
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – TREASURY AND RESOURCES – REVISED DELEGATIONS NOVEMBER 2019

**Presented to the States on 18th November 2019
by the Minister for Treasury and Resources**

STATES GREFFE

REPORT

On 15th November 2019, the Minister for Treasury and Resources made a Ministerial Decision delegating certain of her functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (see Decision reference MD-TR-2019-0111, 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 following listed delegations amend and replace the delegations listed in [R.139/2019](#) as at 4th November 2019, to enable the efficient and effective management of public finances and the operation of the Treasury and Exchequer Department.

Unless otherwise stated, any reference to an Article in this section is a reference to the Article so numbered in the [Public Finances \(Jersey\) Law 2019](#) (the “2019 Law”), which has replaced the [Public Finances \(Jersey\) Law 2005](#) (the “2005 Law”). Article 58 of the 2019 Law enables certain provisions of the 2005 Law to continue to apply to expenditure and income approved for 2019. The delegations under the 2005 Law have been retained, but will cease to be effective for income and expenditure approved for 2020 onwards.

1. PUBLIC FINANCES (JERSEY) LAW 2019 DELEGATIONS

1.1 Non-contentious transfers

(N.B. Article 58 of the Public Finances (Jersey) Law 2019 enables the following provisions under Article 18 of the Public Finances (Jersey) Law 2005 to continue to apply to 2019 expenditure.)

Legislation:	Article 18(1)(a) and (b) – Permitted variations of heads of expenditure.
Delegate:	<p>Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the Principal Accountable Officer (“PAO”)), to agree any non-contentious transfers between revenue and capital heads of expenditure (and <i>vice versa</i>), with no financial limit where the transfer is solely to ensure that financial transactions are accurately reflected in the States’ Accounts in accordance with accounting standards issued under Article 32(2) of the 2005 Law.</p> <p>The Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO), to agree that funds can be transferred, without further approval by the Minister, in instances where there is a transfer from one head of expenditure to another head of expenditure consequentially upon a transfer of functions under Regulations made under Article 29 of the States of Jersey Law 2005.</p> <p>All such decisions must be included in the 6 monthly report presented to the States.</p>
Functions delegated and scope of delegation:	These paragraphs of Article 18 of the 2005 Law enable the Minister to approve the transfer of funds from one head of expenditure to another to comply with accounting standards, or where the States have approved the transfer of functions or services.

1.2 Contingency expenditure

(N.B. Article 58 of the Public Finances (Jersey) Law 2019 enables the following provisions under Article 17 of the Public Finances (Jersey) Law 2005 to continue to apply to 2019 expenditure.)

Legislation:	Article 17(2) – Permitted contingency expenditure.
Delegate:	<p>Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO), to approve the transfer from contingency expenditure to heads of expenditure or the Insurance Fund, of amounts not exceeding, in total, the amount available for contingency expenditure in a financial year, in accordance with Article 17(1).</p> <p>Authority is delegated to the Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO), to agree any transfer between contingency expenditure or the Insurance Fund and heads of expenditure up to £500,000. All such transfers must be included in the 6 monthly report presented to the States.</p>
Functions delegated and scope of delegation:	This paragraph of Article 17 of the 2005 Law enables the Minister to approve the transfer from contingency expenditure to heads of expenditure or the Insurance Fund, of amounts approved by the States in the Medium Term Financial Plan.

1.3 Retention of income

(N.B. Article 58 of the Public Finances (Jersey) Law 2019 enables the following provision under Article 19 of the Public Finances (Jersey) Law 2005 to continue to apply to 2019 income.)

Legislation:	Article 19(1) – Adjustments for variations in income.
Delegate:	<p>Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO), to approve –</p> <ul style="list-style-type: none"> • additional income in excess of increased expenditure (i.e. additional surplus income) required to generate that income, but the excess income is more than 10% (up to a maximum of £500,000 for a States trading operation and £100,000 for all other States-funded bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured.
Functions delegated and scope of delegation:	<p>This paragraph of Article 19 of the 2005 Law empowers the Minister to authorise a States-funded body to use any additional income it may generate over and above the estimate approved by the States in the Medium-Term Financial Plan.</p> <p>The Minister agreed that States-funded bodies be allowed to retain and use additional income in instances where –</p> <ol style="list-style-type: none"> any such income and associated additional expenditure match; and the additional income is in excess of increased expenditure (i.e. additional surplus income) required to generate that income, but the excess income is not more than 10% (up to a maximum of £500,000 for a States trading operation and £100,000 for all other States-funded bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured. <p>With any approval above these levels delegated to the Treasurer of the States as detailed above.</p>

1.4 Income from asset sales

(N.B. Article 58 of the Public Finances (Jersey) Law 2019 enables the following provisions under Article 18 of the Public Finances (Jersey) Law 2005 to continue to apply to 2019 expenditure and income.)

