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SUPPLEMENT

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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 meanings of the definitions of the expressions “power of attorney” and “Registrar General”.

Clause 3 : This clause replaces section 3 of the principal enactment and the legal effect of the section is to make registration compulsory for all power of attorney irrespective of the place of execution.

Clause 4 : This clause inserts new sections 3A, 3B, 3C and 3D in the principal enactment and the legal effect of the section is to –

- (a) set out a new procedure for registering a power of attorney relating to a transaction which falls within the scope of the Prevention of Frauds Ordinance;
- (b) require the notary public to verify the validity of a power of attorney prior to the attestation of a deed or instrument;
- (c) specify the validity period of a power of attorney;
- (d) restrict the execution of an irrevocable power of attorney.

Clause 5 : This clause repeals and replaces the section 4 of the principal enactment and the legal effect of the section is to simplify the procedure for cancellation or revocation of a power of attorney.

Clause 6 : This clause is consequential to the amendment made by Clause 7.

Clause 7 : This clause is consequential to the amendment made by Clause 3.

Clause 8 : This clause is consequential to the amendment made by Clause 3.

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 2022. 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 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” means any written power
or 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 -

(a) if it is executed in Sri Lanka, executed
before two witnesses and attested by
a notary public; or

20 (b) if it is executed outside Sri Lanka,
executed before two witnesses and an
Ambassador, or a High Commissioner,
or a Diplomatic Officer or a Consular
Officer within the meaning of the
Consular Functions Act, No. 4 of 1981
25 or a person who is 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” includes the Registrar General of Title, a Senior Deputy Registrar General, a Deputy Registrar General, an Assistant Registrar General and any person who for the time being is lawfully discharging the duties of the Registrar General, the
10 Registrar General of Title, the Senior Deputy Registrar General, Deputy Registrar General or the Assistant Registrar General.”.

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

Replacement of section 3 of the principal enactment

15 “Registration of Power of Attorney 3. (1) (a) Every power of attorney executed in Sri Lanka or any other country shall be registered with the Registrar General.

(b) Every power of attorney holder (hereinafter referred to as the “attorney”) shall
20 submit his power of attorney for registration, 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 –

25 (i) a copy thereof certified by a notary public to be a true copy; and

(ii) an affidavit made as specified in Schedule I hereto.

(2) The Registrar General shall, upon being satisfied as to the correctness of the power of attorney referred to in subsection (1), register the power of attorney and file such certified copy and shall endorse upon such certified copy and the original power of attorney, the registration number and the date thereof, together with a reference to the volume and folio wherein such registration is recorded and shall return the original power of attorney to the person producing the same.

(3) Such registration shall be recorded in a book maintained by the Registrar General which is to be kept in the form specified in the Schedule II hereto.”.

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

Insertion of new sections 3A, 3B, 3C and 3D, in the 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

3A. (1) A 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 (Chapter 70) shall be executed subject to the provisions specified in subsection (2) or (3), as the case may be.

(2) If a power of attorney specified in subsection (1) is executed in Sri Lanka, it shall -

- (a) be duly attested by a notary public in accordance with the Notaries Ordinance (Chapter 107) and the Prevention of Frauds Ordinance;
- 5 (b) contain a description of the land or land parcel as the case may be, with metes and bounds, and the extent, in the case of a land or land parcel;
- 10 (c) contain a description of the condominium parcel with other elements by which it can be identified, and a description of the whole land where the condominium parcel cannot be identified;
- 15 (d) contain a reference to the volume and the folio in which the land or land parcel or condominium parcel, relating to the transaction is registered in the case of a land or
- 20 land parcel or condominium parcel with prior registration;
- 25 (e) bear the left or right thumb impression of the grantor and where both thumbs of the grantor are missing, the 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
- 30 toe impression, in the presence of the notary public and the witnesses;

5 (f) be accompanied with a copy of the
bio page of the passport, National
Identity Card or driving license of
the grantor and attorney of such
power of attorney certified by the
notary public.

(3) If a power of attorney specified in
subsection (1) is executed outside Sri Lanka, it
shall -

10 (a) be duly executed before a person
authorized under section 2 of this
Act;

15 (b) contain a description of the land or
land parcel as the case may be with
metes and bounds and the extent in
the case of a land or land parcel;

20 (c) contain a description of the
condominium parcel with other
elements by which it can be
identified, and a description of the
whole land where the condominium
parcel cannot be identified in the
case of a condominium property;

25 (d) contain a reference to the volume
and folio in which the land or land
parcel or condominium parcel
relating to the transaction, is
registered, in the case of a land or
land parcel or condominium parcel
30 with prior registration;

- 5 (e) be accompanied by a copy of the bio page of the passport of the grantor certified by such grantor and a copy of the bio page of the passport, National Identity Card or driving license of the attorney of such power of attorney certified by a notary public.

10 Notary to verify whether the power of attorney has been revoked or cancelled and to retain copies of certain documents

3B. (1) Every notary public who attests a deed or instrument in terms of the Notaries Ordinance in respect of a transaction referred to in section 3A of this Act, shall –

- 15 (a) examine the relevant volumes and folios in the Registrar General's department;
- (b) be satisfied that the power of attorney has not been revoked or cancelled and shall state such fact in his attestation; and
- 20 (c) retain the copies of the National Identity Card or the driving license or the bio page of the passport, as the case may be, of the grantor and the attorney, and a copy of the power
- 25 of attorney.

