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| Making an application for an exhumation licence |
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# Introduction

Applying for an exhumation licence under s. 156 of the *Cemeteries and Crematoria Act 2003* (the Act) can be a complex and lengthy process.

The department recommends that applicants start planning early for the proposed exhumation and allow at least six months for their application to be considered.

If an applicant anticipates that there might be objections to the proposed exhumation within the deceased’s family, the applicant needs to be prepared for the possibility that the application will be refused, or that it will be granted subject to the condition that no exhumation occurs within 60 calendar days of the date of the issue of the licence.

Applicants are encouraged to use the checklist below to ensure they submit a complete application. Submitting an incomplete application will cause delays in the processing of the application and may, at the department’s discretion, result in the rejection and return of the application in full for completion and re-submission.

# Checklist

## Completed application form

Please refer directly to the application form, *Application to Secretary for exhumation licence* (Form 5), for instructions as to its completion.

## Supporting documents

Section 156(3) of the Act requires that an application for an exhumation licence must be accompanied by one of the following:

* a death certificate issued under s. 46 of the *Births Deaths and Marriages Registration Act 1996*
* a copy of an order made by a Coroner under s. 47 of the *Coroners Act 2008*, releasing the body of the deceased to a specified person
* if the deceased died outside of Victoria (interstate or overseas), a copy of the document corresponding to a notice under s. 37(2) of the Births Deaths and Marriages Registration Act from the jurisdiction where the death occurred
* if the application pertains to a stillborn child, a notice of still-birth under the Births Deaths and Marriages Registration Act, or if the still-birth occurred outside Victoria, a document from that jurisdiction corresponding to a notice of still-birth
* a statutory declaration made by the applicant stating that, owing to special circumstances, it is not possible to produce one of the required documents.[[1]](#footnote-1)

Applicants may submit either the originals **or** certified copies of the documents required under s.156(3)(a)-(d) and originals **or** certified copies of any other supporting documentation (such as Will, Probate, death certificates) when lodging their application. As the department **cannot** return original documents, it is strongly recommended the applicant submits **certified copies** of any supporting documents.

## Proof of identity documentation

Applicants for an exhumation licence are required to provide documentation to prove their identity in accordance with the following table. A certified copy[[2]](#footnote-2) of one current document is required from **each** of the three categories. If you are not able to meet this requirement, please contact the department for other options.

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| Category 1  Evidence of link between photo and signature | Australian driver’s licence (or learner’s permit)  Australian passport  Australian firearm licence  Overseas passport |
| Category 2  Evidence of operating in the community | Medicare card  Credit card or ATM card  Australian security guard or crowd controller licence  Marriage Certificate issued by the Victorian Registry  Student or tertiary identity card  Australian Citizenship Certificate  Standard Birth Certificate issued in Australia  Department of Veterans’ Affairs card  Working with Children Check card |
| Category 3  Evidence of current residential address | Australian driver’s licence (or learner’s permit)  Utility account (including gas, water, electricity, mobile or home phone)  Rates notice  Centrelink concession card (Pension Concession Card, Health Care Card or Commonwealth Seniors Health Card)  Bank statement (including passbook, credit, savings or cheque accounts)  Current lease or tenancy agreement  Superannuation fund statement |

## Application fee

The application must be accompanied by the prescribed fee, as published on the [health.vic website](https://www.health.vic.gov.au/cemeteries-and-crematoria/applying-for-an-exhumation-licence) <https://www.health.vic.gov.au/cemeteries-and-crematoria/applying-for-an-exhumation-licence>. Payment of the prescribed application fee is to be made by cheque or money order made out to the Department of Health.

## Statement from the relevant cemetery trust

The cemetery trust must provide a statement confirming:

* whether it expects that the proposed exhumation can be accommodated
* if they do not expect that it can be accommodated (at all or at a particular time) the reasons for this – for example, ground conditions during a particular season
* the name of the holder of the right of interment for the place of interment from which the proposed exhumation is to occur (note that this cannot be a deceased person, so trusts may need to update their records prior to providing the statement).

This statement should be addressed to and provided to the applicant or their funeral director so it can be included in the application to the department. It should not be sent directly to the department and should not be dated more than 6 months prior to the date the application form is signed by the applicant.

## Statutory declaration (if required)[[3]](#footnote-3)

If an applicant is unable to sign the declaration at Part G of the application form because a surviving relative has not been informed or has an objection to the proposed exhumation, the applicant must submit a statutory declaration explaining the circumstances.

To ensure all of the relevant information is covered, this statutory declaration should mirror the declaration at Part G as closely as possible in the circumstances and should be clear and detailed.

When declaring that a surviving relative has an objection, the applicant should endeavour to include contact details for that relative, to facilitate the department’s consideration of the application. Failure to include these details is likely to cause delays.

If a surviving relative has an objection, the contents of the applicant’s statutory declaration may be disclosed to the objector, to appraise them of the basis for the application. This ensures that any objector has a fair opportunity to make informed submissions against the grant of an exhumation licence. If for any reason the applicant believes that the contents of their statutory declaration should not be disclosed, they should raise that with the Cemetery Sector Governance Support Unit of the department.

Under Part C of the application form, applicants must also provide a supplementary statutory declaration if they propose to cremate the deceased’s remains following the exhumation or wish to transport the remains interstate or overseas. This supplementary statutory declaration should mirror the declaration in Part G and state explicitly that direct relatives have been informed of the proposed cremation and/or transportation of the remains and have no objection to the proposed actions.

# Further information

For further information, please [email the Cemetery Sector Governance Support Unit](mailto:cemeteries@health.vic.gov.au) <cemeteries@health.vic.gov.au> or telephone (free call) 1800 034 280.

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| To receive this document in another format, phone 1800 034 280, using the National Relay Service 13 36 77 if required, or [email the Cemetery Sector Governance Support Unit](mailto:cemeteries@health.vic.gov.au) <cemeteries@health.vic.gov.au>.  Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.  © State of Victoria, Australia, Department of Health, December 2021.  ISBN 978-1-76096-658-4 (pdf/online/MS word)  Available at [health.vic](https://www.health.vic.gov.au/cemeteries-and-crematoria/applying-for-an-exhumation-licence) <https://www.health.vic.gov.au/cemeteries-and-crematoria/applying-for-an-exhumation-licence> |

1. The Victorian statutory declaration form is available on the [Department of Justice and Community Safety website](https://www.justice.vic.gov.au/statdecs) at <https://www.justice.vic.gov.au/statdecs>. [↑](#footnote-ref-1)
2. A person who can witness a statutory declaration can also certify a document. See the [Department of Justice and Community Safety website](https://www.justice.vic.gov.au/statdecs) at <https://www.justice.vic.gov.au/statdecs>. [↑](#footnote-ref-2)
3. The Victorian statutory declaration form is available on the [Department of Justice and Community Safety website](https://www.justice.vic.gov.au/statdecs) at <https://www.justice.vic.gov.au/statdecs>. [↑](#footnote-ref-3)