

## Chapter 1

### OVERVIEW OF THE FEDERAL COURT OF AUSTRALIA

#### 1.1 ESTABLISHMENT

The Federal Court of Australia, created by the *Federal Court of Australia Act 1976*, 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 of the jurisdiction of the Australian Industrial Court and of 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.

#### 1.2 FUNCTIONS AND POWERS

The Court's original jurisdiction is conferred by over 120 statutes of the Parliament. A list of these Acts appears in Appendix 5 to this report on page 92.

The Court exercises appellate jurisdiction over decisions of single judges of the Court, decisions of the Supreme Courts of the Australian Capital Territory and Norfolk Island and certain decisions of State Supreme Courts exercising federal jurisdiction. The Court's jurisdiction is more fully described in Chapter 2.

#### 1.3 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; and
- manage the resources allotted by Parliament efficiently.

## 1.4 THE COURT

### Judges

The *Federal Court of Australia Act* provides that the Court consists of a Chief Justice and such other judges as are appointed. The Chief Justice is the senior judge of the Court and is responsible for ensuring the orderly and expeditious discharge of the business of the Court.

Judges of the Court are appointed by the Governor-General, by commission. Judges may not be removed except by the Governor-General on an address from both Houses of Parliament, in the same session, praying for the judge's removal on the ground of proved misbehaviour or incapacity. This requirement is contained in s 72 of the *Commonwealth of Australia Constitution Act 1901* and Part II of the *Federal Court of Australia Act*.

Until 1977 judges were appointed for life. As a consequence of the constitutional referendum in that year, all judges appointed after 1977 must retire at the age of 70.

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

As at 30 June 1998 there were 48 judges of the Court. They are listed on pages 3 to 6 in order of seniority. The list gives details about each judge and any other commissions or appointments held on courts or tribunals. Of the 48 judges, there were 7 whose work as members of other courts or tribunals occupied all or most of their time.

**JUDGES OF THE COURT**  
(as at 30 June 1998)

| <b>Judge</b>                             | <b>Location</b> | <b>Other Commissions/Appointments</b>  |
|--|-----------------|--|
| <b>Chief Justice</b>                     |                 |  |
| The Hon Michael Eric John<br>BLACK AC    | Melbourne       |  |
| <b>Judges</b>                            |                 |  |
| The Hon Raymond Moyle<br>NORTHROP        | Melbourne       | Australian Industrial Court – Judge<br>Supreme Court of the ACT- Additional Judge  |
| The Hon John Foster<br>GALLOP AM, RDF    | Canberra        | Supreme Court of the ACT - Judge<br>Supreme Court of the NT - Judge<br>Supreme Court of Christmas Island - Judge<br>Administrative Appeals Tribunal - Presidential Member<br>Defence Force Discipline Appeal Tribunal - President                      |
| The Hon John Daryl<br>DAVIES             | Sydney          | Supreme Court of the ACT - Additional Judge  |
| The Hon John Stanley<br>LOCKHART AO      | Sydney          | Supreme Court of the ACT - Additional Judge<br>Australian Competition Tribunal - President<br>Judicial Consultant to the World Bank  |
| The Hon Bryan Alan<br>BEAUMONT           | Sydney          | Supreme Court of Norfolk Island - Chief Justice<br>Supreme Court of the ACT - Additional Judge<br>Administrative Appeals Tribunal - Presidential Member<br>Supreme Court of Vanuatu - Acting Judge<br>Tongan Court of Appeal and Privy Council - Judge |
| The Hon Murray Rutledge<br>WILCOX        | Sydney          | Industrial Relations Court of Australia - Chief Justice<br>Supreme Court of the ACT - Additional Judge<br>Supreme Court of Norfolk Island - Judge  |
| The Hon Jeffrey Ernest John<br>SPENDER   | Brisbane        | Industrial Relations Court of Australia - Judge<br>Supreme Court of the ACT - Additional Judge<br>Administrative Appeals Tribunal - Presidential Member  |
| The Hon Peter Ross Awdry<br>GRAY         | Melbourne       | Industrial Relations Court of Australia - Judge<br>Administrative Appeals Tribunal - Presidential Member<br>National Native Title Tribunal - Deputy President  |
| The Hon James Charles Sholto<br>BURCHETT | Sydney          | Privy Councillor of Tonga<br>Court of Appeal of Tonga - Judge<br>Copyright Tribunal - President  |
| The Hon Jeffrey Allan<br>MILES AO        | Canberra        | Supreme Court of the ACT - Chief Justice   |
| The Hon Donnell Michael<br>RYAN          | Melbourne       | Industrial Relations Court of Australia - Judge<br>Supreme Court of the ACT - Additional Judge   |

