

Statutory Declarations Amendment Regulations 2003 (No. 1) 2003 No. 238

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 238

STATUTORY DECLARATIONS AMENDMENT REGULATIONS 2003 (NO. 1)

Issued by the Authority of the Attorney-General

Statutory Declarations Act 1959

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 required or permitted by the Act to be prescribed, or 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 *Statutory Declarations Regulations* (Statutory Rules 1991 No. 398), containing a list of prescribed persons authorised to witness statutory declarations, came into force on 5 December 1991. These original regulations were subsequently repealed and replaced by the *Statutory Declarations Regulations 1993* (the Principal Regulations).

The Principal Regulations have been subsequently amended on several occasions to include additional professional bodies as prescribed persons, as well as qualifying some of the original categories of persons able to witness statutory declarations.

Representations have been received requesting that Trade Marks Attorneys be added to the list of prescribed persons who may witness statutory declarations. The role of a Trade Marks Attorney was created by recent amendments to the *Trade Marks Act 1995*. The responsibilities and registration requirements of a Trade Marks Attorney are similar to those of Patent Attorneys, who are currently included in the list of persons able to witness statutory declarations. It is therefore currently an anomaly that Patent Attorneys are able to witness statutory declarations and Trade Marks Attorneys are not. The proposed regulations remove this anomaly by adding Trade Marks Attorneys to the list of prescribed persons authorised to witness statutory declarations.

The Institute of Corporate Managers, Secretaries and Administrators, which is currently on the list of prescribed persons authorised to witness statutory declarations, has changed its name to Chartered Secretaries Australia. The proposed regulations substitute the current name of the organisation for its previous name.

The proposed regulations also omit regulation 4, which repealed Statutory Rules 1991 No. 398, and is now spent.

The Regulations commence on gazettal.

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