

CHAPTER 1

OVERVIEW OF THE FEDERAL COURT OF AUSTRALIA

1.1 ESTABLISHMENT

The Federal Court of Australia, created by the *Federal Court of Australia Act 1976*, began to exercise its jurisdiction on 1 February 1977. It assumed jurisdiction formerly exercised in part by the High Court of Australia and the whole of the jurisdiction of the Australian Industrial Court and of the Federal Court of Bankruptcy.

The Court is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time.

1.2 FUNCTIONS AND POWERS

The Court's original jurisdiction is conferred by over 150 statutes of the Parliament. A list of these Acts appears in Appendix 4 on page 103.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court, and from the Federal Magistrates Court in non-family law matters. The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's jurisdiction is described more fully in Chapter 3.

1.3 OBJECTIVES

The objectives of the Court are to:

- decide disputes according to law – promptly, courteously and effectively and, in so doing, to interpret the statutory law and develop the general law of the Commonwealth, so as to fulfil the role of a court exercising the judicial power of the Commonwealth under the Constitution;
- provide an effective registry service to the community; and
- manage the resources allotted by Parliament efficiently.

1.4 THE COURT'S OUTCOME AND OUTPUT STRUCTURE

The Court's outcome and output structure appears in Chapter 4 on page 53.

This report uses the outcome and output structure to outline the Court's work and performance during 2004-05. Chapter 3 reports on these issues in detail.

1.5 THE COURT

Judges

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

Judges of the Court are appointed by the Governor-General by commission and may not be removed except by the Governor-General on an address from both Houses of Parliament in the same session. All judges must retire at the age of 70.

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

As at 30 June 2005 there were 44 judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals. Of the 44 judges, there were three whose work as members of other courts or tribunals occupied all, or most, of their time.

**Judges of the Court
(as at 30 June 2005)**

Judge	Location	Other Commissions/Appointments
Chief Justice The Hon Michael Eric John BLACK AC	Melbourne	
The Hon Murray Rutledge WILCOX	Sydney	Industrial Relations Court of Australia – Chief Justice Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Jeffrey Ernest John SPENDER	Brisbane	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member Court of Arbitration for Sport – Member
The Hon Peter Ross Awdry GRAY	Melbourne	Industrial Relations Court of Australia – Judge Administrative Appeals Tribunal – Presidential Member
The Hon Donnell Michael RYAN	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon Robert Shenton FRENCH	Perth	Administrative Appeals Tribunal – Presidential Member Australian Competition Tribunal – Deputy President Supreme Court of Fiji – non-resident, semi-permanent Judge Supreme Court of the ACT – Additional Judge
The Hon Malcolm Cameron LEE	Perth	Industrial Relations Court of Australia – Judge Supreme Court of the Cocos (Keeling) Islands – Additional Judge
The Hon Graham HILL	Sydney	Administrative Appeals Tribunal – Presidential Member Supreme Court of the ACT – Additional Judge
The Hon Terence John HIGGINS	Canberra	Supreme Court of the ACT – Chief Justice
The Hon Peter Cadden HEEREY	Melbourne	Defence Force Discipline Appeal Tribunal – President Australian Competition Tribunal – Deputy President
The Hon Michael Francis MOORE	Sydney	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon Catherine Margaret BRANSON	Sydney	

Judge	Location	Other Commissions/Appointments
The Hon Kevin Edmund LINDGREN	Sydney	Copyright Tribunal – President
The Hon Brian John Michael TAMBERLIN	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Ronald SACKVILLE	Sydney	
The Hon Susan Mary KIEFEL	Brisbane	Federal Police Disciplinary Tribunal – President Supreme Court of Norfolk Island - Judge Australian Law Reform Commission – Part-time Commissioner
The Hon Robert David NICHOLSON AO	Perth	Administrative Appeals Tribunal – Presidential Member
The Hon Paul Desmond FINN	Adelaide	
The Hon Ross Alan SUNDBERG	Melbourne	
The Hon Shane Raymond MARSHALL	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon Anthony Max NORTH	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon Rodney Neville MADGWICK	Sydney	Industrial Relations Court of Australia – Judge Supreme Court of the ACT– Additional Judge
The Hon Ronald MERKEL	Melbourne	
The Hon John Ronald MANSFIELD	Adelaide	
The Hon Alan Henry GOLDBERG AO	Melbourne	Australian Competition Tribunal – President
The Hon Arthur Robert EMMETT	Sydney	Copyright Tribunal – Deputy President
The Hon Raymond Antony FINKELSTEIN	Melbourne	Australian Competition Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Geoffrey Michael GIUDICE	Melbourne	Australian Industrial Relations Commission – President
The Hon Mark Samuel WEINBERG	Melbourne	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the ACT – Additional Judge Supreme Court of Fiji – non-resident, semi-permanent Judge Federal Police Disciplinary Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner

Judge	Location	Other Commissions/Appointments
The Hon John Alfred DOWSETT	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Peter Graham HELY	Sydney	Australian Competition Tribunal – Deputy President
The Hon Susan Coralie KENNY	Melbourne	Australian Law Reform Commission – Part-time Commissioner
The Hon Roger Vincent GYLES AO	Sydney	Supreme Court of the ACT – Additional Judge Court of Arbitration for Sport – Member Australian Competition Tribunal – Deputy President
The Hon Richard Alan CONTI	Sydney	
The Hon Margaret Ackary STONE	Sydney	Supreme Court of the ACT – Additional Judge
The Hon James Leslie Bain ALLSOP	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Garry Keith DOWNES AM	Sydney	Administrative Appeals Tribunal – President
The Hon Peter Michael JACOBSON	Sydney	
The Hon Annabelle Claire BENNETT AO	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Bruce Thomas LANDER	Adelaide	Supreme Court of the ACT – Additional Judge
The Hon Susan Maree CRENNAN	Melbourne	
The Hon Anthony Nicholas SIOPIIS	Perth	
The Hon Richard Franics EDMONDS	Sydney	
The Hon Peter Ross GRAHAM	Sydney	

The Chief Justice was absent on the following dates during the year. Acting Chief Justice arrangements during the periods are indicated.

