CHAPTER 3

THE WORK OF THE COURT

3.1 INTRODUCTION

The outcome for the Federal Court is, through its jurisdiction, to apply and uphold the rule of law to deliver remedies and enforce rights and in so doing, contribute to the social and economic development and well-being of all Australians. This chapter reports on the five output groups for the Court's outcome, namely:

- Management of cases and deciding disputes according to law – Federal Court;
- Management of cases and deciding disputes according to law – Tribunals;
- Service to Government;
- Services provided to international jurisdictions; and
- Ensuring the quality of, and access to, the system of justice.

A summary of the Court's performance in relation to these output groups is set out in Table 6.1 on page 120.

3.2 MANAGEMENT OF CASES AND DECIDING DISPUTES BY THE COURT

Introduction

This output group refers to the management of cases that come before the Court. It includes a range of activities which assist judicial decision making, such as providing registry services to accept and process documents for court proceedings, collecting court fees, listing matters for hearings, monitoring the work of the Court, and otherwise assisting the management and determination of proceedings. It also includes the provision of infrastructure for Court hearings, including hearing rooms, furniture, equipment and transcript services.

This part of the report examines the Court's jurisdiction, management of cases, workload and use of assisted dispute resolution.

A summary of the Court's performance in relation to this output group is set out in Table 6.1.

General

Jurisdiction

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian federal law and some summary criminal matters.

Cases arising under Part IV (restrictive trade practices) and Part V (consumer protection) of the *Trade Practices Act 1974* constitute a significant part of the workload of the Court. These cases may raise important public interest issues

involving such matters as mergers, misuse of market power, exclusive dealing or false advertising. Other cases may only concern the parties. See Figure 7.7 on page 133 for comparative statistics on Trade Practices Act matters.

Administrative law is an important area of jurisdiction. Many cases arise under the *Administrative Decisions (Judicial Review) Act 1977*. This Act provides for judicial review of most administrative decisions made under Commonwealth enactments on grounds relating to the legality, rather than the merits, of the decision (see Table 7.6 on page 142 for a list of some of the enactments under which decisions have been made). Many cases also arise under the *Administrative Appeals Tribunal Act 1975* which provides for a review on the merits by the Administrative Appeals Tribunal of many Commonwealth administrative decisions, and which also provides for a right of appeal from the Tribunal to the Court on questions of law.

Until 1 October 2001 the Court had jurisdiction under Part 8 of the *Migration Act 1958* to hear applications for judicial review of decisions of the Migration Review Tribunal and the Refugee Review Tribunal. On 2 October 2001, Part 8 was replaced with a new Part 8 that introduced a privative clause, which is intended to restrict the jurisdiction of the Court to review administrative decisions made under the Migration Act. Under the new Part 8, the Court has jurisdiction under sections 39B and 44 of the *Judiciary Act 1903* to review 'privative clause decisions' made by the Migration Review Tribunal or the Refugee Review Tribunal. See Figure 7.9 on page 136 for comparative statistics on matters related to the Migration Act.

The Court hears taxation matters on appeal from the Administrative Appeals Tribunal. It also exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation.

The Court shares first instance jurisdiction with the Supreme Courts of the States and Territories in the complex area of intellectual property (copyright, patents, trade marks and designs). All appeals in these cases, including appeals from the Supreme Courts, are to a Full Federal Court.

A significant part of the Court's jurisdiction derives from the Native Title Act. Since 30 September 1998, the Court has had jurisdiction to hear and determine native title determination applications, revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. Applications filed with the National Native Title Tribunal ("the NNT Tribunal") as at 30 September 1998 were transferred to the Court on that date. The Court also hears appeals from the NNT Tribunal and matters filed under the Administrative Decisions (Judicial Review) Act involving native title. See Figure 7.14 at page 141 for statistical information on native title matters.

Another important part of the Court's jurisdiction derives from the *Admiralty Act 1988*. The Court has concurrent jurisdiction with the Supreme Courts of the States and Territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims. During the reporting year the Court's

Admiralty Marshal made four arrests. No vessels were under arrest as at 30 June 2002. One vessel, the MV 'Beadon', was sold in the reporting year pursuant to an order of the Court. See Figure 7.10 on page 137 for a comparison of Admiralty Act matters filed in the past five years.

In June 1999, the Court's jurisdiction under the Corporations Law as it then existed was severely limited following the decision in *Re Wakim* in which the High Court found that the cross-vesting scheme, which formed the basis of most of the Federal Court's corporations law jurisdiction at that time, was partly invalid. The Federal Court regained full jurisdiction to hear corporations matters on 15 July 2001 upon the commencement of the *Corporations Act 2001* and *Australian Securities and Investments Commission Act 2001*. The Court's jurisdiction under this legislation covers diverse matters ranging from the appointment of provisional liquidators and the winding up of companies, to applications for the orders available in relation to fundraising, corporate management and misconduct by company officers. The jurisdiction is exercised concurrently with the Supreme Courts of the States and Territories. See Figure 7.6 on page 131 for a comparison of corporations matters filed in the last five years.

The Court exercises jurisdiction under the Bankruptcy Act. It has power to make sequestration (bankruptcy) orders against persons who have committed acts of bankruptcy and to grant bankruptcy discharges and annulments. The Court's jurisdiction includes matters arising from the administration of bankrupt estates. Figure 7.13 on page 140 provides statistical information on bankruptcy matters.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of the Australian Capital Territory and the Supreme Court of Norfolk Island. It also hears appeals from the Federal Magistrates Court in non-family law matters. Appeals on points of law from the Administrative Appeals Tribunal and other tribunals are within the original jurisdiction of the Court. Figure 7.11 on page 138 provides statistical information concerning the number of Full Court appeals.

This summary refers only to some of the principal sources of the Court's work. Other matters heard by the Court range from cases involving anti-dumping notices, tariff concession orders, to cases arising under Commonwealth anti-discrimination legislation. Statutes under which the Court exercises jurisdiction are listed in Appendix 5 on page 116.

New jurisdiction

The Court's jurisdiction during the year was enlarged or otherwise affected by several statutes including:

- *Australian Securities and Investments Commission Act 2001*
- *Corporations Act 2001*
- *Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Act 2001*
- *Migration Legislation Amendment (Judicial Review) Act 2001*

- *Migration Legislation Amendment Act 2001 (No 1)*
- *Financial Sector (Collection of Data) Act 2001*
- *General Insurance Reform Act 2001*
- *Interactive Gambling Act 2001*

Federal Court Rules and Practice Notes

The judges are responsible for making the Rules of Court under the Federal Court of Australia Act. The Rules provide the procedural framework within which matters are commenced and conducted in the Court. The Rules of Court are made as Commonwealth Statutory Rules. The Rules are drafted by the Court's Rules Committee with the assistance of a Deputy Registrar. An officer of the Office of Legislative Drafting within the Attorney-General's Department assists with the form and publication of the new Rules.

The Rules are kept under review. New and amending rules are made when needed to ensure that the Court's procedures are up to date and responsive to the needs of modern litigation. They also provide the framework for new jurisdiction conferred upon the Court. A review of the Rules will be undertaken as a consequence of the changes to the Court's practice and procedure described elsewhere in this report.

During the reporting year, a number of amendments were made to the Rules . These included amendments to:

- require a legal representative who has prepared a pleading to sign a certificate to the effect that the factual and legal material available to the representative provides a proper basis for each allegation, each denial and each non-admission in the pleading;
- provide for the entry of default judgment in certain circumstances;
- allow a new cause of action to be pleaded once a proceeding has commenced;
- broaden the circumstances in which a respondent to an appeal must file a notice of contention; and
- provide for short form bills in applications for the winding up of a company under the Corporations Act.

Other amendments were made in relation to applications for extension of time in judicial review matters, intellectual property matters, the prescribed notice of discontinuance, filing of documents in a proceeding that has been commenced, and the scale of solicitors' costs. Minor amendments were made to a number of other rules.

The *Federal Court (Corporations) Rules 2000*, which sets out the rules for proceedings in the Court under the Corporations Act and the ASIC Act, was amended in May 2002 to allow the Court to direct that a Registrar may exercise the power under subsection 601AH (2) of the Corporations Act to order reinstatement of registration of a company.

Practice Notes supplement the procedures set out in the Rules of Court. During the reporting year, there were no amendments to the existing Practice Notes and no new Practice Notes were issued.

Practice Notes are available without charge through District Registries and on the Court's Internet home page. They have been reproduced in looseleaf services by law publishers. The Court has also published various notices to practitioners issued by the District Registries. These are available from the Court's home page, the District Registries and in looseleaf legal services.

Decisions of interest

During the year the judges of the Court published over 1,970 decisions. To give some illustration of the Court's work, Appendix 8 on page 145 includes a summary of the following decisions, which highlight the varied jurisdiction of the Court.

