



NAEPC  
**Journal**  
of **Estate & Tax Planning**

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## COVID-19: Canadian Federal and Provincial Government Relief Measures – Remote Signing of Wills and Powers of Attorney

As the COVID-19 crisis continues to have a significant impact on the ability of legal practitioners to meet with clients, some Provinces of Canada have responded with temporary measures to ease the burden on the legal industry associated with in-person signing of certain documents. Below is an outline of legislation that some of the provinces have passed in order to facilitate the remote witnessing of documents and the ability to execute wills in counterparts.

### Remote Signing of Wills

#### Ontario

On April 7, 2020, Ontario's Attorney General made [an order](#) under the *Emergency Management and Civil Protection Act* ("EMCPA") allowing the remote signing of wills and powers of attorney:

##### Definition

1. In this Order,

1. "audio-visual communication technology" means any electronic method of communication in which participants are able to see, hear and communicate with one another in real time.

##### Wills

2. (1) A requirement under the *Succession Law Reform Act* that a testator or witnesses be present or in each other's presence for the making or acknowledgment of a signature on a will or for the subscribing of a will may be satisfied by means of audio-visual communication technology provided that at least one person who is providing services as a witness is a licensee within the meaning of the *Law Society Act* at the time of the making, acknowledgment or subscribing. [my emphasis]

(2) If a will is executed with the assistance of audio-visual communication technology as authorized by subsection (1), the signatures or subscriptions required by the *Succession Law Reform Act* may be made by signing or subscribing complete, identical copies of the will in counterpart, which shall together constitute the will. [my emphasis]

(3) For the purposes of subsection (2), copies of a will are identical even if there are minor, non-substantive differences in format or layout between the copies.

To summarize in fewer words, during the term of the declaration of an Emergency under the *EMCPA*, wills and powers of attorney may be witnessed remotely and executed in counterparts. Please note that at least one service provider involved must be a licensee as under the *Law Society Act*. Please note that these temporary provisions only apply to the province of Ontario.

#### Saskatchewan

On March 26, 2020, the Government of Saskatchewan enacted [emergency regulations](#) allowing the remote execution of certain documents by electronic means. [The Powers of Attorney \(Public Emergencies\) Regulations](#) impacts *The Powers of Attorney Act, 2002*, section 22 to allow powers of attorney to be witnessed remotely. This emergency legislation does not go so far as to allow the remote witnessing of wills in Saskatchewan.

## Quebec

A note published on the Chambre Des Notaires du Québec website states that [notaries are allowed to sign a notarized document remotely](#) beginning April 1, 2020. This practice direction stems from a [March 28, 2020 announcement](#) by the Minister of Justice and Attorney General of Québec, Sonia LeBel, concerning these temporary measures during the COVID-19 crisis. As such, wills of powers of attorney may be witnessed remotely by notaries in Quebec during time that the province is subject to a state of emergency under the [Civil Protection Act](#).

## Other Provinces

A number of other provinces such as British Columbia, Newfoundland and Labrador, Nova Scotia, and PEI have considered taking measures such as in Ontario and Quebec. There has been no official legislative response to date.

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