



FEDERAL COURT OF AUSTRALIA

ANNUAL REPORT
2007–2008

active case management

COMMONWEALTH
LAW COURTS

FEDERAL COURT OF AUSTRALIA

Tuesday, 27 May 2008

just

FEDERAL COURT OF AUSTRALIA
Registry

quick

efficient

eServices

inexpensive





FEDERAL COURT
OF AUSTRALIA
ANNUAL REPORT 2007–2008

Annual Report: Federal Court of Australia

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CHIEF JUSTICE'S CHAMBERS
FEDERAL COURT OF AUSTRALIA
305 WILLIAM STREET
MELBOURNE VIC 3000

15 September 2008

The Honourable Robert McClelland MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

I have the pleasure in submitting, in accordance with section 18S of the *Federal Court of Australia Act 1976*, a report of the management of the administrative affairs of the Court during the financial year 2007-2008 and the financial statements in respect of that financial year. The report also includes information about the Court, its composition, jurisdiction and workload.

This is the Court's nineteenth annual report.

Yours sincerely

A handwritten signature in cursive script that reads "Michael Black".

M E J BLACK
Chief Justice

FEDERAL COURT REGISTRIES

Principal Registry

Law Courts Building
Queens Square Sydney NSW 2000
Phone: (02) 9230 8542 Fax: (02) 9223 7706
Email: query@fedcourt.gov.au
<http://www.fedcourt.gov.au>
Contact hours: 8.30am–5.30pm

Australian Capital Territory District Registry

Nigel Bowen Commonwealth Law Courts Building
Childers Street
Canberra City ACT 2601
Phone: (02) 6267 0566 Fax: (02) 6267 0625
TTY: (02) 6267 0537
Email: actman@fedcourt.gov.au
Counter hours: 10.00am–1.00pm; 2.00pm–4.00pm
Contact hours: 8.30am–5.00pm

New South Wales District Registry

Level 17 Law Courts Building
Queens Square
Sydney NSW 2000
Phone: (02) 9230 8567 Fax: (02) 9230 8535
TTY: (02) 9230 8270
Email: nswdr@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

Northern Territory District Registry

Level 17 Supreme Court Building
State Square
Darwin NT 0800
Phone: (08) 8941 2333 Fax: (08) 8941 4941
TTY: (08) 8982 0838
Email: ntreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–4.30pm

Queensland District Registry

Level 6 Harry Gibbs Commonwealth
Law Courts Building
119 North Quay
Brisbane QLD 4000
Phone: (07) 3248 1100 Fax: (07) 3248 1260
TTY: (07) 3248 1272
Email: qldreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

South Australia District Registry

Level 5 Roma Mitchell Commonwealth
Law Courts Building
3 Angas Street
Adelaide SA 5000
Phone: (08) 8219 1000 Fax: (08) 8219 1001
TTY: (08) 8219 1011
Email: sareg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Tasmania District Registry

Edward Braddon Commonwealth
Law Courts Building
39–41 Davey St
Hobart TAS 7000
Phone: (03) 6232 1715 Fax: (03) 6232 1701
TTY: (03) 6232 1865
Email: tasreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Victoria District Registry

Level 7 Owen Dixon Commonwealth
Law Courts Building
305 William Street
Melbourne VIC 3000
Phone: (03) 8600 3333 Fax: (03) 8600 3281
TTY: (03) 9670 0320
Email: vicreg@fedcourt.gov.au
Counter hours: 9am–4.30pm
Contact hours: 8.30am–5.15pm

Western Australia District Registry

Level 6 Peter Durack Commonwealth
Law Courts Building
1 Victoria Avenue
Perth WA 6000
Phone: (08) 9268 7100 Fax: (08) 9221 3261
TTY: (08) 9325 7053
Email: waregistry@fedcourt.gov.au
Counter hours: 8.30am–4.00pm
Contact hours: 8.30am–5.15pm

Contact officer for Annual Report

Anna Pagel
Principal Registry
Phone: (02) 9230 8895 Fax: (02) 9223 1906

An electronic version of the report is available at <http://www.fedcourt.gov.au>

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CHAPTER 1

Overview of Federal Court of Australia



courtesy

promptly

effectively

Judges

powers

people

1.1 ESTABLISHMENT

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

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

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 92.

