

Instructions for completion

Affidavit

1. This form of affidavit may be used in any proceeding, save and except where another form of affidavit is applicable under the:
 - a. ~~Federal Circuit and Family Court of Australia (Division 1) Rules 2021;~~
 - b. ~~Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021 (Family Law Rules);~~
 - c. ~~Federal Circuit and Family Court of Australia (Division 2) (Bankruptcy) Rules 2021;~~
 - d. ~~Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 (General Federal Law Rules).~~
2. Each paragraph in this affidavit must be numbered.
3. This affidavit must be sworn or affirmed before a person authorised by law to witness the swearing of affidavits; for example, a lawyer, notary public or Justice of the Peace.
4. Each page must be signed by the deponent (the person making the affidavit).
5. Any alteration in the affidavit must be initialled by the deponent and the witness.
6. You must identify the type of proceedings this affidavit is being used for on page 1 of the form.

Family law proceedings

7. Affidavits must comply with the formal requirement for documents (see Rule 2.14 of the Family Law Rules) and the limitations on number and length of affidavits (see Rule 5.08 of the Family Law Rules and the modified rule in the *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021* for proceedings in Division 2 of the Court)
8. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the email or mailing address inserted and all documents in the proceedings will be deemed to have been served on you if emailed or posted to that address. If your address details change, you must file a *Notice of Address for Service* within seven days and serve a copy on all other parties: see Rule 2.25 of the Family Law Rules.
9. If the facts in the affidavit are supported by a document, a copy of the document must be attached to this affidavit. This document is then referred to as an 'annexure'. If there is more than one annexure refer to each by a number or letter; for example — 'Annexure 1' or 'Annexure A'. The annexure should also have page numbers. If there is more than one annexure, the page numbers must run consecutively until the last page of the last annexure. A document annexed or exhibited to an affidavit must be served with the affidavit. See Rule 8.15(4) of the Family Law Rules.
10. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in this affidavit. The wording of the statement is as follows:

~~This is the document referred to as [insert annexure identification] in the affidavit of [insert deponent's name] sworn/affirmed at [insert place] on [insert date] before me [witness to sign and provide name and qualification].~~

~~The statement must be signed at the same time as the affidavit and by the same witness.~~
11. The Court may strike out any material which cannot be used in evidence; for example, if the material is unnecessary, scandalous or contains opinions of persons not qualified to give them. See Rule 8.18 of the Family Law Rules.
12. If the deponent does not have an adequate command of English, a translator must read or give in writing a translation of the affidavit and oath/affirmation in a language which is understood, and must certify in the signing clause that he or she has done so. Use the alternative jurat for the swearing/affirming of the affidavit and the translator's certificate in Part F. See Rule 8.17 of the Family Law Rules.
13. Once complete, you need to file the affidavit and any annexures with the Court. It must be filed electronically on the Commonwealth Courts Portal (www.comcourts.gov.au) unless it is not reasonably practicable to do so. You will need to serve a copy on the other party or parties and keep a copy for your records.

Remove this instruction sheet before filing

Migration and general federal law proceedings

14. Affidavits must comply with the formal requirement for documents (see Rule 4.04 of the General Federal Law Rules).
15. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the email or mailing address inserted and all documents in the proceedings will be deemed to have been served on you if emailed or posted to that address. If your address details change, you must file a *Notice of Address for Service* within seven days and serve a copy on all other parties: see Rule 6.02 of the General Federal Law Rules.
16. If the facts in the affidavit are supported by a document, a copy of the document must be attached to this affidavit. This document is then referred to as an 'annexure'. If there is more than one annexure refer to each by a number or letter; for example 'Annexure 1' or 'Annexure A'. The annexure should also have page numbers. If there is more than one annexure, the page numbers must run consecutively until the last page of the last annexure. A document annexed or exhibited to an affidavit must be served with the affidavit. See Rule 15.15 of the General Federal Law Rules.
17. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in this affidavit. The wording of the statement is as follows:

~~This is the document referred to as [insert annexure identification] in the affidavit of [insert
deponent's name] sworn/affirmed at [insert place] on [insert date] before me [witness to sign
and provide name and qualification].~~

