

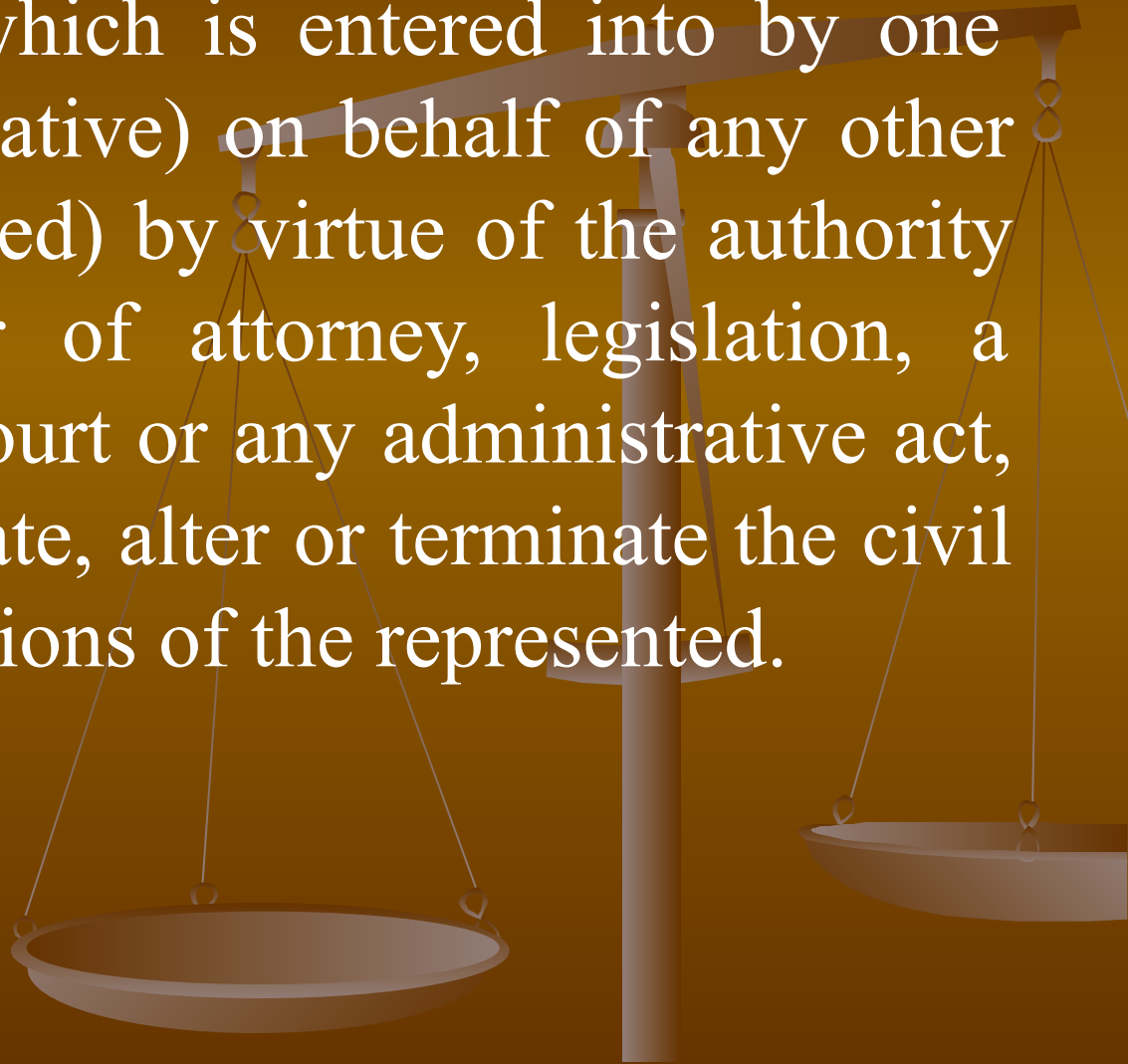
# CIVIL LAW



## Lecture 9

# Representation

A transaction which is entered into by one person (representative) on behalf of any other person (represented) by virtue of the authority based on power of attorney, legislation, a decision of the court or any administrative act, shall directly create, alter or terminate the civil rights and obligations of the represented.



# Representation

## TYPES OF REPRESENTATION

### Obligatory

#### By operation of law:

- 1) With respect to minors: parents, adopters, guardians & sponsors;
- 2) With respect to incapable people: guardians;
- 3) With respect to limited in deed capacity people: sponsors;
- 4) Representation without powers: carrying out actions without powers or with exceeding powers, shall create, change or terminate civil rights and obligations for represented person only after subsequent approval by him of that transaction.

### Voluntary

On the basis of court decision, or administrative act.

On the basis of power of attorney; agreement, or commercial representation.

