

## AFFIDAVIT

### ***What is an affidavit?***

An affidavit is a willingly made declaration in writing, signed by the deponent (person making the affidavit) and accompanied by an oath (vis-à-vis the authenticity of the contents). “Affidavit” has its roots from a Latin word which literally means to “pledge ones faith.” It is to be signed and witnessed (vis-à-vis the genuineness of the affiant’s signature or his identity) by a notary authority. It is also signed without any cross-examination by the affiant. The difference between an affidavit and a deposition is that the former is voluntary but the latter is not.

Another way to think of an affidavit is as a sort of written court testimony. Where, in a court of law, you are required to place your hand on a Holy Book and swear that you’re telling the truth and nothing but the truth, similarly on an affidavit, you do this in writing. You’re under oath, but your testimony is on paper. They are important in a way that the oral submission/evidence/testimony is only admissible before a judge but an affidavit can be used as an alternative to this.

However, misleading information in an affidavit can lead to perjury charge against the affiant but if the affiant forgets to include something or omits something then he cannot be penalized for such omission. If the affiant mentions something in the affidavit which is not an established fact or is not backed up by some evidence, then he will have to mention that it is his ‘opinion’.

The law on affidavits in India is governed by Sec 139, Order XIX of the Code of Civil Procedure and Order XI of the Supreme Court Rules. Judiciary at many instances have upheld the importance of the veracity of an affidavit by the virtue of the aforementioned rules and sections.

In 1910, Calcutta High Court in the case of *Padmabati Dasi v. Rasik Lal Dhar* [1] adhered strictly to Order XIX Rule 3 of the CPC and laid down that *every affidavit should clearly express how much is a statement of the affiant’s knowledge and how much is a statement of his belief, and the grounds of belief must be stated with sufficient particularity to enable the Court to judge whether it will be correct to rely on such belief.*

In another case, *M/s Sukhwinder Pal Bipan Kumar and others v. State of Punjab and other* [2], this Court reiterated the aforementioned principle and held that under Order XIX, Rule 3 of the Code of Civil Procedure it was mandatory for the affiant to disclose the nature and source of his knowledge and information with sufficient particulars. The Court also held that in a petition where allegations are not affirmed, as aforesaid, it cannot be regarded as supported by an affidavit as required by law.

### ***What is the notarization process for signing an Affidavit?***

Affidavits need to be notarized. Notary Publics are not difficult to find, your bank or credit union may even offer free notary services. Having the document notarized is necessary, especially if it is to be used in court. When you bring this form to a Notary Public, they will:

1. Check your ID to confirm that you are who you say you are
2. Administer an oath or affirmation
3. Verify that you appeared before the notary
4. Verify that they saw you sign the Affidavit
5. Note that you signed without duress
6. Verify that you swore or affirmed under penalty of perjury

### ***What are the most common types of affidavits?***

Affidavits can be used for many reasons, but they all share a common trait: the person signing is making a declaration, under oath, that what's in the affidavit is true to the best of their knowledge and belief. Here are some common types of affidavits and what they're used for.

- **Affidavit of Birth** In the event you can't locate your birth certificate, this Affidavit can be used to verify some of the facts surrounding your birth. Typically, this Affidavit form will be completed by one of your blood relatives or the attending midwife or physician. This person will state their relationship to you, how they have knowledge of your birth circumstances, and attest to the relevant information (such as county and date of birth).
- **Affidavit of Name Change** If you go by a name different than your birth name but haven't officially changed it through the court, use an Affidavit of Name Change. Typically, another person (most often your spouse or a blood relative) will sign this and swear that you use a name different from your what's on your birth certificate.

- **Affidavit of Support** Most commonly used while sponsoring an immigrant to the United States, this Affidavit form simply states that the signer will be financially responsible for the incoming immigrant. The names and addresses of both parties are commonly included with the sponsor's signature.
- **Affidavit of Heirship** In the event that someone dies without a Will, an Affidavit of Heirship can be used to help ensure that the deceased's heirs can gain control of their estate. Generally, this Affidavit will need to be witnessed by people who don't stand to benefit from the deceased's estate and it can be instrumental in avoiding the often costly and lengthy probate process.
- **Affidavit of Death** This is a simple Affidavit usually handled by an estate administrator. It's used to notify creditors, the court and businesses that someone has died. This allows the executor or estate administrator to perform their duties.
- **Affidavit of Domicile** This Affidavit is most commonly used by estate administrators and executors when transferring cash, stocks or investment assets of the deceased. Banks and accountants often need proof of the deceased's residence to release this property, while government agencies may use this Affidavit to levy certain taxes.
- **Affidavit of Residence** This legal document simply states your place of residence and is often used shortly after you've moved but before you've submitted paperwork to the DMV or other government agency. You may need it to enroll your child in the local school or to swear to a court or business that you reside at a certain address.
- **Affidavit of Small Estate** Small estates generally have an easier path through the probate process. You can use this Affidavit to inform the court that the estate in question qualifies as a "small estate," which is usually capped around \$150,000. Note that residents of New Hampshire, Kentucky, and Georgia should not use this document.
- **ID Theft Affidavit** In the unfortunate instance your identity is stolen, use an ID theft Affidavit to inform creditors, banks and other businesses. You'll note the day you became aware of the theft and swear that certain actions, like large purchases, were made by the thief, not you.

