
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR SOCIAL SECURITY – REVISED DELEGATIONS SEPTEMBER 2020

**Presented to the States on 19th October 2020
by the Minister for Social Security**

STATES GREFFE

REPORT

On 9th September 2020, 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](#) (see Decision reference MD-S-2020-0054, 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 –

The Minister for Social Security confirmed a decision regarding delegating certain of her functions under Article 28 of the States of Jersey Law 2005 as shown below:

Delegation of financial authorities:**BUDGETING**

Legislation	Public Finances (Jersey) Law 2005
Delegate	Director General -Customer & Local Services Department ¹ Finance Business Partner
Function Delegated	Submission of Budget Estimates for the Medium-term Financial Plan under Article 38.

Legislation	Public Finances (Jersey) Law 2005
Delegate	Director General -Customer & Local Services

¹ The chief officer is referred to as the ‘Controller’ under the Social Security (Jersey) law 1974

Function Delegated	Approval of non-contentious inter-departmental budget transfers of up to £100,000 under Article 18.

EXPENDITURE

Legislation	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long Term Care (Jersey) Law 2012
Delegate	Director General - Customer & Local Services
Function 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	Director General -Customer & Local Services
Function 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	Director General - Customer & Local Services, and in his/her absence, Group Director Customer & Local Services
Function 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
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Delegate	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function 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 Director General

CASH, BANKING AND INVESTMENT

Legislation	Social Security (Jersey) Law 1974
Delegate	Director General - Customer & Local Services, and in his/her absence, Group Director Customer & Local Services
Function 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	Director General -Customer & Local Services Department, and in his/her absence, Group Director Customer & Local Services
Function 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	Director General - Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function 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	Director General Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function 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

Director General Customer & Local Services, and in his/her absence, Group Director Customer & Local Services 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 Law, 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 Law, the Food Costs Bonus Regulations, the Social Security Bonus Law and the Television Licence Benefit law, including any claim for benefit.
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 Law, the Food Costs Bonus Regulations and the Social Security Bonus Law.

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 Law, including any claim for benefit.
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APPROVED REGISTERED PERSONS

Legislation	Income Support (General Provisions) (Jersey) Order 2017, Article 5B
Delegate	Director General -Customer & Local Services and, in his/her absence, a Group Director or Head of of Work & Family
Function 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	Director General Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function Delegated	The power to appoint, suspend and remove approved registered persons who may make assessments for the purposes of 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	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function 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 Hypothec (Jersey) Law 2014, Article 2.
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Delegate	Group Director Customer & Local Services, Senior Manager Pensions and Care, Team Manager Pensions and Care
Function 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 Business Partner
Function 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	Group Director, Senior Manager Pensions and Care, Team Manager Pensions and Care
Function 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 Business Partner
Function 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	Director General - Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function 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	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function 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 • validating 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 of fraud

ADMINISTRATION OF INCOME SUPPORT

Legislation	Income Support (Jersey) Law 2007
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	Article 5 (3A), to require <p>(a) an assessment to be made for the purpose of ascertaining the nature and degree of a person's physical, sensory or mental impairment;</p> <p>(b) approval of a care package in respect of a person's physical, sensory or mental impairment; or</p> <p>(c) both an assessment to be made in accordance with sub-paragraph (a) and an approval to be given in accordance with sub-paragraph (b),</p> <p>in support of a claim under Article 4 to entitlement of the person's household to the special component referred to in paragraph (3)(b).</p>

² Article 49 of the Social Security (Jersey) Law 1974 has been interpreted to cover the administration of all Laws for which the Social Security Minister is responsible. This excludes Control of housing and Work (Jersey) Law 2012 and the Register of Names and Addresses (Jersey) Law 2012, although these are administered by the Customer and Local Services department.

