

**STATES OF JERSEY LAW 2005:  
DELEGATION OF OFFICER FUNCTIONS –  
HEALTH AND COMMUNITY SERVICES  
MENTAL HEALTH (JERSEY) LAW 2016**

**REPORT**

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.[59]

- (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.[60]

(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 –

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“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[62].[63]

(6) The States may by Regulations amend the definition “officer” in paragraph (5).

### **Health and Community Services Delegated Officer Functions to the Mental Health Administrator as defined in Article 4 of the Mental Health (Jersey) Law 2016 or Deputy.**

**All decisions will be recorded and, where appropriate, included in the annual report to the Minister.**

<b>Article</b>	<b>Scope of Delegation</b>
<b>Article 6 – Authorized Officers</b>	6 (1) - To authorize officers in accordance with Article 6 (1) of the Mental Health (Jersey) Law 2016 and Article 2 of the Mental Health (Miscellaneous Provisions and Prescribed Forms (Jersey) Orders 2018
<b>Article 10– Nomination of Nearest Person –</b>	10 (1) (b) - To receive nominations of nearest person on behalf of the Minister. 10 (2) - To nominate a person as the patients nearest person on behalf of the Minister.
<b>Part 3 – Admissions for Assessment and Treatment</b>	Shall receive authorizations and recommendations on behalf of the Minister from Authorized officers, Approved Practitioners and/or Registered Medical practitioners.
<b>Article 16 - Approved Practitioners</b>	To approve practitioners in accordance with Article 16 of the Mental Health (Jersey) Law 2016 and Article 3 of the Mental Health (Miscellaneous Provisions and Prescribed Forms (Jersey) Orders 2018
<b>Article 20 – Effects of Admission Application</b>	Will receive from the Manager (M) written notification of the admission of a patient to whom the application relates. The Mental Health Law Administrator will confirm in writing to M that the admission application has been duly made.
<b>Article 22 – Treatment Authorization</b>	22 (4) - On behalf of the Minister will receive a report from the Responsible Medical Officer (RMO). 22 (5) (a) - Will inform the patient and the patients nearest person of the recommendations and proposed action from the RMO report.
<b>Article 24 – Leave of Absence from approved establishment</b>	24 (4) - On behalf of the Minister will receive notice from the RMO of the granting of leave
<b>Article 26 – Transfer of Patients</b>	26 (1) - Will arrange for the transfer of a patient liable to be detained from one approved

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	establishment to another
<b>Article 27 – Discharge of Patients</b>	27 (4) (c) - On behalf of the Minister will receive notice in writing from the RMO of the discharge of a patient who was liable to be detained.
<b>Article 28 – Special provisions; patients absent without leave</b>	28 (5) (b) & (6) - On behalf of the Minister will receive a report in writing from the RMO.
<b>Part 4 - Guardianship</b>	Shall receive authorizations and recommendations on behalf of the Minister from Authorized officers, Approved Practitioners and/or Registered Medical practitioners.
<b>Article 33 – Duration of Guardianship</b>	33 (4) & (5) - Will receive the report from the RMO on behalf of the Minister and inform the patient and nearest person of the recommendations and actions
<b>Article 38 – Interpretation and application of Part 6</b>	38 (3) (c) - Will approve Second Opinion Approved Doctors on behalf of the Minister
<b>Article 78 – Information to be given to patients</b>	78 (1) – when appropriate, as soon as possible after the detention or guardianship commences inform patients of their rights as described in Article 78 (1) 78 (2) - when appropriate inform the nearest person the same information of the patients' rights as described in 78 (1)

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