## **FORMAT OF AFFIDAVIT**

If the name of a person does not have a last name, then his/ her father's first name should be filled in the mandatory 'Last Name' field. In such a case, an affidavit duly notarized

by a Notary Public should also be submitted along with DIN application, in the format given below:

### **1. Specimen/Format of Affidavit:**

(If ID proof has single name for applicant)

I \_\_\_\_ (Applicant Name as per id proof), residing at \_\_\_\_ (Address as per address proof) do solemnly affirm and stated as under:

I am \_\_\_\_ and my name \_\_\_\_, appearing on the enclosed ID proof, is single name. My father's name is \_\_\_\_\_. For applying DIN application of mine, I am mentioning my father's name "\_\_\_\_\_" as my Last name, as this a mandatory requirement for applying DIN. (Referred point no. 16 in FAQ at ([www .mca.gov.in](http://www.mca.gov.in))). Both names denote one and the same person.

I solemnly state that the contents of this affidavit are true to the best of my knowledge and belief and that it conceals nothing and that no part of it is false.

*Please Note:* Affidavit should be notarized by Notary only (Code of Civil Procedure, 1908) and same should not be attested either by Chartered Accountant or Company Secretary or Cost Accountant.

### **2. Affidavit for Proof of Signature**

#### **AFFIDAVIT**

I, \_\_\_\_\_ do hereby solemnly affirm and declare as under:-

1. That I am the owner of \_\_\_\_\_.
2. That my specimen signature is as under:
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_
  - c) \_\_\_\_\_

**DEPONENT**

#### **VERIFICATION:-**

Verified that the contents of my above said affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

**DEPONENT**

### **3. AFFIDAVIT FOR MARRIAGE**

#### **Affidavit for Marriage Certificate by Groom**

##### **AFFIDAVIT**

I, \_\_\_\_\_ son of \_\_\_\_\_, resident of \_\_\_\_\_, do hereby solemnly affirm and declare as under:

- 1- That I am \_\_\_\_\_ years old and am major according to the law.
- 2- That I was married with \_\_\_\_\_ Daughter of \_\_\_\_\_, resident of \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ according to \_\_\_\_\_ rites and ceremonies in the presence of friends, relatives and family members of both the parties.
- 3- That no dowry was taken or given by either party in the said marriage.
- 4- That no pressure or undue influence was practiced upon me for my said marriage.

DEPONENT

##### **VERIFICATION:**

Verified that the contents of my above affidavit are true and correct to best of my knowledge and belief and nothing has been concealed therein.

Verified at \_\_\_\_\_ on \_\_\_\_\_

DEPONENT

#### **• Affidavit for Marriage Certificate by Bride**

##### **AFFIDAVIT**

I, \_\_\_\_\_ wife of \_\_\_\_\_, resident of \_\_\_\_\_, do hereby solemnly affirm and declare as under:

- 1- That I am \_\_\_\_\_ years old and am major according to the law.
- 2- That I was married with \_\_\_\_\_ Son of \_\_\_\_\_, resident of \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ according to \_\_\_\_\_ rites and ceremonies in the presence of friends, relatives and family members of both the parties.
- 3- That no dowry was taken or given by either party in the said marriage.
- 4- That no pressure or undue influence was practiced upon me for my said marriage.

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##### **VERIFICATION:**

Verified that the contents of my above affidavit are true and correct to best of my knowledge and belief and nothing has been concealed therein.

