
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – SOCIAL SECURITY – REVISED DELEGATIONS JULY 2017

Presented to the States on 25th July 2017
by the Minister for Social Security

STATES GREFFE

REPORT

On 21st July 2017, the Minister for Social Security made a Ministerial Decision delegating certain of her functions under Articles 28, 30 and 30A of the States of Jersey Law 2005 (MD-S-2017-0046, 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.
- (1A) A Minister shall not delegate to an Assistant Minister any function the delegation of which is wholly prohibited by an enactment.
- (1B) Where a Minister delegates to an Assistant Minister a power to make an enactment, paragraphs (4) and (5) of Article 26 shall apply to the making of an enactment by the Assistant Minister, in exercise of the delegated power, as they would apply to the making of the enactment by the Minister.
- (2) A Minister shall not delegate to an officer –
 - (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 wholly, or to an officer, 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).”

“30 Ministerial delegations to be presented to States

- (1) A Minister who delegates functions under Article 28 shall present to the States a report specifying the functions delegated and to whom.
- (2) A Minister shall not be required to present a report under paragraph (1) where the delegation is so immediate and of such brief duration that it is not practicable to present the report before the delegation ends.

30A List of delegations to be published

- (1) The Chief Minister shall cause to be established, maintained and published a consolidated list of –
 - (a) the functions for the time being discharged by the Chief Minister and by each Minister;
 - (b) the functions for the time being delegated by the Chief Minister and each Minister under Article 28, and to whom.
- (2) The list shall also specify which Minister is discharging, for the time being, the functions of another Minister under Article 27(1) or (2).
- (3) The information described in paragraph (1)(b) or (2) is not required to be incorporated in the list where the period for which the delegation has effect or for which one Minister’s functions are being discharged by another is so immediate and of such brief duration that it is not practicable to amend and publish the list to incorporate the information before the end of the period.
- (4) It shall be sufficient if the list is published on a website.”

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 –

DELEGATION OF FINANCIAL AUTHORITIES**BUDGETING**

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Chief Officer of the Social Security Department ¹ Finance and Governance Director
Functions delegated:	Submission of Budget Estimates for the Medium Term Financial Plan under Article 38.

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Chief Officer of the Social Security Department
Functions delegated:	Approval of non-contentious inter-departmental budget transfers of up to £100,000 under Article 18.

¹ The Chief Officer is referred to as the ‘Controller’ under the Social Security (Jersey) Law 1974.

EXPENDITURE

Legislation:	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long-Term Care (Jersey) Law 2012
Delegate:	Chief Officer of the Social Security Department
Functions delegated:	<ul style="list-style-type: none"> • Approving individual orders and the payment of individual invoices • Accepting tenders • Approving store requisitions • The entering into of contracts • Approval of Grant Expenditure
Scope of delegation:	Not exceeding £1,000,000.

Legislation:	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long-Term Care (Jersey) Law 2012
Delegate:	Chief Officer of the Social Security Department
Functions delegated:	Approval of Losses and Special Payments
Scope of delegation:	Not exceeding £50,000.

Legislation:	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long-Term Care (Jersey) Law 2012
Delegate:	Chief Officer of the Social Security Department
Functions delegated:	Approval of Instalment agreements, including deductions from benefit payments
Scope of delegation:	Not exceeding £1,000,000.

Legislation:	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long-Term Care (Jersey) Law 2012
Delegate:	Chief Officer of the Social Security Department
Functions delegated:	Appointment of Budget-Holders to undertake: <ul style="list-style-type: none"> • Approving individual orders and the payment of invoices • Accepting tenders • Approving store requisitions • The entering into of contracts • Approval of Losses and Special Payments • Approval of Instalment Agreements • Approval of Grant Expenditure Within defined limits.
Scope of delegation:	Limits must not exceed those delegated to the Chief Officer.

CASH, BANKING AND INVESTMENT

Legislation:	Social Security (Jersey) Law 1974
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, the Deputy Chief Officer
Functions delegated:	Article 31(1) to transfer monies from the Social Security Fund to the Social Security (Reserve) Fund
Scope of delegation:	To transfer available cash from short-term investment into the Reserve Fund for onward investment by fund managers.

Legislation:	Health Insurance (Jersey) Law 1967
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, the Deputy Chief Officer
Functions delegated:	Article 21(3) to transfer monies from the Health Insurance Fund to the Treasurer of the States or an investment manager for onward investment
Scope of delegation:	To transfer available cash for onward investment by fund managers.

Legislation:	Long-Term Care (Jersey) Law 2012
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, the Deputy Chief Officer
Functions delegated:	Article 11(2) to transfer monies from the Long-Term Care Fund to the Treasurer of the States or an investment manager for onward investment
Scope of delegation:	To transfer available cash for onward investment by fund managers.

Legislation:	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long-Term Care (Jersey) Law 2012
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, the Deputy Chief Officer
Functions delegated:	Administration of the Funds' bank and cash holding accounts, including: <ul style="list-style-type: none"> • Requesting the set-up of new Bank Accounts (to be approved by the Treasurer of the States) • Submitting authorised signature lists to the Treasurer of the States for approval • Transfer of monies between Accounts within the Department without limit • Physical payment of expenditure approved in line with expenditure approval limits.

