

TASMANIA

**GUARDIANSHIP AND ADMINISTRATION
AMENDMENT REGULATIONS 2022
STATUTORY RULES 2022, No. 88**

CONTENTS

1. Short title
2. Commencement
3. Principal Regulations
4. Part 3A inserted
 - PART 3A – Advance care directives
 - 13A. Interpretation of Part
 - 13B. Mandatory health care
 - 13C. Application to register advance care directive
 - 13D. Revocation of advance care directive
5. Regulation 17 inserted
 17. Inspection of register

**GUARDIANSHIP AND ADMINISTRATION
AMENDMENT REGULATIONS 2022**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Guardianship and Administration Act 1995*.

Dated 7 November 2022.

B. BAKER
Governor

By Her Excellency's Command,

ELISE ARCHER
Minister for Justice

1. Short title

These regulations may be cited as the
*Guardianship and Administration Amendment
Regulations 2022*.

2. Commencement

These regulations take effect on the day on
which the *Guardianship and Administration*

r. 3

Amendment (Advance Care Directives) Act 2021
commences.

3. Principal Regulations

In these regulations, the *Guardianship and Administration Regulations 2017** are referred to as the Principal Regulations.

4. Part 3A inserted

After regulation 13 of the Principal Regulations, the following Part is inserted:

PART 3A – ADVANCE CARE DIRECTIVES

13A. Interpretation of Part

In this Part –

health care has the same meaning as
in section 35E of the Act.

13B. Mandatory health care

For the purposes of the definition of *mandatory health care* in section 35L(1) of the Act, health care that is required under a direction given by the Director of Public Health under section 42 of the *Public Health Act 1997* is of a kind prescribed.

*S.R. 2017, No. 66

13C. Application to register advance care directive

- (1) An application to register an advance care directive under section 35X of the Act may be made by –
 - (a) the person who gave the advance care directive; or
 - (b) the legal representative of the person who gave the advance care directive; or
 - (c) an adult on behalf of the person who gave the advance care directive only if the registration of the advance care directive by that adult is requested by the person; or
 - (d) a guardian for the person who gave the advance care directive, if that guardian has authority to make health care decisions in respect of that person; or
 - (e) the person responsible under the Act for the person who gave the advance care directive; or
 - (f) any other person who the Tribunal is satisfied has a proper interest in the matter.

r. 4

- (2) An application to register an advance care directive under section 35X of the Act –
 - (a) is to be in a form approved by the Tribunal; and
 - (b) must include a written, original copy of the advance care directive.

13D. Revocation of advance care directive

- (1) For the purposes of section 35Y of the Act, a person who has given a written advance care directive may revoke that advance care directive by giving, or causing to be given, a written indication that the person has revoked the advance care directive.
- (2) For the purposes of section 35Y of the Act, a person who has given an advance care directive by means other than writing, may revoke that advance care directive –
 - (a) in the same manner as the advance care directive was given; or
 - (b) by giving, or causing to be given, a written indication that the person has revoked the advance care directive.

5. Regulation 17 inserted

After regulation 16 of the Principal Regulations,
the following regulation is inserted in Part 4:

17. Inspection of register

(1) In this regulation –

register means the register kept by the
Tribunal under section 89 of the
Act.

(2) Subject to subregulation (3), the register
is to be made available for inspection
during normal business hours by
members of the public.

(3) Access to an advance care directive
registered with the Tribunal under
section 35X of the Act is available during
normal business hours only to the
following persons:

- (a) the person who gave the advance
care directive;
- (b) a guardian for the person who
gave the advance care directive, if
that guardian has authority to
make health care decisions in
respect of that person;
- (c) the person responsible under the
Act for the person who gave the
advance care directive;

Guardianship and Administration Amendment Regulations 2022
Statutory Rules 2022, No. 88

r. 5

- (d) a medical practitioner providing health care to the person who gave the advance care directive;
- (e) a hospital, hospice, health service establishment, nursing home or other health facility or service responsible for providing health care to the person who gave the advance care directive;
- (f) any other person who the Tribunal is satisfied has a proper interest in accessing the advance care directive.

Guardianship and Administration Amendment Regulations 2022
Statutory Rules 2022, No. 88

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 16 November 2022.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations amend the *Guardianship and Administration Regulations 2017* by –

- (a) prescribing health care, required under a direction given under section 42 of the *Public Health Act 1997*, as mandatory health care under section 35L of the *Guardianship and Administration Act 1995*; and
- (b) prescribing the manner in which, and specifying by whom, an application to register an advance care directive is to be made; and
- (c) prescribing the manner in which an advance care directive may be revoked; and
- (d) providing for the inspection of the register.