Legislation:	Article 18(5) – Permitted variations of heads of expenditure.
Delegate:	<p>Treasurer of the States or, in their absence, another officer nominated by the Treasurer (excluding the PAO), to agree non-contentious requests for the use of sale proceeds where the net balance over the residual value of the asset sold is equal to or less than £100,000.</p> <p>Accountable Officers to make use of up to £5,000 of income from the sale of an asset where the net balance over the residual value of the asset sold is £5,000 or less.</p>

Functions delegated and scope of delegation:	This paragraph of Article 18 of the 2005 Law empowers the Minister to authorise a States-funded body to make use of income from the sale of an asset for revenue expenditure or a specified capital project.
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1.5 Retention of income – 2020 onwards

Legislation:	Article 21 of the 2019 Law – Adjustments for variations in income attributable to States bodies.
Delegate:	<p>Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO), to approve the use of –</p> <ul style="list-style-type: none"> • additional income in excess of increased expenditure (i.e. additional surplus income) required to generate that income, but the excess income is more than 10% (up to a maximum £100,000 for States bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured.
Functions delegated and scope of delegation:	<p>This Article of the Law empowers the Minister to authorise the use of any additional income generated by a States body over and above the estimate approved by the States in the Government Plan.</p> <p>The Minister agreed that States bodies be allowed to retain and use additional income in instances where –</p> <ol style="list-style-type: none"> (a) any such income and associated additional expenditure match; and (b) the additional income is in excess of increased expenditure (i.e. additional surplus income) required to generate that income, but the excess income is not more than 10% (up to a maximum of £100,000 for all States bodies) of the estimated income notified to the States for that particular service area – this additional income should not be used to fund recurring expenditure for which no future funding is secured. <p>Any approval above these levels is delegated to the Treasurer of the States as detailed above.</p>

1.6 Financing

Legislation:	<p>Article 26 – The Minister may arrange for –</p> <ul style="list-style-type: none"> • a bank overdraft or bank overdraft facility; and • other minor financing.
Delegate:	<p>Treasurer of the States to agree short-term bank overdrafts/ overdraft facilities up to £10 million.</p> <p>Authority is delegated to the Treasurer of the States to agree minor borrowing up to £100,000 in any one financial year (up to a maximum of £500,000), with no transaction to exceed £10,000 and repayment periods of 5 years or less.</p> <p>All borrowing must be reported in the half-yearly financial update presented to the States by the Minister.</p>

Functions delegated and scope of delegation:	This Article of the Law empowers the Minister to arrange for a bank overdraft (or bank overdraft facility) and to approve other minor borrowing up to specific total and annual limits set in the Law.
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1.7 Lending

Legislation:	Article 27 – The Minister may lend in the name of the States from the Consolidated Fund.
Delegate:	Treasurer of the States to agree short-term lending. Authority is delegated to the Treasurer of the States to agree minor lending up to £100,000 in any one financial year (up to a maximum of £500,000), with no loan to exceed £10,000 and with a maximum loan repayment period of 5 years. All loans must be reported in the half-yearly financial update presented to the States by the Minister.
Functions delegated and scope of delegation:	This Article of the Law empowers the Minister to grant loans up to specific total and annual limits set in the Law.

1.8 Bank Accounts

(N.B. Article 58 of the Public Finances (Jersey) Law 2019 enables the provisions under Article 33 of the Public Finances (Jersey) Law 2005 to continue to apply to 2019 expenditure and income.)

Legislation:	Article 33(1) and (4) – Treasurer to open bank accounts with a bank or banks approved by the Minister.
Delegate:	Treasurer of the States to carry out this function without recourse to the Minister, provided that any bank selected is licensed for banking services in Jersey by the Jersey Financial Services Commission.
Functions delegated and scope of delegation:	These paragraphs of Article 33 of the Law allow the Treasurer to open, operate and maintain bank accounts with a bank(s) approved by the Minister for the operation of the Consolidated Fund and for the proper administration of this or any other Law.

