
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – CHIEF MINISTER TO ASSISTANT MINISTERS

Presented to the States on 30th January 2017
by the Chief Minister

STATES GREFFE

REPORT

On 30th January 2017, the Chief Minister made a Ministerial Decision delegating certain of his functions under Articles 28, 30 and 30A of the States of Jersey Law 2005 (MD-C-2017-0009, 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 –

Delegations

The Chief Minister wishes to put the following delegations in place:

Assistant Minister	Functions delegated
Senator P.F. Routier, M.B.E.	<p>Responsibility for competition and innovation, the intellectual property framework, broadcasting and electronic communications, Freedom of Information and Data Protection, and related legislation and policy matters (the delegated areas).</p> <p>Legislation:</p> <p>Competition and regulation</p> <p><u>Competition Regulatory Authority (Jersey) Law 2001</u> <u>Telecommunications (Jersey) Law 2002</u> <u>Postal Services (Jersey) Law 2004</u> <u>Competition (Jersey) Law 2005</u></p>

Innovation – innovation policy, including innovation review and action plan; and any continuing matters with relation to the Jersey Innovation Fund.

Intellectual Property framework

Intellectual Property (Unregistered Rights) (Jersey) Law 2011

Merchandise Marks (Jersey) Law 1958

Patents (Jersey) Law 1957

Registered Designs (Jersey) Law 1957

Trade Marks (Jersey) Law 2000

Broadcasting and Electronic Communications

Communications (Jersey) Order 2003

The Wireless Telegraphy (Jersey) Order 2006

Electronic Communications (Jersey) Law 2000

Digital Switchover (Disclosure of Information) (Jersey) Law 2010

Radio Equipment (Jersey) Law 1997

Public Health (Ships) (Jersey) Order 1971 (*the reference in Article 34 only*)

Public Health (Aircraft) (Jersey) Order 1971

Broadcasting Act 1990 (Jersey) (No. 2) Order 1991

Broadcasting (Jersey) Order 2003

Telecommunication Services (Jersey) Order 1972

Freedom of Information and Data Protection

Data Protection (Jersey) Law 2005

Freedom of Information (Jersey) Law 2011

In order to enable the Assistant Minister to deal with all matters in the delegated areas, the Chief Minister delegates to Senator P.F. Routier, M.B.E. –

1. all functions in respect of the aforementioned legislation and all related subordinate legislation;
2. in relation to the delegated responsibilities –
 - Standing Order 17(1)(a) – making statements;
 - Standing Order 19(c) – lodging Propositions; and
 - Standing Order 35(1)(b) – presenting Reports or Comments.
3. All powers and functions given to the Chief Minister, including all powers to make enactments in the delegated areas.

These delegations are in addition to those delegated previously by the Chief Minister to Senator Routier; in particular, in relation to the Control of Housing and Work (Jersey) Law 2012.

Assistant Minister	Functions delegated
Deputy S.M. Wickenden of St. Helier	<p>Responsibility for Digital Jersey and support for the reform of the public sector, including responsibility for the e-Government programme. This is inclusive of the following in relation to these delegated responsibilities –</p> <ul style="list-style-type: none"> • Standing Order 17(1)(a) – making statements; • Standing Order 19(c) – lodging Propositions; and • Standing Order 35((1)(b) – presenting Reports or Comments.