
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – TREASURY AND RESOURCES – REVISED DELEGATIONS MAY 2016

**Presented to the States on 16th May 2016
by the Minister for Treasury and Resources**

STATES GREFFE

REPORT

On 10th May 2016, the Minister for Treasury and Resources made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-TR-2016-0042, 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).”

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 –

Note: Unless otherwise stated, any reference to an Article in this section is a reference to the Article so numbered in the Public Finances (Jersey) Law 2005. Likewise, any reference to a Regulation in this section is a reference to the Regulation so numbered in the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005.

1. Public Finances (Jersey) Law 2005 delegations

1.1 Medium Term Financial Plan and Budget Estimates

Legislation:	Article 24A – Estimates to be provided for States funded bodies; and Article 24B – Estimates for the States Assembly.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer.
Functions delegated and scope of delegation:	To enable the preparation or monitoring of the Medium Term Financial Plan and Budget, the Law enables the Minister to request that estimates and such other information be provided by States funded bodies (including ministerial and non-ministerial bodies and the States Assembly) for one or more financial years, or for any other period. The Minister may specify the format and timescale within which the aforementioned estimates should be provided.

1.2 Non-contentious transfers

Legislation:	Article 18 – Permitted variations of heads of expenditure; sub-paragraphs (1) and (2) refer.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to agree any non-contentious transfers between revenue and capital heads of expenditure (and <i>vice versa</i>) with no financial limit where the transfer is solely to ensure that financial transactions are accurately reflected in the States' Accounts in accordance with accounting standards issued under Article 32(2) of the Law. The Treasurer of the States or another person nominated by the Treasurer to agree that funds can be transferred, without further approval by the Minister, in instances where there is a transfer of responsibility and administration of a service which has been agreed either – <ul style="list-style-type: none"> • by the States under Article 29 of the States of Jersey Law and the relevant Ministers (or the Accounting Officer in the case of a non-ministerial States funded body) agree in respect of the funds to be transferred; and/or

	<ul style="list-style-type: none"> there has been a transfer of functions or services from one States funded body to another (apart from those approved by the States in the above bullet point), and the relevant Ministers (or Accounting Officer in the case of a non-ministerial States funded body) agree in respect of the funds to be transferred. <p>Authority is delegated to the Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to agree any non-contentious transfers between heads of expenditure up to £1,000,000.</p> <p>The Treasurer of the States or a person nominated by the Treasurer to agree any non-contentious transfers from a head of expenditure (capital or revenue) to contingency expenditure, either within or after the end of the relevant financial year.</p> <p>All such decisions must be included in the 6-monthly report presented to the States.</p>
Functions delegated and scope of delegation:	These paragraphs of Article 18 of the Law enable the Minister to approve the transfer of funds from one head of expenditure to another to comply with accounting standards, where there has been an approved transfer of functions or services, for any transfer from one head of expenditure not covered by the 2 aforesaid reasons or there is a transfer into contingency.

1.3 Retention of income

Legislation:	Article 19 – Adjustments for variations in income; paragraph (1) refers.
Delegate:	<p>Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to approve –</p> <ul style="list-style-type: none"> in all non-contentious cases where any such additional income matches additional expenditure; or additional income in excess of increased expenditure (i.e. additional surplus income) required to generate that income but the excess income is not more than 10% (up to a maximum of £500,000 for a States trading operation and £100,000 for all other States funded bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured.
Functions delegated and scope of delegation:	This paragraph of Article 19 of the Law empowers the Minister to authorise a States funded body to use any additional income it may generate over and above the estimate approved by the States in the Medium Term Financial Plan.

	<p>The Minister agreed that States funded bodies be allowed to retain and use additional income in instances where –</p> <ul style="list-style-type: none"> (a) any such income and associated additional expenditure match; and (b) the additional income is in excess of increased expenditure (i.e. additional surplus income) required to generate that income but the excess income is not more than 10% (up to a maximum of £500,000 for a States trading operation and £100,000 for all other States funded bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured.
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1.4 Income from asset sales

Legislation:	Article 18 – Permitted variations of heads of expenditure; paragraph (5) refers.
Delegate:	<p>Treasurer of the States or, in their absence, another officer nominated by the Treasurer of the States, to agree non-contentious requests for the use of sale proceeds where the net balance over the residual value of the asset sold is equal to or less than £100,000.</p> <p>Accounting Officers to make use of up to £5,000 of income from the sale of an asset where the net balance over the residual value of the asset sold is £5,000 or less.</p>
Functions delegated and scope of delegation:	This paragraph of the Law empowers the Minister to authorise a States funded body to make use of income from the sale of an asset for revenue expenditure or a specified capital project.

