

STATUTORY DECLARATIONS REGULATIONS 2023

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General
in compliance with section 15J of the *Legislation Act 2003*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Statutory Declarations Act 1959* (the Act) establishes a regime for Commonwealth statutory declarations, including how a statutory declaration can be made and the penalty for intentionally making a false declaration, and incorporates amendments made by the *Statutory Declarations Amendment Act 2023* (the Amendment Act) to the Act which expanded the range of options available for executing a statutory declaration to include remote witnessing and an end-to-end digital option.

Subsection 14(1) of the Act enables the Governor-General to make regulations, not inconsistent with the Act, pertaining to matters required or permitted by the Act to be prescribed, and matters necessary or convenient for carrying out or giving effect to the Act.

The Act, as amended by the Amendment Act, provides for a Commonwealth statutory declaration to be validly made using one of three methods: in-person witnessing and remote witnessing using audio-visual link (with wet-ink or electronic signatures) under section 9 of the Act and digital verification using a prescribed ‘online platform’ and ‘identity service’ under section 9A of the Act.

The purpose of the *Statutory Declarations Regulations 2023* (the Regulations) is to repeal and replace the *Statutory Declarations Regulations 2018* (the 2018 Regulations) and give effect to the amendments to the Act made by the Amendment Act. The Regulations also prescribe a number of matters for the purposes of the Act as amended, including prescribing the authorised witnesses to a statutory declaration made under section 9 of the Act. The Regulations also set out the technical requirements relevant to making a Commonwealth statutory declaration under section 9A of the Act – including conditions applying to digital execution services and processes, and prescribing myGov as an approved online platform for the purpose of subsection 9A(2) of the Act, and myGovID as an approved digital service for the purpose of subsection 9A(3) of the Act.

Before making regulations for the purpose of subsections 9A(2) and 9A(3) of the Act, subsection 14(3) of the Act requires the Governor-General to be satisfied of the operation of the relevant online platform and approved digital service for the purpose of the *Privacy Act 1988* and any corresponding State and Territory laws, and satisfied of the effectiveness of its protective security and fraud control arrangements.

CONSULTATION

In July 2023, public consultation was undertaken by the Attorney-General's Department (the department) on the above methods of execution, and 65 submissions were received from stakeholders including interest groups, individuals and Commonwealth agencies.

Stakeholders were supportive of the proposal, and noted the importance of privacy and fraud control safeguards in the Amendment Act.

In developing the Regulations, the department consulted with Services Australia which administers myGov, the Australian Tax Office (ATO) which administers myGovID, and the Department of Finance which administers the Commonwealth Trusted Digital Identity Framework (TDIF) and Australian Government Digital ID System (AGDIS).

The department consulted with the Office of the Australian Information Commissioner, which advised that both myGov and myGov ID meet the privacy conditions by their administrators, Services Australia and the ATO, being ‘APP entities’ as defined under the *Privacy Act 1988*.

TDIF accreditation requires compliance with strict standards relating to effective protective security and fraud control arrangements (as well as privacy law compliance). The Interim Oversight Authority within the Department of Finance, which is responsible for TDIF accreditation, was consulted and confirmed that myGov and myGovID are TDIF accredited and compliant.

REGULATION IMPACT STATEMENT

The Office of Impact Analysis was consulted about the Regulations and advised that a Regulation Impact Statement was not required.

Details of the Regulation are set out in **Attachment A**.

A Statement of Compatibility with Human Rights is at **Attachment B**.

Details of the *Statutory Declarations Regulations 2023*

Part 1 – Preliminary

Section 1 – Name

This section provides that the title of the Regulations is the *Statutory Declarations Regulations 2023* (the Regulations).

Section 2 – Commencement

This section provides for the Regulations to commence when the *Statutory Declarations Amendment Act 2023* (the Amendment Act) commences.

Section 3 – Authority

This section provides that the *Statutory Declarations Regulations 2023* are made under the *Statutory Declarations Act 1959* (the Act).

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Section 5 – Definitions

This section sets out definitions of terms that are used in the Regulations.

The note to section 5 of the Regulations flags that a number of expressions used in the Regulations are defined in the Act, including:

- a) ‘approved identity service’
- b) ‘approved online platform’, and
- c) ‘declarant’.

Act is defined as the *Statutory Declarations Act 1959*. This term is used throughout the Regulations.