1.9 Power to transfer major projects amounts to the following year

Legislation:	Article 20 of the 2019 Law – The Minister has the authority to transfer unspent amounts allocated for major projects to the following year.
Delegate:	The Treasurer of the States or, in their absence, another officer nominated by the Treasurer (excluding the PAO) to agree all non-contentious requests to transfer unspent funds allocated to a head of expenditure for a major project to the same major project in the following financial year.
Functions delegated and scope of delegation:	This Article allows the Minister to direct that an unspent amount appropriated to a head of expenditure for a major project in one financial year is available to spend on the same major project in the following financial year.

1.10 Public Finances Manual

Legislation:	Article 31 – Public Finances Manual.
Delegate:	Treasurer of the States to issue minor amendments to the Public Finances Manual as he considers necessary. (This authority shall not extend to those sections of the Manual which propose the delegation of responsibility from the Minister to an officer without the Minister having already agreed those delegations.) The Manual and all amendments must be issued to the States’ Public Accounts Committee and made publicly available.
Functions delegated and scope of delegation:	The Minister has responsibility for the issuance and amendment of the Public Finances Manual. (The Law enables the Minister to delegate the above functions to the Treasurer.)

1.11 Responsibility for Shareholder Relations

Legislation:	Article 53 – Minister’s responsibility in respect of certain companies.
Delegate:	Assistant Minister for Treasury and Resources to have responsibility for shareholder matters and lending to Andium Homes Limited and Housing Trusts and Associations from the Housing Development Fund.
Functions delegated and scope of delegation:	(a) The Minister has responsibilities for certain matters relating to the shareholdings in certain companies (wherever incorporated) that are owned by the States in the name of the States. These are delegated to the Assistant Minister. (b) Assistant Minister to agree lending, without limit, to Andium Homes Limited and Housing Trusts and Associations from the Housing Development Fund. This power was vested in the Minister by P.129/2014 . Authority is delegated without limit.

1.12 Insurance Fund

Legislation:	Article 60 – allows the continuation of the Insurance Fund.
Delegate:	Treasurer of the States or, in their absence, another officer nominated by the Treasurer (other than the PAO) to permit persons or bodies that appear to be connected with the States to participate in the States’ mutual insurance arrangement on such terms and conditions as agreed.
Functions delegated and scope of delegation:	This Article enables the Minister to determine which persons or bodies with States’ connections, can participate in the States’ mutual insurance arrangements, and what terms and conditions should apply to them.

1.13 Public Finances (Jersey) Law 2019 – General

Legislation:	Powers under the Public Finances (Jersey) Law 2019 (including those which enable provisions of the Public Finances (Jersey) Law 2005 and the Regulations which flow from this legislation to continue to apply for 2019 income and expenditure.
Delegate:	The Minister delegated, in the event of her absence or incapacity, all of the functions conferred on or vested in the Minister by the Public Finances (Jersey) Law 2019 (including those provisions of the Public Finances (Jersey) Law 2005 and any Regulations which continue to apply to 2019 income and expenditure which Article 58 of the 2019 Law allow to continue) to the Assistant Minister for Treasury and Resources.
Functions delegated and scope of delegation:	Functions conferred on or vested in the Minister by or under the Public Finances (Jersey) Law 2019.

2. OTHER DELEGATIONS

2.1 States' charges

States' decision:	Anti-Inflation Strategy (P.125/2000).
Delegate:	<p>Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO) to agree non-contentious fee/charge increases which do not require subsequent States' approval; or in instances where fees are being increased in line with the "User Pays" principle.</p> <p>The Treasurer of the States will be able to give "blanket" approval to groups of charges in a particular year, or a single charge over a period of a number of years.</p> <p>The Minister agreed that approval for increases which are in line with statute or with a formula which has already received the States' or their approval do not require further approval.</p>
Functions delegated and scope of delegation:	The States, in adopting the Anti-Inflation Strategy, agreed that increases in States' charges should be limited to a maximum of 2.5% a year, with any exceptions, in extremely compelling cases only, to be subject to prior approval by the Finance and Economics Committee (now the Minister for Treasury and Resources).

