </ul>

### 1.7 Trading operations

<b>Legislation:</b>	Article 27 – Returns of States trading operations to be agreed; Paragraphs (1) and (2)(a)–(d) refer.
<b>Delegate:</b>	Treasurer of the States, or in their absence, another person as nominated by the Treasurer of the States, to request the necessary estimates from the States trading operations.
<b>Function delegated and scope of delegation:</b>	These 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.

### 1.8 Bank accounts

<b>Legislation:</b>	Article 33 – Treasurer to open bank accounts; Paragraphs (1) and (4) refer.
<b>Delegate:</b>	Authority is delegated to the Treasurer of the States 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.
<b>Function delegated and scope of delegation:</b>	These paragraphs allow the Treasurer to open, operate and maintain bank accounts with a bank or banks approved by the Minister for the operation of the Consolidated Fund and for the proper administration of this or any other Law.

### 1.9 Recharge accounts

<b>Legislation:</b>	Article 33 – Treasurer to open bank accounts; Paragraph (3) refers.
<b>Delegate:</b>	Treasurer of the States, or in their absence, another officer as nominated by the Treasurer of the States, to approve all rechargeable and stock accounts.
<b>Function delegated and scope of delegation:</b>	This 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.

### 1.10 Financial Directions

<b>Legislation:</b>	Article 34 – Financial Directions.
<b>Delegate:</b>	Treasurer of the States, or in their absence, another person as nominated by the Treasurer, to issue Financial Directions that the Treasurer 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.)
<b>Function delegated and scope of delegation:</b>	This Article enables the Treasurer of the States to issue Financial Directions with the approval of the Minister.

### 1.11 Trust Assets – bank accounts

<b>Legislation:</b>	Regulation 18 – prescribes the bank accounts that may be used for trust money.
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<b>Delegate:</b>	Treasurer of the States 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.
<b>Function delegated and scope of delegation:</b>	This Regulation states that Trust money should be held in a bank account with a bank or banks approved by the Minister (unless a Trust document specifies a certain bank).

### 1.12 Trading Funds

<b>Legislation:</b>	Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 – Regulation 22.
<b>Delegate:</b>	Treasurer of the States, or in their absence, another person as nominated by the Treasurer of the States 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.
<b>Function delegated and scope of delegation:</b>	<p>“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 –</p> <ul style="list-style-type: none"> <li>(a) the amount approved by the States for the project as part of an annual business plan has proved to be insufficient; or</li> <li>(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.”</li> </ul>

### 1.13 Public Finances Law – general

<b>Legislation:</b>	Powers under the Public Finances (Jersey) Law 2005.
<b>Delegate:</b>	The Minister delegated of all of the functions conferred on or vested in the Minister by or under the Public Finances (Jersey) Law 2005 including those in Regulations approved under that Law and Financial Directions to the Assistant Minister for Treasury and Resources, Deputy Edward James Noel of St. Lawrence.
<b>Function delegated and scope of delegation:</b>	Functions conferred on or vested in the Minister by or under the Public Finances (Jersey) Law 2005.

## 2. Administrative delegations

### 2.1 States charges

<b>States decision:</b>	Anti-inflation Strategy (P.125/2000).
<b>Delegate:</b>	<p>Treasurer of the States, or in their 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.</p> <p>The Treasurer of the States will be able to give “blanket” approval to groups of charges in a particular year, or a single charge over a period of a number of years.</p> <p>The Minister agreed that approval for increases which are in line with statute or with a formula which has already received States or their approval do not require further approval.</p>
<b>Function delegated and scope of delegation:</b>	The States, in adopting 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).

### 2.2 Coin designs

<b>Legislation:</b>	Decimal Currency (Jersey) Law 1971 – Article 3 – Coinage of the new currency.
<b>Delegate:</b>	The Minister delegated approvals of individual commemorative currency designs to the Treasurer of the States and the Head of Treasury Management.
<b>Function delegated and scope of delegation:</b>	This delegation enables the Deputy Treasurer of the States to approve individual commemorative currency designs as and when they are produced.

### 2.3 Non-contentious States manpower

<b>States decision:</b>	Regulation of public sector employment (P.67/1999).
<b>Delegate:</b>	Treasurer of the States, or in their absence, another person as nominated by the Treasurer of the States for agreeing non-contentious increases to States manpower.
<b>Function delegated and scope of delegation:</b>	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.

