

# STATES OF JERSEY



## STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – TREASURER OF THE STATES

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Presented to the States on 27th January 2006  
by the Minister for Treasury and Resources

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STATES GREFFE

## REPORT

On 26th January 2006, the Minister for Treasury and Resources made a decision delegating certain of his functions under the Public Finances (Jersey) Law 2005.

The terms of the delegation were recorded in a ministerial decision as follows –

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### 1. PURPOSE OF THE REPORT

1.1 To propose that –

- certain functions of the Public Finances (Jersey) Law 2005 (the Finance Law) (including those in Regulations approved under that Law and financial directions) and other areas of administration, be delegated from the Minister for Treasury and Resources to the Treasurer of the States or another person as nominated by the Treasurer of the States. (Instances may arise where it is necessary or appropriate for the Treasurer to delegate certain powers.); and
- the Minister confirms certain decisions in relation to matters covered by the Finance Law.

### 2. BACKGROUND

2.1 Under Article 27 of the States of Jersey Law 2005, a Minister may delegate, wholly or partly, functions conferred upon them by any Law to either an Assistant Minister or an officer.

2.2 In order to ensure that the public finances are managed efficiently and effectively it is recommended that the following areas of administration be delegated as indicated. This should ensure that the Minister is able to deal with major issues whilst allowing the Treasury to deal with the more administrative arrangements. This report details the functions and scope of the delegations recommended together with the relevant Article in the Law or Regulations, and additional delegations under manpower regulations and States Standing Orders.

2.3 There are also a number of areas where the Minister is asked to make certain decisions to enable the Law to be administered smoothly.

### 3. COMMENTS

The following tables indicate the activities which it is recommended are delegated and decisions made. In order to assist the reader, the table indicates the relevant Articles and sub-paragraphs of the Law and provides a brief summary of what is included in the Law. The table also indicates what it is recommended be delegated and to whom. In line with the format of the Law, references to the Minister are to the Minister for Treasury and Resources.

3.1

Articles from the Law –	To enable the preparation of the Annual Business Plan and Budget, the Law enables the Minister to request that estimates be provided by States-funded bodies (including ministerial and non-ministerial bodies and the States Assembly) in respect of the following financial year for revenue expenditure, income, and capital projects scheduled to start or continue in that year.
<b>8</b> <b>Estimates to be provided</b>	
and	
<b>10</b> <b>Estimates for the States Assembly and its services</b>	
	In addition, the Minister can request details of income

	<p>that may arise from the disposal of assets, and for any other income of the States.</p> <p>The Minister may request information for other time periods and is able to specify the format and time scale to which the aforementioned estimates be provided within.</p>
Recommended delegation:	It is recommended that the above Ministerial responsibilities be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer.

### 3.2

<p>Article –  <b>14 Expenditure approval, heads of expenditure and withdrawals from the consolidated fund</b>          (Paragraph 14(6) refers)</p>	<p>This sub-paragraph of the Law empowers the Minister to authorise a States funded body (Sfb) to use any additional income it may generate over and above the estimate approved by the States in the Annual Business Plan.</p>
Ministerial decision:	<p>It is recommended that the Minister agree that States-funded bodies be allowed to retain and use additional income in instances where –</p> <ul style="list-style-type: none"> <li>(a) any such income and associated additional expenditure match; and</li> <li>(b) the additional income is in excess of increased expenditure required to generate that income but the excess income is not more than 10% (or £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.</li> </ul>

### 3.3

<p>Article –  <b>15 Permitted variations</b>          (Sub-paragraph 15(1)(a) refers)</p>	<p>This sub-paragraph of the Law enables the Minister to approve the transfer of funds from one head of expenditure to another head of expenditure (a head of expenditure being either –</p> <ul style="list-style-type: none"> <li>• the annual net revenue budget of a States funded body; or</li> <li>• the amount allocated for each capital project).</li> </ul>
Recommended delegation:	Authority be delegated to the Treasurer, or in his absence, another person as nominated by the

Ministerial decision:	<p>Treasurer, to agree non-contentious transfers between expenditure heads up to £100,000.</p> <p>It is recommended that the Minister agrees that funds can be transferred, without further approval by the Minister, in instances where there is a transfer of responsibility and administration of a service which has been agreed by the States and the relevant ministers agree in respect of the funds to be transferred. Such decisions must be notified to the Treasurer.</p>
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### 3.4

<p>Article – <b>15 Permitted variations</b> (Sub-paragraph 15(1)(b) refers)</p>	<p>This sub-paragraph empowers the Minister to allow a States-funded body, in the case of revenue expenditure, to carry funds forward to the following financial year.</p>
Ministerial decision:	<p>It is recommended that the Minister agreed that Departments can automatically carry forward to the following financial year up to 1% of their gross revenue head of expenditure or £200,000 (whichever is the larger).</p>

### 3.5

<p>Article – <b>15 Permitted variations</b> (Paragraph 15(3) refers)</p>	<p>This paragraph of the Law empowers the Minister to authorise a States funded body to make use of income from the sale of an asset for the acquisition of a replacement or other asset.</p>
Recommended delegations:	<p><u>Delegation 1</u> Authority be delegated to the Treasurer, or in his absence another officer nominated by the Treasurer, to agree non-contentious requests for the use of sale proceeds where the net balance over the residual value of the asset sold is less than £100,000.</p> <p><u>Delegation 2</u> Authority be delegated to an Accounting Officer to make use of up to £5,000 where the net balance over the residual value of the asset sold is less than £5,000.</p>

