

Friday, 31 March 2017

Commonwealth Statutory Declarations Review  
Courts Section  
Civil Justice Policy and Programmes Division  
Attorney-General's Department

Via Email: [statdec.review@ag.gov.au](mailto:statdec.review@ag.gov.au)

### **The University of Adelaide Postgraduate Student Association inc. submission**

The University of Adelaide Postgraduate Student Association inc (AUPGSA) welcomes the opportunity to provide this submission in response to the review of the Statutory Declarations Regulations 1993.

The AUPGSA has been representing the postgraduate and honours students at the University of Adelaide since 1965 and currently represents some 7,000 students. We write this submission bearing in mind the specialised knowledge postgraduate students possess in accordance with section 79 of the Evidence Act 1995.

#### **ADDITION OF AQF LEVEL 8 HOLDERS**

The current system is over 13 years old and reflects the state of the system at that time.

While the intent of the system is still fit for purpose, additions and clarifications are needed to ensure genuine needs of the community are met; as opposed to the wishes being advocated by others.

A genuine need exists within the community for postgraduate students acting as expert witnesses in cases to be able to witness documents including receipt of evidence and chain of custody documentation and for this signature to carry the same weight and authority as those currently able to witness statutory declarations. Indeed, citing the explanatory memorandum for the Western Australian equivalent of this Commonwealth act states: "*The list includes most professional persons particularly those with tertiary qualifications*"<sup>1</sup>.

Postgraduate students already hold tertiary qualifications and are required to uphold to a code of ethics as well as Australian research standards. The AUPGSA postulates that as such, postgraduate students carry an AQF level 8 qualification are fit and proper people to be able to witness declarations so made by their colleagues and other people.

The AUPGSA propose that the following addition be made the schedule 2 of the act:

*"Holder of a tertiary qualification recognised at level 8 or above in accordance with the Australian Qualification Framework."*<sup>2</sup>

Level 8 or above under the AQF encompasses those with a Bachelors Honours Degree, Graduate Certificate, Graduate Diploma, Masters Degree or Doctoral Degree.

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[http://www.parliament.wa.gov.au/Parliament/Bills.nsf/8CDEA00CD81134D548256FDB004415BD/\\$File/EM%2B-Bill004.pdf](http://www.parliament.wa.gov.au/Parliament/Bills.nsf/8CDEA00CD81134D548256FDB004415BD/$File/EM%2B-Bill004.pdf)

<sup>2</sup> <http://www.aqf.edu.au/aqf/in-detail/aqf-levels/>

This simple structure can be used to roll many of the categories currently seen in schedule 2 of the Act into a simple, plain to read sentence.

It would additionally see all of Part 1 included and would also serve to remove at least items 237 and 222 from Part 2, as well as numerous others.

### **ADDITIONAL PROTECTIONS**

While we make the above recommendation the AUPGSA also notes that the current system does not stop people who are not fit and proper persons from witnessing declarations. This has flow on affects into state and territory acts who look to the Commonwealth legislation for inspiration.

Currently, once someone is on the list they are not prevented from witnessing a Statutory Declaration if they are not a fit and proper person. Such persons include those committed of indictable offences, perjury, deregistered from their relevant professional body, are people who the public are not likely to have confidence in the person suitability.

In context of AUPGSA business, this would be equivalent to seeing someone who holds an AQF level 8 qualification but has been seen in the community to commit a breach of the research code of conduct or additionally, been found guilty of an offence of academic misconduct.

The AUPGSA would like to see the addition of a fit and proper persons' test included in the regulations which serves to exclude individuals from the list.

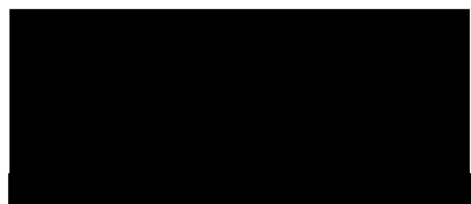
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Our proposal reflects the intent of the bill while balancing the needs of the community as it continues to grow and expand.

Adding AQF level 8 qualification to the list while also including a fit and proper persons test would see that the needs of the community are met while also allowing proper trust to be emulated from the public.

We respectfully make this submission on behalf of our constituents.

Respectfully Yours,



AUPGSA

