
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR HOME AFFAIRS – REVISED DELEGATIONS SEPTEMBER 2019

**Presented to the States on 20th September 2019
by the Minister for Home Affairs**

STATES GREFFE

REPORT

On 16th September 2019, the Minister for Home Affairs 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-HA-2019-0093, 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 –

[R.88/2018](#), presented to the States on 10th July 2018, confirmed that the Minister for Home Affairs had approved the delegation of all the functions conferred upon or vested in him to the Assistant Minister for Home Affairs, Deputy G.C.U. Guida of St. Lawrence.

This was to meet the objective of the Assistant Minister having concurrent responsibility for all the functions conferred upon or vested in the Minister, including the power to make enactments.

In accordance with Article 28(1A) of the [States of Jersey Law 2005](#) (the “2005 Law”), the Minister did not delegate any function the delegation of which is wholly prohibited by an enactment.

Whilst [R.88/2018](#) covered delegations to the Assistant Minister in accordance with Article 28(1)(a) of the 2005 Law, Article 28(1)(b) of the 2005 Law also permits a Minister to delegate, wholly or partly, functions to an officer.

Delegations to officers were last made by the previous Minister for Home Affairs through the presentation to the States of [R.183/2014](#). Various subsequent legislative changes make it necessary for the current Minister to update these delegations.

Accordingly, the following delegations are made to officers by the Minister. The delegations accord with Article 28(2) of the 2005 Law.

Fire and Rescue Service

Legislation:	Explosives (Jersey) Law 1970
Delegate:	Director General, Justice and Home Affairs
Functions delegated:	Issuing of licences under this legislation.
Scope of delegation:	Director General will ensure that the Minister and Assistant Minister are notified of approved licences.

Legislation:	Explosives (Jersey) Law 1970
Delegate:	Chief Fire Officer or, in his absence, the Area Commander (Operations) or Group Commander (Fire Safety)
Functions delegated:	Issuing of Pyrotechnics (fireworks) import licences under this legislation.
Scope of delegation:	Minister and Assistant Minister to be notified of licences issued.

Legislation:	Fire Precautions (Jersey) Law 1977
Delegate:	Chief Fire Officer or, in his absence, the Area Commander (Operations) or Group Commander (Fire Safety)
Functions delegated:	Issuing of fire certificates under the Law.
Scope of delegation:	Minister and Assistant Minister to be notified of certificates issued.

Legislation:	Fire Precautions (Jersey) Law 1977
Delegate:	Chief Fire Officer or, in his absence, the Area Commander (Operations) or Group Commander (Fire Safety)
Functions delegated:	Power to prohibit or restrict the use of premises in cases of excessive risk, under Article 9 of the Law.
Scope of delegation:	Minister and Assistant Minister to be notified of any prohibition or restriction.

Legislation:	Fire Precautions (Jersey) Law 1977
Delegate:	Chief Fire Officer or, in his absence, the Area Commander (Operations) or Group Commander (Fire Safety)
Functions delegated:	Serving of notices on responsible persons in accordance with Article 8(6).
Scope of delegation:	Minister and Assistant Minister to be notified of any instances of notices being served.

Legislation:	Petroleum (Jersey) Law 1984
Delegate:	Chief Fire Officer or, in his absence, the Area Commander (Operations) or Group Commander (Fire Safety)
Functions delegated:	Issuing of Petroleum licences under this legislation.
Scope of delegation:	Minister and Assistant Minister to be notified of licences issued.

Legislation:	Fire and Rescue Service (Jersey) Law 2011
Delegate:	Chief Fire Officer or, in his absence, the Area Commander (Operations) or Group Commander (Fire Safety)
Functions delegated:	Power to enter into a reinforcement scheme with another fire authority, under Article 14 of the Law, whereby there will, on request, be placed at the Minister's disposal members of that authority's fire brigade, for the purpose of enabling the Fire Service to meet any special demands on its resources.
Scope of delegation:	Notification of agreement to be submitted to the Minister for Home Affairs as soon as possible.

Customs and Immigration

Legislation:	Immigration (Work Permits) (Jersey) Rules 1995
Delegate:	Agent of the Impôts/ Director, Immigration and Nationality/ Assistant Director, Immigration and Nationality
Functions delegated:	Consideration of applications for work permits under the Immigration (Work Permits) (Jersey) Rules 1995, and their approval or rejection.
Scope of delegation:	Issue of work permits to persons who do not have the right of abode in the Bailiwick.

