



Statutory Review of the *Statutory Declarations Act 1959* – Discussion Paper

Statutory Review of the Statutory Declarations Act

Purpose of the review

Section 16 of the *Statutory Declarations Act 1959* (the Act) requires a review of the operation of the Act to be conducted as soon as practicable after 1 January 2026 (that is, the second anniversary of the commencement of the *Statutory Declarations Amendment Act 2023* (the Amendment Act) on 1 January 2024). Under the Act, the review must consider whether the operation of the Act is effective, and whether amendments are necessary or desirable to improve its operation.

The Amendment Act provided Australians with more choice and convenience when making a Commonwealth statutory declaration. The principal change was the launch of a digital service that enables people to make a declaration without a witness, using myID, the Australian Government's digital ID provider, and myGov. The reforms also permanently enabled the use of electronic signatures and video-link witnessing (following temporary changes enacted during COVID-19), while still retaining the traditional paper-and-ink method.

A written report of the review must be provided to the Attorney-General within 6 months of the commencement of the review. A copy of the report must also be tabled in Parliament within 15 sitting days after it is received by the Attorney-General.

Background to the review

The department is seeking the views of the public and other stakeholders on the operation of the Act and the Regulations as part of the review.

The review will examine whether the modernised statutory declaration framework is working as intended to ensure Commonwealth statutory declarations are accessible, safe and secure.

Terms of Reference

The review will examine the following matters in relation to the Act and the Statutory Declarations Regulations 2023 (Cth) (the Regulations):

- a) whether the operation of the Act and Regulations is effective
- b) whether amendments to the Act or Regulations are necessary or desirable to improve their operation.

In considering these matters, the review will examine the following issues:

- To what extent has the expansion of execution options improved efficiency and convenience for Australians when making a Commonwealth statutory declaration?
- Are current safeguards operating effectively?
- Are any changes needed to improve the operation of the Act and Regulations more broadly?

Having your say

You can provide a submission in response to the Discussion Paper by visiting <https://consultations.ag.gov.au/> and clicking ‘Make a submission’ under the heading ‘Have your say’.

We encourage you to provide your responses via the consultation platform. Submitting your response through the platform helps us publish responses in a way that all users can access.

You do not need to answer every question. You may respond only to the questions that are relevant to you or your organisation.

If you are unable to use the consultation platform, you may provide a written submission responding to the questions in the discussion paper by email to the department’s Modernising Document Execution section at statdec@ag.gov.au.

Privacy

You may submit your response under your name or anonymously. Responses will be published at the end of the consultation period. Submissions will not be published without your consent, or if publication could raise legal concerns.

We may use an artificial intelligence (AI) tool for the purposes of analysing submissions and responses. Any AI tool used for this purpose will be securely hosted for departmental use within Australia, and will comply with all departmental and government obligations on AI use. No information used within the AI tool will be shared outside of the department or be used for training any AI models.

Submissions may be subject to freedom of information requests, or requests from the parliament. Personal information shared through the consultation will be treated in accordance with the *Privacy Act 1988* (The Privacy Act). For more information on how the department collects, stores and uses personal information, please visit our Privacy Policy at <https://www.ag.gov.au/about-us/accountability-and-reporting/privacy-policy>.

Enquiries

Please contact statdec@ag.gov.au if you have any queries about the review or statutory declarations more generally.

Overview of the Statutory Declarations Act

A statutory declaration is a type of legal document that sets out facts that the declarant is asserting to be true. Statutory declarations can be used for many purposes and can be requested by a person, organisation or government agency. Some common uses for statutory declarations include visa applications, insurance or superannuation claims, employment and leave applications, and as legal evidence.

Commonwealth statutory declarations are governed by the Act and the *Statutory Declaration Regulations 2023* (the Regulations). Together these instruments establish a legal framework that authorises a person to make a statutory declaration on any relevant matter. They also specify requirements such as the approved form and method of execution, identify the persons before whom a declaration can be made, and set out penalties for making false or misleading declarations.

