

# **CHAPTER 2**

## **THE YEAR IN REVIEW**



## **2.1 INTRODUCTION**

During the year under review the Court continued to achieve its objective of promptly, courteously and effectively deciding disputes according to law in order to fulfil its role as a court exercising the judicial power of the Commonwealth under the Constitution.

Through its jurisdiction, the Court applied and upheld the rule of law to deliver remedies and enforce rights and, in so doing, contributed to the social and economic development and well being of all Australians. The Court's innovative approach to managing its work, and the way it operates as an organisation, brought continuing recognition of its role as a world class civil court.

## **2.2 SIGNIFICANT ISSUES AND DEVELOPMENTS**

During 2003-04 the Court maintained its commitment to achieving performance goals for the Court's core work and continued to develop and implement a number of key strategic and operational projects. These included the first stage of the rollout of the new case management system ('Casetrack'), adoption of a memorandum of understanding with the Supreme Court of Indonesia for ongoing judicial co-operation and assistance, completion of the Organisational Review and implementation of the Self Represented Litigants Management Plan. More details on these projects and other major areas of strategic work for the Court during the year are outlined below.

Initiatives such as stage two of the rollout of Casetrack in all registries and the implementation of the recommendations of the Organisational Review (particularly in relation to court governance and costs savings) will be priority projects for the upcoming year. The strategic management of migration cases, also discussed below, will again be a major area of work for the Court in 2004-05.

### **Casetrack**

During the reporting year the Court finalised a memorandum of understanding with the Family Court of Australia to allow the use, and modification, of the Casetrack case management system. A number of enhancements were made to various aspects of Casetrack to ensure it meets the needs of the Court. Of particular significance has been the development of the eSearch facility, being a searchable database of selected information on cases initiated in the Federal Court and in the general federal law jurisdiction of the Federal Magistrates Court, which is accessed via the Court's web site. In addition to its case management functions, Casetrack will provide essential statistical, operational and other management information through its reporting facilities.

The first stage of the rollout of Casetrack, which involved its implementation in the Court's smaller registries, was completed during the reporting year. It is expected that Casetrack will be operational in all registries of the Court by the end of 2004.

### **The eCourt**

During the reporting year the Court undertook a detailed review as to how it might bring together the various elements of its eCourt strategy so that judges, staff, legal practitioners and the public may access case information and use such facilities as the eCourt Forum and electronic filing from within a single environment. The review has

led to the development of the 'My Files' concept whereby a single web-based interface (or Portal) will effectively integrate the electronic provision of information and services. More details on the *eCourt* are set out in Chapter 3.

### **Native title matters**

The Court continued to use a range of innovative strategies in its management of native title cases. In particular, the Court's approach to managing native title cases during the year consolidated its use of the following strategies to progress cases for hearing by the Court:

- adopting a high level of specificity in timetabling activities, such as mediation;
- convening regional case management conferences to identify priorities and timeframes for mediation, negotiation and litigation on a regional basis having regard to regional priorities, interrelated claims and resource considerations;
- hearing 'early' evidence from applicants (either for the limited purpose of preserving the evidence of applicants who are elderly or unwell or to test the issue of connection); and
- using early neutral evaluation procedures, where appropriate.

The Court also convened a number of user group meetings during the reporting period.

More details on the Court's native title work are in Chapter 3.

### **Organisational Review**

During the year the Court completed a major internal review of its administrative structures. The review made recommendations on a broad range of issues including, the structure of the administration of the Court, the Court's governance and decision-making structures and its internal resource allocation processes. Many of the recommendations were implemented during 2003-04, with the balance expected to be finalised in the next reporting year.

### **Self represented litigants**

In 2003-04, about 34 per cent of matters in the Court involved at least one party who was not represented at some stage in the proceeding.

In August 2002 the Court adopted a Self Represented Litigants Management Plan which identified a number of management practices to address the needs of self represented litigants. Implementation of the Plan during 2003-04 has resulted in:

- arrangements being made to improve the nature and quality of statistical and other information collected by the Court on self represented litigants and their needs;
- a rewriting of the Court's brochures and guides to ensure they use clear language and are simple to understand;
- the provision of further staff training on giving appropriate advice and assistance to self represented litigants, and on handling difficult situations involving self represented litigants; and

- the development of rules and practices that will allow the Court to more effectively deal with self represented litigants who are considered to be vexatious, frivolous or of a repeat kind with clearly hopeless cases.

The Court also enhanced the content and location of information on its web site to provide greater assistance to self represented litigants, including details of possible sources of legal advice and assistance. It proposed, and will co-host with the Australian Institute of Judicial Administration, a Self Represented Litigants Forum on how courts and tribunals are responding to the issues raised by self represented litigants. The Forum will be held in September 2004.

More details on the Court's work in this area are in Chapter 3.

