

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY
BY DEPUTY M.R. HIGGINS OF ST. HELIER
QUESTION SUBMITTED ON MONDAY 12th APRIL 2021
ANSWER TO BE TABLED ON MONDAY 19th APRIL 2021**

Question

“Further to the response to Written Question 125/2021, will the Minister:

- (a) provide a consolidated list of all the powers which she has delegated to her officers since coming into office, giving the date and reasons for each such delegation; and
- (b) provide a list of any powers which have not been delegated to officers, explaining for any such power why she has not done so?”

Answer

As stated in the answer to Written Question 125/2021 all Ministerial Delegations are recorded in public Ministerial Decisions published on the gov.je website and also published as a Report to the States and on the States Assembly website. Each decision includes the date of the decision.

(a) The main delegations made by the Social Security Minister are currently set out in MD-S -2021-0016 and R.20/2021. The full text of the delegations was included in the answer to Written Question 125/2021. It is repeated below.

The Minister renewed additional delegations relevant to the Covid19 situation from 01 April 2021, this is recorded in MD-S-2021-0029 and R.49/2021 to extend the delegations previously included in MD-S-2020-0060 and R.105/2020 as Covid19 restrictions remain in place. The full text is provided below

Each delegation was made by the Minister to ensure efficient and robust decision making and administration in an area or areas under her control.

(b) Generally, the Minister delegates statutory, operational, administrative, and financial matters to officers up to certain limits (see part a) to enable the effective running of operational matters. Each delegation will specify the specific circumstance in which it can be exercised. As there is no detailed codification of all of the Minister’s powers, a list of powers that have not been delegated cannot be compiled. Specific powers exercised by the Minister are not delegated for many reasons. This will include the decision being a major one – for example, signing a contract worth more than £1,000,000 or a power that is rarely used and has not needed to be set out in a delegation report – for example, the power to substitute the evidence normally required in some specific part of a benefit claim process.

Minister for SOCIAL SECURITY - Delegation of Functions

Purpose of the Report

To update existing Ministerial delegations under article 28 of the States of Jersey Law 2005 in respect of the Minister for Social Security as of 10 February 2021.

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 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

Decision

The Minister for Social Security confirmed a decision regarding delegating certain of her functions under Article 28 of the States of Jersey Law 2005 as shown below:

Delegation of financial authorities:

BudgetING

Legislation	Public Finances (Jersey) Law 2005
Delegate	Director General -Customer & Local Services Department l Finance Business Partner
Function Delegated	Submission of Budget Estimates for the Medium-term Financial Plan under Article 38.

¹ The chief officer is referred to as the ‘Controller’ under the Social Security (Jersey) Law 1974

Legislation	Public Finances (Jersey) Law 2005
Delegate	Director General -Customer & Local Services
Function Delegated	Approval of non-contentious inter-departmental budget transfers of up to £100,000 under Article 18.

Expenditure

Legislation	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long Term Care (Jersey) Law 2012
Delegate	Director General - Customer & Local Services
Function Delegated	<ul style="list-style-type: none"> • Approving individual orders and the payment of individual invoices • Accepting tenders • Approving store requisitions • The entering into of contracts • Approval of Grant Expenditure
Scope of delegation	Not exceeding £1,000,000

Legislation	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long Term Care (Jersey) Law 2012
Delegate	Director General -Customer & Local Services
Function Delegated	Approval of Losses and Special Payments.
Scope of delegation	Not exceeding £50,000

Legislation	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long Term Care (Jersey) Law 2012
Delegate	Director General - Customer & Local Services, and in his/her absence, Group Director Customer & Local Services
Function Delegated	Approval of Instalment agreements, including deductions from benefit payments.
Scope of delegation	Not exceeding £1,000,000

Legislation	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967
-------------	--

	Long Term Care (Jersey) Law 2012
Delegate	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function Delegated	Appointment of Budget-Holders to undertake: <ul style="list-style-type: none"> • Approving individual orders and the payment of invoices • Accepting tenders • Approving store requisitions • The entering into of contracts • Approval of Losses and Special Payments • Approval of Instalment Agreements • Approval of Grant Expenditure Within defined limits.
Scope of delegation	Limits must not exceed those delegated to the Director General

CASH, BANKING AND INVESTMENT

Legislation	Social Security (Jersey) Law 1974
Delegate	Director General - Customer & Local Services, and in his/her absence, Group Director Customer & Local Services
Function Delegated	Article 31 (1) to transfer monies from the Social Security Fund to the Social Security (Reserve) Fund.
Scope of delegation	To transfer available cash from short-term investment into the Reserve fund for onward investment by Fund managers.