~~The statement must be signed at the same time as the affidavit and by the same witness.~~
18. The Court may strike out any material which cannot be used in evidence; for example, if the material is unnecessary, scandalous or contains opinions of persons not qualified to give them. See Rule 15.16 of the General Federal Law Rules.
19. If the deponent does not have an adequate command of English, a translator must read or give in writing a translation of the affidavit and oath/affirmation in a language which is understood, and must certify in the signing clause that he or she has done so. Use the alternative jurat for the swearing/affirming of the affidavit and the translator's certificate in Part F. See Rule 15.14 of the General Federal Law Rules.
20. Once complete, you need to file the affidavit and any annexures with the Court. It must be filed electronically using [eLodgment](#), unless it is not reasonably practicable to do so. You will need to serve a copy on the other party or parties and keep a copy for your records.

Remove this instruction sheet before filing

Affidavit

Family Law Rules 2021 – RULE 8.15
General Federal Law Rules 2021 – RULE 4.04

COURT USE ONLY

Filed in:

- Federal Circuit and Family Court of Australia
 Family Court of Western Australia
 Other (specify)

Type of proceedings:

- Family law proceedings
 Migration proceedings
 General federal law proceedings
 Other (specify)

Filed on behalf of:

Full name: John Smith

Client ID _____

File number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Name of person swearing/affirming this affidavit (SEE PART C)
John Smith

Date of swearing/affirming 04 /11 /20XX

Part A About the parties

APPLICANT 1

Family name as used now

Smith

Given names

John

RESPONDENT 1

Family name as used now

Smith

Given names

Jane

APPLICANT 2

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

123 Applicant Street, COWRA

State NSW

Postcode 2794

Phone 04X XXX XXXX

Lawyer's code

Email John.Smith@email.com.au

Part B About the independent children's lawyer (if appointed)

Independent children's lawyer family name

Given names

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Firm name

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Part C About you (the deponent)

What is your family name used now?

Your given names?

Smith

John

Gender

Male

Female

X

Usual occupation

Pensioner

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

123 Applicant Street, COWRA

State NSW

Postcode 2794

Part D Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing Part E is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

1. I am the Applicant.
2. I was born on 1 June 1980 in Paris, France and am currently 39 years old.
3. Jane was born on 23 August 1982 in Paris, France and is currently 37 years old.
4. Jane and I began living together in January 1999 and married on 27 March 2000.
5. We moved to Australia in 2001 and obtained our Australian citizenship in 2013.
6. We separated on 1 November 20XX.
7. There is one child of our marriage, Johnny Smith born 1 October 2000 (currently 19 years old).

John Smith

Signature of person making this affidavit (deponent)

Lisa Witness

Signature of witness

8. Following our separation, Jane and I continued living under one roof until 1 May 2019, when I moved in with my parents.
9. Jane has continued to reside in the family home with Johnny since I moved out.
10. I am currently in receipt of a Centrelink disability pension.
11. Jane currently works full-time as a business manager with AMP and earns approximately \$150,000 per year.

During our Marriage

12. At the beginning of our marriage, Jane and I opened a joint bank account and had our wages transferred into this account.
13. Throughout our marriage we paid all our bills from this account, including mortgage repayments, rates, utilities, and groceries.
14. In 2003, I was injured in an accident at work and since then have been unable to work.
15. Prior to my accident, I was employed full-time as a brick layer. As we were both working full-time, Jane and I cared for Johnny and shared the household chores approximately equally.
16. After my accident, I stayed home and became Johnny's primary caregiver.
17. I also became responsible for the majority of the household chores, including:
 - a. washing our clothes, towels and linen
 - b. vacuuming
 - c. dusting
 - d. mowing
 - e. weeding and pruning the gardens.
18. Jane cleaned the bathrooms and took out the rubbish and recycling.
19. Jane and I took it in turns to do the weekly grocery shopping. We both made additional trips to the shops to purchase groceries and household supplies when needed.
20. I was solely responsible for preparing our evening meals. I made sure that dinner was ready when Jane got home from work each night.
21. When Johnny started going to day care and school, Jane and I took it in turns to prepare his lunch and morning tea.