- Aboriginals – Prevention of construction works to protect a significant Aboriginal area
  Chapman& Others v Luminis Pty Ltd & Others
  (21 August 2001, Justice von Doussa)

- Aborigines – Removal of part-Aboriginal children
  Cubillo v Commonwealth
  (31 August 2001, Justices Sackville, Weinberg and Hely)

- Constitutional law – Whether exclusion of aliens from Australian territory a valid exercise of executive power
  Ruddock v Vadarlis
  (18 September 2001, Chief Justice Black, Justices Beaumont and French)

- Copyright – Whether New South Wales Local Court has jurisdiction to convict and impose penalties under Copyright Act 1968 (Cth***)***
  Ly v Jenkins
  (26 November 2001, Justices Moore, Sackville and Kiefel)

- Administrative law – Judicial review of appointment of Chief Magistrate of Northern Territory
  North Australian Aboriginal Legal Aid Service Inc v Bradley
  (7 December 2001, Justice Weinberg)

- Discrimination – Refusal to register female applicant wishing to engage in boxing contest
  Ferneley v Boxing Authority of NSW
  (10 December 2001, Justice Wilcox)

- Trade Practices – Unconscionable conduct according to the unwritten law
  Australian Competition and Consumer Commission v Samton Holdings
  (6 February 2002, Justices Gray, French and Stone)

- Corporations – Whether appropriate for Court to give directions in respect of a purely commercial or business decision
  In the matter of Ansett Australia Limited and Korda
  (12 February 2002, Justice Goldberg)

- Administrative law – Operation of privative clause
  NAAX v Minister for Immigration and Multicultural Affairs
  (15 March 2002, Justice Gyles)

- Corporations – Takeovers – Acquisition of shares
  Edensor Nominees Pty Ltd v Australian Securities and Investments Commission
  (20 March 2002, Justices Hill, Sundberg and Mansfield)

- Fisheries – grant of fishing permit – effect of promise made on sale of Northern Prawn Fishery permits under voluntary adjustment scheme
  Latitude Fisheries Pty Ltd v Australian Fisheries Management Authority
  (10 April 2002, Justice RD Nicholson)

- Intellectual property – Subsistence and infringement of copyright in telephone books
  Desktop Marketing Systems v Telstra
  (15 May 2002, Chief Justice Black, Justices Lindgren and Sackville)

Caseflow management of the Court's jurisdiction

The Court has adopted as one of its key caseflow management principles the establishment of time goals for the disposition of cases and the delivery of reserved judgments. The time goals are supported by the careful management of cases through the Court's Individual Docket System, and the implementation of practices and procedures designed to assist with the efficient disposition of cases..

Under the Individual Docket System, a matter will usually stay with the same judge from commencement until disposition, leading to greater familiarity with and more efficient management of the proceeding.

Disposition of matters other than native title

In 1999–2000 the Court set a period of eighteen months from commencement as the goal within which it should dispose of at least 85 per cent of its cases (excluding native title cases). It was set having regard to the growing number of long, complex and difficult cases, the impact of native title cases on the Court's workload, and a decrease in the number of less complex matters (such as winding up and related applications under the Corporations Law). The time goal is reviewed regularly by the Court in the light of changes to the incoming workload and the resources available to dispose of that workload. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

Notwithstanding the time goal, the Court expects that most cases will be disposed of well within the eighteen month period, with only particularly large and/or difficult

legal and/or factual cases requiring more time. Indeed, many cases are urgent and need to be disposed quickly after commencement. The Court's practice and procedure facilitates early disposition when necessary.

During the five year period from 1 July 1997 to 30 June 2002, 90.3 per cent of cases (excluding native title matters) were completed in less than eighteen months, 83.3 per cent in less than twelve months and 65.5 per cent in less than six months (see Figure 7.4 on page 129). Figure 7.5 on page 130 shows the percentage of cases (excluding native title matters) completed within eighteen months over the last five reporting years. The figure shows that in 2001–02, 90.8 per cent of cases were completed within eighteen months.

The slight decrease in the number of matters completed reflects the continuing change in the mix of cases filed in the Court since last reporting year. In particular, the substantial reduction in the number of usually very simple bankruptcy matters filed in the Court contributed to less matters being completed in the reporting year. The decrease in the number of completed matters was also partly the result of the impact produced by the large number of native title and other complex matters being heard by the Court.

The reduction in the number of bankruptcy matters was due to the establishment of the Federal Magistrates Court, which has concurrent jurisdiction with the Court under the Bankruptcy Act. As noted in the Court's annual report for 2000-01, a greater proportion of the Federal Court's workload will consist of complex cases as simpler matters are commenced in, or transferred to, the Federal Magistrates Court. This will have an impact on the Court's ability to meet its goal of disposing of 85 per cent of matters within 18 months. It will also affect the number of cases that can be completed each year.

Information on the disposition of native title matters is discussed on pages 33 to 35.

Delivery of judgments

In the reporting period, 1,972 Full Court and single judge judgments were delivered. Of these judgments, 376 were delivered by the Full Court and 1,596 by single judges. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions.

The nature of the Court's workload means that a substantial proportion of the matters coming before the Court will go to trial and the decision of the trial judge will be reserved at the conclusion of the trial. The judgment is delivered at a later date and is often referred to as a "reserved judgment'. The nature of the Court's appellate work also means a substantial proportion of appeals require reserved judgments.

The Court has set a goal for the delivery of judgments of three months from the date a judgment is reserved to the date when it should be delivered. The degree to which the Court is able to meet this goal depends on the complexity of each case in question and other issues, such as the pressure of the business upon the Court.

During the reporting period the median time between reserving and delivery of judgments was 43 days for Full Court appeals and 29 days for single judge matters. Over 61 per cent of reserved judgments in appeals were delivered within 60 days, and 54 per cent of reserved judgments in the Court's original jurisdiction were delivered within 30 days. It is important to note that these figures do not take into account the significant number of judgments in Full Court appeals and by single judges that are delivered on the day of the hearing. Nor do these calculations include the many decisions by registrars of the Court.

The workload of the Court in its original jurisdiction

Incoming work

In the reporting year, 3,924 cases were commenced in the Court's original jurisdiction, a decrease of 1,047 compared to 2000–01 when 4,971 cases were commenced. The decline in filings between the two reporting years was due principally to a reduction in applications under the Bankruptcy Act (636 fewer filings), the *Taxation Administration Act 1953* (543 fewer filings), the *Human Rights and Equal Opportunity Commission Act 1986* (73 fewer filings), and the *Income Tax Assessment Act 1936* (83 fewer filings). These reductions were partly offset by an increase in corporations cases (327 more filings).

The significant reduction in taxation matters reflects the unusually high number of matters that were filed in 2000–01 following the disallowance by the Commissioner of Taxation of a large number of objections lodged by taxpayers. The number of taxation matters filed in 2001–02 is consistent with the number filed in the years prior to 2000–01. The reduction in applications under the Bankruptcy Act and the Human Rights and Equal Opportunity Commission Act is due to litigants commencing these proceedings in the Federal Magistrates Court.

Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

Judiciary Act 1903, section 44
Cross-vesting Scheme Acts
Corporations Act 2001
Federal Magistrates Act 1999

During 2001–02, 24 matters were remitted or transferred to the Court:

12 from the High Court of Australia
1 from the Family Court of Australia
6 from the Federal Magistrates Court
5 from State or Territory Supreme Courts

Matters may be transferred from the Court under:

Federal Court of Australia Act 1976
Jurisdiction of Courts (Cross-vesting) Act 1987
Administrative Decisions (Judicial Review) Act 1977
Bankruptcy Act 1966
Trade Practices Act 1974
Corporations Act 2001
Administrative Appeals Tribunal Act 1975

During 2001–02, 263 matters were transferred from the Court:

1	to the Family Court of Australia
246	to the Federal Magistrates Court
14	to State or Territory Supreme Courts
2	to State District or County Courts
0	to State or Territory Local or Magistrates Courts

Matters completed

Table 7.2 on page 124 shows a comparison of the number of matters commenced in the Court's original jurisdiction and the number completed. The number of matters (including bankruptcy matters) completed during the report year was 4,266, against 4,858 in the previous reporting year. This was primarily due to the further reduction in the Court's bankruptcy workload, which meant that there were fewer bankruptcy cases to complete in the reporting year. If completed bankruptcy matters are excluded, there was an increase of 405 matters finalised in the reporting year compared to 2000–01. The reduction in the number of simpler bankruptcy cases has enabled the Court to increase the number of complex cases completed in the reporting year.

Current Matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 4,129 (see Table 7.2 on page 124), 421 fewer than the previous reporting year. This decrease reflects the reduction in the number of matters filed in the Court.

Age of pending workload

The comparative age of matters pending in the Court's original jurisdiction (other than native title matters) as at 30 June 2002 and the four previous reporting years is set out in Table 3.1.

Native title matters are not included in Table 3.1 because:

- they are subject to a special three year time goal;
- the majority of the 794 native title matters transferred to the Court on 30 September 1998, while deemed to have been filed in the Court on that day, continued to be substantively under the control of the NNT Tribunal for the

purposes of mediation, completion of the registration test and other legislative requirements of the Native Title Act.

The age of pending native title matters is set out in Table 3.3 on page 34.

Table 3.1
Current matters (excluding Full Court appeals and all native title matters)

Age of matters	Current as at 30-Jun-98	Current as at 30-Jun-99	Current as at 30-Jun-00	Current as at 30-Jun-01	Current as at 30-Jun-02
under 6 months	1,883	1,859	1,709	1,894	998
6-12 months	786	809	896	676	656
12-18 months	442	278	355	324	846
Under 18 months	3,111	2,946	2,960	2,894	2,500
18-24 months	250	214	246	332	279
over 24 months	562	547	460	520	525
Over 18 months	812	761	706	852	804
Total	3,923	3,707	3,666	3,746	3,304

Table 3.1 shows that from 1998 to 2000 the number of cases over 18 months old in the Court's original jurisdiction (excluding native title matters) was decreasing. This trend was reversed last year when the number of cases over 18 months old as at 30 June 2001 increased to 852. However, as at 30 June 2002 this number had decreased to 804. This decrease reflects the changing mix of the Court's jurisdiction, and the Court's commitment to reduce it pending caseload by avoiding and reducing delay. It also reflects the impact that the transfer of simpler cases to the Federal Magistrates Court has had on the Court's capacity to finalise more complex matters.

Table 3.1 also shows that the number of matters aged 12-18 months increased from 324 in 2000-01 to 846 in 2001-02. This is due to the unusually high number of taxation matters filed in 2000-01. At 30 June 2002, most of these cases were either awaiting the outcome of various test cases or are the subject of further consideration between the applicants and the Commissioner for Taxation.

The Court will continue to focus on reducing its pending case load and the number of matters over 18 months old.

