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# STATES OF JERSEY



## **STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE – SHIPPING DELEGATIONS**

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**Presented to the States on 1st April 2021  
by the Minister for Economic Development, Tourism, Sport and Culture**

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**STATES GREFFE**

## REPORT

On 23 March 2021, the Minister for Economic Development, Tourism, Sport and Culture 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 Enter MD number: MD-E-2021-0013, 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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**PROPOSED DELEGATIONS AND ENTRUSTMENT**

<b>Legislation</b>	<b>Function</b>	<b>Delegate</b>
<b>Air and Sea Ports (Incorporation) (Jersey) Law 2015</b>		
Article 6(2)(a)	Management of the Minister’s functions in the Agreement as referred to therein. This delegation does not extend to giving directions under article 6(2)(b) unless separately and explicitly delegated.	Director of Partnerships
<b>Harbours (Administration) (Jersey) Law 1961</b>		
Article 2(6)(a)	Management of the Minister’s functions in the Agreement as referred to therein. This delegation does not extend to giving directions under article 2(6)(b)	Group Director – Economy

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	unless separately and explicitly delegated.	
<b>Harbours (Inshore Safety) (Jersey) Regulations 2012</b>		
Regulation 3	To designate areas and issue directions in accordance with the procedures in the Regulation. Any designation made in an area of territorial waters outside harbour limits must be limited for the duration of a specific sporting or recreational event and shall be notified to the Minister at the time it is made.  <i>n.b. This is not strictly a delegation of functions but rather an entrustment that is cited separately below. It is nevertheless included here for completeness.</i>	Harbour Authority
<b>Harbours (Jersey) Regulations 1962</b>		
Part 3 (Duties of Master and Owner)	Action to be taken under Regulation 7(2) following failure of a master to carry out directions of the Harbour Master requiring movement of a vessel.	Group Director – Economy
Part 4 (Provisions governing ships bringing petroleum spirit into a harbour) and Part 5 (Provisions governing the conveyance, loading and unloading of explosives)	To authorise an officer to discharge the functions of inspection to ascertain whether the requirements of Part 5 (Regulation 35) of the Regulations are being carried out.  Any professional fees required, or provision of facilities, to be within annual budget or agreed contingency budget.	Group Director – Economy
Part 8 (General) – Regulation 47	Functions with respect to persons answerable for any damage, and persons liable to make good any such damage, including power to detain a vessel and obtain security for the amount of damage done.  Valuation of cost to make good damage to be based on independent professional report.	Group Director – Economy
<b>Shipping (Jersey) Law 2002</b>		
Article 104 (2), (3) & (4)	To prevent or reduce oil pollution – Issue directions concerning ship movement, cargo handling, salvage, destruction or other control.  Wherever reasonably practicable, to be exercised having received	Group Director – Economy

	appropriate advice from UK SOSREP, the Jersey Harbour Master or other relevant professional persons.	
Article 108 (1) & (2)	Service of directions	Group Director – Economy
Article 108 (2)	To act on behalf of the Minister or his delegate in serving a direction.  <i>This is not strictly a delegation of function but is included here for completeness</i>	Harbour Master
Article 111 (3)	Action by Minister on being informed a non-Jersey ship has been detained by Harbour Master: Ensuring notification of UK Secretary of State or relevant diplomatic representative.	Group Director – Economy
Article 153 (2)	Concerning Harbour Authority taking possession, removing or destroying a wreck: (a) Consultation by Harbour Authority with Minister and (b) having regard to views of the Minister.  Consultation is to be with the delegate. Wherever reasonably possible, however, the delegate should express a view having received appropriate advice from UK SOSREP, Jersey Harbour Master or other relevant professional persons.	Group Director – Economy
Article 154	Appointment of inspectors and surveyors.  The individuals and organisations so appointed are to be subject to external audit of standards by the Registrar, the Chief Marine Surveyor or the UK MCA acting on the Island's behalf.	Group Director – Economy
Article 186(1) and (2)	To take and co-ordinate measures to prevent, reduce, and minimise the effects of marine pollution; to prepare, review and implement a plan setting out arrangements for responding to incidents that cause or may cause marine pollution with a view to preventing such pollution or reducing or minimising its effects.  For the avoidance of doubt, this delegation does not extend to Article 186(3) and (4).	Group Director – Economy

