

APPLICATION TO THE CIVIL CLAIMS LIST

PRIVACY STATEMENT

A copy of VCAT's privacy policy is available on the VCAT Website - www.vcat.vic.gov.au/privacy

GETTING STARTED

WHO CAN MAKE THIS APPLICATION?

Consumers, traders, companies, registered businesses, incorporated associations and trustees of trusts can make this application about disputes arising from the purchase of goods and services for private or business use, the supply of services in trade or commerce, alleged breaches of the consumer laws and other disputes arising from the supply of goods or services.

READ THE GUIDE "MAKING AN APPLICATION TO THE CIVIL CLAIMS LIST AT VCAT" FOR MORE INFORMATION.

Fields marked with an asterisk (*) must be completed.

WHICH ACT/S ARE YOU MAKING THIS CLAIM UNDER?

(Read the Guide for more information) Please select at least one Act *

☐ Australian Consumer Law and Fair Trading Act 2012

☐ Other, please specify

Are you making this application in response to another VCAT application that has been served on you?

☐ No

☒ Yes - Provide VCAT reference number

Are you making this application in response to a claim made by a supplier in a Victorian court (not VCAT)?

☐ No

☒ Yes

You must lodge this form (in person or by mail) and pay the application fee and the transfer application fee, or apply for fee relief. You must also attach a copy of the court documents and pay into the VCAT suspense account (by bank cheque, money order or in person) the full amount claimed against you in the court proceeding.

Are you seeking an injunction?

☐ No

☒ Yes - There is an additional fee if you are applying for an injunction.

CLAIM AND PAYMENT DETAILS

How much is your claim?

\$

Please enter the amount you are claiming in the box above (or if not claiming an amount enter the approximate value of your claim). The amount you claim will determine the application fee payable. To check the current fee, go to the VCAT website at www.vcat.vic.gov.au.

WHO IS MAKING THIS APPLICATION?

The applicant is the person who makes this application. As applicant are you: *

☐ an individual

☐ an individual trading under a business name

☐ a company

☐ a trustee

☐ an incorporated association

Do you want VCAT notices and correspondence emailed to you?

☐ No

☒ Yes

Please make sure your email address on page 2 is correct

If you are an individual -

First name *

Last name *

Who is making this application? (continued.)

Do you wish to be identified as a person of Aboriginal and/or Torres Strait Islander descent?

☐

No

☐

Yes

If you are an individual trading under a business name -

First name *	Last name *
Business Name *	
ABN *	

If you are a company -

Company name *	trading as
ABN or ACN *	

If you are a trustee -

First name *	Last name *
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OR if trustee is a company

Company name *
ABN or ACN *

AND in either case

Name of trust *

If you are an incorporated association -

Name of association *	Organisation No. *
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What is your address?

Address *		
Suburb *	State *	Postcode *

How can VCAT contact you?

Name of contact person *	
Daytime telephone *	Fax
Email	

Are you represented by a lawyer or a professional advocate?

☐ No ☒ Yes: complete information below

Name of law firm or professional advocate		
Address		
Suburb	State	Postcode
Name of contact person		
Daytime telephone	Fax	
Email		

Is there another applicant making this application with you?

- ☐ No - go to page 4 and complete section "Who are you making this claim against?"
- ☒ Yes - Complete section "Second applicant's details" on page 3
(If more than two applicants, photocopy page 3 and complete for each applicant)

SECOND APPLICANT'S DETAILS If more than two applicants copy this page, complete and attach

If the second applicant is an individual -

First name *	Last name *
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Does the second applicant wish to be identified as a person of Aboriginal and/or Torres Strait Islander descent?

☐

No

☐

Yes

If the second applicant is an individual trading under a business name -

First name *	Last name *
--------------	-------------

Business name *

ABN *

If the second applicant is a company -

Company name *	trading as
----------------	------------

ACN or ABN *

If the second applicant is a trustee -

First name *	Last name *
--------------	-------------

OR if trustee is a company

Company name *

ACN or ABN *

AND in either case

Name of trust *

If the second applicant is an incorporated association -

Name of association *	Organisation No. *
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What is the second applicant's address?

Address (or "as for first applicant")

Suburb	State	Postcode
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How can VCAT contact the second applicant?

Name of contact person (or "as for first applicant")
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Daytime telephone *	Fax
---------------------	-----

Email

Is the second applicant represented by a lawyer or a professional advocate?

☐ No
 ☐ Yes, same as first applicant
 ☐ Complete below if different from first applicant

Name of law firm or professional advocate

Address

Suburb	State	Postcode
--------	-------	----------

Name of contact person

Daytime telephone	Fax
-------------------	-----

Email

WHO ARE YOU MAKING THIS CLAIM AGAINST?

