
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – CHIEF MINISTER – REGULATION OF CARE LEGISLATION – OCTOBER 2018

**Presented to the States on 25th October 2018
by the Chief Minister**

STATES GREFFE

REPORT

On 19th October 2018, the Chief Minister made a Ministerial Decision delegating certain of his functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (MD-C-2018-0164, 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 will be made¹, were recorded in a Report attached to the Ministerial Decision, as shown below –

Legislation:	Regulation of Care (Jersey) Law 2014 (Appointed Day) Act 201- Regulation of Care (Regulated Activities) (Jersey) Regulations 201- Regulation of Care (Standards and Requirements) (Jersey) Regulations 201- Regulation of Care (Transfer of Functions) (Jersey) Regulations 201- Regulation of Care (Transitional and Transfer) (Jersey) Regulations 201-
Delegated to:	Assistant Minister, Connétable C.H. Taylor of St. John
Functions delegated and scope of delegation:	In addition, in order to enable the Assistant Minister to deal with all matters in relation to the functions delegated in the States Assembly, the Chief Minister also agreed to delegate to the Assistant Minister, Connétable C.H. Taylor of St. John, the following functions in respect of the following Standing Orders of the States of Jersey – <ul style="list-style-type: none"> • Standing Order 9(3) – answering questions; • Standing Order 17(1)(a) – making statements; • Standing Order 19(c) – lodging Propositions; • Standing Order 35(1)(b) – presenting Reports or Comments; • Standing Order 68A(3) – proposing Propositions.

¹ *Note:* the listed Regulation of Care legislation is not yet enacted; the 5 drafts were lodged *au Greffe* on 23rd October 2018 for debate at the States Sitting commencing 4th December 2018. If adopted, the legislation will come into force on 1st January 2019.