

**PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF**   
**SRI LANKA**

*————————*

**POWERS OF ATTORNEY (AMENDMENT)**

**A**

**BILL**

**to amend the Powers of Attorney Ordinance (Chapter 122)**

*————————*

*Presented by the Minister of Internal and Home Affairs and*   
*Provincial Councils and Local Government on 07th of November, 2019*

(Published in the Gazette on August 27, 2019)

*Ordered by Parliament to be printed*

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**[Bill No. 308]**

PRINTEDATTHEDEPARTMENTOFGOVERNMENTPRINTING, SRILANKA   
TOBEPURCHASEDATTHEGOVERNMENTPUBLICATIONSBUREAU, COLOMBO5

**Price : Rs. 17.00**  **Postage : Rs. 15.00**

*This Bill can be downloaded from* www.documents.gov.lk 

*STATEMENT OF LEGAL EFFECT*

*Clause 2:* This clause amends section 2 of the Powers of Attorney Ordinance (Chapter 122) (hereinafter referred to as the “principal enactment”), and the legal effect of the section is to expand the meaning of the term power of attorney.

*Clause 3 :* This clause amends section 3 of the principal enactment and the legal effect of the section is to compel registration of power of Attorney relating to a transaction which falls within the scope of section 2 of the Prevention of Frauds Ordinance.

*Clause 4 :* This clause inserts new sections 3A, 3B, 3C and 3D in the principal enactment and specify a new procedure for registering a power of attorney relating to a transaction which falls within the scope of the prevention of Frauds Ordinance.

*Clause 5 :* This clause amends the section 4 of the principal enactment and the legal effect of the section is to specify a new procedure for cancellation or revocation of a power of attorney.

*Clause 6 :* This clause is consequential to the amendment made by Clause 5.

*Clause 7 :* This clause inserts new section 11 in the principal enactment and the legal effect of the section is to give responsibility to a person who attests a power of attorney to maintain confidentiality on every information given by any person regarding a power of attorney.

*Clause 8 :* This clause amends the Schedule of the principal enactment as Schedule I and is consequential to the amendment made by clause 9.

*Clause 9 :* This clause inserts a new Schedule to the principal enactment and the legal effect of the section is to include a new Schedule II for proper identification of the attorney.

*Clause 10 :* This section provides for transitional provisions and makes the repealed provision to be applicable for a certain period of time.

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| *Powers of Attorney (Amendment)* | 1 |

L.D.—O. 35/2016

AN ACTTOAMENDTHE POWERSOF ATTORNEY   
ORDINANCE (CHAPTER 122)

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

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| **1.** | This Act may be cited as the Powers of Attorney | Short title. |

(Amendment) Act, No. of 2019.

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| 5 | **2**. | Section 2 of the Powers of Attorney Ordinance | Amendment |
| (Chapter 122) (hereinafter referred to as the “principal | | of section 2 |
| of Powers of |
| enactment”) is hereby amended— | |
| Attorney |

Ordinance

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| --- | --- | --- | --- |
| 10 | (1) | by the repeal of the definition of the expression | (Chapter |
| 122). |
| “power of attorney” and the substitution therefor |
| of the following definition:— |

“ “power of attorney” shall include any written power of authority other than that given to an attorney at law, given by one person to another to perform any work, do any act, or 15 carry on any trade or business, and executed before two witnesses or executed before or attested by a Notary Public, or the Justice of the Peace, Registrar-General, any Judge or Magistrate, or Ambassador, High 20 Commissioner or Diplomatic Officer or Consular Officer within the meaning of the Consular Functions Act, No. 4 of 1981 and in the case of a power of attorney executed

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| --- | --- |
| 25 | outside Sri Lanka a person who is authorized to attest such power of attorney |

according to the law of that country;”;

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| --- | --- | --- |
| 2 | (2) | *Powers of Attorney (Amendment)* |
| by the repeal of the definition of the expression |

“Regisrar General” and the substitution therefor of   
the following definition:—

“ “Registrar-General” shall include Registrar 5 General of Title or any Deputy or Assistant Registrar General and any person for the time being lawfully discharging the duties

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 10 | of the Registrar-General or Registrar General | | | Replacement |
| of Title or Deputy or Assistant Registrar- | | |
| General;”. | | |
| **3**. | Section 3 of the principal enactment is hereby | |
| 15 | repealed and the following section is substitued therefor:— | | | of section 3 |
| of the |
| “Registration of Power of Attorney. | | 3. (1) Every attorney desiring to have his power of attorney registered shall submit his power of attorney for registration to the Registrar | principal |
| enactment. |

General, if it is executed in Sri Lanka, within   
one month and if it is executed outside   
Sri Lanka, within three months from the date of

|  |  |
| --- | --- |
| 20 | execution of the power of attorney together with a copy thereof certified by a Notary Public to be |

a true copy together with an affidavit made as   
specified in Schedule II hereto to the effect that

|  |  |
| --- | --- |
| 25 | to the best of his knowledge and belief such power of attorney is genuine and still in force, and he believes that the grantor is alive: |

Provided however, every power of attorney   
granted to be used for the purpose of a   
transaction which falls within the scope of

|  |  |
| --- | --- |
| 30 | section 2 of the Prevention of Frauds Ordinance, shall be registered with the Registrar |

General and with the Registrar of the relevant Land Rgistry or Registrar of Title as the case may be, in the volume and folio or in the title register under the Title Registration Act, 35 No. 21 of 1998, as the case may be in which such land is registered, in the manner as hereinafter provided.

