

OVERVIEW OF THE FEDERAL COURT OF AUSTRALIA



OBJECTIVES

The objectives of the 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.
- Manage the resources allotted by Parliament efficiently.

PURPOSE

As outlined in the Court's Corporate Plan, the purpose of the Court 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.



ESTABLISHMENT

The Federal Court of Australia 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.

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 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.



PART 1

THE COURT'S OUTCOME AND PROGRAM STRUCTURE

The Court's outcome and program structure appears in Part 4. This report uses the outcome and program structure to outline the Court's work and performance during 2016–17. Part 3 reports on these issues in detail.

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 2017, there were 48 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 48 judges, there were two whose work as members of other courts or tribunals occupied all, or most, of their time.

Table 1.1: Judges of the Court (as at 30 June 2017)

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Anthony Max NORTH	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon John Alfred DOWSETT AM	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Susan Coralie KENNY	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Antony Nicholas SIOPIS	Perth	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

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Steven David RARES	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Berna Joan COLLIER	Brisbane	National & Supreme Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of the ACT – Additional Judge
The Hon Anthony James BESANKO	Adelaide	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the ACT – Additional Judge
The Hon Richard Ross Sinclair TRACEY AM RFD	Melbourne	Australian Defence Force – Judge Advocate General Defence Force Discipline Appeal Tribunal – President
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 GILMOUR	Perth	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – President (Acting 16 May to 30 June 2017) Defence Force Discipline Appeal Tribunal – Deputy President National and Supreme Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter McKERRACHER	Perth	
The Hon John Edward REEVES	Brisbane	Supreme Court of the NT – 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 ACT – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the ACT – Additional Judge Australian Competition Tribunal – Part-time Deputy President

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Michael Laurence BARKER	Perth	Administrative Appeals Tribunal – 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 ACT – Additional Judge
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 ACT – 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 Tony PAGONE	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the ACT – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	
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 Chief Justice was absent on the following dates during the year. Acting Chief Justice arrangements during these periods were as follows:

- 1 July 2016 – 24 July 2016 The Honourable Justice North
- 12 September 2016 – 2 October 2016 The Honourable Justice North
- 30 December 2016 – 2 January 2017 The Honourable Justice North
- 3 January 2017 – 10 January 2017 The Honourable Justice Dowsett
- 3 May 2017 – 7 May 2017 The Honourable Justice North
- 22 June 2017 – 27 July 2017 The Honourable Justice North

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 and Appendix 8.

APPOINTMENTS AND RETIREMENTS DURING 2016–17

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

- The **Honourable David John O’Callaghan** was appointed on 1 February 2017.
- The **Honourable Michael Bryan Joshua Lee** was appointed on 29 March 2017.
- The **Honourable Roger Marc Derrington** was appointed on 29 March 2017.
- The **Honourable David Graham Thomas** was appointed on 27 June 2017.

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

- The **Honourable Justice John Ronald Mansfield AM** retired upon reaching the compulsory retirement age for federal judges on 24 August 2016.
- The **Honourable Justice Robert John Buchanan** resigned his commission as a judge of the Court with effect from 9 September 2016.
- The **Honourable Justice James Joshua Edelman** resigned his commission as a judge of the Court with effect from 29 January 2017.
- The **Honourable Justice Christopher Neil Jessup** retired upon reaching the compulsory retirement age for federal judges on 15 April 2017.

Other appointments during the year include:

- **Justice Middleton** was appointed as a part-time President of the Australian Competition Tribunal on 1 July 2016.
- **Justice Greenwood** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 25 August 2016.

- **Justice Yates** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 25 August 2016.
- **Justice Robertson** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 25 August 2016.
- **Justice Bromwich** was appointed as a judge to the Supreme Court of the Australian Capital Territory on 5 September 2016.
- **Justice Middleton** was reappointed as a part-time member of the Australian Law Reform Commission on 28 November 2016.
- **Justice Jagot** was reappointed as Deputy President of the Australian Copyright Tribunal on 8 December 2016.
- **Justice Logan RFD** was appointed to the Administrative Appeals Tribunal as Acting President for the period 16 May 2017 to 30 June 2017.
- **Justice Foster** was reappointed as a part-time Deputy President of the Australian Competition Tribunal on 8 June 2017.
- **Justice Wigney** was appointed a judge of the Supreme Court of Norfolk Island on 15 June 2017.

FEDERAL COURT REGISTRIES

CHIEF EXECUTIVE OFFICER AND PRINCIPAL REGISTRAR

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

The Chief Executive Officer 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* (section 18Q 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, 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 Registry of the Copyright Tribunal is located in the Queensland District Registry.
- The Victorian District Registry is the Principal Registry for each of the Defence Force Discipline Appeal Tribunal and the Australian Competition Tribunal. Most other District Registries are also registries for these two Tribunals.
- The Queensland, South Australia, Western Australia and Northern Territory District Registries are registries for the High Court.
- The Tasmania District Registry provides registry services for the Administrative Appeals Tribunal.
- The registries of the Court are also registries for the Federal Circuit Court in relation to non-family law matters.

More information on the management of the Court is outlined in Part 4.

OFFICERS OF THE COURT

Officers of the Court are appointed by the Chief Executive Officer and Principal Registrar under section 18N of the Federal Court of Australia Act and are:

- a) a District Registrar for each District Registry
- b) Registrars and Deputy District Registrars as necessary
- c) a Sheriff and Deputy Sheriffs as necessary, and
- d) Marshals under the *Admiralty Act 1988* 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). 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, 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*. Appendix 4 lists the 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.

On 30 June 2017 there were 1102 staff employed by the entity under the Public Service Act. Staff providing services specifically to the Federal Court total 373 (excludes casual employees). Generally, judges have two personal staff members. More details on court staff can be found in Part 4 and Appendix 9.