A collection of graphs and statistics concerning the workload of the Court is contained in Appendix 7 to this report commencing on page 122.

The Court's appellate jurisdiction

The appellate workload

The Court's appellate workload is substantial and has increased significantly in recent years. In 2001–02, 603 appeals were made to the Full Court. This compares to 414 appeals in 2000–01, and 330 appeals in 1997–98 (see Table 7.3 on page 125 and Figure 7.11 on page 138 for comparative filings).

Increases in the number of Full Court hearings, which are usually constituted by three and sometimes five judges, add to the workload of the Court and its ability to dispose of first instance work. When judges sit on Full Courts they are not available for first instance work, and have less time to devote to their own docket workload. Any substantial increase in appellate work may result in a proportionate reduction in the Court's ability to do trial work.

The Court monitors the effects on its workload of increases in the number of appeals and, as necessary, will introduce changes to appellate practice and procedure to ameliorate or limit these effects, so that the Court continues to deal with its appellate and first instance work in an efficient, effective and timely manner. It may be necessary, in the near future, for the Court to suggest that consideration be given to legislative changes to assist the management of the Court's appellate workload, such as broadening the leave to appeal requirements.

Towards the end of each calendar year, the Court publishes its program of Full Court sittings for the following year. In the 2002 calendar year, four Full Court sittings have been programmed for Sydney, Melbourne, Brisbane, Perth, Adelaide, Canberra, Hobart and Darwin. Once appeal books are prepared by the parties, an appeal can usually be listed for the next scheduled Full Court sitting in the capital city where the matter was heard at first instance.

During the reporting year, 22 special Full Court hearings (totalling 15.5 hearing days) were held to enable the early disposition of urgent appeals. On occasions when matters have been sufficiently urgent, it has been necessary to either convene an urgent sitting of a Full Court in a capital city other than that in which the case was originally heard or use video-conferencing facilities.

Appeals filed

In the reporting year, 603 appeals were made to the Full Court (see Table 7.3 on page 125). This was 189 appeals, or 45.6 per cent, more than the number of appeals in 2000–01. The number of Full Court appeals is dependent on many factors including the number of first instance matters disposed of in a reporting year, the mixture and the types of matters filed in the Court, and whether the jurisdiction of the Court is enhanced or reduced by legislative changes or decisions of the High Court of Australia on the constitutionality of legislation.

The greater number of appeals was due primarily to an increase in the number of appeals in the migration jurisdiction (150 more appeals).

Although it is difficult to predict future appellate workload, the Court believes that on the basis of its current jurisdiction and workload mix, the number of Full Court appeals is likely to remain constant, provided there is no further increase in the number of migration matters being dealt with at first instance by the Court and by the Federal Magistrates Court.

Appeals completed

In the reporting year, 520 appeals were completed, compared to 414 in 2000–01. The higher number is primarily due to changes to the type and complexity of appeals being heard by the Full Court. In particular, the large increase in migration appeals which, in most cases, can be determined relatively quickly.

Appeals on hand

As at 30 June 2002 there were 334 pending appeals, 89 more than for the previous reporting year. The higher figure is primarily due to the large increase in the number of migration appeals made to the Full Court in the reporting year.

Age of pending appellate workload

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) as at 30 June for the reporting year and the four previous reporting years is set out in Table 3.2 below.

The table shows that as at 30 June 2002 there were 19 appeals over 18 months old – a decrease from the 25 appeals over 18 months old as at 30 June 2001.

Table 3.2
Current Full Court Appeals (including native title appeals)

Age of appeals	Current as at 30-Jun-98	Current as at 30-Jun-99	Current as at 30-Jun-00	Current as at 30-Jun-01	Current as at 30-Jun-02
under 6 months	153	173	139	163	233
6-12 months	73	59	33	47	67
12-18 months	23	14	26	10	15
Under 18 months	249	246	198	220	315
18-24 months	14	10	6	3	8
over 24 months	14	23	17	22	11
over 18 months	28	33	23	25	19
Total	277	279	221	245	334

The Court's workload in particular areas of its jurisdiction

Migration matters

Until 1 October 2001, the Court had jurisdiction under the Migration Act to hear applications for judicial review of decisions of the Migration Review Tribunal and the Refugee Review Tribunal. As previously noted, on 2 October 2001 the Migration Act was amended by the substitution of new provisions which gave the Court jurisdiction under sections 39B and 44 of the Judiciary Act to review 'privative clause decisions' made by a Tribunal. The Act provides that a 'privative clause decision' is a decision of an administrative character under the Migration Act, or regulations or other instruments made under the Migration Act, and that such a decision is final and conclusive and not subject to judicial review. However, the High Court has interpreted similar clauses in other legislation as narrowing the basis for judicial review – not preventing judicial review. At the time of writing, the scope of the privative clause in the Migration Act is being considered and is the subject of litigation before the Federal Magistrates Court, Federal Court and High Court.

Figure 7.9 on page 136 sets out details of the Court's workload in matters concerning decisions under the Migration Act for the period 1997–98 to 2001–02. When considering figure 7.9, it is important to note that the number of matters for 2001–02 does not include the matters commenced under the Judiciary Act. Most of the decisions for which review was sought were concerned with whether a person may reside in Australia permanently.

The number of matters concerning decisions under the Migration Act filed in the Court's original jurisdiction was 1,014 in 2001–02 (including matters commenced under the Judiciary Act), representing a decrease of 107 matters between 2000–01 and 2001–02. It is expected that the number of matters commenced in the Court will decline further once the effect of the privative clause has been determined and understood by those who advise migration applicants, and as a result of the Federal Magistrates Court exercising first instance jurisdiction in this area.

Last year's annual report indicated that to help manage its migration workload the Court would aim to complete migration matters at first instance within four months from the date of filing where the applicant was in migration detention, and within six months in other cases. In 2001–02, 56.1 per cent of cases involving an applicant in detention were completed within four months of filing, and 77.5 per cent of other migration cases were completed within six months of filing. These results will be considered as part of the Court's ongoing review of how migration cases may be dealt with more expeditiously.

Migration Act matters also form a substantial and increasing proportion of the Court's appellate jurisdiction. In 1998–99 there were 419 appeals to the Full Court (see Figure 7.11 on page 138), of which 95 or 22.7 per cent concerned decisions under the Migration Act. This can be contrasted with 2001-02, where 341 or 56.5 per cent of the 603 Full Court appeals involved a review of a decision under the Migration Act. There was an increase of 150 in the number of appeals filed in 2001–02 compared with the number filed in the previous year.

Native title matters

The native title jurisdiction

Since 30 September 1998 the Court has had responsibility for the management and determination of native title applications. The Court's jurisdiction is discussed on page 18. To perform its new functions the Court was given a wide range of powers in relation to the management and resolution of native title applications.

Under the new regime, applications are filed in the Court and not the National Native Title (NNT) Tribunal. Applications that satisfy the Court's requirements are referred to the NNT Tribunal, which applies a registration test to determine whether the native title applicant has the right to negotiate. The NNT Tribunal will also mediate applications referred to it by the Court.

Managing native title cases

Native title is widely recognised as a complex area of law with a limited, but developing, jurisprudence. In addition to the legal complexity, native title litigation is frequently time consuming and resource intensive, involving a range of parties (including indigenous people, governments and industry) and various evidential issues (including the need to hear evidence in remote locations, and to take evidence from elders and other witnesses who may not be living by the time a matter comes to trial). The Court is committed to ensuring that these complexities do not prevent the determination of claims within a reasonable timeframe. To this end, the Court has adopted an active approach to its management of native title cases, aimed at supporting and promoting efficient and effective progress.

The features of this approach include:

- the work of the Court's Native Title Coordination Committee;
- the national allocation protocol;
- the use of extensive consultations and information sharing, particularly through the Court's user groups; and
- the strategic management of native title cases.

Native Title Coordination Committee

The Native Title Coordination Committee consists of senior judges and staff of the Court as set out in Appendix 4 on page 114. The Committee provides national planning advice to the Chief Justice and judges, and identifies and considers issues concerning the management of the native title workload.

National allocation protocol

The Court has a national allocation protocol for the case management and listing of native title matters. The protocol provides that each case is allocated provisionally to a judge ("the Provisional Docket Judge") who, with the assistance of a Deputy Registrar, is responsible for the initial management of the case. The provisional allocation usually continues while the matter is being considered for registration by

the Native Title Registrar, and, where relevant, while it is in active mediation with the NNT Tribunal. When the matter requires substantive action (such as the hearing of a contentious interlocutory application), or is ready for a main hearing, the matter is referred to the Court's Native Title Unit for substantive allocation to a trial judge.

As at 30 June 2002, 266 native title matters had been substantively allocated, of which 197 were still active.

Native title user groups

User groups have been established nationally and in each State and Territory. Each group includes representatives of native title claimants, industry groups, pastoralists, mining, fishing and other interests, and the governments of the Commonwealth and the relevant State or Territory. The user group meetings provide an important opportunity for parties and interest holders to help judges and officers of the Court plan and improve the management and listing of native title claims. Importantly, these meetings focus on the need for practical and timely outcomes.

A number of user group meetings were convened during the reporting period, including a meeting of the National User Group in Adelaide in October 2001. The National User Group meeting focussed on an exchange of information on the progress of native title cases and consequent resource demands on applicants and respondents. The meeting also provided an opportunity for participants to discuss the Court's practice and procedure and general management of native title cases.

State and Territory user group meetings in 2001–02 were well attended and involved discussions of the Court's approach to its native title work, and amongst other things, supported the strategic management of native title cases.

Strategic management of native title cases

The Court has continued to use a range of innovative strategies to assist with the management of native title cases.

