

PART ONE: OVERVIEW

ESTABLISHMENT OF THE COURT

The Federal Magistrates Court was established to handle less complex matters in the areas of family law and general federal law. It shares jurisdiction with the Family Court and the Federal Court.

The Federal Magistrates Court is a federal court established under the Constitution by the *Federal Magistrates Act 1999*. The Federal Magistrates Act commenced on 23 December 1999 when the Act received royal assent. The first court sittings occurred 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*. The jurisdiction of the court is expanded by amendment of Commonwealth legislation to confer the new jurisdiction.

Although the court has been established for just four years it now has a well-established position as the basic trial court in the federal judicial system. The increasing range and volume of cases heard by the court confirm that role. Over half of all migration matters, nearly all bankruptcy work, and over 40 per cent of family law children's and property applications are now completed in the Federal Magistrates Court.

To ensure that the court has sufficient judicial resources to keep pace with the increasing demand for its services, the number of judicial appointments increased from 19 federal magistrates to 23 federal magistrates. The government has also announced that eight more federal magistrates will be appointed to do the additional migration work that is expected, from 2004-05, following the governments stated desire that most migration work will be done in the Federal Magistrates Court rather than the Federal Court. The new federal magistrates will be appointed in the period July-September 2004.

OUTCOME AND OBJECTIVE

The objective of the Federal Magistrates Court is to provide a simple and accessible alternative to litigation in the Federal Court or the Family Court and to relieve the workload of those courts by dealing with less complex matters.

The Federal Magistrates Court encourages the use of primary dispute resolution methods such as counselling, mediation and conciliation. The court does not assume that every matter ends in a contested hearing and where practical, parties are encouraged to resolve their disputes through negotiation. This approach has many benefits and is likely to result in a more enduring resolution of a dispute.

THE ADMINISTRATION OF THE COURT

Section 89 of the Federal Magistrates Act provides that the federal magistrates are responsible for the administrative affairs of the court. The Chief Federal Magistrate is responsible for the day to day management of the court.

The federal magistrates are assisted by the Chief Executive Officer who can exercise powers on their behalf in relation to the court's administrative affairs.

Federal magistrates conduct biannual conferences to discuss and plan the strategic direction of the court. The federal magistrates also have a committee structure to assist them to make, implement and monitor administrative decisions between these meetings. More information on the committees can be found in part four.

Ms Diana Bryant held the position of Chief Federal Magistrate from 11 May 2000. Her appointment as Chief Justice of the Family Court, and the appointment of Mr John Pascoe AO as Chief Federal Magistrate were announced on 24 June 2004.

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

ORGANISATION

The Federal Magistrates Court consists of the Chief Federal Magistrate and 22 federal magistrates.

The federal magistrates appointed to the court as at 30 June 2004 were:

- Chief Federal Magistrate Diana Bryant - Melbourne (11 May 2000 - 24 June 2004)
- Federal Magistrate Warren Donald - Newcastle (appointed 13 June 2000)
- Federal Magistrate Christine Mead - Adelaide (appointed 13 June 2000)
- Federal Magistrate Judy Ryan - Parramatta (appointed 13 June 2000)
- Federal Magistrate Michael Baumann - Brisbane (appointed 19 June 2000)
- Federal Magistrate Jim Brewster - Canberra (appointed 19 June 2000)
- Federal Magistrate Norah Hartnett - Melbourne (appointed 19 June 2000)
- Federal Magistrate Stephen Scarlett - Parramatta (appointed 19 June 2000)
- Federal Magistrate John Coker - Townsville (appointed 26 June 2000)
- Federal Magistrate Murray McInnis - Melbourne (appointed 26 June 2000)
- Federal Magistrate Rolf Driver - Sydney (appointed 31 July 2000)
- Federal Magistrate Kenneth Raphael - Sydney (appointed 31 July 2000)
- Federal Magistrate Stuart Roberts - Hobart and Launceston (appointed 4 December 2000)
- Federal Magistrate Maurice Phipps - Melbourne (appointed 18 December 2000)
- Federal Magistrate Jennifer Rimmer - Brisbane (appointed 5 February 2001)
- Federal Magistrate Michael Connolly - Melbourne (appointed 4 June 2001)
- Federal Magistrate John Walters - Melbourne (appointed 29 October 2001)
- Federal Magistrate Stewart Brown - Darwin (appointed 5 November 2001)
- Federal Magistrate Shenagh Barnes - Parramatta (appointed 5 November 2001)
- Federal Magistrate Giles Coakes - Newcastle (appointed 19 January 2004)
- Federal Magistrate Stuart Lindsay - Adelaide (appointed 23 January 2004)
- Federal Magistrate Michael Jarrett - Brisbane (appointed 6 February 2004)
- Federal Magistrate Victoria Bennett - Melbourne (appointed 10 May 2004)

JURISDICTION OF THE COURT

The Federal Magistrates Court shares concurrent jurisdiction with the Family Court (family law) and the Federal Court (general federal law) in those areas of law where it has jurisdiction.

FEDERAL MAGISTRATES COURT

FAMILY LAW

The areas of family law in which the court has jurisdiction are:

- ~ Applications for divorce
- ~ Applications concerning spousal maintenance
- ~ Property disputes where the property in dispute is valued less than \$700,000 (if the property is worth more, the court can hear the matter if both parties consent)
- ~ All parenting orders, whether the parents are married or unmarried
- ~ Enforcement of orders made by either the Federal Magistrates Court, the Family Court or State courts
- ~ 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 relating to child support legislation.

GENERAL FEDERAL LAW

In general federal law, the Federal Magistrates Court has jurisdiction to hear matters relating to bankruptcy, migration, unlawful discrimination, trade practices matters, administrative law, privacy and copyright.

The court shares jurisdiction with the Federal Court in the following areas:

- ~ 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*
- ~ 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*

- ~ Migration Act jurisdiction to review the visa-related decisions of the Migration Review Tribunal, Refugee Review Tribunal and the Administrative Appeals Tribunal
- ~ Civil copyright matters under the *Copyright Act 1968*. In particular, the court can deal with matters arising under Parts V, VAA, IX and section 248J of the *Copyright Act 1968*

FEDERAL MAGISTRATES COURT RULES

The *Federal Magistrates Court Rules 2001* commenced on 30 July 2001.

As the court shares concurrent jurisdiction in many areas of law with the Federal Court and the Family Court it has, in some instances, relied upon the Rules made by those courts. In the areas of divorce, bankruptcy and human rights, for example, the court has replicated the existing Rules of the superior courts. This approach provides some consistency with existing procedures. The Rules depart significantly, however, in matters such as the conduct of defended proceedings.

The Rules reflect the simpler and less formal case management practices of the court, which aim to reduce the number of appearances by litigants and to hear most cases within six months of filing. The Rules are instrumental in facilitating these aims.

The court prescribes no Rules for solicitor-client costs. The Rules do, however, provide a party-party cost regime that fixes costs on the basis of the events that have proceeded.