Citizenship certificate is defined as a document of a person’s status as an Australian citizen or British subject, or otherwise in respect of the person’s nationality, issued under the following Acts or regulations made under either of those Acts:

- a) the *Australian Citizenship Act 2007*, or
- b) the *Australian Citizenship Act 1948*.

This term is relevant to the list of acceptable documents by which a person can verify their digital identity, under subsection 7(2) of the Regulations.

Commonwealth authority is defined as a Commonwealth entity or Commonwealth company (both within the meaning of the *Public Governance, Performance and Accountability Act 2013*). This term is relevant to the list of prescribed persons under Part 2 of Schedule 1 to the Regulations.

Digital identity framework is defined as the Commonwealth government policy in relation to digital identity verification. This term is relevant to sections 12 and 13 of the Regulations. Currently, this is the Trusted Digital Identity Framework (TDIF) within the Australian Government Digital ID System (AGDIS).

Part 2 – Matters prescribed for purposes of Act

Section 6 – Persons before whom a statutory declaration may be made

Paragraph 9(b) of the Act requires a statutory declaration made under section 9 of the Act to be signed by the declarant under the observation of a ‘prescribed person’. This means that the declaration must be witnessed by an authorised person, either in person or remotely by video link.

For the purpose of the definition of *prescribed person* in section 4 of the Act, section 6 of the Regulations prescribes the following persons:

- a person who is enrolled on the roll of a State or Territory Supreme Court, or the High Court of Australia, as a legal practitioner (however described)
- a person who is currently licensed or registered to practise law in Australia, or
- a person listed in Parts 1 and 2 of Schedule 1 to the Regulations.

This is unchanged from the *Statutory Declarations Regulations 2018*.

Section 7 – Documents that may be used to verify a person’s identity

Subparagraph 9A(1)(b)(ii) of the Act requires that the identity of a declarant who makes a statutory declaration under section 9A of the Act be verified ‘in accordance with the conditions prescribed by the regulations’.

Section 7 of the Regulations sets out the standard to which a person would be required to verify their identity.

Subsection 7(1) of the Regulations provides that, for the purposes of subparagraph 9A(1)(b)(ii) of the Amendment Act, the identity of a declarant must be verified using at least two documents covered by subsection 7(2) of the Regulations.

Subsection 7(2) of the Regulations lists a number of identity documents issued by the Commonwealth Government, or by the States and Territories.

This requirement in section 7 of the Regulations is equivalent to requiring verification of the declarant’s identity to an Identity Proofing level 2 (IP 2 level) under the TDIF. The TDIF is the Commonwealth accreditation framework for digital identity services.

Section 10 of the Regulations prescribes myGovID as an approved identity service. The list in subsection 7(2) of the Regulations is therefore consistent with the documents accepted by myGovID for the purposes of identity verification to an IP2 level. Should myGovID expand the accepted identity documents, this regulation will require amendment.

The exercise of power under subparagraph 9A(1)(b)(ii) of the Act is qualified by subsection 14(2) of the Act, which states that before the Governor-General makes regulations for the purposes of subparagraph 9A(1)(b)(ii) of the Act, the Minister must take into account any matters that are prescribed by the regulations. As the Regulations are the first to be made under the Act as amended by the Amendment Act, there are no conditions with which to comply.

Whilst this condition does not need to be met for the purposes of the Regulations, and as described in more detail below, section 12 of the Regulations prescribes that the Minister must take into account and consider consistency with the digital identity framework before making regulations relating to documents that may be used to verify a person's identity, the documents prescribed to verify a person's identity under section 7 of the Regulations are consistent with the digital identity framework, being documents which are accepted by myGovID, as a digital platform operating within TDIF under AGDIS.

Section 8 – Information to be included in statutory declarations

Section 8 of the Regulations prescribes, for the purposes of subparagraph 9A(1)(c)(ii) of the Act, the following information be included in a statutory declaration made under 9A of the Act:

- a) the date and time that the declaration was completed and signed;
- b) the name of the approved online platform that was used to complete and sign the declaration;
- c) a statement that the identity of the declarant was verified using an approved identity service;
- d) a statement that the declaration was completed and signed for the purposes of section 9A of the Act; and
- e) information that can be used to verify that:
 - i. the declaration was completed by the declarant using the approved online platform mentioned in paragraph (b); and
 - ii. the contents of the declaration have not been changed since the declaration was completed.

Section 8 is accompanied by a note which clarifies that, for the purposes of paragraph (e), the information may be in the form of a QR code or other identifier.

