

Statutory declaration made in foreign place

886. (1) A statutory declaration made in a foreign place (in pursuance of, or for the purposes of, this Act) shall be deemed to have been validly made (in pursuance of, or for the purposes of, this Act) if—

(a) it is made in that place before a person entitled under the Solicitor's Act 1954 to practise as a solicitor in the State, or

(b) it is made before a person authorised under the law of that place to administer oaths in that place and subsection (3), (4) or (5), whichever applies, is complied with.

(2) Subsection (1) is—

(a) without prejudice to the circumstances set out in the Statutory Declarations Act 1938 in which a statutory declaration may be made, and

(b) in addition to, and not in substitution for, the circumstances provided under the Diplomatic and Consular Officers (Provision of Services) Act 1993 or any other enactment in which a statutory declaration made by a person outside the State is regarded as a statutory declaration validly made (whether for purposes generally or any specific purpose).

(3) In a case falling within subsection (1)(b), and if the foreign place in question is situate in a state that is a contracting party to the EC Convention, then (unless that Convention does not extend to that particular place), the provisions of the EC Convention with regard to authentication shall apply in relation to the statutory declaration concerned, including the procedures for verification of any matter in circumstances where serious doubts, with good reason, arise in respect of that matter.

(4) In a case falling within subsection (1)(b), and if the foreign place in question is situate in a state that is a contracting party to the Hague Convention but is not a contracting party to the EC Convention, then (unless the Hague Convention does not extend to that particular place), the provisions of the Hague Convention with regard to authentication shall apply in relation to the statutory declaration concerned, including the procedures for verification of any matter in circumstances where serious doubts, with good reason, arise in respect of that matter.

(5) In a case falling within subsection (1)(b) to which neither subsection (3) nor (4) applies, the following shall be authenticated in accordance with the law of the foreign place in question:

(a) the signature of the person making the declaration (the “declarer”); and

(b) to the extent that that law requires either or both of the following to be authenticated—

(i) the capacity in which the declarer has acted in making the declaration;

(ii) the seal or stamp of the person who has administered the oath to the declarer.

(6) The Registrar may, in respect of a statutory declaration that purports to have been authenticated in the manner specified in subsection (5) and to be made in pursuance of or for the purposes of this Act, require such proof as the Registrar considers appropriate of any particular requirements of the law referred to in subsection (5).

(7) In this section—

“EC Convention” means the Convention Abolishing the Legalisation of Documents in the Member States of the European Communities of 25 May 1987;

“foreign place” means a place outside the State;

“Hague Convention” means the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at the Hague on 5 October 1961;

“statutory declaration”, in addition to the meaning assigned to it by the Interpretation Act 2005 , means a declaration that conforms with the requirements of the Statutory Declarations Act 1938 , except for any requirements contained in section 1 of that Act or any other provision of it, expressly or impliedly limiting—

(a) the class of persons who may take and receive a declaration; or

(b) the places in which a declaration may be taken or received.

(8) A statutory declaration made—

(a) before 24 December 2006,

(b) in a place outside the State,

(c) before—

(i) if the place is not a place in England and Wales, Northern Ireland or Scotland, a person authorised under the law of that place to administer oaths or a person entitled under the Solicitor's Act 1954 to practise as a solicitor in the State, or

(ii) if the place is a place in England and Wales, Northern Ireland or Scotland—

(I) a person entitled under the law of England and Wales, Northern Ireland or Scotland, as the case may be, to practise as a solicitor in England and Wales, Northern Ireland or Scotland, as the case may be, or to administer oaths there, or

(II) a person entitled under the Solicitor's Act 1954 to practise as a solicitor in the State,

and

(d) purporting to be made in pursuance of or for the purposes of the Companies Acts (being the collective citation, with respect to enactments concerning companies, as stood provided, for the time being, by statute),

shall, if the declaration was delivered to the Registrar before 24 December 2006, be valid and deemed always to have been valid notwithstanding anything in the Diplomatic and Consular Officers (Provision of Services) Act 1993 or any other enactment and anything done on foot of that declaration's delivery to the Registrar, including any subsequent registration of that declaration by the Registrar, shall be valid and be deemed always to have been valid notwithstanding anything in that Act or any other enactment.

(9) Nothing in subsection (8) affects any proceedings commenced before 24 December 2006.