

THE ENCYCLOPÆDIA  
OF  
FORMS AND PRECEDENTS

FOURTH EDITION

VOLUME I

Power of attorney to receive dividends<sup>4</sup>

BY THIS POWER OF ATTORNEY given on the . . . day of . . . I [name] of [address, etc.] hereby appoint [attorney] of [address, etc.] to be my true and lawful attorney in my name and on my behalf to

must be attested by the signatures of two credible witnesses, who must add their full addresses, and their professions or occupations.

Notaries public and other officials should also affix their official seals.

2. If the power be executed out of the United Kingdom, but within the British Dominions, one of the witnesses must be a recognised imperial or colonial official, or a notary public. His qualification must be fully stated under his signature, and his seal of office, if any, should be affixed.

3. If the power be executed in a foreign state, one of the witnesses must be a British consular officer, or other British official person; or a foreign notary public, or other foreign official. In the two cases last mentioned, the position of the attesting foreign notary public or foreign official must further be certified by a notary public, or by a British or foreign official.

When a Power of Attorney is granted by a foreign corporation, a special form of affidavit of execution is necessary to prove that the power has been duly executed, and is binding according to local law.

4. When clerks or servants are witnesses they must give the names and addresses of their employers.

A female witness must state whether she is a spinster, married woman or widow. But a husband or wife is not a valid witness to the execution of a power of attorney in which either of them is the grantor or grantee.

5. When a person unable to write executes a power of attorney by affixing a mark (X) instead of a signature, the witnesses must declare in writing that the power of attorney was first read over and fully explained to, and appeared to be understood by, such person.

*Alterations, Erasures, etc.* If any addition, alteration, interlineation or erasure be made in a power of attorney, it must be stated in each attestation by the witnesses that such addition, alteration, interlineation, or erasure was made prior to the execution of the power.

Though this requirement is not stated in the foregoing instructions, powers of attorney executed by foreign companies should have attached thereto, in addition to an affidavit verifying execution, an affidavit, preferably by a notary and sworn before a British consular officer, proving that the company is duly constituted and registered under local law, that the signatories of the power are respectively directors and secretary (as the case may be) of the company and that it has no common seal (if such is the case), and that the company is bound by the signatures in accordance with its statutes or articles of association and the local law; see the Annual Practice, notes to S. C. Funds Rules 1927, r. 48 (3).

<sup>4</sup> The stamp duty on a power for the receipt of dividends of any stock is normally 5s., but if the power is for the receipt of one payment only the stamp is 1s. (Stamp Act 1891, Sch. 1, "Letter or Power of Attorney", para. (3) (21 Halsbury's Statutes (2nd Edn.) 677)). No stamp duty is payable if the power is for the receipt of dividends from government or parliamentary stocks or funds amounting to less than £3 yearly, and no stamp duty is payable on an order, request or direction under hand only from the proprietor of any stock to any company or banker to pay the dividends or interest arising from the stock to any person therein named (*ibid.*, Sch. 1, "Letter or Power of Attorney", exemptions (1), (3)). This form will bear 10s. stamp duty under *ibid.*, Sch. 1, "Letter or Power of Attorney", para. (6), if any of the investments are not "stock" as defined in *ibid.*, s. 122 (1) (21 Halsbury's Statutes (2nd Edn.) 651), but the definition appears to be wide enough to include all shares and stock in companies incorporated under the Companies Acts or abroad, and probably also debentures; unit trust units are expressly within the definition (Finance Act 1946, s. 54 (1) (21 Halsbury's Statutes (2nd Edn.) 1320)).

receive and give good receipts and discharges for all dividends and interest payable in respect of the investments set out in the schedule hereto. And I declare this power of attorney to be irrevocable for [twelve months] from the date hereof.<sup>5</sup>

Form 47

IN WITNESS etc.

## SCHEDULE

[List of investments]

[Signature and seal of appointor]

48

Power of attorney to execute a conveyance to a purchaser<sup>6</sup>

A POWER OF ATTORNEY given on the . . . day of . . . by me [appointor] of [address, etc.]

WHEREAS

(1) I have contracted with [purchaser] of [address, etc.] for the sale to him of certain lands and premises situate at . . . and known as . . . in the county of . . . for the sum of £. . .

(2) [Being about to leave the United Kingdom]<sup>7</sup> I am desirous of authorising [attorney] of [address, etc.] to complete the said contract on my part and to execute the proper conveyance and assurances thereof.

