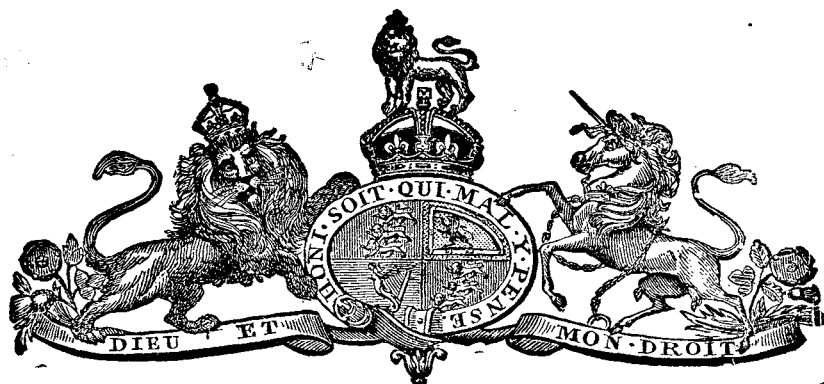


TASMANIA.



1934.

ANNO VICESIMO QUINTO

GEORGII V. REGIS.

No. 33.

ANALYSIS.

- | | |
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| <ol style="list-style-type: none"> 1. Short title. 2. Schedule. 3. Powers of attorney to be registered. 4. Mode of registration. 5. Registration of original instruments creating powers of attorney. 6. Acts under power not to be valid hereafter until power registered. 7. Revocation may be registered. 8. Procedure on registration. 9. Execution under power of attorney. 10. Effect of power of attorney, for value, made absolutely irrevocable. 11. Effect of power of attorney, for value or not, made irrevocable for fixed time. | <ol style="list-style-type: none"> 12. Payment by attorney under power without notice of death, &c., good. 13. Acts done under power after registration of power, and before registration of revocation, valid as to parties without notice. 14. On registration covenants for production to be inoperative. 15. Confirmation of acts of attorney sufficient without production of power. 16. Act to extend to bankruptcies, &c. 17. Appropriation of fees. 18. Regulations. |
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AN ACT to consolidate and amend the Acts relating to Powers of Attorney.

A.D.
1934.

[27 November, 1934.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Powers of Attorney Act 1934*.

Short title.

Powers of Attorney.

A.D. 1934.

Schedule.

Powers of
attorney to be
registered.Mode of
registration.Registration of
original instru-
ments creating
powers of
attorney.Acts under power
not to be valid
hereafter until
power registered.Revocation may
be registered.Procedure on
registration.

2 The enactments set forth in schedule (1) are hereby repealed to the extent therein indicated.

3 Every power of attorney shall be registered as provided by this Act.

4 A power of attorney shall be registered by filing the same or a notarial copy thereof in the office of the Registrar of Deeds.

5—(1) An instrument creating a power of attorney executed after the thirty-first day of December, one thousand eight hundred and eighty-three, its execution being verified by affidavit, statutory declaration, or other sufficient evidence, may, with the affidavit or declaration, if any, be registered in the office of the Registrar of Deeds, as hereinbefore provided.

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

(3) An office 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 said office.

6 No act, deed, or instrument done, executed, or signed under any power of attorney by the donee thereof, after the commencement of this Act, shall be valid until the power of attorney under which the act, deed, or instrument is done, executed, or signed has been so registered under this Act.

7 The death, bankruptcy, insolvency, of the donor of any such power of attorney, or the revocation thereof by the donor, may be registered in manner following ; a declaration made by any person of the fact of such death, bankruptcy, or insolvency, before any person having authority to administer an oath in the place, whether within the State or elsewhere, where such declaration is made, or a notice of such revocation under the hand of the donor, or the instrument of revocation, may be filed in the said office in like manner as powers of attorney may be filed, and shall be annexed to the power to which it relates.

8—(1) The Registrar of Deeds is hereby required to file in his office every such power of attorney, declaration, notice, and instrument as aforesaid, upon payment of a fee of five shillings for each such document.

(2) Upon the filing of any such document the Registrar shall indorse thereon the number thereof, and shall give a receipt for the same in such form as he may think fit, or as may be directed by the judges of the Supreme Court.

(3) The Registrar shall cause to be made an index of every power of attorney, declaration, notice, and instrument filed under this Act in the form in schedule (2), which shall contain the several particulars indicated thereby ; and the Registrar shall cause to be inserted therein

Powers of Attorney.

in alphabetical order as to the initial letter of the surname, and at full length, the surname and christian name, together with the description and addition of the donor as the same are set forth in the power of attorney; and such index shall be open to public inspection at all reasonable times on payment of one shilling for every registered document which may be searched for, and the person paying the same shall be entitled to peruse the document in respect of which such fee has been paid. A.D. 1934.

9—(1) The donee of a power of attorney may, if he thinks fit, execute or do any assurance, 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 assurance, instrument, and thing so executed and done shall be as effectual in law, to all intents 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. Execution under power of attorney.

