

# PART 1

Overview of the Court



# Objectives

The objectives of the Federal Court of Australia (Federal 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.

# Establishment

The Federal Court 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.

# Purpose

As outlined in the Court's Corporate Plan, the purpose of the Federal Court as an independent court of law is to decide disputes according to the law as quickly, inexpensively and efficiently as possible.

The purpose of the Federal Court entity is to provide corporate services in support of the operations of the Federal Court, Family Court of Australia (Family Court), Federal Circuit Court of Australia (Federal Circuit Court) and the National Native Title Tribunal.

# Functions and powers

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian federal law and some summary and indictable criminal matters. Central to the Court's civil jurisdiction is s 39B(1A) of the *Judiciary Act 1903*. This jurisdiction includes cases created by a federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal state.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Circuit 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 Part 3 (*Report on Court performance*).

# The Court's Outcome and Program Structure

**Table 1.1: Outcome 1: Federal Court of Australia**

<b>OUTCOME 1:</b> Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.	<b>BUDGET 2019-20 (\$'000)</b>	<b>ACTUAL 2019-20 (\$'000)</b>	<b>VARIATION (\$'000)</b>
<b>Program 1.1 – Federal Court of Australia</b>			
Administered Expenses			
Special appropriations	600	209	391
Departmental Expenses			
Departmental appropriation <sup>1</sup>	67,031	62,359	4,672
Expenses not requiring appropriation in the budget year	17,413	22,091	-4,678
<b>Total for Program 1.1</b>	<b>85,044</b>	<b>84,659</b>	<b>385</b>
<b>Total expenses for outcome 1</b>	<b>85,044</b>	<b>84,659</b>	<b>385</b>
<b>Average staffing level (number)</b>	<b>272</b>	<b>253</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013*.

**Table 1.2: Outcome 2: Family Court of Australia**

<b>OUTCOME 2:</b> Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters and through the effective management of the administrative affairs of the Court.	<b>BUDGET 2019-20 (\$'000)</b>	<b>ACTUAL 2019-20 (\$'000)</b>	<b>VARIATION (\$'000)</b>
<b>Program 2.1 – Family Court of Australia</b>			
Administered Expenses			
Special appropriations	100	24	76
Departmental Expenses			
Departmental appropriation <sup>1</sup>	34,244	31,884	2,360
Expenses not requiring appropriation in the budget year	11,906	14,212	-2,306
<b>Total for Program 2.1</b>	<b>46,250</b>	<b>46,120</b>	<b>130</b>
<b>Total expenses for outcome 2</b>	<b>46,250</b>	<b>46,120</b>	<b>130</b>
<b>Average staffing level (number)</b>	<b>93</b>	<b>87</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013*.

**Table 1.3: Outcome 3: Federal Circuit Court of Australia**

**OUTCOME 3:** Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.

	BUDGET 2019-20 (\$'000)	ACTUAL 2019-20 (\$'000)	VARIATION (\$'000)
<b>Program 3.1 – Federal Circuit Court of Australia</b>			
Administered Expenses			
Ordinary annual services (Appropriation Act No.1)	880	726	154
Special appropriations	200	113	87
Departmental Expenses			
Departmental appropriation <sup>1</sup>	67,803	66,981	822
Expenses not requiring appropriation in the budget year	2,367	2,949	-582
<b>Total for Program 3.1</b>	<b>71,250</b>	<b>70,769</b>	<b>481</b>
<b>Total expenses for outcome 3</b>	<b>71,250</b>	<b>70,769</b>	<b>481</b>
<b>Average staffing level (number)</b>	<b>265</b>	<b>243</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013*.

**Table 1.4: Outcome 4: Commonwealth Courts Corporate Services**

**OUTCOME 4:** Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.

	BUDGET 2019-20 (\$'000)	ACTUAL 2019-20 (\$'000)	VARIATION (\$'000)
<b>Program 4.1 – Commonwealth Courts Corporate Services</b>			
Departmental Expenses			
Departmental appropriation <sup>1</sup>	78,467	73,281	5,186
Expenses not requiring appropriation in the budget year	57,636	54,228	3,408
<b>Total for Program 4.1</b>	<b>136,103</b>	<b>127,509</b>	<b>8,594</b>
<b>Program 4.2 – Commonwealth Courts Registry Services</b>			
Departmental Expenses			
Departmental appropriation	30,367	29,298	1,069
<b>Total for Program 4.2</b>	<b>30,367</b>	<b>29,298</b>	<b>1,069</b>
<b>Total expenses for outcome 4</b>	<b>166,470</b>	<b>156,807</b>	<b>9,663</b>
<b>Average staffing level (number)</b>	<b>470</b>	<b>451</b>	

<sup>1</sup> Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013*.