| <b>Judge</b>                                  | <b>Location</b> | <b>Other Commissions/Appointments</b>   |
|---|-----------------|---|
| The Hon Robert Shenton<br>FRENCH              | Perth           | National Native Title Tribunal - President<br>Supreme Court of the Cocos (Keeling) Islands - Judge<br>Supreme Court of Christmas Island - Additional Judge<br>Administrative Appeals Tribunal - Presidential Member   |
| The Hon Marcus Richard<br>EINFELD AO          | Sydney          | Supreme Court of the ACT - Additional Judge<br>Eastern Caribbean Supreme Court - Judge<br>High Court of Justice, Dominica - Judge   |
| The Hon Michael Leader<br>FOSTER              | Sydney          | Supreme Court of the ACT - Additional Judge<br>Federal Police Disciplinary Tribunal - President   |
| The Hon Alastair Bothwick<br>NICHOLSON AO RFD | Melbourne       | Family Court of Australia - Chief Justice   |
| The Hon Malcolm Cameron<br>LEE                | Perth           | Industrial Relations Court of Australia - Judge<br>Supreme Court of the Cocos (Keeling) Islands - Additional<br>Judge   |
| The Hon Howard William<br>OLNEY               | Melbourne       | Supreme Court of the NT - Additional Judge<br>National Native Title Tribunal - Deputy President<br>Administrative Appeals Tribunal - Presidential Member<br>Federal Police Disciplinary Tribunal - Deputy President<br>Aboriginal Land Commissioner   |
| The Hon John William<br>von DOUSSA            | Adelaide        | Industrial Relations Court of Australia - Judge<br>Supreme Court of the ACT - Additional Judge<br>Administrative Appeals Tribunal - Presidential Member<br>Australian Competition Tribunal - Acting President<br>Australian Law Reform Commission – Commissioner<br>Supreme Court of Vanuatu – Acting Judge |
| The Hon Donald Graham<br>HILL                 | Sydney          | Administrative Appeals Tribunal - Presidential Member   |
| The Hon Maurice Francis<br>O'LOUGHLIN         | Adelaide        |   |
| The Hon Deirdre Frances<br>O'CONNOR           | Sydney          |   |
| The Hon Terence John<br>HIGGINS               | Canberra        | Supreme Court of the ACT - Judge  |
| The Hon Peter Cadden<br>HEEREY                | Melbourne       |   |
| The Hon Douglas Paton<br>DRUMMOND             | Brisbane        | Administrative Appeals Tribunal - Presidential Member   |
| The Hon Richard Ellard<br>COOPER              | Brisbane        | Supreme Court of the ACT - Additional Judge   |
| The Hon Antony Philip<br>WHITLAM              | Sydney          | Supreme Court of the ACT - Additional Judge   |

