
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – CHAIRMAN OF THE LEGISLATION ADVISORY PANEL – LAW DRAFTING INSTRUCTIONS

Presented to the States on 11th May 2012
by the Chief Minister

STATES GREFFE

REPORT

On 10th May 2012, the Chief Minister made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-C-2012-0048, available at 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 –

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).”

Delegation

The Chief Minister has delegated to his Assistant Minister, Senator Sir P.M. Bailhache, the ability to instruct the Law Draftsman to prepare draft legislation for matters falling within the responsibilities of the Legislation Advisory Panel.

The Legislation Advisory Panel was established in 2006 to advise the Chief Minister on matters relating to the following areas of legislation –

- courts and court procedures;
- divorce, separation and maintenance;
- probate, intestacy, wills and successions;
- Laws relating to property;
- amendments to customary law;
- miscellaneous items of legislation.

The Chief Minister wishes to ensure that the Legislation Advisory Panel is able to carry out its work efficiently, and has therefore agreed that Senator Bailhache, as Chairman of the Advisory Panel, should be given the authority to approve the drafting of legislation on behalf of the Panel as and when it is necessary.

The Chief Minister is ultimately responsible for the work of the Advisory Panel and is kept up-to-date regularly with its work. He will remain responsible for lodging “au Greffe” any items of legislation brought forward on the recommendation of the Legislation Advisory Panel.