

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)
Christopher Friend

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

| | |
|--|--|
| | |
|--|--|

Firm name

| |
|--|
| |
|--|

Part C About you (the deponent)

What is your family name used now?

Your given names?

Friend

Christopher

Gender

Male Female X

Usual occupation

Builder

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.

125 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 John's next door neighbour and best friend.
2. We have known each other for approximately 20 years. We met at school.
3. I was born on 19 June 1980 in Paris, France and am currently 39 years old.
4. I moved to Australia in 2000 and obtained my Australian Citizenship in 2012.

Relationship with John and Jane

5. When John and Jane married, I attended their wedding reception with my wife.
6. After they moved to Australia and settled in Parramatta, John and Jane visited us at our home in Cowra one weekend per month and stayed in our spare room.

Christopher Friend

Signature of person making this affidavit (deponent)

Lisa Witness

Signature of witness

7. During their visits, they spent time with John's parents, who also lived in Cowra.
8. In addition to our monthly catch-ups, we went on family holidays together in June each year for one week. Our children are the same age.
9. While we were holidaying together, I noticed that John and Jane cooked together and shared the same room.

Knowledge of Separation

10. On 5 November 20XX I received a phone call from John, and he said to me words to the effect of, "*Jane and I are breaking up. We got into another argument and I had just had enough*". I responded with words to the effect of, "*I'm here to talk if you ever want to.*"
11. John and I send each other text messages every day. After John and Jane separated, he stopped talking about her in his messages.
12. On 18 May 20XX, John moved back to Cowra to live with his parents.
13. Since John has moved back to Cowra, I have spent time with him at his parents place every second day.
14. In July 20XX, John and I attended the wedding of one of our school friends. I attended the wedding with my wife and John brought a date.
15. I am aware that Jane and John reached an agreement to divide their property, and had orders made by the court to formalise their agreement.
16. On about 20 August 20XX, I drove to Parramatta and helped John load his belongings into a moving van. I followed John in the moving van back to Cowra and helped him unload the van.
17. I have not spoken to Jane since she and John separated.

Christopher Friend

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~~

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

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.

Stephen Interpreter
Signature of interpreter

Date 04 /11 /20XX

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

Interpreter's full name

Address

Language

Christopher Friend
Signature of Deponent

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