# About the Federal Court

## Judges of the Court

At 30 June 2020, there were 53 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 53 judges, there were three whose work as members of other courts or tribunals occupied all, or most, of their time.

**Table 1.5: Judges of the Federal Court (as at 30 June 2020)**

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Susan Coralie KENNY	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – President Australian Competition Tribunal – Deputy President
The Hon Steven David RARES	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Berna Joan COLLIER	Brisbane	National and Supreme Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Anthony James BESANKO	Adelaide	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Eric MIDDLETON	Melbourne	Australian Competition Tribunal – President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – Deputy President Defence Force Discipline Appeal Tribunal – President National and Supreme Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter MCKERRACHER	Perth	Administrative Appeals Tribunal – Deputy President
The Hon John Edward REEVES	Brisbane	Supreme Court of the Northern Territory – Additional Judge
The Hon Nye PERRAM	Sydney	Copyright Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Deputy President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	Australian Competition Tribunal – Deputy President
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	Fair Work Australia – President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Edward GRIFFITHS	Sydney	
The Hon Duncan James Colquhoun KERR Chev LH	Hobart	
The Hon Kathleen FARRELL	Sydney	Australian Competition Tribunal – Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Defence Force Discipline Appeal Tribunal – Member Administrative Appeals Tribunal – Deputy President
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	Administrative Appeals Tribunal – President
The Hon Sarah Catherine DERRINGTON	Brisbane	Australian Law Reform Commission – President
The Hon Simon Harry Peter STEWART	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Katrina Frances BANKS-SMITH	Perth	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Craig Grierson COLVIN	Perth	Administrative Appeals Tribunal – Deputy President
The Hon Thomas Michael THAWLEY	Sydney	Administrative Appeals Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Francis WHEELAHAN	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Paul Elias ANASTASSIOU	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Angus Morkel STEWART	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Hugh O'BRYAN	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Deputy President
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Wendy Jane ABRAHAM	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge

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

- 25 June to 15 July 2019 – Justice Rares
- 10 to 12 September 2019 – Justice Kenny
- 21 to 22 October 2019 – Justice Kenny

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 Part 3 (*Report on Court performance*) and Appendix 8 (*Judges' activities*).

### Appointments and retirements during 2019–20

During the year, one judge retired from the Court:

- The **Honourable Alan Robertson** retired upon reaching the compulsory retirement age for federal judges on 8 May 2020.

### Other appointments during the year are as follows:

- **Justice Banks-Smith** was appointed as an Additional Judge of the ACT Supreme Court on 22 August 2019.
- **Justice Lee** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Thawley** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Wheelahan** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Anastassiou** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Stewart** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice O'Bryan** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019, and appointed as a Deputy President of the Australian Competition Tribunal on 13 December 2019.
- **Justice Anderson** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.



- **Justice Abraham** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Middleton** was re-appointed as a part-time Commissioner of the Australian Law Reform Commission on 28 November 2019.
- **Justice White** was re-appointed as a Deputy President of the Administrative Appeals Tribunal on 29 May 2020.
- **Justice Perram** was re-appointed as a Deputy President of the Copyright Tribunal of Australia on 8 June 2020.

## Executive

### Chief Executive Officer and Principal Registrar

The CEO and Principal Registrar is appointed by the Governor-General on the nomination of the Chief Justice and 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* (s 18ZE of the Federal Court of Australia Act).

Mr Warwick Soden retired as CEO and Principal Registrar on 30 April 2020.

Ms Sia Lagos was appointed the CEO and Principal Registrar on 15 May 2020.

### Officers of the Court

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

- a District Registrar for each District Registry
- Registrars and Deputy District Registrars as necessary
- a Sheriff and Deputy Sheriffs as necessary, and
- Marshals under the *Admiralty Act 1988* as necessary.

The registrars must take an oath, or make an affirmation, of office before undertaking their duties (s 18Y of the Federal Court of Australia Act). Registrars perform statutory functions pursuant to the Federal Court of Australia Act, *Federal Court Rules 2011*, *Federal Court (Bankruptcy) Rules 2016*, *Federal Court (Corporations) Rules 2000*, *Federal Court (Criminal Proceedings) Rules 2016*, and the Admiralty Act and *Admiralty Rules 1988*. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the Federal Court of Australia Act, *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 Circuit Court of Australia Act 1999*. More information can be found in Appendix 4 (*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 1999*.

At 30 June 2020, the Federal Court entity engaged 1,091 employees under the *Public Service Act 1999*. This figure includes 758 ongoing and 333 non-ongoing employees. More details on court staff can be found in Part 4 (*Management and accountability*) and Appendix 9 (*Staffing profile*).