1.5 Borrowing

Legislation:	<p>Article 22 – Minister and Treasurer may be authorized to borrow; and</p> <p>Regulation 9 – authorizes the Minister to make certain borrowings in the name of, and on behalf of the States;</p> <p>Regulation 10 – allows the Minister to delegate their power to borrow on behalf of the States to the Treasurer.</p>
Delegate:	<p>Treasurer of the States to agree short-term bank overdrafts/ overdraft facilities and temporary loans within the parameters set in the Law up to £10 million.</p> <p>Authority is delegated to the Treasurer of the States to agree minor borrowing up to £100,000 in any one financial year (up to a maximum of £500,000), with no transaction to exceed</p>

	£10,000 and repayment periods of 5 years or less. (Treasurer is not able to delegate their borrowing responsibilities to any other officers).
Functions delegated and scope of delegation:	<p>Both the Law and Regulations allow the Minister to delegate (where they so wish) to the Treasurer minor borrowing transactions which, in summary, include –</p> <ul style="list-style-type: none"> • short-term bank overdrafts/overdraft facilities and temporary loans (these must not exceed more than 25% of the previous year's income from taxation); • other minor borrowing – up to £1 million in any one transaction in a financial year so long as the total amount borrowed does not exceed £3 million in that year, the total amount outstanding in this way does not exceed £20 million, and with all such borrowing having a maximum repayment period of 10 years; • borrowing for a States trading operation where additional income or tangible savings arising from the underlying expenditure meet the costs of the borrowing; • other parameters specifically agreed by the States.

1.6 Trading operations

Legislation:	Article 27 – Returns of States trading operations to be agreed; paragraphs (1) and (2)(a)–(d) refer.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer of the States, to request the necessary estimates from the States trading operations.
Functions delegated and scope of delegation:	These paragraphs empower the Minister to request States trading operations to enter into discussions and provide estimates in respect of the business activities for one or more financial years or any other period. The estimates should include income and expenditure, estimated contribution to the income of the States, estimate of any surplus of income over expenditure or estimated deficit, to be debited to trading fund and shall take into account capital expenditure details.

1.7 Bank Accounts

Legislation:	Article 33 – Treasurer to open bank accounts; paragraphs (1) and (4) refer.
Delegate:	Treasurer of the States to carry out this function without recourse to the Minister, provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.

Functions delegated and scope of delegation:	These paragraphs allow the Treasurer to open, operate and maintain bank accounts with a bank or banks approved by the Minister for the operation of the Consolidated Fund and for the proper administration of this or any other Law.
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1.8 Recharge Accounts

Legislation:	Article 33 – Treasurer to open bank accounts; paragraph (3) refers.
Delegate:	Treasurer of the States or, in their absence, another officer as nominated by the Treasurer of the States, to approve all rechargeable and stock accounts.
Functions delegated and scope of delegation:	This paragraph empowers the Minister to agree that money in the Consolidated Fund may be used to incur expenditure that will subsequently be recharged – for example, the approval of stock accounts and other rechargeable accounts.

1.9 Financial Directions

Legislation:	Article 34 – Financial Directions.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to issue Financial Directions that the Treasurer deems to be required. (This authority shall not extend to those Financial Directions which propose the delegation of responsibility from the Minister to an officer without the Minister having already agreed those delegations.)
Functions delegated and scope of delegation:	This Article enables the Treasurer of the States to issue Financial Directions with the approval of the Minister.

1.10 Accounting Officers

Legislation:	Articles 37 and 38A – Appointment of Accounting Officers.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to appoint another or an additional Accounting Officer in uncontentious circumstances where it is necessary or expedient to do so. The same delegation to apply to the appointment of an Accounting Officer for a States fund, States income, taxation income, or money forming part of a trust fund.
Functions delegated and scope of delegation:	These Articles enable the Minister to appoint –

	<ul style="list-style-type: none"> • a person other than the States funded body's chief officer as its Accounting Officer; and • an additional accounting officer for a States funded body; • a person as accounting officer for a States fund, States income, taxation income, or money forming part of a trust fund.
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1.11 Insurance Fund

Legislation:	Schedule 2 – Article 2 – participation of persons or bodies with connections to the States in the States' mutual insurance arrangements.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to permit persons or bodies that appear to be connected with the States to participate in the States' mutual insurance arrangements, on such terms and conditions as agreed.
Functions delegated and scope of delegation:	This Article enables the Minister to determine which persons or bodies, with States connections, can participate in the States' mutual insurance arrangements, and what terms and conditions should apply to them.