NOW THIS DEED WITNESSETH that I the said [appointor] appoint the said [attorney] to be my lawful attorney for me and in my name and for my benefit to perform the following acts:

1. To demand and receive from the said [purchaser] or his assigns the said purchase money of £. . . and to give a good receipt for the same which receipt shall exonerate the person paying such money from seeing to the application thereof or being responsible for the loss or misapplication thereof.

2. Upon the receipt of the said purchase money as my act and deed to seal deliver and execute unto the said [purchaser] and his successors in title or otherwise as he or they shall direct all necessary or proper conveyances and assurances of the said lands and premises and to give a covenant for the production of the title deeds relating thereto or to deliver over the same to the said [purchaser] or his successors in title.<sup>8</sup>

<sup>5</sup> This power, unless given for value, cannot be declared irrevocable for more than twelve months so as to protect a purchaser; see pp. 196, 197, *ante*.

<sup>6</sup> Stamp 10s.; see p. 190, *ante*. Since this power relates to only one transaction, it does not need to be filed at the central office of the Supreme Court provided that it is to be handed over on completion; see p. 193, *ante*. This power is appropriate for unregistered land; as to land with registered title, see Forms 49 and 52, pp. 324, 328, *post*.

<sup>7</sup> See note 14 to Form 39, p. 304, *ante*.

<sup>8</sup> An attorney may, with the authority of the principal, execute any documents in his own name and under his own seal (Law of Property Act 1925, s. 123);

Recitals:

Contract for sale.

Desire to appoint attorney.

Appointment of attorney.

To receive purchase money.

To execute conveyance.

To do other  
necessary  
acts.

3. To do every other thing whatsoever which may be deemed necessary proper or expedient for fully and effectually vesting and transferring the said lands and premises and the rents issues and profits thereof and all my estate right and title therein or thereto in and to the said [purchaser] and his successors in title as fully to all intents and purposes whatsoever as I myself might do if personally present and this power of attorney had not been made.

Declaration  
of validity.

AND I the said [appointor] hereby declare that all and every the receipts releases conveyances instruments and assurances and acts deeds matters and things which shall be by him my said attorney given made executed or done for the aforesaid purposes shall be as good valid and effectual to all intents and purposes whatsoever as if the same had been signed sealed delivered given or made or done by me in my own proper person.

Ratification.

AND I hereby undertake from time to time and at all times to ratify and confirm whatsoever my said attorney shall lawfully do or cause to be done in or by virtue of this power of attorney.<sup>9</sup>

Power to be  
irrevocable.

AND I declare this power of attorney to be irrevocable for [twelve months] from the date hereof.<sup>10</sup>

IN WITNESS etc.

[Signature and seal of appointor]

49

Power of attorney to execute a transfer of registered land to a purchaser<sup>11</sup>

H.M. LAND REGISTRY

LAND REGISTRATION ACTS 1925 AND 1936

County or County Borough . . .

Title No. . . .

Property . . .

Appointment  
of attorney.

[Date] I [appointor] of [address, etc.] hereby irrevocably appoint [attorney] of [address, etc.] to be my lawful attorney for [twelve

see p. 195, *ante*. Where, however, an attorney executes a document in his own name it should be stated that he is executing as attorney; see, further, p. 195, *ante*. In the conveyance this power will either be recited or referred to in the testimonium.

<sup>9</sup> As to the effect of ratification clauses, see pp. 198, 199, *ante*.

<sup>10</sup> A power can not be declared irrevocable, so as to protect a purchaser, for longer than a year, unless it is given for valuable consideration; see pp. 196, 197, *ante*.

<sup>11</sup> Stamp 10s.; see p. 190, *ante*. The original power must be produced to the Registrar (Land Registration Rules 1925, S. R. & O. 1925 No. 1093, r. 82 (1)), and the original, or a certified copy thereof, must be filed at the Land Registry (*ibid.*, r. 82 (2); and the Law of Property Act 1925, s. 125 (1)). As it does not also relate to unregistered land, it does not need to be filed at central office (s. 125 (1) proviso).

months] from the date hereof<sup>12</sup> for me and in my name to perform the following acts: **Form 49**

1. To demand and receive from [purchaser] of [address, etc.] or his assigns the sum of £ . . . , which is the agreed purchase price for the sale of the land in the above title, and to give a good receipt for the same which receipt shall exonerate the person paying such money from seeing to the application thereof or being responsible for the loss or mis-application thereof.

To receive  
purchase  
money.

2. Upon the receipt of the said purchase money to execute sign seal and deliver unto the said [purchaser] or his successors in title or otherwise as he or they shall direct a transfer of the land in the above title and to hand over the Land Certificate relating thereto and the said transfer and any other relevant deeds and documents to the said [purchaser] or his successors in title or as he or they shall direct.

