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# STATES OF JERSEY



## STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – HEALTH AND SOCIAL SERVICES – REVISED DELEGATIONS OCTOBER 2014

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Presented to the States on 3rd October 2014  
by the Minister for Health and Social Services

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STATES GREFFE

## REPORT

On 1st October 2014, the Minister for Health and Social Services made a Ministerial Decision delegating certain of her functions under Article 28 of the States of Jersey Law 2005 (MD-HSS-2014-0044, 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.
- (2) A Minister shall not delegate –
  - (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 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).”

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 –

**PUBLIC HEALTH DIRECTORATE**

<b>Legislation:</b>	Medical Practitioners (Registration) (Jersey) Law 1960
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	Article 3 – the keeping and amending of a register of medical practitioners.
<b>Scope of delegation:</b>	<ol style="list-style-type: none"> <li>(1) To keep a register of persons registered as medical practitioners.</li> <li>(2) To enter in the register the prescribed information in respect of the person.</li> <li>(3) To remove from the register the name of a person – <ol style="list-style-type: none"> <li>(a) who has died;</li> <li>(b) who has requested the cancellation of his or her registration under Article 8; or</li> <li>(c) whose registration has been cancelled under Article 9 of the Law.</li> </ol> </li> </ol>

<b>Legislation:</b>	Medical Practitioners (Registration) (Jersey) Law 1960
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	Article 4 – to make a list of registered medical practitioners available to the public.
<b>Scope of delegation:</b>	<ol style="list-style-type: none"> <li>(a) to ensure that a list of the names of registered medical practitioners, showing such information regarding their qualification for registration as may be prescribed, is published or made available for viewing at all reasonable times by members of the public;</li> <li>(b) to determine where and how this list is published.</li> </ol>

<b>Legislation:</b>	Medical Practitioners (Registration) (Jersey) Law 1960
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 5 – to receive and accept an application for registration as a medical practitioner.</p> <p>Article 5A – determine whether an applicant meets the requirement for registration under Article 5A(1).</p> <p>Article 5B – determine whether it is necessary to apply conditions to an applicant’s registration in accordance with Article 5B(1).</p> <p>Article 5C – to issue a certificate following registration of a</p>

	<p>medical practitioner.          Article 5D – to receive and accept a return containing information prescribed from registered medical practitioners.</p>
<b>Scope of delegation:</b>	<p>(a) To receive and accept an application for registration under this Law as a medical practitioner.</p> <p>(b) To register the applicant as a medical practitioner if satisfied that –</p> <p>(i) the applicant fulfils the prescribed requirements for registration; and</p> <p>(ii) the application is not made within a period specified in a direction under Article 9(3) of the Law that is in force in relation to the applicant.</p> <p>(c) Before refusing to register an applicant as a medical practitioner by reason of the application not complying with the requirements of Article 5(2) of the Law, to give the applicant an opportunity to make his or her application compliant with the requirements of that provision</p> <p>(d) Upon refusing an application for registration –</p> <p>(i) to serve notice on the applicant of his or her decision to refuse the application and the reasons for it; and</p> <p>(ii) to refund the registration fee paid by the applicant.</p> <p>(e) If deemed necessary to do so –</p> <p>(i) to protect members of the public;</p> <p>(ii) because it is otherwise in the public interest; or</p> <p>(iii) in the interests of the person,</p> <p>to impose a condition on the registration of a person as a medical practitioner either at the time of, or after registration and to decide the length of time the condition will remain in force in accordance with Articles 5B(3) and (4).</p> <p>(f) To extend the period that any condition remains in force in accordance with Articles 5B(5) and (6).</p> <p>(g) To impose any prescribed mandatory conditions on the registration of a medical practitioner.</p> <p>(h) To issue certificates of registration to medical practitioners in accordance with Article 5C.</p> <p>The delegation does not extend to determining the fee under Article 5(3).</p>

<b>Legislation:</b>	Medical Practitioners (Registration) (Jersey) Law 1960
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 8 – to cancel the registration of a medical practitioner at any time at the request of the practitioner.</p> <p>Article 9(2)(a) – to determine whether an offence for which a medical practitioner is convicted makes the person unfit to</p>

