

Introduction

The Federal Magistrates Court continued to grow and develop during 2005-06. This was reflected in the appointment of more federal magistrates, an expansion of jurisdiction, an increased workload and new governance structures.

New appointments

Five federal magistrates were appointed to the Court during the year, taking up positions in Newcastle, Brisbane, Parramatta, Sydney and Melbourne. One federal magistrate in Melbourne retired following her appointment as a judge of the Family Court of Australia ('Family Court').

At the end of the year there were 35 federal magistrates, a 13 per cent increase over 2004-05 and over triple the number of federal magistrates on the Court's first day of operation on 3 July 2000. Furthermore, during the year the Government announced funding for the appointment of 11 further federal magistrates. This will equate to another 31 per cent increase in numbers of federal magistrates.

These appointments further increase the capacity of the Court to fulfil its objective to deal with less complex family and general federal law civil matters and, in turn, allow the superior federal courts to focus on the more complex cases and their appellate work.

Expanded jurisdiction

The Court received new and extended jurisdiction during the year with the commencement of the *Workplace Relations Amendment (Work Choices) Act 2005*, *Anti-Terrorism Act (No. 2) 2005*, *Federal Magistrates Jurisdiction Amendment Act 2006* and, from 1 July 2006, *Family Law Amendment (Shared Parental Responsibility) Act 2006*.

This includes unlawful termination and other workplace relations matters, *in personam* admiralty matters, a broader range of trade practices matters (with power to award higher damages), being an issuing court for the control orders regime of the anti-terrorism legislation, removal of the monetary limitation of the court's jurisdiction to hear family law property matters without consent, and jurisdiction in any matter transferred to the Court by the Federal Court of Australia (Federal Court) or Family Court.

Increased depth and breadth in workload

The Court's workload in both family law and general federal law continued to increase during the year.

While overall new filings increased by a little less than one per cent compared with 2004-05, there was a decline of five per cent in the filing of new divorces. If divorce applications, which are largely handled by registrars, are excluded, new filings in the Court during the year increased overall by almost nine per cent compared with the previous year.

In family law, new filings decreased by one per cent from 2004-05. When divorce applications are excluded, filings increased overall by seven per cent. Of interest was the marked regional variation in the areas that recorded an increase in family law filings (see page 27).

In general federal law, new filings increased overall by 16 per cent from 2004-05. Again, a feature of the increases was the marked regional variations that occurred, and the type of matters filed (see page 16).

The broadening of the work of the Court, noted in the Court's Annual Report 2004-05 (pages 5-6), continued through 2005-06. The Court devoted significant judicial resources to the hearing of general federal law matters throughout the year commensurate with the increased new filings in that area of work and towards the disposal of the backlog of migration matters which developed during 2002-03 and 2003-04.

Migration litigation

During the year the Court made inroads into the backlog of migration matters awaiting hearing, despite there being no reduction in the rate of new filings. While 2439 migration matters were pending at 30 June 2005 and 2429 new matters were filed in or transferred to the Court during 2005-06, 3070 matters were finalised. As a result, at 30 June 2006 there were 1806 migration matters pending, 633 less than at the beginning of the year.

The Court was able to increase incrementally the finalisation rates to be above the rate of new filings through more efficient listing of migration matters. In each of the last five months of the year, the number of migration matters finalised was more than those filed; the margin also increased month by month.

With additional general federal law appointments announced during the year, this reduction in the backlog of migration matters is expected to be further accelerated in 2006-07.

Combined Registry in family law

The Court continued to work with the Family Court towards completion of implementation of the Combined Registry Program. That program, which commenced in July 2004, aims to provide simplified access to the Family Law Courts. It is comprised of a number of major projects which have been completed or are nearing completion.

The Family Law Courts Board consists of the Chief Justice of the Family Court, the Chief Federal Magistrate and the Chief Executive Officers of each Court. The Board was established during

the previous year to oversee the coordination and management of the shared arrangements evolving through the Combined Registry initiative and other shared services arrangements, and continued to meet during 2005-06. The Board has functioned effectively in considering and working towards the resolution of cross-court issues.

Timely delivery of judgments

The majority of the Court's judgments (67 per cent) continue to be delivered orally at the time of hearing or shortly afterwards, allowing the Court to deal with a high volume of matters expeditiously. The nature of many matters facilitates this; however, an increasing number of complex matters necessitate more detailed considerations and the preparation of reserved judgments, which are usually delivered at a later date and in writing.

In 2005-06, 96 per cent of judgements were delivered within six months of the hearing and 99.5 per cent within twelve months. Only three judgments (0.1 per cent) were delivered over eighteen months after the hearing.