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 41.

This report uses the outcome and output structure to outline the Court's work and performance during 2007–08. Chapter 3 reports on these issues in detail.

1.5 JUDGES OF THE COURT

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

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

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

At 30 June 2008 there were 48 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 48 judges, there were four whose work as members of other courts or tribunals occupied all, or most, of their time.

Judges of the Court

(as at 30 June 2008)

Judge	Location	Other Commissions/Appointments
Chief Justice The Hon Michael Eric John BLACK AC	Melbourne	
The Hon Jeffrey Ernest John SPENDER	Brisbane	Industrial Relations Court of Australia – Judge Supreme Court of 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 Australian Law Reform Commission – Part-time Commissioner Supreme Court of Fiji – non-resident, semi-permanent Judge Supreme Court of the ACT – Additional Judge
The Hon Terence John HIGGINS AO	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	Civil and Commercial Court of Qatar – Judge Supreme Court of Fiji – non-resident, semi-permanent Judge
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 John Ronald MANSFIELD	Adelaide	
The Hon Alan Henry GOLDBERG AO	Melbourne	Australian Competition Tribunal – President
The Hon Arthur Robert EMMETT	Sydney	Copyright Tribunal – President
The Hon Raymond Antony FINKELSTEIN	Melbourne	Australian Competition Tribunal – Deputy President
The Hon Geoffrey Michael GIUDICE	Melbourne	Australian Industrial Relations Commission – President

Judge	Location	Other Commissions/Appointments
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 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 Margaret Ackary STONE	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Garry Keith DOWNES AM	Sydney	Administrative Appeals Tribunal – President Supreme Court of Norfolk Island – Judge
The Hon Peter Michael JACOBSON	Sydney	Supreme Court of Norfolk Island – Judge
The Hon Annabelle Claire BENNETT AO	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon Bruce Thomas LANDER	Adelaide	Supreme Court of the ACT – Additional Judge Supreme Court of South Australia – Auxiliary Judge Administrative Appeals Tribunal – Presidential Member
The Hon Antony Nicholas SIOPIIS	Perth	Administrative Appeals Tribunal – Presidential Member
The Hon Richard Francis EDMONDS	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon Peter Ross GRAHAM	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Presidential Member
The Hon Steven David RARES	Sydney	Supreme Court of the ACT – Additional Judge

Judge	Location	Other Commissions/Appointments
The Hon Berna COLLIER	Brisbane	Australian Law Reform Commission – Part-time Commissioner
The Hon Dennis Antill COWDROY OAM	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Anthony James BESANKO	Adelaide	Supreme Court of the ACT – Additional Judge
The Hon Christopher Neil JESSUP	Melbourne	
The Hon Richard Ross Sinclair TRACEY RFD	Melbourne	Judge Advocate General of the Australian Defence Force – Part-time
The Hon John Eric MIDDLETON	Melbourne	
The Hon Robert John BUCHANAN	Sydney	
The Hon John GILMOUR	Perth	
The Hon Michelle Marjorie GORDON	Melbourne	
The Hon John Alexander LOGAN RFD	Brisbane	
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter McKERRACHER	Perth	
The Hon John Edward REEVES	Darwin	

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

6 – 10 August 2007	The Hon Justice Spender
10 September – 8 October 2007	The Hon Justice Gray
6 – 8 November 2007	The Hon Justice Gray
20 – 25 November 2007	The Hon Justice Spender
6 – 18 May 2008	The Hon Justice Gray
19 May – 15 June 2008	The Hon Justice Spender
16 – 30 June 2008	The Hon Justice Gray

Most of the judges of the Court devote some time to other courts and tribunals on which they hold commissions or appointments. Judges of the Court also spend a lot of time on activities related to legal education and the justice system. More information about these activities is set out in Chapter 3 and Appendix 8.

