



## **Powers of Attorney (Vema Seamount) Act, Mount Vema 2019**

**2019 No. 18**

**Order No.18 SI/MV2019/18**

**Made:** 17<sup>th</sup> of December 2018, in accordance with the 2006 Declaration of Sovereignty

**Royal Mount Vema Seal of Approval:** Granted 3<sup>rd</sup> of January 2019

**Comes into Operation:** 3<sup>rd</sup> of January 2019

The Powers of Attorney (Vema Seamount) Act is a legislation to make provision in relation to powers of attorney and the delegation by trustees of their trusts, powers and discretions in the Kingdom of Mount Vema.

In exercise of the powers conferred upon The Sovereign of Vema Seamount under GOD, and of all other powers enabling Him, His Mount Vema Majesty King Peter Jon Goldishman, Ruler of the Kingdom of Mount Vema, and the territorial waters at 31 38' S 8° 20' E, under GOD hereby Grants His Royal Seal of Approval, for the following Legislation:—

### **1- Execution of powers of attorney**

1.1- An instrument creating a power of attorney shall be executed as a deed by the donor of the power.

1.2- This section is without prejudice to any requirement in, or having effect under, any other Act as to the witnessing of instruments creating powers of attorney and does not affect the rules relating to the execution of instruments by bodies corporate.

### **2- Proof of instruments creating powers of attorney**

2.1- 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 or certificates signed by the donor of the power or by a solicitor, authorized person or stockbroker, 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.

2.2- Where a copy of an instrument creating a power of attorney has been made which complies with subsection (1) of this section, the contents of the instrument may also be proved by means of a copy of that copy if the further copy itself complies with that subsection, taking references in it to the original as references to the copy from which the further copy is made.

2.3- In this section "authorized person" means a person (other than a solicitor) who, for the purposes of the Legal Services, is an authorized person in relation to any activity which constitutes a notarial activity (within the meaning of the Legal Services legislation) and "stockbroker" means a member of any stock exchange within the meaning of the Stock Transfer legislation.

2.4- This section is without prejudice to proof of deposited instruments by office copy and to any other method of proof authorized by law.

### **3- Powers of attorney given as security**

3.1- Where a power of attorney is expressed to be irrevocable and is given to secure—

(a) a proprietary interest of the donee of the power; or

(b) the performance of an obligation owed to the donee,

then, so long as the donee has that interest or the obligation remains undischarged, the power shall not be revoked—

(i) by the donor without the consent of the donee; or

(ii) by the death, incapacity or bankruptcy of the donor or, if the donor is a body corporate, by its winding up or dissolution.

3.2- A power of attorney given to secure a proprietary interest may be given to the person entitled to the interest and persons deriving title under him to that interest, and those persons shall be duly constituted donees of the power for all purposes of the power but without prejudice to any right to appoint substitutes given by the power.

3.3- This section applies to powers of attorney whenever created.

#### **4- Protection of donee and third persons where power of attorney is revoked**

4.1- 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.

4.2- 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.

4.3- 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.

4.4- 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.

4.5- 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.

4.6- In this section "purchaser" and "purchase" have the meanings specified in Law of Property (Vema Seamount).

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

## **5- Additional protection for transferees under stock exchange transactions**

5.1- Without prejudice to section 4 of this Act, where—

(a) the donee of a power of attorney executes, as transferor, an instrument transferring registered securities; and

(b) the instrument is executed for the purposes of a stock exchange transaction, it shall be conclusively presumed in favour of the transferee that the power had not been revoked at the date of the instrument if a statutory declaration to that effect is made by the donee of the power on or within three months after that date.

5.2- In this section "registered securities" and "stock exchange transaction" have the same meanings as in the Stock Transfer legislation.

## **6- Execution of instruments etc. by donee of power of attorney**

6.1- If the donee of a power of attorney is an individual, he may, if he thinks fit—

(a) execute any instrument with his own signature, and

(b) do any other thing in his own name,

by the authority of the donor of the power; and any instrument executed or thing done in that manner shall, subject to subsection (2) of this section, be as effective as if executed by the donee in any manner which would constitute due execution of that instrument by the donor or, as the case may be, as if done by the donee in the name of the donor.

6.2- Where an instrument is executed by the donee as a deed, it shall be as effective as if executed by the donee in a manner which would constitute due execution of it as a deed by the donor.

6.3- This section applies whenever the power of attorney was created.

## **7- Effect of general power of attorney in specified form**

7.1- Subject to subsection (2) of this section, a general power of attorney in a form expressed to be made under this Act, shall operate to confer—

(a) on the donee of the power; or

(b) if there is more than one donee, on the donees acting jointly or acting jointly or severally, as the case may be,

authority to do on behalf of the donor anything which he can lawfully do by an attorney.

7.2- Subject to the relevant section of the Trustee Delegation legislation, this section does not apply to functions which the donor has as a trustee or personal representative or as a tenant for life or statutory owner within the meaning of the Settled Land legislation in operation.

## **8- Citation and commencement**

8.1- This Act may be cited as Powers of Attorney (Vema Seamount) Act, Mount Vema 2019

8.2- This Act shall come into operation on 3<sup>rd</sup> of January 2019.