
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 109.

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 61.

This report uses the outcome and output structure to outline the Court's work and performance during 2005–06. 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.

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

As at 30 June 2006 there were 46 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 46 judges, there were four whose work as members of other courts or tribunals occupied all, or most, of their time.

**Judges of the Court
(at 30 June 2006)**

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
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 Terence John HIGGINS	Canberra	Supreme Court of the ACT – Chief Justice

Judge	Location	Other Commissions/Appointments
The Hon Peter Cadden HEEREY	Melbourne	Defence Force Discipline Appeal Tribunal – President Australian Competition Tribunal – Deputy President Administrative Appeals Tribunal – Presidential Member
The Hon Michael Francis MOORE	Sydney	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge Tonga Court of Appeal – Judge
The Hon Catherine Margaret BRANSON	Sydney	
The Hon Kevin Edmund LINDGREN	Sydney	Copyright Tribunal – President
The Hon Brian John Michael TAMBERLIN	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
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

Judge	Location	Other Commissions/Appointments
The Hon Rodney Neville MADGWICK	Sydney	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
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
The Hon John Alfred DOWSETT	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Susan Coralie KENNY	Melbourne	Australian Law Reform Commission – Part-time Commissioner
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 Administrative Appeals Tribunal – Presidential Member
The Hon Richard Alan CONTI	Sydney	

Judge	Location	Other Commissions/Appointments
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 Admiralty Rules Committee – Presiding Member
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 Administrative Appeals Tribunal – Presidential Member
The Hon Bruce Thomas LANDER	Adelaide	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon Antony Nicholas SIOPIIS	Perth	Administrative Appeals Tribunal – Presidential Member
The Hon Richard Francis EDMONDS	Sydney	Administrative Appeals Tribunal – Presidential Member
The Hon Peter Ross GRAHAM	Sydney	
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Presidential Member
The Hon Neil John YOUNG	Melbourne	
The Hon Steven David RARES	Sydney	
The Hon Berna COLLIER	Brisbane	
The Hon Dennis Antill COWDROY OAM	Sydney	
The Hon Anthony James BESANKO	Adelaide	
The Hon Christopher Neil JESSUP	Melbourne	

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

25 – 30 July 2005	Wilcox J
7 September – 9 October 2005	Spender J
10 – 16 October 2005	Wilcox J
12 – 21 May 2006	Wilcox J
22 May – 4 June 2006	Gray 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 seven judges were appointed to the Court:

The Honourable Justice Andrew Peter Greenwood (resident in Brisbane) was appointed on 4 August 2005.

The Honourable Justice Neil John Young (resident in Melbourne) was appointed on 30 November 2005.

The Honourable Justice Steven David Rares (resident in Sydney) was appointed on 2 February 2006.

The Honourable Justice Berna Collier (resident in Brisbane) was appointed on 8 February 2006.

The Honourable Justice Dennis Antill Cowdroy OAM (resident in Sydney) was appointed on 13 March 2006.

The Honourable Justice Anthony James Besanko (resident in Adelaide) was appointed on 3 April 2006.

The Honourable Justice Christopher Neil Jessup (resident in Melbourne) was appointed on 23 June 2006.

During the year three judges resigned from the Court:

The Honourable Justice Susan Maree Crennan resigned her commission as a judge of the Court on 1 November 2005.

The Honourable Justice Malcolm Cameron Lee resigned his commission as a judge of the Court on 1 May 2006.

The Honourable Justice Ronald Merkel resigned his commission as a judge of the Court on 15 May 2006.

Other appointments, resignations and retirements during the year included:

The Honourable Justice Lee resigned his appointments as a judge of the Industrial Relations Court of Australia and an additional judge of the Supreme Court of Cocos (Keeling Islands), with effect from 1 May 2006.

The Honourable Justice Heerey was re-appointed President of the Defence Force Discipline Appeal Tribunal, with effect from 8 September 2005, until the age of 70.

The Honourable Justice Heerey was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Moore was appointed a judge of the Tonga Court of Appeal with effect from April 2006.

The Honourable Justice Tamberlin was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Tamberlin was appointed to act as President of the Administrative Appeals Tribunal during any period when the President is absent from duty or from Australia or during a vacancy in the office of President. The appointment took effect from 23 November 2005.

The Honourable Justice Kiefel was re-appointed President of the Federal Police Disciplinary Tribunal, for a further period of 12 months, with effect from 22 April 2006.

The Honourable Justice Kiefel was re-appointed a part-time member of the Australian Law Reform Commission, for a period of three years, with effect from 7 April 2006.

The Honourable Justice Kenny was re-appointed a part-time member of the Australian Law Reform Commission, for a period of three years, with effect from 15 May 2006.

The Honourable Justice Gyles AO was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Allsop was appointed the presiding member of the Admiralty Rules Committee, pursuant to Article 42(1) of the *Admiralty Act 1988* (Cth), with effect from 7 July 2005.

The Honourable Justice Bennett AO was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Lander was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Siopis was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Edmonds was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

The Honourable Justice Greenwood was appointed a presidential member of the Administrative Appeals Tribunal, for a period of five years, with effect from 23 November 2005.

Deaths

During the year two judges died while in office:

The Honourable Justice Graham Hill died on 24 August 2005.

The Honourable Justice Peter Graham Hely died on 1 October 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 Tasmanian 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 106 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 2006 there were 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 4.3 in Chapter 4 on pages 66–67.