

LAWS OF BRUNEI

CHAPTER 13

POWERS OF ATTORNEY

Enactment No. 2 of 1921

Chapter 13 of 1951

Amended by
Enactment No. 6 of 1956
S 99/1959

1984 Edition, Chapter 13

Amended by
S 6/1994

2002 Edition, Chapter 13

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S 25/2014

REVISED EDITION 2020

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CHAPTER 13
POWERS OF ATTORNEY

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POWERS OF ATTORNEY ACT

An Act to provide for the attestation and registration of powers of attorney

Commencement: 1st January 1922

Citation and interpretation

1. (1) This Act may be cited as the Powers of Attorney Act.

(2) In this Act, “Registrar” means the Attorney General or any fit and proper person or persons appointed by him by notification published in the *Gazette* to carry out the powers and duties conferred on and imposed upon the Registrar under this Act.

Attestation of powers of attorney

2. Subject to the provisions of this section, no instrument purporting to create a power of attorney executed either before or after the commencement of this Act shall have any validity to create such power within Brunei Darussalam, unless the execution of the instrument is verified by the attestation of one or more witnesses.

Deposit of power of attorney

3. (1) Subject to the provisions of this section, no instrument purporting to create a power of attorney shall, after the commencement of this Act, have any validity to create such power within Brunei Darussalam until —

(a) the instrument;

(b) if the instrument is registered in the Republic of Singapore or in Malaysia, an office copy thereof; or

(c) a true copy of the instrument or office copy, as the case may be, duly compared therewith and marked by the Registrar with the words “true copy”,

has been deposited in the office of the Registrar.

(2) Where the Registrar has, in exercise of the power under section 1(2), delegated his powers and duties to any person —

(a) such person shall at the end of each month forward to the Registrar a return of all such instruments deposited and registered in the office of such person during such month, and every return shall give short particulars of all the instruments so deposited together with particulars of the revocation or other determination of any instrument previously deposited in that office under the provisions of this Act; and

(b) the particulars contained in every return shall be entered in the register kept in the office of the Registrar as if the instruments to which they refer had been deposited in that office.

(3) There shall be payable in respect of the deposit of documents under this section a fee.

Revocation

4. Every instrument purporting to create a power of attorney which has been or of which an office copy or a true copy has been deposited in the office of the Registrar in accordance with section 3, whether before or after the commencement of this Act shall, so far as the instrument is valid and so far as may be compatible with the terms of the instrument, continue in force until —

(a) notice in writing of its revocation by the donor, or of the renunciation thereof by the donee, has been deposited in the office of the Registrar;

(b) either the donor or the donee has died or the donee has become of unsound mind; or

(c) the donor has been adjudicated an insolvent or of unsound mind or a receiving order has been made against him in bankruptcy.

Provisions in favour of purchaser in case of powers of attorney given for valuable consideration

5. (1) If a power of attorney given for valuable consideration is in the instrument creating the power expressed to be irrevocable, then, in favour of a purchaser —

(a) the power shall not be revoked at any time, either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, marriage, mental disorder, unsoundness of mind or bankruptcy of the donor of the power; and

[S 25/2014]

(b) any act done at any time by the donee of the power, in pursuance of the power, shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, marriage, mental disorder, unsoundness of mind or bankruptcy of the donor of the power, had not been done or happened; and

[S 25/2014]

(c) neither the donee of the power, nor the purchaser, shall at any time be prejudicially affected by notice of anything done by the donor of the power, without the concurrence of the donee of the power, or of the death, marriage, mental disorder, unsoundness of mind or bankruptcy of the donor of the power.

[S 25/2014]

(2) This section applies to powers of attorney created by instruments executed either before or after the commencement of this Act.

Provisions in favour of purchaser in case of powers of attorney expressed to be irrevocable for fixed time

6. (1) If a power of attorney, whether given for valuable consideration or not, is in the instrument creating the power expressed to be irrevocable for a fixed time specified therein, then, in favour of a purchaser —

(a) the power shall not be revoked, for and during that fixed time, either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, marriage, mental disorder, unsoundness of mind or bankruptcy of the donor of the power;

[S 25/2014]

(b) any act done within that fixed time, by the donee of the power in pursuance of the power, shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, marriage, mental disorder, unsoundness of mind or

bankruptcy of the donor of the power, had not been done or happened;
and

[S 25/2014]

(c) neither the donee of the power, nor the purchaser, shall at any time be prejudicially affected by notice either during or after that fixed time of anything done by the donor of the power during that fixed time, without the concurrence of the donee of the power, or of the death, marriage, mental disorder, unsoundness of mind, or bankruptcy of the donor of the power within that fixed time.

[S 25/2014]

(2) This section applies only to powers of attorney created by instruments executed after the commencement of this Act.

Payment by attorney under power without notice of death etc. good

7. Any person making any payment or doing any act in good faith in pursuance of a power of attorney shall not be liable in respect of the payment or act by reason that before the payment or act the donor of the power had died or became mentally disordered or of unsound mind or bankrupt or had revoked the power if the fact of death, mental disorder, unsoundness of mind, bankruptcy or revocation was not at the time of the payment or act known to the person making or doing it:

[S 25/2014]

Provided that this section shall not affect any right against the payee of any person interested in the money so paid and that person shall have the same remedy against the payee as he would have had against the payer if the payment had not been made by him.

Register of powers of attorney and inspection of documents

8. (1) A separate file of documents deposited in accordance with section 3 shall be kept by the Registrar who shall enter in a register kept for that purpose short particulars of each such document together with any subsequent revocation or other determination thereof, of which he shall have had notice.

(2) Any person may during the usual office hours upon payment of a fee search such register and file, and inspect any document so deposited, and an office copy of the document shall be delivered to him on request and on payment of a fee.

(3) A copy of any document so deposited may be presented at the office of the Registrar and may, after verification and on payment of a fee, be marked by the Registrar as an office copy, and when so marked shall become and be an office copy of such document.

Office copies as evidence

9. An office copy of any document deposited in accordance with section 3 shall, when marked as provided in section 8(3), be without further proof sufficient evidence of the contents of such document, and of the deposit thereof in the office of the Registrar.

Searches

10. The Registrar shall —

(a) on application whether made orally or in writing by any person desirous of obtaining information in respect of any specified document deposited in the office of the Registrar or as to the deposit or otherwise of a document of any specified tenor; and

(b) on payment of a fee,

furnish to the best of his ability to such person the information applied for:

Provided that any copy of a document supplied for the purpose of furnishing such information shall be paid for separately under section 8.

Power to make regulations

11. The Minister responsible for law* may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he may think expedient for regulating procedure under this Act and for prescribing the forms to be used and the fees to be paid in respect of proceedings under this Act.

* Transferred from the Minister responsible for law to the Registrar of Powers of Attorney with effect from 16th September 1998 – [S 32/1998]