One strategy has been to make greater use of court-annexed mediations and case conferences to resolve difficult issues in a case. Increasingly, a trial judge will refer particular issues in a native title proceeding to mediation before a registrar. Referrals have been made in relation to such issues as:

- determining how to progress a matter in light of funding or other resource considerations;
- clarification of the boundaries of overlapping applications;
- party joinder applications;
- membership of applicant group; and
- pre-notification and identification of interests to be notified.

Mediation and case conferences have also been used to settle timetables for the hearing of evidence and to identify the issues likely to be in dispute.

Another initiative has been the use of regional case management conferences. These conferences allow the Court to hear from applicants and respondent parties on a range of matters, including the strategic listing of matters, the prioritising of cases, and the role of mediation. The regional case management conferences are particularly useful as they allow parties to re-define their priorities on a regional, rather than on a case-by-case, basis.

During the reporting year, two such conferences were held in relation to a number of claims in the goldfields of Western Australia. One of these conferences, in which five judges participated, dealt with the management of eighteen native title matters. Eight separate submissions were made to the Court outlining options for progress. The applicants submitted that the trial dates be vacated, while other parties opposed the application on the basis that the allocation of a final hearing date focused the parties towards a resolution, either through mediation or litigation. As a result of the conference, the Court was able to make appropriate orders in respect of mediation and the vacation of trial dates.

Native title workload

Active judicial case management of native title cases since 1998 has led to an substantial number of claimant applications being amended, combined, withdrawn or discontinued. Leaving aside applications for the review of decisions by the Native Title Registrar of the NNT Tribunal and for interlocutory matters, the consolidation and streamlining of native title matters means that at 30 June 2002 there were, in practical terms, 590 active claimant applications before the Court, of which 290 are being mediated by the NNT Tribunal. There were also 22 compensation claims.

Of the 590 active claimant applications before the Court, 463 have been notified. Under the Native Title Act, the Native Title Registrar must notify the public about native title applications, compensation applications, non-claimant applications or applications to register an indigenous land use agreement. Applications are notified to ensure that relevant people and organisations have the opportunity to apply to the Court to become a party to the application and to participate in mediation. Once the notification process has been completed, the application may proceed.

During the reporting year, the Court made six determinations that native title exists. Two of these determinations were made after a contested hearing, three by consent after extensive mediation and one by consent after the hearing had been completed, but prior to judgment.

Notwithstanding that the Court conducted nine native title hearings comprising 33 claimant applications, the number of determinations was less than that in 2000–01. The lower number of determinations was due to a number of factors, including:

- the adjournment of a number of trials as the Court and the parties awaited the High Court's decision in *Ben Ward v Western Australia*, which was expected to help resolve many of the issues relating to the extinguishment and content of native title;

- the slower than expected progress in the 145 applications affected by the High Court's decision in the *Croker Island*, which dealt with the existence of native title over sea and seabed; and
- changes of government in Western Australia, South Australia and the Northern Territory has led to a change in each government's approach to the native title cases to which it is a party, which in turn has impacted on the progress of those cases.

Disposition of native title cases

The Court has set a time goal for native title matters of three years from October 1999 or the date of filing (whichever is the later date) to disposition. The special time goal was set for native title matters because of their complexity, the issues involved, the number of parties and the location of many native title claims. The objectives of the time goal are to:

- recognise that disposition standards are an essential component of effective case management;
- achieve the timely and efficient resolution of native title matters; and
- focus the attention of relevant people on how the resolution of native title may be achieved within a time frame that is appropriate to all participants and, at the same time, attribute responsibility to those who can contribute to, not only the resolution of the matter, but the achievement of the time goal.

Following the meeting of the National Native Title User Group in October 2001, the Court's Native Title Coordination Committee commenced a further review of the disposition target. The Committee noted that a time goal is intended to be no more than a guideline for the fair and just management of a case, and is an essential part of the Court's approach to the management of cases under the individual docket system. The Committee also noted that there are strong contrary views on the three year disposition target, with some parties and interest holders believing it is too short and others believing it to be too long.

The Committee is still considering the issue, but believes that it is desirable to keep a national target while noting that this may be varied at a regional level in light of information provided by relevant user groups or case conferences. The adoption of local timeframe targets is consistent with views expressed at the National User Group meeting and has recently been used in the 'goldfields' case management conference referred to earlier. The approach is also consistent with a process being overseen by the Court where the NNT Tribunal and parties participate in a state or territory case conference for the purpose of developing a strategy and timetable for the resolution of claims.

In 2001–02, 117 applications involving the Native Title Act were completed, with an average time from filing to disposition of two years and eight months. One native title appeal was completed in the reporting year, which took approximately five months from filing to disposition.

Age of pending native title cases

The time span for native title cases (including appeals) is set out in Table 3.3.

Table 3.3
Current Native Title Matters (including appeals)

Age of matter	Current as at 30-Jun-98	Current as at 30-Jun-99	Current as at 30-Jun-00	Current as at 30-Jun-01	Current as at 30-Jun-02
under 6 months	25	54	24	77	55
6-12 months	8	750	57	50	66
12-18 months	2	22	33	20	68
Under 18 months	35	826	114	147	189
18-24 months	6	8	629	41	44
over 24 months	7	11	36	616	598
over 18 months	13	19	665	657	642
Total	48	845	779	804	831

In 1999–2000 there was a significant increase in the number of cases over 18 months old. This increase was due to the age of the native title matters transferred to the Court from the NNT Tribunal on 30 September 1998. This number was slightly reduced in the reporting year. As at 30 June 2002, 642 matters were over 18 months old, of which 465 were matters transferred from the NNT Tribunal in 1998.

It is important to note that the figures set out in Table 3.3 are based on all applications under the Native Title Act that have been filed in the Court and which are still regarded as current. In some cases the substantive native title issues may have been determined but the file remains open as ancillary issues, such as costs, are yet to be finalised. As noted above, the consolidation and streamlining of native cases means that many applications are dealt with as a single "active claimant application" and as at 30 June 2002, there were, in practical terms, 590 active claimant applications.

Native title decisions

The provisions of the amended Native Title Act continue to be the subject of judicial consideration. During the reporting year, judgments of the Court have clarified:

- that before a consent determination could be made under section 87 of the Native Title Act the necessary consent had to be obtained from all parties to the proceeding (*Munn for and on behalf of the Gunggari People v Queensland*);
- that the Court has the power to appoint an expert under Order 34 of the Federal Court Rules to ensure that the Court has all the necessary information it needs,

so as to minimise the potential for any miscarriage of justice (*Britten v Western Australia, Gale v NSW Minister for Land & Water Conservation*);

- the level of authorisation required to support an application made to the Court under section 66B of the Native Title Act *(Ward v Northern Territory)*; and
- the factors relevant to the Court's consideration of an application made under section 84C of the Native Title Act. (*Lawson v Minister for Land and Water Conservation*).

Since the inception of the Native Title Act, there have been 43 native title determinations at first instance, of which 33 recognise the existence of native title. The Court has also made six determinations that native title does not exist. These determinations were made as a result of non-claimant applications in which the Court is asked to determine whether or not native title exists in the land that is the subject of the application.

Assisted Dispute Resolution

The Court's program of Assisted Dispute Resolution ("ADR"), which commenced in 1987, is of the type described as a court-annexed mediation program. The only matters dealt with in the program arise out of proceedings in the Court. Mediations are normally conducted by the Court's registrars who have been trained as mediators. However, when parties wish to use the services of appropriately qualified external mediators, the Court facilitates their doing so. Figure 3.1 on page 36 sets out the number of matters referred to mediators during the period 1997–98 to 2001–02. The program has proved popular, with a total of 2,844 matters referred to mediation since its commencement in 1987. Of that total, 1,465 were referred in the period 1997–98 to 2001–02, or an average of 293 referrals per reporting year.

The types of matters referred can relate to most matters in the Court's jurisdiction. However, the majority of referrals have been in matters concerning trade practices, intellectual property, native title, taxation, workplace relations, bankruptcy and admiralty.

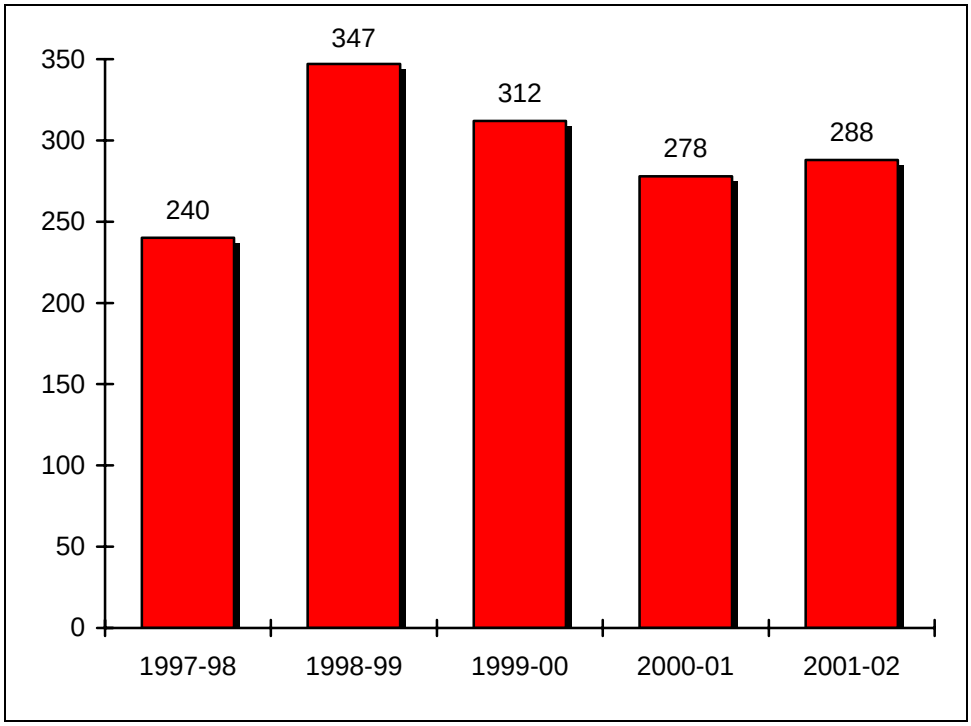
Prior to 17 April 1997, the program was based upon parties consenting to mediation. However, from that date, section 53A of the Federal Court of Australia Act was amended to provide for non-consensual mediation.