APPOINTMENT OF DETERMINING OFFICERS

The Chief Officer of the Social Security Department and, in his/her absence, the Deputy Chief Officer, or an Operations Director, is granted the following delegated powers:

Legislation:	Function delegated:
Article 28 of the Health Insurance (Jersey) Law 1967	The power to appoint Determining Officers for the determination of any question arising under or in connection with the Health Insurance (Jersey) Law 1967, including any claim for benefit.
Article 33 of the Social Security (Jersey) Law 1974	The power to appoint Determining Officers for the determination of any question arising under or in connection with the Social Security (Jersey) Law 1974, the Food Costs Bonus (Jersey) Regulations 2016, the Social Security Bonus (Jersey) Law 2014 and the Television Licence Benefit Law, including any claim for benefit.

Legislation:	Function delegated:
Article 9 of the Income Support (Jersey) Law 2007	The power to appoint Determining Officers for the determination of any claim under the Income Support (Jersey) Law 2007, the Food Costs Bonus (Jersey) Regulations 2016 and the Social Security Bonus (Jersey) Law 2014.
Article 8 of the Long-Term Care (Jersey) Law 2012	The power to appoint Determining Officers for the determination of any question arising under or in connection with the Long-Term Care (Jersey) Law 2012, including any claim for benefit.

APPROVED REGISTERED PERSONS

Legislation:	Income Support (General Provisions) (Jersey) Order 2008, Article 5B (<i>as inserted by the Income Support (General Provisions) (Amendment No. 20) (Jersey) Order 2017</i>)
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, an Operations Director or Head of Income Support
Functions delegated:	The power to appoint, suspend and remove approved registered persons who may make assessments for the purposes of Article 5 of the Income Support (Jersey) Law 2007.

Legislation:	Long-Term Care (General Provisions) (Jersey) Order 2014, Article 12
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, an Operations Director or Head of Contributions and Contributory Benefits
Functions delegated:	The power to appoint, suspend and remove approved registered persons who may make assessments for the purposes of either Article 5 or Article 7 of the Long-Term Care (Jersey) Law 2012, or both.

APPROVED CARE HOMES

Legislation:	Long-Term Care (General Provisions) (Jersey) Order 2012, Article 13
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, an Operations Director or Head of Contributions and Contributory Benefits
Functions delegated:	The power to approve, suspend approval, and revoke approval in respect of an approved care home under the Long-Term Care (Jersey) Law 2012.

HYPOTHECS

Legislation:	Social Security Hypothecs (Jersey) Law 2014, Article 2
Delegate:	Operations Director, Head of Contributions and Contributory Benefits, Contributory Benefits Assistant Manager
Functions delegated:	The power to submit an application to the Judicial Greffier to register a Social Security hypothec in the public registry. The power to give notice of the registration of the Social Security hypothec to the debtor.

Legislation:	Social Security Hypothecs (Jersey) Law 2014, Article 4
Delegate:	Finance and Governance Director, Finance Manager
Functions delegated:	The power to cancel a Social Security hypothec, following its extinguishment. The power to provide notice to the Judicial Greffier of the extinguishment of the debt.

Legislation:	Social Security Hypothecs (Jersey) Law 2014, Article 5 and Royal Court (Jersey) Law 1948, Article 13
Delegate:	Operations Director, Head of Contributions and Contributory Benefits, Contributory Benefits Assistant Manager
Functions delegated:	The power to submit an application to the Judicial Greffier to register a Social Security hypothec in the Public Registry. The power to execute the form of notification of the Social Security hypothec.

Legislation:	Social Security Hypothecs (Jersey) Law 2014, Article 5 and Royal Court (Jersey) Law 1948, Article 13
Delegate:	Finance and Governance Director, Finance Manager
Functions delegated:	The power to provide written confirmation to the Judicial Greffier of the extinguishment of the debt.

Legislation:	Long-Term Care (General Provisions) (Jersey) Order 2012, Article 13
Delegate:	Chief Officer of the Social Security Department and, in his/her absence, an Operations Director or Head of Contributions and Contributory Benefits
Functions delegated:	The power to approve, suspend approval, and revoke approval in respect of an approved care home under the Long-Term Care (Jersey) Law 2012.

DATA SHARING

Legislation:	Social Security (Jersey) Law 1974
Delegate:	Chief Officer, Social Security Department and, in his/her absence, the Deputy Chief Officer
Functions delegated:	Article 49(2) ² , notwithstanding anything in the Controller's oath of office, the Controller may disclose such information as may be required for any purpose approved by the Minister
Scope of delegation:	To enter into Data Sharing Agreements – sharing information for which the Minister is the Data Controller for the agreed purposes of: <ul style="list-style-type: none"> • Minimising the necessity for customers to provide information to different departments • validation of the accuracy and quality of data received • enabling research, development and evaluation of Ministerial policy with regard to the services provided by each department (and potentially other parties) • deterring, preventing and detecting fraud.

The above delegations supersede those made by the Minister under MD-S-2017-0013.

² Article 49 of the Social Security (Jersey) Law 1974 has been interpreted to cover the administration of all Laws for which the Minister for Social Security has responsibility. This excludes the Control of Housing and Work (Jersey) Law 2012 and the Register of Names and Addresses (Jersey) Law 2012, although these are administered by the Social Security Department.