*Powers of Attorney (Amendment)*  3

(2) The Registrar General shall, after satisfying himself of the correctness of the copy of the power of attorney referred to in subsection (1), register the power of attorney and file such 5 copy and shall endorse upon such copy and upon the power of attorney, the registration number and the date thereof together with a reference to the volum and folio or the title register as the case may be wherein such registration is recorded 10 and shall return the power of attorney to the person producing the same.

(3) Such registration shall be recorded in a   
book to be kept in the form specified in   
Schedule I hereto.”.

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| 15 | **4.** | The following new sections are hereby inserted | Insertion of |
| immediately after section 3 of the principal enactment and | | new sections |
| shall have effect as section 3A, 3B, 3C, and 3D of that | | 3A, 3B, 3C, |
| and 3D in |
| enactment:— | |
| that principal |

enactment.

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| 20 | “Power of | 3A. A power of attorney granted to be used |
| Attorney | for the purpose of a transaction falling within |
| granted to be | the scope of section 2 of the Prevention of |
| used for the |
| Frauds Ordinance shall— |
| purpose of a |

transaction

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | falling within | (*a*) | if executed in Sri Lanka, be duly |
| the scope of | attested by a Notary public in |
| section 2 of |
| accordance with the Notaries |
| the |
| 30 | Prevention of | Ordinance, and shall contain a |
| Frauds | description of the land that is to |
| Ordinance to |
| be dealt with, in metes and bounds, |
| comply with |
| and extent, and in the case of a |
| certain |
| condominium property,a description |
| requirements. |
| of the unit where it can be identified, |

and other elements and a definition of the whole land where the unit cannot be identified and a reference 35 to the volume and the folio in which

4 *Powers of Attorney (Amendment)*

the land or condominium property   
proposed to be dealt with is registered,   
if it has been registered;

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | if executed out side Sri Lanka, contain |
| a description of the land with metes |

and bounds and extent, and in the   
case of a condominium property, a   
description of the unit where it can be

|  |  |
| --- | --- |
| 10 | identified, and other elements and a description of the whole land where |

the unit connot be identified and   
reference to the volume and folio in   
which the land or condominium

|  |  |  |
| --- | --- | --- |
| 15 | (*c*) | property proposed to be dealt with is |
| registered, if it has been registered; |
| bear the left or right thumb impression |

of the Grantor and where both thumbs   
of the Grantor is missing, the

|  |  |
| --- | --- |
| 20 | impression of any other finger from either the left or the right hand of the |

Grantor, in addition to his signature   
and where both his hands are missing   
he shall place his toe impression in

|  |  |
| --- | --- |
| 25 | the presence of the Notary Public or such other person attesting such power |

of attorney and the witnesses; and

|  |  |  |
| --- | --- | --- |
| 30 | (*d*) | have annexed to it a copy of the |
| Passport or National Identify Card and |
| where the Passport or the National |
| Identity Card is not availabe a recent |
| 35 | photograph in the size of 3.5mm x |
| 4.5mm of the Grantor and of the |
| attorney certified by the Notary Public |
| attesting the power of attorney, or in |
| the case of the power of attorney |
| executed outside Sri Lanka, by the |
| Notary Public or such other person |

attesting such power of attorney.

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| 5 | Notary | *Powers of Attorney (Amendment)* | 5 |
| 3B. Every Notary Public who attests a deed | |
| Public to | or instrument in terms of the Notaries | |
| verify |
| Ordinance in respect of a transaction which | |
| whether |
| power of | falls within the scope of section 2 of the | |
| attorney has | Prevention of Frauds Ordinance on a power of | |
| been revoked |
| attorney given by the Grantor, shall examine | |
| or cancelled. |
| the relevant volumes and folios in the Land | |

Registry or the Title Register as the case may be and folios in the Registrar General’s office 10 and satisfy himself that the power of attorney has not been revoked or cancelled and shall state such fact in his attestation.

For the purpose of determinig whether such power of attorney is revoked, cancelled or not, 15 it shall be sufficient for the Notary Public who attests such deed or instrument to examine the relevant volumes and the folios of the Land Registry or the Title Register as the case may be and the folios in the Registrar General’s office.