1.12 Trust assets – Bank Accounts

Legislation:	Regulation 18 – prescribes the bank accounts that may be used for trust money.
Delegate:	Treasurer of the States to carry out this function without recourse to the Minister, provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.
Functions delegated and scope of delegation:	This Regulation states that Trust money should be held in a bank account with a bank or banks approved by the Minister (unless a Trust document specifies a certain bank).

1.13 Trading Funds

Legislation:	Regulation 22.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer of the States, for any further approvals under Article 22(2) of the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005, where the amount concerned is £100,000 or less.

Functions delegated and scope of delegation:	<p>Money standing to the credit of the trading fund of a States trading operation may also be used, with the approval of the Minister, for a capital project of the trading operation if –</p> <p>(a) the amount approved by the States for the project as part of the Budget has proved to be insufficient; or</p> <p>(b) the project arises from a contingency that could not have been reasonably foreseen at the time the estimates of the States trading operation were submitted to the Minister in accordance with Article 24A of the 2005 Law for inclusion as part of a Budget.</p>
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2. Administrative delegations

2.1 States charges

States decision:	Anti-Inflation Strategy (P.125/2000).
Delegate:	<p>Treasurer of the States or, in their absence, another person as nominated by the Treasurer to agree non-contentious fee/charge increases which do not require subsequent States approval; or in instances where fees are being increased in line with the “User Pays” principle.</p> <p>The Treasurer of the States will be able to give “blanket” approval to groups of charges in a particular year, or a single charge over a period of a number of years.</p> <p>The Minister agreed that approval for increases which are in line with statute or with a formula which has already received States or their approval do not require further approval.</p>
Functions delegated and scope of delegation:	The States, in adopting the Anti-Inflation Strategy, agreed that increases in States charges should be limited to a maximum of 2.5% a year, with any exceptions in extremely compelling cases only, to be subject to prior approval by the Finance and Economics Committee (now the Minister for Treasury and Resources).

2.2 Coin designs

Legislation:	Decimal Currency (Jersey) Law 1971 – Article 3 – Coinage of the new currency.
Delegate:	The Minister delegated approvals of individual commemorative currency designs to the Treasurer of the States and the Head of Treasury and Investment Management.
Functions delegated and scope of delegation:	This delegation enables the Treasurer of the States and Head of Treasury and Investment Management to approve individual commemorative currency designs as and when they are produced.

2.3 Non-contentious States manpower

Legislation:	Regulation of Public Sector Employees (P.67/1999).
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer of the States, for agreeing non-contentious increases to States manpower.
Functions delegated and scope of delegation:	This proposition charges the Minister for Treasury and Resources to regulate the number of persons that may be employed by the States of Jersey in any area of the States administration, excluding those States departments that report to the States trading operations, in accordance with the principles contained within the Regulation of Undertakings legislation and the policy statement issued by the then Finance and Economics Committee in respect of the application of the Regulation of Undertakings to the private sector, effective from 10th November 1998.

2.4 Responsibility for shareholder relations

Delegate:	Responsibility for all matters relating to ministerial shareholder functions is delegated to Connétable J.M. Refault of St. Peter, Assistant Minister for Treasury and Resources.
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2.5 Contract signing – corporate contracts

Signature of corporate contracts:	Signing of corporate contracts on behalf of the Minister for Treasury and Resources.
Delegate:	The Minister delegates the signing of all corporate contracts negotiated by Strategic Procurement for and on behalf of the States to the Treasurer of the States with no financial limit.

3.0 Administering Jersey's International Taxation Agreements

Administering Jersey's International Taxation Agreements:	Administering Jersey's International Taxation Agreements such as Jersey's Double Taxation Agreements, Tax Information Exchange Agreements, the European Union (EU) Savings Directive, and all of Jersey's other International Taxation Agreements that provide for a mutual agreement procedure and/or the exchange of information on behalf of the Minister for Treasury and Resources.
Delegate:	The Minister delegates authority to any officer acting as Comptroller of Taxes, any officer acting as Deputy Comptroller of Taxes, any officer acting as Director – International Tax and the Adviser – International Affairs to

	act for and on behalf of the Minister for Treasury and Resources as Competent Authority for the purposes of Jersey's Double Taxation Agreements, Tax Information Exchange Agreements, the EU Savings Directive and all of Jersey's other international taxation agreements that provide for a mutual agreement procedure and/or the exchange of information. The Minister also authorises the Tax Information Exchange Officer to process matters relating to tax information exchange.
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4.0 Expenditure of the Treasury and Resources Department

Expenditure of the Treasury and Resources Department:	Expenditure of all amounts approved by the States Assembly for the Treasury and Resources Department.
Delegate:	The Minister delegates authority to the Treasurer of the States to spend up to the amounts approved by the States Assembly for the Treasury and Resources Department.