
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR HEALTH AND SOCIAL SERVICES – REVISED DELEGATION – MISUSE OF DRUGS (ADDICTS) (JERSEY) ORDER 1980

**Presented to the States on 12th December 2019
by the Minister for Health and Social Services**

STATES GREFFE

REPORT

On 3rd December 2019, the Minister for Health and Social Services made a Ministerial Decision delegating certain of his/her functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (see Decision reference MD-HSS-2019-0052, 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 –

The Minister for Health and Social Services approved the delegation of –

Legislation:	Misuse of Drugs (Addicts) (Jersey) Order 1980
Delegate:	Group Medical Director, Health and Community Services, or their deputy
Functions delegated:	Article 3(1)(b) – to issue a licence under the article for a doctor to prescribe controlled drugs as specified in Article 3(3).
Scope of delegation:	<ul style="list-style-type: none"> – the licence must specify the drugs to which it applies – the group medical director should satisfy themselves that the applicant has the required knowledge and experience to prescribe the specified controlled drugs for the purposes of managing addiction – licences may be issued as renewals or to prescribers who have not previously been licensed for this purpose

	<ul style="list-style-type: none"> – the duration of the licence must be for a period not exceeding 24 months – the delegate may attach any other conditions to the licence that they deem appropriate – a licence may be cancelled if these conditions are not being met – the group medical director reports annually to the Minister with details of the licences granted.
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The licensing of appropriately qualified specialist medical practitioners to prescribe controlled drugs in the treatment of addictions is a Ministerial function. In the past, it was delegated to the Medical Officer of Health or a Deputy, administered by the former Professional and Care Regulation team whose Head once reported to the Medical Officer of Health, when both were organisationally located within the former Health and Social Services Department. That team is now central to the functions of the Jersey Care Commission, an independent statutory body set up under the provisions of the Regulation of Care Law. When the Care Commission became fully established in January 2019, it was recognised as necessary for the delegation of this function to change. The most appropriate delegation in the changed organisational arrangements is to the Group Medical Director of Health and Community Services. This individual would have access to confidential internal organisational information as to clinical governance concerns which may, for example, indicate that it was inappropriate for a particular medical practitioner to be granted or to hold the licence.