<b>Shipping (Distress Signals and Prevention of Collisions) (Jersey) Order 2004</b>		
Article 1(2)(e) & text of associated UK Regulation 5	Grant exemptions to the collision regulations as far as they relate to lights, shapes and sound signals	Group Director – Economy
<b>Shipping (Fishing Vessels Safety Provisions) (Jersey) Order 2004</b>		
Articles 129 and 133	On receipt of a suitable survey report, issue or cancel fishing vessel certificates.  This to be based on a report submitted by or on behalf of the Harbour Master.	Group Director – Economy
<b>Shipping (Fishing Vessels – Safety Training) (Jersey) Order 2004</b>		
	To grant exemptions from the requirement for safety training under Article 4.  Exemption may apply to fishermen operating vessels under 6 metres in length and where they have attended the approved alternative training.  Temporary exemptions for fishermen new to the industry and being crew under supervision of a trained skipper operating any size vessel, who have not attended any approved training, must be limited to a maximum of 3 months and dependent on there being onboard safety and emergency briefings. Such exemptions to be based on a report issued on behalf of the Harbour Master.  Temporary exemptions will be allowed for existing fishermen operating any size vessel where a certificate is due to expire within the next 3 months providing they undertake the appropriate renewal course not later than 3 months after the expiry of the current certificate. Certificates for training undertaken before the expiry date of the current certificate may be post-dated up to a maximum of 3 months from completion of the appropriate course.	Group Director – Economy
<b>Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013</b>		
Regulation 3(3)	To grant, on such terms as may be specified, exemption for a class of ships or for an individual ship from a	Group Director – Economy

	<p>specified requirement of the Jersey Code.</p> <p>The delegate shall only accept such equivalents on having taken advice from surveyors or inspectors appropriately appointed under the Shipping Law and to advise on the Jersey Code as that code is referred to in Regulation 1(2) of the Regulations.</p>	
Regulation 3(4)	To accept equivalent equipment, machinery, or provisions. The delegate shall only accept such equivalents on having taken advice from surveyors or inspectors appropriately appointed under the Shipping Law and to advise on the Jersey Code as that code is referred to in Regulation 1(2) of the Regulations.	Group Director – Economy
Regulation 4(2)	To accept certificates of compliance issued otherwise than in accordance with paragraph (1) of Regulation 4. The delegate shall only accept such alternative certificates on having taken advice from surveyors or inspectors appropriately appointed under the Shipping Law, and to advise on the Jersey Code as that code is referred to in Regulation 1(2) of the Regulations.	Group Director – Economy
<b>Shipping (Survey and Certification) (Jersey) Order 2013</b>		
Articles 1(2)(a) and 2(3) (n.b. with reference to U.K. Survey and Certification regulations)	To grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) on such terms (if any) as the delegate may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.	Group Director – Economy
Article 1(2)(a) (n.b. with reference to U.K. Survey and Certification regulations)	To issue a Passenger Certificate in accordance with the associated U.K. Regulation 11(a).	Group Director – Economy
Article 1(2)(a) (n.b. with reference to U.K. Survey and Certification regulations)	To cancel a certificate issued to a Jersey ship in accordance with the associated U.K. Regulation 19(1) and to require the surrender of such a certificate in accordance with the associated U.K. Regulation 19(2).	Group Director – Economy
Article 4(10) with reference to U.K. Domestic Voyage regulations	To exempt subject to such conditions as may be specified, classes of ships or individual ships from specified provisions of these Regulations, and may alter or cancel any such	Group Director – Economy

	exemption. This to be based on a report issued on behalf of the Harbour Master.	
<b>Shipping (Tonnage) (Jersey) Regulations 2004</b>		
	To appoint appropriately qualified, authorized measurers and surveyors, as defined in Regulation 1.  For the avoidance of doubt, the Registrar shall only appoint measurers and surveyors for the purpose of their function under the Tonnage Regulations. This limitation does not, however, preclude the appointment of a suitable person already appointed in accordance with Article 154 of the Shipping (Jersey) Law 2002.	Group Director – Economy
<b>Shipping (Training, Certification and Manning) (Jersey) Order 2004</b>		
Article 5	To exempt any ship or description of ship from any requirement of the U.K. Training and Certification Regulations or the U.K. Manning Regulations as applied in Jersey.  The Officer shall only do so where he/she is satisfied that there are equivalent arrangements in place appropriate to the ship type and area of operations.	Group Director – Economy

**Entrustment - Harbours (Inshore Safety) (Jersey) Regulations 2012**

The Minister continues to entrust the Harbour Authority with responsibility for designating inshore sea areas for the purpose of sport and recreational activities, as previously recorded in report R. 136/2015.

For the avoidance of doubt, neither entrustment nor delegation removes the right of the Minister to make a decision or issue a direction.