



Jersey

DRAFT POWERS OF ATTORNEY (AMENDMENT) (JERSEY) LAW 202-

Contents

Article

1	Powers of Attorney (Jersey) Law 1995 amended	3
2	Article 1 (interpretation) amended	3
3	Article 2 (powers of attorney generally) amended	4
4	Article 2A (chains of representation) inserted	4
5	Article 3 (registrable powers of attorney) amended	5
6	Article 5 (power of attorney given ancillary to security) amended	5
7	Article 9 (revocation and abandonment of power of attorney) amended	6
8	Article 10 (saving) amended	6
9	Citation and commencement	6



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DRAFT POWERS OF ATTORNEY (AMENDMENT) (JERSEY) LAW 202-

A LAW to amend the Powers of Attorney (Jersey) Law 1995

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Powers of Attorney (Jersey) Law 1995 amended

This Law amends the Powers of Attorney (Jersey) Law 1995.

2 Article 1 (interpretation) amended

In Article 1 –

- (a) in paragraph (1) –
 - (i) before the definition “registered” there is inserted –

““limited liability partnership” means a limited liability partnership registered under the Limited Liability Partnerships (Jersey) Law 2017 or registered or formed outside Jersey under equivalent legislation;

“LLC agreement” means an LLC agreement as defined in the Limited Liability Companies (Jersey) Law 2018, or, if the limited liability company is registered or formed outside Jersey, an equivalent agreement;

“LLP partnership agreement” means a partnership agreement as defined in the Limited Liability Partnerships (Jersey) Law 2017, or, if the limited liability partnership is registered or formed outside Jersey, an equivalent agreement;”;
 - (ii) after the definition of “registrable power of attorney”, there is inserted –

““separate limited partnership” means a separate limited partnership registered under the Separate Limited Partnerships (Jersey) Law 2011 or registered or formed outside Jersey under equivalent legislation;

“SLP partnership agreement” means a partnership agreement as defined in the Separate Limited Partnerships (Jersey) Law 2011 or, if the separate limited partnership is registered or formed outside Jersey, an equivalent agreement.”;

(b) in paragraph (2) after “2” there is inserted “, 2A, 3”;

(c) after paragraph (2) there is inserted –

“(3) An entity incorporated or registered under a foreign law may grant a power of attorney under this Law.”.

3 Article 2 (powers of attorney generally) amended

In Article 2 –

(a) in paragraph (3), after “Subject to paragraph (4)” there is inserted “and Article 2A”;

(b) for paragraph (4) there is substituted –

“(4) A power of attorney may be executed, without any further attestation –

(a) by a body corporate, in the manner permitted by its articles of association or other similar instrument;

(b) by a limited liability company, in the manner permitted by its LLC agreement;

(c) by a limited liability partnership, in the manner permitted by its LLP partnership agreement; or

(d) by a separate limited partnership, in the manner permitted by its SLP partnership agreement.”.

4 Article 2A (chains of representation) inserted

After Article 2 there is inserted –

“2A Chains of representation

(1) A donor may include in a power of attorney an express authority for an attorney to execute a subsequent power of attorney on the donor’s behalf.

(2) A subsequent power of attorney executed under paragraph (1) does not confer a power to do any thing or take any action that the attorney is not entitled to do under the original power of attorney.

(3) Despite paragraph (1) –

(a) an attorney appointed under a power of attorney by which that attorney is granted authority to execute a specified document –

- (i) may execute any subsequent power of attorney contained within that document, or
 - (ii) may do any thing or take any action that is reasonably contemplated by that document; and
- (b) an attorney appointed under a power of attorney to which Article 5(2) applies may execute a subsequent power of attorney on the donor's behalf [even if the power of attorney to which Article 5(2) applies does not contain express authority to do so].
- (4) Paragraphs (1), (2) and (3) do not apply to registrable powers of attorney.”.

5 Article 3 (registrable powers of attorney) amended

In Article 3, for paragraph (3) there is substituted –

- “(3) The following entities may execute a registrable power of attorney in the following ways, but that execution is equivalent to signature only –
 - (a) a body corporate, in the manner permitted by its articles of association or other similar instrument;
 - (b) a limited liability company, in the manner permitted by its LLC agreement;
 - (c) a limited liability partnership, in the manner permitted by its LLP partnership agreement; or
 - (d) a separate limited partnership, in the manner permitted by its SLP partnership agreement.”.

6 Article 5 (power of attorney given ancillary to security) amended

(1) For Article 5(2) there is substituted –

- “(2) Paragraph (2A) applies if a power of attorney is expressed to be irrevocable and is given –
 - (a) for the purpose of facilitating the exercise of powers of a secured party under the appropriate Security Interests Law in respect of a security interest or of powers given under a security agreement in respect of a security interest;
 - (b) under, in connection with, for the purpose of, or as ancillary to, security governed by foreign law; or
 - (c) for the purpose of securing the performance of an obligation owed by the donor to the donee.
- (2A) For as long as the security interest, security, or obligation is effective, the power of attorney cannot be revoked –
 - (a) in any case, by the donor without the consent of the donee;
 - (b) if the donor is an individual, by the donor's death, incapacity or bankruptcy; or

- (c) if the donor is a body corporate, limited liability company, limited liability partnership or separate limited partnership, by its bankruptcy or dissolution.”.
- (2) For Article 5(3) there is substituted –
 - “(3) A power of attorney to which paragraph (2) applies may be given to the following persons, and those persons are duly constituted donees of the power of attorney for all the purposes of the power but without prejudice to any right to appoint substitutes given by the power –
 - (a) the secured party, the person taking security governed by foreign law or the person securing performance of an obligation;
 - (b) a person nominated by the secured party, the person taking security governed by foreign law or the person securing performance of an obligation.”.

7 Article 9 (revocation and abandonment of power of attorney) amended

In Article 9 –

- (a) in paragraph (5), after “limited liability company” there is inserted “, limited liability partnership or separate limited partnership”;
- (b) after paragraph (5), there is inserted –
 - “(6) In this Article –
 - (a) nothing affects the ability of a power of attorney validly executed under foreign law to be expressed to be irrevocable –
 - (i) for a period of time in excess of one year, or
 - (ii) without the consent of a particular person; and
 - (b) a foreign law power of attorney to which sub-paragraph (a) applies remains valid for use in Jersey even if more than one year has elapsed since the time of its execution.
- (7) Paragraph (6) does not apply to registrable powers of attorney or lasting powers of attorney.”.

8 Article 10 (saving) amended

In Article 10 (saving), after sub-paragraph (c), there is inserted –

- “(d) affects the law of agency.”.

9 Citation and commencement

This Law may be cited as the Powers of Attorney (Amendment) (Jersey) Law 202- and comes into force 7 days after it is registered.