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# STATES OF JERSEY



## STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – HOUSING – RESIDENTIAL TENANCY (JERSEY) LAW 2011

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Presented to the States on 2nd March 2016  
by the Minister for Housing

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STATES GREFFE

## REPORT

On 29th February 2016, the Minister for Housing made a Ministerial Decision delegating certain of her functions under Article 28 of the States of Jersey Law 2005 (MD-C-2016-0019, 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>	Residential Tenancy (Jersey) Law 2011
<b>Delegate:</b>	Director of Corporate Policy, Chief Minister's Department Policy Officer, Strategic Housing Unit, Department for Community and Constitutional Affairs
<b>Functions delegated:</b>	<p><b>Article 19(1)</b> – in respect of documents to be provided to a tenant, where a landlord has failed to provide the tenant with a copy of the residential tenancy agreement, or an agreement for its variation or renewal, that is signed by both or on behalf of the parties to the agreement.</p> <p><b>Article 19(2)</b> – in respect of documents to be provided to a tenant, where a landlord has failed to provide the tenant with a receipt for the deposit (if any) paid by the tenant in respect of the residential tenancy as soon as possible after it is paid.</p> <p>To determine whether an offence appears to have been committed under the Law.</p>
<b>Scope of delegation:</b>	To recommend proceedings are taken against the person who is considered to have committed the offence, according to Article 19(3).

<b>Legislation:</b>	Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014
<b>Delegate:</b>	Director of Corporate Policy, Chief Minister's Department Policy Officer, Strategic Housing Unit, Department for Community and Constitutional Affairs
<b>Functions delegated:</b>	<p><b>Article 28(1)</b> – where a landlord, upon entering into a new tenancy agreement with a tenant, is required to pay a deposit (if any) into the tenancy deposit scheme. Where the tenancy agreement was entered into while a scheme is in force, the landlord must pay to the scheme administrator an amount equal to the value of the deposit within 30 days after receiving the deposit.</p> <p><b>Article 29 (1)</b> – where a landlord, upon renewing or varying an existing tenancy agreement with a tenant, is required to pay a deposit (if any) into the tenancy deposit scheme. Where the tenancy agreement was entered into while a scheme was not in force, the landlord must pay to the scheme administrator an amount equal to the value of the deposit within 30 days after receiving the deposit when the relevant residential tenancy agreement is first varied or renewed at a time when a scheme is in force.</p> <p><b>Article 30(1)</b> – in respect of an obligation placed on a landlord to provide information when the landlord pays the scheme a deposit under Regulation 28 or 29, the payment must be accompanied by a notice that includes information in respect of the residential tenancy agreement.</p>

	<p><b>Article 31(a)</b> – where a landlord or tenant who gives to the scheme administrator permitted by the Regulations, and knowingly and willfully includes in the notice, any false or misleading information.</p> <p><b>Article 32(1)</b> – where a landlord pays a deposit to the scheme administrator, a landlord or a tenant, or both of them as the case may be, must pay any fee prescribed by the Minister.</p> <p>To determine whether an offence appears to have been committed under the Law.</p>
<b>Scope of delegation:</b>	To recommend proceedings are taken against the person who is considered to have committed the offence, according to Articles 28(2), 29(2), 30(4), 31(b) and 32(2).

<b>Legislation:</b>	Residential Tenancy (Condition Reports) (Jersey) Order 2014
<b>Delegate:</b>	Director of Corporate Policy, Chief Minister’s Department Policy Officer, Strategic Housing Unit, Department for Community and Constitutional Affairs
<b>Functions delegated:</b>	<p><b>Article 3</b> – in respect of when a landlord and a tenant must complete condition report at the commencement and termination of a residential tenancy.</p> <p>To determine whether an offence appears to have been committed under the Law.</p>
<b>Scope of delegation:</b>	To recommend proceedings are taken against the person who is considered to have committed the offence, according to Article 6.

<b>Legislation:</b>	Residential Tenancy (Supply of Services) (Jersey) Order 2013
<b>Delegate:</b>	Director of Corporate Policy, Chief Minister’s Department Policy Officer, Strategic Housing Unit, Department for Community and Constitutional Affairs
<b>Functions delegated:</b>	<p><b>Articles 2 and 3</b> – in respect of recharging for the supply of services to the occupants of a residential unit, where it appears that the person re-selling the service has collected from a tenant an amount in excess of that which the reseller, under Article 2, is entitled to charge, and fails to refund the tenant.</p> <p>To determine whether an offence appears to have been committed under the Law.</p>
<b>Scope of delegation:</b>	To recommend proceedings are taken against the person who is considered to have committed the offence, according to Article 5.