
CHAPTER 81**POWERS OF ATTORNEY****POWERS OF ATTORNEY RULES, 1996***S.I. 49/1996***(SECTION 11)***Commencement 4th July, 1996]*

1. These rules may be cited as the Powers of Attorney Rules, 1996. Citation.

2. (1) Where an instrument creating a power of attorney is required to be deposited in the Registry, there shall be furnished to the Registrar in respect of that power of attorney either the instrument creating the power of attorney or a copy by means of which its contents may be proved under paragraph (2). Instruments executed by attorney.

(2) The contents of an instrument creating a power of attorney may be proved by means of a copy which —

- (a) is a reproduction of the original made with a photographic or other device for reproducing documents in facsimile; and
- (b) contains the following certificate signed by the donor of the power or by a notary public, that is to say —
 - (i) a certificate at the end to the effect that the copy is a true and complete copy of the original; and
 - (ii) if the original consists of two or more pages, a certificate at the end of each page of the copy to the effect that it is a true and complete copy of the corresponding page of the original.

(3) A copy of any instrument deposited in the Registry may be obtained on payment of a fee of \$2.00 dollars.

3. (1) In respect of the deposit of any power of attorney, other than an enduring power, there shall be charged a fee of \$4.00 dollars. Fees.

(2) In respect of every enduring power there shall be charged a fee of \$6.00 dollars.

Form of
enduring power
of attorney.
Schedule.

4. (1) Subject to paragraphs (2) and (3) of this rule and to paragraph 5 of rule 5 an enduring power shall be in the form set out in the Schedule and may include such additions (including paragraph numbers) or restrictions as the donor may decide.

(2) In completing the form of enduring power —

(a) there shall be excluded (either by omission or deletion) —

(i) where the donor appoints only one donee, everything between the square brackets in Part B; and

(ii) one of any pair of alternatives; and

(b) there may also be so excluded —

(i) the words “subject to the following restrictions and conditions” appearing in Part B, if those words do not apply;

(ii) the attestation details for a second witness in Parts B and C if a second witness is not required; and

(iii) any marginal notes which correspond with any words excluded under the provisions of this paragraph and the two notes numbered 1 and 2 which appear immediately under the heading to Part C.

(3) The form of execution by the donor or by a donee may be adapted to provide —

(a) for a case where the donor or a donee signs by means of a mark; and

(b) for the case (deal with in rule 5) where the enduring power is executed at the direction of the donor or of a donee;

and the form of execution by a donee may be adapted to provide for execution by a trust corporation.

(4) Subject to paragraphs (1), (2) and (3) of this rule and to paragraph 5 of rule 5 an enduring power which seeks to exclude any provision contained in these Rules is not a valid enduring power.

5. (1) An enduring power in the form set out in the Schedule shall be executed by both the donor and the donee, although not necessarily at the same time, in the presence of a witness, but not necessarily the same witness, who shall sign the form and give his full name and address.

Execution of an enduring power of attorney. Schedule.

(2) The donor and a donee shall not witness the signature of each other nor one donee the signature of another.

(3) Where an enduring power is executed at the direction of the donor —

- (a) it shall be signed in the presence of two witnesses who shall each sign the form and give their full names and addresses;
- (b) a statement that the enduring power has been executed at the direction of the donor shall be inserted in Part B of the form set out in the Schedule; and
- (c) it shall not be signed by either a donee or any of the witnesses to the signature of either the donor or a donee.

Part B of Schedule.

(4) Where an enduring power is executed at the direction of a donee —

- (a) paragraph (3)(a) applies;
- (b) a statement that the enduring power has been executed at the direction of the donee shall be inserted in Part C of the form set out in the Schedule; and
- (c) it shall not be signed by either the donor, a donee or any of the witnesses to the signature of either the donor or donee.

Part C of Schedule.

(5) Where more than one donee is appointed and they are to act jointly and severally, then at least one of the donees so appointed shall execute the instrument for it to take effect as an enduring power and only those donees who have executed the instrument shall have the functions of a donee under an enduring power in the event of the donor's mental incapacity or when the power has been deposited in the Registry, whichever first occurs.