With the introduction of the Individual Docket System greater emphasis has been put on the early identification of cases suitable for ADR. In the reporting year 288 matters were referred to ADR.

The settlement rates of cases referred to mediation since the commencement of the program in 1987 has averaged 55 per cent. Settlement rates at mediation should not, however, be the sole criteria by which the program is evaluated. Many matters, which do not settle, proceed to trial with issues better defined, or on the basis of agreed facts settled by the parties with the assistance of the mediator. In some instances, the parties also agree that the Court should only be asked to determine liability or quantum. These types of results mean savings in costs to the parties and the Court.

Figure 3.1

Assisted Dispute Resolution (ADR) 1997–98 to 2001–02
(matters referred for mediation)



External Mediations

Twenty-eight matters were referred by the Court to external mediators in 1997–98; 76 in 1998–99; 56 in 1999–2000; 49 in 2000–01 and 45 in the reporting year. These figures are included in Figure 3.1.

Cases are often referred by the parties to external mediators without involving the Court. The Court does not keep a record of these mediations as they often occur without the Court's knowledge.

Cross-vesting Monitoring Committee

The Chief Justice of the Federal Court is the Convenor of the Cross-Vesting Monitoring Committee. The other members of the committee, usually judges, are the nominees of the Chief Justices of the Family Court of Australia and the Supreme Courts of the States and Territories.

The purposes of the Cross-Vesting Monitoring Committee are:

- to monitor and compile statistics on the operation of the cross-vesting scheme;
- to identify problems in the operation of the scheme and to consider how they may be resolved; and
- to consider, in the light of the experience of the operation of the scheme, possible improvements to it.

The Cross-Vesting Monitoring Committee prepares a report each year for the Council of Chief Justices.

Complaints about the Court's processes

During the reporting year 32 complaints were made to the Court in relation to its procedures, rules, forms, timeliness or courtesy to users. This figure does not include complaints about the merits of a decision by a judge or the Court, which may only be dealt with by appeal.

3.3 MANAGEMENT OF CASES AND DECIDING DISPUTES BY TRIBUNALS

Introduction

The Court provides operational support to the Australian Competition Tribunal, Copyright Tribunal, Defence Force Discipline Appeal Tribunal and Federal Police Disciplinary Tribunal. This support includes the provision of registry services to accept and process documents for tribunal proceedings, collect tribunal fees (where payable), list matters for hearings, and to otherwise assist the management and determination of proceedings. The Court also provides the infrastructure for tribunal hearings, including hearing rooms, furniture, equipment and transcript services.

A summary of the Court's performance in relation to this output group is set out in Table 6.1 on page 120.

Australian Competition Tribunal

Functions and powers

The Australian Competition Tribunal was established under the Trade Practices Act to hear applications for the review of:

- determinations by the Australian Competition and Consumer Commission ("ACCC") in relation to the grant or revocation of authorisations which permit conduct or arrangements that would otherwise be prohibited under the Trade Practices Act for being anti-competitive;
- decisions by the Minister or the ACCC in relation to allowing third parties to have access to the services of essential facilities of national significance, such as electricity grids or gas pipelines; and
- determinations by the ACCC in relation to notices issued under section 93 of the Trade Practices Act in relation to exclusive dealing.

A review by the Tribunal is a re-hearing or a re-consideration of a matter, and it may perform all the functions and exercise all the powers of the original decision-maker for the purposes of the review. It can affirm, set aside or vary the decision under review.

The Minister may also refer to the Tribunal, for inquiry and report, issues concerning certain practices by ocean cargo carriers.

Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Trade Practices Act and regulations within the discretion of the Tribunal. The *Trade Practices Regulations 1974* sets out some procedural requirements in relation to the making and hearing of review applications.

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

Membership and staff

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed by the Governor-General.

During the reporting year, the President of the Tribunal was Justice von Doussa and the Deputy Presidents were Justices Goldberg and Hely.

The Registrar and Deputy Registrars of the Tribunal are all officers of the Federal Court. Their details are set out in Appendix 3 on page 108.

Activities

Three review proceedings were current at the start of the reporting year. During the year, six proceedings were commenced and four matters were finalised. Five matters are pending. There was an increase in the number of new matters filed for the year and in the number of hearings.

Two decisions of interest were: Duke Eastern Gas Pipeline Pty Ltd and Freight Victoria Limited.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

Copyright Tribunal

Functions and powers

The Copyright Tribunal was established under the Copyright Act 1968 to hear applications dealing with four main types of matters:

- to determine the amounts of equitable remuneration payable under statutory licensing schemes;
- to determine a wide range of ancillary issues with respect to the operation of statutory licensing schemes, such as the determination of sampling systems;
- to declare that the applicant (a company limited by guarantee) be a collecting society in relation to copying for the services of the Commonwealth or a State; and

- to determine a wide range of issues in relation to the statutory licensing scheme in favor of government.

Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Copyright Act and regulations, within the discretion of the Tribunal. The *Copyright Tribunal (Procedure) Regulations 1969* sets out procedural requirements for the making and hearing of applications.

Proceedings are to be conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

Membership and staff

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed by the Governor-General.

During the reporting year, the President of the Tribunal was Justice Lindgren and the Deputy Presidents were Justices Finkelstein and Emmett.

The Secretary of the Tribunal is an officer of the Federal Court. Details are set out in Appendix 3 on page 108.

Activities

Six matters were current at the start of the reporting year. During the year, four matters were commenced, and five matters were finalised. Five matters are pending.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

Defence Force Discipline Appeal Tribunal

Functions and powers

The Defence Force Discipline Appeal Tribunal was established under the *Defence Force Discipline Appeals Act 1974* to hear and determine appeals by persons who have been:

- convicted of a service offence, or
- who have been acquitted of a service offence on the ground of unsoundness of mind (“a prescribed acquittal”);

by a court martial, or a Defence Force Magistrate under the *Defence Force Discipline Act 1982*.

The Tribunal may dismiss or allow the appeal, substitute for a conviction a prescribed acquittal, or, if satisfied the appellant was unfit to stand trial, quash the conviction or

prescribed acquittal and direct that the appellant be kept in strict custody until the pleasure of the Governor-General is known.

Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is within its discretion.

Membership and staff

The Tribunal consists of a President, a Deputy President and such other members as are appointed by the Governor-General. During the reporting year, the President of the Tribunal was Justice Heerey.

The Registrar and Deputy Registrars of the Tribunal are officers of the Federal Court. Their details are set out in Appendix 3 on page 108.

Activities

No proceedings were current at the start of the reporting year. During the year, four proceedings were commenced and none were finalised. Four matters are pending.

There was one decision of interest, Quinn v Chief of Army. A summary of the decision is included in Appendix 8 on page 168.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

Federal Police Disciplinary Tribunal

Functions and powers

The Federal Police Disciplinary Tribunal was established under the *Complaints (Australian Federal Police) Act 1981* to deal with disciplinary offences under the Australian Federal Police (Discipline) Regulations. In addition, the responsible Minister may refer to the Tribunal for inquiry and report a matter relating to the Australian Federal Police.

Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. Proceedings are to be conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

Membership and staff

The Tribunal consists of a President and such number of Deputy Presidents and other members as appointed by the Governor-General.

During the reporting year, the President of the Tribunal was Justice Whitlam. Justice Olney's term as Deputy President expired on 4 July 2001. Justice Kiefel and Justice Weinberg were appointed as Deputy Presidents on 8 October 2001 for five years.

The Registrar and Deputy Registrars of the Tribunal are all officers of the Federal Court. Their details are set out in Appendix 3 on page 108.

Activities

No disciplinary proceedings were current at the start of the reporting year. During the year, no proceedings were commenced. Nor were any matters referred by the Minister for inquiry and report.

No complaints were made to the Tribunal about its operations during the reporting year.

3.4 SERVICES PROVIDED TO GOVERNMENT

Introduction

This output group refers to the Court's responsibility for maintaining an effective relationship with the Attorney-General's Department and other government departments, and its accountability to the Parliament in relation to its effective management of resources. This includes activities such as the Court's appearances at Senate Estimates hearings, responding to Parliamentary questions and Ministerial correspondence and requests for comment on proposed legislation. These activities are included as an output group because they are services provided by the Court in addition to managing cases and deciding disputes according to law. A summary of the Court's performance in relation to this output group is set out in Table 6.1 on page 120.

Information to the Parliament

The Registrar and senior officers of the Court appeared before the Senate Legal and Constitutional Legislation Committee for the consideration of Estimates on 18 February 2002 and 28 May 2002. The Court also responded to seven Parliamentary questions during the reporting year.

Requests for information and comments on proposed legislation

The Court is often asked to provide information concerning issues under consideration by the Executive Government, or to comment on proposed legislation. During the reporting year the Court responded to approximately 15 requests for information and comment.

While the Court does not comment on the policy that may underlie a particular Bill or legislative proposal, it will, where appropriate, identify any technical problems with the legislation or proposal. This year the Court was invited to comment on legislation in relation to a number of areas, including copyright, migration and corporations. While the number of requests for information and comments was relatively small, some involved extensive work by judges and Court staff.

3.5 SERVICES PROVIDED TO INTERNATIONAL JURISDICTIONS

Introduction

This output group refers to the provision of judicial and non-judicial services by the Court to assist the continuing development of international jurisprudence. Activities include individual judges holding second commissions in overseas courts, participation in international committees and conferences, provision of training to judges and staff of overseas courts, and provision of library services to a number of countries in the South Pacific. A summary of the Court's performance in relation to this output group is set out in Table 6.1 on page 120.