15 September - 3 October 2004

Spender J

4 -18 October 2004

Wilcox J

26 May - 5 June 2005

Wilcox J

Most of the judges of the Court devote a proportion of their time to other courts and tribunals on which they hold commissions or appointments. Members of the Court

also spend a significant amount of time on other activities related to legal education and the justice system. More information about these activities is set out in Chapter 3 and Appendix 8.

Appointments and retirements

During the year three judges were appointed to the Court:

The Honourable Justice Antony Nicholas Siopis (resident in Perth) was appointed on 14 April 2005.

The Honourable Justice Richard Francis Edmonds (resident in Sydney) was appointed on 5 May 2005.

The Honourable Justice Peter Ross Graham (resident in Sydney) was appointed on 24 May 2005.

During the year three judges resigned from the Court:

The Honourable Justice Christopher John Seymour Metford Carr resigned his commission as a judge of the Court on 1 August 2004.

The Honourable Justice Bryan Alan Beaumont AO resigned his commission as a judge of the Court on 11 February 2005.

The Honourable Justice Antony Philip Whitlam resigned his commission as a judge of the Court on 1 May 2005.

Other appointments, resignations and retirements during the year included:

The Hon Justice Beaumont resigned his commission as Chief Justice of the Supreme Court of Norfolk Island with effect from 2 August 2004.

The Hon Justice Beaumont was appointed an Officer in the Order of Australia.

The Hon Justice Gray was appointed an Adjunct Professor of Deakin University, for a period of three years, with effect from April 2005.

The Hon Justice French was appointed a part-time Deputy President of the Australian Competition Tribunal, for a period of five years, with effect from 22 April 2005.

The Hon Justice Whitlam resigned his commission as an additional Judge of the Supreme Court of the Australian Capital Territory with effect from 1 May 2005.

The Hon Justice Kiefel was appointed a Judge of the Supreme Court of Norfolk Island with effect from 16 December 2004, until the age of 70.

The Hon Justice Goldberg was appointed President of the Australian Competition Tribunal with effect from 23 March 2005.

The Hon Justice Goldberg was appointed an Officer in the Order of Australia.

The Hon Justice Finkelstein was appointed a part-time Deputy President of the Australian Competition Tribunal, for a period of five years, with effect from 22 April 2005.

The Hon Justice Weinberg was appointed Chief Justice of the Supreme Court of Norfolk Island with effect from 16 December 2004, until the age of 70.

The Hon Justice Dowsett was appointed an additional Judge of the Supreme Court of the Australian Capital Territory with effect from 3 August 2004.

The Hon Justice Downes was appointed President of the Administrative Appeals Tribunal, for a period of seven years, with effect from 16 May 2005.

The Hon Justice Selway was appointed President of the Australian Association of Constitutional Law, for a period of two years, with effect from 1 March 2005.

The Hon Justice Bennett was appointed an Officer in the Order of Australia.

Deaths

During the year two judges died while in office:

The Hon Justice Richard Ellard Cooper died on 14 March 2005.

The Hon Justice Bradley Maxwell Selway died on 10 April 2005.

1.6 REGISTRIES

Registrar

Mr Warwick Soden is the Registrar of the Court. The Registrar is appointed by the Governor-General on the nomination of the Chief Justice. The Registrar has the same powers as the Head of a Statutory Agency of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1999* (section 18Q of the Federal Court of Australia Act).

Principal and District Registries

The Principal Registry of the Court, located in Sydney, is responsible for the overall administrative policies and functions of the Court's registries and provides policy advice, personnel services, financial management, computing support, library services, property management and support to the judges' committees.

There is a District Registry of the Court in each capital city. The District Registries provide operational support to the judges in each state, as well as registry services to

legal practitioners and members of the public. The registries receive court and related documents, assist with the arrangement of court sittings and facilitate the enforcement of orders made by the Court.

Most District Registries are also registries for the Australian Competition Tribunal, the Defence Force Discipline Appeal Tribunal and the Federal Police Disciplinary Tribunal. The Queensland and Western Australian District Registries are registries for the High Court. The Tasmania District Registry provides registry services for the Administrative Appeals Tribunal and the National Native Title Tribunal. The Registry of the Copyright Tribunal is located in the New South Wales District Registry.

The registries of the Court are also registries for the Federal Magistrates Court in relation to non-family law matters.

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

Officers of the Court

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

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

The registrars must take an oath or make an affirmation of office before undertaking their duties (section 18Y of the Federal Court of Australia Act). Registrars perform statutory functions assigned to them by the Federal Court of Australia Act, Federal Court Rules and the *Federal Court (Corporations) Rules 2000*. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Magistrates Act 1999*. Appendix 3 on page 100 lists the registrars of the Court.

Staff of the Court

The officers and staff of the Court (other than the Registrar and some Deputy Sheriffs and Marshals) are appointed or employed under the Public Service Act. On 30 June 2005 there were 403 persons employed Australia-wide as registry staff or as judges' personal staff. Generally, judges have two personal staff members. More details on Court staff are set out in Tables 4.2 to 4.4 in Chapter 4 on pages 58 - 60.