

# Part 1: Overview of the Court

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## Objectives

The objectives of the Federal Court of Australia (Federal Court) are to:

- decide disputes according to law – promptly, courteously and effectively and, in so doing, to interpret the statutory law and develop the general law of the Commonwealth, so as to fulfill the role of a court exercising the judicial power of the Commonwealth under the Constitution
- provide an effective registry service to the community, and
- manage the resources allotted by Parliament efficiently.

## Establishment

The Federal Court was created by the *Federal Court of Australia Act 1976* (Cth) and began to exercise its jurisdiction on 1 February 1977.

It assumed jurisdiction formerly exercised in part by the High Court of Australia and the whole jurisdiction of the Australian Industrial Court and the Federal Court of Bankruptcy.

The Court is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time.

## Purpose

As outlined in the Court's Corporate Plan, the purpose of the Federal Court as an independent court of law is to decide disputes according to the law as quickly, inexpensively and efficiently as possible.

The purpose of the Federal Court entity is to provide corporate services in support of the operations of the Federal Court, the Federal Circuit and Family Court of Australia (Division 1 and Division 2) and the National Native Title Tribunal.

## Functions and powers

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian federal law and some summary and indictable criminal matters. Central to the Court's civil jurisdiction is section 39B(1A) of the *Judiciary Act 1903* (Cth). This jurisdiction includes cases created by a federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal state.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Circuit and Family Court of Australia (Division 2) in non-family law matters. The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's jurisdiction is described more fully in Part 3 (*Report on Court performance*).

## The Court's Outcome and Program Structure

TABLE 1.1: OUTCOME 1: FEDERAL COURT OF AUSTRALIA

FEDERAL COURT OF AUSTRALIA	BUDGET 22–23 (\$'000)	ACTUAL 22–23 (\$'000)	VARIATION (\$'000)
OUTCOME 1: Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.			
<b>Program 1.1 – Federal Court of Australia</b>			
Administered Expenses			
Special appropriations	600	509	91
Departmental appropriation <sup>1</sup>	67,119	65,986	1,133
Expenses not requiring appropriation in the budget year	18,366	22,578	-4,212
<b>Total for Program 1.1</b>	<b>86,085</b>	<b>89,073</b>	<b>-2,988</b>
<b>Total expenses for outcome 1</b>	<b>86,085</b>	<b>89,073</b>	<b>-2,988</b>
<b>Average staffing level (number)</b>	<b>281</b>	<b>255</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

TABLE 1.2: OUTCOME 2: FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 1)

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 1)	BUDGET 22–23 (\$'000)	ACTUAL 22–23 (\$'000)	VARIATION (\$'000)
OUTCOME 2: Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 1) through the resolution of family law matters according to law, particularly more complex family law matters and through the effective management of the administrative affairs of the Court.			
<b>Program 2.1 – Federal Circuit and Family Court of Australia (Division 1)</b>			
Administered Expenses			
Special appropriations	100	53	47
Departmental appropriation <sup>2</sup>	46,379	48,446	-2,067
Expenses not requiring appropriation in the budget year	12,320	15,434	-3,114
<b>Total for Program 2.1</b>	<b>58,799</b>	<b>63,933</b>	<b>-5,134</b>
<b>Total expenses for outcome 2</b>	<b>58,799</b>	<b>63,933</b>	<b>-5,134</b>
<b>Average staffing level (number)</b>	<b>155</b>	<b>172</b>	

<sup>2</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

TABLE 1.3: OUTCOME 3: FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)	BUDGET 22-23 (\$'000)	ACTUAL 22-23 (\$'000)	VARIATION (\$'000)
OUTCOME 3: Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 2) through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.			
<b>Program 3.1 – Federal Circuit and Family Court of Australia (Division 2)</b>			
Administered Expenses			
Ordinary annual services (Appropriation Act No.1)	926	785	141
Special appropriations	200	87	113
Departmental appropriation <sup>1</sup>	94,256	88,827	5,429
Expenses not requiring appropriation in the budget year	2,393	2,171	222
<b>Total for Program 3.1</b>	<b>97,775</b>	<b>91,870</b>	<b>5,905</b>
<b>Total expenses for outcome 3</b>	<b>97,775</b>	<b>91,870</b>	<b>5,905</b>
<b>Average staffing level (number)</b>	<b>360</b>	<b>362</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