The respondent is the person you are making this application against. Is the respondent: *

- ☐ an individual
 ☐ an individual trading under a business name
 ☐ a company
 ☐ a trustee
 ☐ an incorporated association

If the respondent is an individual -

First name * Last name *

If the respondent is an individual trading under a business name -

First name * Last name *

ABN *

Business name

If the respondent is a company -

Company name * trading as

ACN or ABN *

If the respondent is a trustee -

First name * Last name *

OR if trustee is a company

Company name *

ACN or ABN *

AND in either case

Name of trust *

If the respondent is an incorporated association -

Name of association * Organisation no. *

What is the respondent's address and contact details?

- If the respondent is an individual - provide a street address (PO Box is not sufficient)
- If trading under a business name - provide address for service of documents as on the ASIC Business Name Extract (see page 8)
- If a company - provide address of Registered Office as on the ASIC Company Extract (see page 8)
- If an incorporated association - provide address on CAV Extract (see page 8)

Address *

Suburb *

State *

Postcode *

Telephone (if known)

Fax (if known)

Email (if known)

Is the respondent represented by a lawyer or a professional advocate?

- ☐ Yes: complete information below
 ☐ No
 ☐ Don't know

Name of law firm or professional advocate

Address

Suburb

State

Postcode

Name of contact person

Daytime telephone

Fax

Email

Are you claiming against another respondent?

☐ No - go to page 6 ☐ Yes - Complete section "Second respondent's details" below

SECOND RESPONDENT'S DETAILS If more than two respondents copy this page, complete and attach

If the second respondent is an individual -

First name * Last name *

If the second respondent is an individual trading under a business name -

First name * Last name *

Business name *

ABN *

If the second respondent is a company -

Company name * trading as:

ACN or ABN *

If the second respondent is a trustee -

First name * Last name *

OR if trustee is a company

Company name *

ACN or ABN *

AND in either case

Name of trust *

If the second respondent is an incorporated association -

Name of association * Organisation No. *

What is the second respondent's address and contact details?

- ▶ **If the second respondent is an individual** - provide a street address (PO Box is not sufficient)
- ▶ **If trading under a business name** - provide address for service of documents as on the ASIC Business Name Extract (see page 8)
- ▶ **If the second respondent is a company** - provide address of Registered Office as on the ASIC Company Extract (see page 8)
- ▶ **If an incorporated association** - provide address on CAV Extract (see page 8)

Address *

Suburb * State * Postcode *

Telephone (if known) Fax (if known)

Email (if known)

Is the second respondent represented by a lawyer or a professional advocate?

☐ Yes: complete only if different from first respondent ☐ No ☐ Don't know

Name of law firm or professional advocate

Address

Suburb State Postcode

Name of contact person

Daytime telephone Fax

Email

CLAIM DETAILS

What is your claim about?

☐

Goods

☐

Services

☐

Goods and services

What types of goods were bought, sold or given to you and/or what was the nature of the services supplied or given?
(e.g. computers; refrigerators; accounting services; landscaping products and services; supply and installation of a heater etc)

When were the goods bought or sold and/or the services supplied?

dd

 /

mm

 /

20yy

Where were the goods bought or sold and/or the services supplied?

When did you become aware of the problem or defect?

dd

 /

mm

 /

20yy

What was the price of the goods and/or services?

\$

How much has been paid for the goods and/or services to date?

\$

What is the problem with the goods and/or services?

Briefly describe the problem. Be clear and include enough information to enable the respondent to understand the claim.
If claiming payment of money, you must include details of each amount claimed.
If you do not provide enough information the hearing may be adjourned to allow the respondent to prepare a defence.
If the hearing is adjourned you may need to pay a hearing fee for any adjourned hearing.
If you need more space, include an extra sheet.

What orders do you want VCAT to make?

How much is your claim?

\$

Please enter the amount you are claiming in the box above (or if not claiming an amount enter the approximate value of your claim) and tick the order you want below. The amount you claim will determine the commencement fee payable. To check the current fee, go to the VCAT website at www.vcat.vic.gov.au/fees.

- ☐ An order that the respondent pay me the amount of my claim
- ☐ An order that I do not owe the respondent the amount of my claim
- ☐ An order that I reject the goods and get a refund or replacement in the amount of my claim
- ☐ An order that the respondent performs the obligations under a contract
- ☐ An order that the respondent repairs goods, the value of repairs being the amount of my claim
- ☐ An order that the respondent delivers or returns goods to the value of my claim
- ☐ An order that the respondent does work or provides services to the value of my claim
- ☐ An order that I cancel the services and get a refund in the amount of my claim
- ☐ An order to cancel the sale of a car I bought for \$40,000 or less, to the value of my claim
- ☐ An order to declare unfair a term in a consumer contract
- ☐ Other please specify

Why do you want these orders?

Please tick any statements below that are relevant to your claim.

