

Application in a Proceeding

Instructions for completion

1. This form may be used to apply for interlocutory orders in any proceeding which has already commenced. It should also be used by any person when seeking interlocutory orders, if the orders were not sought in the original application or response.
2. The names and description of the parties shown in the heading of the form should repeat the heading of the original application. For instance, by describing the applicant/s and respondent/s to the original application.
3. The name/s of the person making the application should be shown at the place indicated at the beginning of the form. The orders sought should include the name/s of the persons against whom the orders are sought.

Family law proceedings

1. You must complete address for service details in the footer on page 1. All correspondence concerning the application will be sent to your address for service and all documents in the proceedings will be deemed to have been served on you if posted to that address. If your address details change, you must file a Notice of Address for Service within 7 days, and serve a copy on all other parties: see rule 2.25 of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (the Family Law Rules).
2. The evidence supporting this application must be provided by affidavit/s filed with this application; see rule 5.04 of the Family Law Rules. The affidavit must include a full narrative of all facts, matters and circumstances, including documentary evidence, upon which you rely. However, an affidavit is not required in certain circumstances: see rule 5.04(2) of the Family Law Rules.
3. Unless the Court orders otherwise, an application and other documents filed with it may not be served less than three days before the day fixed for the hearing of an Application in a Proceeding; see rule 2.31 of the Family Law Rules.
4. If you are completing this application and you need more space in any section, attach extra page/s as required.
5. Once complete, you need to file this application with the Court. A document must be filed electronically unless it is not reasonably practicable to do so. You will need to serve a copy on the other party and keep a copy for your records.

Migration and general federal law proceedings

1. You must complete address for service details in the footer on page 1. All correspondence concerning the application will be sent to your address for service and all documents in the proceedings will be deemed to have been served on you if posted to that address. If your address details change, you must file a Notice of Address for Service within 7 days, and serve a copy on all other parties: see rule 6.02 of the Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 (General Federal Law Rules).
2. The evidence supporting this application must be provided by affidavit/s filed with this application; see rule 4.04(1) of the General Federal Law Rules. The affidavit must include a full narrative of all facts, matters and circumstances, including documentary evidence, upon which you rely. However, an affidavit is not required in certain circumstances: see rule 4.04(2) of the General Federal Law Rules.
3. Unless the Court orders otherwise, an application and other documents filed with it may not be served less than three days before the day fixed for the hearing of an Application in a Proceeding; see rule 6.19 of the General Federal Law Rules. Service by hand is not required where the person to be served has given notice of an address for service; see rules 6.06(2)(a) and 6.11 of the General Federal Law Rules. The application and other documents must be served on each party and the person against whom orders are sought if that person is not a party.
4. If you are completing this application and you need more space in any section, attach extra page/s as required.
5. Once complete, you need to file this application with the Court. A document must be filed electronically unless it is not reasonably practicable to do so. You will need to serve a copy on the other party and keep a copy for your records. Remove this sheet before filing

Application in a Proceeding

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – CHAPTER 5
Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 – CHAPTER 1,
PART 4, DIVISION 1

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

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 / appeal number

FCFC(P)123/45678

Filed at

Filed on

Court location

Court date _____

Time _____

IMPORTANT: Information for respondents to the application is on page 4.

Part A About the parties

1 APPLICANT 1

Family name as used now

Smith

Given names

John

APPLICANT 2

Family name as used now

Given names

2 What is your contact address (address for service) in Australia? If you give a lawyer's address, include the name of the law firm.

123 Applicant Street Cowra

State NSW Postcode 2794

Phone 04XX XXX XXX

DX

Lawyer's code

Email John.Smith@email.com.au

RESPONDENT 1

Family name as used now

Smith

Given names

Jane

RESPONDENT 2

Family name as used now

Given names

Respondent's address

Not known

State Postcode

Phone

If there is a second applicant or second respondent attach a separate sheet answering this question for Applicant 2/Respondent 2.

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

- 3 Independent children's lawyer family name Given names

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- 4 The contact address (address for service) in Australia for the independent children's lawyer is:

	State	Postcode
Phone		
Email		
Lawyer's code		

Part C About the orders you are seeking – family law proceedings only

If you are seeking interlocutory orders in family law proceedings, complete this Part.
If you are seeking interlocutory orders in migration or general federal law proceedings, skip this Part and complete Part D.

- 5 What type of orders are you seeking? Mark [X] all boxes that apply.

- | | |
|---|---|
| <input type="checkbox"/> Interlocutory (parenting orders) | <input type="checkbox"/> Interlocutory (financial orders) |
| <input type="checkbox"/> Enforcement of parenting orders | <input type="checkbox"/> Enforcement hearing – financial obligation |
| <input checked="" type="checkbox"/> Procedural | <input type="checkbox"/> Other (specify) _____ |

Do you want this application to be dealt with in the absence of the parties in accordance with Part 5.3 of the Family Law Rules?

- Yes – see the notes below
 No

Notes

- If the respondent objects to the application being determined in the absence of the parties you still must attend the court.
- If the application is to be heard in the absence of the parties each party must file at least 2 days before the hearing a list of documents to be read by the Court and a supporting submission (see rule 5.15 of the Family Law Rules).
- An enforcement hearing cannot be held in the absence of the parties.

Part D The orders you are seeking

- 6 State the interlocutory orders that you are seeking.

[PLEASE NUMBER EACH ORDER SOUGHT]

1. That the rules for service are hereby dispensed with.
1. That service will be deemed effected by forwarding a sealed copy of the divorce application and supporting documents:
a. To the Respondents email address, janesmith@email.com, or
b. To the Respondents brother, Justin Lee's email address justinlee@email.com with a letter requesting that he forward the emailed documents to the Respondent, or
c. By private message to the Respondents Facebook account.

Attach extra pages if you need more space.

Part E Certification

I certify that to the best of my knowledge and information, the orders sought in this application are supported by evidence.

Part F Signature of applicant or lawyer

Signed	Date
<i>John Smith</i>	30/11/20XX

This application was signed by the applicant/s lawyer for the applicant/s

This application was prepared by applicant/s lawyer

PRINT NAME AND LAWYER'S CODE

Please go to page 4 for the Important Notices to the Respondent/s

Important Notices to the Respondent/s

You should seek legal advice about this application.

For all family law applications

If you oppose the orders sought in this application or want the Court to make different orders **you must:**

- file with the Court a *Response to an Application in a Proceeding*; **and**
- serve a copy of the documents filed on each other party not less than 2 days before the Court date shown on page 1 of this form.

You must attend at court on the date shown on page 1 of this form, unless you agree with the applicant's request that the Court determine the application in the absence of the parties. If you object to the applicant's request, you must immediately notify the Court and the other party in writing, telling them of your objection.

If you are required to attend and you do not attend, orders may be made in your absence.

If the application is to be determined in the absence of the parties each party must file at least 2 days before the hearing a list of documents to be read by the court and a supporting submission (see rule 5.15 of the Family Law Rules).