
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – HOME AFFAIRS – REVISED DELEGATIONS DECEMBER 2014

Presented to the States on 19th December 2014
by the Minister for Home Affairs

STATES GREFFE

REPORT

On 18th December 2014, the Minister for Home Affairs made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-HA-2014-0070, 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.
- (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 –

The former Defence and Home Affairs Committees and previous Ministers for Home Affairs have previously delegated certain functions.

The following delegations to the various Heads of Service within the Home Affairs Department are therefore made by the Minister.

Home Affairs

Legislation:	Explosives (Jersey) Law 1970
Delegate:	Chief Officer, Home Affairs Department
Function delegated:	Issuing of licences under this piece of legislation.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Firearms (Jersey) Law 2000
Delegate:	Chief Officer, Home Affairs Department
Function delegated:	Responsibility for signing certificates of registration as firearms dealers.
Scope of delegation:	The issue of certificates under a Ministerial Decision to authorise the Firearms dealer applicants.

Finance

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Accounting Officers
Function delegated:	Compliance with all Finance Directions issued under Article 34 of the Public Finances (Jersey) Law 2005 where they relate to the finances or operations of the Home Affairs Department and States of Jersey Police.
Scope of delegation:	To enable compliance with all Finance Directions, and to ensure specific requirements contained within each of the Financial Directions are delegated to the Chief Officers and or Finance Director.

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Accounting Officers Finance Director
Function delegated:	Approving the Department's authorised signature schedule and approved expenditure limits, conditional upon them being within pre-authorised limits.
Scope of delegation:	To reduce the administrative burden on the Minister.

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Accounting Officers Service Heads
Function delegated:	Acceptance of tenders not exceeding £250,000.
Scope of delegation:	To reduce the administrative burden on the Minister. As part of the departmental quarterly reporting mechanism, the Minister will receive a report showing the details of any tenders accepted up to the value of £250,000.

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Accounting Officers Service Heads
Function delegated:	Responsibility for signing formal contracts, forms of engagement, and appointment of consultants up to their allocated financial authorisations.
Scope of delegation:	To reduce the administrative burden on the Minister. As part of the Departmental quarterly reporting mechanism, the Minister will receive a report showing the number of contracts, their form and contract value.

Legislation:	Public Finances (Jersey) Law 2005
Delegate:	Accounting Officers Finance Director
Function delegated:	Authorisation of non-contentious budget transfers up to the value of £250,000.
Scope of delegation:	To reduce the administrative burden on the Minister.

Customs and Immigration Department

Legislation:	Immigration (Work Permit) (Jersey) Rules 1995
Delegate:	The Head of the Customs and Immigration Service or, deputising for him, the Director, Legal Status and Revenue, or the Assistant Director, Immigration Casework and Nationality
Function delegated:	The consideration of applications for work permits under the Immigration (Work Permits) (Jersey) Rules 1995, and their approval or rejection.
Scope of delegation:	The 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 (Head of the Customs and Immigration Service)
Function delegated:	The 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.

States of Jersey Fire and Rescue Service

Legislation:	Fire Precautions (Jersey) Law 1977
Delegate:	The Chief Fire Officer or, in his absence, the Deputy Chief Fire Officer in temporary command of the Service, or the Senior Fire Safety Officer
Function delegated:	The issuing of fire certificates under the Fire Precautions (Jersey) Law 1977.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Fire Precautions (Jersey) Law 1977
Delegate:	Chief Fire Officer or, in his absence, Deputy Chief Fire Officer in temporary command of the Service
Function delegated:	Power to prohibit or restrict the use of premises in cases of excessive risk, under Article 9 of the Law.
Scope of delegation:	Notification of any prohibition or restriction to be notified to the Minister for Home Affairs as soon as possible.

Legislation:	Petroleum (Jersey) Law 1984
Delegate:	The Chief Fire Officer or, in his absence, the Deputy Chief Fire Officer in temporary command of the Service, or the Senior Fire Safety Officer.
Function delegated:	Issuing of Petroleum licences under this piece of legislation.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Explosives (Jersey) Law 1970
Delegate:	The Chief Fire Officer or, in his absence, the Deputy Chief Fire Officer in temporary command of the Service, or the Senior Fire Safety Officer
Function delegated:	Issuing of Pyrotechnics (fireworks) import licences under this piece of legislation.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Fire and Rescue Service (Jersey) Law 2011
Delegate:	The Chief Fire Officer or, in his absence, the Deputy Chief Fire Officer in temporary command of the Service
Function delegated:	The 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 services.

Scope of delegation:	Notification of agreement to be submitted to Minister for Home Affairs as soon as possible.
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Office of the Superintendent Registrar

Legislation:	Marriage and Civil Status (Jersey) Law 2001
Delegate:	Chief Officer, Home Affairs Department, in the case of registers kept by the Superintendent Registrar; and the Superintendent Registrar in the case of registers kept by the parish registrars
Function delegated:	Inspection of registers kept by the registrars every 5 years in accordance with Article 75 of the Law.

States of Jersey Police

Legislation:	Police Force (General Provisions) (Jersey) Order 1974
Delegate:	The Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer
Function delegated:	The power under Article 4 of the Order to extend, reduce or dispense with the 2 year period of probation for police constables.

Legislation:	Police Force (General Provisions) (Jersey) Order 1974
Delegate:	The Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer
Function delegated:	The appointment of candidates to the States of Jersey Police Force under Article 2 of the Order; and the making of promotions both temporary and permanent, up to and including the rank of Chief Inspector under Article 5(1) of the Order.
Scope of delegation:	Notification of appointments and promotions to be submitted to the Minister for Home Affairs as soon as practicable.

Legislation:	Police Force (General Provisions) (Jersey) Order 1974
Delegate:	The Chief Officer, States of Jersey Police or, in his absence, the Deputy Chief Officer

Function delegated:	The power under Article 4(2) of the Order to dispense with the services of a police constable 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 well-conducted police constable.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs as soon as practicable.

Legislation:	Firearms (Jersey) Law 2000
Delegate:	Chief Officer, States of Jersey Police
Function delegated:	Responsibility for signing permits for possession of a firearm or ammunition for sporting purposes under Article 14(8) of the Law.

Prison Service

Legislation:	Prison (Jersey) Rules 2007
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Function 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
Function 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, or in other circumstances as approved by the Minister for Home Affairs; 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
Function delegated:	The power under Rule 64 to grant a prisoner temporary release for compassionate reasons away from Jersey.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Criminal Justice (Young Offenders) (Jersey) Law 1994
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Function delegated:	The determination of supervision requirements, on release from custody, of young offenders in accordance with Article 10 of the Law.
Scope of delegation:	Notification to be submitted to the Minister for Home Affairs at the earliest opportunity.

Legislation:	Prison Staff Handbook
Delegate:	Chief Officer, Home Affairs Department
Function delegated:	Responsibility for hearing disciplinary appeals for Prison Officers and support staff.

Legislation:	Repatriation of Prisoners (Jersey) Law 2012
Delegate:	Prison Governor or, in his absence, the Deputy Prison Governor
Function 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
Function 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
Function 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.