John Smith

Signature of person making this affidavit (deponent)

Lisa Witness

Signature of witness

22. I drove Johnny to and from school. When he started playing soccer I drove him to his training each Tuesday afternoon.
23. Jane and I both attended Johnny's soccer games every Saturday.
24. Throughout our marriage, Jane and I slept in the same bed.
25. We socialised together as a couple. We shared many of the same friends.
26. After Johnny was born, we went on a family holiday in June each year to Queensland.

Separation under one roof

27. On the morning of 1 November 20XX, Jane and I were at home when we got into an argument. During the argument, Jane said words to the effect of, "*I'm sick of this. I want a divorce.*". I replied with words to the effect of, "*Good. I'll move into the spare room until I can find my own place.*".
28. Later that day, I moved my clothes, shoes and other belongings into the spare bedroom. Jane stayed in the master bedroom.
29. Following our separation, Jane and I stopped speaking to each other, except about Johnny and household bills.
30. On or about 5 November 20XX, I had a telephone conversation with my best friend Christopher Friend. I said words to the effect of "*Jane and I have split up. We've had another argument and I've had enough. I've moved into the spare room until I can find somewhere else to live.*"
31. Jane and I stopped socialising as a couple and stopped attending the same social functions, except for our godchildren's birthdays. On these occasions, we attended separately and Jane was accompanied by her new partner.
32. We shared the household chores equally.
33. I also performed all repairs and general maintenance on the property, including changing tap washers, replacing broken gate latches, and repainting the front fence.
34. Jane was responsible for taking out the rubbish and recycling, dusting, and cleaning the main bathroom.
35. We were each responsible for:
 - a. washing our own clothes, towels and linen
 - b. cleaning our own bedrooms and bathroom
 - c. purchasing our own groceries and preparing our own meals

John Smith

Signature of person making this affidavit (deponent)

Lisa Witness

Signature of witness

d. washing and drying our own dishes.

36. I washed the majority of Johnny's clothes and prepared the majority of his meals, including his school lunches.
37. Jane was only home 1-2 nights per week. On the other nights, she stayed with her friends and family.
38. I continued to drive Johnny to and from school, and soccer training.
39. Jane and I continued to go to his games each Saturday, but we attended separately.
40. On 9 November 20XX, I contacted Centrelink to apply for a disability pension.
41. Later that same day, I applied to the Department of Housing to find new accommodation. I was placed on a waiting list and was advised by the customer service operator words to the effect of "*It could take up to 12 months for you to obtain accommodation.*".
42. In mid-November 20XX, Jane and I opened our own individual bank accounts and closed our joint accounts, except for our mortgage and offset account.
43. We each transferred our income to our individual bank accounts.
44. The balance of our joint savings was applied to the mortgage.
45. We continued to meet our mortgage repayments and rates equally.
46. We shared the utilities. I paid the telephone, internet, and gas bills. Jane paid the water and electricity bills.
47. On 18 May 20XX, I moved out of the family home and back in with my parents.
48. On 22 August 20XX, property orders were made by consent.

John Smith

Signature of person making this affidavit (deponent)

Lisa Witness

Signature of witness

Part E Signature

I swear* ~~/affirm*~~ the contents of this affidavit are true

John Smith
Signature of Deponent

Place Cowra Date 04 /11 /20XX

Lisa Witness
Before me (signature of witness)

Lisa Witness
Full name of witness (please print)

- Justice of the Peace
 Notary public
 Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s
 lawyer

PRINT NAME AND LAWYER'S CODE

Part F

Alternative jurat for non-English speaking affidavit

Use this alternative jurat for the swearing/affirming of the affidavit and the translator's certificate. See Rule 8.17 of the Family Law Rules or Rule 15.14 of the General Federal Law Rules.

Interpreter/translator's certification

I certify that I understand the English language and the language, and that I have truly interpreted to the deponent (named in Part C) the contents of this affidavit and the oath or affirmation which was administered.

Signature of interpreter

Date / /

Sworn*/affirmed* by the deponent through the interpretation of:

Interpreter's full name

Address

Language

Signature of Deponent

Place

Date / /

Before me (signature of witness)

Full name of witness (please print)

- Justice of the Peace
- Notary public
- Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s
 lawyer

PRINT NAME AND LAWYER'S CODE