



Law Council
OF AUSTRALIA

Statutory Review of the *Statutory Declarations Act 1959*

Attorney-General's Department

2 March 2026

Telephone +61 2 6246 3788
Email mail@lawcouncil.au
PO Box 5350, Braddon ACT 2612
Level 1, MODE3, 24 Lonsdale Street,
Braddon ACT 2612
Law Council of Australia Limited ABN 85 005 260 622
www.lawcouncil.au

Contents

Acknowledgements	2
Introduction	3
Responses to consultation questions	4
Question 1	4
Question 2	4
Question 3	4
Question 4	5
Question 5	5
Question 6	6
Question 7	6
Question 8	6
Question 9	7
Question 10	7
Question 11	7
Question 12	8
Question 13	8
Question 17	9
About the Law Council of Australia	10

Acknowledgements

The Law Council of Australia thanks the Law Society of South Australia, the Law Institute of Victoria, and the Queensland Law Society for their contribution to this submission.

Introduction

1. The Law Council of Australia welcomes the opportunity to contribute to the review of the *Statutory Declarations Act 1959* (Cth) (the **Act**) and the *Statutory Declarations Regulations 2023* (Cth) (the **Regulations**) as part of the statutory review required under section 16 of the Act, inserted by the *Statutory Declarations Amendment Act 2023* (Cth) (the **Amendment Act**).
2. The terms of reference for the review cover whether the operation of the Act and Regulations is effective, and whether any amendments are necessary or desirable to improve their operation. The Law Council understands, in considering these matters, that the review will examine the effectiveness of current safeguards and the extent to which the expansion of execution options has improved efficiency and convenience when making a Commonwealth statutory declaration.¹
3. The Act was amended in 2023 to make permanent several measures first introduced during the COVID-19 pandemic, in addition to the new option of digital verification. The Amendment Act allowed an individual to make a statutory declaration in the following ways:
 - traditional: paper-based interaction requiring wet-ink signatures and in-person witnessing;
 - electronic: applying an electronic signature and witness via an audio-visual communication link; and
 - digital verification: an end-to-end digital process through an approved online platform, where the MyGov platform authenticates the declarant's Digital Identity through MyGovID.
4. The Law Council continues to support the continued modernisation of arrangements for the execution of legal instruments. It is essential that, while preserving a high level of security, it should be relatively easy for individuals to make, witness, verify and rely upon statutory declarations.
5. The Law Council therefore continues to support the principles underpinning the reforms of improving integrity, accessibility and consistency in the statutory declaration process and note that, thus far, the amendments have been largely positive. In particular, the amendments have minimised regulatory burden and costs by providing alternative options to completing a statutory declaration beyond traditional wet-ink signatures and in-person witnesses.
6. The following submission suggests minor practical changes to further improve the process, and safeguards to protect vulnerable persons.

¹ Australian Government Attorney-General's Department, [Statutory Review of the Statutory Declarations Act 1959](#) (Discussion Paper, January 2026) 2.

Responses to consultation questions

Question 1

In your experience, how aware is the public (including declarants, witnesses and requestors) of the different options available under the Act for executing a statutory declaration—very aware, somewhat aware, or not at all aware?

7. The Law Council understands that public awareness of the different options available under the Act for executing a statutory declaration is mixed. Members of our constituent bodies have reported that, generally, lawyers and government agencies are aware that statutory declarations can be completed on paper, electronically, or digitally.
8. However, this is not always the case for the wider public. When assessing broader public awareness levels, the Law Council submits that particular regard should be had to better understanding the awareness across First Nations communities; people living in regional, rural or remote areas; older Australians; and those with limited digital skills.

Question 2

In your experience, do requestors consistently accept statutory declarations as valid, regardless of whether they are executed digitally, electronically or on paper?

9. Law Council constituent bodies have reported that there is a degree of inconsistency in how digitally or electronically executed statutory declarations are accepted as valid. This includes from requestors such as financial institutions, employers, education providers, and some government agencies insisting on a traditionally executed statutory declaration. The rejection of electronically signed or digitally verified statutory declarations typically arises from internal organisational policies, system issues, or staff being unfamiliar with the law.

Question 3

When using myGov to complete a statutory declaration, have you ever started but not completed the process? (Please indicate if you have not tried using myGov to complete a statutory declaration).

10. Members of Law Council constituent bodies have reported that using myGov to complete statutory declarations can often leads to an incomplete declaration. The most common reported reasons for an incomplete declaration include:
 - difficulty establishing or re-establishing a person's myGovID identity;

- mismatch between identity documents and current personal details (for example, due to a name change);
- limited internet access or device capability; and
- uncertainty about whether the end-user will accept digital declaration.