### 2.4 Responsibility for resources

<b>Delegate:</b>	Responsibility for all matters relating to Jersey Property Holdings and Procurement is delegated to the Assistant Minister, Treasury and Resources.
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### 3. States Standing Orders delegations and signature of Contracts

#### 3.1 Standing Order 168

<b>Legislation:</b>	Standing Order 168.
<b>Delegate:</b>	<p>Authority is delegated to the Assistant Minister for Treasury and Resources – Connétable John Martin Refault of St. Peter) all powers and responsibilities arising under Standing Order 168 up to the value of £3 million; and</p> <p>Authority is delegated to the Accounting Officer or, in their absence, to the Director of Jersey Property Holdings or the Business and Programme Manager, Property Holdings the power to approve the following actions –</p> <ul style="list-style-type: none"> <li>• Any acquisition or disposal of land or property on behalf of the public for a consideration up to £500,000;</li> <li>• 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 amounts up to £500,000;</li> <li>• 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 £500,000 a year;</li> <li>• 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</li> <li>• The renewal, extension or variation of any lease where the value is less than £50,000 a year.</li> </ul>
<b>Function delegated and scope of delegation:</b>	<p>This Standing Order applies to the following actions –</p> <ol style="list-style-type: none"> <li>(a) the disposal, acquisition, letting or rental of land on behalf of the public of Jersey;</li> <li>(b) the grant or acquisition of rights or servitudes over land on behalf of the public of Jersey;</li> <li>(c) the renewal, extension or variation of any lease of land on behalf of the public of Jersey;</li> <li>(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.</li> </ol>

### 3.2 Standing Orders 17, 19 and 35

<b>Legislation:</b>	Standing Orders 17, 19 and 35.
<b>Delegate:</b>	Authority is delegated to the Assistant Minister for Treasury and Resources all powers and responsibilities arising under Standing Orders 17, 19 and 35.
<b>Function delegated and scope of delegation:</b>	<p>These Standing Orders apply to the following actions –</p> <ul style="list-style-type: none"> <li>• Standing Order 17 – Notice of intention to make statement on a matter of official responsibility;</li> <li>• Standing Order 19 – Who can lodge a proposition;</li> <li>• Standing Order 35 – Who may present report or comment.</li> </ul>

### 3.3 Contract signing – Land transactions

<b>Legislation:</b>	Standing Order 168 – Land transactions.
<b>Delegate:</b>	<p>Responsibility for signing the contract is delegated to –</p> <ul style="list-style-type: none"> <li>• The Assistant Minister for Treasury and Resources, Connétable John Martin Refault of St. Peter, for contracts between £1,000,000 and £3,000,000;</li> <li>• The Accounting Officer for contracts up to £1,000,000 or, in their absence, the Director of Jersey Property Holdings or the Programme and Business Manager, Property Holdings for contracts with a value up to £1,000,000;</li> <li>• The Director of Jersey Property Holdings or, in their absence, the Programme and Business Manager, Property Holdings for contracts with a value up to £500,000.</li> </ul> <p>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 their delegates under Standing Order 168 is delegated to the Assistant Minister for Treasury and Resources, Connétable John Martin Refault of St. Peter, or the Accounting Officer or, in their absence, the Director of Jersey Property Holdings or the Programme and Business Manager, Property Holdings.</p> <p>The Minister delegates the signing of all Corporate Contracts negotiated by Strategic Procurement for and on behalf of the States to the Treasurer of the States with no financial limit.</p>

<b>Function delegated and scope of delegation:</b>	Signing of contracts on behalf of the Minister for Treasury and Resources for work commissioned by Jersey Property Holdings.
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### 3.4 Contract signing – corporate contracts

<b>Signing of corporate contracts:</b>	Signing of corporate contracts on behalf of the Minister for Treasury and Resources.
<b>Delegate:</b>	The Minister delegates the signing of all corporate contracts negotiated by Strategic Procurement for and on behalf of the States to the Treasurer of the States with no financial limit.

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#### **Re-issue Note**

This Report is re-issued because incorrect wording was inadvertently added under section 3.4 of the Report as originally published.