The information prescribed under section 8 of the Regulations would verify that the declaration was validly made in accordance with the Act, and serve a similar function to the signature of the witness to a declaration made under section 9 of the Act. A declaration that includes this information will be, *prima facie*, a valid statutory declaration.

The inclusion of this information would allow a third party to clearly see that the declaration was made through a prescribed online platform, in accordance with the requirements under section 9A of the Amendment Act.

This exercise of power under paragraph 9A(1)(c) of the Act, is qualified by subsection 14(2) of the Act, which states that before the Governor-General makes regulations for the purposes of subparagraph 9A(1)(c)(ii) of the Act, the Minister must take into account any matters that are prescribed by the regulations. As these are the first regulations to be made under the Act as amended by the Amendment Act, there are no conditions with which to comply.

Whilst this condition does not need to be met for the purposes of the Regulations, and as described in more detail below, section 12 of the Regulations prescribes that the Minister must take into account and consider consistency with the digital identity framework before making regulations relating to information to be included in statutory declarations, the information to be included in statutory declarations under section 8 of the Regulations is not inconsistent with any requirements under the digital identity framework.

Section 9 – Approved online platform

Section 9 of the Regulations provides that, for the purposes of subsection 9A(2) of the Amendment Act, myGov is prescribed as an approved online platform. In effect, section 9 of the Regulations authorises myGov to provide a Commonwealth digital statutory declaration execution service through which a person may make a statutory declaration under section 9A of the Amendment Act.

Subsection 14(3) of the Act requires the following conditions be satisfied before the Governor-General can make regulations prescribing a digital service as an approved online platform under subsection 9A(2) of the Act as follows.

- Paragraph 14(3)(a) requires that the Minister be satisfied that the digital service will operate in a way that complies with the *Privacy Act 1988* (the Privacy Act), and any corresponding law of a State or Territory that the Minister considers is relevant.
- Paragraph 14(3)(b) requires that the Minister be satisfied of the effectiveness of the digital service's protective security (including security governance, information security, personnel security and physical security) and fraud control arrangements.
- Paragraph 14(3)(c) requires that the Minister be satisfied of any matters that are prescribed by the regulations.
- Paragraph 14(3)(d) requires the Minister to take into account any matters that are prescribed by the regulations.

myGov would operate in a way that complies with the Privacy Act, for the purposes of paragraph 14(3)(a) of the Act because myGov is administered by Services Australia, which is an APP entity. As an APP entity, Services Australia is obliged to comply with the Privacy Act in the provision of its services, including its operation of myGov. myGov must also comply with the TDIF Privacy Requirements which includes a requirement that it comply with the Privacy Act and State and Territory privacy laws.

Accordingly, myGov meets the conditions and matters under subsection 14(3)(b) of the Act, in its capacity as an accredited Attribute Provider under TDIF (that is, an entity which generates and manages attributes and claims about a person, and provides these to relying services). TDIF accreditation requires that myGov maintain Fraud Control Requirements and Protective Security Requirements.

The Interim Oversight Authority, which is responsible for the accreditation of entities under the TDIF, has confirmed that myGov is TDIF accredited and compliant. The Functional Requirements for TDIF accreditation can be accessed at <www.digitalidentity.gov.au/TDIF>.

As these Regulations are the first made under the Act as amended by the Amendment Act, there are no conditions prescribed under paragraphs 14(3)(c) or (d) of the Act with which to comply.

Whilst this condition does not need to be met for the purposes of the Regulations, and as described in more detail below, paragraph 13(a) of the Regulations requires that, for the purposes of paragraph 14(3)(c) of the Act, the Minister be satisfied that the digital service proposed to be prescribed as an online provider will comply with any relevant standards or rules in the digital identity framework. The Interim Oversight Authority, which is responsible for TDIF accreditation, has advised that myGov is TDIF compliant.

Section 10 – Approved identity service

This section provides that, for the purposes of subsection 9A(3) of the Act, myGovID is prescribed as an approved identity service. This means that a declarant would be able to use myGovID to verify their identity for the purposes of making a statutory declaration under section 9A of the Act.

Subsection 14(3) of the Act requires the following conditions to be satisfied before the Governor-General can make regulations prescribing a digital service to be an approved identity service under subsection 9A(3) of the Act as follows.