| <b>Judge</b>                                  | <b>Location</b> | <b>Other Commissions/Appointments</b>  |
|---|-----------------|--|
| The Hon Christopher John Seymour Metford CARR | Perth           |  |
| The Hon Michael Francis MOORE                 | Sydney          | Industrial Relations Court of Australia - Judge  |
| The Hon Catherine Margaret BRANSON            | Sydney          |  |
| The Hon Jane Hamilton MATHEWS                 | Sydney          | Administrative Appeals Tribunal - President<br>National Native Title Tribunal - Deputy President |
| The Hon Kevin Edmund LINDGREN                 | Sydney          |  |
| The Hon Brian John Michael TAMBERLIN          | Sydney          |  |
| The Hon Ronald SACKVILLE                      | Sydney          |  |
| The Hon Susan Mary KIEFEL                     | Brisbane        |  |
| The Hon Robert David NICHOLSON                | Perth           | Administrative Appeals Tribunal - Presidential Member  |
| The Hon Paul Desmond FINN                     | Canberra        |  |
| The Hon Ross Alan SUNDBERG                    | Melbourne       |  |
| The Hon Shane Raymond MARSHALL                | Melbourne       | Industrial Relations Court of Australia - Judge  |
| The Hon John Robert Felix LEHANE              | Sydney          |  |
| The Hon Anthony Max NORTH                     | Melbourne       | Industrial Relations Court of Australia - Judge  |
| The Hon Rodney Neville MADGWICK               | Sydney          | Industrial Relations Court of Australia - Judge<br>Supreme Court of the ACT - Additional Judge   |
| The Hon Ronald MERKEL                         | Melbourne       |  |
| The Hon John Ronald MANSFIELD                 | Adelaide        |  |
| The Hon Alan Henry GOLDBERG                   | Melbourne       |  |
| The Hon Arthur Robert EMMETT                  | Sydney          |  |

| Judge                              | Location  | Other Commissions/Appointments                         |
|------------------------------------|-----------|--|
| The Hon Raymond Antony FINKELSTEIN | Melbourne | Copyright Tribunal – Deputy President                  |
| The Hon Geoffrey Michael GIUDICE   | Melbourne | Australian Industrial Relations Commission – President |

The judges of the Court must devote an increasing proportion of their time to other courts and tribunals on which they hold commissions or appointments. In addition to the time spent hearing cases, time was necessarily devoted to other work related to those commissions or appointments, such as writing reserved judgments.

Members of the Court also spend a significant amount of time on other activities related to the law. In particular:

Justice Gallop is Chair of the Steering Committee of the Supreme Court and Federal Court Judicial Conference and has been Chair of the Steering Committee of the Australian Judicial Conference since January 1995.

Justice Beaumont is a member of the South Pacific Judicial Committee Sub-Committee for the Establishment of a Centre for Judicial Education in the South Pacific, Convenor of the Council of Chief Justices Sub-Committee on Harmonisation of Appellate Practice and Procedure and a member of the American Law Institute Advisory Committee on its Transnational Civil Procedural Law Project.

Justice Ryan is a consultant to the Australian Law Reform Commission for the Choice of Law Reference.

Justice French is a Member of the Council and Board of Management of the Australian Institute of Judicial Administration and Convenor of its Research Committee.

Justice von Doussa is a part-time Commissioner of the Australian Law Reform Commission, Chair of the Advisory Committee that oversees the South Australian Practical Legal Training Course conducted by the Law Society of South Australia, and a member of the Advisory Board of the Centre for Legal Education (NSW).

Justice Cooper is the Presiding Member of the Admiralty Rules Committee for rules made under the *Admiralty Act 1988*.

Justice Branson is Deputy President of the Australian Institute of Judicial Administration.

Justice Lindgren is Chair of the Legal Education Committee of the New South Wales Bar Association, Convenor of the Council of Chief Justices Committee on Harmonisation of Practice and Procedure of Corporations Law, Chair of the Advisory Board of the Centre for Legal Education (NSW) and a member of the Board of Directors of the College of Law (NSW).

Justice Kiefel is a member of the National Institute for Law, Ethics and Public Affairs Advisory Board.

Justice R D Nicholson is a member of the Research Committee of the Australian Institute of Judicial Administration, Secretary of the LAWASIA Judicial Section, Deputy Convenor of the Trustees of the Francis Burt Law Education Centre, and Member of the Advisory Panel of the Murdoch University School of Law.

Justice Finn is a member of the Unidroit Working Group for the preparation of the Second Edition of the Unidroit Principles.

Justice Emmett is the Challis Lecturer in Roman Law and a member of the Faculty of Law at the University of Sydney.

