

Statutory Declarations Act 1959

No. 52, 1959

**Compilation No. 3**

**Compilation date:** 21 December 1990

**Includes amendments:** Act No. 115, 1990

**Registered:** 15 June 2024

**About this compilation**

This is a compilation of the *Statutory Declarations Act 1959* that shows the text of the law as amended and in force on 21 December 1990 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Presentational changes**

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to Statutory Declarations

1 Short title

This Act may be cited as the *Statutory Declarations Act 1959*.

2 Commencement

This Act shall come into operation on the first day of September, One thousand nine hundred and fifty‑nine.

3 Repeal and saving

(1) The following Acts are repealed:—

*Statutory Declarations Act 1911*;

*Statutory Declarations Act 1922*;

*Statutory Declarations Act 1944*.

(2) Notwithstanding the repeal effected by the last preceding subsection, a person appointed as a Commissioner for Declarations under the *Statutory Declarations Act 1911*, or under that Act as amended, and holding office immediately before the commencement of this Act continues to hold office as a Commissioner for Declarations after the commencement of this Act as if he had been appointed under this Act.

(3) A statutory declaration purporting to be made, after the commencement of this Act, by virtue of the *Statutory Declarations Act 1911*, or by virtue of that Act as amended, has the same force and effect, and entails the same consequences, as if it had been expressed to be made by virtue of this Act.

4 Definitions

In this Act, unless the contrary intention appears—

***Commissioner for Affidavits*** means a person authorized under the law of the Commonwealth or of a State or Territory to take affidavits;

***Commissioner for Declarations*** means a person appointed under this Act or under a State Act to be a Commissioner for Declarations, and includes a person referred to in subsection (2) of the last preceding section;

***Magistrate*** means a Chief, Police, Stipendiary, Resident or Special Magistrate;

***State*** includes the Northern Territory;

***Territory*** does not include the Northern Territory.

5 Application

(1) Subject to this section, this Act applies both within and without the Commonwealth.

(2) Except as provided by subsection (8) of section twelve of this Act, this Act does not apply in a Territory not forming part of the Commonwealth unless this Act extends to that Territory by virtue of section thirteen of this Act.

6 Authority to make and use statutory declarations

(1) A person may, if he so desires, make a statutory declaration in relation to any matter.

(2) Subject to the next succeeding subsection, a statutory declaration may be used—

(a) for the purposes of a law of the Commonwealth or of a Territory, unless the contrary intention appears in that law;

(b) in connexion with any matter arising under a law of the Commonwealth or of a Territory, unless the contrary intention appears in that law; or

(c) in connexion with the administration of any Department of State of the Commonwealth.

(3) The last preceding subsection does not authorize a statutory declaration to be used as evidence in a judicial proceeding but nothing in this section prevents a statutory declaration from being so used.

7 References to statutory declarations

Where, in a law of the Commonwealth or of a Territory (whether passed or made before or after the commencement of this Act), a reference is made to a statutory declaration, the reference includes a reference to a statutory declaration made by virtue of this Act, unless the contrary intention appears in that law.

8 Form of statutory declarations

A statutory declaration may be in accordance with the form in the Schedule to this Act and may be made before—

(a) a Magistrate;

(b) a Justice of the Peace;

(c) a Commissioner for Affidavits;

(d) a Commissioner for Declarations;

(e) a Notary Public;

(f) a person before whom a statutory declaration may be made under the law of the State in which the declaration is made; or

(g) an Australian Consular Officer or an Australian Diplomatic Officer as defined by section two of the *Consular Fees Act 1955*.

9 Commissioners for Declarations

The Attorney‑General may appoint persons to be Commissioners for Declarations, who shall hold office during his pleasure.

10 Declarations under other laws

Where, by a law of the Commonwealth or of a Territory (whether passed or made before or after the commencement of this Act), a declaration is required to be made by a person before some other person, the declaration may, unless the contrary intention appears in that law, be made before the person mentioned in that law or before a person before whom a statutory declaration under this Act may be made.

11 False declarations

(1) A person who wilfully makes a false statement in a statutory declaration is guilty of an offence against this Act.

(2) An offence against this Act may be prosecuted either summarily or upon indictment but an offender is not liable to be punished more than once in respect of the same offence.

(3) The punishment for an offence against this Act is—

(a) if the offence is prosecuted summarily—a fine not exceeding Two hundred dollars or imprisonment for a term not exceeding six months, or both; or

(b) if the offence is prosecuted upon indictment—imprisonment for a term not exceeding four years.

12 Jurisdiction of courts

(1) Subject to the succeeding provisions of this section—

(a) the several courts of the States (other than the Northern Territory) are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories and of the Northern Territory;

with respect to offences against this Act.

(2) The jurisdiction invested in or conferred on courts by the last preceding subsection is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject‑matter or otherwise, but subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of subsection (2) of section thirty‑nine of the *Judiciary Act 1903*.

(3) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Judge, a Magistrate, or a District Officer or Assistant District Officer of a Territory.

(4) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or Territory.

(5) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

(6) Except as provided by this section, the *Judiciary Act 1903* applies in relation to offences against this Act.

(7) For the purposes of this section, ***court of summary jurisdiction*** includes a court of a Territory sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.

(8) This section extends to all the Territories not forming part of the Commonwealth.

13 Extension of Act to Territories

Subject to subsection (8) of the last preceding section, this Act extends to Norfolk Island and to such other Territories not forming part of the Commonwealth as the Governor‑General, by Proclamation, declares.

The Schedule

Section 8

COMMONWEALTH OF AUSTRALIA.

—

Statutory Declaration.

—

I, (1) , do solemnly and sincerely declare (2)

And I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

(3)

Declared at the

day of 19

Before me,

(4)

(5)

——

(1) Here insert name, address and occupation of person making the declaration.

(2) Here insert matter declared to. Where the matter is long, add the words “as follows:—” and then set the matter out in numbered paragraphs.

(3) Signature of person making the declaration.

(4) Signature of person before whom the declaration is made.

(5) Here insert title of person before whom the declaration is made.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- | --- |
| Statutory Declarations Act 1959 | 52, 1959 | 22 May 1959 | 1 Sept 1959 (s 2) |  |
| Statute Law Revision (Decimal Currency) Act 1966 | 93, 1966 | 29 Oct 1966 | First Sch: 1 Dec 1966 (s 2(1)) | — |
| Statute Law Revision Act 1973 | 216, 1973 | 19 Dec 1973 | s 9(1), 10 and Sch 1: 31 Dec 1973 (s 2) | s 9(1), 10 |
| Law and Justice Legislation Amendment Act 1990 | 115, 1990 | 21 Dec 1990 | Sch: 21 Dec 1990 (s 2(1)) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 4 | am No 216, 1973; No 115, 1990 |
| s 11 | am No 93, 1966 |
| s 12 | am No 115, 1990 |