



# 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 fulfil 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* 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 2019–2020 Corporate Plan, the purpose of the Federal Court entity is to contribute to the social and economic development and wellbeing of all Australians by applying and upholding the rule of law to deliver remedies and enforce rights.

## 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 s 39B(1A) of the *Judiciary Act 1903*. 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 Court of Australia (Federal Circuit Court) 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 (*The work of the Court in 2018–19*).

## THE COURT'S OUTCOME AND PROGRAM STRUCTURE

Table 1.1: Outcome 1: Federal Court of Australia

<b>OUTCOME 1:</b> 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>BUDGET</b> 2018–19 (\$'000)	<b>ACTUAL</b> 2018–19 (\$'000)	<b>VARIATION</b> (\$'000)
<b>Program 1.1 – Federal Court of Australia</b>			
<b>Administered expenses</b>			
Special appropriations	600	459	141
<b>Departmental expenses</b>			
Departmental appropriation <sup>1</sup>	72,808	69,499	3,309
Expenses not requiring appropriation in the budget year	16,639	20,435	–3,796
<b>Total for Program 1.1</b>	<b>90,047</b>	<b>90,393</b>	<b>–346</b>
<b>Total expenses for outcome 1</b>	<b>90,047</b>	<b>90,393</b>	<b>–346</b>
<b>Average staffing level (number)</b>	<b>343</b>	<b>308</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*.

Table 1.2: Outcome 2: Family Court of Australia

<b>OUTCOME 2:</b> Apply and uphold the rule of law for litigants in the Family Court of Australia 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>BUDGET</b> 2018–19 (\$'000)	<b>ACTUAL</b> 2018–19 (\$'000)	<b>VARIATION</b> (\$'000)
<b>Program 2.1 – Family Court of Australia</b>			
<b>Administered expenses</b>			
Special appropriations	100	28	72
<b>Departmental expenses</b>			
Departmental appropriation <sup>1</sup>	33,314	33,969	–655
Expenses not requiring appropriation in the budget year	11,639	13,238	–1,599
<b>Total for Program 2.1</b>	<b>45,053</b>	<b>47,235</b>	<b>–2,182</b>
<b>Total expenses for outcome 2</b>	<b>45,053</b>	<b>47,235</b>	<b>–2,182</b>
<b>Average staffing level (number)</b>	<b>92</b>	<b>86</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*.

Table 1.3: Outcome 3: Federal Circuit Court of Australia

<b>OUTCOME 3:</b> Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia 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>BUDGET</b>	<b>ACTUAL</b>	<b>VARIATION</b>
	<b>2018–19</b>	<b>2018–19</b>	
	<b>(\$'000)</b>	<b>(\$'000)</b>	<b>(\$'000)</b>
<b>Program 3.1 – Federal Circuit Court of Australia</b>			
<b>Administered expenses</b>			
Ordinary annual services (Appropriation Act No.1)	880	807	73
Special appropriations	200	431	-231
<b>Departmental expenses</b>			
Departmental appropriation <sup>1</sup>	93,582	96,717	-3,135
Expenses not requiring appropriation in the budget year	2,351	3,010	-659
<b>Total for Program 3.1</b>	<b>97,013</b>	<b>100,965</b>	<b>-3,952</b>
<b>Total expenses for outcome 3</b>	<b>97,013</b>	<b>100,965</b>	<b>-3,952</b>
<b>Average staffing level (number)</b>	<b>526</b>	<b>504</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*.

Table 1.4: Outcome 4: Commonwealth Courts Corporate Services

<b>OUTCOME 4:</b> Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.	<b>BUDGET</b>	<b>ACTUAL</b>	<b>VARIATION</b>
	<b>2018–19</b>	<b>2018–19</b>	
	<b>(\$'000)</b>	<b>(\$'000)</b>	<b>(\$'000)</b>
<b>Program 4.1 – Commonwealth Courts Corporate Services</b>			
<b>Departmental expenses</b>			
Departmental appropriation <sup>1</sup>	68,996	64,673	4,323
Expenses not requiring appropriation in the budget year	57,721	57,017	704
<b>Total for Program 4.1</b>	<b>126,717</b>	<b>121,690</b>	<b>5,027</b>
<b>Total expenses for outcome 4</b>	<b>126,717</b>	<b>121,690</b>	<b>5,027</b>
<b>Average staffing level (number)</b>	<b>123</b>	<b>131</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*.