Legislation	Health Insurance (Jersey) Law 1967
Delegate	Director General -Customer & Local Services Department, and in his/her absence, Group Director Customer & Local Services
Function Delegated	Article 21 (3) to transfer monies from the Health Insurance Fund to the Treasurer of the States or an investment manager for onward investment.
Scope of delegation	To transfer available cash for onward investment by Fund managers.

Legislation	Long Term Care (Jersey) Law 2012
Delegate	Director General - Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function Delegated	Article 11 (2) to transfer monies from the Long-Term Care Fund to the Treasurer of the States or an investment manager for onward investment.
Scope of delegation	To transfer available cash for onward investment by Fund managers.

Legislation	Public Finances (Jersey) Law 2005 Social Security (Jersey) Law 1974 Health Insurance (Jersey) Law 1967 Long Term Care (Jersey) Law 2012
Delegate	Director General Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function Delegated	Administration of the Funds' bank and cash holding accounts, including: <ul style="list-style-type: none"> • Requesting the set-up of new Bank Accounts (to be approved by the Treasurer of the States) • Submitting authorised signature lists to the Treasurer of the States for approval • Transfer of monies between Accounts within the department without limit • Physical payment of expenditure approved in line with expenditure approval limits

APPOINTMENT OF DETERMINING OFFICERS

Director General Customer & Local Services, and in his/her absence, Group Director Customer & Local Services is granted the following delegated powers

Legislation	Function delegated
Article 28 of the Health Insurance (Jersey) Law 1967	The power to appoint Determining Officers for the determination of any question arising under or in connection with the Health Insurance Law, including any claim for benefit.
Article 33 of the Social Security (Jersey) Law 1974	The power to appoint Determining Officers for the determination of any question arising under or in connection with the Social Security Law, the Food Costs Bonus Regulations, the Social Security Bonus Law and the Television Licence Benefit law, including any claim for benefit.
Article 9 of the Income Support (Jersey) Law 2007	The power to appoint Determining Officers for the determination of any claim under the Income Support Law, the Food Costs Bonus Regulations and the Social Security Bonus Law.
Article 8 of the Long-Term Care (Jersey) Law 2012	The power to appoint Determining Officers for the determination of any question arising under or in connection with the Long-Term Care Law, including any claim for benefit.

APPROVED REGISTERED PERSONS

Legislation	Income Support (General Provisions) (Jersey) Order 2017, Article 5B
Delegate	Director General -Customer & Local Services and, in his/her absence, a Group Director or Head of Work & Family
Function Delegated	The power to appoint, suspend and remove approved registered persons who may make assessments for the purposes of Article 5 of the Income Support (Jersey) law 2007

--	--

Legislation	Long-Term Care (General Provisions) (Jersey) Order 2014, Article 12.
Delegate	Director General Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function Delegated	The power to appoint, suspend and remove approved registered persons who may make assessments for the purposes of article 5 or article 7 of the Long-Term Care (Jersey) Law 2012, or both.

APPROVED CARE HOMES

Legislation	Long-Term Care (General Provisions) (Jersey) Order 2012, Article 13.
Delegate	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function Delegated	The power to approve, suspend approval, and revoke approval in respect of an approved care home under the Long-Term Care (Jersey) Law 2012.

APPROVED HOME CARE PROVIDERS

Legislation	Long-Term Care (General Provisions) (Jersey) Order 2012, Article 13A.
Delegate	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function Delegated	The power to grant, provisionally grant or refuse an application in respect of an application from a provider of a home care service under the Long-Term Care (Jersey) Law 2012.

HYPOTHECS

Legislation	Social Security Hypothec (Jersey) Law 2014, Article 2.
Delegate	Group Director Customer & Local Services, Senior Manager Pensions and Care, Team Manager Pensions and Care
Function Delegated	The power to submit an application to the Judicial Greffier to register a Social Security hypothec in the public registry. The power to give notice of the registration of the Social Security hypothec to the debtor.