- Paragraph 14(3)(a) of the Act requires that the Minister be satisfied that the digital service will operate in a way that complies with the Privacy Act, and any corresponding law of a State or Territory that the Minister considers is relevant.
- Paragraph 14(3)(b) of the Act requires that the Minister be satisfied of the effectiveness of the digital service's protective security (including security governance, information security, personnel security and physical security) and fraud control arrangements.
- Paragraph 14(3)(c) of the Act requires that the Minister be satisfied of any matters that are prescribed by the regulations.
- Paragraph 14(3)(d) of the Act requires the Minister to take into account any matters that are prescribed by the regulations.

myGovID will operate in a way that complies with the Privacy Act, for the purposes of paragraph 14(3)(a) of the Act because myGovID is a digital service administered by the Australian Taxation Office (the ATO), which is an APP entity. As an APP entity, the ATO is obliged to comply with the Privacy Act in the provision of its services, including its operation of myGovID. myGovID must also comply with the TDIF Privacy Requirements which includes a requirement that it comply with the Privacy Act and State and Territory privacy laws.

Accordingly, myGovID meets the conditions and matters under paragraph 14(3)(b) of the Act, because it is TDIF accredited to provide identity services within the Australian

Government Digital ID System. TDIF accreditation requires that myGovID obtain and hold Fraud Control Requirements and Protective Security Requirements.

As the Regulations are the first made under the Act as amended by the Amendment Act, there are no conditions prescribed under paragraphs 14(3)(c) or (d) of the Regulations with which to comply.

Whilst this condition does not need to be met for the purposes of the Regulations, and as described in more detail below, paragraph 13(b) of the Regulations requires that, for the purposes of paragraph 14(3)(c) of the Act, the Minister be satisfied that the digital service proposed to be prescribed as an identity service is accredited as an identity service (however described) in accordance with the digital identity framework. The Interim Oversight Authority, which is responsible for TDIF accreditation, has advised that myGovID is TDIF accredited.

Section 11 – Information to be included in annual report

Subsection 9B(3) of the Act requires that an annual report prepared by an online platform under subsection 9B(2) of the Act must include:

- a) the number of statutory declarations made using the platform during the financial year; and
- b) information about the provider's compliance with subsection (1) during the financial year; and
- c) information about whether there has been any actual eligible data breach (within the meaning of the *Privacy Act 1988*) during the financial year; and
- d) information about any matter prescribed by the regulations (including a matter related to paragraph (a), (b) or (c)).

Section 11 of the Regulations provides that, for the purposes of paragraph 9B(3)(d) of the Act, a report prepared by an online platform under subsection 9B(2) must include information about the number of statutory declarations started, but not completed, using the platform during the financial year to which the report relates.

Section 11 of the Regulations is intended to provide data indicating the effectiveness of the digital verification mechanism, which will be useful for consideration when the Act is reviewed two years after commencement in accordance with section 16 of the Act.

Section 12 – Matters that Minister must take into account before making regulations relating to digital verification are made

Before regulations can be made for the purposes of subparagraph 9A(1)(b)(ii) or 9A(1)(c)(ii) of the Act, the Minister must take into account matters prescribed under subsection 14(3) of the Act.

Subparagraph 9A(1)(b)(ii) of the Act allows for regulations to be made prescribing conditions for verification of the declarant's identity. Subparagraph 9A(1)(c)(ii) of the Act allows for regulations to be made requiring information to be included on a statutory declaration by the approved online platform.

Section 12 of the Regulations requires the Minister to consider whether making the regulation would be consistent with the digital identity framework, before the Governor-General can make regulations for the purposes of subparagraph 9A(1)(b)(ii) or 9A(1)(c)(ii) of the Act.

Section 12 of the Regulations is intended to require that regulations made under 9A(1)(b)(ii) or 9A(1)(c)(ii) of the Act are consistent with the TDIF.

As this is the first regulation to be made under subsection 14(3) of the Act, this condition would apply to future regulations made under paragraph 9A(1)(b)(ii) or 9A(1)(c)(ii) of the Act. However, as detailed above and notwithstanding that these conditions do not need to be met for the Regulations, sections 7 and 8 of the Regulations made under subparagraphs 9A(1)(b)(ii) and 9A(1)(c)(ii) of the Act would be consistent with the TDIF.

Section 13 – Matters that Minister must be satisfied of before digital services are prescribed

Paragraph 14(3)(c) of the Act allows regulations to prescribe matters that the Minister must be satisfied of before a digital service can be prescribed under subsection 9A(2) or subsection 9A(3) of the Act.

Paragraph 13(a) of the Regulations requires the Minister to be satisfied that a digital service will comply with any relevant standards or rules in the digital identity framework before it can be prescribed as an approved online platform under subsection 9A(2) of the Act.

