
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR TREASURY AND RESOURCES – REVISED DELEGATIONS JULY 2018

**Presented to the States on 25th July 2018
by the Minister for Treasury and Resources**

STATES GREFFE

REPORT

On 20th July 2018, the Minister for Treasury and Resources made a Ministerial Decision delegating certain of her functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (MD-TR-2018-0097, 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 –

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. DELEGATIONS UNDER THE PUBLIC FINANCES (JERSEY) LAW 2005**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.
Function 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)(a) and (b) refer.
Delegate:	<p>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.</p> <p>Treasurer of the States or, in their absence, 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 from one head of expenditure to another head of expenditure consequentially upon a transfer of functions by Regulations made under Article 29 of the States of Jersey Law 2005.</p> <p>All such decisions must be included in the 6 monthly report presented to the States.</p>
Function delegated and scope of delegation:	These paragraphs of the Law enable the Minister to approve the transfer of funds from one head of expenditure to another to comply with accounting standards, or where there has been an approved transfer of functions or services.

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"> • additional income in excess of increased expenditure (i.e. additional surplus income) required to generate that income, but the excess income is 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.
Function delegated and scope of delegation:	<p>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> <p>The Minister agreed that States funded bodies be allowed to retain and use additional income in instances where –</p> <p>(a) any such income and associated additional expenditure match; and</p>

	<p>(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.</p> <p>With any approval above these levels delegated to the Treasurer of the States as detailed above.</p>
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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>
Function delegated and scope of delegation:	This paragraph of Article 18 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; and</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 £10,000, and repayment periods of 5 years or less. (Treasurer is not able to delegate their borrowing responsibilities to any other officers.)</p>
Function delegated and scope of delegation:	Both the Law and Regulations allow the Minister to delegate (where they so wish) to the Treasurer minor borrowing transactions which, in summary, include –

	<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.
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1.6 Trading Operations

Legislation:	Article 27 – Returns of the 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.
Function delegated and scope of delegation:	These paragraphs empower the Minister to request the 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 the 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, and provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.
Function 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.

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.
Function 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.)
Function 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 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 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.
Function 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.

1.11 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, and provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.

Function 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).
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1.12 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.
Function delegated and scope of delegation:	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 – <ul style="list-style-type: none"> (a) the amount approved by the States for the project as part of the Budget has proved to be insufficient; or (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.

1.13 Contingency expenditure

Legislation:	Article 17 – permitted contingency expenditure; sub-paragraph (2).
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to approve the transfer from contingency expenditure to heads of expenditure or the Insurance Fund, of amounts not exceeding, in total, the amount available for contingency expenditure in a financial year in accordance with Article 17(1). Authority is delegated to the Treasurer of the States or, in their absence, another person as nominated by the Treasurer, to agree any transfers between contingency expenditure or the Insurance Fund and heads of expenditure up to £500,000. All such decisions must be included in the 6 monthly report presented to the States.
Function delegated and scope of delegation:	This paragraph of Article 17 of the Law enables the Minister to approve the transfer from contingency expenditure to heads of expenditure or the Insurance Fund, of amounts approved by the States in the Medium Term Financial Plan.

1.14 Housing Loans

States' decision:	Starter Home Deposit Loan Scheme (P.131/2012) and associated Scheme Rules.
Delegate:	Treasurer of the States or, in their absence, another person as nominated by the Treasurer of the States, to consent to property sales, approve investment returns (subsidies at market rates) on property sales, and approve the waiving or deferral of part or all of an investment return in certain circumstances (e.g. separation of a couple, deferred sale of property).
Function delegated and scope of delegation:	<p>Paragraph 2.1 – As a result of loans being made at a 0% interest rate, a subsidy is recoverable if the property is sold at a profit before the term of the mortgage.</p> <p>Authority is delegated to the Treasurer of the States to agree the level of investment return (subsidy at market rates) in accordance with pre-determined calculation criteria as detailed in the Scheme Rules.</p> <p>Authority is delegated to the Treasurer of the States to agree to waiving or deferring the investment return in part or in full in exceptional circumstances, e.g. prolonged ill-health, death or divorce.</p>

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>
Function 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 the annual programme of commemorative currency designs to the Treasurer of the States and the issue of individual coins within this programme to the Head of Treasury and Investment Management.
Function delegated and scope of delegation:	This delegation enables the Treasurer of the States to approve the annual programme of commemorative currency designs and the Director of Treasury and Investment Management to approve individual commemorative currency designs, as and when they are produced.

2.3 Non-Contentious States Manpower

States' decision:	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.
Function 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 legislation relating to the regulation of undertakings 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 the 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. 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.

4. Expenditure of the Treasury and Resources Department

Expenditure of the Treasury and Resources Department:	Expenditure of all amounts approval 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.

5. Public Finances Law – General

Legislation:	Powers under the Public Finances (Jersey) Law 2005.
Delegate:	The Minister delegated, in the event of their absence or incapacity, all the functions conferred on or vested in the Minister by or under the Public Finances (Jersey) Law 2005, including those in Regulations made under that Law, and Financial Directions, to the Assistant Minister for Treasury and Resources.
Function delegated and scope of delegation:	Functions conferred on or vested in the Minister by or under the Public Finances (Jersey) Law 2005.

5.1 Standing Orders 17, 19 and 35

Legislation:	Standing Orders of the States of Jersey – Standing Orders 17, 19 and 35.
Delegate:	The Minister delegates to the Assistant Minister for Treasury and Resources all powers and responsibilities arising under Standing Orders 17, 19 and 35.
Function delegated and scope of delegation:	<p>These Standing Orders apply to the following actions –</p> <ul style="list-style-type: none"> • Standing Order 17 – Notice of intention to make statement on a matter of official responsibility • Standing Order 19 – Who can lodge a proposition • Standing Order 35 – Who may present report or comments.