Verified at \_\_\_\_\_ on \_\_\_\_\_

DEPONENT

#### 4. Trade License Affidavit

##### AFFIDAVIT FOR TRADE LICENSE

I, \_\_\_\_\_ Son/Daughter of \_\_\_\_\_ resident of \_\_\_\_\_, Authorized Signatory/Proprietor/Partner/Director of M/s. \_\_\_\_\_ situated at \_\_\_\_\_ do hereby solemnly declare as under:-

1. That I have applied for the renewal of license/grant of registration under Adhoc registration scheme \_\_\_\_\_ for running the trade/unit of \_\_\_\_\_ of \_\_\_\_\_.
2. That I had started the trade / unit above promises w.e.f. \_\_\_\_\_.
3. That the said trade/ unit is not pollutant/noxious/ hazards/inflammable.
4. That I have submitted the following documents as proof of running the above said shop/trade/commercial unit:-
  - 1) Undertaking Affidavit
  - 2) NOC From Owner
  - 3) Lease deed/ Rent Agreement etc.
  - 4) Memorandum, Articles of Association
  - 5) Resolution (Authorized Signatory)
  - 6) Registration charges /Conversion Charges receipt.
  - 7) Site Plan & Key Plan etc.
5. That I am in occupation of the said premises as owner/tenant w.e.f. \_\_\_\_\_.
6. That I have/do not have an electric connection in my name.
7. That the \_\_\_\_\_ shall be empowered to revoke my registration/license, if any unauthorized construction is noticed in the aforesaid premises. The \_\_\_\_\_ authorities shall be competent to demolish the unauthorized construction and I shall not claim any compensation on that account.
8. That I/we will not claim any alternative site in any confirming area in lieu of the of the ad hoc registration/ license granted to me/us for the above said trade/unit run by me us in the non-confirming area details whereof have been mentioned here in above.
9. That nothing has been concealed in this connection and I/we shall be responsible for all the consequences in case the above contents are found incorrect and registration may be cancelled at my/ our own risk.

10. That I shall not claim regularization construction in respect of the premises in which the above said trade/ commercial activity in being run by me/ us on the basis of such ad hoc license/ registration.

11. That I have neither changed the trade/commercial activity for which the ad hoc license was issued to me/ us in the year \_\_\_\_\_ nor have I/we added any new trade/ commercial unit after the grant of ad hoc license/ registration.

Deponent

#### VERIFICATION:-

Verified at \_\_\_\_\_ on this \_\_\_\_\_ Month, \_\_\_\_\_ (Year) that contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing is false or has been concealed there from.

Deponent

### 5. Contractual Job Affidavit

#### AFFIDAVIT

I, \_\_\_\_\_ Son of \_\_\_\_\_ Resident of \_\_\_\_\_, do hereby solemnly affirm and certify that

1. I am bonafide applicant for engaging on contractual basis as as \_\_\_\_\_ for a period of \_\_\_\_\_ months/years.
2. I further affirm that I aware of terms and conditions of the offer of contractual engagement with \_\_\_\_\_ and I agree to abide by all the terms and conditions of said offer.
3. I am to state that all the credentials/ certificates and statements made by me while applying for the contractual engagement of \_\_\_\_\_ as are true and the certificates/ testimonials submitted by me are bonafide.
4. I am fully aware that in future, if it is detected that the above details given by me are found to be incorrect/false/fake, then I will be be fully responsible for the same and the \_\_\_\_\_ will be free to take any action against me, both criminal and civil proceedings, as deemed fit.
5. I am fully aware that the offer of engaging on contractual basis is only of r a period of \_\_\_\_\_ and I will not claim any regular employment in \_\_\_\_\_ on any grounds whatsoever.
6. I further affirm that on the above terms and conditions I am willing to accept the offer of engagement on contractual basis with \_\_\_\_\_ if found suitable otherwise.

7. That in event of any loss caused to the \_\_\_\_\_ during the course of any discharge of official duties by me, I shall keep the \_\_\_\_\_ under indemnified all the losses and claims.

Date: \_\_\_\_\_

DEPONENT

Verification: –

I, \_\_\_\_\_, hereby declare that the contents from Paras 1 to 7 are correct.

DEPONENT

## 6. Affidavit for Education Loan

### AFFIDAVIT

I \_\_\_\_\_ son/daughter of \_\_\_\_\_ resident of \_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That I am citizen of \_\_\_\_\_.
2. That I am going to pursue/pursuing \_\_\_\_\_ full time course \_\_\_\_\_ from \_\_\_\_\_.
3. That I and my other Brother [s] & Sister [s] named \_\_\_\_\_ and \_\_\_\_\_ have not taken any education loan from any bank/Financial institution.
4. That my date of birth is \_\_\_\_\_, \_\_\_\_\_.
5. That I confirm my Father's Real name is "\_\_\_\_\_", which is on all his Legal Documents.
6. That if any chance the information I am giving to organization is not true, I will take all the responsibilities.
7. That I declare that the information furnish above by me is true to best of my knowledge and belief and no information has been concealed by me.

DEPONENT

### VERIFICATION:-

Verified at \_\_\_\_\_ on this \_\_\_\_\_, \_\_\_\_\_, that the contents of this affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

DEPONENT