- ☐ The respondent has not paid me for my goods/services
- ☐ The goods/services do not fulfill all the purposes which I made known to the salesperson or supplier which would have been known to the salesperson or supplier
- ☐ The goods are not fit for all the purposes for which goods of that kind are commonly supplied
- ☐ The goods do not match the sample or demonstration model
- ☐ The goods are not of acceptable quality
- ☐ The goods are not acceptable given the nature of the goods, the price of the goods, the statements made about the goods on the packaging and label and/ or the representations made about the goods by the salesperson
- ☐ The goods do not match their description on the website/catalogue/order form/other
- ☐ The respondent/ the respondent's representative misled me about the goods/services
- ☐ The goods were sold to me without clear title or had undisclosed securities
- ☐ The manufacturer of the goods was unable to repair them or provide me with spare parts
- ☐ An extra promise was made to me that has not been honoured
- ☐ The product resulting from the service did not fulfil the purpose which I made known to the salesperson or would have been known to the salesperson
- ☐ The service was not rendered with due care and skill
- ☐ The service was not supplied in a reasonable time
- ☐ The respondent made a false or misleading representations in connection with or when promoting the service
- ☐ The respondent breached the contract to provide goods/services for the reasons set out in the section "What is the problem with the goods and/or services" above.

HEARING ARRANGEMENTS

Do you or any other person appearing at the hearing need special assistance?

☐ No ☐ Yes – specify what special assistance is needed below

☐ hearing loop

☐ interpreter – who needs an interpreter?

First name

Last name

Language/dialect

☐ security

☐ other (e.g. assisted access) - please specify

SUPPORTING DOCUMENTS

YOU MUST ATTACH TO THIS APPLICATION:

☐ **IF THE RESPONDENT IS AN INDIVIDUAL TRADING UNDER A BUSINESS NAME -**

An extract of the respondent's business name showing the address for service of documents
Details of how to obtain a Business Name Extract are at www.asic.gov.au

☐ **IF THE RESPONDENT IS A COMPANY -**

An ASIC Company Extract showing the address of the Registered Office of the company
Details of how to obtain a Company Extract are at www.asic.gov.au

☐ **IF THE RESPONDENT IS AN INCORPORATED ASSOCIATION WITHIN THE MEANING OF THE ASSOCIATIONS INCORPORATION REFORM ACT 2012 (VIC) -**

An extract from the Register of Incorporated Associations held by Consumer Affairs Victoria
Details of how to obtain an Incorporated Associations Extract from CAV are at www.consumer.vic.gov.au

If the respondent is an individual, you do not need any supporting documents.

Do not include other documents with the application. You will receive information from VCAT about sending them to the respondent before the hearing and providing a copy to VCAT at the hearing.

APPLICATION CHECKLIST

- ☐ I have attached a recent ASIC Company or Business Name Extract (if the respondent is a company or trading under a business name) or an Incorporated Association Extract from CAV
- ☐ I have paid and attached the relevant application fee or I have applied for a fee waiver
- ☐ **I HAVE MADE A COPY OF THIS APPLICATION FOR MY OWN RECORDS**

ACKNOWLEDGMENT

By completing this application, you understand and acknowledge that:

- to the best of your knowledge, all information provided in this application is true and correct.
- it is an offence under section 136 of the Victorian Civil and Administrative Tribunal Act 1998 to knowingly give false or misleading information to VCAT.

Date

 / /

HOW CAN YOU LODGE THIS APPLICATION?

Posting it to:

Victorian Civil and Administrative Tribunal
Civil Claims List
GPO Box 5408
Melbourne VIC 3001

Delivering it in person to:

Victorian Civil and Administrative Tribunal
VCAT Service Counter
Ground Floor, 55 King Street
Melbourne VIC 3000
Office hours: 8.30 am - 4.30 pm Monday to Friday

Faxing it to:

(03) 9628 9967

WHAT HAPPENS NEXT?

We review your application and contact you if we need more information. We tell you whether VCAT accepts your application.

For disputes between \$500 and \$10,000

You may get a call from the Dispute Settlement Centre of Victoria if we decide your case is suitable for Fast Track Mediation and Hearing. The Dispute Settlement Centre is a state-wide dispute resolution service for both community and civil disputes. Find out more at vcat.vic.gov.au/fast-track.

We send you a VCAT Notice

We send you and each respondent a Notice that states the time, date and place for a mediation, compulsory conference, directions hearing or hearing.

The notice has important information about what you must do and how to prepare.

Use the VCAT reference number

We give the case a VCAT reference number. You must use this number in all correspondence and on all documents relating to the case. The VCAT reference number starts with a 'C' and ends with the year the application is lodged – for example, C1234/2019.

Send your documents to the other party

By law, when you send documents to VCAT related to your case you must also send them to the other party, so the proceeding is open and fair. How to do this and by when will be explained in the Notice that we send you.

ABOUT VCAT FEES

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than \$200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than \$200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at www.vcat.vic.gov.au

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.

Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.

Visit www.vcat.vic.gov.au/feerelief for more information about fee relief.

Are you applying for fee relief?

- ☐ No - complete **Fee payment** section
- ☐ Yes - complete **Fee relief form** and attach it to this application form

FEE PAYMENT

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

- ☐ Standard ☐ Corporate ☐ Concession

Fee amount charged: \$ _____

CARD DETAILS

Cards Accepted: * ☐ VISA ☐ MasterCard

Cardholder Name: *

Card Number: *

Card Expiry: * mm / yy

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES