

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 31 December 20XX.
7. There is one child of our marriage, Johnny Smith born 1 October 2009 (currently 10 years old).

John Smith

Signature of person making this affidavit (deponent)

Lisa Witness

Signature of witness

Change of Name

8. My previous surname was Citizen.
9. John Citizen and John Smith are the same person.
10. When Jane and I first began living together, I used the surname Citizen. This was the name I was given by my adoptive parents when I was five years old.
11. When we got married, Jane took the surname Citizen. This is our surname on our marriage certificate. At the time of our wedding I did not know by biological father.
12. At the beginning of 2003, I met my biological father for the first time while on a trip to Paris to visit friends.
13. Shortly after meeting, we began talking regularly on the phone.
14. In about June 2003, my father moved from France to Australia and we began spending time together on weekends and at least one night per week for dinner.
15. In January 2004, I said to Jane words to the effect of, "*I think I want to change my surname to Smith.*" Jane replied words to the effect of "*I guess I'll have to change my name too.*".
16. On 1 April 2004, Jane and I applied to change our surname to Smith. A copy of my change of name certificate is at **Annexure A**.
17. Jane, Johnny and I now all go by the surname Smith.

John Smith
Signature of person making this affidavit (deponent)

Lisa Witness
Signature of witness

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

Annexure A

This is the document referred to as Annexure A in the affidavit of John Smith, sworn/affirmed at Cowra on 4 November 20XX before me Lisa Witnesses, Justice of the Peace.

Lisa Witness

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Witness

SAMPLE

NEW SOUTH WALES
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995
CHANGE OF NAME CERTIFICATE

REGISTRATION NUMBER
XXXXX/XXXXX X

NAME REGISTERED	
SURNAME	SMITH
GIVEN NAME(S)	John
SEX	Male
DATE OF BIRTH	1 January 1980
PLACE OF BIRTH	Paris, France
FORMER NAME	
SURNAME	CITIZEN
GIVEN NAMES(S)	John
REGISTRATION OFFICER	
NAME	A Officer
DATE	1 April 2004
ENDORSEMENT(S)	
Not any	

THE BACK OF THE DOCUMENT CONTAINS A HISTORY OF CHANGES OF NAME AND CORRECTIONS.
Before accepting copies, sight unaltered original. The original has a coloured background.

REGISTRY OF BIRTHS,
DEATHS AND MARRIAGES

I hereby certify that this a true copy of in particulars recorded in a Register kept
in the General Registry at Parramatta.

PARRAMATTA

1 April 2005

A Registrar

REGISTRAR