

# Memorandum

**To:** Directors  
Executive  
Presidents—Constituent Bodies  
CEOs—Constituent Bodies  
Section—Chairs

**From:** James Popple, Chief Executive Officer

**Date:** 19 December 2023

## New ways to complete a Commonwealth statutory declaration in 2024

### Action Request

No action required—for noting and further distribution as appropriate.

### Key Issues

On 17 November 2023, the Statutory Declarations Amendment Bill 2023 received Royal Assent, confirming upcoming amendments to the *Statutory Declarations Act 1959* (Cth). These will enable a Commonwealth statutory declaration to be validly made in one of three ways:

- (a) traditionally, as a paper-based interaction requiring wet-ink signatures and in person witnessing;
- (b) electronically, through the application of an electronic signature and witnessing via an audio-visual communication link; and
- (c) digitally verified, through the use of the myGov platform which authenticates the declarant's Digital Identity through myGovID.

The reforms will commence on **1 January 2024**. From that date, a new form should be used for the making of a Commonwealth statutory declaration that has been witnessed (either in-person, or remotely by video link). The new approved form is **Attachment A**.

The digital verification option is under development by Services Australia and will be available through myGov from early 2024. Under this option, a person will be able to use their myGov account and Digital Identity to make a statutory declaration online, without needing a witness.

### Background

As a result of restrictions on movement put in place during the COVID-19 pandemic, the Australian Government introduced temporary measures that allowed Commonwealth statutory declarations to be executed using electronic signatures and witnessing via audio-visual link.<sup>1</sup> These temporary measures were due to expire on 31 December 2023.

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<sup>1</sup> Temporary measures were put in place through the *Coronavirus Economic Response Package (Modifications – Statutory Declarations and Notices of Intention to Marry) Determination 2021* (Cth) to amend section 8 of the Act and Schedule 1 of the Regulations to allow statutory declarations to be signed using electronic means and witnessed by a prescribed person via a facility that enables audio and visual communication between persons in different places.

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The Law Council has provided in-principle support for the continuation of these temporary measures, and for harmonisation, where appropriate, of processes for electronic document execution and similar activities nationally.

On 29 September 2023, the Law Council made a [submission](#) on the forthcoming changes to the Senate Legal and Constitutional Affairs Legislation Committee, raising several issues for further consideration. While the Law Council's submission was referred to extensively by the Committee in its [final report](#), the Committee ultimately recommended that the reforms pass without amendment.

The Law Council will monitor the changes closely throughout 2024, and welcomes feedback from Constituent Bodies and Sections on how the reforms are operating in practice. Such feedback will inform future advocacy on these matters.

## Contact

Please contact Nathan MacDonald, Deputy Director of Policy, on (02) 6246 3721 or at [nathan.macdonald@lawcouncil.au](mailto:nathan.macdonald@lawcouncil.au) if you would like to discuss these reforms further.

A handwritten signature in blue ink, appearing to read "James Popple".

**James Popple**  
Chief Executive Officer