

PART 1

OVERVIEW OF THE FEDERAL COURT OF AUSTRALIA

Establishment

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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.

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Functions and powers

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The Court's original jurisdiction is conferred by over 150 statutes of the Parliament. A list of these Acts appears in Appendix 5 on page 79.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Magistrates 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.

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Objectives

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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 fulfill 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.
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The Court's outcome and program structure

The Court's outcome and program structure appears in Part 4 on page 57.

This report uses the outcome and program structure to outline the Court's work and performance during 2010–2011. 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 seventy.

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

At 30 June 2011 there were forty-six 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 forty-six judges, there were three whose work as members of other courts or tribunals occupied all, or most, of their time.

Judges of the Court (as at 30 June 2011)

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon Patrick Anthony KEANE	Brisbane	
The Hon Peter Ross Awdry GRAY	Melbourne	Industrial Relations Court of Australia – Judge Administrative Appeals Tribunal – Presidential Member
The Hon Terence John HIGGINS AO	Canberra	Supreme Court of the ACT – Chief Justice
The Hon Michael Francis MOORE	Sydney	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge Tonga Court of Appeal – Judge
The Hon Paul Desmond FINN	Adelaide	
The Hon Shane Raymond MARSHALL	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon Anthony Max NORTH	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John Ronald MANSFIELD AM	Adelaide	Supreme Court of the ACT – Additional Judge Supreme Court of the NT – Additional Judge Australian Competition Tribunal – Part-time Deputy President Administrative Appeals Tribunal – Presidential Member
The Hon Arthur Robert EMMETT	Sydney	Copyright Tribunal – President
The Hon Raymond Antony FINKELSTEIN	Melbourne	Australian Competition Tribunal – Part-time President
The Hon Geoffrey Michael GIUDICE AO	Melbourne	Fair Work Australia – President
The Hon John Alfred DOWSETT	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Susan Coralie KENNY	Melbourne	Australian Law Reform Commission – Part-time Commissioner Administrative Appeals Tribunal – Presidential Member
The Hon Margaret Ackary STONE	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Garry Keith DOWNES AM	Sydney	Administrative Appeals Tribunal – President Supreme Court of Norfolk Island – Judge
The Hon Peter Michael JACOBSON	Sydney	Supreme Court of Norfolk Island – Chief Justice Australian Competition Tribunal – Part-time Deputy President
The Hon Annabelle Claire BENNETT AO	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon Bruce Thomas LANDER	Adelaide	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge Administrative Appeals Tribunal – Presidential Member
The Hon Antony Nicholas SIOPIIS	Perth	Administrative Appeals Tribunal – Presidential Member

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Richard Francis EDMONDS	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Presidential Member
The Hon Steven David RARES	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Berna Joan COLLIER	Brisbane	Australian Law Reform Commission – Part-time Commissioner
The Hon Dennis Antill COWDROY OAM	Sydney	Supreme Court of the ACT – Additional Judge Australian Defence Force – Judge Advocate Australian Defence Force – Defence Force Magistrate
The Hon Anthony James BESANKO	Adelaide	Supreme Court of the ACT – Additional Judge
The Hon Christopher Neil JESSUP	Melbourne	
The Hon Richard Ross Sinclair TRACEY 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 Deputy President Administrative Appeals Tribunal – Presidential Member
The Hon Robert John BUCHANAN	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon John GILMOUR	Perth	
The Hon Michelle Marjorie GORDON	Melbourne	
The Hon John Alexander LOGAN RFD	Brisbane	
The Hon Geoffrey Alan FLICK	Sydney	

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
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
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the ACT – Additional Judge Part-time Deputy President – Australian Competition Tribunal
The Hon Michael Laurence BARKER	Perth	Administrative Appeals Tribunal – Presidential Member
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	
The Hon Mordecai BROMBERG	Melbourne	
The Hon Julie Anne DODDS-STREETON	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Alan ROBERTSON	Sydney	
The Hon Bernard Michael MURPHY	Melbourne	

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

5–11 July 2010	The Hon Justice Spender
15–17 July 2010	The Hon Justice Gray
25–31 October 2010	The Hon Justice Gray
28 December 2010–30 January 2011	The Hon Justice Gray
18–30 June 2011	The Hon Justice Marshall

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 9.