	<p>be a medical practitioner under.</p> <p>Article 9(2)(d) – to determine whether an individual has engaged in conduct of a kind that makes the person unfit to be a medical practitioner under.</p> <p>To cancel a registration on the grounds set out in Articles 9(1), 9(2) following the process set out under Articles 9(4) and 9(5); including determining the reason for the decision to cancel a person’s registration.</p> <p>To direct the period of time for which the registration is cancelled in accordance with Article 9(3).</p> <p>To restore a person’s registration in the case where an appeal is lodged under Article 10B of the Law.</p> <p>To determine under Article 9(8) whether the grounds on which a registration was cancelled are so serious that the cancellation should continue.</p>
<p><b>Scope of delegation:</b></p>	<p>(a) To cancel the registration at any time, on the receipt of a written request from the medical practitioner.</p> <p>(b) To cancel the registration of a medical practitioner if she/he –</p> <ul style="list-style-type: none"> <li>(i) ceases to fulfil the requirements prescribed under Article 5A(1)(a) of the Law;</li> <li>(ii) has obtained registration by fraudulent means; or</li> <li>(iii) has not provided a return within 60 days, following a request by notice in writing, as required under Article 5D of the Law;</li> <li>(iv) is convicted of an offence that makes him or her unfit to be a medical practitioner;</li> <li>(v) has failed to comply with a condition imposed under Article 5B(1) of (7) on his or her registration;</li> <li>(vi) is found to have engaged in behaviour that constituted a contravention of or a failure to comply with, any term or condition of any authority to practise as a medical practitioner by virtue of which authority he/she fulfils the requirements for registration prescribed under Article 5A(1)(a).</li> </ul> <p>(c) Before cancelling a person’s registration to give the person an opportunity to make representation and to receive such representation.</p> <p>(d) To serve notice on a person whose registration is cancelled that sets out –</p> <ul style="list-style-type: none"> <li>(i) the decision to cancel the registration;</li> <li>(ii) the reasons for the decision;</li> <li>(iii) the period during which the person shall not be registered.</li> </ul>

<b>Legislation:</b>	Medical Practitioners (Registration) (Jersey) Law 1960
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 10(1) – to suspend and remove the suspension of a medical practitioner’s registration.</p> <p>Article 10(2) – to determine whether there may be grounds for cancellation of a person’s registration as a medical practitioner and in such circumstances suspend their registration.</p> <p>Article 10(3) – to extend a suspension.</p> <p>Article 10(4) to serve a notice on a person whose registration is suspended or whose suspension is extended.</p>
<b>Scope of delegation:</b>	<p>(a) to suspend a medical practitioner’s registration on becoming aware that the authority to practise by virtue of which the person fulfils the requirement for registration prescribed under Article 5A (1) (a) of the Law has been suspended; and</p> <p>(b) end a person’s suspension upon becoming aware that the person’s authority to practise, is no longer suspended;</p> <p>(c) where there may be grounds for cancellation of a person’s registration suspend a person’s registration as a medical practitioner while enquiries are conducted for a period not exceeding 3 months;</p> <p>(d) extend a suspension on one or more occasions for, on each occasion, a period not exceeding 3 months;</p> <p>(e) serve notice on a person whose registration is suspended or the suspension extended of –</p> <p>(i) the decision to suspend or extend the suspension of the person’s registration;</p> <p>(ii) the reason for the decision to suspend the registration;</p> <p>(iii) the period for which the suspension has effect.</p>

<b>Legislation:</b>	Medical Practitioners (Registration) (Jersey) Law 1960
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 10A(1) – to receive and accept an application to amend a direction given under Article 9(3) of the Law.</p> <p>Article 10A(2) – to determine whether or not to amend a direction given under Article 9(3) of the Law in relation to a person making an application.</p> <p>Article 10A(3) – to inform the person of the decision in relation to an application to amend a direction by serving a notice that includes the reasons for the decision.</p>

<b>Scope of delegation:</b>	<p>(a) to receive and accept, from a person whose registration is cancelled on the grounds set out in Article 9(1)(b) or 9(2), an application to amend a direction specifying the period before the person can re-apply for registration under Article 5A;</p> <p>(b) after receiving an application, to determine whether or not to amend the period before the person can re-apply for registration as a medical practitioner;</p> <p>(c) to inform the applicant in writing about the decision and the reasons for the decision.</p>
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<b>Legislation:</b>	Medical Practitioners (Registration) (General Provisions) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	Article 4(1)(a), Article 4(2) – to supply an application form and determine what documents may be required from a person applying for registration as a medical practitioner to verify the information specified in the application.
<b>Scope of delegation:</b>	The delegation does not extend to determining the fee that should accompany the application.