The Commonwealth, states and territories all have different statutory declarations requirements and there is currently no mechanism for mutual recognition across jurisdictions.¹

Key consultation points for consideration

The discussion paper covers 3 key areas for public and stakeholder consideration:

- The extent to which the expansion of execution options improved efficiency and convenience for Australians when making a Commonwealth statutory declaration.
- Whether current safeguards are operating effectively to protect individual privacy, maintain security and avoid instances of coercion and fraud.
- Potential changes to improve the operation of the Act and Regulations more broadly, including:

¹ The exceptions are the Australian Capital Territory and the external territories, which do not have their own separate statutory declaration acts.

- a potential closer alignment with the Australian Government Digital ID System (AGDIS) and the Digital ID Act 2024 (Digital ID Act)
- consideration of whether the list of approved witnesses remains appropriate
- exploring whether statutory declarations made under state and territory statutory law should be recognised as valid under the Commonwealth statutory declarations framework.

To what extent has the expansion of execution options improved efficiency and convenience for Australians when making a Commonwealth statutory declaration?

Historically, the Act only permitted paper-based statutory declarations, requiring wet-ink signatures and in-person witnessing. Amendments to modernise the Act came into effect on 1 January 2024, allowing statutory declarations to be made in any of 3 equally valid and legally effective forms:

- through an end-to-end digital process using myID and myGov, with verification of identity playing an equivalent role to that of a witness under the other 2 options
- using electronic signatures and video-link witnessing
- the traditional, paper-based method.

This section provides information on all methods of executing statutory declarations and outlines what we know about their use. We welcome feedback on your experiences with each type of execution method, particularly where you have found processes are effective or where you have identified gaps or challenges.

Digital execution

Digital execution means making a statutory declaration using an end-to-end digital process. Commonwealth statutory declarations can now be executed digitally on myGov, using myID to verify the identity of the person making the declaration. In this process, ‘identity verification’ plays an equivalent role to that of an approved witness – who would ordinarily observe the signing and, if later required, attest that the person who signed was in fact the declarant.

Digital execution provides greater flexibility for people who may be unable or unwilling to travel to an approved witness for health, mobility and safety reasons. It may also be particularly beneficial for people who live in remote parts of Australia or overseas who may find it difficult to access witnessing services.

Since the digital service was launched in 2024, more than 297,000 digital statutory declarations have been completed in myGov as at 31 December 2025. The completion rates of digital statutory declarations have significantly improved since the commencement of the service, rising to 66% during 2025 from an initial completion rate of 29% in the first month of the service in February 2024.

Further data on the number of digital statutory declarations between 9 February 2024 (the date the service was made available in myGov) and 31 December 2025 are as follows:

Table 1. Completion rate of digital statutory declarations between 9 February 2024 and 31 December 2025

Started	Completed	Started but not completed	Completion rate
472,348	297,643	174,705	63%

The usage numbers and a 63% completion rate suggest that the digital statutory declaration service is performing reasonably well, while also highlighting an opportunity for improvement. We understand anecdotally that some users may start but not complete their statutory declaration for practical reasons, such as needing to gather additional information, noting that myGov does not store incomplete forms for privacy reasons. However, other users may exit due to difficulties with navigating the platform. We would be interested in user feedback on these issues.

Electronic execution

Electronic execution means making a statutory declaration using electronic signatures and witnessing remotely by video link.² First introduced as a temporary measure to offer an alternative to in-person witnessing during the COVID-19 pandemic, it is now a permanent measure legislated under the Act.

Like digital execution, electronic execution may be beneficial to those unable to travel to a witness or who live in remote parts of Australia or overseas, but who may prefer to have their statutory declarations witnessed by a person rather than through digital identity verification.

A report by Accenture in 2021 also estimated that small to medium enterprises could save approximately 15 minutes per statutory declaration if they were able to be signed and witnessed electronically rather than in person.³ This finding illustrates the potential efficiency gains from electronic execution, and benefits for businesses and other users who regularly make statutory declarations.