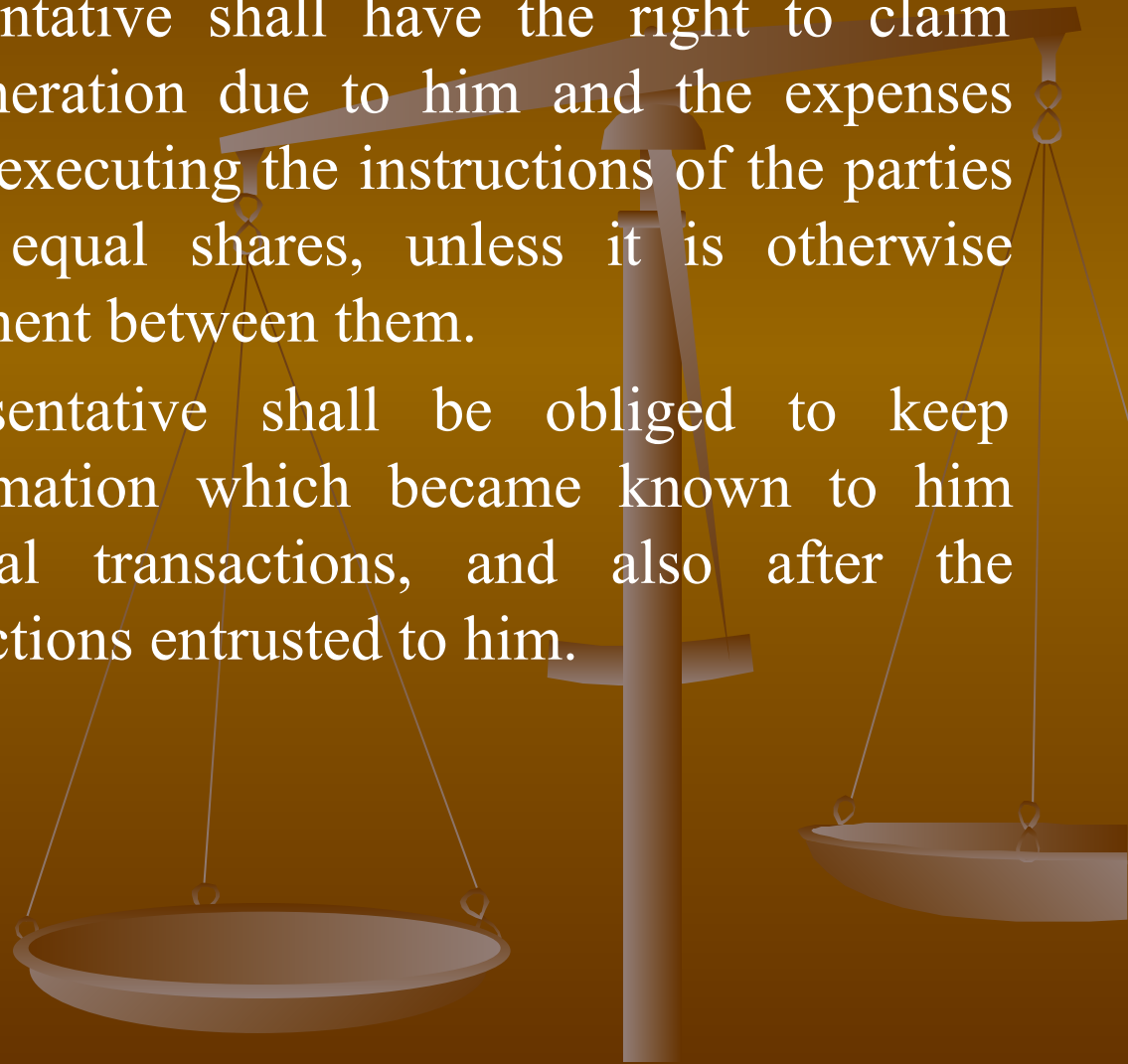
# Commercial representation



- The person who permanently and independently represents entrepreneurs in their concluding agreements (a commercial representative), shall act on the basis of a written agreement containing indications on the powers of the representative, and in the case where such indications do not exist, - also of the power attorney.
- A commercial representative may at the same time represent the interests of various parties to an agreement which is concluded with his participation. In that respect, he shall be obliged to execute the instructions given to him with the diligence of a usual entrepreneur.