Paragraph 13(a) of the Regulations is intended to require that the Minister to be satisfied that an approved online platform will comply with the relevant TDIF standards and rules required to provide services within the Australian Government Digital ID System.

Paragraph 13(b) of the Regulations requires the Minister to be satisfied that a digital service is accredited as an identity service (however described) in accordance with the digital identity framework, before it can be prescribed as an approved identity service under subsection 9A(3) of the Act.

Paragraph 13(b) of the Regulations is intended to require that the Minister be satisfied that an approved identity service will be TDIF accredited and authorised to provide identity services within the Australian Government Digital ID System.

As this is the first regulation to be made under paragraph 14(3)(c) of the Act, the conditions in section 13 of the Regulations would apply to future exercises of power under subsections 9A(2) and 9A(3) of the Act.

However, as detailed above and notwithstanding that these conditions do not need to be met for the Regulations, the digital service under section 9 of the Regulations would comply with any relevant standards or rules of the TDIF framework, and that the digital service under section 10 of the Regulations is accredited as an identity service (however described) in accordance with the TDIF framework.

Part 3 – Transitional arrangements

Division 1 – Transition from the Statutory Declarations Regulations 2018

Section 14 - Transition from the *Statutory Declarations Regulations 2018*

Section 14 of the Regulations is a transitional provision. Despite the repeal of the 2018 Regulations under item 1 of Schedule 2 to the Regulations, section 14 of the Regulations preserves anything done before commencement of the Regulations pursuant to the *Statutory Declarations Regulations 2018* (the 2018 Regulations), or taken to have effect by reason of section 8 of the 2018 Regulations, as if the 2018 Regulations were not repealed by the Regulations.

Schedule 1 - Persons before whom a statutory declaration may be made

Schedule 1 to the Regulations lists persons who are authorised to witness a statutory declaration made under section 9 of the Act, as authorised by paragraphs 6(b) and 6(c) of the Regulations.

Schedule 1 should therefore be read with section 6 of the Regulations which prescribes, for the purpose of section 4 of the Act, prescribed persons authorised to witness a statutory declaration made under section 9 of the Act.

Part 1 – Occupations

Section 1 – List of occupations

Part 1 of Schedule 1 to the Regulations contains a list of occupations which are authorised to witness a statutory declaration for the purposes of paragraph 9(b) of the Act (see paragraph 6(b) of the Regulations). The list replicates the list in Schedule 2, Part 1, Item 1 of the 2018 Regulations, with minor typographical amendments.

Part 2 – Other persons

Section 2 – Listing of persons

Part 2 of Schedule 1 of the Regulations contains a list of persons who are authorised to witness a statutory declaration for the purposes of subsection 9(b) of the Act. It is made under paragraph 6(c) of the Regulations. The list replicates the list under Schedule 2, Part 2, Item 2 of the 2018 Regulations, with minor typographical amendments.

Schedule 2 – Repeals

Statutory Declarations Regulations 2018

Item 1 of Schedule 2 repeals the 2018 Regulations.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Statutory Declarations Regulations 2023

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The *Statutory Declarations Act 1959*, as recently amended, allows a statutory declaration to be validly made in one of three ways:

- a. traditional paper-based, requiring wet-ink signatures and in person witnessing
- b. electronically, through the application of an electronic signature and witnessing via an audio-visual communication link, and
- c. digitally verified, through the use of a prescribed online platform that verifies the identity of the declarant through a prescribed digital identity service provider.

The purpose of the *Statutory Declarations Regulations 2023* (the Regulations) is to:

- list the occupations and persons before whom a Commonwealth statutory declaration can be made, where one is completed pursuant to section 9 of the *Statutory Declarations Act 1959* ('the Act')
- set technical requirements and other conditions relevant to digital verification of Commonwealth Statutory Declarations, where one is completed pursuant to section 9A of the Act; and
- repeal the *Statutory Declarations Regulations 2018* (the 2018 Regulations).

The Regulations reproduce certain components of the 2018 Regulations, including the list of persons authorised to witness a statutory declaration made under section 9 of the Act.

The Regulations also prescribe the technical requirements and conditions relevant to making a Commonwealth statutory declaration using digital verification under section 9A of the Act.

This includes prescribing the approved online platform on which a person can make a statutory declaration under 9A, the approved identity service which must verify a person's identity, and other standards applying to declarants, digital services and digitally verified statutory declarations.

