

STATUTORY DECLARATION

This declaration must be made before an authorised person. Only certain people may witness a Commonwealth statutory declaration. A list of people who can be witnesses is set out in Schedule 2 to the *Statutory Declaration Regulations 1993*. The Regulations and a separate 'list of signatories' can be accessed via a link at www.ag.gov.au/statdec.

WARNING: When you make a statutory declaration, you are declaring that the statements in it are true. If you intentionally make a false statement in a statutory declaration, you could be charged with an offence and, if convicted, you could be fined or jailed, or both.

The provision of false or misleading information in this declaration is subject to penalties under the *Statutory Declarations Act 1959* and the *Migration Act 1958*. The *Statutory Declarations Act* provides for penalties of up to 4 years imprisonment. Section 234 of the *Migration Act* carries a penalty of up to 10 years imprisonment for knowingly making a false statement in connection with a visa application.

COMMONWEALTH OF AUSTRALIA
Statutory Declaration

I, ⁽¹⁾ _____

do solemnly and sincerely declare that:

- (1) I have never been convicted of a crime or any offence in any country;
- (2) I have not been charged with any offence that is incomplete or awaiting legal action, nor am I aware of any investigation into my affairs that has the potential to lead to such charges;
- (3) I have not been acquitted of an offence on the grounds of unsoundness of mind or insanity;
- (4) I do not have any spent convictions under any spent convictions legislation in any country or any convictions on my police record;
- (5) I have not been involved in war crimes or crimes against humanity;
- (6) I have never been associated with anyone else who has been or could reasonably be suspected to have been, or is, involved in any activities referred to above; and
- (7) to the best of my knowledge I do not have any matters which are either unresolved or in which I have been, or am involved, that would bring into question whether or not I pass the character test⁽²⁾ as defined at Section 501 of the *Migration Act 1958*.

I fully understand the above, or the above has been fully explained to me by another person or interpreter who fully understands the above, such that I fully understand the above. And I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

I understand that any incorrect information may result in refusal of my application or, if a visa has been granted, the cancellation of my visa. I understand that, if my visa is cancelled after entry to Australia, I will be required to leave Australia.

(3)

Declared at _____

this _____ day of _____ 2_____

Before me,

(4) _____

(5) _____

(1) **Here insert name, address and occupation of person making the declaration.**

(2) **Character Test is defined at section 501 of the Migration Act 1958 as follows:**

Character Test

- (6) For the purposes of this section, a person does not pass the *character test* if:
- (a) the person has a substantial criminal record (as defined by subsection (7)); or
 - (b) the person has or has had an association with someone else, or with a group or organisation, whom the Minister reasonably suspects has been or is involved in criminal conduct; or
 - (c) having regard to either or both of the following:
 - (i) the person's past and present criminal conduct;
 - (ii) the person's past and present general conduct;the person is not of good character; or
 - (d) in the event the person were allowed to enter or to remain in Australia, there is a significant risk that the person would:
 - (i) engage in criminal conduct in Australia; or
 - (ii) harass, molest, intimidate or stalk another person in Australia; or
 - (iii) vilify a segment of the Australian community; or
 - (iv) incite discord in the Australian community or in a segment of that community; or
 - (v) represent a danger to the Australian community or to a segment of that community, whether by way of being liable to become involved in activities that are disruptive to, or in violence threatening harm to, that community or segment, or in any other way.

Otherwise, the person passes the *character test*.

Substantial criminal record

- (7) For the purposes of the character test, a person has a *substantial criminal record* if:
- (a) the person has been sentenced to death; or
 - (b) the person has been sentenced to imprisonment for life; or
 - (c) the person has been sentenced to a term of imprisonment of 12 months or more; or
 - (d) the person has been sentenced to 2 or more terms of imprisonment (whether on one or more occasions), where the total of those terms is 2 years or more; or
 - (e) the person has been acquitted of an offence on the grounds of unsoundness of mind or insanity, and as a result the person has been detained in a facility or institution.

Periodic detention

- (8) For the purposes of the character test, if a person has been sentenced to periodic detention, the person's term of imprisonment is taken to be equal to the number of days the person is required under that sentence to spend in detention.

Residential schemes or programs

- (9) For the purposes of the character test, if a person has been convicted of an offence and the court orders the person to participate in:
- (a) a residential drug rehabilitation scheme; or
 - (b) a residential program for the mentally ill;
- the person is taken to have been sentenced to a term of imprisonment equal to the number of days the person is required to participate in the scheme or program.

Pardons etc.

- (10) For the purposes of the character test, a sentence imposed on a person is to be disregarded if:
- (a) the conviction concerned has been quashed or otherwise nullified; or
 - (b) the person has been pardoned in relation to the conviction concerned.

Conduct amounting to harassment or molestation

- (11) For the purposes of the character test, conduct may amount to harassment or molestation of a person even though:
- (a) it does not involve violence, or threatened violence, to the person; or
 - (b) it consists only of damage, or threatened damage, to property belonging to, in the possession of, or used by, the person.

Definitions

- (12) In this section:
- court* includes a court martial or similar military tribunal.
 - imprisonment* includes any form of punitive detention in a facility or institution.
 - sentence* includes any form of determination of the punishment for an offence.

Note 1: *Visa* is defined by section 5 and includes, but is not limited to, a protection visa.

Note 2: For notification of decisions under subsection (1) or (2), see section 501G.

Note 3: For notification of decisions under subsection (3), see section 501C.

(3) **Signature of person making the declaration.**

(4) **Signature of person before whom the declaration is made.**

(5) **Here insert name and title of person before whom the declaration is made.**