Public consultation conducted by the department in July 2023 found broad stakeholder support for the electronic execution of statutory declarations. Stakeholders noted that temporary measures introduced during the COVID-19 pandemic were effective and recommended that these measures be retained on a permanent basis.

² Or a combination of electronic and paper methods: for example, a declaration signed electronically, by a declarant and witness in each other's physical presence; or a declaration witnessed using an audio-visual link, signed with ink on a printed copy of the document.

³ Accenture, *Report on Modernising Business Communications*, p 47.

Paper-based execution

During the 2023 public consultation referenced above, stakeholders also generally supported retaining paper-based execution as an option. Stakeholders were largely of the view that any new execution methods should be optional. Voluntariness was seen as a key principle, with stakeholders noting that a requirement to execute statutory declarations electronically could disadvantage individuals who either do not wish to use technology, lack access to the necessary technology, or have low digital literacy. For this reason, traditional paper-based execution remains a key element of the Commonwealth's statutory declaration framework.

Questions

1. In your experience, how aware is the public (including declarants, witnesses and requestors⁴) 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.
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.
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).
 - (a) If you answered 'yes', please explain the factors or circumstances that led you to discontinue the process, including any difficulties, uncertainties, or barriers encountered.
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.
5. To what extent do the expanded statutory declarations options improve accessibility – to a great extent, to a moderate extent, or not at all?⁵

⁴ A declarant is the person making the statutory declaration. A witness is someone who is approved under the Regulations to witness the signing of a statutory declaration. A requestor is the person or entity who has asked the declarant to make the statutory declaration.

⁵ Including, but not limited to, people with disability, First Nations people, people from culturally and linguistically diverse backgrounds, and people who live in rural, regional or remote parts of Australia.

- (a) Please provide examples of barriers or improvements you have experienced or observed.
6. Have you observed any unintended consequences arising from the legislative amendments, positive or negative?
 - (a) If you answered 'yes', please provide specific examples or evidence where possible.
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.

Are current safeguards operating effectively?

This part provides information on the operation of the expanded execution types (digital and electronic) and what we know about how the safeguards are working.

Additional safeguards were introduced alongside the expanded execution types under the Amendment Act, to ensure that the statutory declaration framework continues to protect individual privacy, maintain security and avoid instances of coercion and fraud.

We are interested in hearing about any experiences, views or knowledge you may have on whether the safeguards are appropriate, or if change is required.

Digital execution

A digital statutory declaration needs to be made on an approved online platform (myGov) and the declarant's identity needs to be verified by an approved identity service (myID). At present, myGov and myID are the only services approved by the Attorney-General to deliver digital statutory declarations.

Given the introduction of digital execution was a significant change for statutory declaration verification – primarily due to the replacement of a witness with the digital ID verification processes – the Act and Regulations contain additional safeguards applying to both approved online platforms and identity services.

Requirements that must be satisfied for the approval of both online platforms and identity services

Before either an online platform or identity service can be approved, the Minister must be satisfied that:

- it will operate in a way that complies with the *Privacy Act 1988* (Cth) and any corresponding law of a state or territory that the Minister considers is relevant
- its protective security (including security governance, information security, personnel security and physical security) and fraud control arrangements are effective

- any relevant matters prescribed by the Regulations are considered and observed.⁶

Special obligations applying to approved online platforms

In addition to the above conditions an approved online platform must satisfy before they are prescribed to provide the digital statutory declaration service, further special obligations apply to these approved platforms to ensure ongoing privacy, security and oversight.

For example, approved online platforms are prohibited from retaining copies of statutory declarations. This is intended as a privacy and security measure and is consistent with the process for paper declarations, where the witness does not keep a copy of a statutory declaration made before them.