To execute  
transfer.

3. To do every other thing whatsoever which may be deemed necessary proper or expedient for transferring the said land to the said [purchaser] or his successors in title or as he or they shall so direct and for enabling the transfer to be completed by registration<sup>13</sup> as fully to all intents and purposes whatsoever as I myself might do if personally present and this power of attorney had not been made.

To do other  
necessary  
acts.

And I the said [appointor] hereby declare that all and every the receipts releases transfer and acts deeds matters and things which shall be given made executed or done by my said attorney for the aforesaid purposes shall be as good valid and effectual as if I had given made executed or done the same.

Declaration  
of validity.

And I hereby undertake from time to time and at all times to ratify and confirm whatsoever my said attorney shall lawfully do or cause to be done in or by virtue of this power of attorney.<sup>14</sup>

Ratification.

IN WITNESS etc.

[Signature and seal of appointor]

50

Power of attorney to vendor's solicitor to deliver conveyance to purchaser, and declaration that power has been exercised<sup>15</sup>

A POWER OF ATTORNEY given on the . . . day of . . . by me the within-named [vendor]

<sup>12</sup> As to the effect of a provision that the power shall be irrevocable for a fixed period, see pp. 196, 197, *ante*. Unless given for value, a power cannot be made irrevocable for more than twelve months (Law of Property Act 1925, ss. 126, 127); see pp. 196, 197, *ante*. If the power is revocable, evidence must be produced (by statutory declaration of the attorney or otherwise) sufficient to satisfy the Registrar that, at the date of the execution of the transfer, the principal was alive and the power was unrevoked (Land Registration Rules 1925, S. R. & O. 1925 No. 1093, r. 82 (1)). For a form of statutory declaration, see Form 106, p. 392, *post*.

<sup>13</sup> See the Land Registration Act 1925, s. 19 (1).

<sup>14</sup> As to the effect of a ratification clause, see pp. 198, 199, *ante*.

<sup>15</sup> Stamp 10s. on the power of attorney; see pp. 190, *ante*. It has been the undoubted practice for many years for the solicitor acting for the vendor of land to

of £ . . . [for a premium of £ . . .] [and including such other terms covenants and conditions as are set out in the draft lease annexed hereto].

Desire to appoint.

(2) [Being about to leave the United Kingdom]<sup>13</sup> I am desirous of authorising [attorney] of [address, etc.] to complete the said contract on my part and to execute a proper demise of the premises.

Appointment of attorney.

NOW THIS DEED WITNESSETH that I the said [appointor] appoint the said [attorney] to be my lawful attorney for me and in my name and on my behalf to perform the following acts:

To receive premium.

1. [To demand and receive from the said [lessee] or his assigns the said premium of £ . . . and to give a good receipt for the same which receipt shall exonerate the person paying such money from seeing to the application thereof or being responsible for the loss or misapplication thereof.]

To execute a lease.

2. [Upon receipt of the said premium] as my act and deed to sign seal deliver and execute unto the said [lessee] his personal representatives and assigns a good valid and effectual lease of the said premises for the term of . . . years from the . . . day of . . . under the clear yearly rent of £ . . . payable quarterly and with such [covenants provisos and agreements as are usual in leases between landlord and tenant or as the said [attorney] shall think necessary or proper to be inserted] [or other terms covenants and conditions as are set out in the said draft lease].<sup>14</sup>

Declaration of validity.

AND I the said [appointor] hereby declare that all and every the receipts deeds matters and things which shall be by him my said attorney given made executed or done for the aforesaid purposes shall be as good valid and effectual to all intents and purposes whatsoever as if the same had been required sealed delivered given or made or done by me in my own proper person.

Ratification.

AND I hereby undertake from time to time and at all times to ratify and confirm whatsoever my said attorney shall lawfully do or cause to be done by virtue of this power of attorney.<sup>15</sup>

Power to be irrevocable.

AND I declare this power of attorney to be irrevocable for [twelve months] from the date hereof.<sup>16</sup>

IN WITNESS etc.

[Signature and seal of appointor]

<sup>13</sup> See note 14, to Form 39, p. 304, ante.

<sup>14</sup> See note 8, p. 323, ante. If the land is registered, the attorney should be empowered to place the land certificate on deposit in the Land Registry and give all necessary consents to enable the lessee to register or protect his interest.

<sup>15</sup> As to the effect of a ratification clause, see pp. 198, 199, ante.

<sup>16</sup> A power cannot be declared irrevocable, so as to protect a purchaser, for longer than a year, unless it is given for valuable consideration; see pp. 196, 197, ante.