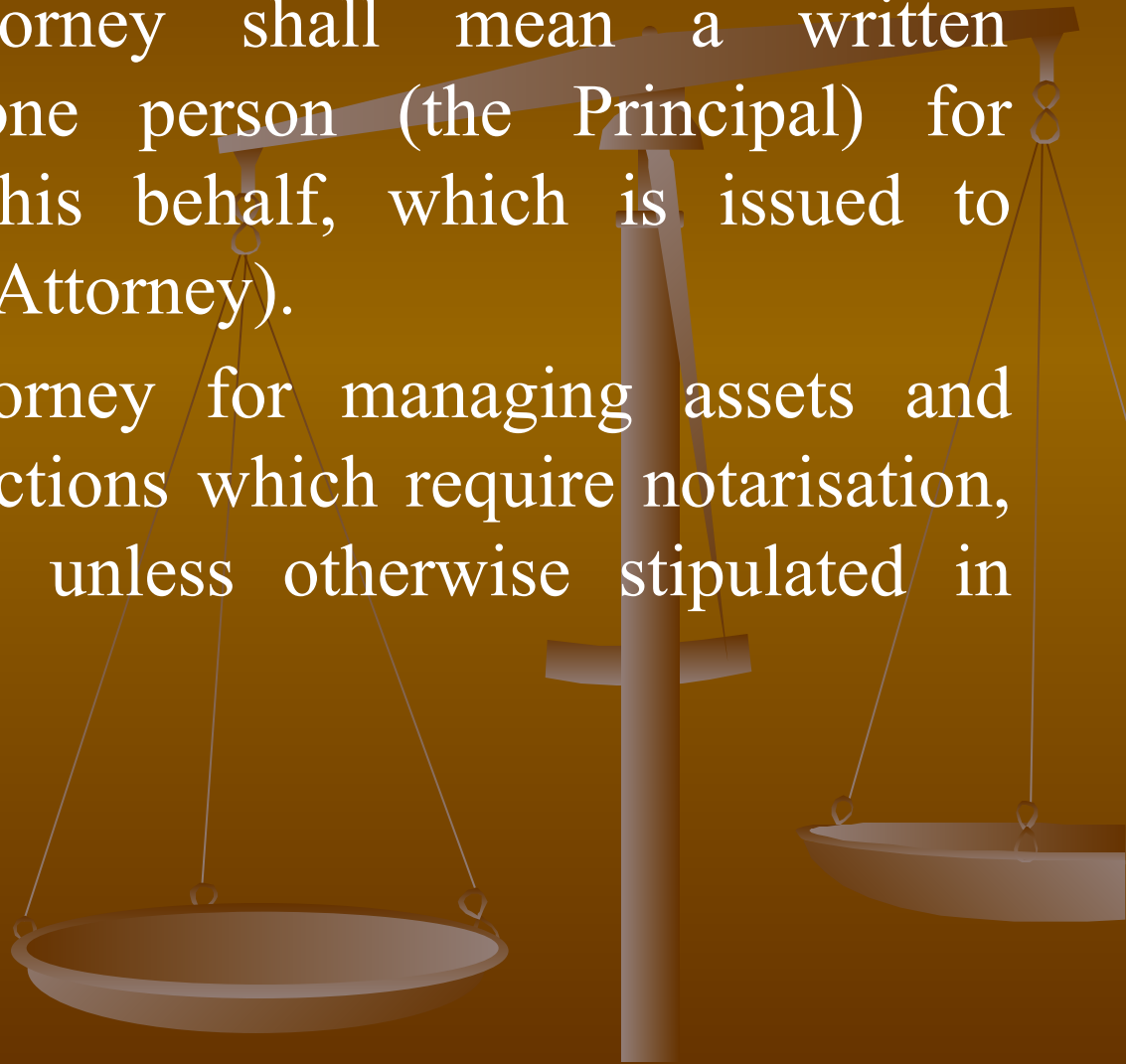
# Commercial representation

- A commercial representative shall have the right to claim payment of the remuneration due to him and the expenses incurred by him when executing the instructions of the parties to the agreement in equal shares, unless it is otherwise stipulated in the agreement between them.
- A commercial representative shall be obliged to keep confidential the information which became known to him concerning commercial transactions, and also after the fulfilment of the instructions entrusted to him.



# Power of Attorney

- A power of attorney shall mean a written authorisation of one person (the Principal) for representation on his behalf, which is issued to another person (the Attorney).
- The power of attorney for managing assets and entering into transactions which require notarisationalion, must be notarised, unless otherwise stipulated in legislative acts.



# Power of Attorney

The following shall be equated to notarised powers of attorney:

- 1) powers of attorney of military servicemen and any other persons who are on a medical treatment at hospital, attested by the chief, deputy chief for medical issues, senior doctor or doctor on duty at that hospital;
- 2) powers of attorney of the military servicemen, and at the points of deployment of military units, institutions and military education organisations where there is no state notary offices, nor any other bodies which execute notary actions, and also the powers of attorney of workers and employees, members of their families and family members of the military servicemen, which are attested by the commanders (chiefs) of those units, formations, institutions and organisations;
- 3) powers of attorney of the persons who are in places of deprivation of freedom, certified by the heads of the places of deprivation of freedom;
- 4) powers of attorney of capable citizens of full age who are in institution for the social protection of the population, certified by the head of that institution or of the relevant body for the social protection of the population.

# Power of Attorney

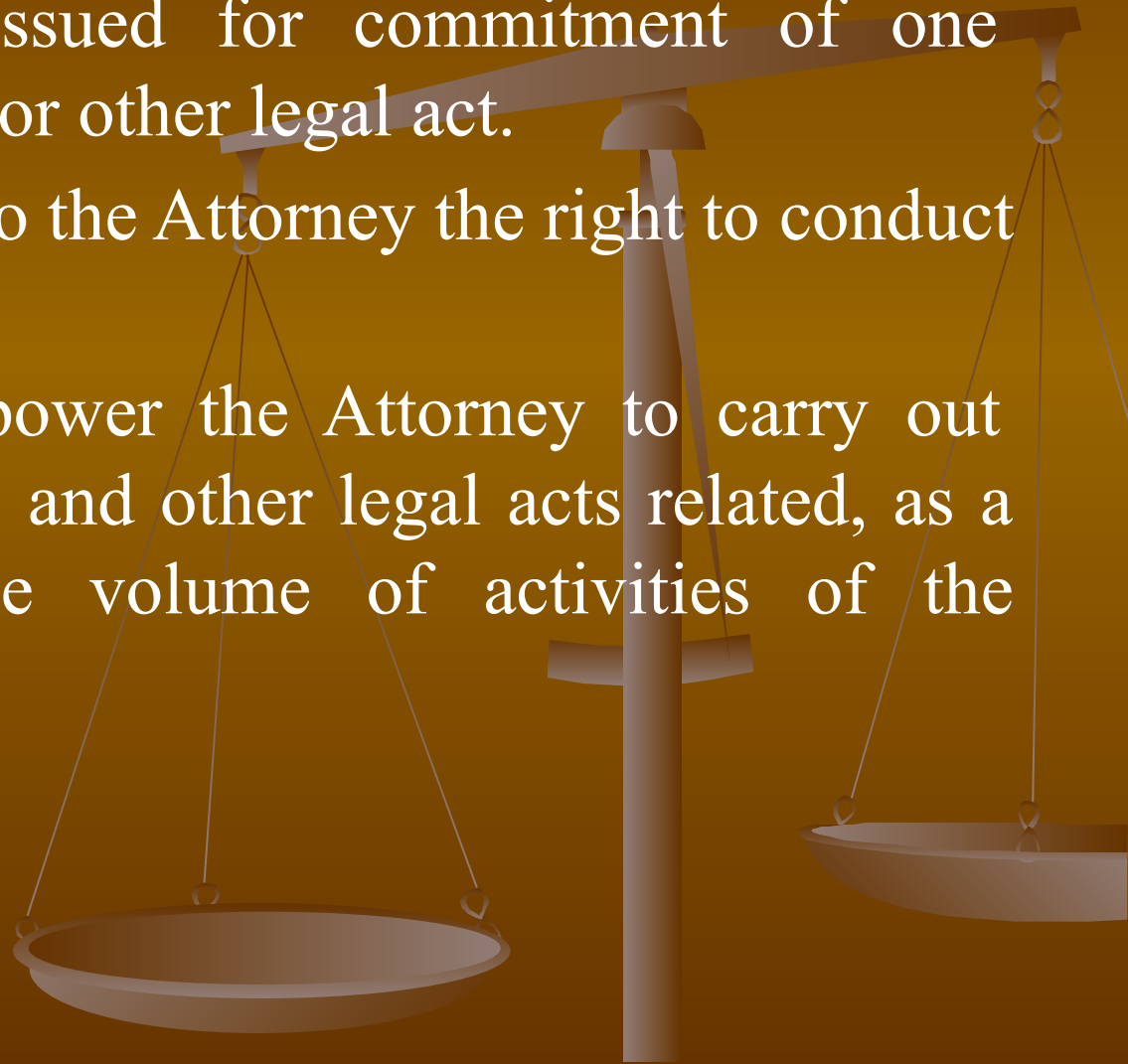


- A power of attorney on behalf of a legal entity shall be issued with the signature of its head or any other person who is authorised thereto by the foundation documents, and it shall be attested by the seal of that organisation.
- A power of attorney on behalf of a state body, a commercial and non-commercial organisation to receive or pay money and any other material values, shall be also signed by the chief (senior) accountant of that organisation.



