



# **Statutory Declarations Act 1959**

## **Act No. 52 of 1959 as amended**

This compilation was prepared on 26 November 2004  
taking into account amendments up to Act No. 62 of 2004

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# An Act relating to Statutory Declarations

## 1 Short title *[see Note 1]*

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- (1) The following Acts are repealed: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 1903-1955*.

- (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 1903-1955* 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** [see Note 2]

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.



**Table of Acts****Notes to the *Statutory Declarations Act 1959*****Note 1**

The *Statutory Declarations Act 1959* as shown in this compilation comprises Act No. 52, 1959 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 6 April 2001 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Statutory Declarations Act 1959</i>	52, 1959	22 May 1959	1 Sept 1959	
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	93, 1966	29 Oct 1966	1 Dec 1966	—
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
<i>Law and Justice Legislation Amendment Act 1990</i>	115, 1990	21 Dec 1990	Ss. 3, 5, 6, 8, 9, 16, 17, 20–23, 28, 30, 32, 33, 38 and 39: 4 Feb 1991 ( <i>see Gazette 1991, No. GN3, p. 278</i> ) Ss. 4, 7, 10–15, 18, 19, 24–27, 29, 31 and 34–37: 21 June 1991 Remainder: Royal Assent	—
<i>Law and Justice Legislation Amendment Act 1991</i>	136, 1991	12 Sept 1991	(a)	S. 3(3) and (4)
<i>Law and Justice Legislation Amendment Act (No. 3) 1992</i>	165, 1992	11 Dec 1992	Schedule (Part 2): 8 Jan 1993 (b)	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 5 (item 143): Royal Assent (c)	—
<i>Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001</i>	24, 2001	6 Apr 2001	S. 4(1), (2) and Schedule 46: (d)	S. 4(1) and (2) [ <i>see</i> Table A]
<i>Law and Justice Legislation Amendment Act 2004</i>	62, 2004	26 May 2004	Schedule 1 (items 55, 56): 26 Nov 2004	—

## Act Notes

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- (a) The *Statutory Declarations Act 1959* was amended by the Schedule only of the *Law and Justice Legislation Amendment Act 1991*, subsection 2(4) of which provides as follows:
- (4) Subject to subsection (5), the amendments of the *Statutory Declarations Act 1959* made by this Act, and subsections 3(3) and (4), commence on a day to be fixed by Proclamation.
- The amendments of the *Statutory Declarations Act 1959* and subsections 3(3) and (4) came into operation on 12 December 1991 (see *Gazette* 1991, No. S336)
- (b) The *Statutory Declarations Act 1959* was amended by the Schedule (Part 2) only of the *Law and Justice Legislation Amendment Act (No. 3) 1992*, subsection 2(7) of which provides as follows:
- (7) Part 2 of the Schedule commences on the 28th day after the day on which this Act receives the Royal Assent.
- (c) The *Statutory Declarations Act 1959* was amended by Schedule 5 (item 143) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (d) The *Statutory Declarations Act 1959* was amended by Schedule 46 only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:
- (1) Subject to this section, this Act commences at the later of the following times:
- (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
- Item 15 commenced on 24 May 2001.

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**Table of Amendments**


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**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

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

**Note 2**

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**Note 2**

Section 13—By Proclamation dated 14 September 1972 and in force at 31 August 1979, this Act was declared to extend to the Territories of Christmas Island and Cocos (Keeling) Islands (*see Gazette* 1972, No. 93).

Section 13—By Proclamation dated 4 February 1993, this Act was declared to extend to the Territories of the Australian Antarctic Territory, the Coral Sea Islands Territory, the Territory of Ashmore and Cartier Islands and the Territory of Heard Island and McDonald Islands (*see Gazette* 1993, No. GN6).

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**Table A**

**Table A**

**Application, saving or transitional provisions**

*Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001* (No. 24, 2001)

**4 Application of amendments**

- (1) Subject to subsection (3), each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.