

PROJET DE LOI

ENTITLED

The Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* No. V of 1995, Ordres en Conseil Vol. XXXVI, p. 116. This Law is disapplied, in part, by the Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022 (No. ** of 2022)

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ARRANGEMENT OF SECTIONS

1. Execution of powers of attorney and affidavits.
2. Power of Royal Court to extend scope of Law by order.
3. Form of general power of attorney.
4. Savings.
5. Citation.

SCHEDULE Form of General Power of Attorney for purposes of Section 3.

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THE STATES, in pursuance of their Resolution of the 27th day of July, 1994^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Execution of powers of attorney and affidavits.

1. A power of attorney (for whatever purpose), an affidavit and any other document of a class or description specified by order of the Royal Court for the purposes of this Law may be executed or sworn –

- (a) anywhere in the Bailiwick, before a notary public,
- (b) in Guernsey, Herm or Jethou, before a Jurat of the Royal Court of Guernsey,
- (c) in Alderney, before a Jurat of the Court of Alderney,
- (d) in Sark, before the Seneschal,
- (e) in a place outside the Bailiwick –

^a Article XIV of Billet d'État No. XVI of 1994.

- (i) before a person empowered to administer oaths or take sworn declarations in that place, or
- (ii) in accordance with the rules in force in that place governing the execution or swearing of powers of attorney, affidavits or (as the case may be) documents of that class or description.

NOTE

In accordance with the provisions of the Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022, section 14, with effect from 1st April, 2022 and for the avoidance of doubt, the provisions of this Law do not apply in relation to any lasting power of attorney created in accordance with that Ordinance, and that Ordinance does not affect the law of agency or the operation of any power of attorney made in accordance with this Law.

Power of Royal Court to extend scope of Law by order.

2. (1) The Royal Court may by order specify any other person or class or description of persons before whom a power of attorney, affidavit or document of a class or description specified by order under section 1 may be executed or sworn.

- (2) An order under subsection (1) or under section 1 may –
 - (a) be amended or revoked by a subsequent order thereunder,
 - (b) make different provision for different cases, purposes or circumstances,
 - (c) make supplementary, consequential, incidental or

transitional provision,

- (d) make any provision subject to such conditions as may be specified in the order.

NOTE

The following Order has been made by the Royal Court under section 2:

Affidavits, etc. (Execution before Advocates) Rules, 1999.

Form of general power of attorney.

3. (1) Subject to the provisions of subsection (2), a general power of attorney which is executed in accordance with the provisions of section 1 (whether as originally enacted or as extended by order of the Royal Court under section 2) and which is in the form set out in the Schedule, or in a form to the like effect but expressed to be made under this Law, 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 and severally, as the case may be;

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

(2) Without prejudice to the provisions of section 29A of the Trusts (Guernsey) Law, 1989, as amended^b, this section does not apply to functions which the donor has as a trustee, personal representative or guardian.

^b Ordres en Conseil No. II of 1989; and No. XXX of 1990.

NOTE

The Trusts (Guernsey) Law, 1989 has since been repealed by the Trusts (Guernsey) Law, 2007, section 83(1)(a), with effect from 17th March, 2008, subject to the transitional provisions and savings in, respectively, subsections (2)-(4) of section 83 and section 84 of the 2007 Law.

Savings.

4. Nothing in this Law affects the validity of a power of attorney, affidavit or other document executed or sworn –

- (a) before the commencement of this Law, or
- (b) in accordance with some other rule of law, statutory provision or rule of court.

Citation.

5. This Law may be cited as the Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995.

NOTE

The Law received Royal Sanction on 11th April, 1995 and was registered on the Records of the Island of Guernsey and came into force on 11th July, 1995.

SCHEDULE
FORM OF GENERAL POWER OF ATTORNEY FOR
PURPOSES OF SECTION 3

"THIS GENERAL POWER OF ATTORNEY is made this ... day of ... , 19..., by ...
of ... [insert full name and address of donor]

I APPOINT ... of ... [insert full name and address of donee]

[OR, if more than one donee]

I APPOINT ... of ... and ... of ... [insert full names and addresses of first and
subsequent donees] jointly OR jointly and severally

to be my attorney[s] in accordance with section 3 of the Powers of Attorney and
Affidavits (Bailiwick of Guernsey) Law, 1995.

AS WITNESS my hand the day and year first above written.

SIGNED by the said ... [insert full name of donor]

in the presence of".