Legislation	Social Security Hypothecs (Jersey) Law 2014, Article 4.
Delegate	Finance Business Partner
Function Delegated	The power to cancel a Social Security hypothec, following its extinguishment. The power to provide notice to the Judicial Greffier of the extinguishment of the debt.
Legislation	Social Security Hypothecs (Jersey) Law 2014, Article 5 and Royal Court (Jersey) Law 1948 Article 13
Delegate	Group Director, Senior Manager Pensions and Care, Team Manager Pensions and Care
Function Delegated	The power to submit an application to the Judicial Greffier to register a Social Security hypothec in the public registry. The power to execute the form of notification of the Social Security hypothec.
Legislation	Social Security Hypothecs (Jersey) Law 2014, Article 5 and Royal Court (Jersey) Law 1948 Article 13
Delegate	Finance Business Partner
Function Delegated	The power to provide written confirmation to the Judicial Greffier of the extinguishment of the debt.
Legislation	Long-Term Care (General Provisions) (Jersey) Order 2012, Article 13.
Delegate	Director General - Customer & Local Services and in his/her absence, Group Director Customer & Local Services or Senior Manager Pensions and Care
Function Delegated	The power to approve, suspend approval, and revoke approval in respect of an approved care home under the Long-Term Care (Jersey) Law 2012

DATA SHARING

Legislation	Social Security (Jersey) Law 1974
Delegate	Director General -Customer & Local Services and in his/her absence, Group Director Customer & Local Services
Function Delegated	Article 49 (2)2, notwithstanding anything in the Controller's oath of office, the Controller may disclose such information as may be required for any purpose approved by the Minister

² Article 49 of the Social Security (Jersey) Law 1974 has been interpreted to cover the administration of all Laws for which the Social Security Minister is responsible. This excludes Control of Housing and Work (Jersey) Law 2012 and the Register of Names and Addresses (Jersey) Law 2012, although these are administered by Customer & Local Services.

Scope of delegation	<p>To enter into Data Sharing Agreements – sharing information for which the Minister is the Data Controller for the agreed purposes of:</p> <ul style="list-style-type: none"> • minimising the necessity for customers to provide information to different Departments • validating of the accuracy and quality of data received • enabling research, development and evaluation of Ministerial policy with regard to the services provided by each Department (and potentially other parties) • deterring, preventing and detecting of fraud
---------------------	---

ADMINISTRATION OF SOCIAL SECURITY CONTRIBUTIONS

Legislation	Social Security (Collection of Class 1 and Class 2 Contributions) (Jersey) Order 2013
Delegate	Customer Services Advisor, Customer & Local Services
Function Delegated	Social security numbers and contribution liability notices (Article 2)
Scope of delegation	<p>As per article 2, by providing new or replacement registration cards.</p> <p>2 Social security numbers and contribution liability notices</p> <p>(1) A person on becoming an insured person must apply to the Minister for –</p> <p>(a) a social security registration number; and</p> <p>(b) a contribution liability notice.</p> <p>(2) The contribution liability notice shall take the form of a code comprising –</p> <p>(a) the letters “FR1” in the case of a person who is liable for contributions; and</p> <p>(b) the letters “XR1” in the case of a person who is not liable for contributions.</p> <p>(3) The application must be made –</p> <p>(a) not later than the end of the month in which the person becomes an insured person; and</p> <p>(b) in the manner directed by the Minister.</p> <p>(4) An insured person who has a contribution liability notice in the form “XR1” and who becomes liable for contributions must, within 7 days of becoming so liable, apply to the Minister for a contribution liability notice in the form “FR1”.</p> <p>(5) An insured person who has a contribution liability notice in the form “FR1” and is no longer liable for contributions must, as soon as reasonably practicable, apply to the Minister for a contribution liability notice in the form “XR1”</p>
Function Delegated	Administering periods of absence of insured persons
Scope of delegation	As per article 3, through information provided by an insured person:

	<p>3 Periods of absence</p> <p>If an insured person whose liability to pay contributions ceased during a period of absence from Jersey returns to Jersey and becomes ordinarily resident in Jersey, the person must, within 7 days of becoming ordinarily resident, inform the Minister.</p>
--	--

Legislation	Social Security (Collection of Class 1 and Class 2 Contributions) (Jersey) Order 2013
Delegate	Group Director, Customer & Local Services
Function Delegated	Application for supplementation of contributions of insured persons
Scope of delegation	<p>As per article 14 paras 1-3</p> <p>This is automated through rules set in the NESSIE computer system, based on earnings information provided by employers or income information provided by self-employed/non-employed people.</p> <p>14 Application for supplementation</p> <p>(1) This Article applies where a person claims to be entitled to have his or her contributions supplemented out of the Social Security Fund in accordance with Article 9 of the Law.</p> <p>(2) An application for supplementation must –</p> <p>(a) be made in writing in such form as the Minister may approve or direct; and</p> <p>(b) be accompanied by such evidence of the applicant’s income and contributions the applicant has paid or been credited with as the Minister may require.</p> <p>(3) The Minister shall not approve the application unless it is satisfied that the sum of the contributions that the applicant is required to pay and entitled to be credited with entitles the applicant to have those contributions supplemented in accordance with Article 9 of the Law.</p>