### 3.6

<p>Article – 22 <b>Minister and Treasurer may be authorised to borrow</b></p> <p style="text-align: center;">and</p> <p>Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 Regulation – 9 <b>Minister’s authority to borrow money in</b></p>	<p>Both the Law and Regulations allow the Minister to delegate (where they so wish) to the Treasurer minor borrowing transactions which, in summary, include –</p> <ul style="list-style-type: none"> <li>• short-term bank overdrafts/ overdraft facilities and temporary loans (these must not exceed more than 25% of the previous year’s income from taxation);</li> <li>• other minor borrowing – up to £1 million in</li> </ul>
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<p><b>the name of and on behalf of the States</b></p> <p style="text-align: center;">and</p> <p><b>10 Power of the Minister to delegate functions – borrowing</b></p>	<p>any one transaction in a financial year so long as the total amount borrowed does not exceed £3 million in that year, the total amount outstanding in this way does not exceed £20 million and with all such borrowing having a maximum repayment period of 10 years;</p> <ul style="list-style-type: none"> <li>• borrowing for a States trading operation where additional income or tangible savings arising from the underlying expenditure meet the costs of the borrowing;</li> <li>• other parameters specifically agreed by the States.</li> </ul>
<p>Recommended delegation:</p>	<p><u>Delegation 1</u> Authority be delegated to the Treasurer to agree short-term bank overdrafts/overdraft facilities and temporary loans within the parameters set in the Law up to £10 million.</p> <p><u>Delegation 2</u> Authority be delegated to the Treasurer 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. (Treasurer <b>is not able to delegate</b> his borrowing responsibilities to any other officers.)</p>

3.7

<p>Article – <b>27 Returns of States trading operations to be agreed</b> (Paragraphs(1) and (2)(a)-(d) refer)</p>	<p>These paragraphs empower the Minister to request States trading operations to enter into discussions and provide estimates in respect of the business activities during the succeeding financial year. The estimates should include income and expenditure, estimated contribution to the income of the States, estimate of any surplus of income over expenditure or estimated deficit, to be debited to trading fund and shall take into account capital expenditure details.</p>
<p>Recommended delegation:</p>	<p>Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer, to request the necessary estimates from the States trading operations.</p>

3.8

<p>Article – <b>33 Treasurer to open bank accounts</b> (Paragraphs 33(1) and (4))</p>	<p>These paragraphs 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.</p>
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Recommended delegation:	Authority be delegated to the Treasurer 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.
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3.9

Article – <b>33 Treasurer to open bank accounts</b> (Paragraph 33(3))	This paragraph empowers the Minister to agree that money in the consolidated fund may be used to incur expenditure that will subsequently be recharged – for example the approval of stock accounts and other rechargeable accounts.
Recommended delegation:	Authority be delegated to the Treasurer, or in his absence another officer as nominated by the Treasurer, to approve all rechargeable and stock accounts.

3.10

Article – <b>34 Financial directions</b>	This Article enables the Treasurer to issue financial directions with the approval of the Minister.
Recommended delegation:	Authority be delegated to the Treasurer, or in his absence another person as nominated by the Treasurer, to issue Financial Directions that he deems to be required. (This authority shall not extend to those financial directions which propose the delegation of responsibility from the Minister to an officer without the Minister having already agreed those delegations.)

3.11

Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 Regulation – <b>18 Trust assets bank accounts</b>	This Regulation states that Trust money should be held in a bank account with a bank(s) approved by the Minister (unless a Trust document specifies a certain bank).
Recommended delegation:	Authority be delegated to the Treasurer 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.

3.12

Anti-Inflation Strategy (P.125/2000)	The States in 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).
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Recommended delegation:	Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer 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.
Ministerial decision:	The Minister agrees that approval for increases which are in line with statute or with a formula which has already received States or his approval do not require further approval.

3.13

Standing Orders of the States of Jersey No. – <b>168 Land transactions</b>	(1) This Standing Order applies to the following actions – (a) the disposal, acquisition, letting or rental of land on behalf of the public of Jersey; (b) the grant or acquisition of rights or servitudes over land on behalf of the public of Jersey; (c) the renewal, extension or variation of any lease of land on behalf of the public of Jersey; (d) the approval of plans for the construction or alterations of buildings where the work is to be funded wholly or partly by money voted by the States.
Recommended delegation:	The following delegation is in addition to those previously agreed on 11th January 2006 and documented in MD-TR-2006-0005.  In relation to 1(d) above it is recommended that the approval of construction plans for non-contentious projects greater than £250k be delegated to the Assistant Minister.  Specific Treasury and Resources approval is not required for those projects below £250k. The responsibility for decisions in this area will lie with the relevant Accounting officer.

3.14

P.67/1999 – Regulation of Public Sector Employees	This proposition charges the Finance and Economics Committee (now 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 Trading Committees (now States trading operations), in accordance with the principles contained within the Regulation of
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	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.
Recommended delegation:	Authority be delegated to the Treasurer, or in his absence, another person as nominated by the Treasurer for agreeing non-contentious increases to States manpower.

#### **4. RECOMMENDATIONS**

That the Minister approve –

- the delegations detailed in the above report for his current period of office; and
- the recommended Ministerial decisions detailed above.

#### **5. REASONS FOR DECISION**

- 5.1 The Minister is required to confirm the delegations made under the Public Finances (Jersey) Law 2005 and the Ministerial decisions required in order that the public finances can be managed efficiently and effectively.