

FORM 1 – SUMMONS TO APPEAR

Victorian Civil and Administrative Tribunal Rules 2018 Rule 4.19
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

Complete in block letters

VCAT reference number:

Applicant:

Respondent:

SUMMONS TO APPEAR

To:

Name

Address

You are summoned pursuant to section 104 of the **Victorian Civil and Administrative Tribunal Act 1998**

to appear before the Victorian Civil and Administrative Tribunal at

.....[address of Tribunal]

atam/pm on [date], or, if notice of a later day is given to you by the Tribunal [*or identify party seeking the attendance of the person summoned*] or the solicitor for that party, the later day, and until you are excused from further attending

to give evidence; and

to produce the following documents:

.....
.....

Principal Registrar

Date

This summons has been issued at the:

request of the applicant

request of the respondent

direction of the principal registrar

direction of the Tribunal

Note:

1. Certain fees and allowances are payable to a witness.
2. Failure to attend at the time and place specified above without reasonable excuse may render you liable to imprisonment, a fine, or both, as well as a daily penalty until you attend or produce the document as required, under section 134 of the **Victorian Civil and Administrative Tribunal Act 1998**.
3. The Tribunal may direct your apprehension if you fail to attend.

AFFIDAVIT OF SERVICE FOR SUMMONS TO WITNESS

VCAT reference number

I, of

..... in the State

of Victoria make oath and say that I served

..... (Name of witness)

with the summons by :

- delivering a true copy to the witness personally;
- by sending it by post, facsimile or other electronic transmission;
- by leaving with the same for the witness at their usual or last known residential or business address with a person on the premises apparently at least 16 years old and apparently residing or employed there;
- to the registered office of the company at:

on the day of 20..... at *am/pm

*on facsimile number

Sworn at in the said State, the day of

..... 20.....

Deponent's signature:
(person making affidavit to sign here)

Before me:
(signature of person taking affidavit)

.....
(print name, address & qualification)

The authorised witness must print or stamp his or her name, address, and title. Authorised witnesses include justice of the peace, police officer with the rank of sergeant or higher, legal practitioner, judge, registrar of the Magistrates' Court, registrar of the County Court, member or registrar of VCAT, member of the Parliament of Victoria. For a complete list of people authorised to receive affidavits, see *Evidence (Miscellaneous Provisions) Act 1958*.

Sending the summons

A summons is a legal document. There are rules about how you send (serve) it to a person, company or association. If the summons is not sent properly, they do not have to do what it says.

Paying expenses and costs

When you send a summons to someone you must also make a payment to cover reasonable expenses, so they can do what is required. For example, the payment may have to cover:

- travel to and from VCAT
- accommodation, if they have to stay overnight
- printing or photocopying costs.

You can provide money or an equivalent, such as pre-paid travel.

How much to pay depends on who you summons and what you want them to do. It will be different for each summons. Take care not to underestimate the amount.

After responding to the summons, they can ask VCAT to order that you pay reasonable costs. This could be expensive – for example, if you have to pay their legal fees or compensation for lost wages.

How to send the summons

To summons an **individual**, you must:

- deliver the summons personally
- send it by post, email or other electronic transmission to their usual or last known residential or business address, or
- leave it at their usual or last known residential or business address with a person on the premises who appears to be at least 16 years old and living or employed there.

To summons a company, you must:

- deliver the summons personally to the registered office of the company
- send it by post, fax or other electronic transmission to the registered office of the company, or
- provide it in any other way that documents may be sent to a body corporate.

See vcat.vic.gov.au/summonsguide for more information about serving a summons, including:

- to an incorporated or unincorporated association
- by advertisement or publication
- outside Victoria.

Legal requirements for summons are outlined in the *Victorian Civil and Administrative Tribunal Act 1998* (section 140) and VCAT Rules 4.20.

Proving that you sent the summons

To prove that you served the summons properly, you can complete and sign the Affidavit of Service (page 2) with a person authorised to take affidavits.

Authorised to take affidavits:

- A senior municipal council officer
- A Victorian public servant who is authorised to take affidavits
- A police sergeant or higher ranking officer, or a police officer in charge of a police station
- A current Australian legal practitioner – for example, a solicitor
- A Justice of the Peace or a Bail Justice
- The prothonotary or deputy prothonotary of the Supreme Court
- The Registrar or a Deputy Registrar of the County Court or Magistrates' Court
- A VCAT registrar
- Anyone else authorised under the *Oaths and Affirmations Act 2018* (see section 19).

Not authorised:

- Dentists
- Doctors
- Pharmacists
- Teachers
- Bank managers
- Accountants