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# STATES OF JERSEY



## STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – CHIEF MINISTER – CONTROL OF HOUSING AND WORK (JERSEY) LAW 2012

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Presented to the States on 27th June 2013  
by the Chief Minister

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STATES GREFFE

## REPORT

On 24th June 2013, the Chief Minister made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-C-2013-0061, 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 –

<b>Legislation:</b>	<b>Control of Housing and Work (Jersey) Law 2012</b>
<b>Minister with political responsibility for function:</b>	Chief Minister
<b>Delegated to:</b>	<ol style="list-style-type: none"> <li>1. Assistant Chief Minister</li> <li>2. Director, Corporate Policy, and Director, Population Office, or, other Population Office Officer as instructed by the Director, Corporate Policy or Director, Population Office.</li> </ol> <p>The delegations will be applied in accordance with the published policy statement issued under the Law.</p>
<b>Functions delegated:</b>	<p><b>Residential and Employment Status</b></p> <p>Article 2(1) and 2(2) – establishes Regulations with reference to a person’s residential and employment status, and enables conditions to be applied to a person’s residential and employment status.</p> <p>Article 2(6) – deals with the requirement of a person to provide documents and information for the purposes of determining or verifying their residential status.</p>
	<p><b>Application for a registration card</b></p> <p>Articles 3(3), 3(4), 3(5), and 3(6) – matters with reference to an application for a registration card.</p>
	<p><b>Registration card</b></p> <p>Article 4(1) and 4(4) – deal with the issuance of a registration card.</p>
	<p><b>Duration of a registration card</b></p> <p>Article 5(4) 5(5) and 5(8) – deal with the duration of a registration card.</p>
	<p><b>Registration requirements for children not born in Jersey</b></p> <p>Article 8(3) – deals with the form of notification made by an adult in respect of a child.</p>
	<p><b>Requirement to give information to the Minister upon change of address</b></p> <p>Article 9(9) – deals with the form of notification in respect of a change of address.</p>
	<p><b>Power to obtain information from other departments</b></p> <p>Article 10 – deals with obtaining specified information from other Departments.</p>

	<p><b>Conditions and changes of housing categories</b></p> <p>Articles 15(2), 15(3), 15(4), 15(7), 15(8) – deal with the form of applications to change housing category, the ability to change housing category and apply or vary conditions, and the manner in which this must be done.</p>
	<p><b>Occupation of Qualified Housing</b></p> <p>Article 17(1) – deals with the ability to give consent to the occupation of property where occupation would otherwise not be permitted but would previously have been permitted.</p> <p>Article 17(4) and 17(6) – deals with applications to the Court for a declaration in relation to a person’s ordinary residence under the Law and Regulations.</p>
	<p><b>Specified transactions concerning companies</b></p> <p>Article 20(2), 20(3), 20(4) and 20(5) and 20(6) – deal with the making of an application by a legal person in relation to a specified transaction, and determination thereon, including the application of conditions.</p>
	<p><b>Requirement to have a registration card for work</b></p> <p>Article 24(10) – to verify the employment and residential status of any person working in or for the undertaking.</p>
	<p><b>Requirement for undertaking to have a licence</b></p> <p>Article 25(7) – to issue guidance in respect of an undertaking that is not a company with a share capital.</p>
	<p><b>Grant and duration of a licence</b></p> <p>Article 26(3) – to determine the form of application, accompanied by such documents as may be required.</p> <p>Article 26(4) – grant a licence with or without an expiry date (subject to Article 28(1)) in the case of a hawker’s or non-resident trading licence); or (b) refuse to grant a licence.</p> <p>Article 26(5) – to specify, as a condition of the licence, the nature of the undertaking authorized by the licence and may do either or both of the following –</p> <ul style="list-style-type: none"> <li>(a) impose, with reasons, such other conditions as he or she thinks fit, subject to Article 27(1);</li> <li>(b) refuse to impose, with reasons, any condition requested by the applicant.</li> </ul> <p>Article 26(7) – to treat the application as having been withdrawn.</p> <p>Article 26(8) – to give the applicant a statement in writing of reasons for that decision and, at the same time, notify the applicant of the applicant’s right of appeal under Article 41.</p> <p>Article 26(9) – in determining whether to grant a licence, to have particular regard to –</p> <ul style="list-style-type: none"> <li>(a) preserving and maximising the benefits of Jersey’s</li> </ul>

