
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR CHILDREN AND HOUSING – COVID-19 (RESIDENTIAL TENANCY) (TEMPORARY AMENDMENT OF LAW) (JERSEY) REGULATIONS 2020

**Presented to the States on 24th July 2020
by the Minister for Children and Housing**

STATES GREFFE

REPORT

On 21st April 2020, the Minister for Children and Housing made a Ministerial Decision delegating certain of his functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (see Decision reference MD-H-2020-0008, 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 –

Delegation of functions

Legislation	Covid-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 2020
Minister with political responsibility for the functions	Minister for Children and Housing
Delegate	The Head of Environmental and Consumer Protection, and deputies.
Functions delegated	<p>Article 7(C) Suspension of rent increases</p> <p>Article 7(C)(1) provides that a landlord must not increase the rent due under any residential tenancy agreement or make a variation of a residential tenancy agreement subject to an increase in the rent for a period before 1st October 2020.</p>

	<p>Article 7(C)(2) provides that, where a landlord notified a tenant of a rent increase before the coming into force of the Regulations and that increase has not taken effect, the rent must not increase for any period before 1st October 2020.</p> <p>Article 7(C)(3) provides that, where a residential tenancy agreement is renewed, and the tenancy includes a clause allowing for an increase in the rent, that rent must not increase for any period before 1st October 2020.</p> <p>Article 7(C)(4) makes it an offence for a landlord to increase rent in contravention of (1), (2) or (3) and is liable to a fine of level 3 on the standard scale</p>
Scope of delegation	<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 7(C) of the Regulations.</p>

The reason for the Decision is to ensure the effective administration of matters relating to the Covid-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 2020.