

FORM 1 – SUMMONS TO APPEAR

Victorian Civil and Administrative Tribunal Rules 2018 Rule 4.19

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

Please complete in block letters

Tribunal Reference No: _____

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]*

at _____ am pm on _____ / _____ / _____ *[date dd/mm/yyyy]*, or, if notice of a later day is

given to you by the Tribunal, or _____

[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, and 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 _____
[Full name] [Address]

_____, _____
[Address continued] [Occupation]

affirm make oath and say that I served _____
[Name of witness]

with the summons:

[tick whichever is applicable]

- 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 their address or by fax:

[Address or fax number of registered office of the company]

on _____ at _____ am pm
[Date] [Time]

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

Affirmed Sworn at _____ in the State of Victoria on

[Date]

Deponent's signature:
[Person making affidavit to sign here]

Before me on _____
[Signature of authorised affidavit taker] [Date]

[Write or stamp name, capacity in which person is authorised to take an affidavit and address]

Authorised affidavit takers include justice of the peace, bail justice, 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, go to the Department of Justice and Community Safety website at www.justice.vic.gov.au.

How do I serve a summons to appear?

A summons may be served in a manner set out in section 140 of the **Victorian Civil and Administrative Tribunal Act 1998**, which reads as follows:

Section 140

1. For the purposes of this Act, a notice, order or other document may be served on or given to a person -
 - a. if the person is a natural person -
 - i. by delivering it personally to the person; or
 - ii. by sending it by post, facsimile or other electronic transmission to the person at his or her usual or last known residential or business address; or
 - iii. by leaving it at the person's usual or last known residential or business address with a person on the premises who is apparently at least 16 years old and apparently residing or employed there; or
 - b. if the person is a company incorporated under the Corporations Act-
 - i. by delivering it personally to the registered office of the company; or
 - ii. by sending it by post, facsimile or other electronic transmission to the registered office of the company; or
 - iii. in any other way that service of documents may be effected on a body corporate; or
 - c. if the person is an incorporated association within the meaning of the **Associations Incorporation Reform Act 2012**, in accordance with section 217 of that Act; or
 - d. in any case-
 - i. in a manner permitted by the rules; or
 - ii. in a manner directed by the Tribunal.
2. For the purposes of this Act, a notice or other document may be served on or given to an unincorporated association-
 - a. by delivering it personally to the president, secretary or other similar officer of the association; or
 - b. by sending it by post, facsimile or other electronic transmission to the president, secretary or other similar officer of the association at that person's usual or last known residential or business address; or
 - c. in any other manner
 - i. permitted by the rules; or
 - ii. directed by the Tribunal.
3. If the Tribunal directs that notice be given to a person, or a class of persons, by advertisement or publication of the notice, that advertisement or publication must be taken to be service of notice on the person, or persons in that class, as the case requires.

Who is authorised to take an affidavit?

People qualified to take affidavits in Victoria include:

- justice of the peace
- bail justice
- police officer with the rank of sergeant or higher
- police officer currently in charge of a police station
- legal practitioner
- judge
- associate to any judge
- registrar of the Magistrates' Court
- registrar of the County Court
- member or registrar of VCAT
- public notary.

Please note dentists, doctors, pharmacists, teachers, bank managers and accountants are **not qualified** to take affidavits.

For a complete list of people authorised to receive affidavits, go to the Department of Justice and Community Safety website at www.justice.vic.gov.au.