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SOCIALIST REPUBLIC OF
SRI LANKA**

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SUPPLEMENT

(Issued on 27.08.2019)



POWERS OF ATTORNEY (AMENDMENT)

**A
BILL**

to amend the Powers of Attorney Ordinance (Chapter 122)

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Clause 10 : This section provides for transitional provisions and makes the repealed provision to be applicable for a certain period of time.

Powers of Attorney (Amendment)

L.D.—O. 35/2016

AN ACT TO AMEND THE POWERS OF ATTORNEY
ORDINANCE (CHAPTER 122)

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

1. This Act may be cited as the Powers of Attorney (Amendment) Act, No. of 2019. Short title.

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

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

15 ““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 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 outside Sri Lanka a person who is
25 authorized to attest such power of attorney according to the law of that country;”;

- (2) by the repeal of the definition of the expression “Registrar General” and the substitution therefor of the following definition:—

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

3. Section 3 of the principal enactment is hereby repealed and the following section is substituted therefor:—

15 “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 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 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 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:

30 Provided however, every power of attorney granted to be used for the purpose of a transaction which falls within the scope of section 2 of the Prevention of Frauds Ordinance, shall be registered with the Registrar General and with the Registrar of the relevant Land Registry or Registrar of Title as the case may be, in the volume and folio or in the title register under the Title Registration Act, No. 21 of 1998, as the case may be in which such land is registered, in the manner as hereinafter provided.

Replacement of section 3 of the principal enactment.

5 (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
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.”.

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

Insertion of
new sections
3A, 3B, 3C,
and 3D in
that principal
enactment.

20 “Power of Attorney granted to be used for the purpose of a transaction falling within the scope of section 2 of the Prevention of Frauds Ordinance to comply with certain requirements.

25 3A. A power of attorney granted to be used for the purpose of a transaction falling within the scope of section 2 of the Prevention of Frauds Ordinance shall—

30 (a) if executed in Sri Lanka, be duly attested by a Notary public in accordance with the Notaries Ordinance, and shall contain a description of the land that is to be dealt with, in metes and bounds, and extent, and in the case of a condominium property, a description 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 to the volume and the folio in which

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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
identified, and other elements and a
10 description of the whole land where
the unit cannot be identified and
reference to the volume and folio in
which the land or condominium
property proposed to be dealt with is
15 registered, if it has been registered;
- (c) bear the left or right thumb impression
of the Grantor and where both thumbs
of the Grantor is missing, the
impression of any other finger from
20 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
the presence of the Notary Public or
25 such other person attesting such power
of attorney and the witnesses; and
- (d) have annexed to it a copy of the
Passport or National Identify Card and
where the Passport or the National
30 Identity Card is not availabe a recent
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
35 the case of the power of attorney
executed outside Sri Lanka, by the
Notary Public or such other person
attesting such power of attorney.

Notary
Public to
verify
whether
power of
attorney has
been revoked
or cancelled.

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3B. Every Notary Public who attests a deed or instrument in terms of the Notaries Ordinance in respect of a transaction which falls within the scope of section 2 of the Prevention of Frauds Ordinance on a power of attorney given by the Grantor, shall examine 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 and satisfy himself that the power of attorney has not been revoked or cancelled and shall state such fact in his attestation.

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For the purpose of determining whether such power of attorney is revoked, cancelled or not, 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.

20 Notary
Public to
retain a copy
of the
Passport or
the National
Identity Card
of the
Grantor and
the attorney
and copy of
the power of
attorney.

25

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

30 Period of
validation of
a power of
attorney.

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3D. A power of attorney shall be valid for a period of five years from the date of attestation thereof, unless the period of validity of such power of attorney is specified in such power of attorney or until such power of attorney is revoked or cancelled in accordance with the provisions of section 4.”.

5. Section 4 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

Replacement of section 4 of the principal enactment.

5 “Procedure of cancellation or revocation of a power of Attorney. 4. (1) If the Grantor wishes to revoke or 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, revoking the power of attorney or expressing his intention not to act under or on that power or attorney, as the case may be.

15 (2) Such Grantor or attorney as the case may be, shall forthwith produce the document referred to in subsection (1) to the Registrar 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 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 registered.

25 (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 of attorney is registered or in the relevant title register as the case may be.”.

6. Section 5 of the principal enactment is hereby repealed.

Repeal of section 5 of the principal enactment.

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:—

Insertion of new section 11 in the principal enactment.

5 “Duty to maintain confidentiality of the information of the power of attorney. 11. The Notary Public or the person who executes a power of attorney shall maintain confidentiality in respect of any information given by any person regarding such power of attorney.”.

8. The Schedule to the principal enactment is hereby numbered as Schedule I of that enactment.

Numbering of the Schedule in the principal enactment.

9. The following new Schedule is hereby inserted immediately after the Schedule numbered as Schedule I of the principal enactment and shall have effect as Schedule II of that enactment:—

Insertion of new Schedule in the principal enactment.

15 “ SCHEDULE II [Section 3]

I, of being ado hereby swears/declares and affirms as follows:-

- (1) I am the deponent/affirment above named.
- 20 (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 signed and affirmed/sworn to at on this day)

30 of

Before me

Justice of the Peace/Commissioner for Oaths.”.

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 this Act.

Transitional
Provisions.

11. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text
to prevail in
case of
inconsistency.

