

LAWS OF GUYANA

POWERS OF ATTORNEY ACT

CHAPTER 5:08

Act
16 of 1932
Amended by
2 of 2022

Current Authorised Pages

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CHAPTER 5:08
POWERS OF ATTORNEY ACT
ARRANGEMENT OF SECTIONS

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c. 257
 1953 Ed.
 c. 33
 16 of 1932
 2 of 2022

An Act to make provision with respect to the recording of Powers of Attorney, their effect and their revocation.

[14TH MAY, 1932]

Short title.

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

Interpretation.

2. In this Act—

“property” includes immovable and movable property, and any debt, and any thing in action, and any other right or interest in the nature of property, whether in possession or not;

“purchaser” includes a lessee or mortgagee, or an intending purchaser, lessee or mortgagee, or other person, who, for

L.R.O. 1/2022

valuable consideration, takes or deals for property, and “purchase” has a meaning corresponding with that of purchaser.

Power of
attorney.
[2 of 2022]

2A. (1) An instrument creating a power of attorney shall be executed with the donor of the power and the donee of the power appearing personally together before a Public Notary or Magistrate, as the law may require, and the donor and donee shall each provide the Public Notary or Magistrate with two photograph identification documents that establish their identity and a photocopy of each of the documents.

(2) Where the donor is out of Guyana and the donee is in Guyana, the donor and the donee shall each appear personally before a Public Notary or Magistrate, as the law may require, in the country in which he is and execute the power of attorney, providing the Public Notary or Magistrate with two photograph identification documents that establish his identity and a photocopy of each of the documents.

(3) The power of attorney shall specify the name and number of every identification document of the donor and donee.

(4) The power of attorney shall be signed by the donor and donee in the presence of a Public Notary or Magistrate and two witnesses, and subscribed by the witnesses in the presence of each other before being signed, sealed or stamped by the Public Notary or Magistrate:

Provided that where a donor executes the power of attorney out of Guyana, a separate witness statement shall be given by one of the subscribing witnesses.

(5) The power of attorney shall not be registered, filed or recorded in the Deeds Registry, unless the power of attorney has attached to it copies of the two photograph identification documents, bio-data page in the case of a passport, of the donor and donee, and a separate witness statement given under subsection (4), which have been certified, signed and sealed or stamped by a Public Notary or Magistrate.

(6) For the purposes of this section identification documents include, a national identification card, a valid passport and a valid driver's licence.

Power of attorney to be recorded.
[2 of 2022]

3. A power of attorney, including a power *ad lites* or a special power providing for the passing of a transport, or for the execution or assignment of a particular mortgage or lease or for the cancellation of a mortgage, or a power providing for the obtaining or recording of probate or letters of administration and for no other purpose, whether made within or without the limits of Guyana, together with the attached copies of the two photograph identification documents of the donor and the donee and the witness statement referred to in section 2A(5), shall be proved and filed as of record or proved and recorded in the Deeds Registry, and an act done in pursuance of such a power shall not be valid, and such a power shall not be admitted in evidence in any suit, action or other proceeding unless the same be proved and filed as of record, or proved and recorded, in the Deeds Registry.

Execution under power of attorney.

4. (1) The donee of a power of attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature, and under his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument, and thing so executed and done shall be as effectual in law, to all intents, as if it had been executed or done by the donee of the power in the name and with the signature and seal of the donor thereof.

(2) This section applies to powers of attorney created by instruments executed either before or after the commencement of this Act.

Payment by attorney under power without notice of death, etc.

5. (1) Any person making any payment or doing any act, in good faith, in pursuance of a power of attorney, shall not be liable in respect of the payment or act by reason that before the payment or act the donor of the power had died or become subject to disability or insolvent, or had revoked the power, if the fact of death, disability, insolvency or revocation was not at the time of

the payment or act known to the person making or doing the same.

(2) A statutory declaration by an attorney to the effect that he has not received any notice or information of the revocation of such power of attorney by death or otherwise shall, if made immediately before or within three months after any such payment or act as aforesaid, be taken to be conclusive proof of such non-revocation at the time when the power of attorney is a corporation aggregate, the officer appointed to act for the corporation in the execution of the power may make the statutory declaration in like manner as if that officer had been the donee of the power. Where probate or letters of administration have been granted to any person, as attorney for some other person, this section applies as if the payment made or acts done under the grant had been made or done under a power of attorney.

(3) This section does not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer if the payment had not been made by him.

(4) This section applies to payments and acts made and done before or after the commencement of this Act.

6. If a power of attorney given for valuable consideration is in the instrument creating the power expressed to be irrevocable, then in favour of a purchaser—

- (a) the power shall not be revoked at any time either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or insolvency of the donor of the power; and
- (b) any act done at any time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death,

Effect of
irrevocable
power of
attorney for
value.

disability or insolvency of the donor of the power, had not been done or happened; and

- (c) neither the donee of the power nor the purchaser shall at any time be prejudicially affected by notice of anything done by the donor of the power without the concurrence of the donee of the power, or of the death, disability or insolvency of the donor of the power.

