

Instructions for completion (remove before filing)

Affidavit – Family law and child support proceedings

1. This affidavit form should be used for any proceeding which is subject to the:
 - a. *Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Family Law Rules)*; or
 - b. *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021*.
2. Each paragraph in this affidavit must be numbered.
3. Affidavits must comply with the formal requirements for documents, for example, size 12 font, 1.5 line spacing and consecutive numbering of all pages (see Rule 2.14 of the Family Law Rules).
4. 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.
5. Each page must be signed by the deponent (the person making the affidavit) and the witness.
6. Any alteration in the affidavit must be initialled by the deponent and the witness.
7. Affidavits filed in support of an interlocutory/interim application must comply with the limitations on the 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). An affidavit filed in support of, or in opposition to, an application for interlocutory orders cannot be longer than:
 - a. 25 pages with no more than 10 annexures if filed in the FCFCOA (Division 1); or
 - b. 10 pages with no more than 5 annexures if filed in the FCFCOA (Division 2).

The cover sheet and jurat are not included in the page limit (i.e. Parts A, B, E or F).

8. You must complete your address for service details at the bottom of 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 you are relying on a document to support anything in your affidavit, attach a copy of the document as an annexure to the 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 to an affidavit must be served with the affidavit. See Rule 8.15(4) of the Family Law Rules. The document will still need to be tendered in court to be relied upon as evidence (see rule 8.15(3)(e)).
10. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in the affidavit. The wording of the statement is as follows:

This is the document referred to as *[insert annexure number]* 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 understand 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 they have done so. **Part F** of this form must be used. 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 must serve a copy on the other party or parties and keep a copy for your records.
14. If your Affidavit does not comply with these instructions, the Affidavit may not be read in into evidence in the proceedings.

FOR FINANCIAL MATTERS

15. An affidavit should include at least evidence about the following:
 - a. a schedule of all known assets, liabilities and financial resources;
 - b. details of the financial and non-financial contributions made by each party including to the welfare of the family;

- c. details of the factors relevant to each party's future circumstances (e.g. income, age, health, care of children, employment capacity, financial resources);
- d. details of the practical effect of the proposed division of assets, liabilities and financial resources as sought in the Application or Response;
- e. a list of all items not produced where it is asserted that disclosure has not been completed; and
- f. details of any concerns in relation to domestic and family violence, including coercive and controlling conduct.

FOR PARENTING MATTERS

16. An affidavit should include at least evidence about the following:
- a. details of the current arrangements for where each child lives, and who they spend time and communicate with for all relevant children including:
 - i. a description of the home in which the child/ren lives and/or spends time and the facilities available to them (e.g. own bedroom/shared bedroom/distance from school/other parent or party);
 - ii. how long those arrangements have been in place and details of any prior arrangements;
 - iii. distance between the parents'/parties' homes;
 - iv. details of how and where changeovers currently occur;
 - v. when and how the child/ren communicate with each parent/party when they are in the care of the other parent/party
 - b. schooling and/or child care details as well as details of arrangements for any care of children not undertaken directly by a parent/party (e.g. time spent with a grandparent/family member outside school hours/holiday care and how any costs are paid);
 - c. the names, details and relationships of any adult or child who regularly lives or spends time with the subject child/ren;
 - d. details of any medical or other conditions that affect a party's capacity to care for the child/ren; and
 - e. details in support of any allegations of risk or safety concerns raised in the accompanying Notice of child abuse, family violence or risk, and any family violence order that applies to the child/ren or a party.

Remove these instruction sheets before filing

Affidavit – Family law and child support proceedings

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – RULE 8.15

Filed in:

- Federal Circuit and Family Court of Australia (Division 1)
- Federal Circuit and Family Court of Australia (Division 2)
- Other (specify) _____

Type of proceedings:

- Family law proceedings
- Other (specify) _____

Filed on behalf of:

Full name: _____

Client ID _____

File number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Name of person swearing/affirming this affidavit:

Date of swearing/affirming ____ / ____ / ____

Part A About the parties

APPLICANT 1

Family name (as used now)

Given names (as required)

APPLICANT 2

Family name (as used now)

Given names (as required)

RESPONDENT 1

Family name (as used now)

Given names (as required)

RESPONDENT 2

Family name (as used now)

Given names (as required)

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.

.....

..... State Postcode

.....

Phone

.....

Lawyer's code

.....

Email

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)

Family name (as used now)

Given names

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

Gender

Male

Female

X

Usual occupation (if applicable)

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

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.

| | | |
|-------|-------|----------|
| | | |
| | | |
| | | |
| | | |
| | State | Postcode |

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 the signature (Part E or F) is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

1.

Signature of person making this affidavit (deponent)

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
- Other authorised person (specify)

* 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.

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
- Other authorised person (specify)

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s
 lawyer

PRINT NAME AND LAWYER'S CODE

