

THE POWERS-OF-ATTORNEY ACT, 1882

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SECTIONS

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# THE POWERS-OF-ATTORNEY ACT, 1882

ACT NO. 7 OF 1882<sup>1</sup>

[24th February, 1882.]

An Act to amend the law relating to Powers-of-Attorney.

For the purpose of amending the law relating to Powers-of-Attorney; It is hereby enacted as follows:—

**1. Short title.**—This Act may be called the Powers-of-Attorney Act, 1882.

**Local extent.**—It applies to the whole of India <sup>2</sup>[except the State of Jammu and Kashmir];

**Commencement.**—and it shall come into force on the first day of May, 1882.

<sup>3</sup>[**1A. Definition.**—In this Act, “power-of-attorney” includes any instrument empowering a specified person to act for and in the name of the person executing it.]

**2. Execution under power-of-attorney.**—The donee of a power-of-attorney may, if he thinks fit, execute or do any <sup>4\*\*\*</sup> instrument or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every <sup>4\*\*\*</sup> instrument and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

**3. Payment by attorney under power, without notice of death, etc., good.**—Any person making or doing any payment or 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 become <sup>5\*\*\*</sup> of unsound mind, <sup>6\*\*\*</sup> or insolvent, or had revoked the power, if the fact of death, <sup>7\*\*\*</sup> unsoundness of mind, <sup>8\*\*\*</sup> insolvency or revocation was not, at the time of the payment or act, known to the person making or doing the same.

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

This section applies only to payments and acts made or done after this Act comes into force.

**4. Deposit of original instruments creating powers-of-attorney.**— (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court <sup>9</sup>[or District Court] within the local limits of whose jurisdiction the instrument may be.

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1. Extended to Dadra and Nagar Haveli by the Dadra and Nagar Haveli (Laws) Regulation, 1963 (6 of 1963); s. 2 and the First Schedule extended to Laccadive, minicoy and Amindivi Islands (Laws) Regulation, 1965 (w.e.f. 1-10-1974): vide Reg 8 of 1965, s. 3 and the Schedule and to Pondicherry by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968).

2. Subs. by Act 3 of 1951, s. 3 and the Schedule, for “except Part B States”.

3. Ins. by Act 55 of 1982, s. 2 (w.e.f. 22-10-1980).

4. The word “assurance” omitted by s. 3, *ibid.* (w.e.f. 22-10-1980).

5. The word “lunatic,” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

6. The word “or bankrupt” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

7. The word “lunacy,” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

8. The word “bankruptcy,” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

9. Ins. by s. 5, *ibid.* (w.e.f. 22-10-1980).

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court <sup>1</sup>[or District Court].

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the State Government, the fees to be taken under clauses (a), (b) and (c).

<sup>2</sup>\* \* \* \* \*

(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

**5. Power-of-attorney of married women.**—<sup>3</sup>[A married woman of full age shall, by virtue of this Act, have power, as if she were unmarried,] by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

**6.** [Act 28 of 1866, section 39 repealed.] Rep. by the Amending Act, 1891 (12 of 1891), s. 2 and the First Schedule.

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1. Ins. by Act 55 of 1982, s. 5.

2. Clause (f) rep. Act 6 of 1900, s. 48 and the Second Schedule.

3. Subs. by Act 55 of 1982, s. 6, for certain words (w.e.f. 22-10-1982).