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# STATES OF JERSEY



## **STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR TREASURY AND RESOURCES – REVISED DELEGATIONS MARCH 2020**

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**Presented to the States on 30th March 2020  
by the Minister for Treasury and Resources**

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**STATES GREFFE**

## REPORT

On 27th March 2020, 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](#) (see Decision reference MD-TR-2020-0027, 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 –

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The following listed delegations amend and replace the delegations listed in [R.13/2020](#) as at 25th February 2020, to enable the efficient and effective management of public finances and the operation of the Treasury and Exchequer Department.

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 2019](#).

In addition to the specific delegations below the Minister has delegated all of her powers to Senator I.J. Gorst under [MD-TR-2020-0028](#) (see [R.26/2020](#)).

## 1. PUBLIC FINANCES (JERSEY) LAW 2019 DELEGATIONS

### 1.1 Retention of income

<b>Legislation:</b>	<p>Article 21 – Power to allocate excess income:</p> <p>“(1) This Article applies if –</p> <p>(a) an approved government plan includes, under Article 9(8), the estimated income that will be earned by, or be attributable to, a States body or by an area of operation of a States body during the first financial year covered by the plan; and</p> <p>(b) income in excess of that estimate is earned by, or attributable to, the States body or area of operation during that financial year.</p> <p>(2) Despite the approved government plan, the Minister may direct that the excess income referred to in paragraph (1)(b) be allocated to a head of expenditure set out in the plan.”</p>
<b>Delegate:</b>	<p>Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the Principal Accountable Officer (“PAO”)), to approve –</p> <ul style="list-style-type: none"> <li>• 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 £100,000 for all 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.</li> </ul>
<b>Functions delegated and scope of delegation:</b>	<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 £100,000 for all 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>

### 1.2 Financing

<b>Legislation:</b>	<p>Article 26 – Financing:</p> <p>“(1) The Minister may, in the name of the States –</p> <p>(a) arrange for a bank overdraft or bank overdraft facility; and</p> <p>(b) obtain other financing.”</p>
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<b>Delegate:</b>	<p>Treasurer of the States to agree short-term bank overdrafts /overdraft facilities 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.</p> <p>All borrowing must be reported in the half-yearly financial update presented to the States by the Minister.</p>
<b>Functions delegated and scope of delegation:</b>	<p>This Article of the Law empowers the Minister to arrange for a bank overdraft (or bank overdraft facility) and to approve other minor borrowing up to specific total and annual limits set in the Law.</p>

### **1.3 Lending**

<b>Legislation:</b>	<p>Article 27 – Loans:</p> <p>“(1) The Minister may, in the name of the States, lend money from the Consolidated Fund.”</p>
<b>Delegate:</b>	<p>Treasurer of the States to agree short-term lending.</p> <p>Authority is delegated to the Treasurer of the States to agree minor lending up to £100,000 in any one financial year (up to a maximum of £500,000), with no loan to exceed £10,000 and with a maximum loan repayment period of 5 years.</p> <p>All loans must be reported in the half-yearly financial update presented to the States by the Minister.</p>
<b>Functions delegated and scope of delegation:</b>	<p>This Article of the Law empowers the Minister to grant loans up to specific total and annual limits set in the Law.</p>

### **1.4 Power to transfer major projects amounts to the following year**

<b>Legislation:</b>	<p>Article 20 – Power to transfer major project amounts to following year</p> <p>“Despite an approved government plan, the Minister may direct that an unspent amount appropriated for a head of expenditure for a major project in one financial year is deemed to be appropriated for a head of expenditure for that major project for the following financial year.”</p>
<b>Delegate:</b>	<p>Treasurer of the States or, in their absence, another officer nominated by the Treasurer (excluding the PAO), to agree all non-contentious requests to transfer unspent funds allocated to a head of expenditure for a major project to the same major project in the following financial year.</p>
<b>Functions delegated and scope of delegation:</b>	<p>This Article of the Law allows the Minister to direct that an unspent amount appropriated to a head of expenditure for a major project in one financial year is available to spend on the same major project in the following financial year.</p>

