

# **Powers of Attorney Act 1971**

## **Chapter 27**

### **1 Execution of powers of attorney**

- (1) An instrument creating a power of attorney shall be executed as a deed by the donor of the power.
- (3) This section is without prejudice to any requirement in, or having effect under, any other Act as to the witnessing of instruments creating powers of attorney and does not affect the rules relating to the execution of instruments by bodies corporate.

### **3 Proof of instruments creating powers of attorney**

- (1) The contents of an instrument creating a power of attorney may be proved by means of a copy which—
  - (a) is a reproduction of the original made with a photographic or other device for reproducing documents in facsimile; and
  - (b) contains the following certificate or certificates signed by the donor of the power or by a lawyer, that is to say—
    - (i) a certificate at the end to the effect that the copy is a true and complete copy of the original; and
    - (ii) if the original consists of two or more pages, a certificate at the end of each page of the copy to the effect that it is a true and complete copy of the corresponding page of the original.
- (2) Where a copy of an instrument creating a power of attorney has been made which complies with subsection (1) of this section, the contents of the instrument may also be proved by means of a copy of that copy if the further copy itself complies with that subsection, taking references in it to the original as references to the copy from which the further copy is made.
- (4) This section is without prejudice to any other method of proof authorised by law.

### **4 Powers of attorney given as security**

- (1) Where a power of attorney is expressed to be irrevocable and is given to secure—
  - (a) a proprietary interest of the donee of the power; or
  - (b) the performance of an obligation owed to the donee,then, so long as the donee has that interest or the obligation remains undischarged, the power shall not be revoked—
  - (i) by the donor without the consent of the donee; or
  - (ii) by the death, incapacity or bankruptcy of the donor or, if the donor is a body corporate, by its winding up or dissolution.

- (2) A power of attorney given to secure a proprietary interest may be given to the person entitled to the interest and persons deriving title under him to that interest, and those persons shall be duly constituted donees of the power for all purposes of the power but without prejudice to any right to appoint substitutes given by the power.

## **5 Protection of donee and third persons where power of attorney is revoked**

- (1) A donee of a power of attorney who acts in pursuance of the power at a time when it has been revoked shall not, by reason of the revocation, incur any liability (either to the donor or to any other person) if at that time he did not know that the power had been revoked.
- (2) Where a power of attorney has been revoked and a person, without knowledge of the revocation, deals with the donee of the power, the transaction between them shall, in favour of that person, be as valid as if the power had then been in existence.
- (3) Where the power is expressed in the instrument creating it to be irrevocable and to be given by way of security then, unless the person dealing with the donee knows that it was not in fact given by way of security, he shall be entitled to assume that the power is incapable of revocation except by the donor acting with the consent of the donee and shall accordingly be treated for the purposes of subsection (2) of this section as having knowledge of the revocation only if he knows that it has been revoked in that manner.
- (4) Where the interest of a purchaser depends on whether a transaction between the donee of a power of attorney and another person was valid by virtue of subsection (2) of this section, it shall be conclusively presumed in favour of the purchaser that that person did not at the material time know of the revocation of the power if—
- (a) the transaction between that person and the donee was completed within twelve months of the date on which the power came into operation; or
  - (b) that person makes a declaration in a form prescribed by the Board in rules made by the Board, before or within three months after the completion of the purchase, that he did not at the material time know of the revocation of the power.
- (5) Without prejudice to subsection (3) of this section, for the purposes of this section knowledge of the revocation of a power of attorney includes knowledge of the occurrence of any event (such as the death of the donor) which has the effect of revoking the power.
- (6) In this section—
- (a) "purchaser" means a purchaser in good faith for money or money's worth and includes a lessee, mortgagee or other person who for money or money's worth acquires an interest in property;
  - (b) where the context so requires "purchaser" includes an intending purchaser; and
  - (c) "purchase" has a meaning corresponding with that of "purchaser".

## **6 Additional protection for transferees under stock exchange transactions**

- (1) Without prejudice to section 5 of this Act, where—
- (a) the donee of a power of attorney executes, as transferor, an instrument transferring registered securities; and
  - (b) the instrument is executed for the purposes of a stock exchange transaction,

it shall be conclusively presumed in favour of the transferee that the power had not been revoked at the date of the instrument if a statutory declaration to that effect is made by the donee of the power on or within three months after that date.

- (2) In this section—
- (a) "registered securities" means transferable securities the holders of which are entered in a register (whether maintained in the Abu Dhabi Global Market or not); and
  - (b) "stock exchange transaction" means a sale and purchase of securities in which each of the parties is a member of a stock exchange acting in the ordinary course of his business as such or is acting through the agency of such a member; and for the purposes of this definition "stock exchange" means any stock exchange which is declared to be a recognised stock exchange in rules made by the Board.

## **7 Execution of instruments etc by donee of power of attorney**

- (1) If the donee of a power of attorney is an individual, he may, if he thinks fit—
- (a) execute any instrument with his own signature; and
  - (b) do any other thing in his own name,

by the authority of the donor of the power; and any instrument executed or thing done in that manner shall, subject to subsection (1A) of this section, be as effective as if executed by the donee in any manner which would constitute due execution of that instrument by the donor or, as the case may be, as if done by the donee in the name of the donor.

## **10 Effect of general power of attorney in specified form**

- (1) Subject to subsection (2) of this section, a general power of attorney in the form set out in Schedule 1 to this Act, or in a form to the like effect but expressed to be made under this Act, shall operate to confer—
- (a) on the donee of the power; or
  - (b) if there is more than one donee, on the donees acting jointly or acting jointly or severally, as the case may be,

authority to do on behalf of the donor anything which he can lawfully do by an attorney.

(2) Subject to section 1 of the Trustee Delegation Act 1999, this section does not apply to functions which the donor has as a trustee or personal representative.

**11 Short title, repeals, consequential amendments, commencement and extent**

(1) This Act may be cited as the Powers of Attorney Act 1971.

SCHEDULE 1

FORM OF GENERAL POWER OF ATTORNEY FOR PURPOSES OF SECTION 10

**Section 10**

THIS GENERAL POWER OF ATTORNEY is made this ... day of ... 19 ... by AB of

I appoint CD of (or CD of ... .. and EF of ... .. jointly or jointly and severally) to be my attorney(s) in accordance with section 10 of the Powers of Attorney Act 1971.

IN WITNESS etc,