
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – PLANNING AND ENVIRONMENT – AGRICULTURAL LAND (CONTROL OF SALES AND LEASES)

**Presented to the States on 1st October 2015
by the Minister for Planning and Environment**

STATES GREFFE

REPORT

On 29th September 2015, the Minister for Planning and Environment made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-PE-2015-0055, 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 –

Policy

Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974

The Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974 (“**the 1974 Law**”) was introduced to control the occupation and use of agricultural land and to ensure that a stable, viable agricultural land bank is retained for the farming industry. This particular issue was highlighted by Scrutiny and the farming industry during the preparation of the Rural Economy Strategy 2011 – 2015. However, various conditions can be imposed which permit use of agricultural land by non-*bona fide* agriculturalists or smallholders under the 1974 Law with the Minister’s consent, depending on the circumstances.

It is the policy of the land controls and agricultural developments section to assess each application for sale, gift or transfer of land and to impose suitable conditions under the 1974 Law at the time.

The 1974 Law will be enforced through the Land Controls and Development Section, through routine monitoring of land use, with appropriate action being taken where the Law is not being complied with.

Background

Due to increased pressure on the agricultural land bank and to support and assist in the enforcement of the 1974 Law, the Minister is delegating powers to the Waste and Water Management and Regulation Officer under Article 2 of the 1974 Law, in connection with the issuing of consents and permissions on agricultural land at the point of sale or leases using longstanding terms of reference. Decisions not within the terms of reference are referred to the Minister.

Legislation:	Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974
Delegate:	Waste and Water Management and Regulation Officer
Functions delegated:	Article 2 – The issuing of consents and permissions on agricultural land at the point of sale or leases using longstanding terms of reference.
Scope of delegation:	Decisions not within the terms of reference are referred to the Minister.