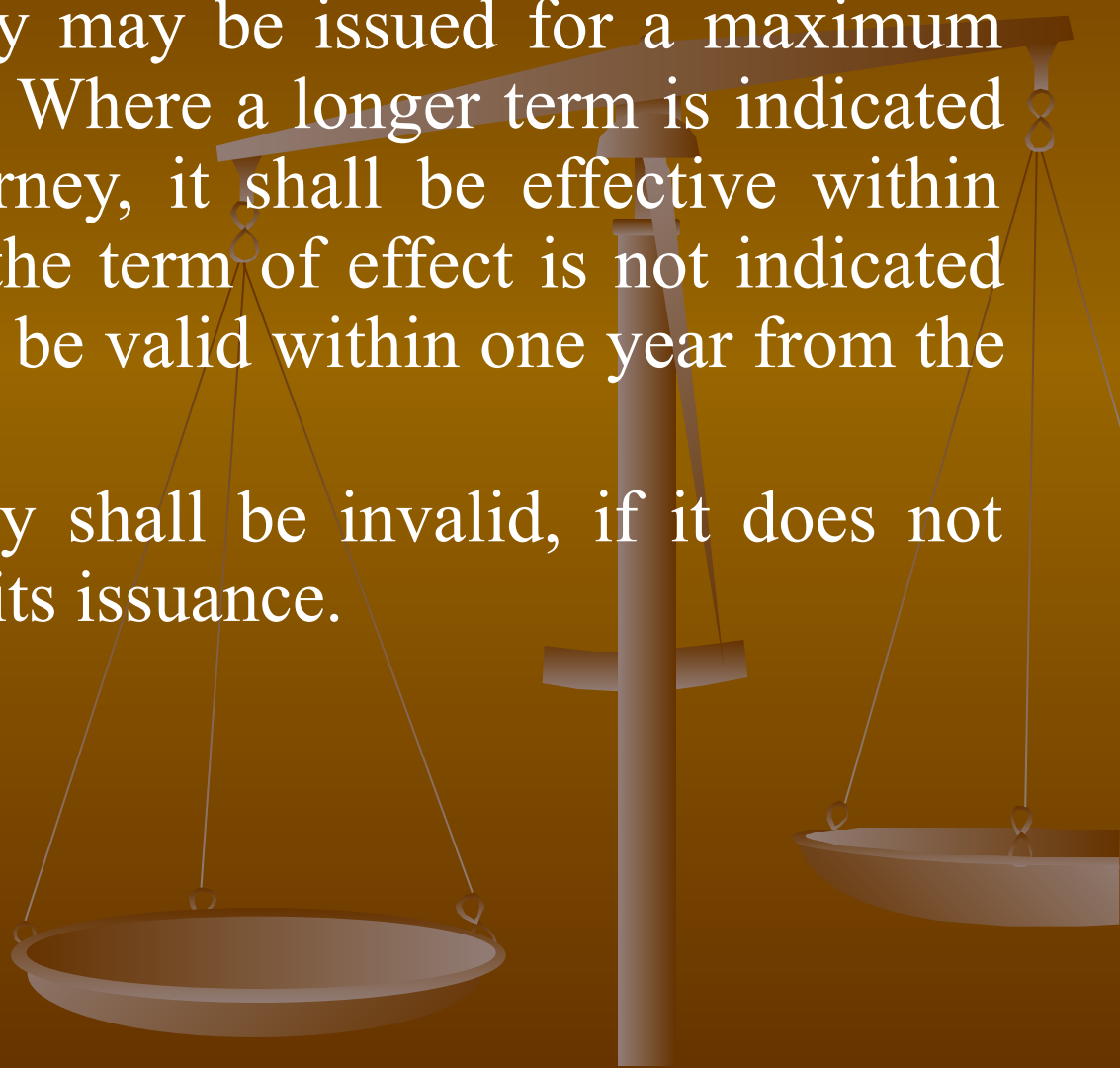
# Types of power of attorneys

- *Single*: shall be issued for commitment of one specific transaction or other legal act.
- *Special*: shall give to the Attorney the right to conduct similar legal acts.
- *General*: shall empower the Attorney to carry out various transactions and other legal acts related, as a rule, to the whole volume of activities of the Principal.