Power of attorney to manage real property by an owner going abroad<sup>17</sup>

BY THIS POWER OF ATTORNEY given on the . . . day of . . . I [appointor] of [address, etc.] being about to leave the United Kingdom and being desirous that my property should be properly attended to during my absence<sup>18</sup> hereby appoint [first attorney] of [address, etc.] or if he die or be unwilling or unable to act then [second attorney] of [address, etc.] my true and lawful attorney for me and in my name to do the following acts and things or any of them; that is to say, To take charge of manage and improve all my land, houses and freehold and leasehold property at . . . or elsewhere in England and in particular:

Appointment of attorney.

1. To demand and recover from all present and future tenants or occupiers thereof all rents and sums of money payable from time to time and to give receipts therefor and to make all just and reasonable allowances in respect of rates, taxes, repairs and other outgoings and to take all necessary steps whether by action, distress or otherwise to recover any rent or sums of money in arrear.

To collect rents.

2. To pay all taxes, rates, charges, expenses and other outgoings whatsoever payable by me for or on account of my said property or any part thereof and to insure any buildings thereon against loss or damage by fire and to pay all premiums for such insurances.

To pay outgoings.

3. For me and in my name or otherwise to receive every sum of money whatsoever which now is due arising or belonging to me upon or by virtue of any mortgage charge or other security whatsoever and on receipt thereof to make sign execute and give good and sufficient receipts releases acquittances or other discharges for the same and also to sign seal execute make and deliver all proper and sufficient reconveyances releases and other assurances of the lands tenements and property which shall have been mortgaged as security therefor and also to consent to any such alteration or modification of the nature or conditions of the said securities or any of them as the attorney shall think fit.

To receive mortgage money, execute receipts and reconveyances, and consent to modification of securities.

<sup>17</sup> Stamp 10s.; see p. 190, ante. This form is based on a deed kindly supplied by Messrs. Thompson, Quarrell and Megaw, solicitors. This power provides for matters arising under the powers of compulsory acquisition and similar powers of government and local authorities and for matters arising under the planning law. If it is intended that the attorney shall have power to sell or mortgage the property, express powers for those purposes should be included. Since this power gives authority to deal with interests in land, it must be filed. If the land affected is wholly registered land, the power or a certified copy should be filed at the land registry; otherwise, the power or a certified copy should be filed at the central office of the Supreme Court, and if some of the land is registered an office copy should be filed at the Land Registry; see p. 193, ante. For the procedure on filing at the central office, see pp. 192, 194, ante.

<sup>18</sup> See note 4, p. 341, ante.

To grant leases.

4. To grant leases and tenancies of my said property or any parts thereof to such persons at such rents and upon such terms as he shall think fit and to let any such persons into possession thereof<sup>19</sup> and to accept surrenders of leases and tenancies and for these purposes as my act and deed to make, sign, seal and deliver all leases tenancy agreements and other instruments.

To serve notices on tenants.

5. To sign and give notices to tenants and occupiers of my said property to quit or to repair or to abate a nuisance or to remedy a breach of covenant or for any other purpose whatsoever.

To make applications to authorities.

6. To make and sign applications to the appropriate government departments local authorities or other competent authority for all and any licences, permissions and consents required by any Act of Parliament, order, statutory instrument, regulation, byelaw or otherwise in connection with the management and improvement of my said property including the recovery of compensation where such is recoverable with power to give receipts and full discharges therefor.

To deal with compulsory purchase orders, etc.

7. To oppose or otherwise deal with proposals to include any of my said property in an order for the compulsory purchase thereof or in a clearance or development order or other similar order or in any other order made or to be made under statutory powers and to take all necessary proceedings arising under such orders including applications to the Lands Tribunal and appeals therefrom.

To serve purchase notices.

8. To serve on the appropriate authority a notice requiring the purchase of all or any of my said property or of any interest therein in respect of which a right to serve such a notice may be conferred by or under statute on the ground that the interest in question is affected by a planning decision or order or the conditions attached thereto or by planning proposals or on any other ground and to take such steps or proceedings including the compromise of any claim in relation to any such notice as he may think fit.

To sell, mortgage, etc.

9. To sell (either by public auction or privately) or exchange all or any part of my said property for such consideration and subject to such covenants as he may think fit and to give receipts for all or any part of the purchase money or other consideration with like powers to mortgage charge pledge or otherwise deal with my said property or any part thereof as he may think fit and also to deal with such property for the purpose of paying off reducing consolidating or making substitution for any existing or future mortgage or charge thereof or of any part thereof and to make or to concur in any transfer of or alteration in the terms of any existing or future mortgage charge or pledge of the same or any part thereof as he shall think fit and as fully and effectively as I could have done, and in connection with any such sale mortgage pledge or charge to employ and remunerate any valuer.