Further, to enable Parliamentary oversight and public transparency, approved online platforms are required to produce an annual report. The report must be prepared and given to the Minister for presentation to the Parliament after the end of each financial year, and include:

- the number of statutory declarations made – and started but not completed – on the platform
- information about the provider's compliance regarding not retaining copies of statutory declarations
- information about whether there has been any actual data breach (within the meaning of the Privacy Act).

Since the digital service started, annual reports have confirmed that there have been no such breaches associated with using the web platform or app for digital statutory declarations. This indicates the security and privacy protections embedded in the myGov platform are working as intended.

Information requirements applying to approved online platforms

There are also a range of information requirements built into the Act and Regulations that are intended to ensure the veracity of digital statutory declarations and function as anti-fraud measures. In particular, a statutory declaration being executed on a digital platform must include information prescribed by the Regulations⁷, including information (which may be in the form of a QR code or other identifier) that can be used as a safeguard to verify that:

- the declaration was completed by the declarant using the approved online platform
- the contents of the statutory declaration were not changed since it was completed.

Each page of the digital statutory declaration executed through myGov includes a tamper proof QR code. The QR code enables the receiving entity to verify the declaration is genuine and unaltered, including in circumstances where the receiving entity has any concerns. When scanned, the QR code displays the declarant's information as entered into myGov. To protect the declarant's privacy, the receiving entity must use the QR code scanner in the myGov app

⁶ Such as being satisfied that an approved online platform complies with any relevant standards or rules in the digital identity framework (now the *Digital ID Act 2024* (Digital ID Act)

⁷ See section 9A of the Act and section 8 of the Regulations.

itself. The QR scanner does not capture an image of the completed declaration, and does not store any personal information contained within it.

Requirements applying to approved identity services

Approved identity services must verify the identity of the declarant in accordance with the conditions prescribed by the Regulations, including the use of at least 2 listed documents⁸ which must be issued by a government of the Commonwealth, state or territory.

To access the digital Commonwealth statutory declaration using myID, the required identity strength is ‘Standard’. Some stakeholders⁹ responding to the 2023 public consultation commented that this level may be too low, as it requires only 2 identity documents and is not biometrically bound to an individual.¹⁰ However, ‘Strong’ ID strength is not prescribed for the digital Commonwealth statutory declaration service, as it currently requires a passport to be used as an identity document, which would significantly reduce the accessibility of the service.

Questions

8. Are the current safeguards associated with executing a digital statutory declaration effective?¹¹
 - (a) Are there any circumstances in which these safeguards could be strengthened or improved? If so, please provide details.
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.
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?
11. Is the required identity strength of ‘Standard’ appropriate for digital statutory declarations? Please provide evidence to support your answer.
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.

⁸ The list of documents can be found under section 7 of the Regulations.

⁹ See, for example, DocuSign’s submission.

¹⁰ At the time identity proofing was ranked under the Trusted Digital Identity Framework (TDIF), the comparable equivalent to ‘standard’ was ‘IP2 proofing identity’. TDIF has been replaced by the Digital ID Act.

¹¹ For example, in protecting against data loss, privacy breaches, fraud or duress.

Electronic execution

Electronic execution is more aligned with traditional in-person execution (primarily as both require a witness). As a result, the Amendment Act contains different safeguards for electronic execution than those applying to digital execution. These safeguards were introduced to respond to potential instances of fraud, coercion and duress during the electronic execution process. These safeguards include:

- A requirement for the witness to observe the signing of the statutory declaration – for example, by the camera being positioned in such a way that it is directed toward the declarant as they sign the form.¹²
- A change to the Commonwealth statutory declaration form that requires witnesses to include their contact details as a fraud control measure. This allows an entity receiving the declaration to contact the prescribed witness if it needs to verify how the document was signed.
- Adding the length of the term of imprisonment for a false declaration to a more prominent position on the form, in the text above the declarant signature box.

To date, we are unaware of any increase in instances of duress or fraud associated with the electronic execution process (noting also that the department does not hold a regulatory role in these matters). The review provides an opportunity to seek feedback on this topic, including any observations or experiences from stakeholders, individuals and businesses.