Some judges are identified as designated persons under various Acts, which means they may issue warrants authorising telephone interceptions and the use of listening devices. These functions add to their workload.

### **Appointments and retirements**

During the year two judges were appointed to the Court:

The Hon Raymond Antony Finkelstein (resident in Melbourne) appointed on 21 July 1997.

The Hon Geoffrey Michael Giudice (resident in Melbourne) appointed on 17 September 1997.

## **1.5 JUDICIAL REGISTRARS**

On 26 May 1997, the jurisdiction of the Industrial Relations Court of Australia was transferred to the Federal Court by the *Workplace Relations and Other Legislation Amendment Act 1996*. That Act appointed the judicial registrars of the Industrial Relations Court of Australia as judicial registrars of the Federal Court pursuant to s 18AA of the *Federal Court of Australia Act*. The appointments continue for the balance of the term of each judicial registrar's appointment as a judicial registrar of the Industrial Relations Court of Australia. The appointments were usually for periods of up to five years as either a full-time or part-time judicial registrar. A list of the judicial registrars of the Court as at 30 June 1998 appears in Appendix 3 at page 89.

## **1.6 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 a Secretary of a Department of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1922* (s 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.

There are District Registries in each State capital city, in Canberra and in Darwin.

The District Registries provide operational support for the Court as well as an information service to legal practitioners and members of the public. The registries also receive court and related documents, assist with the arrangement of court sittings and facilitate the enforcement of orders made by the Court.

Legal staff of the registries perform statutory functions assigned to them by the *Federal Court of Australia Act* and Rules. These include issuing process, taxing costs and settling appeal indexes. They also conduct examinations of bankrupt individuals and associated persons under the *Bankruptcy Act 1966*, and examinations of company officers and others under the *Corporations Law*. The power to conduct examinations under the *Corporations Law* and the *Bankruptcy Act* is delegated by judges. Senior legal staff exercise additional powers delegated by judges. These include the power to make sequestration (bankruptcy) orders, orders for the winding up of companies and the setting aside of statutory demands.

During the previous reporting period, the District Registries ceased to be Bankruptcy Registries for the purposes of the *Bankruptcy Act* following the commencement of the *Bankruptcy Legislation Amendment Act 1996*. This Act transferred many of the administrative functions previously performed by the District Registries to the Insolvency and Trustee Service, Australia (ITSA).

Most District Registries are also registries for the following federal tribunals; the Australian Competition Tribunal, the Defence Force Discipline Appeal Tribunal and the Federal Police Disciplinary Tribunal. The Tasmania District Registry is a joint registry for the Administrative Appeals Tribunal and the National Native Title Tribunal. The Registry of the Copyright Tribunal is located in the New South Wales District Registry of the Court.

On 30 March 1994 all registries were given the additional function of registries of the Industrial Relations Court of Australia. Separate registries for the Industrial Relations Court were opened in Sydney and Melbourne during the 1994-95 year and in Perth during the 1995-96 year, but all other registries continued to provide a joint registry facility for that Court. Following the commencement of the *Workplace Relations and Other Legislation Amendment Act 1996*, the jurisdiction of the Industrial Relations Court was transferred to the Federal Court on 26 May 1997. The registries of the Federal Court will continue to be registries for the Industrial Relations Court until the work of that Court is completed.

The Northern Territory District Registry is administered by the Family Court of Australia which provides registry services to the Federal Court, the Administrative Appeals Tribunal and the National Native Title Tribunal under service contracts.

## Officers of the Court

Officers of the Court are appointed by the Registrar under s 18N of the *Federal Court of Australia Act*. The officers of the Court are:

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

The Registrar, District Registrars, Deputy Registrars and Deputy District Registrars must take an oath or make an affirmation of office before undertaking the duties of registrar (s 18Y of the *Federal Court of Australia Act*). A schedule of registrars appears in Appendix 4 on page 90 and a list of District Registrars appears in Table 1a below. During the previous reporting year the office of Registrar in Bankruptcy was abolished by the *Bankruptcy Legislation Amendment Act*.