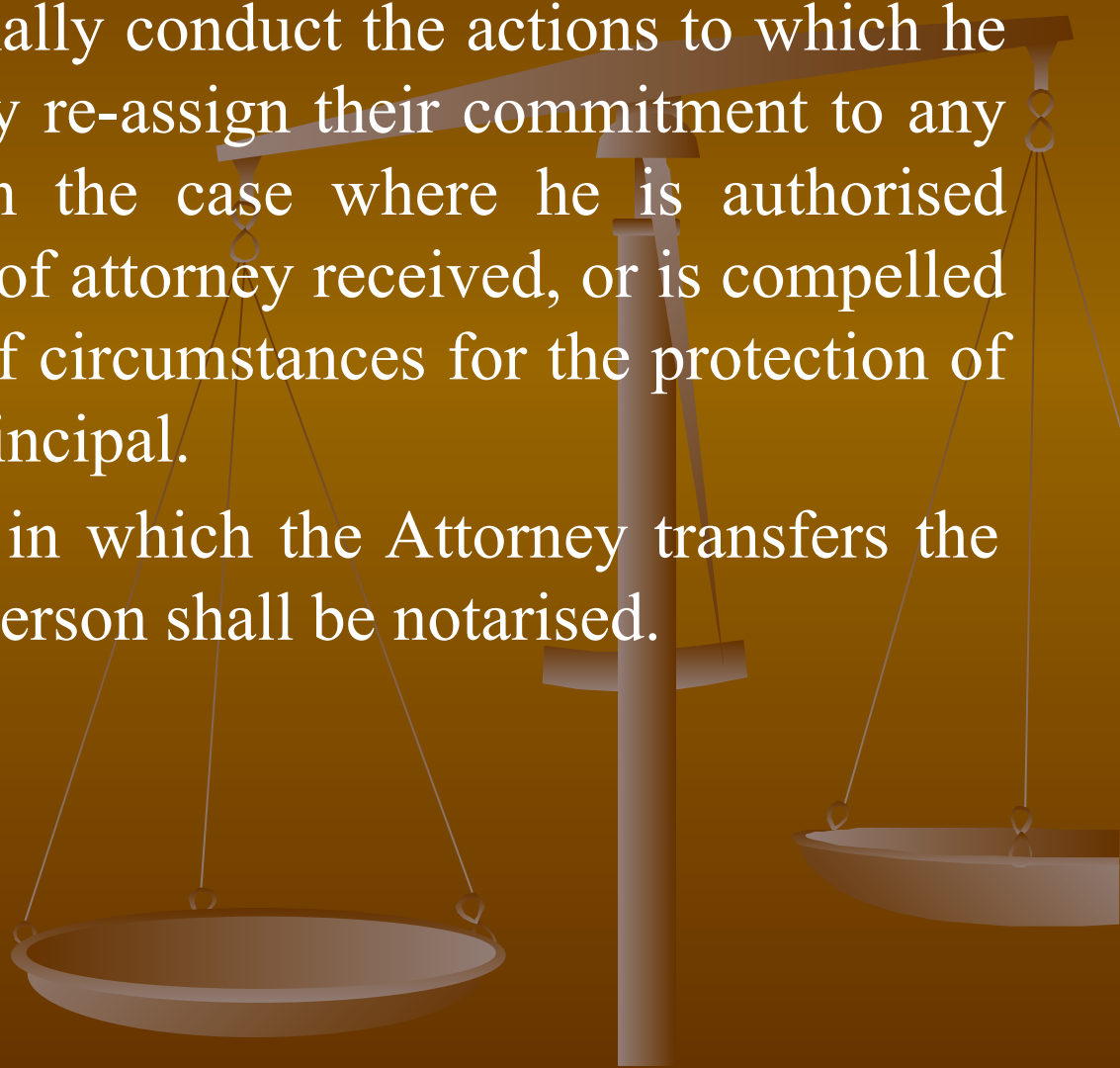
# Term of power of attorney

- A power of attorney may be issued for a maximum term of three years. Where a longer term is indicated in a power of attorney, it shall be effective within three years, and if the term of effect is not indicated therein, then it shall be valid within one year from the date of its issuance.
- A power of attorney shall be invalid, if it does not indicate the date of its issuance.



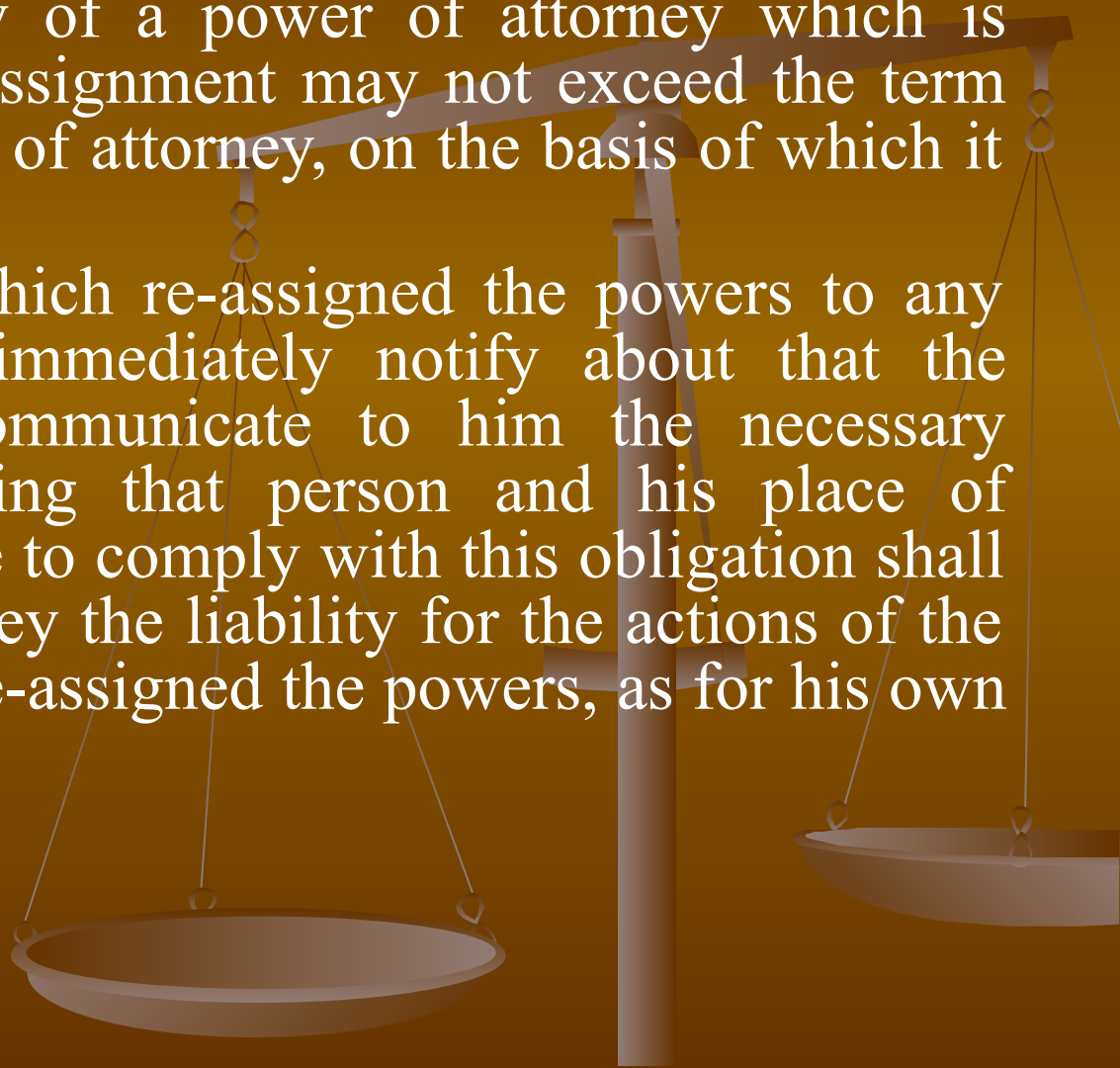
# Transfer of powers under power of attorney

- Attorney shall personally conduct the actions to which he is authorised. He may re-assign their commitment to any other person only in the case where he is authorised thereto by the power of attorney received, or is compelled to do that by virtue of circumstances for the protection of the interests of the Principal.
- A power of attorney in which the Attorney transfers the powers to any other person shall be notarised.