Question 4

Have digital and electronic statutory declarations resulted in measurable time and cost savings for declarants or businesses? Please provide quantitative data or specific examples where possible.

11. The Law Council has received positive feedback concerning the availability of digital and electronic statutory declarations and support for the retention of these execution methods. Reported time and cost savings of digital and electronic statutory declarations are attributed to negating the need for printing, physical appointments and travel.
12. However, it is noted that those without stable internet access, suitable devices, or digital identity credentials, often do not have equal access to digital and electronic statutory declarations. It is therefore essential that traditional, paper-based statutory declarations continue to operate alongside the digital and electronic options.

Question 5

To what extent do the expanded statutory declarations options improve accessibility—to a great extent, to a moderate extent, or not at all?

13. Constituent bodies of the Law Council have reported that the expanded execution options for statutory declaration have generally improved accessibility, particularly for people with mobility limitations, those in remote locations, and individuals working within time constraints.
14. However, feedback has suggested that there is scope for more community-based support to navigate online processes, including overcoming digital identity barriers, to further increase the accessibility of the framework.
15. While the discussion question is focused on the expanded statutory declarations options, it was reported to the Law Council that with respect to traditional execution options, some authorised witnesses, such as pharmacies, often indicate that, due to capacity restraints, staff will not witness statutory declarations. It is not clear if this may also be connected to the increased availability of alternative execution options. However, due to inequity in access to electronic and digital execution methods, it is imperative that paper-based statutory declarations and in-person witnessing remains readily available.

Question 6

Have you observed any unintended consequences arising from the legislative amendments, positive or negative?

16. The Law Council understands the legislative amendments have largely led to positive outcomes. For example, it has been reported that the amendments have resulted in increased procedural flexibility for declarants and requestors, and continuity of services (as process delays are reduced due to increased flexibility, for example).
17. As noted above, one consequence from the legislative amendments that has been identified by some as a potential negative is an increased burden on declarants to “prove” the legitimacy of a digital declaration, and the exclusion of certain cohorts who are not digitally literate.

Question 7

Are there any aspects of the Commonwealth statutory declarations framework that could be improved to better meet the needs of declarants, witnesses and requestors?

18. The Law Council submits that the current Commonwealth statutory declarations framework would be improved by:
 - providing clearer guidance to key recipient bodies (financial institutions, government agencies) that digital and electronic declarations are legally equivalent to paper-based declarations for all purposes;
 - providing easily accessible information to the public informing them of the expanded options for statutory declarations to be validly made; and
 - considering expanding the methods for digitally verifying statutory declarations to include e-signing, through platforms such as DocuSign and Adobe.

Question 8

Are the current safeguards associated with executing a digital statutory declaration effective?

19. The Law Council considers that, generally, the current safeguards are effective. However, we suggest that the framework could be strengthened by providing clear warnings and confirmations regarding voluntariness and absence of duress, perhaps through prompts encouraging declarants to seek independent support where appropriate.

Question 9

Does the QR code on the digital statutory declaration form effectively allow third parties to verify the validity of a declaration? Please provide examples or evidence from your experience, including any challenges or limitations you have encountered.

20. The Law Council is supportive of the use of a QR code to enable third party verification of the validity of a declaration. However, it has been the experience of some constituent body members that the QR code system can be difficult to use in practice.
21. Challenges to use of the QR code include a lack of understanding by requestors of what the QR code is for, or an unwillingness to rely on it to verify the validity of a statutory declaration. Clearer guidance, better awareness, and consistent acceptance by requestors would make the system fairer and easier to use.

Question 10

Are you aware of any examples in which the absence of a witness, who may ordinarily check for instances of coercion or duress, has allowed for a digital statutory declaration to be executed in a manner that undermines its validity?

22. The Law Council was not provided with any specific examples in which the absence of a witness enabled a digital statutory declaration to be executed in a manner that undermined its validity. To our knowledge, this aspect of the reforms does not appear to have created significant problems.
23. However, we do recognise that the absence of a witness removes a traditional safeguard against coercion, particularly in contexts involving power imbalances and vulnerable individuals. As such we are supportive of further research being undertaken, including through direct consultation with vulnerable communities, to ensure that no unintended consequences have arisen due to the removal of a witness.

Question 11

Is the required identity strength of 'Standard' appropriate for digital statutory declarations? Please provide evidence to support your answer.

