

GENERAL DIVISION

PRACTICE DIRECTION 2

This Practice Direction is made pursuant to s93 of the *Tasmanian Civil and Administrative Tribunal Act 2020*.

Application for Summons

Pursuant to s104 of the *Tasmanian Civil and Administrative Tribunal Act 2020*, a party to proceedings may apply to the Tribunal to issue a summons requiring a person to appear before the Tribunal at a specified time and place to give evidence, or to produce evidentiary material, or both (application for summons).

- 2.1 Any party making an application for summons must provide written reasons as to why the summons should issue.
- 2.2 The written reasons must identify whether the summons is to be issued to:
 - a) a person to appear before TASCAT at a specified time and date;
 - b) a person to produce evidentiary material; for example, documents;
 - c) a person to appear before TASCAT and produce evidentiary material.

Note: a 'person' includes a human, a corporation, a partnership, an association or another entity.

- 2.3 The application for summons must clearly identify the proceedings in which the application is made, the party making the application and the person to whom the application is directed as well as the correct address of that person.
- 2.4 If the application for summons is for a person to produce document/s or thing/s (evidentiary material) all necessary identifying information is to be included in the Schedule on page 4 of the application. For example, the full name of the person, their date of birth and the details of the evidentiary material sought.
- 2.5 Parties must not complete the date, time and place referred to at A, B and C of the summons or the last date for service.
- 2.6 Pursuant to rule 20(3) of the *Tasmanian Civil and Administrative Tribunal Rules 2021*, the summons must be served on the person named in the summons at least 5 days, before the date specified in the summons, unless the person named in the summons has agreed to the later service of the summons. A Registrar may vary this timeframe (see rule 20(3) of the *Tasmanian Civil and Administrative Tribunal Rules 2021*).

- 2.7 Pursuant to rule 20(4) of the *Tasmanian Civil and Administrative Tribunal Rules 2021* a sealed copy of the summons must be served on each party to the proceedings before the return date specified in the summons (except if the party is the applicant or the person named in the summons as set out in rule 20(5) of the *Tasmanian Civil and Administrative Tribunal Rules 2021*).
- 2.8 When serving an application for summons, a covering letter advising that all documents are to be returned to TASCAT and not the issuing party must accompany the application.
- 2.9 When service of an application for summons has been attended to, details of service must be provided to the Tribunal.
- 2.10 Once TASCAT receives any evidentiary material pursuant to a summons it will be sent to the party in the proceedings who may be entitled to object to the production of that evidentiary material. If, upon inspecting the evidentiary material produced pursuant to the summons, a party seeks to object to any or all of that evidentiary material being produced to the other party/parties, that party must, within 14 days (for matters pursuant to the *Workers Rehabilitation and Compensation Act 1988*) or within 7 days (for all other matters in the General Division) of receiving the summonsed documents, provide the Tribunal with:
- a) a detailed description of the evidentiary material objected to (e.g. identify page numbers or specific parts of any documents objected to); and
 - b) the reasons for each objection.
- 2.11 Within 7 days of receiving advice from TASCAT of an objection to any or all of the evidentiary material being produced, a party must advise whether they:
- a) consent to all or some of the documents being removed/redacted; or
 - b) require TASCAT to make a determination in relation to some or all of the objections raised.
- 2.12 The party who makes the application for summons is liable to pay to the person to whom the summons is issued their costs and/or the loss and expenses in relation to the summons (see s104(6) of *Tasmanian Civil and Administrative Tribunal Act 2020* and rule 20A of the *Tasmanian Civil and Administrative Tribunal Rules 2021*).

21 March 2024