



Queensland

Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) (Transitional) Regulation 2021

Subordinate Legislation 2021 No. 56

made under the

COVID-19 Emergency Response Act 2020

Powers of Attorney Act 1998

Succession Act 1981

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
3	Declarations	3
4	Definitions	3
Part 2	Particular wills and other documents	
5	Meaning of modified requirements and arrangements for this part	4
6	Modified requirements or arrangements continue to apply for particular wills and documents	4
7	Matters about effect of wills and documents made under modified requirements or arrangements	5
Part 3	Particular enduring documents and other documents	
8	Meaning of modified requirements and arrangements for this part	5
9	Modified requirements or arrangements continue to apply for particular enduring documents and other documents	6
10	Matters about effect of enduring documents and other documents made under modified requirements or arrangements	6
11	Disapplication of emergency regulation for particular advance health directives	7

Contents

Part 4	Saving of operation	
12	Saving of operation of regulation	7

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) (Transitional) Regulation 2021*.

2 Commencement

This regulation commences on 1 July 2021.

3 Declarations

- (1) This regulation is a transitional regulation.
- (2) Part 2 is made under the *Succession Act 1981* as modified by the *COVID-19 Emergency Response Act 2020*, section 25(4).
- (3) Part 3 is made under the *Powers of Attorney Act 1998* as modified by the *COVID-19 Emergency Response Act 2020*, section 25(4).

Note—

Under the *COVID-19 Emergency Response Act 2020* section 25(7) this regulation expires 2 years after the day this section commences.

4 Definitions

In this regulation—

amending regulation means the *Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Amendment Regulation (No. 2) 2021*.

emergency regulation means the *Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020*.

Part 2 Particular wills and other documents

5 Meaning of *modified requirements and arrangements* for this part

In this part—

modified requirements or arrangements means the modified requirements or arrangements, under the *Succession Act 1981* or another law, for making, signing and witnessing wills, or documents that alter, revoke or revive a will provided for under the emergency regulation, part 2, as in force before the commencement.

6 Modified requirements or arrangements continue to apply for particular wills and documents

(1) This section applies if—

- (a) before the commencement, a will, or a document altering, revoking or reviving a will, was signed or witnessed under the modified requirements or arrangements; and
- (b) immediately before commencement—
 - (i) a witness has not confirmed the will or document, or has not complied with another requirement, under the modified requirements or arrangements; or

Example—

Under the emergency regulation, the witness has not given the will to the relevant person—see the emergency regulation, section 20(1)(b) and (3), definition, *relevant person*.

- (ii) a special witness had not signed a certificate for the will in accordance with the modified requirements or arrangements.
- (2) The modified requirements or arrangements continue to apply in relation to the making, signing and witnessing of the will or document as if the amending regulation had not been made.

7 Matters about effect of wills and documents made under modified requirements or arrangements

- (1) This section applies to a will, or a document altering, revoking or reviving a will, made, signed and witnessed under the modified requirements or arrangements, whether before the commencement or after the commencement under section 6.
- (2) The emergency regulation, sections 22 to 25 and section 26 continue to apply in relation to the will or document.

Part 3 Particular enduring documents and other documents

8 Meaning of *modified requirements and arrangements* for this part

In this part—

modified requirements or arrangements means the modified requirements or arrangements, under the *Powers of Attorney Act 1998*, or another law, for making, signing and witnessing enduring documents or documents that revoke all or part of an enduring document provided for under the emergency regulation, part 3, as in force before the commencement.

9 Modified requirements or arrangements continue to apply for particular enduring documents and other documents

- (1) This section applies if—
 - (a) before the commencement, an enduring document, or a document that revokes all or part of an enduring document, was signed or witnessed in accordance with the modified requirements or arrangements; and
 - (b) immediately before the commencement—
 - (i) a witness had not confirmed the relevant enduring document or document, or had not complied with another requirement under the modified requirement or arrangements; or
Example—

Under the emergency regulation the relevant witness has not given the relevant enduring document to the relevant person—see the emergency regulation, section 20(1)(b) and (3), definition, *relevant person*.
 - (ii) a special witness has not signed a certificate for the enduring document or document in accordance with the modified requirements or arrangements.
- (2) The modified requirements or arrangements continue to apply in relation to the making, signing and witnessing of the enduring document or other document as if the amending regulation had not been made.

10 Matters about effect of enduring documents and other documents made under modified requirements or arrangements

- (1) This section applies to an enduring document, or a document revoking all or part of an enduring document, made, signed and witnessed under the modified requirements or arrangements, whether before the commencement or after the commencement under section 9.

-
- (2) The emergency regulation, sections 22 to 25 and section 26 continue to apply in relation to the enduring document or document.

11 Disapplication of emergency regulation for particular advance health directives

- (1) This section applies to an advance health directive if—
- (a) before the commencement, a certificate for the directive was signed by a nurse practitioner under the emergency regulation, section 11; and
 - (b) immediately before the commencement, the directive has not been signed by a signatory, a substitute signatory or an eligible witness.
- (2) The emergency regulation does not apply to the signing of advance health directive by a signatory, a substitute signatory or an eligible witness.
- (3) This section applies despite section 9.

Part 4 Saving of operation

12 Saving of operation of regulation

This regulation and the amending regulation are declared to be laws to which the *Acts Interpretation Act 1954*, section 20A applies.

ENDNOTES

- 1 Made by the Governor in Council on 10 June 2021.
- 2 Notified on the Queensland legislation website on 11 June 2021.
- 3 The administering agency is the Department of Justice and Attorney-General.

© State of Queensland 2021