# Transfer of powers under power of attorney

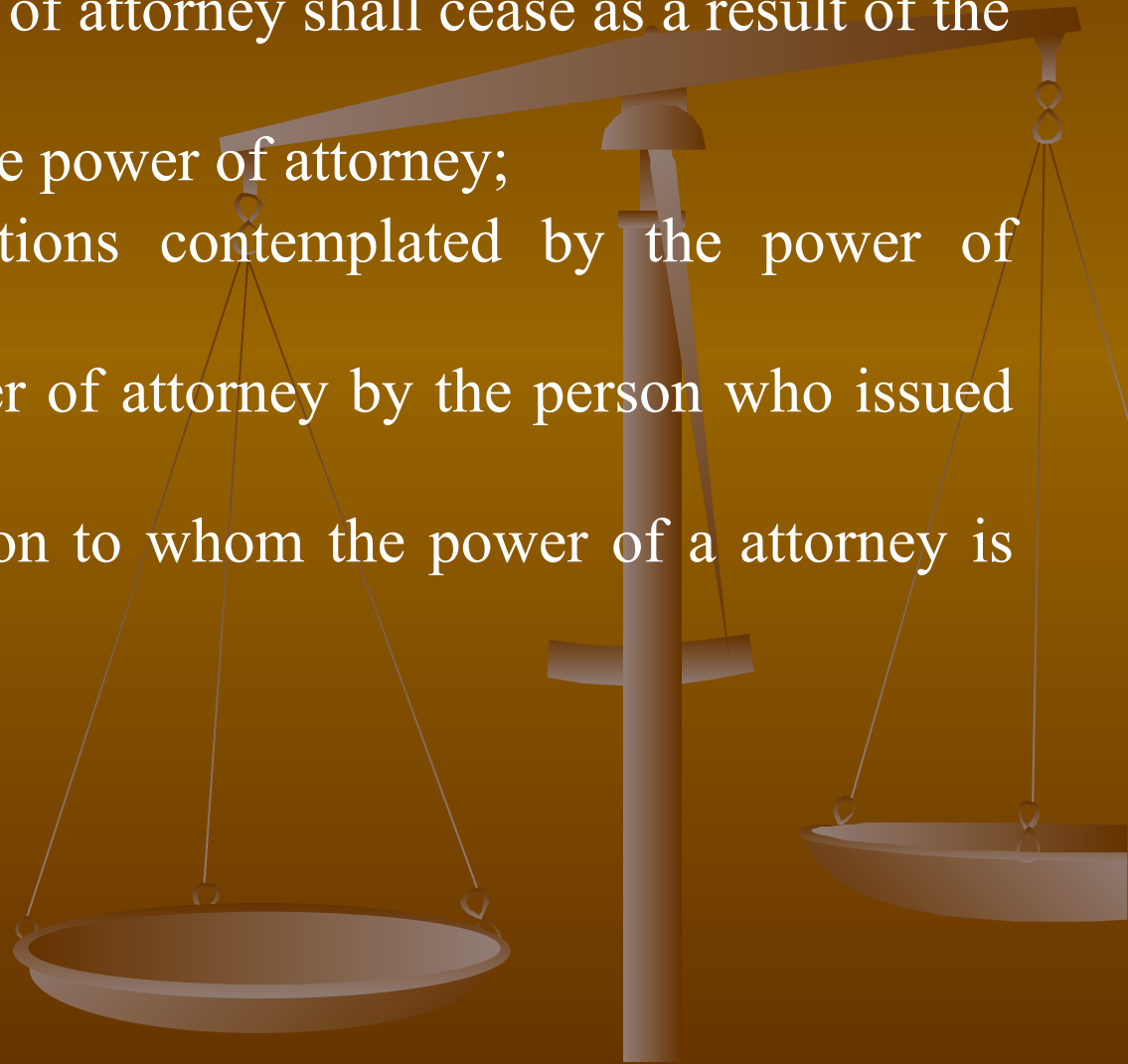
- The term of validity of a power of attorney which is issued under the re-assignment may not exceed the term of the original power of attorney, on the basis of which it was issued.
- The Attorney who/which re-assigned the powers to any other person must immediately notify about that the Principal and to communicate to him the necessary information concerning that person and his place of residence. The failure to comply with this obligation shall impose on the Attorney the liability for the actions of the person to whom he re-assigned the powers, as for his own actions.



