



New South Wales

Civil and Administrative Tribunal (Amendment No 3) Rule 2015

under the

Civil and Administrative Tribunal Act 2013

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

Cathy Szczygielski
Secretary of the Rule Committee

Explanatory note

In *Megerditchian v Kurmond Homes Pty Ltd* [2014] NSWCATAP 120, an Appeal Panel of the Tribunal held that section 60 (Costs) of the *Civil and Administrative Tribunal Act 2013* (***the Act***) applies to the determination of costs in an internal appeal even if different costs provisions applied in the proceedings in the Tribunal at first instance.

The object of this Rule is to amend the *Civil and Administrative Tribunal Rules 2014* to require an Appeal Panel of the Tribunal to apply the same costs provisions in an internal appeal as were applicable in the proceedings under appeal if those costs provisions differed from those set out in section 60 of the Act.

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1 Name of Rule

This Rule is the *Civil and Administrative Tribunal (Amendment No 3) Rule 2015*.

2 Commencement

This Rule commences on 1 January 2016.

3 Amendment of Civil and Administrative Tribunal Rules 2014

Rule 38A

Insert after rule 38:

38A Costs in internal appeals

- (1) This rule applies to an internal appeal lodged on or after 1 January 2016 if the provisions that applied to the determination of costs in the proceedings of the Tribunal at first instance (the *first instance costs provisions*) differed from those set out in section 60 of the Act because of the operation of:
 - (a) enabling legislation, or
 - (b) the Division Schedule for the Division of the Tribunal concerned, or
 - (c) the procedural rules.
- (2) Despite section 60 of the Act, the Appeal Panel for an internal appeal to which this rule applies must apply the first instance costs provisions when deciding whether to award costs in relation to the internal appeal.