**Table 1a**  
**District Registrars**

| <b>Registry</b>              | <b>District Registrar</b> |
|------------------------------|---------------------------|
| Australian Capital Territory | John Mathieson            |
| New South Wales              | John Mathieson            |
| Northern Territory           | Vacant*                   |
| Queensland                   | Graham Ramsey             |
| South Australia              | Peter Carey               |
| Tasmania                     | Alan Parrott              |
| Victoria                     | Peter Seccombe            |
| Western Australia            | Martin Jan PSM            |

\* The South Australia District Registrar has delegations which allows for the performance of statutory and judge directed functions for the Northern Territory when required.

### **Staff of the Court**

The officers and staff of the Court (other than the Registrar and some Deputy Sheriffs) are appointed or employed under the *Public Service Act*. On 30 June 1998 there were 304 persons employed Australia-wide as registry staff or as judges' personal staff. Generally, judges have two personal staff members. Details of staffing are set out in Tables 3a to 3c in Chapter 3 on pages 48 to 50.

## **1.7 MANAGEMENT OF THE COURT**

The Chief Justice is responsible for managing the administrative affairs of the Court. He is assisted by the Registrar (Part IIA ss 18A-18Y of the *Federal Court of Australia Act*).

The Chief Justice may delegate any of his administrative powers to judges. The Registrar may assist the Chief Justice by exercising powers on his behalf in relation to the Court's administrative affairs. The Chief Justice may give directions to the Registrar about the exercise of these powers.

### **Judges' Committees**

There are 17 standing committees which assist in the administration of the Court:

|                             |                           |
|-----------------------------|---------------------------|
| Admiralty                   | Library                   |
| Assisted Dispute Resolution | Native Title Coordination |
| Audit                       | Practice and Procedure    |
| Bankruptcy                  | Remuneration              |
| Corporations                | Rules                     |
| Equality and the Law        | Security                  |
| Federal Court Reports       | Statistics                |
| Finance                     | Transcript                |
| Information Technology      |                           |

During the reporting year, the Equality and the Law Committee took over the functions of the Cultural Awareness and Gender Issues Committees, and with expanded terms of reference, the new Committee will be addressing a wide range of equality issues.

The Native Title Coordination Committee was created in anticipation of amendments to the *Native Title Act 1993*, which will have a significant impact on the workload of the Court.

An ad hoc Enterprise Bargaining Steering Committee was convened to assist in the development of the Court's Workplace Agreement for the Court under the *Workplace Relations Act 1996*. The Committee is playing a role in endorsing the parameters of the negotiations, considering implications of proposals for the Agreement and ensuring the process is fair to all stake holders.

Each committee is supported by staff of the Court and its role is defined by its terms of reference.

### **Judges' Meetings**

There were two meetings of all judges of the Court during the year. The matters dealt with included reforms to the Court's practice and procedure and amendments to the Rules of Court.

### **Principal Registry**

The Principal Registry, headed by the Registrar, has overall responsibility for the management of the Court's registries. The Principal Registry also provides various services to the Court including personnel services, financial management, computing support, library services, property management and support to the judges' committees.

## District Registries

To facilitate access to the Court and to enable the Court to exercise its jurisdiction nationally, there is a District Registry in each of the States and mainland Territories of Australia. These are managed by a District Registrar supported by legal and administrative staff.

District Registrars and Deputy District Registrars also perform important legal functions including the exercise of judge-delegated functions and statutory functions under the *Federal Court of Australia Act* and Rules and the *Bankruptcy Act*. District Registrars and their staff are a first point of contact for the community and the legal profession in seeking advice on Court procedures and in the processing of documents for those using the Court.

## 1.8 ACCESS TO JUSTICE

### Practice and procedure reforms

- **Individual docket system**

During the reporting year the Court's Practice and Procedure Committee continued its work on proposals to develop and improve the Court's practice and procedure. In particular, the Committee refined procedures to enable the implementation of the Individual Docket System, which commenced fully in all States during the reporting year. In the future, the function of the Committee will be to monitor and, where necessary, suggest improvements to the system.

