



New South Wales

Civil and Administrative Tribunal Rules (Amendment No 1) 2014

under the

Civil and Administrative Tribunal Act 2013

The Rule Committee of the Civil and Administrative Tribunal has made the following Tribunal rules under the *Civil and Administrative Tribunal Act 2013*.

Sian Leathem
Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend the *Civil and Administrative Tribunal Rules 2014* to make further provision with respect to the granting of access (*third party access*) to Registry documents to persons who are not parties to proceedings.

In particular, the amendments:

- (a) limit third party access to proceedings that have been finally determined, and
- (b) enable a registrar to decide whether to grant third party access and to impose conditions on such access, and
- (c) redefine the term *public access document* in a manner consistent with the decision-making processes and Registry practices of the Tribunal.

Civil and Administrative Tribunal Rules (Amendment No 1) 2014

under the

Civil and Administrative Tribunal Act 2013

1 Name of Rules

These Rules are the *Civil and Administrative Tribunal Rules (Amendment No 1) 2014*.

2 Commencement

These Rules commence on the day on which they are published on the NSW legislation website.

Schedule 1 **Amendment of Civil and Administrative Tribunal Rules 2014**

Rule 42

Omit the rule. Insert instead:

42 Inspections of documents in Registry

- (1) Subject to the Act and this rule, a party to proceedings is, on payment of the applicable fee (if any), entitled to inspect documents in the Registry relating to the proceedings.

Note. This rule also has effect subject to any relevant enabling legislation—see rule 4 (3).

- (2) Subject to the Act and this rule, a registrar may, on payment of the applicable fee (if any), permit a person who is not a party to proceedings in the Tribunal to inspect public access documents in the Registry relating to proceedings in the Tribunal that are finally determined.
- (3) It is sufficient compliance with subrule (1) or (2) if the party or person is given, on payment of the applicable fee (if any), a copy of the document instead of access to the original document.
- (4) A registrar may impose such conditions as the registrar considers appropriate in relation to the granting of access under this rule to a public access document (or a copy of such a document) by a person who is not a party to proceedings in the Tribunal.
- (5) There is no entitlement under this rule to give or be given access to a document in the Registry (or a copy of such a document) if:
- (a) a claim for privilege has been made with respect to the document but not decided by the Tribunal, or
 - (b) the Tribunal has decided that the document contains matter that is privileged, or
 - (c) the Tribunal has ordered that the whole or part of the document not be disclosed, or
 - (d) the disclosure of the whole or part of the document to the person is otherwise prohibited by or under the Act or any other legislation or law, or
 - (e) the document is or includes a note or working paper produced by or for a member in relation to any proceedings.
- Note.** See, in particular, Division 6 of Part 4 of the Act, which contains provisions concerning the disclosure of information for the purposes of the Act and also section 67 of the *Administrative Decisions Review Act 1997*.
- (6) A registrar may permit a person who would otherwise have no entitlement to be given access to a document (or a copy of a document) because of subrule (5) to inspect (or be given a copy of) parts of the document that do not contain or include the privileged material or other material which may not be disclosed.
- (7) For the purposes of this rule, proceedings in the Tribunal are *finally determined* if:
- (a) the Tribunal has completed all the processes necessary to decide the substantial merits of the proceedings (including, where required, the giving of reasons for the decision and the determination of costs), and

- (b) no further internal appeal or appeal to a court in respect of the proceedings is available because:
 - (i) legislation does not provide for such an appeal against decisions in the proceedings, or
 - (ii) the period for lodging such an appeal or an application for leave to appeal in respect of the proceedings has expired (ignoring any period that may be available by way of extension of time to appeal or seek leave to appeal), or
 - (iii) an appeal lodged in respect of the proceedings has been determined.
- (8) In this rule:
 - public access document*** means any of the following:
 - (a) an originating document or reply,
 - (b) a statement, affidavit or document admitted into evidence in proceedings held in public,
 - (c) a transcript (if available) of proceedings held in public,
 - (d) a record of any order made or other decision given in proceedings,
 - (e) a record of the reasons given for a decision made in proceedings.