Questions

13. Are the current safeguards associated with executing a statutory declaration, either electronically or in-person with a witness, effective?¹³
 - (a) Are there any circumstances in which these safeguards could be strengthened or improved? If so, please provide details.

Are any changes needed to improve the operation of the Act and Regulations more broadly?

This section provides information on 3 areas of the statutory declaration framework where the review could consider opportunities for improvement:

- potential closer alignment with the Australian Government Digital ID System (AGDIS) and the Digital ID Act
- consideration of whether the list of approved witnesses remains appropriate

¹² In January 2024, we updated the statutory declaration pages on our website to provide clearer guidance for witnesses on meeting their obligations under the Act.

¹³ For example, in preventing fraud, coercion or duress.

- exploring whether statutory declarations made under state and territory statutory law should be recognised as valid under the Commonwealth statutory declarations framework.

The Australian Government Digital ID System (the AGDIS)

The Digital ID Act provides individuals with secure, convenient, voluntary and inclusive ways to verify their identity and other things about themselves online. The Digital ID Act establishes the voluntary accreditation scheme and the AGDIS. The AGDIS facilitates the use of digital IDs by individuals to access Commonwealth and state and territory services.

The Digital ID Act was not in force at the time the Amendment Act was being developed and legislated. At that time, the Trusted Digital Identity Framework (TDIF) was operational. The TDIF was a voluntary and non-statutory accreditation framework that provided for digital identity services. TDIF has since been superseded by the AGDIS and accreditation scheme under the Digital ID Act.

Given the use and regulation of digital IDs was not covered by a statutory scheme at the time the Amendment Act came into force, the statutory declarations framework requires the Government to prescribe approved identity services specifically under the statutory declarations framework, taking into account a range of factors to ensure the protection of privacy and security (as already considered above).

Before prescribing a digital service as approved, the Regulations require the Minister to be satisfied that a digital ID service is accredited in accordance with the relevant Commonwealth digital ID verification. This means that only digital ID services provided by accredited entities participating in the AGDIS can be prescribed for use in the digital execution of statutory declarations.

The Regulations prescribe myGovID (now known as myID) as the only approved identity service provider for the purposes of the digital statutory declaration service. Currently, myID (administered by the Australian Taxation Office) is also one of the very few accredited identity service providers that are approved to participate in the AGDIS. However, from 30 November 2026, private sector entities will also be able to apply to the Digital ID Regulator (i.e. the Australian Competition & Consumer Commission (ACCC)) to participate in the AGDIS, including as an identity service provider. These developments raise the question of whether the Statutory Declarations Act and Regulations should be amended to specifically recognise accreditation under the Digital ID Act as sufficient for an identity service provider to be treated as an approved identity service for the purposes of the statutory declarations framework, potentially reducing the need for separate assessment and prescription of approved providers under the statutory declarations framework and improving efficiency.

Questions

14. Should the digital statutory declaration provisions in the Act and Regulations be amended so that accreditation under the Digital ID Act automatically enables a digital identity provider to be an approved identity service for the purposes of the statutory declarations framework? Please provide reasons to support your answer.

Approved witnesses

Approved witnesses play an important role in the veracity of the statutory declarations process for electronic and in-person statutory declarations. As noted above, the key purpose of a witness is to observe the act of signing, and if later required, attest that the person who signed was the declarant.

Witnessing a Commonwealth statutory declaration is an important public service that benefits the community. Approved witnesses, however, have no legal obligation to witness a statutory declaration, and are not expected to verify the accuracy or truthfulness of the information provided. The department also provides guidance on ‘best practice’ for witnessing, in addition to the legal requirements.¹⁴

While the introduction of digital statutory declarations provides an option for people who may not be able to find a witness or who prefer to operate digitally, it remains important that a sufficient range of witnesses is available for individuals who would prefer to use electronic or in-person options. This ensures there is broad availability and accessibility of witnesses in the community who are approved under Commonwealth law to play this role.

