



# Powers of Attorney Act 1971

## 1971 CHAPTER 27

### **5 Protection of donee and third persons where power of attorney is revoked.**

- (1) A donee of a power of attorney who acts in pursuance of the power at a time when it has been revoked shall not, by reason of the revocation, incur any liability (either to the donor or to any other person) if at that time he did not know that the power had been revoked.
- (2) Where a power of attorney has been revoked and a person, without knowledge of the revocation, deals with the donee of the power, the transaction between them shall, in favour of that person, be as valid as if the power had then been in existence.
- (3) Where the power is expressed in the instrument creating it to be irrevocable and to be given by way of security then, unless the person dealing with the donee knows that it was not in fact given by way of security, he shall be entitled to assume that the power is incapable of revocation except by the donor acting with the consent of the donee and shall accordingly be treated for the purposes of subsection (2) of this section as having knowledge of the revocation only if he knows that it has been revoked in that manner.
- (4) Where the interest of a purchaser depends on whether a transaction between the donee of a power of attorney and another person was valid by virtue of subsection (2) of this section, it shall be conclusively presumed in favour of the purchaser that that person did not at the material time know of the revocation of the power if—
  - (a) the transaction between that person and the donee was completed within twelve months of the date on which the power came into operation; or
  - (b) that person makes a statutory declaration, before or within three months after the completion of the purchase, that he did not at the material time know of the revocation of the power.
- (5) Without prejudice to subsection (3) of this section, for the purposes of this section knowledge of the revocation of a power of attorney includes knowledge of the occurrence of any event (such as the death of the donor) which has the effect of revoking the power.
- (6) In this section “purchaser” and “purchase” have the meanings specified in section 205(1) of the <sup>M1</sup>Law of Property Act 1925.

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*Changes to legislation: There are currently no known outstanding effects for the Powers of Attorney Act 1971, Section 5. (See end of Document for details)*

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- (7) This section applies whenever the power of attorney was created but only to acts and transactions after the commencement of this Act.

**Modifications etc. (not altering text)**

- C1** S. 5 modified by [Enduring Powers of Attorney Act 1985](#) (c. 29, SIF 1), **ss. 1(1)(c)**, 9(5)
- C2** S. 5 modified (1.10.2007) by [Mental Capacity Act 2005](#) (c. 9), **ss. 14(5)**, 68(1) (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(a)
- C3** S. 5 modified (1.10.2007) by [Mental Capacity Act 2005](#) (c. 9), s. 68(1), **Sch. 4 para. 18(5)** (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)
- C4** S. 5 applied (1.10.2007) by [Mental Capacity Act 2005](#) (c. 9), s. 68(1), **Sch. 4 para. 1(1)(c)** (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)

**Marginal Citations**

- M1** 1925 c. 20.

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There are currently no known outstanding effects for the Powers of Attorney Act 1971, Section 5.