
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – AUTHORISATION OF ACTIONS IN CONNECTION WITH IRAN SANCTIONS

Presented to the States on 6th December 2011
by the Chief Minister

STATES GREFFE

REPORT

On 5th December 2011, the Chief Minister made a Ministerial Decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 (MD-C-2011-0146, available at www.gov.je).

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 –

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 –

“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).”.

Article 4 of the Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2010 provides that –

“4 Delegation

The Minister may, to such extent and subject to such restrictions and conditions as he or she may think proper, delegate or authorize the delegation of any of his or her functions under this Order to any person, or class or description of person, approved by the Minister.”.

Council Regulation EU No. 961/2010, as applied in Jersey, permits or requires authorisation of certain actions by the competent authorities of the territory concerned, subject to the specified requirements, exceptions and conditions.

For the purposes of implementing the above mentioned EU Regulation in Jersey, the Chief Minister is treated as the competent authority.

The Chief Minister therefore delegates his functions in accordance with the following Articles of Council Regulation EU No. 961/2010, as given effect in Jersey, subject to the relevant restrictions and conditions –

Legislation:	Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2010
Delegate:	Agent of the Impôts
Function delegated:	<p>Council Regulation (EU) No. 961/2010 (“the Regulation”) as given effect in Jersey:</p> <p>EXPORT AND IMPORT RESTRICTIONS</p> <p><i>Article 3</i></p> <p>prior authorisation for the sale, supply, transfer or export, directly or indirectly, of the goods and technology listed in Annex IV, whether or not originating in the Union, to any Iranian person, entity or body or for use in Iran.</p> <p><i>Article 5</i></p> <p>authorisation of:</p> <p>(a) technical assistance or brokering services related to goods and technology listed in Annex IV and to the provision, manufacture, maintenance and use of those items, directly or indirectly to any Iranian person, entity or body or for use in Iran;</p> <p>(b) financing or financial assistance related to goods and technologies referred to in Annex IV, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of those items, or for any provision of related technical assistance, directly or indirectly, to any Iranian person, entity or body or for use in Iran.</p>

	<p><i>Article 7</i></p> <p>authorisation for a transaction in relation to goods and technology referred to in Article 2(1) or assistance or brokering services referred to in Article 5(1).</p>
Scope of delegation:	<p>Subject to the requirements of the Regulation.</p> <p>The delegate may not refuse, annul, suspend, substantially limit or revoke any authorisation, which should be considered by the Chief Minister.</p> <p>The delegate may not grant an authorisation to himself.</p>

Legislation:	Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2010
Delegate:	Director of International Affairs or deputy
Function delegated:	<p>RESTRICTIONS ON FINANCING OF CERTAIN ENTERPRISES</p> <p><i>Article 12 and Article 13</i></p> <p>authorisation of the making of an investment through transactions referred to in Article 11(1) in an Iranian person, entity or body engaged in the manufacture of goods or technology listed in Annex IV.</p> <p>FREEZING OF FUNDS AND ECONOMIC RESOURCES</p> <p><i>Articles 17, 18 and 19</i></p> <p>to authorise the release of certain frozen funds or economic resources.</p> <p>RESTRICTIONS ON TRANSFERS OF FUNDS AND ON FINANCIAL SERVICES</p> <p><i>Article 21</i></p> <p>prior authorisation of a transfer of or above EUR 40 000 or equivalent, to or from an Iranian person, entity or body.</p> <p>The delegate may determine and charge a fee for the assessment of requests for authorisation commensurate with the costs incurred.</p>
Scope of delegation:	<p>Subject to the requirements of the Regulation.</p> <p>The delegate may not refuse any authorisation which would otherwise be permissible under the Regulation, unless agreed by the Chief Minister.</p> <p>The delegate may not grant an authorisation to himself.</p>