

---

# STATES OF JERSEY



## STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – EDUCATION, SPORT AND CULTURE

---

Presented to the States on 17th November 2014  
by the Minister for Education, Sport and Culture

---

STATES GREFFE

## REPORT

On 13th November 2014, the Minister for Education, Sport and Culture made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-ESC-2014-0026, 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 –

## 1. Introduction

- (1) The law relating to the delegation of functions is set out in Article 28 of the States of Jersey Law 2005, and this includes the power of the Minister to delegate to the Director ‘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’.
- (2) Article 28 also states that –
  - “(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.”

## 2. The rationale behind delegation

The delegation of authority in respect of a significant number of administrative areas is intended to release the Minister from potentially time-consuming business, thus enabling him to focus on matters of policy and governance with the freedom to establish framework and review administrative decisions as appropriate.

## 3. Delegation of Functions

The Schedule identifies items for which Ministerial decisions are necessary and those which may be delegated to the Director.

The level of proposed authority for each item presumes that –

- (a) decisions made under delegated authority will be made in accordance with existing policies already approved by the Minister or the Education, Sport and Culture Committee as formerly constituted;
- (b) decisions made under delegated authority and marked by [R] in the Schedule shall be reported to the Minister at the earliest opportunity;
- (c) decisions, which may be made within existing policies but which may prove to be contentious, will be referred to the Minister as necessary; and
- (d) decisions on issues which fall outside or are not covered by existing policies, will be referred to the Minister for approval, in which circumstances the decision would be reflected in all similar circumstances.

## Schedule of Delegated Functions – November 2014

## Education, Sport and Culture

## RESPONSIBILITY FOR FUNCTIONS

		MINISTER	DIRECTOR
<b>1.</b>	<b>SERVICE MANAGEMENT</b>		
	<b>1.1 Service Development:</b>		
(a)	Review and publication of achievements	R	✓
(b)	Transfer of functions to other Ministries	✓	
	<b>1.2 Strategic and Business Planning:</b>		
(a)	Approval of Strategic Plans	✓	
(b)	Approval of Business Plans	R	✓
	<b>1.3 Revenue Budgets:*</b>		
(a)	Approval of cash limit submissions	✓	
(b)	Acceptance of Cash Limit	✓	
(c)	Approval of budgets	R	✓
(d)	Approval of transfers	R	✓
(e)	Approval of quarterly reports	R	✓
(f)	Approval of final accounts	R	✓
(g)	Review of Audit Committee reports	R	✓
	<b>1.4 Capital Budgets:*</b>		
(a)	Approval of Capital Programme bid submissions	✓	
(b)	Approval of Capital Programme	✓	
(c)	Minor Capital Allocations		✓

<b>1.5 Health and Safety:</b>		
(a) Approval of Policy	✓	
(b) Approval of Arrangements		✓
<b>1.6 Schools and Colleges:</b>		
(a) Approval of policies	✓	
(b) Determination of procedures		✓
(c) Approval of publication of reports	R	✓
(d) Approval of Education Supervision Order -referred to courts		✓
(e) School Closures	R	✓
(f) Issuing notices in respect of private schools	R	✓

\* Note: This takes into account the responsibilities of Chief Officers of States Departments as 'accounting officers' under the Finance Law.

<b>2. MISCELLANEOUS</b>		
<b>2.1 Registration of Day Care Service providers</b>		
(a) Approval of registration requirements under the Law	✓	
(b) Agreement to refuse applications for registration	✓	
(c) Agreement to refuse re-registration	✓	
(d) Agreement to cancellation or termination of certification	✓	
<b>2.2 Appeals Procedures</b>		
(a) Panel Member nominations	✓	
(b) Appeals hearings	R	✓

<b>3.</b>	<b>FINANCE</b>		
	<b>3.1 Debt Recovery:</b>		
	(a) Recovery of debt through Petty Debts Court		✓
	(b) Writing off irrecoverable debt within agreed limits		✓
	(c) Writing off irrecoverable debt outside agreed limits	✓	
	<b>3.2 Charges:</b>		
	(a) Approval of all charges (Within States Limits or R.P.I.)	R	✓
	(b) Approval of all charges (Outside States Limits or R.P.I.)	✓	
	(c) Authorised Signatories		✓
	(d) Approval of authorised signatories for financial documents		✓
	<b>3.3 Fees generally:</b>		
	(a) Approval of fees (Within States Limits or R.P.I.)	R	✓
	(b) Approval of fees (Outside States Limits or R.P.I.)	✓	

<b>4.</b>	<b>FEES &amp; GRANTS</b>		
	<b>4.1 Grants:</b>		
	(a) Approval of higher education awards policy (Within States Limits or R.P.I.)	✓	
	(b) Approval of higher education grants		✓
	(c) Student Scholarships		✓
	(d) Approval of Grants to organisations	R	✓

<b>5.</b>	<b>STAFF:</b>		
	<b>5.1 Recruitment:</b>		
	(a) Approval of "J" Category Contracts		✓
	(b) Extensions of "J" Category Contracts		✓
	(c) Appointment Policy	✓	
	(d) Appointment of Headteachers	R	✓
	(e) Appointment of Deputy Headteachers for schools with a Governing Body		✓
	(f) Appointment of Deputy Headteachers for schools without a Governing Body		✓
	(g) Appointment of staff below DHT		✓
	(h) Appointment other staff		✓
	<b>5.2 Transfers:</b>		
	(a) Transfer of Headteachers	R	✓
	(b) Transfers of all other staff		✓
	<b>5.3 V.E.R/V.R./Medical:</b>		
	(a) All staff		✓
	<b>5.4 Maternity Leave:</b>		
	(a) All staff		✓
	<b>5.5 Staff Exchanges:</b>		
	(a) All staff		✓
	<b>5.6 Salary/Wages Negotiations:</b>		
	(a) Negotiations for all staff employed within other than civil servants and manual workers		✓
	<b>5.7 Disciplinary Action:</b>		
	(a) For all staff employed in the Education Service		✓