<b>Legislation:</b>	Medical Practitioners (Registration) (General Provisions) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 6(3) – to receive and accept written information from a medical practitioner of any changes in circumstances under this Article.</p> <p>Article 6(4) – to receive and accept written information from a medical practitioner of any changes in the information provided by the person at the time of applying for registration.</p> <p>Article 6(5) – to receive and accept evidence of any name change.</p>

<b>Legislation:</b>	Medical Practitioners (Registration) (General Provisions) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	Article 7(1) – to require a registered medical practitioner to verify or provide information of any changes in the specified

	<p>information held by the registrar in respect of the person.</p> <p>Article 7(2) – to send a registered medical practitioner a statement of all or any of the specified information held by the registrar.</p> <p>Article 7(3)(c) – to determine the date by which the information should be returned and accept the returned statement.</p>
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<b>Legislation:</b>	Medical Practitioners (Registration) (General Provisions) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	Article 8(1) – to pass on any information that raises or may raise an issue about a medical practitioner’s fitness to practise to the person’s responsible officer.

<b>Legislation:</b>	Medical Practitioners (Registration) (Responsible Officers) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 4(2) – to appoint a responsible officer for each class of medical practitioners.</p> <p>Article 4(2) – to determine if there is a conflict of interest or an appearance of bias between a responsible officer and a medical practitioner and in such cases where there is a conflict of interest or appearance of bias, to appoint a second responsible officer.</p> <p>Article 4(3) – to ensure that under Article 4(2), there is no conflict of interest or appearance of bias between the second responsible officer and the medical practitioner.</p>

<b>Legislation:</b>	Medical Practitioners (Registration) (Responsible Officers) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>SCHEDULE 1</p> <p>Paragraph 2(c)(ii) – to receive and accept referrals relating to concerns about a medical practitioner from the responsible officer for the Responsible Officers class for the purpose of discharging functions under the Law.</p> <p>SCHEDULE 2</p> <p>Paragraph 2(c)(ii) – to receive and accept referrals relating to</p>



	<p>concerns about a medical practitioner from the responsible officer for the States Employees class for the purpose of discharging functions under the Law.</p> <p><b>SCHEDULE 3</b> Paragraph 2(c)(ii) – to receive and accept referrals relating to concerns about a medical practitioner from the responsible officer for Performers class for the purpose of discharging functions under the Law.</p> <p><b>SCHEDULE 4</b> Paragraph 2(c)(ii) – to receive and accept referrals relating to concerns about a medical practitioner from the responsible officer for the Independent Practitioners class for the purpose of discharging functions under the Law.</p> <p><b>SCHEDULE 5</b> Paragraph 2(2)(d) – to receive and accept referrals relating to concerns about a medical practitioner from the responsible officer for the UK Connected Practitioners class for the purpose of discharging functions under the Law.</p>
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<b>Legislation:</b>	Medical Practitioners (Registration) (Responsible Officers) (Jersey) Order 2014
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p><b>SCHEDULE 6</b> Paragraph 1 – to authorize in writing a person to be an ‘inspector’.</p> <p>Paragraph 3 – to receive and accept from a responsible officer information, copies and photographs related to a concern that raises or may raise issues about a medical practitioner’s fitness to practise for the purpose of discharging functions under the Law.</p>

<b>Legislation:</b>	Piercing and Tattooing (Jersey) Law 2002
<b>Delegate:</b>	Medical Officer of Health or, in his/her absence, his/her nominated deputy.
<b>Function delegated:</b>	<p>Article 2(1) – the registration of persons and premises in connection with the administration of any treatment in accordance with the law.</p> <p>Article 2(2) – the prior approval to occasionally administer treatment elsewhere than from the registered premises.</p> <p>Article 3(a), (b), (c) – to prescribe the form of application, categories of treatment in respect of which an application is made and the particulars which the application contains.</p>

	<p>Article 4 – to determine whether or not a person and premises fulfils the requirements under the law. To impose conditions on the registration of persons or premises and to maintain the register of persons and premises under the law. To receive notification of any changes of particulars for persons or premises registered.</p> <p>Article 7(1) – to appoint in writing any suitably qualified person to be a designated officer for the purposes of the Law.</p> <p>Article 11 – the proposal to grant registration subject to conditions, to notify the person concerned of the intention to do so and the reasons therefore.</p>
<b>Scope of delegation:</b>	<p>The delegation of functions does not extend to the following matters that are reserved for the Minister –</p> <p>Article 3(d) – the decision to set a fee for registration and the scale of the fee.</p> <p>Article 4(2) – the decision to refuse to register or renew the registration of a person or premises.</p> <p>Article 10 – the revocation of a registration for a person and where that person is the only registered person at that premises, to revoke also the registration in respect of those premises.</p> <p>Article 11 – where there is a proposal to refuse registration under Article 4 or revoke registration under Article 10, to notify the person concerned of the intention to do so and the reasons therefore.</p>