TABLE 1.4: OUTCOME 4: COMMONWEALTH COURTS CORPORATE SERVICES

COMMONWEALTH COURTS CORPORATE SERVICES	BUDGET 22–23 (\$'000)	ACTUAL 22–23 (\$'000)	VARIATION (\$'000)
OUTCOME 4: Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Federal Circuit and Family Court (Division 1) and the Federal Circuit and Family Court (Division 2) and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.			
<b>Program 4.1 – Commonwealth Courts Corporate Services</b>			
Departmental expenses			
Departmental appropriation <sup>1</sup>	78,570	80,376	-1,806
Expenses not requiring appropriation in the budget year	59,296	59,868	-572
<b>Total for Program 4.1</b>	<b>137,866</b>	<b>140,244</b>	<b>-2,378</b>
<b>Program 4.2 – Commonwealth Courts Registry Services</b>			
Departmental expenses			
Departmental appropriation <sup>1</sup>	30,895	30,037	858
<b>Total for Program 4.2</b>	<b>30,895</b>	<b>30,037</b>	<b>858</b>
<b>Total expenses for outcome 4</b>	<b>168,761</b>	<b>170,281</b>	<b>-1,520</b>
<b>Average staffing level (number)</b>	<b>490</b>	<b>443</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

## About the Federal Court

### Judges of the Court

At 30 June 2023, there were 54 judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals.

**TABLE 1.5: JUDGES OF THE FEDERAL COURT (AS AT 30 JUNE 2023)**

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon Debra Sue MORTIMER	Melbourne	
The Hon Susan Coralie KENNY AM	Melbourne	<ul style="list-style-type: none"> <li>Administrative Appeals Tribunal Deputy President</li> <li>Australian Electoral Commission – Chairperson</li> </ul>
The Hon Steven David RARES	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>Supreme Court of Norfolk Island – Judge</li> </ul>
The Hon Berna Joan COLLIER	Brisbane	<ul style="list-style-type: none"> <li>National and Supreme Courts of Papua New Guinea – Judge</li> <li>Administrative Appeals Tribunal – Deputy President</li> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Anthony James BESANKO	Adelaide	<ul style="list-style-type: none"> <li>Supreme Court of Norfolk Island – Chief Justice</li> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon John Alexander LOGAN RFD	Brisbane	<ul style="list-style-type: none"> <li>Defence Force Discipline Appeal Tribunal – President</li> <li>National and Supreme Courts of Papua New Guinea – Judge</li> </ul>
The Hon Nye PERRAM	Sydney	<ul style="list-style-type: none"> <li>Copyright Tribunal President</li> </ul>
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Kathleen FARRELL	Sydney	<ul style="list-style-type: none"> <li>Australian Competition Tribunal – Deputy President</li> </ul>
The Hon Darryl Cameron RANGIAH	Brisbane	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Michael Andrew WIGNEY	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>Supreme Court of Norfolk Island – Judge</li> </ul>