# Termination of power of attorney

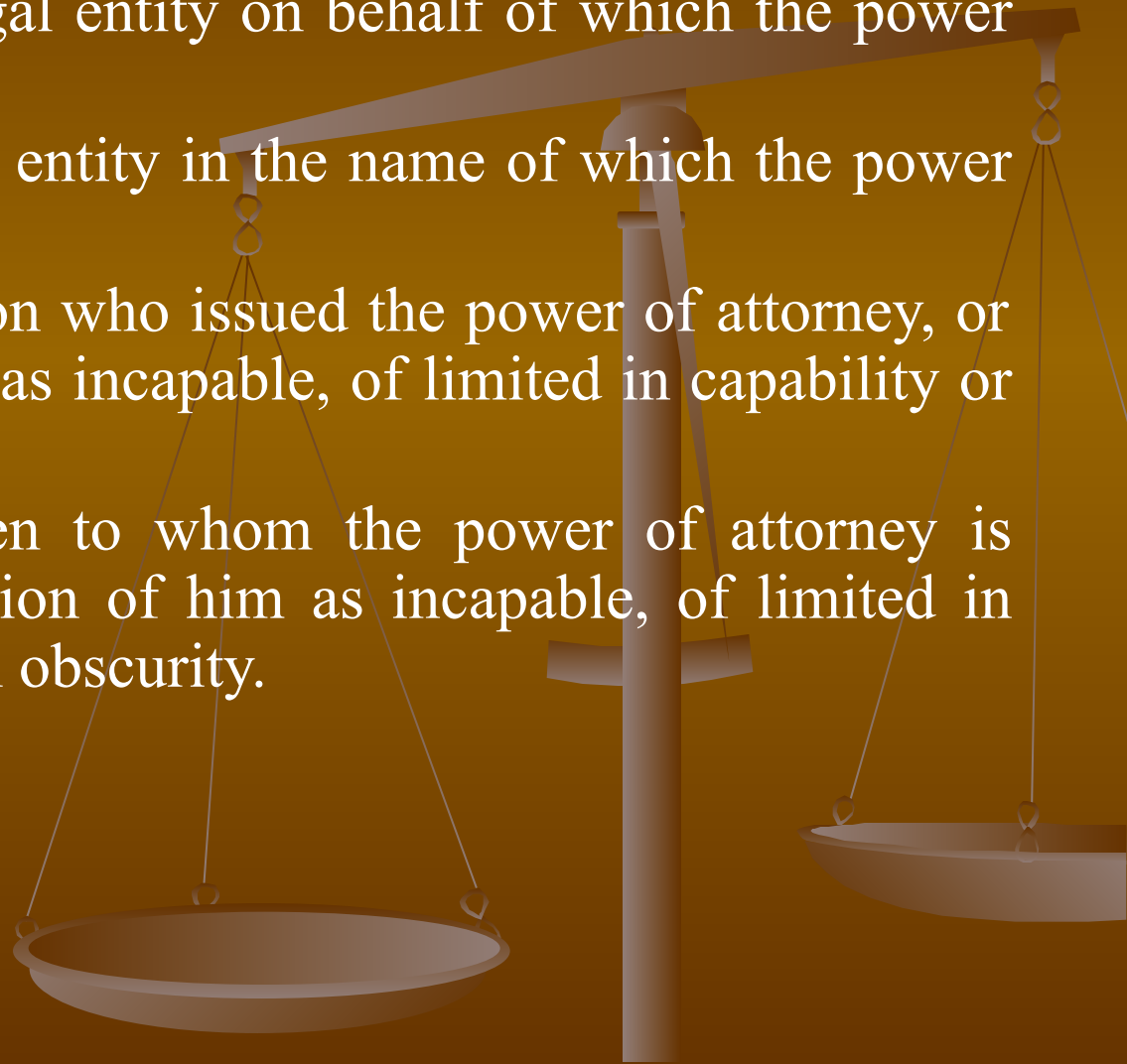
The effect of a power of attorney shall cease as a result of the following:

- 1) expiry of the term of the power of attorney;
- 2) completion of the actions contemplated by the power of attorney;
- 3) annulment of the power of attorney by the person who issued it;
- 4) the refusal of the person to whom the power of a attorney is issued;