Legislation	Social Security (Collection of Class 1 and Class 2 Contributions) (Jersey) Order 2013
Delegate	Comptroller of Revenue, Revenue Jersey
Function Delegated	Application for supplementation
Scope of delegation	<p>As per article 14 para 4</p> <p>14 Application for supplementation</p> <p>...</p> <p>(4) Despite paragraph (3), the Minister shall not approve the application if it is satisfied that applicant has intentionally arranged his or her affairs to take advantage of Article 9 of the Law.</p>

ADMINISTRATION OF INCOME SUPPORT

Legislation	Income Support (Jersey) Law 2007
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	<p>Article 5 (3A), to require</p> <p>(a) an assessment to be made for the purpose of ascertaining the nature and degree of a person's physical, sensory or mental impairment;</p> <p>(b) approval of a care package in respect of a person's physical, sensory or mental impairment; or</p> <p>(c) both an assessment to be made in accordance with sub-paragraph (a) and an approval to be given in accordance with sub-paragraph (b),</p> <p>in support of a claim under Article 4 to entitlement of the person's household to the special component referred to in paragraph (3)(b).</p>
Scope of delegation	To require an assessment or approval of care package in order to entitle a household to claim for the special component referred to in paragraph (3)(b) of the Law – in respect of a physical, sensory or mental impairment
Function Delegated	Article 13, Recovery of awards wrongly made
Scope of delegation	to require that awards wrongly made are repaid; and/or recovered from any other payment made under this Law
Function Delegated	Article 14, charges over property. To require the payment of interest and specify how much interest is required to be paid. Or, to require repayment by means of instalments.
Scope of delegation	<p>where a special payment has been made in the form of a loan; or the Determining Officer seeks to recover an award; or the determining officer has exercised his or her discretion under Article 7(3),</p> <p>the amount in question may be secured by means of a hypothec charged on any immovable property owned by the claimant or a member of the claimant's household, or a security interest in shares that confer on the claimant or a member of the claimant's household entitlement to occupy any immovable property, as the case may be.</p> <p>The Determining Officer may require the payment of such interest, if any, as the Determining Officer may specify; or the repayment of the amount in question, plus any interest to be charged, by means of such instalments as the Determining Officer may specify.</p>
Function Delegated	Article 15, administrative expenses. To pay remuneration and expenses to a member of a tribunal mentioned in Article 9(2) of this Law
Scope of delegation	To pay to any member of a Tribunal mentioned in Article 9(2) who exercises any functions under this Law, and any other person whose advice or assistance may be required for the purposes of this Law by either of those Tribunals or by a determining officer, such remuneration and expenses as the Determining Officer may determine

Legislation	Income Support (Jersey) Regulations 2007
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	Article 4: Person treated as available for and actively seeking work. To arrange interviews for this purpose
Scope of delegation	For the purposes of Article 3 of the Law, to arrange interviews to determine that a person is to be treated as available for, and actively seeking, remunerative work

Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	5A Assessment of impairment and approval of care packages To require an assessment to be made by an Approved Registered Person
Scope of delegation	To require an assessment to be made for the purpose of ascertaining the nature and degree of a person's physical, sensory or mental impairment, or approval to be given of a care package in respect of a person's physical, sensory or mental impairment, or both, under Article 5(3A) of the Law

Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Director General of the Customer & Local Services Department, and in his/her absence, a Group Director or Head of Work and Family
Function Delegated	Article 6 (Manner in which claims are to be made). To specify the manner in which claims are to be made
Scope of delegation	To require that claims for Income Support are made on an approved form, to approve that form, to refer defective claims to the claimant, and to treat amended claims as if they were made amended in the first instance

Function Delegated	To require notification of change of circumstances and furnishing of information)
Scope of delegation	As per Article 8 (Notification of change of circumstances and furnishing of information), to require that a household in receipt of Income Support notify the Determining Officer of any change of circumstance that might affect their claim. To require that the person furnish any information that may be specified and required as a consequence of the change of circumstances.