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Melissa Anne PERRY	Sydney	<ul style="list-style-type: none"> <li>Defence Force Discipline Appeal Tribunal – Member</li> <li>Administrative Appeals Tribunal – Deputy President</li> </ul>
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	<ul style="list-style-type: none"> <li>Australian Law Reform Commission – Acting President (from 9 January 2023 – 30 June 2023)</li> <li>Australian Competition Tribunal – Deputy President</li> </ul>
The Hon Robert James BROMWICH	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>Supreme Court of Norfolk Island – Judge</li> </ul>
The Hon Natalie CHARLESWORTH	Adelaide	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	<ul style="list-style-type: none"> <li>Administrative Appeals Tribunal – Deputy President</li> </ul>
The Hon Sarah Catherine DERRINGTON	Brisbane	<ul style="list-style-type: none"> <li>Australian Competition Tribunal – Deputy President</li> </ul>
The Hon Katrina Frances BANKS-SMITH	Perth	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Craig Grierson COLVIN	Perth	<ul style="list-style-type: none"> <li>Administrative Appeals Tribunal – Deputy President</li> <li>Australian Law Reform Commission – Part-time Commissioner</li> </ul>
The Hon Thomas Michael THAWLEY	Sydney	<ul style="list-style-type: none"> <li>Administrative Appeals Tribunal – Deputy President</li> <li>Copyright Tribunal – Deputy President</li> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Michael Francis WHEELAHAN	Melbourne	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Angus Morkel STEWART	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Michael Hugh O'BRYAN	Melbourne	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>Australian Competition Tribunal President</li> </ul>

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Wendy Jane ABRAHAM	Sydney	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>Supreme Court of Norfolk Island – Judge</li> </ul>
The Hon John HALLEY	Sydney	<ul style="list-style-type: none"> <li>Australian Competition Tribunal – Deputy President</li> </ul>
The Hon Elizabeth CHEESEMAN	Sydney	
The Hon Helen Mary Joan ROFE	Melbourne	<ul style="list-style-type: none"> <li>Copyright Tribunal – Deputy President</li> </ul>
The Hon Kylie Elizabeth DOWNES	Brisbane	<ul style="list-style-type: none"> <li>Australian Competition Tribunal – Deputy President</li> </ul>
The Hon Scott Anthony GOODMAN	Sydney	
The Hon Patrick O'SULLIVAN	Adelaide	<ul style="list-style-type: none"> <li>Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Shaun Brendan McELWAIN	Hobart	
The Hon Michael James FEUTRILL	Perth	
The Hon Fiona MEAGHER	Brisbane	
The Hon Timothy McEVOY	Melbourne	
The Hon Lisa HESPE	Melbourne	<ul style="list-style-type: none"> <li>Administrative Appeals Tribunal – Deputy President</li> </ul>
The Hon Elizabeth RAPER	Sydney	
The Hon Geoffrey Ross KENNETT	Sydney	<ul style="list-style-type: none"> <li>Administrative Appeals Tribunal – Deputy President</li> </ul>
The Hon Catherine Gail BUTTON	Melbourne	
The Hon Ian McNeil JACKMAN	Sydney	
The Hon Adam HATCHER		<ul style="list-style-type: none"> <li>President, Fair Work Commission</li> </ul>
The Hon Emiliou KYROU AO		<ul style="list-style-type: none"> <li>President, Administrative Appeals Tribunal</li> </ul>

The Chief Justice was absent on the following dates during the year. Acting Chief Justice arrangements during these periods were as follows:

- 1–27 July 2022 – Justice Kenny

Judges of the Court also spend a lot of time on activities related to legal education and the justice system. More information about these activities is set out in Part 3 (*Report on Court performance*) and Appendix 8 (*Judges' activities*).

## Appointments and retirements during 2022–23

During the year, six judges were appointed to the Court:

- Chief Justice Mortimer was appointed on 7 April 2023
- Justice Kennett was appointed on 19 December 2022
- Justice Button was appointed on 16 January 2023
- Justice Jackman was appointed on 6 February 2023
- Justice Hatcher was appointed on 19 February 2023 (President of the Fair Work Commission), and
- Justice Kyrou was appointed on 8 June 2023 (President of the Administrative Appeals Tribunal)

During the year, five judges retired or resigned from the Court:

- The Honourable Justice Greenwood retired with effect on 19 July 2022
- The Honourable Justice Jagot resigned with effect on 16 October 2022 to take up an appointment with the High Court of Australia
- The Honourable Justice Ross AO retired with effect on 18 November 2022
- The Honourable Justice Middleton retired with effect on 25 December 2022, and
- The Honourable Chief Justice Allsop AC retired with effect on 6 April 2023.

