



Statutory Declarations Act 1959

No. 52, 1959

Compilation No. 7A

Compilation date: 26 November 2004

Includes amendments: Act No. 62, 2004

Prepared by the Office of Parliamentary Counsel, Canberra

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 26 November 2004 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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.
- (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 Interpretation

In this Act, unless the contrary intention appears:

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.

5A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

6 Authority to make and use statutory declarations

- (1) A person may, if he or she 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 under this Act, unless the contrary intention appears in that law.

8 How statutory declaration is made

A statutory declaration made under this Act must:

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

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

A person must not intentionally make a false statement in a statutory declaration.

Penalty: Imprisonment for 4 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.

14 Regulations

The Governor-General may make regulations, not inconsistent with this Act:

- (a) prescribing matters required or permitted by this Act to be prescribed; and
- (b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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

Endnotes

Endnote 1—About the endnotes

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

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

Endnotes

Endnote 3—Legislation history

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))	—
Law and Justice Legislation Amendment Act 1991	136, 1991	12 Sep 1991	s 3(3), (4) and Sch: 12 Dec 1991 (s 2(3) and gaz 1991, No S336)	s 3(3), (4)
Law and Justice Legislation Amendment Act (No 3) 1992	165, 1992	11 Dec 1992	Sch (Part 2): 8 Jan 1993 (s 2(7))	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 5 (item 143): 25 Oct 1996 (s 2(1))	—
Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001	24, 2001	6 Apr 2001	s 4(1), (2) and Sch 46: 24 May 2001 (s 2(1)(a))	s 4(1), (2)
Law and Justice Amendment Act 2004	62, 2004	26 May 2004	Sch 1 (items 55, 56): 26 Nov 2004 (s 2(14))	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 3.....	am No 136, 1991
s 4.....	am No 216, 1973; No 115, 1990; No 136, 1991
s 5A.....	ad No 24, 2001
s 6.....	am No 43, 1996
s 7.....	am No 136, 1991
s 8.....	rs No 136, 1991 am No 62, 2004
s 9.....	rep No 136, 1991
s 11.....	am No 93, 1966 rs No 165, 1992 am No 24, 2001
s 12.....	am No 115, 1990
s 14.....	ad No 136, 1991
The Schedule.....	rep No 62, 2004