- **Experts**

The Committee also continued its work on the Court's proposals with regard to the role and purpose of experts giving evidence. As reported last year, the Court has consulted extensively with representatives of the Law Council of Australia and various professional associations regarding its proposals. This consultation continued into the reporting year and issues raised by the Law Council of Australia and the professional associations were considered by the Practice and Procedure Committee. A further proposal was developed and circulated to the Law Council of Australia and the professional associations for their comment. A Practice Direction with attached Experts' Guidelines is expected to issue early in the 1998-99 reporting year. Details concerning the Court's earlier proposals regarding experts may be found in the 1996-97 Annual Report at page 11.

The committee also considered, in consultation with interested bodies, the adoption of the Australian Competition Tribunal's practice of receiving expert evidence. After the judges agreed with the recommendations of the Practice and Procedure Committee to adopt this practice, the matter was referred to the Rules Committee for the drafting of an appropriate rule of Court. The judges agreed that the procedure could be used by judges, but would not be a compulsory method of examining expert witnesses.

The committee also considered other issues including:

- The appropriateness of the Court's current procedures with regards to oaths and affirmations;
- Court-appointed scientific advisers;
- Electronic filing of documents;

- Responsibility for pleadings (the question of whether a party filing a pleading and a legal representative engaged in the preparation of the pleadings should accept responsibility for the pleadings);
- Empanelment of experts;
- The management of appeals.

The committee also developed a new Full Court rostering system, which commenced in 1998. The Full Court system has been refined by the committee, in the light of experience and because of significant increases in the number of appeals, to provide for four national Full Court sittings in 1999, compared to the three scheduled for 1998. These sittings will each be of four weeks duration and will take place in February-March, May-June, August-September and November-December 1999.

One of the purposes of the new system is to provide greater uninterrupted periods of time for individual docket work for judges allocated to Full Courts, and to enable judges not required for Full Courts to list individual docket cases during the Full Court Sittings periods.

### **Gender issues**

In 1993 the Court established a Gender Issues Committee. The terms of reference of the committee included advising the Chief Justice and judges about gender issues as they may affect the Court and making recommendations about judicial studies concerning such issues. During the reporting year, the responsibilities of this committee were transferred to the Equality and the Law Committee. This committee has broader terms of reference encompassing “the obligation of the Court to do right to all manner of people according to law”.

During the year the Court commenced work on its Workplace Diversity Plan, which is intended to recognise and value the diverse skills and background of the staff, and to inform and educate staff in areas such as gender awareness and the elimination of harassment. The plan will be implemented during 1998-99.

### **Disability, race and sex discrimination**

During the year, as in the previous reporting year, the Registrar and a group of officers from the Principal Registry met with the Executive Director and officers from the Human Rights and Equal Opportunity Commission to consider issues affecting the Court arising from the amendments contemplated by the Human Rights Legislation Amendment Bill 1997. The Registrar and officers paid particular attention to the expectations of the people likely to be affected by this new jurisdiction. If passed in its current form, the Bill will transfer to the Court the jurisdiction to hear cases under the *Disability Discrimination Act 1992*, the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*. Draft Court rules and forms have been prepared in anticipation of the possible amendments.

The newly formed Equality and the Law Committee has terms of reference which include providing advice to the Chief Justice and judges on how best to deal fairly and courteously with all who come before the Court, regardless of physical disability, mental capacity, race, gender or sexual preference.

### **Accessibility - facilities and registry services**

The Federal Court registries are centrally located in each of the State and Territory capital cities. The locations and business hours of the registries are set out in the front of this report. Pamphlet guides on Federal Court registry services are available from each of the registries.

The Court is conscious of the need for its facilities to be available to all members of the community and is committed to ensuring that there are no access problems for those with disabilities.

The Court shares many of its buildings with other jurisdictions, and facilities are managed by Local Building Management Committees representing the organisations sharing the facilities in each jurisdiction. A National Building Management Committee sets budgets, deals with matters of common interest and maintains an overall management brief. The Court contributes to capital, maintenance and operating costs of shared buildings.