### 1.5 Public Finances Manual

<b>Legislation:</b>	Article 31 – Public Finances Manual
<b>Delegate:</b>	<p>Treasurer of the States to issue minor amendments to the Public Finances Manual as he considers necessary. (This authority shall not extend to those sections of the Manual which propose the delegation of responsibility from the Minister to an officer without the Minister having already agreed those delegations.)</p> <p>Amendments delegated will include those necessary to clarify requirements; those to ensure that the Manual is consistent with other published legislation, policies and procedures; and those which are required as part of an emergency situation as defined in Article 24 of the Public Finances (Jersey) Law 2019. Any significant changes to financial management and control policy must be approved directly by the Minister.</p> <p>The Manual and all amendments must be issued to the States’ Public Accounts Committee and made publicly available.</p>
<b>Functions delegated and scope of delegation:</b>	The Minister has responsibility for the issuance and amendment of the Public Finances Manual. (The Law enables the Minister to delegate the above functions to the Treasurer.)

### 1.6 Responsibility for shareholder relations

<b>Legislation:</b>	Article 53 – Minister’s responsibility in respect of certain companies.
<b>Delegate:</b>	Deputy L.B.E. Ash of St. Clement, Assistant Minister for Treasury and Resources, to have responsibility for shareholder matters and lending to Andium Homes Limited and Housing Trusts and Associations, from the Housing Development Fund or any other source.
<b>Functions delegated and scope of delegation:</b>	<p>(a) The Minister has responsibilities for certain matters relating to the shareholdings in certain companies (wherever incorporated) that are owned by the States in the name of the States. These are delegated to Deputy L.B.E. Ash of Clement, Assistant Minister.</p> <p>(b) Deputy L.B.E. Ash of Clement, Assistant Minister, to agree lending, without limit, to Andium Homes Limited and Housing Trusts and Associations, from the Housing Development Fund or any other source. This power was vested in the Minister by <a href="#">P.129/2014</a>. This delegation extends to approval of external borrowing by Andium.</p> <p>Authority is delegated without limit.</p>

### 1.7 Insurance Fund

<b>Legislation:</b>	Article 60 – allows the continuation of the Insurance Fund.
<b>Delegate:</b>	Treasurer of the States or, in their absence, another officer nominated by the Treasurer (other than the PAO) to permit persons or bodies that appear to be connected with the States to participate in the States’ mutual insurance arrangement on such terms and conditions as agreed.

<b>Functions delegated and scope of delegation:</b>	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.
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### **1.8 Public Finances (Jersey) Law 2019 – General**

<b>Legislation:</b>	Powers under the Public Finances (Jersey) Law 2019 and any other legislation in which the Minister is required to give approvals.
<b>Delegate:</b>	The Minister delegated, in the event of her absence or incapacity, all of the functions conferred on or vested in the Minister by the Public Finances (Jersey) Law 2019 and any other legislation in which the Minister is required to give approvals, to either Assistant Minister for Treasury and Resources.
<b>Functions delegated and scope of delegation:</b>	Functions conferred on or vested in the Minister by or under the Public Finances (Jersey) Law 2019 and any other legislation in which the Minister is required to give approvals.

### **1.9 Allocations from the General Reserve head of expenditure**

<b>Legislation:</b>	Article 15(3) of the Public Finances (Jersey) Law 2019 – “The approval by the States of a government plan authorises the Minister to direct how an approved appropriation for a reserve head of expenditure in the plan may be spent (including on another head of expenditure) in the first financial year covered by the plan.”
<b>Delegate:</b>	The Minister delegated, in the event of either – (a) a state of emergency being declared under the <a href="#">Emergency Powers and Planning (Jersey) Law 1990</a> ; or (b) the Minister being satisfied that there exists an immediate threat to the health or safety of any of the inhabitants of Jersey, to the stability of the economy in Jersey or to the environment; the authority to approve allocations from the General Reserve head of expenditure to other heads of expenditure to the Treasurer of the States.
<b>Functions delegated and scope of delegation:</b>	Functions conferred on or vested in the Minister by or under Article 15(3) of the Public Finances (Jersey) Law 2019. The delegation to the Treasurer of the States takes effect in the event of either of the occurrences detailed above, and is limited to individual allocations of up to £1 million, subject to the total of all allocations made under this delegation not to exceed £50 million in any financial year.