<sup>19</sup> A power to grant a lease does not necessarily include a power to give possession (*Slack v. Crowe* (1800), 2 F. & F. 50).

10. For me and in my name to make give execute withdraw authorise permit oppose and take all necessary action in connection with all such applications, notices, deposits, searches and other matters under or for the purposes of the Land Registration Acts 1925 and 1936 or any statute modifying extending or re-enacting the same or any rules made thereunder as I myself might do or authorise to be done.<sup>20</sup>

**Form 58**  
To make applications, etc. under the Land Registration Acts.

11. For me and in my name to make execute authorise and withdraw all such applications under or for the purposes of the Land Charges Act 1925 or any statute modifying extending or re-enacting the same or any rules made thereunder as I myself might do or authorise to be done.

To make applications under Land Charges Act.

12. For me and in my name to purchase take on lease or otherwise acquire such real or personal property chattels or effects as he may think desirable for carrying out the purposes of this deed.

To purchase or lease property.

13. To enter upon my said property or any part of it as often as he shall think fit to view the state of repair thereof and to require any tenant as a result of such view to remedy any want of repair.

To enter upon property.

14. To enforce all covenants in any lease or tenancy agreement affecting my said property and whenever the right to re-enter any of my property arises whether out of the proviso for re-entry contained in any lease or agreement or by virtue of a notice to quit to exercise such right and to re-enter himself or by his agent or to commence proceedings to recover possession.

To enforce covenants.

15. To enforce all covenants, conditions and stipulations and to exercise any power contained in any mortgage or charge vested in me as mortgagee or chargee of any land of any tenure and for these purposes in my name or otherwise to commence and prosecute any action or other proceeding in any court of justice to serve any notices and to realise any such security by way of sale of the property mortgaged or charged whether in exercise of the statutory or any other power with full power to complete such sale by conveyance or transfer and to give a good receipt or discharge for all purchase money and to apply the same according to the interests of the persons respectively interested therein and to enter into possession of the mortgaged or charged property and to receive the rent and profits thereof and give a good discharge therefor and in all the above cases to act as fully and effectively as I myself could have done. Further the above powers shall extend to any case where I am joint mortgagee with any other person or persons.<sup>21</sup>

To realise mortgages.

<sup>20</sup> See the Land Registration Rules 1925, S. R. & O. 1925 No. 1093, r. 82 (1), which provides that, in the case of registered land if any instrument is executed by the attorney, the power or an office copy thereof must be produced to the Registrar and, except in cases where the power is irrevocable under the Law of Property Act 1925, s. 126 or s. 127 (see pp. 196, 197, *ante*), satisfactory evidence must be given by the statutory declaration of the attorney or otherwise that the principal was alive and the power was unrevoked when the instrument requiring registration was executed.

<sup>21</sup> The above is a full clause authorising dealings with land mortgaged to the donor of the power. A power to sell land does not authorise the exercise of the

To take  
legal  
proceedings.

16. To give such notices make such claims and to institute any action or other legal proceedings in any court or to submit to arbitration for any purpose necessary to preserve my rights and property in or to recover possession of my said property and to defend all actions or other legal proceedings that may be brought against me in connection with such property and to prosecute, discontinue or compromise all such actions and to levy execution as he or his legal advisers shall think fit.

To execute  
deeds.

17. For all or any of the purposes of this deed to enter into and sign seal execute and perfect and as my act and deed to deliver any contract conveyance lease mortgage assignment surrender release transfer instrument deed or assurance whatsoever.<sup>1</sup>

To deal with  
trespassers.

18. To warn off and prohibit and if necessary proceed against in due form of law all trespassers on my said property and to take appropriate steps whether by action or otherwise to abate all nuisances.

To do all  
acts -  
expedient for  
management.

19. Generally to do all such acts and things as may be necessary or expedient in connection with the management of my said property as fully and effectively as I myself could do.<sup>2</sup>

To accept  
compensation.

20. To accept any compensation payable to me in respect of the exercise of any statutory power and in such cases to accept stock in satisfaction of such compensation.

To take  
joint  
action.

