
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR EXTERNAL RELATIONS – IRAN SANCTIONS

Presented to the States on 2nd October 2013
by the Minister for External Relations

STATES GREFFE

REPORT

On 30th September 2013, the Minister for External Relations made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-C-2013-0110, available at 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).”

Article 7(2) of the Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2012 provides that –

“The Minister may, to such extent and subject to such restrictions as he or she may think proper, delegate or authorize the delegation of any of his or her

functions under this Order to any person, or class or description of person, approved by the Minister.”

Council Regulation EU No 267/2012, as given effect in Jersey, permits or requires authorisation of certain actions by the competent authorities of the territory concerned, subject to the specified requirements, exceptions and conditions.

The Money Laundering and Weapons Development (Directions) (Jersey) Law 2012 permits, in certain circumstances, the Minister to grant, amend or revoke a licence relating to a Direction.

For the purposes of implementing the above legislation in Jersey, and in accordance with the transfer of functions by the States of Jersey (Minister for External Relations) (Jersey) Regulations 2013, the Minister for External Relations is treated as the competent authority for sanctions in Jersey. Accordingly, the previous delegation of functions by the Chief Minister in this regard has lapsed.

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 –

Legislation:	Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2012
Delegate:	Agent of the Impôts
Function delegated:	<p>Council Regulation (EU) No 267/2012 (‘the Regulation’) as given effect in Jersey:</p> <p>EXPORT AND IMPORT RESTRICTIONS</p> <p><i>Article 3</i></p> <p>prior authorisation for the sale, supply, transfer or export, directly or indirectly, of the goods and technology listed in Annex III, whether or not originating in the Union, to any Iranian person, entity or body or for use in Iran.</p> <p><i>Article 5</i></p> <p>authorisation of:</p> <p>(a) technical assistance or brokering services related to goods and technology listed in Annex III and to the provision, manufacture, maintenance and use of those items, directly or indirectly to any Iranian person, entity or body or for use in Iran;</p> <p>(b) financing or financial assistance related to goods and technologies referred to in Annex IV, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of those items, or for any provision of related technical assistance, directly or indirectly, to any Iranian person, entity or body or for use in Iran.</p>

	<p><i>Article 7</i></p> <p>authorisation for a transaction in relation to goods and technology referred to in Article 2(1) or assistance or brokering services referred to in Article 5(1).</p>
Scope of delegation:	<p>Subject to the requirements of the Regulation.</p> <p>The delegate may not refuse, annul, suspend, substantially limit or revoke any authorisation, which should be considered by the Minister.</p> <p>The delegate may not grant an authorisation to himself.</p>

Legislation:	Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2012
Delegate:	Director of International Affairs or any External Affairs officer
Function delegated:	<p>Council Regulation (EU) No 267/2012 ('the Regulation') as given effect in Jersey:</p> <p>RESTRICTIONS ON FINANCING OF CERTAIN ENTREPRISES</p> <p><i>Article 18 and Article 19</i></p> <p>authorisation of the making of an investment through transactions referred to in Article 17(1) in an Iranian person, entity or body engaged in the manufacture of goods or technology listed in Annex III.</p> <p>FREEZING OF FUNDS AND ECONOMIC RESOURCES</p> <p><i>Articles 24, 25, 26, and 27</i></p> <p>to authorise the release of certain frozen funds or economic resources.</p> <p>RESTRICTIONS ON TRANSFERS OF FUNDS AND ON FINANCIAL SERVICES</p> <p><i>Article 30</i></p> <p>to authorise the transfer of funds as described in Article 30 of the Regulation.</p> <p><i>Article 30a</i></p> <p>To give prior authorisation of a transfer of or above EUR 40 000 or equivalent, to or from an Iranian person, entity or body.</p>
Scope of delegation:	<p>Subject to the requirements of the Regulation.</p> <p>The delegate may not refuse any authorisation that would otherwise be permissible under the Regulation, which should be considered by the Minister.</p> <p>The delegate may not grant an authorisation to himself.</p> <p>The delegate may determine and charge a fee for the assessment of requests for authorisation commensurate with the costs incurred.</p>

Legislation:	Money Laundering and Weapons Development (Directions) (Jersey) Law 2012 (“the Law”)
Delegate:	Director of International Affairs or any External Affairs officer
Function delegated:	<p>DIRECTIONS LIMITING OR CEASING BUSINESS: EXEMPTION BY LICENCE</p> <p><i>Article 9</i></p> <p>to grant, amend or revoke a licence and to impose such conditions as considered necessary in accordance with Article 9.</p>
Scope of delegation:	<p>Subject to the requirements of the Law.</p> <p>The delegate may not refuse any authorisation that would otherwise be permissible under the Law or any Regulation made under it, which should be considered by the Minister.</p> <p>The delegate may not grant an authorisation to himself.</p>