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# STATES OF JERSEY



## **STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR CHILDREN AND HOUSING – RESIDENTIAL TENANCY (JERSEY) LAW 2011 –REVISED DELEGATIONS AUGUST 2019**

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**Presented to the States on 12th August 2019  
by the Minister for Children and Housing**

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**STATES GREFFE**

## REPORT

On 8th August 2019, the Minister for Children and Housing made a Ministerial Decision delegating certain of his/her functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (see Decision reference MD-H-2019-0011, 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.
- (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.”

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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:** this Report replaces the delegations presented to the States on 9th August 2018, under [R.107/2018](#)]

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**Background**

The reason for the Decision is to ensure the effective administration of matters relating to the Residential Tenancy (Jersey) Law 2011 and subordinate legislation made under the Law.

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| <b>Legislation:</b>  | <a href="#">Residential Tenancy (Jersey) Law 2011</a>                     |
| <b>Minister with political responsibility for the functions:</b> | Minister for Children and Housing   |
| <b>Delegate:</b>   | The Director of Environmental Health and Trading Standards, and deputies. |

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| <b>Functions delegated:</b> | <p><b>Article 10(1)</b> – in respect of breaches of a residential tenancy agreement by a landlord, where a landlord has, without lawful reason, prevented a tenant from occupying the whole or any part of a residential unit that is the subject of a residential tenancy agreement to which they are both parties, or otherwise interfered with the tenant’s enjoyment of the residential unit, being enjoyment that is not inconsistent with the agreement.</p> <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><b>Article 21(2)</b> – in respect of the contracting out of a residential tenancy agreement, where a person enters into any contract, agreement or other arrangement with the intention, either directly or indirectly, of defeating, evading or preventing the operation of the Law in respect of a residential tenancy agreement.</p> |
| <b>Scope of delegation:</b> | <p>To determine whether an offence appears to have been committed under the Law.</p> <p>To recommend proceedings are taken against the person who is considered to have committed the offence under Article 10(2), Article 19(3) and/or Article 21(2).</p>  |

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| <b>Legislation:</b>  | <a href="#">Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014</a>  |
| <b>Minister with political responsibility for the functions:</b> | Minister for Children and Housing   |
| <b>Delegate:</b>   | The Director of Environmental Health and Trading Standards, and deputies.   |
| <b>Functions delegated:</b>                                      | <b>Article 28 (1)</b> – in respect of 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. |

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|                             | <p><b>Article 29(1)</b> – in respect of 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) and (b)</b> – in respect of a where a landlord or tenant who gives to the scheme administrator permitted by the Regulations, and knowingly and wilfully includes in the notice any false or misleading information.</p> <p><b>Article 32(1)</b> – in respect of when 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> |
| <b>Scope of delegation:</b> | <p>To determine whether an offence appears to have been committed under the Law.</p> <p>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(a)-(b) and 32(2).</p>  |

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| <b>Legislation:</b>  | <a href="#">Residential Tenancy (Condition Reports) (Jersey) Order 2014</a>   |
| <b>Minister with political responsibility for the functions:</b> | Minister for Children and Housing   |
| <b>Delegate:</b>   | The Director of Environmental Health and Trading Standards, and deputies.   |
| <b>Functions delegated:</b>                                      | <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 to determine whether an offence appears to have been committed under the Law. |
| <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.  |

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| <b>Legislation:</b>  | <a href="#">Residential Tenancy (Supply of Services) (Jersey) Order 2013</a>  |
| <b>Minister with political responsibility for the functions:</b> | Minister for Children and Housing   |
| <b>Delegate:</b>   | The Director of Environmental Health and Trading Standards, and deputies.   |
| <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.  |