21. In the case of all the above powers in respect of any property held by me with other persons whether as joint tenants tenants in common landlord and tenant mortgagor and mortgagee or trustee and beneficiary to join with such other persons as may be necessary or advisable in the exercise of all or any of the above powers and similarly where such powers can be more beneficially exercised by joining with the owners or occupiers of adjoining or neighbouring property and in all such cases to apportion any money to be received or expended and where such money is received to give a good discharge for any apportioned part.<sup>3</sup>

power of sale in a mortgage (*Re Dowson and Jenkins' Contract*, [1904] 2 Ch. 219, C. A.). If it is only desired to extend the clause giving power to sell land (see clause 9 of the power at p. 338, *ante*) to include exercise of the power of sale contained or implied in mortgages, the following addition to that clause may be thought sufficient: "and also to exercise and enforce any powers of sale vested in me as mortgagee or chargee with full power to complete such sales by conveyance or transfer and to give a good discharge or receipt for the purchase money."

<sup>1</sup> See note 13, p. 310, *ante*.

<sup>2</sup> General words in powers of attorney are construed narrowly and will be taken to grant only powers which are *eiusdem generis* with, or ancillary to, powers expressly granted by the deed, unless there is a clear intention to grant wide general powers; see note 15, p. 310, *ante*.

<sup>3</sup> This clause gives additional powers in connection with such property as is mentioned therein but it will not enable the exercise of any powers vested in the grantor as trustee or trustee for sale of such property unless the power is framed under the Trustee Act 1925, s. 25, the necessary statutory declarations are executed, and the power is filed at the central office of the Supreme Court; see pp. 187-189, *ante*.

I hereby declare

(i) The particular powers enumerated above shall be given the widest interpretation and shall not be construed as setting limits to the general authority conferred on my attorney at the beginning hereof.

(ii) The power hereby created shall be irrevocable for the space of one year from the date hereof.

I hereby undertake to ratify and confirm whatsoever my attorney shall lawfully do or cause to be done by virtue of this power of attorney.<sup>4</sup>

IN WITNESS etc.

[Signature and seal of appointor]

Form 58

Particular  
powers not to  
limit general  
authority.

Power to be  
irrevocable.

Ratification.

59

Power of attorney by beneficial joint tenants who desire to hand over the management of their property<sup>5</sup>

BY THIS POWER OF ATTORNEY given on the . . . day of . . . We . . . of [address, etc.] and . . . of [address, etc.] being entitled as joint tenants both at law and in equity to the property described in the schedule hereto hereby appoint [attorney] of [address, etc.] (hereinafter called the attorney) to be our true and lawful attorney [such appointment to be irrevocable for a year from the date hereof<sup>6</sup>] to manage the said property on our behalf and to sell mortgage exchange transfer and convey the said property and we hereby confer upon the attorney the following powers and authorities:

Appoint-  
ment.

[For clauses which are suitable for inclusion in this power subject to any necessary adaptations, see clauses 1-9, 11, 12, 14-17 of Form 58, pp. 337-340, *ante*.]

<sup>4</sup> If the words "during my absence" are included in the appointment (see the text to note 18, p. 337, *ante*) and no clause is included declaring the power irrevocable for a fixed time, the power will be revoked by the appointor's return to the United Kingdom (*Danby v. Coutts & Co.* (1885), 25 Ch. D. 500). A power, unless given for value, cannot be declared irrevocable, so as to confer protection on a purchaser, for longer than one year; see pp. 196, 197, *ante*.

<sup>5</sup> Stamp 10s.; see p. 190, *ante*. It has been suggested that the joint tenants being trustees cannot appoint an attorney except under s. 25 of the Trustee Act 1925 (which confers power on trustees to delegate trusts during absence abroad; see pp. 187-189, *ante*), and even that they have no power to mortgage. The joint tenants, however, having the whole legal and equitable interest may dispose of the property as they please, and there is no reason why they should not appoint an attorney to do what they themselves could do by right of their absolute ownership. The difficulty is that the joint tenants can only execute this power by reason of the beneficial interest in the property, so that a purchaser from the attorney would have to investigate the beneficial interests; cf. *Green v. Whitehead*, [1930] 1 Ch. 38, at p. 46, C. A.

<sup>6</sup> This power cannot be declared irrevocable, so as to protect a purchaser, for longer than a year unless it is given for valuable consideration; see pp. 196, 197, *ante*.

## 105

Clause in power of attorney declaring that it shall be irrevocable<sup>19</sup>

[AND] I declare that the power hereby created shall be irrevocable for the period of . . . months from the date hereof.

## 106

Statutory declaration by donee of power of attorney that power has not been revoked<sup>20</sup>

I [attorney] of [address, etc.] do solemnly and sincerely declare as follows:

1. By a power of attorney dated the . . . day of . . . and made by [donor of power] of [address, etc.] (hereinafter called the donor) the donor appointed me his attorney to [state shortly purposes for which attorney was appointed].