## ABOUT THE FEDERAL COURT

### Judges of the Court

The Federal Court of Australia Act provides that the Court consists of a Chief Justice and other judges as appointed. The Chief Justice is the senior judge of the Court and is responsible for managing the business of the Court.

Judges of the Court are appointed by the Governor-General by commission and may not be removed except by the Governor-General on an address from both Houses of Parliament in the same session.

All judges must retire at the age of 70.

Judges, other than the Chief Justice, may hold more than one judicial office. Most judges hold other commissions and appointments.

At 30 June 2019, 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. Of the 54 judges, there were three whose work as members of other courts or tribunals occupied all, or most, of their time.

**Table 1.5: Judges of the Federal Court (as at 30 June 2019)**

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Susan Coralie KENNY	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – President Australian Competition Tribunal – Part-time Deputy President
The Hon Steven David RARES	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Berna Joan COLLIER	Brisbane	National and Supreme Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Anthony James BESANKO	Adelaide	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the Australian Capital Territory – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John Eric MIDDLETON	Melbourne	Australian Competition Tribunal – Part-time President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – Deputy President Defence Force Discipline Appeal Tribunal – President National and Supreme Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter McKERRACHER	Perth	Administrative Appeals Tribunal – Part-time Deputy President
The Hon John Edward REEVES	Brisbane	Supreme Court of the Northern Territory – Additional Judge
The Hon Nye PERRAM	Sydney	Copyright Tribunal – Deputy President Administrative Appeals Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Part-time Deputy President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Alan ROBERTSON	Sydney	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Part-time Deputy President
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	Fair Work Australia – President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Edward GRIFFITHS	Sydney	
The Hon Duncan James Colquhoun KERR Chev LH	Hobart	
The Hon Kathleen FARRELL	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Defence Force Discipline Tribunal Administrative Appeals Tribunal – Deputy President
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	Administrative Appeals Tribunal – President
The Hon Sarah Catherine DERRINGTON	Brisbane	Australian Law Reform Commission – President
The Hon Simon Harry Peter STEWARD	Melbourne	Administrative Appeals Tribunal – Part-time Deputy President
The Hon Katrina Frances BANKS-SMITH	Perth	
The Hon Craig Grierson COLVIN	Perth	Administrative Appeals Tribunal – Part-time Deputy President
The Hon Thomas Michael THAWLEY	Sydney	Administrative Appeals Tribunal – Part-time Deputy President
The Hon Michael Francis WHEELAHAN	Melbourne	
The Hon Paul Elias ANASTASSIOU	Melbourne	
The Hon Angus Morkel STEWART	Sydney	
The Hon Michael Hugh O'BRYAN	Melbourne	
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	
The Hon Wendy Jane ABRAHAM	Sydney	



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

- 26 June to 24 July 2018 – The Honourable Justice Greenwood.
- 21 September to 1 October 2018 – The Honourable Justice Greenwood.
- 18 April to 23 April 2019 – The Honourable Justice Greenwood.
- 16 June to 19 June 2019 – The Honourable Justice Kenny.
- 25 June to 30 June 2019 – The Honourable Justice Rares (note that this appointment extended to 15 July 2019).

Most of the judges of the Court devote some time to other courts and tribunals on which they hold commissions or appointments. 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 (*The work of the Court in 2018–19*) and Appendix 8 (*Judges' activities*).

## Appointments and retirements during 2018–19

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

- The **Honourable Michael Francis Wheelahan** was appointed on 3 October 2018.
- The **Honourable Paul Elias Anastassiou** was appointed on 1 February 2019.
- The **Honourable Angus Morkel Stewart** was appointed on 25 February 2019.
- The **Honourable Michael Hugh O'Bryan** was appointed on 26 February 2019.
- The **Honourable Darren John Jackson** was appointed on 20 March 2019.
- The **Honourable John Leslie Snaden** was appointed on 29 April 2019.
- The **Honourable Stewart Maxwell Anderson** was appointed on 6 May 2019.
- The **Honourable Wendy Jane Abraham** was appointed on 7 May 2019.