Appointments and retirements during 2010–11

During the year two judges were appointed to the Court:

- **The Honourable Justice Alan Robertson** (resident in Sydney) was appointed on 18 April 2011.
- **The Honourable Justice Bernard Michael Murphy** (resident in Melbourne) was appointed on 13 June 2011.

During the year five judges retired from the Court:

- **The Honourable Justice Alan Henry Goldberg** resigned his commission as a judge of the Court on 4 July 2010.
- **The Honourable Justice Jeffrey Ernest John Spender** resigned his commission as a judge of the Court on 18 July 2010.
- **The Honourable Justice Ross Alan Sundberg** resigned his commission as a judge of the Court on 8 August 2010.
- **The Honourable Justice Peter Ross Graham** retired upon reaching the compulsory retirement age for federal judges on 5 September 2010.
- **The Honourable Justice Donnell Michael Ryan** retired upon reaching the compulsory retirement age for federal judges on 2 June 2011.

Other appointments during the year included:

- **The Honourable Justice Katzmann** was appointed an additional judge of the Supreme Court of the ACT with effect from 17 September 2010.
- **The Honourable Justice Perram** was appointed Acting President of the Copyright Tribunal during any period that the office of President is vacant, or the person holding the office of President is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office with effect from 14 October 2010.
- **The Honourable Justices Emmett and Lander** were appointed part-time members of the Australian Law Reform Commission for the period 27 October 2011 to 30 April 2011.
- **The Honourable Justice Collier** was re-appointed a part-time Commissioner of the Australian Law Reform Commission, for a period of three years, with effect from 27 October 2010.
- **The Honourable Justices Mansfield, Kenny, Middleton, Logan, Jagot and Barker** were appointed Presidential Members of the Administrative Appeals Tribunal, for a period of five years, with effect from 24 November 2010.

- **The Honourable Justices Bennett, Lander, Siopis, Edmonds and Greenwood** were re-appointed Presidential Members of the Administrative Appeals Tribunal, for a period of five years, with effect from 24 November 2010.
- **The Honourable Justice Emmett** was re-appointed President of the Copyright Tribunal of Australia, for a period of three years, with effect from 8 December 2010.
- **The Honourable Justice Jagot** was appointed as a Deputy President of the Copyright Tribunal of Australia for a period of three years with effect from 8 December 2010.
- **The Honourable Justice Foster** was appointed as a Part-time Deputy President of the Australian Competition Tribunal for a period of six months with effect from 7 April 2011.

Federal Court registries

Registrar

Mr Warwick Soden is the Registrar of the Court. The Registrar is appointed by the Governor-General on the nomination of the Chief Justice. The Registrar 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 policy advice, human resources, financial management, information technology support, library services, property management and support to the judges' committees.

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 New South Wales District Registry. The Victorian Registry is the Principal Registry for the Australian Competition Tribunal and the Defence Force Discipline Appeal Tribunal, and most other District Registries are also registries for these 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 Magistrates 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 Registrar under section 18N of the Federal Court of Australia Act and are:

- (a) a District Registrar for each District Registry
- (b) Deputy Registrars and Deputy District Registrars
- (c) a Sheriff and Deputy Sheriffs
- (d) Marshals under the *Admiralty Act 1988*.

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, Federal Court Bankruptcy Rules and the Federal Court (Corporations) Rules 2000. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *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 Magistrates Act 1999*. Appendix 4 on page 76 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 2011 there were 358 staff employed under the Public Service Act. Generally, judges have two personal staff members. More details on Court staff are set out in Part 4 and Appendix 10.