

TASMANIA

**TASMANIAN CIVIL AND ADMINISTRATIVE
TRIBUNAL AMENDMENT RULES 2022**

STATUTORY RULES 2022, No. 13

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TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT RULES 2022

The Rules Committee makes the following rules under section 92(1)(b) of the *Tasmanian Civil and Administrative Tribunal Act 2020*.

1. Short title

These rules may be cited as the *Tasmanian Civil and Administrative Tribunal Amendment Rules 2022*.

2. Commencement

These rules take effect on the day on which their making is notified in the *Gazette*.

3. Principal Rules

In these rules, the *Tasmanian Civil and Administrative Tribunal Rules 2021** are referred to as the Principal Rules.

4. Rule 20A inserted

After rule 20 of the Principal Rules, the following rule is inserted in Part 7:

20A. Amounts payable to person summoned

(1) In this rule –

costs amount, in relation to a person to whom a summons is issued by the Tribunal, means –

*S.R. 2021, No. 86

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- (a) for each day on which the person is required to attend before the Tribunal in accordance with the summons – the witness allowance, in relation to the summons, specified in subrule (6); and
- (b) the amount, of the reasonable costs of complying with the summons, that is greater than the witness allowance in relation to the summons and that –
 - (i) is agreed between the person and the party who applied for the summons to be issued; or
 - (ii) if the person and the party do not agree as to the amount of those costs – is determined by the Tribunal under subrule (5);

loss and expenses amount, in relation to a person to whom a summons is issued by the Tribunal, means a

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reasonable amount, for any loss or expense incurred by the person in complying with the summons (being an amount that is not included in the costs amount, in relation to the summons, whether or not the party is liable under subrule (2) to pay the costs amount to the person), that –

- (a) is agreed between the person and the party who applied for the summons to be issued; or
- (b) if the person and the party do not agree as to the amount – is determined by the Tribunal under subrule (5);

relevant officer means –

- (a) a State officer or a State employee; and
- (b) a police officer of this State, another State, a Territory or the Commonwealth; and
- (c) an officer, or employee, of another State or a Territory or the Commonwealth; and

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- (d) an officer, or employee, of a council or a local government body of another State or a Territory.
- (2) If a summons is, on the application of a party to proceedings, issued by the Tribunal to a person, the party is liable to pay to the person –
 - (a) the costs amount in relation to the summons; and
 - (b) the loss and expenses amount in relation to the summons.
- (3) Despite subrule (2), if a person to whom a summons is issued by the Tribunal on the application of a party is a relevant officer and the person is to appear before the Tribunal in that capacity, the party is not liable under that subrule to pay to the person the costs amount in relation to the summons, except in relation to any day that is a day on which –
 - (a) the person is required to appear before the Tribunal; and
 - (b) the person will be on leave from his or her employment or engagement as a relevant officer.
- (4) A person to whom a summons is, on the application of a party, issued by the

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Tribunal is not required to appear before the Tribunal in accordance with the summons on a day unless –

- (a) the party has paid to the person, before the end of a reasonable period before the day, the costs amount, in relation to the summons, that the party is liable to pay under subrule (2); or
- (b) the person has, before that day, accepted an undertaking by the party to pay to the person the costs amount, in relation to the summons, that the party is liable to pay under subrule (2); or
- (c) if –
 - (i) the party has, before the end of a reasonable period before the day, given to the person an undertaking to pay to the person the costs amount, in relation to the summons, that the party is liable to pay under subrule (2); and
 - (ii) the person has notified the party in writing before that day that the person does not accept the undertaking –

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the party has paid to the person, before that day, the costs amount, in relation to the summons, that the party is liable to pay under subrule (2).

- (5) The Tribunal, on the application of a party who has applied to the Tribunal for the issue of a summons to a person, or of a person to whom a summons has been issued by the Tribunal, may determine either or both of the following in relation to the summons:
- (a) the costs amount in relation to the summons;
 - (b) the loss and expenses amount in relation to the summons.
- (6) For the purposes of this rule, the witness allowance is \$100 for each day on which the person is required to attend before the Tribunal in accordance with the summons.
- (7) If the Tribunal, on its own motion, issues a summons to a person to attend before the Tribunal in proceedings –
- (a) the Tribunal may determine –
 - (i) which party or parties to the proceedings are to be taken, for the purposes of this rule, to have applied

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- to the Tribunal for the issue of the summons to the person; and
 - (ii) the costs amount, or the loss and expenses amount, or both, in relation to the summons; and
 - (iii) the proportions of the costs amount, or the loss and expenses amount, or both, in relation to the summons, that the party is liable to pay to the person; and
- (b) each party in relation to whom such a determination is made is to be taken, for the purposes of this rule –
- (i) to have applied to the Tribunal for the issue of the summons to the person; and
 - (ii) to be liable under subrule (2) to pay to the person the proportion, of the amounts determined under paragraph (a)(ii), that the Tribunal has determined under paragraph (a)(iii) the

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party is liable to pay to
the person.

**5. Rule 22 amended (When registrar may constitute
Tribunal)**

Rule 22 of the Principal Rules is amended by
inserting after paragraph (c) the following
paragraph:

- (ca) a determination by the Tribunal for the
purposes of rule 20A;

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These rules were made by the Rules Committee at a meeting held on 6 April 2022.

MALCOM SCHYVENS
President

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 13 April 2022.

These rules are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the rules)

These rules of the Rules Committee of the Tasmanian Civil and Administrative Tribunal provide for certain amounts to be paid, in certain circumstances, to persons who are issued a summons by the Tribunal on the application of a party to proceedings before the Tribunal.