Legislation	Income Support (General Provisions) (Jersey) Order 2008
-------------	---

Delegate	Director General of the Customer & Local Services Department or a Group Director or Head of Work and Family
Function Delegated	To appoint a person to act on a claimant's behalf
Scope of delegation	As per Article 9 (Persons unable to act) (1) In the case of a claimant who is unable to act who – (c) does not have a tuteur, the officer may, on receipt of a written application, appoint a person to act on the claimant's behalf. (2) However, such appointment shall terminate – (a) if the claimant is received into guardianship, or has appointed, in relation to him or her, such a person as mentioned in paragraph (1)(b) or a tuteur; (b) at the request of the person appointed; (c) if revoked by the officer; or (d) if the claimant becomes able to act. (3) In this Article "claimant" includes any member of a claimant's household who is required, under Article 7, to furnish information and evidence in support of a claim
Function Delegated	As per Article 11, to require information in respect of a claim for child personal care
Scope of delegation	In the case of a claim for child personal care, the information to be included in the claim is such information as the Determining Officer requires to be satisfied that the requirements and criteria for that payment are met.
Legislation	Income Support (General Provisions) (Jersey) Order 2008
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	As per Article 13A, to determine (set) the particulars in a notice of determination or decision
Scope of delegation	13A Notice of determination or decision (4) In the case of an award being granted, a notice under this Article must also specify – (a) the manner and method of payment of the award; and (b) such other particulars as may be determined by the determining officer.
Function Delegated	As per the conditions specified in Article 13C, to administer changes in circumstances affecting payments of Income Support
Scope of delegation	As per all of the conditions specified in Article 13C (Changes in circumstances affecting payments of income support), to determine the increase or decrease of a claim and the date from which this change will take effect. To require further information for purposes specified in Article 13C

Legislation	Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 2014
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007
Function Delegated	As per the conditions of Regulation 2 and 3, to make special payments of child personal care

Legislation	Income Support (Special Payments) (Long-Term Care) (Jersey) Regulations 2014
Delegate	Determining Officers appointed under the Income Support (Jersey) Law 2007 OR the Long-Term Care (Jersey) Law 2012
Function Delegated	As per Regulation 2, to make special payment to meet the costs of long-term care
Scope of delegation	To make a special payment to meet costs of long-term care, if the person meets the conditions specified under Regulation 2

ADDITIONAL DELEGATIONS RELEVANT TO THE COVID19 SITUATION FROM 01 APRIL 2021, THIS IS RECORDED IN MD-S-2021-0029 AND R.49/2021

In addition to the main Ministerial delegations the Social Security Minister has extended the following additional delegations due to Covid19.

Background

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 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

Purpose of the Report

In light of Covid19, to ensure continued efficient administration, the Social Security Minister Deputy Judy Martin has extended the following delegations to ensure that there is ongoing capacity to act regarding Social Security matters.

This decision extends (MD-S-2020-0060) which ends on 31 March 2021, to take effect from 1 April 2021 until 31 December 2021, as required and subject to review by the Minister.

Decisions:

1. Delegation of powers to Assistant Social Security Minister

The Minister for Social Security has decided to delegate all powers and functions vested in her, including the power to make enactments and all other areas where the Minister has authority to act to Assistant Social Security Minister - Deputy Scott Wickenden so that if she is unavailable Deputy Wickenden is able to cover her functions.

2. Delegation of powers to make exceptional payments of Income Support under Article 8(2) of the Income Support Jersey law 2007

Temporary Application Scheme for Short Term Incapacity Allowance following Government Advice to Self-Isolate –to pay equivalent amount as an Income Support Special Payment

The Minister has decided to delegate the power to make exceptional payments available to her, under Article 8(2) of the Income Support (Jersey) Law 2007, to Determining Officers appointed under that Law. This will allow exceptional payments of Income Support up to the maximum value of 21 days of STIA to be made, under ministerial guidance, to people who would not normally qualify for Short Term Incapacity Allowance (STIA).

Delegation of powers to accept applications for Income Support without written proofs required by the legislation

The Minister has decided to delegate the ability to make decisions under Article 8(2) of the Income Support Jersey Law 2007 to Determining Officers appointed under the Income Support Law. Determining Officers will have the power to make payments of Income Support to a household which would not normally be entitled because they have not supplied all of the written proofs required by the legislation

To note, these Covid19 related delegations are separate to the main delegations covered in MD-S-2021-0016 signed on the 16 February 2021.