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

10 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— Effect of power of attorney, for value, made absolutely irrevocable.

- i. 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, lunacy, unsoundness of mind, bankruptcy, or insolvency of the donor of the power: and
- ii. 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, lunacy, unsoundness of mind, bankruptcy, or insolvency of the donor of the power, had not been done or happened: and
- iii. 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, lunacy, unsoundness of mind, bankruptcy, or insolvency of the donor of the power.

11—(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 therein specified, not exceeding one year from the date of the instrument, then, in favour of a purchaser— Effect of power of attorney, for value or not, made irrevocable for fixed time.

- i. 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, lunacy, unsoundness of mind, bankruptcy, or insolvency of the donor of the power: and

Powers of Attorney.

A.D. 1934.

II. 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, lunacy, unsoundness of mind, bankruptcy, or insolvency of the donor of the power, had not been done or happened : and

III. 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, lunacy, unsoundness of mind, bankruptcy, or insolvency of the donor of the power within that fixed time.

(2) This section applies only to powers of attorney created by instruments executed after the thirty-first day of December, one thousand eight hundred and eighty-three.

Payment by attorney under power without notice of death, &c., good.

12—(1) 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 lunatic, of unsound mind, bankrupt, or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency, or revocation was not at the time of the payment or act known to the person making or doing the same.

(2) 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.

(3) This section applies only to payments and acts made and done after the thirty-first day of December one thousand eight hundred and eighty-three.

Acts done under power after registration of power, and before registration of revocation, valid as to parties without notice.

13 Every act, deed, or instrument done, executed, or signed by the donee of any power of attorney registered under this Act, within the scope of the authority thereby conferred, after the death, bankruptcy, or insolvency of the donor, or the revocation of the power, and before the registration of such death, bankruptcy, insolvency, or revocation under this Act, shall, in favour of any person who in good faith and without notice of such death, bankruptcy, insolvency, or revocation has dealt with such donee in the name of the donor, be as valid and effectual as if such death, bankruptcy, insolvency, or revocation had not taken place.

On registration covenants for production to be inoperative.

14 After any power of attorney has been registered under this Act, no suit at law or in equity shall be brought or maintained upon any covenant or agreement for the production of such power of attorney ; and, if any such suit is commenced, it shall be a sufficient answer thereto that such power has been registered under this Act.

Powers of Attorney.

15 In case any person has heretofore confirmed or hereafter confirms in writing any deed or other act purporting to be executed or done by such person by his attorney, such confirmation shall be conclusive evidence of the sufficiency at law and in equity of the authority of such attorney to execute or do such deed or act at the time of the executing or doing thereof, without production or proof of any power of attorney, anything in this Act contained to the contrary notwithstanding.

A.D. 1934. 1. 1. 1. 1.

Confirmation of acts of attorney sufficient without production of power.

16 This Act shall extend and apply to every bankruptcy or insolvency whatsoever, whether the same takes place under any Act of the legislature of this State or under any other law affecting property in this State.

Act to extend to bankruptcies, &c.

17 All fees received by the Registrar under this Act shall be paid into the consolidated revenue.

Appropriation of fees.

18 The Governor may make regulations under and for the purposes of this Act.

Regulations.

SCHEDULES.**(1)**

| Regnal Year and Number. | Title of Act. | Extent of Repeal. |
|-------------------------|--|--|
| 24 Vict. No. 3 | <i>An Act to make valid Acts done under Power of Attorney in certain cases</i> | The whole Act |
| 47 Vict. No. 19 | <i>The Conveyancing and Law of Property Act 1884</i> | The heading: XI. Powers of Attorney; and sections 49 to 53 |
| 53 Vict. No. 40 | <i>The Powers of Attorney Act 1889</i> | The whole Act |
| 55 Vict. No. 33 | <i>An Act to amend an Act to make valid Acts done under Powers of Attorney in certain cases.</i> | The whole Act |

A.D. 1894.

(2)

| Number on the File. | Date of Registration. | Surname of Principal. | Christian Name of Principal. | Place of Abode of Principal. | Calling of Principal. | Christian Name and Surname of Attorney. | Notice or Declaration of Avoidance. | Date of Registration of Notice or Declaration of Avoidance. |
|---------------------|-----------------------|-----------------------|------------------------------|------------------------------|-----------------------|---|-------------------------------------|---|
| 1 | 1st December, 1860 | Arbery | John | Thames-street, London | Merchant | John Nokes | Revoked | 4th June, 1863 |
| 2 | 2nd January, 1861 | Adye | Richard | Collins-street, Melbourne | Draper | Thomas Styles | Bankrupt | 1st February, 1864 |
| 3 | 3rd February, 1862 | Ashby | Mary | Pitt-street, Sydney | Spinster | John Brown | Died | 2nd July, 1865 |