

Statutory Declarations Regulations 1993 No. 156

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 156

Issued by the Authority of the Attorney-General

Statutory Declarations Act 1959

Statutory Declarations Regulations

Section 14 of the *Statutory Declarations Act 1959* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 8 of the Act provides that a statutory declaration made under the Act must -

- (a) be in the form in the Schedule; and
- (b) be made before a prescribed person.

The Act was amended in 1991 to remove the provisions for the appointment of Commissioners for Declarations and to provide that statutory declarations could be witnessed by any of a class of persons referred to in regulations. The classes of persons referred to in those regulations were, essentially, those who could previously witness a statutory declaration and, in addition, the classes of person that were then authorised to witness an application for an Australian passport, and professions, such as the nursing profession, who could be expected to meet a need for witnesses in the community.

A number of representations were subsequently received from professional bodies and organisations expressing concern that their members were not included in the list of persons able to witness statutory declarations. The new regulations prescribing categories of persons before whom a statutory declaration may be witnessed include additional professional bodies as well as qualifying some of the original categories of persons able to witness statutory declarations.

Details of the regulations are as follows:

Regulation 1 is formal.

Regulation 2 is interpretative. It defines the Act as meaning the *Statutory Declarations Act 1959*.

Regulation 3 prescribes, for the purposes of paragraph 8(b) of the Act, the following persons before whom a statutory declaration may be made

- (a) a person who is authorised under a law in force in a State or Territory to practise as a member of a profession listed in Part 1 in the Schedule;
- (b) a person listed in Part 2 in the Schedule.

The Schedule to the proposed regulations lists the persons before whom a statutory declaration may be made.

Regulation 4 repeals Statutory Rules 1991 No. 398.