Commissions in overseas courts

During the year, several of the Court's judges held commissions in overseas courts.

Justice Beaumont	Judge of the Court of Appeal of Tonga Ad hoc Judge of the Supreme Court of Fiji
Justice von Doussa	Acting Judge of the Supreme Court of Vanuatu

Legal Education Programs

The Court is involved in a wide range of activities with overseas judiciaries, which provide judicial training programs and other assistance to courts in the South Pacific and Asia. Some of these activities are described below.

Indonesia

During 2001-02, the Federal Court conducted a third training program for the Indonesian judiciary, with the assistance of funding of approximately $250,000 from AusAID's Government Sector Linkages Program (GSLP). The Court conducted similar programs in1999-2000 and 2000-01. The Court worked with Australian Legal Resources International in Sydney and the Australia-Indonesia Legal Development Foundation in Melbourne to run the program. The Court's program worked closely with the Indonesian judiciary and its primary training facility, the Research and Development Centre (RDC).

The program involved four three day workshops in Indonesia, two of which were conducted by Federal Court judges: Justices Gray and Moore. Judge O'Meally, President of the Dust Diseases Tribunal of NSW and Justice Nathan of the Supreme Court of Victoria conducted two other workshops. The workshops were conducted in

regions outside Jakarta and involved 177 Indonesian judges from the High, District, Military, Religious and Administrative courts. The training covered the Australian legal system, judicial independence, Assisted Dispute Resolution (ADR), class actions and the use of information technology (IT) in Australian courts.

From 11 to 28 March 2002, the Court also conducted a three week program in Australia for 14 judges who had participated in the training in Indonesia, as well as judges from the Supreme Court. The program was undertaken in Sydney and Melbourne and involved training provided by the NSW Judicial Commission and the Australian Institute of Judicial Administration (AIJA), as well as a week of presentations and meetings with the Federal Court and visits to other institutions. The program was a substantial success thanks to the effort of judges and court staff in both cities and the contribution of the NSW Judicial Commission and the AIJA

As part of 2001-02 program the Court contracted a review by Associate Professor Tim Lindsey of the Asian Law Centre of the University of Melbourne of the training provided by the Court to the Indonesian judiciary since 1999. The review found that the Court's programs have made a very substantial contribution to the reform and institutional strengthening of the Supreme Court. The review made strong recommendations for the continuation of the Court's program and the Court is working with AusAID to identify appropriate options for further funding and other support for the program.

In January 2002, the Court was involved in another, unrelated activity in Indonesia when Justice RD Nicholson presented a lecture in Jakarta for the Supreme Court of Indonesia on the use of IT in courts. The lecture was well attended and attracted considerable interest from Indonesian judges who are keen to learn how IT may assist with their work and structural issues facing the courts.

Philippine Judicial Exchange Program

The Court has continued its engagement in judicial exchange activities with the Supreme Court of the Philippines, through a program funded by the Centre of Democratic Institutions at the Australian National University. The Court's role has included hosting visits by groups of judges from the Philippines and visits by Australian judges to the Philippines to conduct workshops.

In November 2001 the Court in Melbourne hosted another week long visit by 8 judges. This visit followed two previous visits to Sydney in March 2000 and 2001. The Court will host another visit to Sydney and Melbourne by six judges in October this year. Justices Beaumont, Emmett and Kenny, in particular, are involved in arranging these visits.

Further, in September 2001, Justice RD Nicholson was invited to present a lecture to the Supreme Court as part of the Court's Centenary celebrations. He spoke about the use of IT in courts in a paper entitled "The Paperless Court?: Technology and Courts in the Region".

China

The Court continues its interest in engaging with courts of the People's Republic of China. The Court received a number of visits during 2001-02 from delegations from Chinese courts. In return, judges of the Court and court officials have made visits to China to discuss issues of mutual interest and possible opportunities for further engagement between Australian and Chinese judiciaries. The Registrar of the Court visited China in 2001 and in May 2002 for this purpose. The Chief Justice met with the Chinese Minister of Justice, Mr Zhang Fusen in August 2001 when they discussed judicial education and administration.

South Pacific

Justice Beaumont is a member of the Steering Committee oversighting a project of the South Pacific Judicial Conference to strengthen judicial training activities in the South Pacific. The Pacific Judicial Education Program, based at the University of the South Pacific in Suva, is funded by a partnership of the governments of Australia and New Zealand.

During the year, the Court also received an AusAID grant to support the participation of two judges from Vanuatu and the Solomon Islands to attend the Supreme Court and Federal Court Judges' Conference in Melbourne in January 2002.

Study with the Court

From time to time the Court arranges extended visits or study tours for judges and court officials who have an interest in learning more about the Court's work.

In November 2001 the Court arranged a month-long study tour to the Court by a court official from the Supreme Court of Papua New Guinea who, at the time, was working for the Chief Justice of Papua New Guinea and has since moved to a management role within the courts.

In October to December 2001, the Court hosted a similar visit from a National Attorney of the Hiroshima Legal Affairs Bureau who undertook a comparative study of the Federal Court's practice and procedure, particularly focussing on its case management. The visit was sponsored by the Australia-Japan Foundation.

Participation in international committees and conferences

A number of Federal Court judges actively participated in international committees and conferences during the reporting year. Some examples of this work are outlined in Appendix 9 on page 169.

Library services to the South Pacific and Thailand

To assist law libraries in the South Pacific, the Court continued a program with the support of a five-year AusAID grant. The Court donated library materials in the form of textbooks and bound law reports to law libraries in Vanuatu, Kiribati, and Tonga. In addition, intellectual property books were sent to a specialist court in Thailand.

Shipments were dispatched in November 2001 and May 2002. In addition, a special donation of superseded textbooks was provided to the Tongan Law Society which is establishing a library.

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 around the world. The number of visits reflects the international reputation of the Federal Court as a leading court, in its administration and its practice and procedure.

During the reporting year over 80 visitors from 15 countries came to the Court. A list of visitors is set out in Appendix 10 on page 171. These visits require significant planning and coordination by judges and senior Court staff.

Pegasus Scholarship Trust

The Pegasus Scholarship Trust was established in England to enable gifted young lawyers to learn about the practical working of the common law system in countries other than their own, and to form enduring links with lawyers in those countries. Since 1987 the Trust has been sponsoring Pegasus scholars from overseas to study and work in England, and Pegasus scholars from England to live and work abroad. The Trust is supported by the Inns of Court, several major law firms, the Cambridge Commonwealth Trust and government and commercial agencies.

During the reporting year the Chief Justice arranged for the Court to host one Pegasus Scholar, Mr Ian Wilson a London barrister. He was placed with the Court from 1 October to 19 October 2001 in Melbourne as research assistant to the judges.

The Court will host another Pegasus scholar next reporting year.

3.6 ENSURING THE QUALITY OF, AND ACCESS TO, THE SYSTEM OF JUSTICE

Introduction

This output group refers to the Court's commitment to ensuring, and enhancing, the quality and accessibility of the justice system. The activities in relation to this output group fall into two broad categories.

The first category consists of activities directed at improving the operation and accessibility of the Court. These include reforms to the Court's practices and procedures, the revision of its rules, improvements to the accessibility of the Court's services, the exemption and waiver of fees, and the availability of information about the Court and its work.

The second category consists of activities directed at improving the accessibility and quality of the justice system generally. These include the participation of judges in

various judicial committees; the involvement of judges and Court staff in such bodies as the Australian Institute of Judicial Administration, the Australian Law Reform Commission, the Judicial Conference and other law reform activities; and the participation of judges and Court staff in educational and community activities.

A summary of the Court's performance in relation to this output group is set out in Table 6.1 on page 120.

Improving the operation and accessibility of the Court

Practice and procedure reforms

The Practice and Procedure Committee, with a membership of nine judges, is responsible for developing and refining the Court's practice and procedure. Information about the membership of the Committee is set out in Appendix 4 on page 114.

Some of the issues considered by the Committee during the reporting year are set out below.

Australian Law Reform Commission (ALRC) Report No. 89 Managing Justice

The Committee completed its review of the report's recommendations that had some relationship to the practice and procedure of the Court. Most of the issues considered were actioned and resolved. This included the publication of guidelines about the Court's Individual Docket System, and an examination of the requirement that a party have the Court's leave to issue subpoenas. Other issues dealt with by the Committee during the reporting year included event-based fee scales and costs in interlocutory proceedings.

Experts

In the last reporting year the Court advised that it was undertaking a review of its 1998 Practice Direction, "Guidelines for Expert Witnesses in proceedings in the Federal Court of Australia". The Court wrote to those bodies and persons it had consulted prior to the introduction of the Guidelines, seeking comments on the operation of the Guidelines since 1998, and on the recommendations of ALRC Report No. 89 concerning expert evidence. During the reporting year, a sub-committee of the Practice and Procedure Committee considered the responses and produced a report with recommendations on whether:

- the Guidelines should be included in the Federal Court Rules;
- the Court should publish an explanatory memorandum which would set out the objectives sought to be achieved by the Guidelines;
- the Court should take any action to reinforce the importance and the application of the Guidelines; and
- the Federal Court Rules should be amended to allow the Court to direct
  (a) that parties consider jointly instructing an expert; and

(b) that one party be permitted to submit questions to an expert whose report is to be relied upon by another party on condition of payment of the expert's reasonable costs of answering the question.

The Committee has considered the recommendations, actioned them as appropriate or, where necessary, undertaken further research. It is proposed that the final report on the Experts Guidelines will be considered by a meeting of the judges in late 2002.

