

27 February 2026

Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
BARTON ACT 2600

By email: statdec@ag.gov.au

RE: Statutory Review of the Statutory Declarations Act 1959 – Discussion Paper

Who we are

Governance Institute of Australia is the only fully independent professional association dedicated to the advancement of governance and risk practice in Australia. Our internationally recognised qualifications equip a diverse professional network of business leaders to make good decisions for the benefit of Australia's economy and society. With a history dating over 100 years, Governance Institute is Australia's leading and trusted voice of governance. Our fully accredited education and training is tailored to meet the needs of governance professionals across public listed, unlisted, and private companies, as well as the public sector and not-for-profit organisations.

Governance Institute is committed to independent, evidence-based advocacy that is focused on strengthening the governance capability of Australian organisations. We believe that good governance is the foundation of organisational resilience, productivity, and public trust.

Governance Institute supported the passage of the Statutory Declarations Amendment Act 2023 and considers the amendments have largely worked well. The amendments have also assisted in moving towards modernising document execution.

We have not responded to all questions in the Consultation Paper but only to those questions on which our members have provided feedback.

Q1. 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?

(a) Please provide further information, including any examples or evidence of awareness or lack of awareness based on your experience.

Our members report that in their experience public awareness is limited. For example, ASX will only accept statutory declarations as to good fame and character of directors executed and witnessed on paper, although it will accept scanned copies of wet signatures. Members also report that because of inconsistencies between States as to who is authorised to witness a declaration, declarations have had to be re-signed using a different form. In this case a firm of Victorian legal advisers acting on a transaction would not accept a declaration witnessed by a Chartered Accountant who was not eligible to witness a declaration in Victoria, because they were not an eligible category of witness in that State. Other members who are legal practitioners report that clients sometimes attend to execute documents

with incorrect documentation because the process for executing statutory declarations can be easily confused with that for affidavits, notarisation or certification.

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

(a) If you answered 'no', please provide examples of instances where statutory declarations were not accepted, including the reasons given.

Our members report that they still find that requestors prefer hard copy declarations although they will accept a scanned copy of a declaration. This practice tends to be driven by internal policy and generally accepted practices. See the response to Question 1 above.

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.

We consider that acceptance of digitally or electronically signed statutory declarations would result in significant cost and time savings. For example, a member reports that for a recent IPO transaction they were required to provide statutory declarations from directors and executives to ASX. Many of the declarants were based overseas. The categories of authorised witness were: Australian legal practitioners, Justices of the Peace, notaries public, Australian Consular Officers or British Consular Officers. This required directors resident overseas to make appointments with notaries public and consular officers to witness their statutory declarations in the UK and Canada which involved considerable time and expense.

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?

(a) If you answered 'yes', please provide specific suggestions and, if possible, examples of issues encountered.

Yes. See below.

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

One of the chief difficulties with the existing statutory declarations framework is that despite the amendments there remains an inconsistent patchwork of Commonwealth and State legislative and administrative requirements relating to these documents. Not all State courts or Tribunals accept electronic documents or signatures as the 'best evidence'. The Electronic Transactions Act (ETA) does not apply consistently across the Commonwealth as different Commonwealth Departments and Agencies have differing consent, execution and retention requirements. Harmonisation particularly of witnessing requirements and Forms across the States and Territories would be enormously beneficial.

If you have any questions, please contact me or Catherine Maxwell, GM, Policy and Advocacy.

Yours faithfully,

(Sgd) Katrina Horrobin

CEO