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

- The **Honourable Justice Richard Ross Sinclair Tracey** retired upon reaching the compulsory retirement age for federal judges on 17 August 2018.

- The **Honourable Justice Anthony Max North** retired upon reaching the compulsory retirement age for federal judges on 11 September 2018.

- The **Honourable Justice Michael Laurence Barker** resigned his commission with effect from 11 February 2019.

### *Other appointments during the year are as follows:*

- **Justice McKerracher** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Perry** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Stewart** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Colvin** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Thawley** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.

- **Justice Farrell** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 21 August 2018.
- **Justice Logan** was appointed President of the Defence Force Discipline Appeals Tribunal on 27 September 2018.
- **Justice Perry** was appointed a member of the Defence Force Discipline Tribunal on 27 September 2018.
- **Justice Rares** was appointed a Judge of the Supreme Court of Norfolk Island on 11 December 2018.
- **Justice Greenwood** was re-appointed as the President of the Copyright Tribunal on 24 March 2019.

## Federal Court registries

### *Chief Executive Officer and Principal Registrar*

Mr Warwick Soden OAM is the Chief Executive Officer (CEO) and Principal Registrar of the Court.

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* (s 18ZE of the Federal Court of Australia Act).

### *Principal and District Registries*

The Principal Registry of the Court, located in Sydney, is responsible for the overall administrative policies and functions of the Court's registries and provides support to the judges' committees.

The National Operations Registrar, located in Melbourne, is responsible for the implementation of the National Court Framework and its ongoing functions.

There is a District Registry of the Court in each capital city. The District Registries provide operational support to the judges in each state and territory, as well as registry services to legal practitioners and members of the public. The registries receive court and related documents, assist with the arrangement of court sittings and facilitate the enforcement of orders made by the Court.

- The Tasmanian District Registry provides registry services for the Australian Competition Tribunal, the Defence Force Discipline Appeal Tribunal and the Copyright Tribunal.
- The New South Wales District Registry provides registry services to the Copyright Tribunal, the Defence Force Discipline Appeal Tribunal and the Australian Competition Tribunal.
- The South Australian District Registry provides registry services for the High Court of Australia, Australian Competition Tribunal, the Copyright Tribunal of Australia and the Defence Force Discipline Appeal Tribunal.
- The Western Australian District Registry provides registry services for the High Court of Australia, the Copyright Tribunal, the Australian Competition Tribunal and the Defence Force Discipline Appeal Tribunal.
- The registries of the Court are also registries for the Federal Circuit Court in relation to non-family law matters.
- The Queensland District Registry provides registry services to the Copyright Tribunal, the Defence Force Discipline Appeal Tribunal and the High Court of Australia.
- The Victorian District Registry is the Principal Registry for the Australian Competition Tribunal and provides registry services to the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal.

From 1 July 2019, the registry services functions of the Federal Court, Family Court and the Federal Circuit Court will be amalgamated into a new program under Outcome 4 known as the Commonwealth Courts Registry Services. This will provide the courts with the opportunity to shape the delivery of administrative services across all federal courts in a more innovative and efficient manner.

More information is outlined in Part 4 (*Management of the Court*).

### *Officers of the Court*

Officers of the Court are appointed by the CEO and Principal Registrar under s 18N of the Federal Court of Australia Act 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* as necessary.

The registrars must take an oath or make an affirmation of office before undertaking their duties (s 18Y of the Federal Court of Australia Act). Registrars perform statutory functions

assigned to them by the Federal Court of Australia Act, Federal Court Rules 2011, Federal Court (Bankruptcy) Rules 2016, Federal Court (Corporations) Rules 2000, Federal Court (Criminal Proceedings) Rules 2016, and the Admiralty Act 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, *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit Court of Australia Act 1999*. 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*.

At 30 June 2019, the Federal Court entity engaged 1098 employees under the Public Service Act. This figure includes 775 ongoing and 323 non-ongoing employees. More details on court staff can be found in Part 4 (*Management of the Court*) and Appendix 9 (*Staffing profile*).