Early in the year, in a report commissioned by the national committee, Works Australia completed a national audit of portfolio court buildings to identify areas where access could be improved. The audit included registries, courtrooms and other facilities used by the Court.

The report provided detailed recommendations. These were prioritised by local committees and developed into a national works program. By the end of the reporting period, \$735,000 had been spent on buildings occupied by the Court. Works included upgrading of access ramps, new handrails, non-slip surfaces, signage, toilet facilities, upgrading lifts and relocating information boards. The upgrade program will ensure that all the Court's accommodation has these services fully available.

Hearing aid induction loops and amplification facilities are available in many of the Court's premises. In the Sydney Registry, hearing aid loops were installed in seven of the 15 courtrooms and at all registry counters. The remaining courtrooms will be fitted in 1998-99. Loops will be provided in the new Melbourne building (due to open in 1999) and are being installed elsewhere as court facilities are upgraded. All the Court's premises have wheelchair access.

In addition, the Court has in place a system to provide access to professional interpreter services for people who need those services.

### **Remission or waiver of court and registry fees**

Last reporting year the Federal Court of Australia Regulations were amended, changing some fees and introducing new fees required to be paid when matters are set down for hearing, including a daily hearing fee. A setting down fee is not payable on all matters and the amount of the daily hearing fee will vary depending on the nature of the hearing. Regulation 2AC provides a formula for increasing specific court fees every two years from 1 July 1996.

The Federal Court of Australia Regulations authorise registrars to remit or waive fees payable where a person:

- has been granted legal aid by a body approved by the Attorney-General; or
- is the holder of a health care card, a health benefit card, a pensioner concession card, or a Commonwealth seniors health card; or
- is the holder of any other card issued by the Department of Social Security or the Department of Veterans Affairs certifying entitlement to Commonwealth health concessions; or
- is an inmate of a prison or is otherwise lawfully detained in a public institution; or
- is a child under the age of 18 years; or
- is in receipt of an AUSTUDY allowance; or
- is in receipt of an ABSTUDY allowance.

Registrars also have a discretion to waive or remit a fee where a payment would cause financial hardship to a person, taking into account the person's assets, day-to-day living expenses, income and liabilities. A registrar's decision to refuse an application to waive a fee is reviewable by the Administrative Appeals Tribunal. The Administrative Appeals Tribunal did not receive any applications to review any such decisions during the reporting period.

### **Public information and legal education programs**

The Court has a Director of Public Information to assist in the dissemination of information about the Court and its judgments. A series of brochures detailing services and facilities provided by District Registries is available. The Court's brochures on bankruptcy, mediation conferences and a guide for people who do not have a lawyer, are being updated for re-issue in the 1998-99 reporting year. Registry staff will assist parties, particularly unrepresented parties, with the basic procedures and documents provided for by the Rules of Court.

The Court has continued to cooperate with the media particularly in cases of public importance by allowing television cameras to briefly record proceedings in the courtroom. On several occasions judges have permitted sound and visual recording of the handing down of their judgments. Judges have, in some circumstances, prepared summaries of judgments to assist the media. See the case summaries of *Maritime Union of Australia v Patrick Stevedores (No 1) Pty Ltd (Under Administration)* at page 30, and the Full Court appeal at page 32, for examples of the manner in which the Court dealt with a matter attracting international attention.

The Court's home page on the Internet has enabled access to judgments within hours, and sometimes within minutes of the handing down of a judgment. In addition, visitors to the home page can access, among other things, the Court Rules, Forms and Practice Directions, and can link to other legally related Internet sites.

The Court is an active supporter of legal education programs. During the reporting year the Chief Justice and many judges, judicial registrars and registrars presented papers, gave lectures and chaired sessions at judicial conferences, judicial administration meetings, continuing legal education courses, university law schools, Bar reading courses, Law Society meetings and many other public meetings.