Effect of power of attorney irrevocable for a fixed time.

7. If a power of attorney, whether given for valuable consideration or not is in the instrument creating the power expressed to be irrevocable for a fixed time therein specified, not exceeding one year from the date of the instrument, then in favour of a purchaser—

- (a) the power shall not be revoked for and during that fixed time either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or insolvency of the donor of the power; and
- (b) any act done within that fixed time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, disability or insolvency of the donor of the power, had not been done or happened; and
- (c) neither the donee of the power, nor the purchaser, shall at any time be prejudicially affected by notice either during or after that fixed time of anything done by the donor of the power during the fixed time without the concurrence of the donee of the

power, or of the death, disability, or insolvency of the donor of the power, within that fixed time.

Devolution of power of attorney given to a purchaser.

8. A power of attorney given for valuable consideration may be given to a purchaser of property or any interest therein, and to the persons deriving title under him thereto, and those persons shall be the duly constituted attorneys for all the purposes of the power, but without prejudice to any right to appoint substitutes given by the power.

Power of attorney granted by married woman

9. A married woman has power, as if she were unmarried and of full age, by deed to appoint an attorney on her behalf for the purpose of executing any deed or doing any other act which she might herself execute or do, and the provisions of this Act relating to instruments creating powers of attorney apply thereto.

Duration of recorded power.

10. A power of attorney, not falling within the provisions of sections 5 and 6 hereof, heretofore or hereafter recorded in the Deeds Registry, shall, unless a contrary intention appears therein, continue in force until the revocation thereof by the principal shall be recorded or an entry is made thereon as hereinafter provided; and every act, deed or instrument of the attorney after revocation and before the revocation is recorded or an entry is made shall be valid in favour of any person *bona fide* and without notice of revocation dealing with the attorney in the name of the principal.

Revocation of power.

11. A power of attorney may be revoked by the filing as of record or the recording in the Deeds Registry of a deed or other instrument revoking the same, or by an entry in writing under the hand of the Registrar or the Deputy Registrar on a power recorded in the Registry of the death, lunacy, unsoundness of mind or insolvency of the principal, upon evidence by statutory declaration sufficient to satisfy the Registrar or Deputy Registrar of such death or disability.

Offences to
dishonestly
obtain and use
power of
attorney.
[2 of 2022]

12. (1) A person shall not dishonestly obtain a power of attorney—

- (a) to obtain financial advantage for the person or another person; or
- (b) to cause loss to the principal or another person.

(2) An attorney under a power of attorney shall not dishonestly use the power of attorney—

- (a) to obtain financial advantage for the attorney or another person; or
- (b) to cause loss to the donor of the power or another person.

(3) An attorney who fails to comply with this subsection commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years; and in the case of a body corporate ten million dollars.

(4) In this section a reference to a power of attorney includes a reference to a power of attorney that is invalid or has been revoked.

Other offences.
[2 of 2022]

13. (1) If any Public Notary who is suspended or removed from practice or whose name is not on the register, whether for reward or not, makes, does or exercises or performs any act, matter or thing pertaining or belonging to the office, function or practice of Public Notary, the Public Notary commits an offence.

(2) A person who wilfully certifies or propounds any false statement or document, or who fraudulently, with intent to deceive, conceals, withholds or perverts any fact or document pertinent to the subject of a power of attorney commits an offence.

(3) A person who fails to comply with any of the duties imposed on the person under section 2A commits an offence.

(4) A person who commits an offence under this section is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

Regulations.
[2 of 2022]

14. The Minister may make regulations as may be necessary for the better carrying out of the provisions of this Act.

[Subsidiary]

Powers of Attorney Regulations

SUBSIDIARY LEGISLATION

POWERS OF ATTORNEY REGULATIONS

*made under section 14*Reg. 5/2022
Reg. 22/2022

Citation.itation.

1. These Regulations may be cited as the Powers of Attorney Regulations.

Form of
identification
documents.

2. The copies of the photograph identification documents that establish the identities of the donor and donee of a power of attorney, provided to the Deed Registry to be filed or recorded with a power of attorney in the Deeds Registry shall be clear and in colour, and certified, signed and sealed or stamped by the Public Notary or Magistrate as true copies of the original documents of the donee and donor.

Saving of extant
powers of
attorney.No. 2 of 2022
No. 3 of 2022

3. For the avoidance of doubt all powers of attorney filed or recorded in the Deeds Registry before the commencement of the Powers of Attorney (Amendment) Act and the Deeds Registry (Amendment) Act shall remain valid and subsisting.

Acceptable
identification
documents.
Cap. 5:01
[Reg. 22/2022]

4. For the purposes of section 2A(6) of the Act and section 20A of the Deeds Registry Act, any document used as an official form of identification in the territory, state, province or locality in which it was issued is an acceptable form of identification provided that the identification document—

- (a) is valid and enforceable at the time of its presentation to the Deeds Registry, Public Notary or Magistrate;
- (b) was issued by a competent authority; and

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- (c) bears the signature of the person to whom it relates.