2. I have not received any notice or information of the revocation of the said power of attorney by death or otherwise and to the best of my knowledge and belief the donor has not done or executed any thing act or deed whereby the said power of attorney has been revoked.

3. At the date of the execution by me of the [transfer] dated the . . . day of . . . now produced to me and marked . . . the donor on whose behalf I executed the same was alive as I know by reason of [my having received a letter dated the . . . day of . . . [a date subsequent to the date of the transfer] now produced to me and marked . . . which was addressed to me and which I verily believe to

<sup>19</sup> Where the power is given for value, it may be expressed to be irrevocable without any time limit for the purpose of conferring protection on a purchaser; in other cases the time limit is one year; see pp. 196, 197, *ante*. If this clause is included in a power, it is within the stated period, only revocable as against a purchaser by the combined action of the appointor and the attorney (Law of Property Act 1925, ss. 126 (1) (i), 127 (1) (i)); see pp. 196, 197, *ante*. If the power is not so revoked, it can normally be accepted and acted on without risk during that period. The power, however, remains valid after the period until revoked, but a person before accepting anything done under the power must then get a statutory declaration that the power has not been revoked; see Form 106, *infra*.

<sup>20</sup> Statutory declarations are not liable to stamp duty; see note 16, p. 333, *ante*. Where a statutory declaration by an attorney that he has not received any notice or information of revocation is made either immediately before or within three months after any payment or act in pursuance of the power, it is conclusive proof that the power has not been revoked; where the donee of the power is a corporation aggregate the officer of the corporation appointed to act in the execution of the power may make this declaration in like manner as if that officer had been the donee of the power; see p. 197, *ante*.

be in the donor's handwriting and which I received in the envelope now produced to me and marked . . .].<sup>1</sup> Form 106  
AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

DECLARED at . . . } [Signature of declarant]  
this . . . day of . . . }

Before me

[Signature of commissioner]

A Commissioner for Oaths.

## 107

Undertaking to ratify acts of attorney and indemnify: short form<sup>2</sup>

[AND] I hereby undertake to ratify whatsoever the attorney [or the attorneys or any of them] shall lawfully do or cause to be done by virtue of this deed and to indemnify him [or them and each of them] against all costs and expenses properly incurred by him [or them or any of them] hereunder.

<sup>1</sup> In the case of registered land, the Land Registration Rules 1925, S. R. & O. 1925 No. 1093, r. 82 (1), requires, in cases not falling within the Law of Property Act 1925, ss. 126, 127 (see pp. 196, 197, *ante*), evidence (by the statutory declaration of the attorney or otherwise) sufficient to satisfy the Registrar that the principal was alive at the time of the execution of the instrument and that the power was then unrevoked. In view of the terms of the Law of Property Act 1925, s. 124 (2) (see p. 197, *ante*), a statutory declaration containing clauses 1 and 2 of the above form is normally sufficient to satisfy the Land Registration Rules 1925, r. 82 (1), but clause 3, or a clause to similar effect, may be added, if appropriate.

<sup>2</sup> This clause is practically common form, but its effect and validity are doubtful after the remarks of LORD ATKIN in *Midland Bank, Ltd. v. Reckitt*, [1933] A. C. 1, at p. 18; [1932] All E. R. Rep. 90, at p. 96, H. L.; see note 1, p. 198, *ante*. The difficulty is that, using words in their ordinary meaning, one cannot ratify an act which is to be done in the future and of the nature and circumstances of which one is ignorant. It seems reasonable, however, to suppose that one can agree to confirm any act which is lawfully done in pursuance of the powers granted by the deed. The important point, however, is not that the attorney shall be protected against revocation, but that the third parties dealing with the attorney shall be protected and assured that the dealing will be valid as against the principal. For this purpose it seems essential to include the declaration contained in Form 108, p. 394, *post*, that acts of the attorney shall be binding on the principal and persons claiming under him. Form 109, p. 394, *post*, does not constitute so good a protection to third parties because third parties cannot be sure what notice the attorney has received, though, of course, in England they can protect themselves by obtaining a statutory declaration in the form given in Form 106, p. 392, *ante*. An attorney acting after revocation by death may be liable as an executor *de son tort*. For a general discussion of the effectiveness of notification of death clauses and ratification clauses, see pp. 198, 199, *ante*.