24. The Law Council considers the use of 'Standard' level of identity verification as appropriate for digital statutory declarations. However, for declarations that are used in more significant or high-impact decisions, a more stringent level of identity checking may be more appropriate. Consideration could be given to adopting a flexible, risk-based approach where stronger identity requirements apply in higher-

risk situations, noting the Discussions Paper's point that this has the potential to reduce the accessibility of the service.

Question 12

Are there any changes to the Act or the Regulations that could be made, including with respect to the annual reporting requirements, that could enhance privacy, security, transparency and accountability? Please provide specific observations or suggestions for improvement.

25. Currently, approved online platforms must report annually on the number of statutory declarations made using the platform, their compliance with retention requirements, and information of data breaches. The Law Council considers this to be an appropriate focus area for annual reporting.

Question 13

Are the current safeguards associated with executing a statutory declaration, either electronically or in-person with a witness, effective?

26. The Law Council generally considers the safeguards associated with electronic and in-person witnessing to be effective and operating well in practice. We have heard reports of some members of the public misunderstanding the requirements for remote witnessing, where they simply affix their digital signature before sending it to the lawyer or other authorised witness for separate electronic execution without a video meeting. We understand this issue is easily resolved by explaining the process to the individual and is therefore not necessarily considered a difficulty with electronic witnessing.
27. However, there may be scope to further strengthen safeguards to ensure consistency and integrity across different contexts. For example, safeguards could be improved by providing clearer and more detailed guidance on verifying identity when witnessing via audio-visual link. This would assist authorised witnesses to apply the requirements with greater confidence and uniformity. This could be further enhanced through consistent national training for authorised witnesses to support best practice and reduce variability in approach.
28. Accessibility and cultural safety could be improved without undermining the reliability of the statutory declaration framework through formal recognition of culturally appropriate witnessing practices, where these are consistent with the objectives of the Act.

29. Furthermore, as technological capacity improves, there should be continued consideration of the ability to introduce more robust approaches to verify identity and execute statutory declarations, such as digitally embedding video fragments into electronically executed documents.²

Question 17

What benefits do you anticipate may arise from the Commonwealth recognising statutory declarations across Australian states and territories?

30. The Law Council continues to support reform measures that will streamline rules and create a consistent set of document execution requirements across jurisdictions,³ recognising that business and personal transactions cross jurisdictional boundaries.⁴ Where consistency is not practicable, some form of mutual recognition would be beneficial and would help to provide certainty to parties.⁵ We further reiterate the importance of doing so through a principles-based framework over overly prescriptive rules.⁶
31. However, there are differences across state and territory statutory declaration frameworks which would need to be carefully analysed and addressed to resolve any inconsistencies or risk of unintended consequences of the Commonwealth recognising statutory declarations across Australian jurisdictions.

² Law Council of Australia, [Modernising document execution: Consultation on proposed reforms to the execution of Commonwealth statutory declarations](#) (Submission, 23 August 2023) [32]–[33].

³ Law Council of Australia, [Modernising Document Execution](#) (Submission, 8 October 2021) 5 [7].

⁴ *Ibid.*, 6 [8].

⁵ *Ibid.*, 9 [25].

⁶ *Ibid.*, 5 [7].

About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its constituent bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice, and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its constituent bodies:

- the Australian Capital Territory Bar Association;
- the Law Society of the Australian Capital Territory;
- the New South Wales Bar Association;
- the Law Society of New South Wales;
- the Northern Territory Bar Association;
- the Law Society Northern Territory;
- the Bar Association of Queensland;
- the Queensland Law Society
- the South Australian Bar Association;
- the Law Society of South Australia;
- the Tasmanian Bar;
- the Law Society of Tasmania;
- the Victorian Bar Incorporated;
- the Law Institute of Victoria;
- the Western Australian Bar Association;
- the Law Society of Western Australia; and
- Law Firms Australia.

Through these bodies, the Law Council represents more than 110,000 Australian lawyers.

The Law Council is governed by a board of 23 Directors: one from each of the constituent bodies, and six Executive members elected by Directors. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President. In 2026, the Law Council Executive comprises:

- Ms Tania Wolff, President
- Ms Elizabeth Shearer, President-elect
- Mr Lachlan Molesworth, Treasurer
- Ms Jennifer Ball, Executive Member
- Mr Justin Stewart-Rattray, Executive Member
- Mr Ante Golem, Executive Member

The Chief Executive Officer of the Law Council is Dr James Popple.

The Law Council's Secretariat is based in Canberra. Its website is www.lawcouncil.au.