



Jersey

POWERS OF ATTORNEY (JERSEY) LAW 1995

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

04.680

Showing the law from 1 January 2019 to Current



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POWERS OF ATTORNEY (JERSEY) LAW 1995

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Jersey

POWERS OF ATTORNEY (JERSEY) LAW 1995

A LAW to make new provision in relation to powers of attorney

Commencement [[see endnotes](#)]

1 Interpretation

- (1) In this Law, unless the context otherwise requires –
“registered” means registered in the Public Registry and the expression
“registrable” shall be construed accordingly; and
“registrable power of attorney” has the meaning given by Article 3(1).¹
- (2) In Article 2, 6, 8 and 9, “power of attorney” does not include a lasting power of attorney within the meaning given by Article 11 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#).²

2 Powers of attorney generally

- (1) This Article is subject to Article 3.
- (2) A power of attorney takes effect upon being duly executed, unless the power of attorney states otherwise.
- (3) Subject to paragraph (4), a power of attorney, wherever executed, is duly executed if it is signed by the donor, or acknowledged by the donor to have been signed by the donor, in the presence of one witness who is not a party to the power of attorney.
- (4) A body corporate may duly execute a power of attorney in the manner permitted by its articles of association or other internal regulations without any further attestation.
- (5) A power of attorney is not capable of being registered otherwise than in accordance with Article 3.

3 Registrable powers of attorney

- (1) A power of attorney (other than a lasting power of attorney created and registered under Part 2 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#)) which is –
 - (a) intended to be used to effect a transaction which is required to be registered; or
 - (b) required to be registered by any enactment other than a provision of this Law,is in this Law referred to as a “registrable power of attorney” and any such power of attorney shall not be exercisable to effect any such transaction or in connection with the matters to which the enactment relates, as the case may be, until the power has been registered.³
- (2) A registrable power of attorney shall, subject to paragraph (5), be duly executed if it is signed by the donor, or acknowledged by the donor to have been signed by the donor, in the presence of one witness who is not a party to the power of attorney and who –
 - (a) if the power is executed in Jersey, is a Jurat of the Royal Court, a member of the States, an advocate of the Royal Court, a solicitor or a notary public; or
 - (b) if the power is executed outside Jersey, is one of the persons mentioned in sub-paragraph (a) or one of the persons specified in Schedule 1.
- (3) A body corporate may execute a registrable power of attorney in the manner permitted by its articles of association or other internal regulations but such execution shall be equivalent to signature only.
- (4) An application to register a registrable power of attorney shall be made to the Royal Court and the power of attorney may be recorded by means of a copy of the original made by photographic, electronic or any other means.
- (5) The Royal Court may accept as duly executed a registrable power of attorney which is executed outside Jersey and attested by a witness other than a person mentioned in paragraph (2)(a) or (b), either –
 - (a) if the Court is satisfied that, having regard to the conditions prevailing at the time and place of signature, it was not possible, without undue delay or expense, for the power of attorney to be attested by one of such persons; or
 - (b) for such other reason as the Court may think fit.
- (6) For the avoidance of doubt, it is declared that a registrable power of attorney is not required to be recorded in any register other than the Public Registry.
- (7) The States may, by Regulations, amend Schedule 1.

3A Power of Attorney signed by person other than donor

- (1) Despite Articles 2(3) and 3(2), a power of attorney (including a registerable power of attorney) shall be valid when it has not been signed by the donor if –
 - (a) the donor declared in the presence of a qualified witness that, being physically incapacitated to sign the power of attorney himself or herself, the donor wished the power of attorney to be signed by another person on the donor's behalf;
 - (b) the declaration by the donor and the date it was made are recorded on the face of the power of attorney;
 - (c) the power of attorney was read aloud to the donor (or, in the case of a deaf donor, the whole contents of the power of attorney were made known to the donor by some other means) in the presence of the person signing the power of attorney on behalf of the donor and the qualified witness; and
 - (d) after the power of attorney was read to the donor (or, in the case of a deaf donor, after the whole contents of the power of attorney were made known to him or her by some other means), it was signed by some other person on the donor's behalf in the presence of a qualified witness and that witness put his or her signature to the power of attorney in the presence of the donor and that other person.
- (2) A person shall not be competent to sign a power of attorney on behalf of a donor unless that person has the capacity to execute a valid will of his or her own.
- (3) In this Article, "qualified witness" means –
 - (a) if the power of attorney is executed in Jersey, a person referred to in Article 3(2)(a); or
 - (b) if the power of attorney is executed outside Jersey, a person referred to in Article 3(2)(a) or a person specified in Schedule 1.⁴

4 Proof of powers of attorney

- (1) 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 any person mentioned in Article 3(2)(a) or (b), 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 2 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 a power of attorney has been made which complies with paragraph (1), the power of attorney may also be proved by a copy of that copy if the further copy itself complies with that paragraph, taking references in that paragraph to the original as references to the copy from which the further copy is made.

