

# Part one: Overview

## Establishment

The Federal Magistrates Court is a federal court of record established under the Constitution by the *Federal Magistrates Act 1999*. The Federal Magistrates Act commenced operation on 23 December 1999 when the Act received royal assent.

The Federal Magistrates Court is constituted by federal magistrates, who are justices under the Constitution.

The Federal Magistrates Court is also known as the Federal Magistrates Court of Australia or the Federal Magistrates Service. When sitting as a court, the title Federal Magistrates Court is used. For all other purposes, the court is to be known as the Federal Magistrates Service.

The first applications were filed in the Federal Magistrates Court on 23 June 2000. The first sittings of the court were on 3 July 2000 in Adelaide, Brisbane, Canberra, Melbourne, Newcastle, Parramatta and Townsville.

Jurisdiction is conferred on the Federal Magistrates Court by laws of the Commonwealth other than the Federal Magistrates Act. The initial jurisdiction of the court was conferred by the *Federal Magistrates (Consequential Amendments) Act 1999*. Further information about the jurisdiction of the court is provided on page seven of this report.

## Outcome and objective

The Federal Magistrates Service was established to provide a simple and accessible alternative to litigation in the established federal courts and to relieve the workload of those courts. The Federal Magistrates Service has one outcome: to provide a cheaper, simpler and faster method of dealing with less complex Family Court and Federal Court matters.

The Federal Magistrates Service places emphasis on using a range of means to resolve disputes. There is no automatic assumption that every matter ends in a contested hearing and the use of conciliation, counselling and mediation and a range of other alternative dispute resolution techniques are strongly encouraged in appropriate cases. Where practical, parties are encouraged to take responsibility for resolving their disputes themselves. This approach is likely to result in a more enduring resolution of a dispute.

The impetus for change lies in a widespread concern that litigation is overly expensive, unduly complex and fraught with unnecessary delay. The financial and non-financial costs of litigation are often disproportionate to the matters in dispute or the financial capacity of the parties to resolve their dispute. For this reason, the Federal Magistrates Service's objective is to provide a simple and accessible alternative to litigation in the Federal Court and the Family Court.

## The administration of the court

Section 12 of the Federal Magistrates Act provides that the federal magistrates shall be responsible for the administrative affairs of the court. The federal magistrates are assisted by the Chief Executive Officer, who may assist the federal magistrates by exercising powers on their behalf in relation to the court's administrative affairs. The federal magistrates may give directions to the Chief Executive Officer about the exercise of those powers.

### Organisation

The Federal Magistrates Court consists of the Chief Federal Magistrate and 18 federal magistrates. Federal magistrates are appointed until aged 70.

The Chief Federal Magistrate is responsible for the day to day management of the business of the court and for this annual report. The primary mechanism for the performance of the administrative function is the meetings of federal magistrates held twice a year. During 2001-02, the meetings were held in Sydney and Melbourne.

The federal magistrates have established a committee structure to assist them to make, implement and monitor administrative decisions between meetings. More information on the committees can be found in part four of this report.

The Chief Executive Officer is Mr Peter May. He was appointed on 23 March 2000 for a five-year period.

**Figure 1.2: Federal Magistrates – appointments and locations**

Federal Magistrate	Location	Date of appointment
Chief Federal Magistrate Diana Bryant	Melbourne	11 May 2000
Federal Magistrate Warren Donald	Newcastle	13 June 2000
Federal Magistrate Christine Mead	Adelaide	13 June 2000
Federal Magistrate Judy Ryan	Parramatta	13 June 2000
Federal Magistrate Michael Baumann	Brisbane	19 June 2000
Federal Magistrate Jim Brewster	Canberra	19 June 2000
Federal Magistrate Norah Hartnett	Melbourne	19 June 2000
Federal Magistrate Stephen Scarlett	Parramatta	19 June 2000
Federal Magistrate John Coker	Townsville	26 June 2000
Federal Magistrate Murray McInnis	Melbourne	26 June 2000
Federal Magistrate Rolf Driver	Sydney	31 July 2000
Federal Magistrate Kenneth Raphael	Sydney	31 July 2000
Federal Magistrate Stuart Roberts	Launceston and Hobart	4 December 2000
Federal Magistrate Maurice Phipps	Melbourne	18 December 2000
Federal Magistrate Jennifer Rimmer	Brisbane	5 February 2001
Federal Magistrate Michael Connolly	Melbourne	4 June 2001
Federal Magistrate John Walters	Melbourne	29 October 2001
Federal Magistrate Shenagh Barnes	Parramatta	5 November 2001
Federal Magistrate Stewart Brown	Darwin	5 November 2001

## Jurisdiction

The Federal Magistrates Court shares jurisdiction with the Federal Court and the Family Court. The Federal Magistrates Court currently has eight principal areas of jurisdiction covering family law, child support, migration, bankruptcy, trade practices, unlawful discrimination, privacy and administrative law.

Much of the court's workload is focused on family law, which constitutes about 80 per cent of the court's work. The areas of family law in which the Federal Magistrates Court has jurisdiction are:

- Applications for divorce.
- Applications concerning spousal maintenance.
- Property disputes where the property in dispute is worth less than \$700 000 or property disputes worth more with the consent of the parties.
- All parenting orders, whether the parents are married or unmarried.
- Enforcement of orders made by either the Federal Magistrates Court or the Family Court.
- Location and recovery orders and warrants for the apprehension or detention of a child.
- Determination of parentage and recovery of child bearing expenses.

The Federal Magistrates Court has the same jurisdiction as the Family Court in matters under the Child Support Act.

In general federal law matters, the Federal Magistrates Court shares jurisdiction with the Federal Court in:

- Unfair trade practices matters arising under Division 1 of Part V of the *Trade Practices Act 1974* and product safety and information matters arising under Division 1A of Part V, with power to award damages up to a maximum of \$200 000.
- Matters arising under the *Bankruptcy Act 1966*, other than the prosecutor of offences or a jury.
- Applications made under the *Administrative Decisions (Judicial Review) Act 1977*.
- Appeals from the Administrative Appeals Tribunal that are transferred to the Federal Magistrates Court by the Federal Court.
- Unlawful discrimination matters under the *Human Rights and Equal Opportunity Commission Act 1986*.
- Enforcement of determinations of the Privacy Commissioner and private sector adjudicators pursuant to the *Privacy Act 1988*.
- Concurrent jurisdiction with the Federal Court to review visa-related decisions of the Migration Review Tribunal, Refugee Review Tribunal and the Administrative Appeals Tribunal.