The Commonwealth authorises a wide range of people who may witness a statutory declaration, based on their professional standing or recognised role within the community. The most significant expansion of these categories occurred in 1991, when legislative changes allowed 44 additional categories of approved witnesses.

In 2017, the department undertook public consultation on whether further changes should be made to the categories of approved witnesses, as part of a review of the Statutory Declarations Regulations 1993. The Regulations were subsequently amended to include additional categories, such as architects, midwives, migration agents, occupational therapists, financial advisers and financial planners, in order to address ‘unmet needs within the community’.¹⁵

While the list was remade as a result of the changes to the Act and Regulations in 2023, no additional categories of approved witnesses were added or removed at that time. This review provides an opportunity for people to provide feedback on whether the list of approved Commonwealth witnesses remains appropriate.

Questions

15. To what extent does the current list of approved witnesses meet community needs? To a great extent, to a moderate extent, or not at all? Please provide examples of any circumstances where individuals may experience difficulty finding an approved witness, and any changes that should be made to the list to address this challenge.
16. Are there any opportunities to streamline the current list of approved witnesses? Please explain where possible.

¹⁴ Australian Government Attorney-General’s Department, [‘Information for witnesses’](#).

¹⁵ [Explanatory statement](#) for the Statutory Declarations Regulations 2018 (Cth). The 2018 Regulations were subsequently repealed and replaced by the Statutory Declarations Regulations 2023 (Cth), in which the expanded witness list was retained.

Mutual recognition of Commonwealth, state and territory statutory declarations

Across Australian jurisdictions, statutory declarations frameworks differ in areas such as the use of technology, approved witnesses and form requirements.¹⁶ These differences can create complexity for individuals and businesses when using statutory declarations across multiple jurisdictions.

In previous engagement with the department, some stakeholders have identified ‘mutual recognition’ as one option that could support more consistent processes across jurisdictions. Under a mutual recognition model, a statutory declaration validly executed in one jurisdiction could be accepted in another. There are already examples of limited cross-jurisdictional recognition. For example, Western Australia (WA) permits approved witnesses under Commonwealth legislation to witness WA statutory declarations, alongside its own prescribed witness categories.

There may be potential to expand the existing limited cross-jurisdictional recognition to address some of the issues identified by stakeholders in earlier consultation. For example, we seek views on whether the Commonwealth should recognise statutory declarations that are validly executed under state or territory legislation for Commonwealth purposes. This could support more streamlined interactions for Commonwealth matters, such as visas and passports. Such a change would require legislative action and a strong policy justification. The department would welcome stakeholder views on whether this would be a helpful step to improve efficiency and make it easier for people to engage with the Commonwealth statutory declaration framework.

Questions

17. What benefits do you anticipate may arise from the Commonwealth recognising statutory declarations across Australian states and territories?
18. Are there any legal, administrative, or practical issues you anticipate if the Commonwealth recognises statutory declarations executed under state or territory legislation?
 - (a) If you answered ‘yes’, please outline the issue and provide any suggestions about how these issues might be addressed.

Other matters

If there are any additional matters you would like to raise about statutory declarations that have not been covered in this paper, please provide them in response to the question below.

¹⁶ In this paper ‘Australian jurisdictions’ means the Commonwealth and all Australian states and territories.

Questions

19. Are there any other matters we should consider as part of the statutory review of the Act and Regulations? Please provide examples or supporting information where possible.

Further information

Other relevant information that may assist in providing feedback can be found here:

- About Commonwealth statutory declarations: <https://www.ag.gov.au/legal-system/statutory-declarations/about-commonwealth-statutory-declarations>
- About the 2023 public consultation on proposed amendments to the Act and Regulations: <https://consultations.ag.gov.au/legal-system/modernising-document-execution/>
- About the Australian Government Digital ID System (AGDIS): <https://www.digitalidsystem.gov.au/the-australian-government-digital-id-system-agdis>
- About privacy: <https://www.ag.gov.au/rights-and-protections/privacy>