5 Powers of attorney given ancillary to security

- (1) In this Article –

“appropriate Security Interests Law” means whichever Law applies to the relevant security interest, being the [Security Interests \(Jersey\) Law 1983](#) or the [Security Interests \(Jersey\) Law 2012](#);

“bankruptcy” includes any insolvency proceedings of a similar nature to bankruptcy in any place outside Jersey;

“foreign law” means any law other than the law of Jersey;

“security interest” means, as the case requires, a continuing security interest to which, as referred to in Article 1A of the [Security Interests \(Jersey\) Law 1983](#), that Law applies or a security interest within the meaning of the [Security Interests \(Jersey\) Law 2012](#), and “security agreement” and “secured party” have corresponding meanings.⁵

- (2) Where a power of attorney is expressed to be irrevocable and is given –

- (a) for the purpose of facilitating the exercise of powers of a secured party under the appropriate Security Interests Law in respect of a security interest or of powers given pursuant to a security agreement in respect of a security interest; or
- (b) pursuant to, in connection with, for the purpose of, or as ancillary to, security governed by foreign law,

then, so long as the security interest or security is effective, the power of attorney shall not be revoked –

- (i) in any case, by the donor without the consent of the donee;
- (ii) if the donor is an individual, by his or her death, incapacity or bankruptcy; or
- (iii) if the donor is a body corporate, by its bankruptcy or dissolution.⁶
- (3) A power of attorney to which paragraph (2) applies may be given to the secured party or the person taking security governed by foreign law and persons deriving rights under them respectively or to some person nominated by the secured party or person taking security governed by foreign law and those persons shall be duly constituted donees of the power of attorney for all the purposes of the power but without prejudice to any right to appoint substitutes given by the power.
- (4) This Article shall have effect notwithstanding any enactment or rule of law, in force in Jersey or elsewhere, which vests property in any person on death, bankruptcy or any other disability or incapacity and the donee of a power of attorney to which paragraph (2) applies shall be entitled to act thereunder as if the power of attorney had been given also by the person in whom the property so vests.

- (5) A person acting under and in accordance with a power of attorney to which paragraph (2) applies shall not be guilty of an offence under Article 23 of the [Probate \(Jersey\) Law 1998](#).

6 Protection of donee and third persons in certain circumstances where power of attorney is revoked

- (1) In this Article –
- “bankruptcy” includes any insolvency proceedings of a similar nature to bankruptcy in any place outside Jersey;
- “purchaser” means any person (including a lessee under a lease or a hypothecary creditor or secured party) who otherwise than gratuitously takes any interest in immovables or movables, and “purchase” has a corresponding meaning; and
- “secured party” has the same meaning as in Article 5.⁷
- (2) 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 the donee did not know that the power had been revoked.
- (3) 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.
- (4) Subject to paragraph (6), in the case of a power of attorney to which Article 5(2) applies, a person dealing with a donee 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 paragraph (3) as having knowledge of the revocation only if the donee knows that it has been revoked in that manner.
- (5) 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 paragraph (3), 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 12 months of the date on which the power came into operation; or
- (b) that person makes an affidavit, before or within 3 months after the completion of the purchase, stating that the person did not, at the material time, know of the revocation of the power.
- (6) Without prejudice to paragraph (4), for the purposes of this Article 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.
- (7) This Article applies whenever a power of attorney was created but only to acts or transactions after this Law comes into force.

- (8) This Article shall have effect notwithstanding –
- (a) Article 19 of the [Probate \(Jersey\) Law 1998](#);
 - (b) any enactment or rule of law, in force in Jersey or elsewhere, which vests property in any person on death, bankruptcy or other disability or incapacity.
- (9) A donee of a power of attorney who acts under and in accordance with paragraph (2) and a person who deals with the donee of a power in the circumstances described in paragraph (3) shall not be guilty of an offence under Article 23 of the [Probate \(Jersey\) Law 1998](#).

7 Effect of general power of attorney in specified form

- (1) Subject to Articles 2 and 3 and paragraph (2), a general power of attorney in the form set out in Schedule 2 or in a form to the like effect expressed to be made under this Law shall confer –
- (a) on the donee of the power; or
 - (b) if there is more than one donee, on the donees acting jointly or severally, as the case may be,
- authority to do on behalf of the donor anything the donor can lawfully do by an attorney.
- (2) This Article does not apply to functions which the donor has as a trustee or personal representative.

8 Substitute attorneys

- (1) An attorney may, if so authorized in the power appointing the attorney, appoint a substitute by means of a power of attorney, but not otherwise, and the substitute may exercise the powers of the original attorney to the extent authorized in the power appointing the attorney.
- (2) A power of attorney which appoints a substitute attorney cannot be used to effect a registrable transaction until both the original power of attorney and the substitute power have been registered.

