

---

# STATES OF JERSEY



## **STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR CHILDREN AND HOUSING – HOUSING-RELATED LEGISLATION – OCTOBER 2018**

---

**Presented to the States on 4th October 2018  
by the Minister for Children and Housing**

---

**STATES GREFFE**

## REPORT

On 2nd October 2018, the Minister for Children and Housing made a Ministerial Decision delegating certain of his functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (MD-H-2018-0019, 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.”

---

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 –

<b>Legislation:</b>	<u>Building Loans (Jersey) Law 1950</u> <u>Building Loans (Miscellaneous Provisions) (Jersey) Regulations 1961</u> <u>Building Loans (Prescribed Rate of Interest) (Jersey) Order 2003</u>
<b>Minister with political responsibility for the functions:</b>	Minister for Children and Housing
<b>Delegated to:</b>	Treasurer of the States of Jersey and other officers as instructed by the Treasurer
<b>Functions delegated:</b>	The power to approve applications for building loans with the additional allowance to attach conditions to any consent to the loans approved without limitation, and the power to refuse the application of a building loan where an applicant clearly falls outside eligibility as contained in the legislation.

	To also include the power vested in the Minister under Article 6(2) of the Law for the Minister to reduce the rate of interest on a loan where the circumstances so require.
--	--

<b>Legislation:</b>	<u>Lodging Houses (Registration) (Jersey) Law 1962</u> <u>Lodging Houses (General Provisions) (Jersey) Order 1962</u>
<b>Minister with political responsibility for the functions:</b>	Minister for Children and Housing
<b>Delegated to:</b>	Housing Control Manager and other officers as instructed by the Housing Control Manager
<b>Functions delegated:</b>	All powers vested in the Minister under the Law, including the power to approve the registration and renewal of registration of lodging houses, and to impose conditions to approved registrations.  The delegation does not include the refusal of formal applications for registration, which will be determined by the Minister.

<b>Legislation:</b>	<u>Lodging Houses (Registration) (Jersey) Law 1962</u>
<b>Minister with political responsibility for the functions:</b>	Minister for Children and Housing
<b>Delegated to:</b>	Head of Environmental Health and other officers as instructed by the Head of Environmental Health
<b>Functions delegated:</b>	The power under Article 15(1) to enter and inspect any registered lodging house or any premises in respect of which an exemption under Article 3 has been granted, or any premises where there is reason to believe it is being used as a lodging house.  For the avoidance of doubt, the power delegated under Article 15(1) to the Head of Environmental Health is also covered within the scope of the powers delegated to the Housing Control Manager.

The reason for the delegations is to ensure the effective administration of matters relating to housing loans for which the Minister has responsibility under the legislation.

In respect of the delegation of powers vested in the Minister under the Lodging Houses (Registration) (Jersey) Law 1962, the administration of the Law, including registration functions and the issuance of certificates, will be maintained by the Housing Control Manager. However, in order to ensure that there is a consistent inspection regime for all rented properties in Jersey – as is now the case under the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 – the inspection functions under the 1962 Law will be delegated to the Head of Environmental Health.