## Other appointments during the year are as follows:

- Justice Perram was appointed as Acting President of the Copyright Tribunal of Australia on 16 October 2022
- Justice O'Sullivan was appointed Additional Judge of the ACT Supreme Court on 1 November 2022
- Justice Collier was appointed Acting President of the AAT on 1 December 2022
- Justice O'Bryan was appointed Acting President of the Australian Competition Tribunal for the period of 26 December 2022 to 25 March 2023
- Justice Kenny AM was appointed Acting President of the AAT on 13 December 2022 for the period of 16 December to 16 March 2023
- Justice Perram was appointed as President of the Copyright Tribunal of Australia on 15 December 2022
- Justice O'Bryan was appointed Deputy President of the Copyright Tribunal of Australia on 15 December 2022
- Justice Thawley was appointed Deputy President of the Copyright Tribunal of Australia on 15 December 2022
- Justice Rofe was appointed Deputy President of the Copyright Tribunal of Australia on 15 December 2022
- Justice O'Bryan was appointed as Acting President of the Australian Competition Tribunal on 26 December 2022
- Justice Moshinsky was appointed Acting President of the ALRC on 9 January 2023
- Justice Hatcher was appointed as President of the Fair Work Commission on 19 February 2023
- Justice Kenny was reappointed Acting President of the AAT on 9 March 2023 for the period from 16 March to 30 April 2023
- Justice Collier was reappointed Acting President of the AAT on 9 March 2023 from 1 May 2023
- Justice O'Bryan was appointed President of the Australian Competition Tribunal on 26 March 2023
- Justice Moshinsky was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023 commencing on 26 March 2023
- Justice Sarah Derrington was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023
- Justice Halley was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023
- Justice Downes was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023
- Justice Hespe was appointed Deputy President of AAT commencing on 25 May 2023
- Justice Kennett was appointed Deputy President of AAT commencing on 25 May 2023
- Justice Kyrou was appointed President of the AAT commencing on 9 June 2023

## Executive

### Chief Executive Officer and Principal Registrar

The CEO and Principal Registrar is appointed by the Governor-General on the nomination of the Chief Justice and has the same powers as the Head of a statutory agency of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1999* (Cth) (section 18ZE of the *Federal Court of Australia Act 1976* (Cth)).

Ms Sia Lagos was appointed the CEO and Principal Registrar on 15 May 2020.

### Officers of the Court

Officers of the Court are appointed by the CEO and Principal Registrar under section 18N of the *Federal Court of Australia Act 1976* (Cth) and are:

- a District Registrar for each District Registry
- Registrars and Deputy District Registrars as necessary
- a Sheriff and Deputy Sheriffs as necessary, and
- Marshals under the *Admiralty Act 1988* (Cth) as necessary.

The registrars must take an oath, or make an affirmation of office before undertaking their duties (section 18Y of the *Federal Court of Australia Act 1976* (Cth)). Registrars perform statutory functions pursuant to the *Federal Court of Australia Act 1976* (Cth), *Federal Court Rules 2011*, *Federal Court (Bankruptcy) Rules 2016*, *Federal Court (Corporations) Rules 2000*, *Federal Court (Criminal Proceedings) Rules 2016*, and the *Admiralty Act 1988* (Cth) and *Admiralty Rules 1988*.

These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *Federal Court of Australia Act 1976* (Cth), *Bankruptcy Act 1966* (Cth), *Corporations Act 2001* (Cth) and *Native Title Act 1993* (Cth). A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit and Family Court of Australia Act 2021* (Cth). More information can be found in Appendix 4 (*Registrars of the Court*).

## Staff of the Court

The officers and staff of the Court (other than the Registrar and some Deputy Sheriffs and Marshals) are appointed or employed under the *Public Service Act 1999* (Cth).

At 30 June 2023, the Federal Court entity engaged 1,469 employees under the *Public Service Act 1999* (Cth). This figure includes 824 ongoing and 645 non-ongoing employees. More details on court staff can be found in Part 4 (*Management and accountability*) and Appendix 9 (*Staffing profile*).