### **Engagement with Asia-Pacific jurisdictions**

During the year the Court continued its high level of involvement in activities providing assistance to judiciaries in Asia and the South Pacific. In particular, the Court continued its major judicial training program with the Supreme Court of Indonesia, which was funded by the Australia Agency for International Development ('AusAID'). In recognition of the partnership between the two courts, in March 2004 a Memorandum of Understanding was signed by the respective Chief Justices which sets a foundation for ongoing judicial co-operation and assistance. It is believed that the memorandum is a 'World First' and a model for future collaboration between courts operating in different countries. The Court will conduct a further training program in 2004-05.

The Court also continues its involvement in other activities, which include the provision of library assistance to courts in the South Pacific and hosting and arranging visits to the Court by many delegations of judges and court officials. The Court's commitment to these activities continues to provide a challenge in terms of managing the resources devoted to this important work. However, judges of the Court are enthusiastic about their role in these activities and their involvement is usually undertaken in addition to their normal judicial workload. More details on this work are outlined in Chapter 3.

### **Contribution to Government reviews**

The Court provided information and other support to the Government's Migration Litigation Review and the review of the Federal Civil Justice System.

## **2.3 THE COURT'S PERFORMANCE AND FINANCIAL RESULTS**

### **Workload**

During the year there were several significant trends in the Court's workload.

The combined workload of the Federal Court and the Federal Magistrates Court in the general federal law jurisdiction has continued to increase. Since 2000, when the Federal Magistrates Court was established, the total number of cases filed in the federal law jurisdiction has significantly increased. In 1999-2000 the combined number of filings in the Federal Magistrates Court and the original jurisdiction of the

Federal Court was 5,885 compared to 11,541 in 2003-04 – an increase of almost 100 per cent in four years. This has had a significant resource impact on the Federal Court registries which provide services for both courts including the processing of documents, supporting the listing and hearing of each matter and facilitating the orderly transfer of matters between the courts.

There was a significant increase in the number of matters commenced in the Court's original jurisdiction, due primarily to the large number of matters concerning the review of decisions under the *Migration Act 1958* that were transferred from the High Court and an increase in the number of matters concerning the *Corporations Act 2001*.

The Court's appellate workload also increased during the year, with almost one half of all appeals being against decisions of the Federal Magistrates Court.

Detailed information about the Court's workload can be found in Chapter 3.

### **Migration matters**

The migration workload of the Court significantly increased in 2003-04.

The number of matters concerning decisions under the Migration Act filed in, or remitted to, the Court's original jurisdiction was 2,591 in 2003-04, compared to 1,836 in 2002-03. This increase was primarily due to the 1,716 cases remitted by the High Court. Migration Act matters also formed a substantial proportion of the Court's appellate jurisdiction, making up 74.6 per cent of appeals in 2003-04.

The Court has continued to use specific procedures to deal with the large number of cases being remitted by the High Court and to manage the appellate workload.

The migration workload is discussed in more detail in Chapter 3.

### **Appeals**

The appellate work of the Court continues to be substantial. In 2003-04, 704 appeals were filed in the Court – 13.2 per cent more than the number filed in 2002-03. The matters brought to the Court in its appellate jurisdiction range from long and complex native title claims through to the high volume Migration Act cases noted above. The Court's Management of Appeals Committee continues to identify, propose and implement solutions to the management issues related to the Court's heavy appellate workload. In particular, it has examined ways of streamlining the preparation and hearing of appeals from the Federal Magistrates Court.

More detailed discussion of the Court's appellate workload is in Chapter 3.

### **Performance against time standards**

The Court has two key standards, referred to as time goals. The first concerns the time cases should take from filing to completion. The second concerns the time within which reserved judgments are delivered. The time goals are established to help

achieve performance. They do not determine the time all cases take, as some long and complex cases will necessarily take longer than 18 months. As well, many cases need to be dealt with promptly (in a few months) and the Court identifies these matters and attempts to resolve them quickly. The Court's Individual Docket System, (where a case is allocated to a judge when it is commenced and is managed by that judge), helps the priority-setting process.

### ***85 per cent of cases completed within 18 months of commencement***

The Court has set a time goal of 85 per cent of cases (excluding native title matters) to be disposed within eighteen months from commencement. The goal is regularly reviewed by the Court.

In 2003-04 the Court completed 92 per cent of cases in its original and appellate jurisdictions within eighteen months. This disposition rate was achieved notwithstanding the significant increase in the number of proceedings and appeals coming to the Court during the year.

Further details about the completion of cases are set out in Chapter 3.

### ***Judgments to be delivered within three months***

The Court has set the period of three months as the goal within which reserved judgments will be delivered. The degree to which the Court will meet this goal is dependent upon the complexity of the case and the pressure of other business upon the Court. During 2003-04 the Court handed down 1,184 reserved judgments, with 77 per cent of them delivered in less than three months from the date of being reserved.

### **Financial results**

As a result of careful financial planning for the future, the Court produced a surplus for the reporting year. The surplus will fund liabilities that are expected to arise in the next 12 months, such as Casetrack implementation expenses. The Court also initiated a range of savings strategies during the reporting year which contributed to this positive outcome.