Scope of delegation	To require an assessment or approval of care package in order to entitle a household to claim for the special component referred to in paragraph (3)(b) of the Law – in respect of a physical, sensory or mental impairment
Function Delegated	Article 13, Recovery of awards wrongly made
Scope of delegation	to require that awards wrongly made are repaid; and/or recovered from any other payment made under this Law
Function Delegated	Article 14, charges over property. To require the payment of interest and specify how much interest is required to be paid. Or, to require repayment by means of instalments.
Scope of delegation	<p>where a special payment has been made in the form of a loan; or the Determining Officer seeks to recover an award; or the determining officer has exercised his or her discretion under Article 7(3),</p> <p>the amount in question may be secured by means of a hypothec charged on any immovable property owned by the claimant or a member of the claimant's household, or a security interest in shares that confer on the claimant or a member of the claimant's household entitlement to occupy any immovable property, as the case may be.</p> <p>The Determining Officer may require the payment of such interest, if any, as the Determining Officer may specify; or the repayment of the amount in question, plus any interest to be charged, by means of such instalments as the Determining Officer may specify.</p>
Function Delegated	Article 15, administrative expenses. To pay remuneration and expenses to a member of a tribunal mentioned in Article 9(2) of this Law
Scope of delegation	To pay to any member of a Tribunal mentioned in Article 9(2) who exercises any functions under this Law, and any other person whose advice or assistance may be required for the purposes of this Law by either of those Tribunals or by a determining officer, such remuneration and expenses as the Determining Officer may determine

Legislation	Income Support (Jersey) Regulations 2007
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	Article 4: Person treated as available for and actively seeking work. To arrange interviews for this purpose

Scope of delegation	For the purposes of Article 3 of the Law, to arrange interviews to determine that a person is to be treated as available for, and actively seeking, remunerative work
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Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	5A Assessment of impairment and approval of care packages To require an assessment to be made by an Approved Registered Person
Scope of delegation	To require an assessment to be made for the purpose of ascertaining the nature and degree of a person's physical, sensory or mental impairment, or approval to be given of a care package in respect of a person's physical, sensory or mental impairment, or both, under Article 5(3A) of the Law
Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Director General of the Customer & Local Services Department, and in his/her absence, a Group Director or Head of Work and Family
Function Delegated	Article 6 (Manner in which claims are to be made). To specify the manner in which claims are to be made
Scope of delegation	To require that claims for Income Support are made on an approved form, to approve that form, to refer defective claims to the claimant, and to treat amended claims as if they were made amended in the first instance

Function Delegated	To require notification of change of circumstances and furnishing of information)
Scope of delegation	As per Article 8 (Notification of change of circumstances and furnishing of information), to require that a household in receipt of Income Support notify the Determining Officer of any change of circumstance that might affect their claim. To require that the person furnish any information that may be specified and required as a consequence of the change of circumstances.

Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Director General of the Customer & Local Services Department or a Group Director or Head of Work and Family
Function Delegated	To appoint a person to act on a claimant's behalf
Scope of delegation	<p>As per Article 9 (Persons unable to act)</p> <p>(1) In the case of a claimant who is unable to act who – (c) does not have a <i>tuteur</i>, the officer may, on receipt of a written application, appoint a person to act on the claimant's behalf.</p> <p>(2) However, such appointment shall terminate – (a) if the claimant is received into guardianship, or has appointed, in relation to him or her, such a person as mentioned in paragraph (1)(b) or a <i>tuteur</i>; (b) at the request of the person appointed; (c) if revoked by the officer; or (d) if the claimant becomes able to act.</p> <p>(3) In this Article "claimant" includes any member of a claimant's household who is required, under Article 7, to furnish information and evidence in support of a claim</p>
Function Delegated	As per Article 11, to require information in respect of a claim for child personal care
Scope of delegation	In the case of a claim for child personal care, the information to be included in the claim is such information as the Determining Officer requires to be satisfied that the requirements and criteria for that payment are met.

Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	As per Article 13A, to determine (set) the particulars in a notice of determination or decision
Scope of delegation	<p>13A Notice of determination or decision</p> <p>(4) In the case of an award being granted, a notice under this Article must also specify – (a) the manner and method of payment of the award; and (b) such other particulars as may be determined by the determining officer.</p>

Function Delegated	As per the conditions specified in Article 13C, to administer changes in circumstances affecting payments of Income Support
Scope of delegation	As per all of the conditions specified in Article 13C (Changes in circumstances affecting payments of income support), to determine the increase or decrease of a claim and the date from which this change will take effect. To require further information for purposes specified in Article 13C

Legislation	Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 2014
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	As per the conditions of Regulation 2 and 3, to make special payments of child personal care

Legislation	Income Support (Special Payments) (Long-Term Care) (Jersey) Regulations 2014
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007 OR the Long-Term Care (Jersey) Law 2012
Function Delegated	As per Regulation 2, to make special payment to meet the costs of long-term care
Scope of delegation	To make a special payment to meet costs of long-term care, if the person meets the conditions specified under Regulation 2

The above delegations supersede MD-S-2017-0046.

To note, separate delegations remain in place (MD-S-2020-0036) in response to COVID-19 (Coronavirus).