

Form 3.11 Affidavit of applicant for probate

Court Procedures Rules 2006

(see r 3010 (Grant of representation—supporting affidavit for application))

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*full name of deceased person, including any known alias*), late of (*last address*), deceased.

On (*date*), I (*full name of person making affidavit*) of (*home or business address or place of employment*), *[say on oath/solemnly affirm]—

1. The document dated (*date*) accompanying this application and signed in the margin by me and by the person taking this affidavit is, I believe, the last will of the deceased person.
2. I am *[the (*relationship*) of the deceased person and am]*[the/an] executor named in the will and I am an adult.
3. I believe that the will has not been revoked.
- *4. I am not aware of the existence of any other document claiming to contain the testamentary intentions of the deceased person.

OR

- *4. I am *[aware of the existence/in possession] of another document claiming to contain the testamentary intentions of the deceased person. *[That document is annexed and marked ‘(*insert letter, eg ‘A’*)’].

Filed for the executor by:

(*the executor’s address for service and telephone number (if any) or, if the executor is represented by a solicitor and the solicitor is the agent of another solicitor, the name and place of business of the other solicitor*)

5. The following steps have been taken to find out whether there is any other document claiming to contain the testamentary intentions of the deceased person: *(list steps taken)*.
6. I identified the will by *(state how will identified)*.
7. The people who attested the will are *(names)*.
8. The other *[person/people] named in the will as executor*(s) are *(name*(s) and address*(es), if known)*.
- *9. The reason*(s) the other executor*(s) *[is/are] not applying for probate *[is/are] *(reason*(s))*. *[The renunciation form signed by *(name of other executor)*/a true copy of the death certificate of the *(name of other executor)*] is annexed and marked '*(insert letter, eg 'B')*'].
10. The deceased person died on *(date)*.
11. I believe that the deceased person is *(name stated in death certificate)* named in the death certificate annexed and marked '*(insert letter, eg 'C')*'.
12. The deceased person *[did/did not] marry, enter into a civil partnership or enter into a civil union after the will was made *[to *(name of spouse/partner)* on *(date of marriage/civil partnership/civil union)*].
- *13. The deceased person's marriage to *(name of former spouse)* was *[terminated by divorce/annulled] on *(date)*, after the will was made.

OR

- *13. The deceased person's *[civil partnership/civil union] to *(name of former partner)* was terminated on *(date)*, after the will was made.
14. The deceased person *[was an adult when the person made the will/made the will in accordance with the *Wills Act 1968*, section 8 (Children—testamentary capacity)].
15. The deceased person *[left/did not leave] property (whether real or personal) in the ACT.
16. An inventory of all property of the deceased person of which I am presently aware is annexed and marked '*(insert letter, eg 'D')*'. I will disclose to the Court any other property of the deceased person that comes to my notice.

17. The estimated gross value of the deceased person's property (both real and personal) in the ACT is \$ (*amount*).
18. I believe that the deceased person considered that *[his/her] domicile was in (*insert place of domicile at time of death*). The reason for my belief is (*reason*).
19. If I am granted probate of the will of the deceased person, I will administer the estate according to law and, if required, I will give an account of my administration to the Court.
20. Notice of intention to make this application was published on (*date*) in the (*name of newspaper*), a daily newspaper. A copy of the notice as published is annexed and marked '(*insert letter, eg 'E'*)'.
- *21. I have received the following responses to the publication of the notice from creditors of the estate: (*include brief details of the responses and identify the creditors who gave the responses*).
- *22. The reason*(s) why this application is made, for the first time, more than 6 months after the date of the deceased person's death *[is/are] (*reason*(s)*).

*[Sworn/Affirmed] by (*full name*):

(*signature of person making affidavit*)

at (*place*) in the presence of:

(*signature of person before whom affidavit is made*)

(*full name of person before whom affidavit is made*) of (*address*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

Note If the affidavit is longer than a page, the person making the affidavit and the person taking the affidavit must sign or initial each page of the affidavit (see r 6715 (1) (Affidavit—taking of)).

**omit if, or whichever is, inapplicable*

Inventory of the property of the estate of (*name of deceased person*)

Note The inventory must list each item of property in the deceased person's estate with sufficient detail to identify the property.

Property owned solely by the deceased person

Description of property	Estimated value (\$)
<u>ACT Assets</u> Real estate Amounts in financial institutions Shares in companies Motor vehicles Personal belongings Other assets Gross value of property in ACT	
ACT liabilities Net value of property in ACT <u>Assets held outside ACT</u> Real estate Other assets <u>Liabilities outside ACT</u>	

Property owned jointly by the deceased person with other people

Note This property does not form part of the deceased person's estate.

Description of property	Estimated value (\$)