Filing of Documents

The Committee has been investigating procedures to limit or minimise the number and types of documents that need to be filed in the Court. In March 2002 the Judges adopted a recommendation by the Committee that judges should encourage litigants not to file notices of motion, with supporting affidavits, where only routine directions are sought. Instead, litigants may give advance notice by letter to the Court and the other parties of the directions which will be sought when the matter is next before the Court.

Individual Docket System (IDS)

The Committee received and considered reports from the Law and Justice Foundation of New South Wales and the Law Council of Australia on the operation of the IDS. The Committee is continuing a review of the IDS, which will be completed in the next reporting year.

Other issues

Other issues considered by the Committee included:

- national co-ordination of Assisted Dispute Resolution (ADR) in the Court, including the collection and interpretation of statistics, best practice, mediation facilities and equipment, standards for Court mediators and publication of an internal ADR newsletter;
- contempt of Court;
- directions hearing and docket Judge evaluation of the subject matter of the proceedings;
- amicus curiae;
- reference of matters to external referees;
- interlocutory injunctions and the timeliness of final trial;
- forum shopping;
- suggested Rule changes to reduce parties' costs; and
- monitoring Court statistics and procedures in migration, human rights and corporations matters and transfers to, and appeals from, the Federal Magistrates Court.

The Committee met during the reporting year with the Law Council of Australia's Federal Court Practice Committee to discuss matters concerning the Court's practice and procedure, including:

- event based fee scales;
- experts;
- Individual Docket System;
- filing of documents;
- legal education;
- native title;
- forum shopping; and
- court appointed referral for legal assistance.

Amendments to the Federal Court Act

During the reporting year, the *Jurisdiction of Courts Legislation Amendment Bill 2002* was introduced into the Parliament. This Bill will amend the Federal Court of Australia Act and the Judiciary Act to allow the Australian Capital Territory ("ACT") to establish an ACT Court of Appeal. The Bill also includes amendments to the Federal Court of Australia Act to abolish the office of judicial registrar and to make some changes to the practices and procedures of the Federal Court, including the insertion of detailed provisions on the use of video and audio links to receive submissions and evidence.

Amendments to the Federal Court of Australia Regulations

During the reporting year, the Court continued to liaise with the Attorney-General's Department in relation to a rewrite of the *Federal Court of Australia Regulations 1978*. The Regulations will be rewritten using plain language and a simpler structure, and will incorporate a number of amendments to address various administrative issues. As noted in last year's annual report, many of the suggested changes will support the Court's electronic filing facility.

Rules Revision Project

The project to revise the Court's Rules is continuing. The project is being conducted by the Rules Revision Committee consisting of Justices Lee, Lindgren (Convenor), Mansfield and Stone, and is supported by a Deputy Registrar and an officer from the Office of Legislative Drafting.

The goals of the project are that the Court have Rules which:

(a) facilitate access to justice;
(b) promote efficiency in the administration of the law;
(c) complement and reflect the Court's case management philosophy and systems;
(d) take into account current and future advances in information technology (eg facsimile filing and electronic filing);
(e) are easily capable of being updated; and
(f) are simple and clear.

The revised Rules will contain a preamble in the nature of a statement of overriding objectives, and where practicable, will not use legal jargon or Latin terms.

Gender Issues

Since 1993 there has been a standing committee of judges of the Court which considers and advises the Chief Justice and other judges of the Court on a wide range of issues related to gender, including gender issues within the administration and practice and procedure of the Court. The Equality and the Law Committee also provides advice on judicial studies on gender issues. During the reporting year, the Committee was chaired by Justice Madgwick. Membership of the Committee is included in Appendix 4 on page 112.

The Committee oversaw a number of activities related to gender issues, including active engagement with Bar Councils and the continued practice of meeting with women practitioners. This liaison is important to assist the Court to identify and address difficulties which women practitioners may experience in their contact with the Court.

In terms of the Court's internal operations, the Committee has continued to give close consideration to the Court's efforts to ensure greater representation of women in senior positions in the Court.

Disability, race and sex discrimination

The Equality and the Law Committee's terms of reference include oversight of the Court's practice and procedure and general administration to ensure that in all of the Court's operations, persons who have contact with the Court are treated fairly and equitably and, where necessary, appropriate additional assistance is provided to people who may face particular disadvantage in their access to the Court. The Committee also considers disability, race and sex discrimination issues as they may effect staff of the Court.

The Committee undertook a range of activities in this area during the reporting year, including:

- monitoring the implementation of, and issues arising from ,the Court's human rights jurisdiction and, particularly, issues related to the capacity of the Court's practice and procedure to respond to the particular needs of parties in human rights cases;
- overseeing the work of a subcommittee considering the Court's management of cases involving self-represented litigants;
- overseeing the development and implementation of the Court's harassment policy, including revision of a draft policy and the training provided to registry staff;
- overseeing the management of Court's pro bono legal assistance scheme – this scheme facilitates the provision of assistance to unrepresented litigants in appropriate cases many of whom are involved in migration matters. The judges refer such litigants to legal practitioners who are prepared to give legal advice and assistance for no, or a reduced, fee; and
- overseeing strategies to improve employment opportunities in the Court for women and for Aboriginal people and Torres Strait Islanders. In terms of the

latter, the Committee has overseen the continuation of a scheme to employ indigenous research associates in the Court.

Interpreters

The Court is aware of the difficulties faced by litigants who have little or no understanding of the English language. The Court will not allow a party or the administration of justice to be disadvantaged by a person's inability to secure the services of an interpreter. It has therefore put in place a system for providing professional interpreter services to people who need those services but cannot afford to pay for them. In general, the Court's policy is to provide these services for litigants who are unrepresented and who do not have financial means to purchase the services, and for litigants who are represented but have exemption from, or have been granted a waiver of fees under the Federal Court of Australia Regulations.

Accessibility – facilities and registry services

The registries are centrally located in the capital city of each state and territory. Locations and business hours are set out in the front of this report. Pamphlet guides on registry services are available from each of the registries.

The Court is conscious of the need for its facilities to be accessible to all members of the community and is committed to ensuring that people with a disability do not face any access problems in their contact with the Court.

The Court shares many of its buildings with other jurisdictions. Facilities are managed by Local Building Management Committees, which consist of representatives of the occupants. 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.

During the year a number or projects to improve access for people with disabilities were undertaken both on buildings and within the Court's tenancies. These included:

- Finalisation of the scope of works that will upgrade the path to the Tank Street entrance of the building in Brisbane. These works arise from the recommendations of the Court's last disability access audit. A number of architectural issues need to be resolved and the works will be completed in 2002-03.

- In Perth, major works were commenced to replace two heavy revolving doors at the main building entry with power operated sliding doors, which will greatly improve access to the building.

- The Court continued with a program to improve hearing augmentation. Following installation of hearing aid loops in courtrooms, the Court is now installing sophisticated voice reinforcement systems in courtrooms that integrate court audio facilities, telephone conferencing and video conferencing equipment with hearing augmentation systems. During the year such systems were installed in courtrooms in Sydney and Perth. The program will continue in 2002-03.

Other developments include:

- Commissioning a consultant to undertake a national audit of Court buildings. The consultant has been asked to comment on compliance against current standards, advice on the implications of the Commonwealth Disability Strategy in relation to buildings and the adequacy of building emergency procedures for people with disabilities.

- As part of the Court's input to the design process, the Court briefed an independent consultant to review the accessibility of the plans for the new Commonwealth Law Courts Building in Adelaide. As a result a number of suggestions and comments were made to the design team.

- In Sydney, Law Courts Limited, the building owner, completed alterations to improve access to a new disabled toilet installed in the building during 2001-02.

The eCourt Strategy

The Court continues to work towards the improvement of its practices and procedures. With this commitment in mind the Court initiated the *e*Court Strategy which attempts to ensure that the Court is relevant and responsive to the needs of the Australian community in the 21st century. The strategy builds upon the Court's established reputation for pioneering the application of technology in its work.

The eCourt

*e*Court is a web-based courtroom that assists in the management of interlocutory matters and which allows for directions and other orders to be made online. Via *e*Court, the Court may receive submissions and affidavit evidence and make orders as if the parties were in a normal courtroom

*e*Court can be accessed via the Court's web site at www.fedcourt.gov.au and, by selecting the *e*Court prompt, information about the *e*Court Strategy, access to the *e*Court online court forum and access to the electronic filing system is available.

Two recent enhancements to the *e*Court include a tutorial facility and a public transcript facility. The tutorial is a self-paced guide that explains *e*Court's functionality. The public transcript facility provides access to the matters that have been dealt with on eCourt. The tutorial and public transcript features can be accessed by the public and interested parties.

The e trial pilot

Electronic trials and appeals are court proceedings where the majority of documents and related papers are stored and accessed electronically throughout the conduct of the proceedings. Electronic trials are also known as 'paperless courtrooms' because the use of paper copies of documents is kept to a minimum.

During the reporting year, the Court conducted a pilot of the concept for a trial at first instance occurred in the case of *Peter De Rose & ors v State of SA and anor*. Justice O'Loughlin presided over the trial, most of which was heard in a remote location in an area 470 kilometres south of Alice Springs. The case was heard primarily in June-July and September-October 2001. Staff from the Court supervised the majority of the technical aspects of this trial, with technical assistance provided in the initial stages by outside contractors. The Court leased the Ringtail CourtBook™ software, which is a multimedia system designed to integrate the main elements of the court record. The following outlines the technology which was used in the trial.

Software and Hardware

The Court used eight dust, moisture and shock proof laptop computers to access the documents and transcript referred to during the case, along with two extra laptop computers which acted as server and back-up server. The machines also had an in-built CD writer. The laptops were connected to the server across a wireless local area network that used infrared technology to communicate. A high-powered data projector was used to enable everyone attending the hearings to view documents on a large screen. More than nine thousand documents were scanned, catalogued and annotated and placed on the system for the parties to access. These documents included colour photographs, maps and historical documents. Portions of maps and photographs were also enlarged on the screen, which enabled focus on a particular part of an image.

