

Further modification orders for EPAs

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24 April 2020

On 20 April, we reported on two modification orders made under the Epidemic Preparedness Act 2006, temporarily relaxing the rules for signing wills and oaths and declarations (see our article [here](#)).

In our article, we noted that despite previous indications that regulatory changes could be made to allow powers of attorney to be signed remotely, the rules had not been changed and powers of attorney remained in the category of documents that were excluded from being signed electronically under part 4 of the Contract and Commercial Law Act 2017.

This has now been addressed with the making of the [Epidemic Preparedness \(Protection of Personal and Property Rights Act 1988—Enduring Powers of Attorney\) Immediate Modification Order 2020](#) (the **EPA Modification Order**) which came into effect today.

Like the modification orders in relation to wills and oaths and declarations the EPA Modification Order temporarily (for so long as the Epidemic Preparedness (COVID-19) Notice 2020 (the **Epidemic Notice**) remains in force) relaxes the rules for signing powers of attorney. It ensures that an enduring power of attorney (an **EPA**) can be created when the signatories (the donor, the attorney and witnesses) are all in different places. In particular, the changes:

- Allow the signatories to sign separate copies of the same document, rather than having to sign a single physical document
- Treat the full set of signed documents that are sent to a holder (which may include photographs or scans) as comprising the complete instrument creating the EPA
- Enable audiovisual links to be used instead of requiring a person signing at the direction of the donor, or a person witnessing a donor's or an attorney's signature, to do that in the presence of the relevant party (the donor or attorney).

As with wills it must be made clear on the face of the EPA that it has been signed and witnessed in this manner because the Epidemic Notice is in force.

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