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| --- | --- | --- |
| 20 | Notary | 3C. Every Notary Public who attests a deed |
| 25 | Public to | or instrument in relation to a transaction |
| retain a copy |
| referred to in section 3A, shall retain a copy of |
| of the |
| the passport or the National Identity Card or |
| Passport or |
| the National | where the Passport or Identity Card is not |
| Identity Card |
| available recent photograph of the Grantor |
| of the |
| Grantor and | and the attorney of the power of attorney as |
| the attorney | specifed in section 3A(*d*) and a certified copy |
| and copy of |
| of the power of attorney. |
| the power of |

attorney.

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| 30 | Period of | 3D. A power of attorney shall be valid for a |
| validation of | period of five years from the date of attestation |
| a power of |
| thereof, unless the period of validity of such |
| attorney. |
| power of attorney is specified in such power of |

attorney or until such power of attorney is revoked or cancelled in accordance with the 35 provisions of section 4.”.

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| 5 | 6 | | *Powers of Attorney (Amendment)* | Replacement |
| **5.** | Section 4 of the principal enactment is hereby | |
| repealed and the following new section is sbstituted | | | of section 4 |
| of the |
| therefor:— | | |
| principal |
| “Procedure | | 4. (1) If the Grantor wishes to revoke or | enactment. |
| of  cancellation  or revocation of a power of Attorney. | | cancel any registered power of attorney or the attorney does not wish to act under such power of attorney, such Grantor or attorney shall execute a notarially executed document, |
| 10 | revoking the power of attorney or expressing | | |
| his intention not to act under or on that power | | |

or attorney, as the case may be.

(2) Such Grantor or attorney as the case may be, shall forthwith produce the document referred to in subsection (1) to the Registrar 15 General, and where such power of attorney is granted to be used for the purpose of a transaction falling within the scope of section 2 of the Prevention of Frauds Ordinance, to the Registrar-General and to the 20 Registrar of the relevant Land Registry or the relevant Registrar of Title as the case may be who shall register the same in the volume and folio or the title register as the case may be in which such power of attorney has been 25 registered.

(3) A true copy certified by a Notary Public, of such document referred to in subsection (1), shall be registered in the relevant Land Registry in the volume and folio in which such power 30 of attorney is registered or in the relevant title register as the case may be.”.

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| **6.** | Section 5 of the principal enactment is hereby | Repeal of  section 5 of the principal |
| repealed. | |

enactment.

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| *Powers of Attorney (Amendment)* | | 7 | Insertion of new section 11 in the  principal |
| **7.** | The following new section is hereby inserted | |
| immediately after section 10 of the principal enactment and shall have effect as section 11 of that enactment:— | | |

enactment.

|  |  |  |  |  |  |
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| 5 | “Duty to  maintain  confidentiality of the | | 11. The Notary Public or the person who executes a power of attorney shall maintain confidentiality in respect of any information | | Numbering |
| information  of the power of attorney. | | given by any person regarding such power of attorney.”. | |
| **8.** | The Schedule to the principal enactment is hereby | | |
| 10 | numbered as Schedule I of that enactment. | | | | of the |
| Schedule in |
| the principal |
| enactment. |
| 15 | **9.** | The following new Schedule is hereby inserted | | | Insertion of |
| new |
| immediately after the Schedule numbered as Schedule I of | | | |
| Schedule in |
| the principal enactment and shall have effect as Schedule II | | | |
| the principal |
| of that enactment:— | | | | enactment. |
| “ SCHEDULE II | | | [Section 3] |

I, ...................................... of ...................................... being a ..................................do hereby swears/declares and affirms as follows:-

|  |  |  |
| --- | --- | --- |
| 20 | (1) | I am the deponent/affirment above named. |
| (2) | The attached power of attorney is genuine and still in force |

and I believe that the Grantor is alive.

..............................................

Attorney

|  |  |  |
| --- | --- | --- |
| 25 | The foregoing affidavit having |  |
| been read over and explained to |
| the above neamed and he having |
| understood the contents thereof |
| 30 | signed and affirmed/sworn to at |
| ........................... on this ..... day |
| of ......................... |

Before me

Justice of the Peace/Commissioner for Oaths.”.

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| 8 | *Powers of Attorney (Amendment)* | Transitional Provisions. |
| **10.** | Notwithstanding the repeal of section 3 of the |
| principal enactment by section 3 of this Act, the provisions | |

of that section shall have effect in respect of a power of attorney executed prior to the date of commencement of

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | this Act. | | Sinhala text  to prevail in case of  inconsistency. |
| **11.** | In the event of any inconsistency between the |
| Sinhala and Tamil texts of this Act, the Sinhala text shall | |
| prevail. | |

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| *Powers of Attorney (Amendment)* | 9 |

Department of Government Printing