9 Revocation and abandonment of power of attorney

- (1) Subject to Articles 5 and 10 and paragraph (4), a power of attorney may be revoked or abandoned by a document conforming generally to whichever of the forms in Schedule 3 is applicable and executed in the same manner as is required for the creation of a power of attorney under this Law.⁸
- (2) The revocation or abandonment of a power of attorney revokes any appointment of a substitute attorney made thereunder.
- (3) Any document executed in pursuance of paragraph (1) which relates to a registrable power of attorney which has been registered is of no effect until it has been registered.

- (4) In addition to a power of attorney to which Article 5(2) applies, a power of attorney may be expressed to be incapable of revocation by the donor of the power for any period not exceeding one year from the date on which it is granted or the date on which it comes into effect, whichever is the later.
- (5) A power of attorney, other than a power to which Article 5(2) applies, which is granted after the coming into force of this Law is revoked by the death, incapacity or bankruptcy of the donor or, if the donor is a body corporate, by its bankruptcy or dissolution.

10 Saving

Nothing in this Law –

- (a) shall be taken as overruling any provision of the customary law relating to powers of attorney, except insofar as any such provision is inconsistent with this Law;
- (b) affects the laws and customs of Jersey relating to the naming of an attorney without whom the donor may not transact in matters real or personal or relating to the repeal or abandonment of such a power of attorney;
- (c) affects the validity of a power of attorney passed before the Bailiff and 2 Jurats or registered in the Royal Court before the coming into force of this Law.

11 Citation

This Law may be cited as the Powers of Attorney (Jersey) Law 1995.

SCHEDULE 1

(Article 3(2))

**PERSONS WHO MAY ATTEST TO A REGISTRABLE POWER OF ATTORNEY
EXECUTED OUTSIDE JERSEY**

A judge, justice of the peace, magistrate, mayor, chief officer of any city or municipal corporation, a barrister, solicitor, a lawyer qualified under the legal system of the place of execution, a person authorized to take oaths or affidavits or the equivalent thereof by the law of Jersey or the law of the place of execution, a British consular official (or a person for the time being discharging the duties of such an official), or, if the donor of the power is a member of the British armed forces, an officer of those forces authorized to take affidavits.

In this Schedule –

“barrister” means a person who is qualified as a barrister in England and Wales or Northern Ireland or as an advocate in Scotland; and

“solicitor” means a solicitor of the Supreme Court of England and Wales, a solicitor of the Supreme Court of Judicature of Northern Ireland or a solicitor in Scotland.

SCHEDULE 2

(Article 7(1))

FORM OF GENERAL POWER OF ATTORNEY

THIS GENERAL POWER OF ATTORNEY is made this day of
..... 20 by A.B. of

I appoint C.D. of

[or C.D. of

and E.F. of

[jointly] [jointly and severally]] to be my attorney[s] in accordance with Article 7 of
the Powers of Attorney (Jersey) Law 1995.

In witness whereof etc.

SCHEDULE 3

(Article 9(1))

FORM FOR INSTRUMENT OF REVOCATION OF POWER OF ATTORNEY

I, A.B., of
....., hereby
revoke the power of attorney given by me to
..... dated the
..... day of, 19/20 [*and registered by the
Royal Court of Jersey on the day of 20 at
page of book].*

In witness whereof etc.

FORM FOR ABANDONMENT OF POWER OF ATTORNEY

I, A.B., of
....., hereby
abandon the power of attorney given to me by
....., dated the
..... day of, 20..., [*and registered by the
Royal Court of Jersey on the day of 20 at page
... .. of book].*

In witness whereof etc.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Powers of Attorney (Jersey) Law 1995	L.24/1995	1 October 1995 (R&O.8860)	
Security Interests (Jersey) Law 2012	L.24/2012	2 January 2014 (R&O.104/2013)	P.88/2011
Signing of Instruments (Miscellaneous Provisions) (Jersey) Law 2018	L.21/2018	8 June 2018	P.10/2018
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	R&O.49/2018	1 October 2018 (R&O.51/2018)	P.48/2018

◦Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2), (3), (4)	spent, omitted from this revised edition
11	spent, omitted from this revised edition
12	11

Table of Endnote References

¹ Article 1(1)	<i>numbered by R&O.49/2018</i>
² Article 1(2)	<i>inserted by R&O.49/2018</i>
³ Article 3(1)	<i>amended by R&O.49/2018</i>
⁴ Article 3(A)	<i>inserted by L.21/2018</i>
⁵ Article 5(1)	<i>substituted by L.24/2012</i>
⁶ Article 5(2)	<i>substituted by L.24/2012</i>
⁷ Article 6(1)	<i>amended by L.24/2012</i>
⁸ Article 9(1)	<i>amended by L.21/2018</i>