	<p>resources;</p> <ul style="list-style-type: none"> <li>(b) promoting a balanced and prosperous economy;</li> <li>(c) protecting the integrity and reputation of Jersey in commercial and financial matters;</li> <li>(d) any relevant policies of the States of Jersey;</li> <li>(e) whether such a grant would be in the public interest; and</li> <li>(f) in the case of a hawker's licence, whether the applicant is a fit and proper person.</li> </ul> <p>Article 26(10) – in determining whether a hawker is a fit and proper person to take into account any previous convictions of the applicant that are not spent under the Rehabilitation of Offenders (Jersey) Law 2001 and for that purpose, the Chief Officer of the States of Jersey Police Force shall provide such information concerning any such previous convictions as may be requested.</p> <p>Article 26(12) – to determine the form of a licence, save that a hawker's licence shall include a photograph of the licence holder.</p>
	<p><b>Specific provisions related to a business licence</b></p> <p>Article 27(1) to specify as a condition of the business licence –</p> <ul style="list-style-type: none"> <li>(a) the maximum number (which may be nil) of individuals with Licensed and Registered status respectively who are permitted to work in or for the undertaking; and</li> <li>(b) if any individuals with Licensed status are so permitted, each description of work which may be done by an individual with that status.</li> </ul> <p>Article 27(2) – without prejudice to the general power to attach conditions under Article 26(5), such conditions relating to any of the following matters in respect of a business licence may be attached –</p> <ul style="list-style-type: none"> <li>(a) specified accommodation to be occupied by persons working for the undertaking with Licensed or Registered status (such accommodation being specified individually or with reference to a general description which may include factors relating to price);</li> <li>(b) the number of persons with Licensed status working in or for the undertaking who shall be prohibited from being a party to any transaction described in Article 18(1)(a);</li> <li>(c) limits on the period of time for which a person with Licensed or Registered status may work in or for the undertaking;</li> <li>(d) named persons with Licensed or Registered status</li> </ul>

	<p>who may work in or for the undertaking;</p> <p>(e) periodic reviews for the purpose of determining whether a variation of the licence is appropriate.</p>
	<p><b>Specific provisions relating to a hawkers and non-resident traders licence</b></p> <p>Article 28(1) – to specify on a hawkers or non-resident traders licence the period for which the licence shall remain in force, such period not exceeding 12 months.</p>
	<p><b>Variation of licences</b></p> <p>Article 29(1) – to give notice to a licence holder of the intention to vary any condition of a licence.</p> <p>Article 29(2) – to determine the form of application, accompanied by such documents as may be required.</p> <p>Article 29(4) – subject to paragraph (6), to –</p> <p>(a) vary any condition as thought fit by notice to the licence holder following receipt of an application under paragraph (1) or following consideration of any representations under paragraph (3); or</p> <p>(b) refuse to vary a condition following receipt of an application under paragraph (1).</p> <p>Article 29(5) – to have regard to the factors specified in Article 26(9) in exercising the powers under paragraph (4).</p> <p>Article 29(7) – to give the licence holder a written statement of reasons for the decision and, at the same time, notify the licence holder of his or her right of appeal under Article 41.</p>
	<p><b>Revocation of a Licence</b></p> <p>Article 30(1) to revoke a licence by giving notice in writing to the licence holder if satisfied that –</p> <p>(i) any information provided in connection with the application for the licence, or an application to vary the licence, was false or misleading in a material particular,</p> <p>(ii) there has been failure to comply with any condition of the licence,</p> <p>(iii) in the case of a business licence only, the undertaking has ceased to exist or appears to have ceased to exist (whether or not the licence holder or the undertaking has been wound up or dissolved),</p> <p>(iv) the licence is significantly detrimental to the interests of Jersey having regard to the factors specified in Article 26(9), or</p> <p>(v) the undertaking has failed to pay an annual charge under Article 31 or has failed to submit statements as required under Article 32; or</p> <p>if the licence holder requests or agrees to the revocation of</p>

	<p>the licence.</p> <p>Article 30(2) – to give notice to the licence holder not less than one month in writing together with a statement of the reasons and a notification of the licence holder’s right of appeal under Article 41, if revoking a licence.</p>
	<p><b>Undertakings with business licences to provide statements</b></p> <p>Article 32(1) – to provide when required to do so by a notice served on him or her a statement of the name and current residential and employment status of such persons working in or for the undertaking during such period as to be specified in the notice and such other particulars relating to such persons as determined.</p> <p>Article 32(3) – to provide such statement in such form as determined.</p> <p>Article 32(6) – to waive a person’s liability under paragraph (1) if satisfied that exceptional circumstances prevented, or would prevent, the person from delivering such statement by the time limit specified in paragraph (3).</p>
	<p><b>Appointment of authorised persons, powers to obtain information, power to enter business premises and examine business documents, obstructing an authorised person, notices requiring cessation of unauthorised activities</b></p> <p>Article 33(1) – in writing, appoint any person who is a States’ employee within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005 to perform the functions of an authorized person under Articles 34 to 37; and</p> <p>may, instead of or in addition to appointing any person under sub-paragraph (a), arrange with any other Minister or with anybody performing functions on behalf of the States, that any officer in an administration of the States for which that Minister is assigned responsibility, or any officer of that body, shall act for those purposes.</p> <p>This delegation extends to Articles 34 – 37 in so far as required.</p>
	<p><b>General Provisions</b></p> <p>Articles 40, 42, and 43 – deals with matters relating to Service of notices, Statistical information, and Persons authorised to act for other persons.</p>