Appointments and retirements during 2007–08

During the year four judges were appointed to the Court:

- **The Honourable Justice John Alexander Logan RFD** (resident in Brisbane) was appointed on 27 September 2007.
- **The Honourable Justice Geoffrey Alan Flick** (resident in Sydney) was appointed on 15 October 2007.
- **The Honourable Justice Neil Walter McKerracher** (resident in Perth) was appointed on 15 October 2007.
- **The Honourable Justice John Reeves** (resident in Darwin) was appointed on 19 November 2007.

During the year five judges retired or resigned from the Court:

- **The Honourable Justice Robert David Nicholson AO** retired upon reaching the compulsory retirement age for federal judges on 7 August 2007.
- **The Honourable Justice Richard Alan Conti** retired upon reaching the compulsory retirement age for federal judges on 19 August 2007.
- **The Honourable Justice Susan Mary Kiefel** resigned her commission as a judge of the Court on 3 September 2007.
- **The Honourable Justice Rodney Neville Madgwick** resigned his commission as a judge of the Court on 21 April 2008.
- **The Honourable Justice James Leslie Bain Allsop** resigned his commission as a judge of the Court on 2 June 2008.

Other appointments, resignations and retirements during the year included:

- **The Honourable Justice Higgins** was appointed an Officer in the Order of Australia on the Queen's Birthday 2008.
- **The Honourable Justice Kiefel** resigned her commission as a judge of the Supreme Court of Norfolk Island and her appointment as a part-time member of the Australian Law Reform Commission, with effect from 3 September 2007.
- **The Honourable Justice Madgwick** resigned his commissions as a judge of the Industrial Relations Court of Australia and Additional Judge of the Supreme Court of the Australian Capital Territory, with effect from 21 April 2008.
- **The Honourable Justice Emmett** was appointed President of the Copyright Tribunal of Australia for a period of three years, with effect from 11 October 2007.
- **The Honourable Justice Allsop** was appointed a Deputy President of the Copyright Tribunal of Australia for a three year period, with effect from 11 October 2007.
- **The Honourable Justice Allsop** resigned his commissions as an Additional Judge of the Supreme Court of the Australian Capital Territory and a Deputy President of the Australian Copyright Tribunal, with effect from 7 April 2008.
- **The Honourable Justice Downes AM** was appointed a judge of the Supreme Court of Norfolk Island, with effect from 10 April 2008.

- **The Honourable Justice Lander** was appointed an Auxiliary Judge of the Supreme Court of South Australia for the period 10 April 2008 to 9 April 2009.
- **The Honourable Justice Collier** was appointed a part-time member of the Australian Law Reform Commission for a three year period, with effect from 2 October 2007.
- **The Honourable Justice Tracey RFD** was appointed Judge Advocate General of the Australian Defence Force, on a part-time basis, with effect from 26 September 2007 until the expiration of 31 December 2008.

1.6 FEDERAL COURT REGISTRIES

Registrar

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

Principal and District Registries

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

There is a District Registry of the Court in each capital city. The District Registries provide operational support to the judges in each state, as well as registry services to legal practitioners and members of the public. The registries receive court and related documents, assist with the arrangement of court sittings and facilitate the enforcement of orders made by the Court.

Most District Registries are also registries for the Australian Competition Tribunal and the Defence Force Discipline Appeal Tribunal. The Queensland, South Australian 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, Federal Court Bankruptcy Rules and the *Federal Court (Corporations) Rules 2000*. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Magistrates Act 1999*. Appendix 3 on page 89 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 2008 there were 422 staff employed under the Public Service Act. 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 44 to 46.