Stringent electronic security measures were employed which allowed only authorised users to view the case information. Male-only evidence was heard during the hearing and this information was handled differently with separate security measures which allowed only a limited number of men to access this evidence.

When the Court was not sitting, parties had access to the trial documents by dialling into an Internet version of the case documentation (the CourtBook™), which was updated daily following the court proceedings, including with the daily transcript. Documents tendered during the proceedings were scanned the same day and added electronically to the CourtBook™ for the benefit of all parties.

The e trial was a pilot project and forms part of the Court's *e*Court strategy to pioneer the application of technology in the delivery of, and access to, justice. The trial examined issues of standards and protocols for courtroom technology and how the technology could be applied to various jurisdictions, but focused particularly on how it could be applied in other native title trials.

The Court commenced planning six months prior to the trial date, which involved identification of appropriate technology (hardware and software), extensive liaison on the technical requirements (with particular consideration to electronic appeals), and building a good relationship with the support contractor to facilitate training. Training in the technology was provided to the Judge, his staff and Court staff and to the parties involved.

Electronic Filing

The Court's electronic filing system is accessible through the Court's web site and incorporates a step-by-step guide to lodging a document electronically. A system of online registration for frequent users has been introduced to minimise the amount of information that regular users of the system are required to provide each time a document is lodged. Fees, where they apply, may be paid online by credit card. The Federal Court Rules allow a document, other than the originating process, to be served electronically by sending it to a party's nominated email address for service.

Electronic Courtrooms and Hearings

The Court has made significant progress in enhancing existing courtrooms and developing new courtrooms that are electronically flexible and able to cater for integrated electronic trials, with connection to the Court's network and the Internet, and the integration of audio, video and data communications and information.

Accessibility technologies are also being implemented progressively, including hearing loops, audio and video systems, voice reinforcement systems, teleconferencing and videoconferencing systems and CCTV linkage to other courtrooms and spaces to enable public viewing and media coverage.

Information to the Public

The Court's web site at www.fedcourt.gov.au has become a primary source of information about the Court for the legal community and the general public. In addition to links to a wide range of legal resources, the web site contains information about the Court and its work, including full text judgments, daily court lists, practice and procedure guides, forms and fees, community information and new initiatives. It also provides access to the electronic filing and lodgements facility and *e*Court.

Remote hearings

Where appropriate, the Court will conduct hearings in remote locations. For example, in a number of native title cases the Court has travelled to remote areas of Western Australia, Queensland and the Northern Territory for the purpose of taking evidence from witnesses who may not otherwise be able to attend the Court. The opportunity is also taken to view sites at these locations which are relevant to the cases.

Hearings by video-conference

The Court uses video technology for the taking of submissions and evidence in appropriate cases. The use of video links helps parties and witnesses who live, or have their place of business, in different towns or States avoid having to travel long distances to attend directions hearings or final hearings of their cases.

Remission or waiver of court and registry fees

Under the Federal Court of Australia Regulations, fees are charged for commencing a proceeding and for setting a matter 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. The court fees were increased on 1 July 2000 in accordance with regulation 2AC, which 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. In August 2001 the Tribunal set aside a registrar's decision to refuse an application to waive a filing fee, and in substitution decided that filing fees payable by the applicant be waived. There were other applications to the Tribunal during the reporting period.

Details of the fees exempted or waived during the reporting year are set out in Appendix 1 on page 96.

Public Information

Through the Court's Director, Public Information, assistance is provided to journalists covering Federal Court cases and issues related to the Court's work. This includes managing access to court proceedings by television news outlets in matters of public interest. Notable cases in the reporting year included:

- **South Sydney District Rugby League Football Club Ltd v News Ltd and Others**: Justices Heerey, Moore and Merkel allowed a camera to record the handing down of their Full Court judgment concerning the Club's effort to regain entry to the national rugby league competition.

- **North Australian Aboriginal Legal Service Inc v Bradley**: In July 2001, Justice Wilcox allowed an ABC camera to record a summary of his judgment after contempt proceedings were brought against the Northern Territory Chief Minister and Attorney General. In December 2001, Justice Weinberg also

agreed to an ABC request to record his judgment summary in the substantive matter relating to the validity of the appointment of the Chief Magistrate.

- **Chapman v Luminis**: Justice von Doussa permitted ABC Television access to the delivery of his judgment regarding the applicants' claim for damages following a ban on the construction of a bridge from Goolwa to Hindmarsh Island.

- **Victoria Council for Civil Liberties Inc v Minister for Immigration and Multicultural Affairs**: Justice North agreed to a television camera recording almost the entire hearing of this matter. A summary of Justice North's decision and that of a subsequent full bench (Chief Justice Black and Justices Beaumont and French) were recorded for use by television news and current affairs programs.

- **Ansett Australia Ltd and Others (All Administrators Appointed) and Mentha and Korda (As Administrators)**: In October 2001 Justice Goldberg's judgment summary approving a memorandum of understanding following the collapse of Ansett was recorded for the benefit of television news and current affairs programs. In December 2001, Justice Goldberg also agreed to the recording of his summary relating to the payment of entitlements to Ansett staff.

- **Versace v Monte**: Justice Tamberlin permitted the recording of his judgment summary in a case in which the applicant asserted Frank Monte had made false statements in claiming a commercial relationship with the late Gianni Versace.

Vision recorded in such cases is maintained by the Court and can be used in video productions that assist in a greater understanding of its work.

Of particular importance was the opportunity provided by the Court's 25th anniversary ceremonial sitting on 7 February 2002, when video interviews were conducted with several of the original members of the first bench of the Court.

Community Relations Program

The role of the Court's Community Relations Program is to implement national strategies to enhance public confidence in the justice system and the courts. The community relations program is complementary to the services provided to the media through the public information program.

<u>The Art of Delivering Justice – Curriculum materials and Art Competition</u>

Last year the Court reported on its major community relations project to develop national curriculum materials for Australian secondary schools, explaining issues such as the Australian court system and its relationship to Parliament, the independence of the judiciary and particular areas of the Federal Court's work. The Court's materials - The Art of Delivering Justice- Resources on Law and Justice in Australia – were launched in June last year and were distributed to every secondary school in Australia. The materials are also now being used by many primary school teachers. The

materials were developed with the assistance of Curriculum Corporation, a non-profit independent education support organisation, funded by Commonwealth, State and Territory governments.

The materials generated considerable interest in the Court's work from students and schools. Some examples of this have included an increased number of visits by schools at all registries. To coincide with Law Week this year, the Chief Justice participated in a Constitutional Convention organised by Penola Secondary College from Broadmeadows.

The Court has a national protocol to assist the registries to arrange visits by schools in ways which are accessible and appropriate to current school curricula.

To coincide with the release of the Curriculum materials, the Court initiated a national art competition for Australian Secondary students. The competition closed in April 2002 and resulted in high calibre entries from most states and territories.

The Court appreciated the assistance of Associate Professor, Louise Adler (Victorian College of the Arts), Ms Juliana Engberg (Visual Arts Curator, Melbourne Biennale) and Ms Adele Flood (South Pacific representative on the International Society for the Education in the Arts-UNICEF) who joined Justices Wilcox, French and von Doussa on the judging panel to select the winners. The winners of the competition are listed on the Court's website.

News@fedcourt

The Court continued to produce the quarterly publication News@fedcourt, which was distributed to more than 500 subscribers. During the year it reported on the Court's activities in a range of areas, including the Court's native title work, the implementation of its *e*Court strategy and activities with overseas courts.

User Groups

The Court has continued its involvement in user groups to provide an opportunity for information exchange with practitioners and other people with an interest in particular areas of its jurisdiction. For example, a national user group meeting was held in relation to the Court's native title and local meetings were held on the Court's admiralty work.

Access to judgments

When a decision of the Court is delivered, a copy of it is immediately made available to the parties and the media. The Court provides electronic copies of judgments to legal publishers and other subscribers.

Judgments are also available on the Internet at the Australasian Legal Information Institute ("AustLII") site. These judgments are accessible directly from the Court's home page. The availability of judgments electronically assists the speedy dissemination of the Court's judgments to the legal and wider community.

Searches on the Court database

Public access is available to the Court's database (known as "FEDCAMS") 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.

The Court's Internet home page

The Court's home page has continued to enable access to judgments within hours, and sometimes within minutes, of being handed down. In addition, visitors to the home page can access, among other things, the Court Rules, Forms and Practice Directions, information regarding fees, video clips of important judgments and can link to other legal Internet sites. The Court's *e*Court strategy, including e-filing and *e*Court Forum, is accessed via the website.

Improving accessibility and quality of the justice system

Judges' Committees

As referred to in Chapter 1, the judges' committees involve the majority of judges and their work is directed at enhancing the accessibility and quality of the Court and the justice system generally:

Details of the membership of each committee are set out in Appendix 4 on page 111. When necessary, the Chief Justice also establishes ad hoc committees to deal with particular issues.

Judges' committees may hold regular meetings (either in person or by teleconference), work solely "on the papers", or use a combination of both to carry out their functions. The workload associated with the judges' committees is substantial and involves a considerable commitment from the judges and senior Court staff.

Reform activities

Judges of the Court is an active participant in a range of activities aimed at improving the justice system. Examples of the Court's involvement in this area are included in Appendix 11 on page 174.

Legal education programs in Australia

The Court is an active supporter of legal education programs, both in Australia and overseas. Information about the Court's engagement with legal education programs for international jurisdictions is described on pages 42 to 45 above. During the reporting year, the Chief Justice and many judges and registrars presented papers, gave lectures and chaired sessions at judicial conferences, judicial administration

meetings, continuing legal education courses, university law schools, participated in Bar reading courses, Law Society meetings and other public meetings. An outline the judges' contribution in this area is included in Appendix 11.