### **Searches on court databases**

Following the commencement of the *Bankruptcy Legislation Amendment Act* on 16 December 1996, the bankruptcy database BIOS, Bankruptcy Index Online System, ceased to be updated. This Act transferred many of the administrative functions formerly performed by Registrars in Bankruptcy to the Insolvency and Trustee Service, Australia (ITSA). Searches for the purposes of bankruptcy matters must now be carried out at ITSA. Members of the public may search BIOS, which is now a historical record, for no fee.

Public access is available to FEDCAMS, the Federal Court Case Management System at registry computer terminals. Anyone may inspect initiating documents filed with the Court, subject to any order of a judge to the contrary, or to any limitation or fee imposed by the Federal Court Rules or Regulations.

Fees for copying documents are prescribed by the Federal Court of Australia Regulations.

## **1.9 VISITORS TO THE COURT**

The Court was visited by a significant number of judges and officials from overseas jurisdictions. These visits provided the judges and staff of the Court with an opportunity to develop relationships and learn from people involved in the administration of justice from around the world.

### **Canada**

Justice Jon S Sigurdson, Supreme Court of British Columbia.

### **Denmark**

Judge Hans Christian Thomsen, High Court of Denmark.

### **Indonesia**

Justice Muruarar Siahaan, Bandung, Court of Appeal.

### **Mauritius**

Chief Justice Ariranga Govindasamy Pillay, Supreme Court of Mauritius.

### **Nepal**

Mr Tirtha Man Sakya, Secretary, Ministry of Law and Justice.

## **New Zealand**

Mr Wayne Goodall, Director of Policy for the Department of Courts, Wellington.

Mr Philip Pigou, Caseflow Support Manager, Department of Courts, Wellington.

## **People’s Republic of China**

Contract Law Delegation; Legislative Affairs Commission of the Standing Committee of the National People's Congress.

## **Philippines**

Ms Eunice Cruz, Lawyer, Court of Appeals, Rotary Study Exchange Team member.

## **United Kingdom**

Mr Ian Burns, Director-General Policy, Lord Chancellor’s Department.

## **United States of America**

Judge Marvin Garbis, US District Court Judge for the District of Maryland, as part of the Judicial Exchange Program.

Emeritus Professor Cornelius W Peck, Professor of Law, University of Washington.

Judge Bert Perlman, US District Court.

Judge Judith W Rogers, Circuit Judge of the United States Court of Appeals, Washington DC.

Professor Michael Waxman, Professor of Law, Marquette University, Wisconsin.

## **Vanuatu**

Mrs Rita Naviti, Chief Registrar, Supreme Court of Vanuatu.

### **1.10 JUDICIAL EXCHANGE PROGRAM**

The judicial exchange program had its origins in 1997 when the Chief Justice visited Washington DC and had discussions with Mr James Apple, head of the Interjudicial Affairs Office at the Federal Judicial Centre.

In February 1998 the Court provided chambers in its Melbourne Registry for the Hon Judge Marvin Garbis, a judge of the United States District Court for the District of Maryland. Judge Garbis spent most of the month with the Court sitting on the Bench with Melbourne judges during the hearing of some cases, attending meetings of judges, and generally exchanging views and experiences with the Melbourne judges. The Court facilitated arrangements for accommodation and visits by Judge Garbis to other courts. As well as visiting other courts from his Federal Court base, he conducted a seminar at Monash

University and undertook a number of speaking engagements on matters within his area of expertise.

In June 1998, Justice Graham Hill of the Federal Court visited Washington DC and, at the invitation of the Hon J Harvie Wilkinson III, Chief Judge of the Fourth Circuit of the United States Court of Appeals, attended the 68<sup>th</sup> Judicial Conference of the United States Judges of that Circuit from 25-27 June 1998 at White Sulphur Springs, West Virginia. The topic of the conference was “The Legal Profession in the 21<sup>st</sup> Century”. The Fourth Circuit consists of Maryland, West Virginia, North Carolina and South Carolina. Attendance at the Fourth Circuit’s Judicial Conference is by invitation only.

Justice Hill also sat in on cases with Chief Judge Mary Ann Cohen of the United States Tax Court and with Judge Deborah Chasanow of the United States District Court for the District of Maryland.