## 2. OTHER DELEGATIONS

### 2.1 States' charges

<b>States' decision:</b>	Anti-Inflation Strategy ( <a href="#">P.125/2000</a> ).
<b>Delegate:</b>	Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO) 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.  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.  The Minister agreed that approval for increases which are in line with statute or with a formula which has already received the States' or their approval do not require further approval.
<b>Functions delegated and scope of delegation:</b>	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

<b>Legislation:</b>	<a href="#">Decimal Currency (Jersey) Law 1971</a> : Article 3 – Coinage of new currency.
<b>Delegate:</b>	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.
<b>Functions delegated and scope of delegation:</b>	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' staffing increases

<b>States' decision:</b>	Regulation of Public Sector Employment ( <a href="#">P.67/1999</a> ).
<b>Delegate:</b>	Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO) for agreeing non-contentious increases to States' staff levels.
<b>Functions delegated and scope of delegation:</b>	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 Regulation of Undertakings legislation 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 Housing Loans

<b>States' decision:</b>	Starter Home Deposit Loan Scheme ( <a href="#">P.131/2012</a> ) and associated Scheme Rules.
<b>Delegate:</b>	Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO) 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 the property).
<b>Functions delegated and scope of delegation:</b>	<p>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>

## 2.5 Administering Jersey's international taxation agreements

<b>Administering Jersey's international taxation agreements:</b>	Administering Jersey's international taxation agreements, such as 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.
<b>Delegate:</b>	The Minister delegates authority to any officer acting as Comptroller of Revenue and to any person authorised by the Comptroller under Article 3(5) of the <a href="#">Revenue Administration (Jersey Law 2019)</a> 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.

## 2.6 Expenditure of Treasury and Exchequer Department

<b>Legislation:</b>	States of Jersey Law 2005: Article 26(1)(c).
<b>Delegate:</b>	The Minister delegates authority to the Treasurer of the States to enter into agreements up to the amounts approved by the States Assembly for the Treasury and Exchequer Department.
<b>Functions delegated:</b>	<p>The power to –</p> <p>(i) enter into agreements on behalf of the Minister, including but not limited to accepting tenders, placing and accepting orders, appointing consultants, agreeing and signing formal contracts, and other forms of engagement;</p>

	(ii) acquire, hold and dispose of movable property; and  (iii) do anything reasonably necessary or expedient for, or incidental to, any of the matters delegated above.
<b>Limit on scope of delegation:</b>	Unlimited, but subject in all instances to the specific obligations held as Accountable Officer; as well as the general responsibilities of the postholder as a senior official, including ensuring the Minister is duly informed, sufficiently in advance to provide direction, on contentious matters, with reference to the size of any contract (this should include contracts over £1 million) and/or the extent of its direct impact on Islanders. The delegation includes the ability of the Treasurer of the States to schedule to their subordinate managers approval powers within their own delegation limits.  To note, in all instances Accountable Officers retain statutory responsibilities by virtue of their role, including ensuring financial propriety and regularity, and that resources are used economically, efficiently and effectively.

## **2.7 Standing Orders of the States of Jersey**

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

## **2.8 Data Protection and Freedom of Information**

<b>Legislation:</b>	States of Jersey Law 2005: Article 26(1)(c)(iii) and (vi).
<b>Delegate:</b>	The Minister delegates all powers in relation to the management of data collected or held by Government under the <a href="#">Data Protection (Jersey) Law 2018</a> , <a href="#">Freedom of Information (Jersey) Law 2011</a> and the <a href="#">Public Records (Jersey) Law 2002</a> , in the areas for which the Minister is responsible, to the Treasurer of the States.
<b>Functions delegated:</b>	All powers in relation to the management of data collected or held by Government under the Data Protection (Jersey) Law 2018, Freedom of Information (Jersey) Law 2011 and the Public Records (Jersey) Law 2002, in the areas for which the Minister is responsible.
<b>Limit on scope of delegation:</b>	Unlimited, but subject in all instances to the general responsibilities of the postholder as a senior official, including ensuring that the Minister is kept generally informed, with specific reference to the perceived public interest and/or the extent of direct impact on Islanders. The delegation includes the ability of the Treasurer of the States to schedule to their subordinate managers tasks in relation to the management of data.