Human rights implications

The Regulations engage the following rights:

- The right to privacy in Article 17 of the *International Covenant on Civil and Political Rights* ('ICCPR').

- the right to recognition everywhere as a person before the law: Article 16 of the ICCPR and Article 12 of the *Convention on the Rights of Persons with Disabilities* ('CRPD');
- the right to non-discrimination: Article 2 of the ICCPR;
- the right to hold opinions without interference and the right to freedom of expression: Article 19 of the ICCPR;
- the right to equality before the law: Article 26 of the ICCPR, Article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination*, Article 2 of the *Convention on the Elimination of All Forms of Discrimination Against Women* and Article 5 of the CRPD.

The right to privacy

The Regulations engage the right to privacy under Article 17 of the ICCPR, which recognises that no one shall be subject to arbitrary or unlawful interference with their privacy, family, home or correspondence, and everyone has the right to the protection of the law against such interference or attacks.

The right to privacy under Article 17 can be subject to permissible limitations in order to achieve a legitimate objective. Permissible limitations on privacy must be authorised by law and must not be arbitrary, meaning the limitation on privacy must be in accordance with the provisions, aims and objectives of the ICCPR and reasonable in the particular circumstances.

Subsection 7(1) of the Regulations limits the right to privacy. It requires that the identity of a declarant be verified by at least two documents covered by subsection (2) of the Regulations. Subsection 7(2) of the Regulations contain the documents covered by subsection (1), which would each contain personal information about the declarant.

This condition only applies where a Commonwealth statutory declaration is made using digital verification pursuant to section 9A of the Act, and is not prescribed where one is completed using traditional paper-based or electronic methods and under the observation of a prescribed person, in accordance with section 9 of the Act.

The condition is necessary, as it provides a necessary safeguard against the fraudulent completion of a Commonwealth statutory declaration using digital verification, in the absence of the comparative safeguards associated with signing one under the observation of a prescribed person.

The condition is also reasonable to achieve the legitimate objectives of the statutory declaration, which is to minimise the risk of fraud, provide the legitimacy necessary to ensure these solemn legal documents can be relied upon, and particularly limit risks associated with digital completion without the observation of a witness.

The condition is also proportionate, requiring the disclosure of personal information under these documents only where the digital method of execution is consented to by declarant, and only that which is necessary in order to achieve the policy intent specified above.

In addition, the condition will be counterbalanced by other sections of the Act and the Regulations which positively engage the right to privacy, such as sections 11, which requires that a Minister consider whether a regulation made under section 14(2) of the Act would be consistent with a relevant digital identity framework, and section 12, which require that the Minister be satisfied of digital services' compliance with rules, conditions and standards applying to a relevant digital identity framework. It is intended that such frameworks will incorporate rules and processes to safeguard personal information, including minimising

sharing of personal information and compliance with relevant privacy laws. In addition, section 9B(1) of the Act requires that online platforms not store copies of verified Statutory Declarations.

The right to recognition everywhere as a person before the law

The Regulations engage the right to recognition everywhere as a person before the law, which is an absolute right. The Regulations promote this right as any person can make a Commonwealth statutory declaration and declare a written statement to be true as evidence.

The right to non-discrimination

The Regulations engage the right to non-discrimination and promotes this right on the basis that any person is able to declare a written statement to be true as evidence in the form of a Commonwealth statutory declaration and therefore the Instrument promotes the right to non-discrimination.

Further policy guidance about how to make a statutory declaration will be provided on the department's website to assist people who have a disability such as a visual impairment or who are unable to write for the purposes of making a statutory declaration. Providing policy guidance to people who have a disability supports Article 12(3) of the CRPD in relation to State Parties' obligation to take appropriate measures to provide access for persons with disabilities to the support they may require in exercising their legal capacity.

The right to hold opinions without interference and the right to freedom of expression

The Regulations engage the right to hold opinions without interference and the right to freedom of expression. The Regulations promote this right by providing a medium in which any person is able to declare what they believe to be true, without exception or restriction.

The right to equality before the law

The Regulations also engage the right to equality before the law and promotes this right on the basis that any person can assert statements of fact they believe to be true as a form of evidence, on a non-discriminatory basis.

Conclusion

The Regulations are compatible with human rights because they promote the protection of human rights. To the extent that the Regulations may limit human rights, those limitations are reasonable, necessary and proportionate to achieve the legitimate objective to provide choice in the execution of statutory declarations to meet the needs and expectations of the Australian community.