Form CP9

Federal Court (Criminal Proceedings) Rule 1.32

Affidavit

No.       of 20

Federal Court of Australia

District Registry: [State]

Division: General

**Commonwealth Director of Public Prosecutions[or other as appropriate]**Prosecutor

**[Name of Accused]**Accused

[Change title for summary criminal proceedings (Form CP2) or criminal appeal proceedings (Form CP3)]

**Affidavit of:** [deponent's name]

**Address:** [deponent's address]

**Occupation:** [deponent's occupation]

**Date:** [date affidavit sworn/affirmed]

[\*Insert table of contents if affidavit (including annexures) exceeds 10 pages]**Contents**

| **Document number** | **Details** | **Paragraph** | **Page** |
| --- | --- | --- | --- |
| 1 | Affidavit of [deponent] in support of [application] for [insert details] [sworn/affirmed] on [date] |  |  |
| 2 | Annexure “[AB1]”, being copy of [brief description] |  |  |
| 3 | Annexure “[AB2]”, being copy of [brief description] |  |  |

I [name address and occupation] [\*either]say on oath [\*or]affirm:

1. [\*]I am the [role of party eg Prosecutor / Accused / witness].
2. [State which answers are true based on your own knowledge and which are true to the best of your knowledge, information and belief based on your inquiries of relevant persons].

[Insert headings to identify subject matter in paragraph(s).]



|  |  |  |
| --- | --- | --- |
| Sworn / Affirmed by the deponent  at [place]  in [State or Territory]  on [date]  Before me: | )  )  )  )  ) |  |
| Signature of deponent |
|  |  |  |

Signature of witness

[Name and qualification of witness]

[\* Delete if inapplicable]

**Instructions for completing affidavits**

[These instructions do not form part of the affidavit and MUST BE DELETED before the affidavit is sworn or affirmed]

1. Each page of the affidavit (but not any annexure or exhibit) must be signed by the deponent (other than a deponent who is unable to sign because of a physical disability) and by the person before whom it is sworn or affirmed. (CP Rule 1.32(7))
2. An affidavit must be made in the first person. (CP Rule 1.32(1))
3. An affidavit must be divided into numbered paragraphs, and, to the extent practicable, each paragraph must deal with a separate subject. (CP Rule 1.32(3))
4. If facts in the affidavit are supported by a document, annex a copy of the document to the affidavit, unless the document is an original or is of such dimensions that it cannot be annexed, in which case, it must be exhibited. (CP Rules 1.32(4) and 1.32(5))
5. Each page of the affidavit, including any annexure but not any exhibit, must be clearly and consecutively numbered starting with page 1. (CP Rule 1.32(6))
6. Attach a certificate to the first page of each annexure and exhibit. The certificate must be entitled in the same manner as the affidavit and identified by the deponent’s initials followed by a number (starting with 1 for the first annexure or exhibit). The annexures and exhibits must be numbered sequentially. For example, the first annexure of an affidavit of James William Green would be identified as “JWG1”. The second annexure would be “JWG2” and the first exhibit to that affidavit would be “JWG3”. No subsequent annexure or exhibit in any later affidavit sworn by the same deponent may duplicate the number of a previous annexure or exhibit. (see CP Rules 1.32(8), 1.32(9) and 1.32(10)).
7. Each exhibit to an affidavit must be signed on the first page of the exhibit by the person before whom the affidavit is sworn or affirmed. (CP Rule 1.32(11))
8. The deponent must swear or affirm the affidavit before a person authorised by law to witness the swearing of affidavits (‘witness’). Persons authorised to witness an affidavit in Federal Court proceedings are a Judge of the Court; the Chief Executive Officer and Principal Registrar; a Registrar; a District Registrar; a Deputy District Registrar authorised under s 44 of the *Federal Court of Australia Act*; a member of staff of the Federal Court authorised under s 44 of the *Federal Court of Australia Act*; a justice of the peace; a commissioner for affidavits; a commissioner for declarations; any other person who is authorised to administer oaths for the purposes of the Federal Court or the High Court or the Supreme Court of a State or Territory (includes lawyer with a current practising certificate).
9. Copies of any documents exhibited or annexed to an affidavit must be served with the affidavit. (CP Rule 1.34)
10. See CP Rule 1.33 for requirements when the deponent is illiterate; when the deponent is blind; and when the deponent is incapable of signing the affidavit because of a physical disability.