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# STATES OF JERSEY



## STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – ECONOMIC DEVELOPMENT – SEA FISHERIES LEGISLATION

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**Presented to the States on 9th October 2012  
by the Minister for Economic Development**

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**STATES GREFFE**

## REPORT

On 5th October 2012, the Minister for Economic Development made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-E-2012-0108, available at [www.gov.je](http://www.gov.je)).

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).”

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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<b>Legislation</b>	<b>Function</b>	<b>Person delegated to</b>
<b>Sea Fisheries (Jersey) Law 1994</b>	<ul style="list-style-type: none"> <li>• To approve applications for exemptions for scientific purposes or the transplanting of fish (Article 5).</li> <li>• To approve conditions to be included in licences (Article 12).</li> <li>• To decide what information is required to be provided by licence/permit holders (Article 12).</li> <li>• Where a licence is suspended or revoked, to decide whether to authorise repayment of the licence fee (Article 13).</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director for Environmental Protection</li> </ul>
<b>Sea Fisheries (Miscellaneous Provisions) (Jersey) Regulations 1998, as amended</b>	<ul style="list-style-type: none"> <li>• To decide on applications for exemption from restrictions on Ormers where the applicant wishes to conduct scientific work or transplanting (Regulation 4).</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director for Environmental Protection</li> </ul>
	<ul style="list-style-type: none"> <li>• To publish a notice in the Jersey Gazette effecting a closure of the spider crab fishery (Regulation 5).</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> </ul>
	<ul style="list-style-type: none"> <li>• To decide on applications for exemption from need for pot tags where the applicant wishes to conduct scientific work (Regulation 8).</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director for Environmental Protection</li> </ul>

	<ul style="list-style-type: none"> <li>To issue and revoke permits to masters, owners and charterers of fishing boats exempting them from the need for pot tags and to set conditions and time limits for such permits (Regulation 8).</li> </ul>	<ul style="list-style-type: none"> <li>Assistant Minister</li> <li>Director of Environmental Management and Rural Economy</li> <li>Director of the Environment/Deputy Chief Officer</li> <li>Director for Environmental Protection</li> <li>Marine Resources Section Leader</li> <li>Fisheries Officer (Licensing)</li> </ul>
	<ul style="list-style-type: none"> <li>To approve type of pot tag and lost pot tag (Regulation 8).</li> </ul>	<ul style="list-style-type: none"> <li>Marine Resources Section Leader</li> <li>Fisheries Officer (Licensing)</li> </ul>
	<ul style="list-style-type: none"> <li>To set directions for the issue of pot tags and lost pot tags and to determine the year or years for which pot tags and lost pot tags are valid (Regulation 8).</li> </ul>	<ul style="list-style-type: none"> <li>Assistant Minister</li> <li>Chief Executive Officer</li> <li>Director of Environmental Management and Rural Economy</li> <li>Director of the Environment/Deputy Chief Officer</li> <li>Director for Environmental Protection</li> </ul>
	<ul style="list-style-type: none"> <li>To issue pot tags (Regulation 8).</li> </ul>	<ul style="list-style-type: none"> <li>Director of Environmental Management and Rural Economy</li> <li>Director of the Environment/Deputy Chief Officer</li> <li>Director for Environmental Protection</li> <li>Marine Resources Section Leader</li> <li>Fisheries Officer (Licensing)</li> </ul>
	<ul style="list-style-type: none"> <li>To issue lost pot tags (Regulation 8).</li> </ul>	<ul style="list-style-type: none"> <li>Marine Resources Section Leader</li> <li>Fishery officers</li> </ul>
<b>Sea Fisheries (Inshore Trawling, Netting and Dredging) (Jersey) Regulations 2001</b>	To approve exemptions for beach set nets to be set in areas where they would otherwise be prohibited.	<ul style="list-style-type: none"> <li>Assistant Minister</li> <li>Chief Executive Officer</li> <li>Director of Environmental Management and Rural</li> </ul>

		<p>Economy</p> <ul style="list-style-type: none"> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director for Environmental Protection</li> </ul>
<b>Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003</b>	To authorise the issue of licences and permits (Part 2)	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director for Environmental Protection</li> <li>• Marine Resources Section Leader</li> </ul>
<b>Sea Fisheries (Underwater Fishing) (Jersey) Regulations 2003</b>	<ul style="list-style-type: none"> <li>• To authorise certain scientific or transplanting activities (Article 2).</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director for Environmental Protection</li> </ul>
	<ul style="list-style-type: none"> <li>• To authorise the issuing of permits, fishing periods, and the provision of statistics (Regulation 3).</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director for Environmental Protection</li> <li>• Marine Resources Section Leader</li> </ul>
<b>Sea Fisheries (Fisheries) (Jersey) Regulations 2010</b>	<ul style="list-style-type: none"> <li>• To authorise the issue of new or amended licences to farm fish or shellfish.</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> </ul>
	<ul style="list-style-type: none"> <li>• To authorise the renewal of licences to farm fish or shellfish that are</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of Environmental</li> </ul>

	unchanged from the original licence.	<p>Management and Rural Economy</p> <ul style="list-style-type: none"> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director for Environmental Protection</li> </ul>
	<ul style="list-style-type: none"> <li>• To issue conditions or amend conditions in respect of licences issued for the farming of fish or shellfish.</li> </ul>	<ul style="list-style-type: none"> <li>• Assistant Minister</li> <li>• Chief Executive Officer</li> <li>• Director of the Environment/Deputy Chief Officer</li> <li>• Director of Environmental Management and Rural Economy</li> <li>• Director for Environmental Protection</li> </ul>