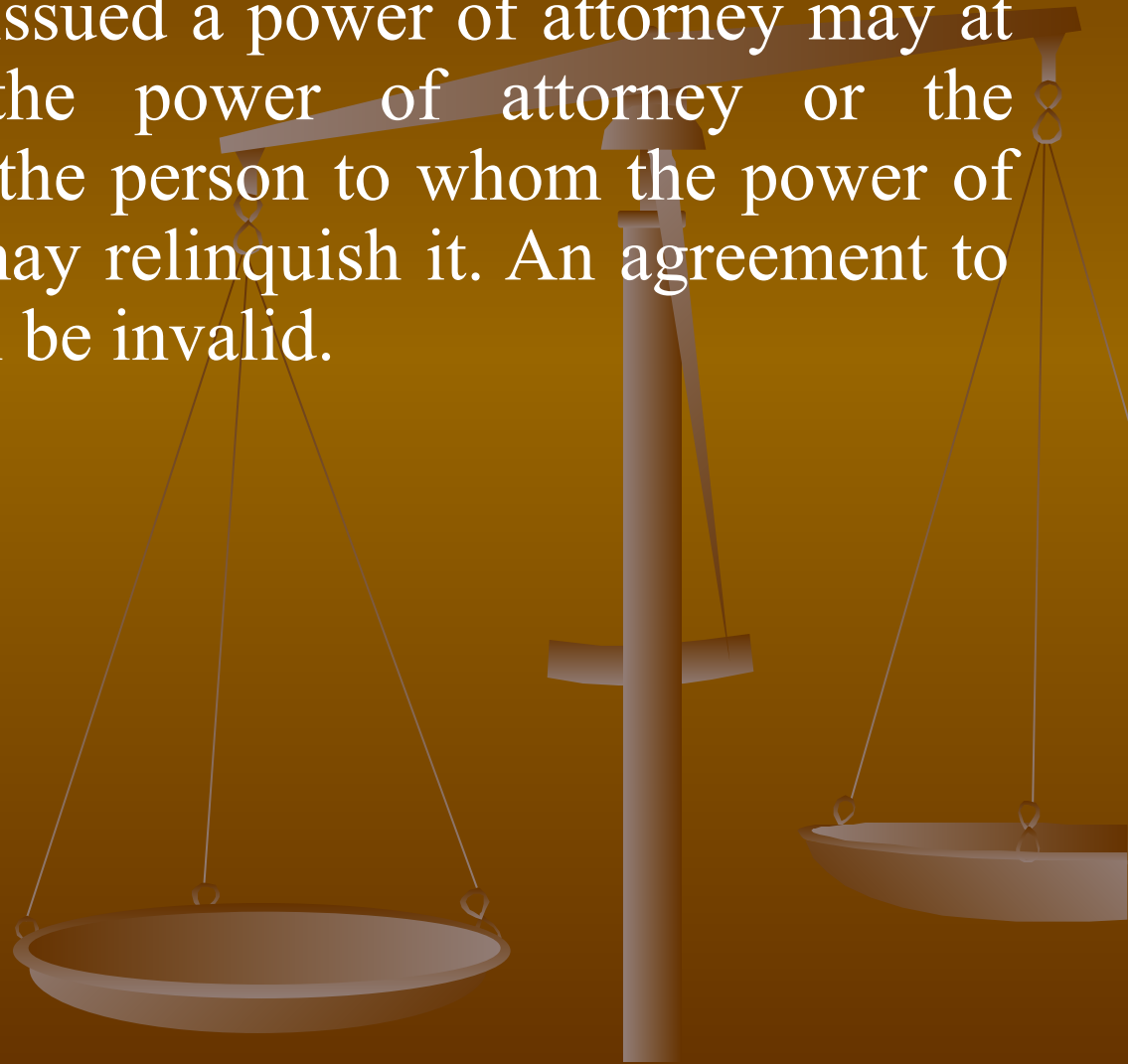
# Termination of power of attorney

- 5) the cessation of the legal entity on behalf of which the power of attorney was issued;
- 6) liquidation of the legal entity in the name of which the power of attorney was issued;
- 7) the demise of the person who issued the power of attorney, or the recognition of him as incapable, of limited in capability or missing in obscurity;
- 8) the demise of a citizen to whom the power of attorney is issued, or the recognition of him as incapable, of limited in capability or missing in obscurity.



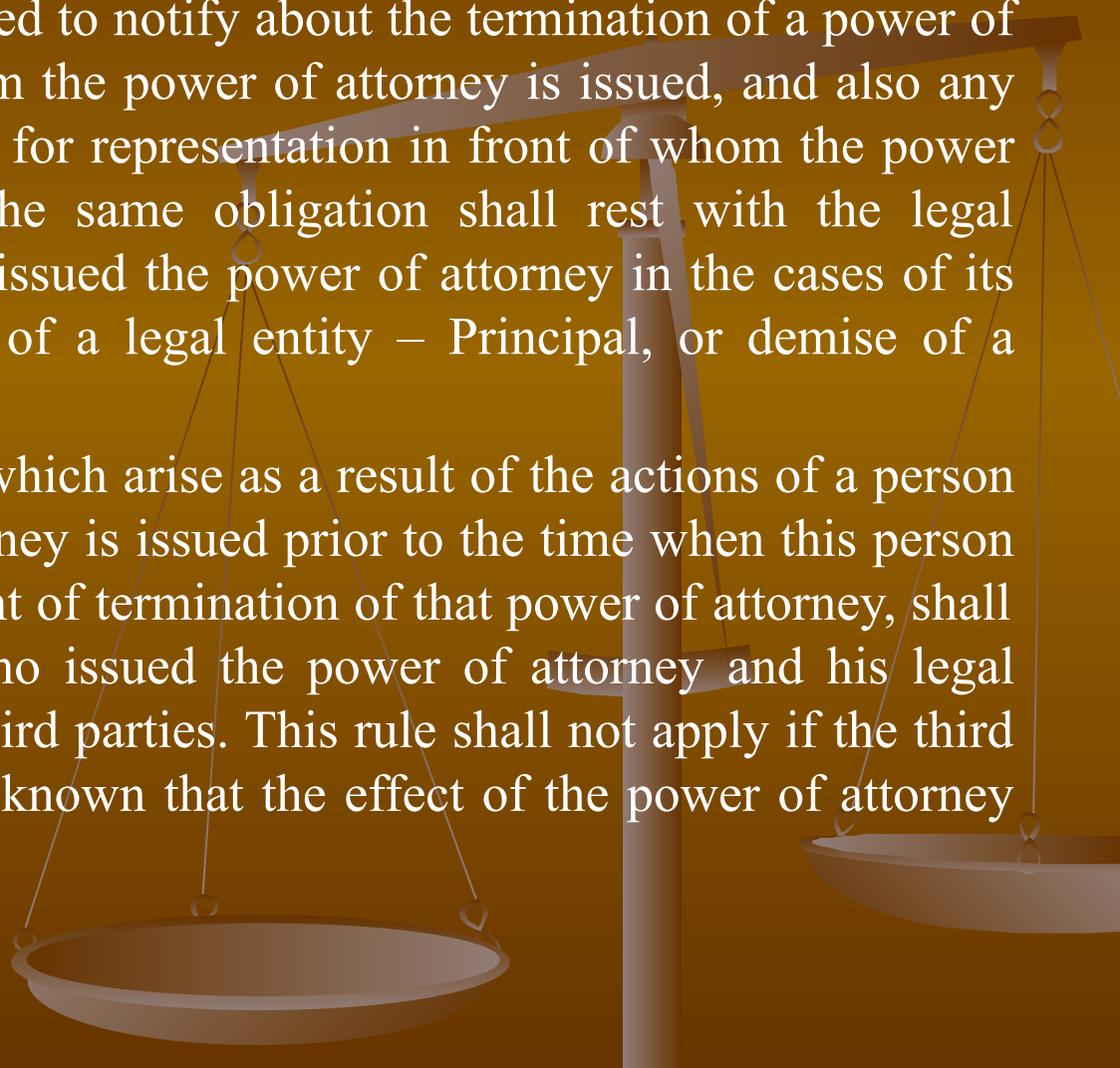
# Termination of power of attorney

The person who issued a power of attorney may at any time annul the power of attorney or the re-assignment, and the person to whom the power of attorney is issued may relinquish it. An agreement to waive this right shall be invalid.



# Consequences of termination of power of attorney

- The Principal shall be obliged to notify about the termination of a power of attorney the person to whom the power of attorney is issued, and also any third parties known to him, for representation in front of whom the power of attorney was issued. The same obligation shall rest with the legal successor of a person who issued the power of attorney in the cases of its cessation due to cessation of a legal entity – Principal, or demise of a person – Principal.
- The rights and obligations which arise as a result of the actions of a person to whom the power of attorney is issued prior to the time when this person learned or should have learnt of termination of that power of attorney, shall retain force for the one who issued the power of attorney and his legal successors with regard to third parties. This rule shall not apply if the third party knew or should have known that the effect of the power of attorney ceased.





# Consequences of termination of power of attorney

- Upon the cessation of the power of attorney the person to whom it was issued or his legal successor must immediately return the power of attorney.
- With the cessation of the power of attorney the transfer of the powers associated with that power of attorney to the other person (re-assignment) shall lose force.