## 108

Undertaking to ratify acts of attorney, declaration protecting persons not having notice of revocation, and indemnity to attorney : full form<sup>3</sup>

[AND] I the said [*principal*] hereby ratify and confirm and promise at all times to allow ratify and confirm all and whatsoever the attorney [*or attorneys or any of them*] shall lawfully do or cause to be done in and about the matters aforesaid by virtue hereof including any thing which shall be done between the revocation of this deed by my death or in any other manner and notice of such revocation reaching the attorney [*or the attorneys or any of them*] And I hereby declare that as against me and persons claiming under me everything which the attorney [*or the attorneys or any of them*] shall lawfully do or cause to be done in pursuance of this deed after such revocation as aforesaid shall be valid and effectual in favour of any person claiming the benefit thereof and acting in good faith who before the doing thereof shall not have had express notice of such revocation And I hereby agree to indemnify the attorney [*or the attorneys and each of them*] against all costs charges expenses and losses which the attorney [*or the attorneys or any of them*] may incur in the lawful execution of the powers hereby conferred upon the attorney [*or the attorneys*].

## 109

Declaration that power is to continue in force until notice of revocation is received by attorney<sup>4</sup>

I declare that this power of attorney shall continue in force until notice of my death [*or in the case of a company of the winding up of the . . . Co. Ltd.*] or of other revocation hereof shall be actually received by the said [*attorney*] or his substitute or substitutes for the time being acting in the exercise the powers hereby conferred.

## 110

Covenant protecting attorney as to acts done between death of principal and receipt by attorney of notice of death<sup>5</sup>

AND I [*appointor*] hereby covenant with the said [*attorney*] that after my decease my personal representatives shall ratify and confirm all acts and things lawfully done or caused to be done by virtue of this deed by the said [*attorney*] between the date of my death and the receipt by the said [*attorney*] of notice thereof and indemnify the said [*attorney*] in respect thereof.

<sup>3</sup> For the advantage of this form as compared with Form 107, p. 393, *ante*, or Form 109, *infra*, see note 2, p. 393, *ante*.

<sup>4</sup> This form does not constitute as good a protection to third parties as Form 108, *supra*; see note 2, p. 393, *ante*.

<sup>5</sup> If desired, this may be added to the ratification clause in the forms of power of attorney given in this title. Acts done by an attorney after the death of the appointor may render him liable as an executor *de son tort*.

## 111

## Form 111

Clause authorising the appointment of substitutes<sup>6</sup>

FOR the better doing performing and executing of the matters and things aforesaid I hereby further grant unto the said [*attorney*] full power and authority to substitute and appoint in his place [on such terms and at such salary as he shall think fit] one or more attorney or attorneys to exercise for me as my attorney or attorneys any or all the powers and authorities hereby conferred and to revoke any such appointment from time to time and to substitute or appoint any other or others in the place of such attorney or attorneys as he the said [*attorney*] shall from time to time think fit.

## 112

Clauses appointing second attorney to act on decease, etc., of the first<sup>7</sup>

AND WHEREAS I the said [*principal*] am desirous of providing for the event of the said [*first attorney*] dying or becoming incapable of acting or refusing to act or becoming bankrupt during my absence and have requested [*second attorney*] to take upon himself the care of my estate and effects and to act for me in my absence in any of the events aforesaid which he has consented to do.

Recital.

NOW THIS DEED WITNESSETH that I appoint the said [*second attorney*] my true and lawful attorney from and immediately after the happening of any of the said events during my absence to act in and manage all my affairs in the same or like manner in all respects as the said [*first attorney*] could have done and I accordingly grant to and vest in the said [*second attorney*] as from the date of such event all and every the same or the like powers and authorities in or concerning the premises in all respects as are hereinbefore given to or vested in the said [*first attorney*] and as if the name of the said [*second attorney*] had throughout this deed been inserted instead of the name of the said [*first attorney*].

Appointment of second attorney.

AND I hereby undertake to ratify whatsoever the said [*second attorney*] [*or his lawful attorney or attorneys*] shall lawfully do or cause to be done by virtue of this deed.<sup>8</sup>

Ratification.

IN WITNESS etc.

[*Signature and seal of principal*]

<sup>6</sup> For forms of appointment by attorneys of substitutes, see Forms 97, 98, pp. 388, 389, *ante*.

<sup>7</sup> If, for example, the principal intends to go abroad and his absence is likely to be of long duration, it may be desirable that he should provide for the event of the attorney dying, etc., during his absence; this may be done, either by appointing two or more attorneys in the first instance (as in Form 68, p. 353, *ante*) or by giving the attorney power to appoint a person to succeed him (see Form 111, *supra*), or by the principal naming a second attorney to act upon the decease, etc., of the first in this form.

<sup>8</sup> As to the effect of a ratification clause, see pp. 198, 199, *ante*.