30 (2) For the avoidance of doubt, it is declared that it shall be sufficient for the notary public who attests such deed or instrument to examine the relevant volumes and the folios in the Registrar General's department in order to determine whether such power of attorney has been revoked or cancelled.

5	Period of validation of a power of attorney	3C. A power of attorney other than a power of attorney executed by a state institution shall be valid, only for a period of five years from the date of execution, 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.
10	Irrevocable power of attorney	3D. A person other than a state institution shall not execute an irrevocable power of attorney.”.
	<p>5. Section 4 of the principal enactment is hereby repealed and the following section is substituted therefor: -</p>	
15	“Procedure of cancellation or revocation of a power of attorney	<p>4. (1) Where the grantor of any power of attorney wishes to revoke or cancel a power of attorney or where the attorney of any power of attorney does not wish to act under such power of attorney, such grantor or attorney as the case may be, shall –</p> <p>(a) notify the other party of such intention;</p> <p>(b) execute a notarially executed document declaring his intention of revoking or cancelling the power of attorney or expressing his intention not to act under that power of attorney, as the case may be; and</p> <p>(c) submit such document referred to in paragraph (b) to the Registrar General, to register the same in the relevant volume and folio with cross reference to the volume and folio in which such power of attorney was registered.</p>
20		
25		
30		

Replacement
of section 4
of the
principal
enactment

5 (2) (a) If the grantor of any power of attorney requires to revoke or cancel his power of attorney with immediate effect, until such document referred to in paragraph (b) of subsection (1) is executed and tendered to the Registrar General, the grantor or his attorney at law may notify his intention of revocation or cancellation to the Registrar General, by a notice in duplicate in the form specified in Schedule III:

10 Provided however, such notice shall be valid only for a period of three months from the date of the notice.

15 (b) Upon the receipt of such a notice referred to in paragraph (a), the Registrar General, shall make an endorsement of the intention of such revocation or cancellation in the relevant volumes and the folios.”.

20 6. Section 5 of the principal enactment is hereby amended by the substitution for the words “prescribed in the Schedule.” of the words “prescribed in Schedule II.” .

Amendment of section 5 of the principal enactment

7. The Schedule of the principal enactment is hereby repealed and the following Schedules are substituted therefor: -

Replacement of Schedule in the principal enactment

[Section 3(1)]

“SCHEDULE I

}

I (holder of National Identity Card No., of No. being a do hereby sincerely, solemnly and truly declare and affirm/make oath and state as follows:

- (1) I am the deponent/affirmant above named.
- (2) I declare/ affirm that(holder of National Identity Card No.) of No.has executed a power of attorney bearing No. dated attested byNotary Public, appointing me as his/her attorney for the purpose mentioned therein.
- (3) That the said power of attorney is genuine and still in force and I believe that the grantor is alive.

The foregoing affidavit having been read over and explained to the above named and having understood the contents thereof signed and affirmed/sworn to at on this day of

..... Attorney

Before me

Justice of the Peace/
Commissioner for Oaths

[section 3(3) and 5]

SCHEDULE II

Serial No.	
Date of Registration	
Name and address of the grantor	
Name and address of the attorney	
Date of power of attorney	
By whom the power of attorney is produced for the registration	
Volume and Folio where the power of attorney is registered	
Date and number of notarially executed document of revocation or cancellation	
By whom notarially executed document of revocation or cancellation given	
Volume and Folio where notarially executed document of revocation or cancellation is registered	

[section 4(2)]

SCHEDULE III

Registrar General,
Registrar General's Department,
.....

Take notice under the Power of Attorney Ordinance that I,
..... (name of the grantor) of
.....(address) intend to present to you
for the registration within three months from the date of this
notice, an instrument cancelling the power of attorney registered
in theunder the Day Book No.
Volume Folio..... of the register of the power of
attorney.

At on this day of
.....

Signature of the grantor or attorney
at law of the grantor

signed in the presence of -

1. Signature :-
Full name :-
NIC :-
Address :-

2. Signature :-
Full name :-
NIC :-
Address :-".

8. (1) Notwithstanding anything to the contrary in the principal enactment and in the provisions of this Act - Transitional Provisions

- 5 (a) every power of attorney executed prior to the date of
commencement of this Act which has not been
registered under the provisions of section 3 of the
principal enactment and which has not been revoked
or cancelled on or prior to the date of commencement
of this Act, shall, within a period of six months from
the date of commencement of this Act, be submitted
10 for registration to the Registrar General;

5 (b) every power of attorney executed prior to the date of commencement of this Act which has been registered under the provisions of section 3 of the principal enactment and has not been revoked or cancelled on or prior to the date of commencement of this Act, shall, continue to be valid and effectual until revoked or cancelled under section 4 of this Act;

10 (c) every power of attorney executed prior to the date of commencement of this Act which has been submitted for registration to the Registrar General, and pending registration under the provisions of section 3 of the principal enactment on the date of commencement of this Act, shall be registered by the Registrar General.

15 (2) Every power of attorney referred to in paragraph (a) of subsection (1) which is not submitted for registration within the period specified in that paragraph shall be deemed to be null and void, with effect from the date of expiration of that period.

20 **9.** 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
the case of
inconsistency