Legislation:	Customs and Excise (Import and Export Control) (Jersey) Order 2006
Delegate:	Agent of the Impôts
Functions delegated:	Power to grant a licence to import and/or export goods under Article 4 of the Customs and Excise (Import and Export Control) (Jersey) Order 2006.
Scope of delegation:	This controls imports and/or exports by setting a licensing regime for restricted goods.

Legislation:	Immigration (Jersey) Order 1993
Delegate:	Agent of the Impôts/ Director, Immigration and Nationality/ Assistant Director, Immigration and Nationality
Functions delegated:	The consideration of applications for leave to remain, and the variation of any leave regarding duration, in relation to the Immigration Act 1971, as extended to Jersey by the Immigration (Jersey) Order 1993, as amended by the Immigration (Jersey) (Amendment) Order 2017 .
Scope of delegation:	Granting of leave to remain, and the variation of any leave to remain regarding duration, or the rejection of applications.

Superintendent Registrar

Legislation:	Marriage and Civil Status (Jersey) Law 2001
Delegate:	Director General, Customer and Local Services, in the case of – <ul style="list-style-type: none"> • Parish registers • Adoption registers • Stillbirth registers • Gender recognition registers Superintendent Registrar in the case of registers kept by the Parish Registrars
Functions delegated:	Inspection of registers kept by the registrars every 5 years in accordance with Article 75 of the Law.

States of Jersey Police

Legislation:	States of Jersey Police Force (General Provisions) (Jersey) Order 2016
Delegate:	Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer
Functions delegated:	The power under Article 5 of the Order to extend, reduce or dispense with the 2 year period of probation for a Police Officer.

Legislation:	States of Jersey Police Force (General Provisions) (Jersey) Order 2016
Delegate:	Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer
Functions delegated:	Responsibilities under Article 1 of the Order regarding appointments, and for the making of promotions under Article 6 of the Order, up to and including the rank of Superintendent.
Scope of delegation:	Notification of appointments and promotions to be submitted to the Minister and Assistant Minister for Home Affairs as soon as practicable.

Legislation:	Firearms (Jersey) Law 2000
Delegate:	Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer
Functions delegated:	Responsibility for signing permits for possession of a firearm or ammunition for sporting purposes under Article 14(8) of the Law.
Scope of delegation:	Notification to be provided to the Minister at the earliest opportunity. The Minister shall retain responsibility for providing notice to the Connétable of the parish in which the person in receipt of the permit resides.

Legislation:	States of Jersey Police Force (General Provisions) (Jersey) Order 2016
Delegate:	Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer
Functions delegated:	The power under Article 5(4) of the Order to dispense with the services of a Police Officer during his or her period of probation where he or she is not fitted, physically or mentally, to perform the duties of his or her office, or he or she is not likely to become an efficient and effective member of the Force.
Scope of delegation:	Notification to be submitted to the Minister and Assistant Minister for Home Affairs as soon as practicable.

Prison

Legislation:	Prison (Jersey) Rules 2007
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The power under Rule 63 to grant a prisoner remission of a portion of their term of imprisonment, not exceeding one third of the whole, on the grounds of their industry and good conduct.
Scope of delegation:	The remission of a portion of the term of imprisonment shall not reduce the term to less than 5 days.

Legislation:	Prison (Jersey) Rules 2007
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The power under Rule 64 to grant a prisoner temporary release from La Moye Prison to enable them to engage in employment or receive training, and to recall them to prison.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Prison (Jersey) Rules 2007
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The power under Rule 64 to grant a prisoner temporary release, within and outside of Jersey, for compassionate reasons, and to recall them to prison.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Repatriation of Prisoners (Jersey) Law 2012
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The issuing of a warrant, under Article 2 of the Repatriation of Prisoners (Jersey) Law 2012, providing for the transfer of a prisoner into or out of Jersey.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Repatriation of Prisoners (Jersey) Law 2012
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The execution of a warrant under Article 11 of the Repatriation of Prisoners (Jersey) Law 2012, and for taking a prisoner to or from any place or for keeping the prisoner in custody under the warrant.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Repatriation of Prisoners (Jersey) Law 2012
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The revocation of a warrant, under Article 12 of the Repatriation of Prisoners (Jersey) Law 2012.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Criminal Justice (Young Offenders) (Jersey) Law 2014
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Functions delegated:	The determination of supervision requirements, on release from custody, of young offenders in accordance with Article 9 of the Law.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.