2.2 Coin designs

Legislation:	Decimal Currency (Jersey) Law 1971 : Article 3 – Coinage of new currency.
Delegate:	The Minister delegated approvals of the annual programme of commemorative currency designs to the Treasurer of the States, and the issue of individual coins within this programme to the Head of Treasury and Investment Management.
Functions delegated and scope of delegation:	This delegation enables the Treasurer of the States to approve the annual programme of commemorative currency designs, and the Director of Treasury and Investment Management to approve individual commemorative currency designs as and when they are produced.

2.3 Non-contentious States' staffing increases

States' decision:	Regulation of Public Sector Employment (P.67/1999).
Delegate:	Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO) for agreeing non-contentious increases to States' staff levels.
Functions delegated and scope of delegation:	This proposition charges the Minister for Treasury and Resources to regulate the number of persons that may be employed by the States of Jersey in any area of the States' administration, excluding those States departments that report to the States trading operations, in accordance with the principles contained within the Regulation of Undertakings legislation and the policy statement issued by the then Finance and Economics Committee in respect of the application of the Regulation of Undertakings to the private sector, effective from 10th November 1998.

2.4 Housing Loans

States' decision:	Starter Home Deposit Loan Scheme (P.131/2012) and associated Scheme Rules.
Delegate:	Treasurer of the States or, in their absence, another person nominated by the Treasurer (excluding the PAO) to consent to property sales, approve investment returns (subsidies at market rates) on property sales, and approve the waiving or deferral of part or all of an investment return in certain circumstances (e.g. separation of a couple, deferred sale of the property).
Functions delegated and scope of delegation:	<p>Article 2.1: As a result of loans being made at a 0% interest rate, a subsidy is recoverable if the property is sold at a profit before the term of the mortgage.</p> <p>Authority is delegated to the Treasurer of the States to agree the level of investment return (subsidy at market rates) in accordance with pre-determined calculation criteria as detailed in the Scheme Rules.</p> <p>Authority is delegated to the Treasurer of the States to agree to waiving or deferring the investment return in part or in full in exceptional circumstances, e.g. prolonged ill-health, death or divorce.</p>

2.5 Contact signing – corporate and departmental contracts

Signature of corporate contracts:	Signing of corporate and departmental contracts on behalf of the Minister for Treasury and Resources.
Delegate:	The Minister delegates the signing of all corporate contracts negotiated by Commercial Services for and on behalf of the States, and all departmental contracts, to the Treasurer of the States with no financial limit.

2.6 Administering Jersey's international taxation agreements

Administering Jersey's international taxation agreements:	Administering Jersey's international taxation agreements, such as Double Taxation Agreements, Tax Information Exchange Agreements, the European Union (EU) Savings Directive, and all of Jersey's other international taxation agreements that provide for a mutual agreement procedure and/or the exchange of information on behalf of the Minister for Treasury and Resources.
Delegate:	The Minister delegates authority to any officer acting as Comptroller of Taxes, any officer acting as Deputy Comptroller of Taxes, any officer acting as Director – International Tax, and the Adviser – International Affairs, to act for and on behalf of the Minister for Treasury and Resources as Competent Authority for the purposes of Jersey's Double Taxation Agreements, Tax Information Exchange Agreements, the EU Savings Directive, and all of Jersey's other international taxation agreements that provide for a mutual agreement procedure and/or the exchange of information. The Minister also authorises the Tax Information Exchange Officer to process matters relating to tax information exchange.

2.7 Expenditure of Treasury and Exchequer

Expenditure of the Treasury and Exchequer Department:	Expenditure of all amounts approved by the States Assembly for the Treasury and Exchequer Department.
Delegate:	The Minister delegates authority to the Treasurer of the States to spend up to the amounts approved by the States Assembly for the Treasury and Exchequer Department.

2.8 Standing Orders of the States of Jersey

Legislation:	Standing Orders 17, 19 and 35 of the Standing Orders of the States of Jersey .
Delegate:	Assistant Minister for Treasury and Resources – all powers and responsibilities arising under Standing Orders 17, 19 and 35.
Functions delegated and scope of delegation:	These Standing Orders apply to the following actions – <ul style="list-style-type: none"> • Standing Order 17 – Notice of intention to make statement on a matter of official responsibility • Standing Order 19 – Who can lodge a proposition • Standing Order 35 – Who may present report or comments.