It is an ongoing challenge for the Court to address the balance of increasing workload with finalising reserved judgments. More time has been allocated to judgment writing and better systems and procedures have been implemented to record and monitor progress of reserved judgments and to better identify complex cases that should be transferred to the superior courts. The success of these approaches was reflected in the halving of complaints to the Court; complaints in previous years have predominantly been about delayed delivery of judgments.

Governance

The governance structure of the Court was altered by amendments to the *Federal Magistrates Act 1999* ('the Act'), which commenced on 15 November 2005. The alteration aligns the arrangements for the management of the administrative affairs of the Court with those of the Federal Court and Family Court.

The Chief Federal Magistrate is now not only responsible for ensuring the orderly and expeditious discharge of the business of the Court, but also for managing the administrative affairs of the Court. However, in the latter, the Chief Federal Magistrate is assisted by the Chief Executive Officer. The Chief Executive Officer is, for the purposes of the *Public Service Act 1999*, the Head of the Statutory Agency constituted by the Chief Executive Officer and the Australian Public Service employees of the Court. The Chief Executive Officer is also the Chief Executive of the Federal Magistrates Court for the purposes of the *Financial Management and Accountability Act 1997*, which imposes obligations on him or her to manage the affairs of the Court in a way which promotes the efficient, effective and ethical use of Commonwealth resources. Therefore, the Chief Federal Magistrate and the Chief Executive Officer have different but complementary responsibilities for various aspects of the Court's operations.

The Chief Federal Magistrate may delegate all or any of his or her administrative powers to one or more federal magistrates. The Chief Federal Magistrate has appointed four federal magistrates as Coordinating Federal Magistrates for regions across Australia. Each assists in the management of a range of administrative matters for the federal magistrates in his or her region and has been delegated certain powers for these purposes.

The Court has also appointed a number of advisory committees, each comprising federal magistrates and Court staff. They provide advice to the Court in relation to the powers of the Court under the Act and the making of the Rules of Court and they advise the Chief Federal Magistrate and the Chief Executive Officer in relation to their respective responsibilities. A review of the committee structure commenced during the year.

The positions of Coordinating Federal Magistrates and the membership of federal magistrates' committees rotate every two years.

Other highlights

The Court has continued to consolidate its position as an effective federal court to deal with less complex family and general federal law matters. The Court's success is illustrated in the following developments during the year:

Cases transferred from other courts, particularly the superior courts, have continued to increase; for example, the Family Court transferred twice as many cases in 2005-06 than 2004-05.

The first workplace relations matters, following the extension of the Court's jurisdiction into this area of work, were filed in April. Initially, the number of these matters filed has been low but is expected to increase. Six federal magistrates will be appointed in 2006-07 to cope with the expected workload.

The Court continued to hone its practices, procedures and systems to further improve its efficiency. In both family and general federal law, the numbers of cases that were finalised exceeded the number of applications made.

Because of the complexity of some types of general federal law matters, the court is progressively establishing specialist panels in each region. These panels will ensure that cases in these specialist areas will be handled by federal magistrates with appropriate expertise and with a commitment to allocating appropriate priority to the cases immediately they are assigned. The court believes this system will best enable it to target the required judicial resources in these specialist areas to achieve the timely and appropriate disposition of these cases.

The number of complaints and appeals reduced significantly. Complaints halved from 0.2 to 0.1 per cent of all cases, largely due to many fewer complaints about delayed judgments. Appeals in general federal law decreased by 17 per cent while appeals in family law remained steady.

The Court participated in a joint pilot project with the Family Court to improve mental health support for clients. Key elements included staff training in mental health issues surrounding separation and in dealing with clients who present with mental health or emotional wellbeing issues, and the development of a referral service where clients with mental health issues are linked directly to community-based professional counselling services. The Department of Health and Ageing sponsored the pilot and contributed \$300,000. Conducted in the Adelaide and Darwin family law registries, the pilot concluded on 30 June 2006 and, following its success, is expected to be implemented nationally in 2006-07.

The Family Court and Federal Magistrates Court also ran a joint family violence screening and risk assessment pilot in the Brisbane Registry from late 2005 to March 2006. The pilot aimed to ensure that family violence issues were identified as early as possible in the court process. Where appropriate, safety plans were developed with parties to facilitate their safety at court events and maximise their capacity to participate in court proceedings. The pilot is being evaluated for possible national implementation.

Challenges – now and for the future

There has been rapid growth in the number of judicial officers, the range of jurisdiction and the volume of work. This has, and will, continue to present challenges for the Court to strengthen the skills and productivity of federal magistrates and staff to better enable them to cope.

In recognising the importance of maintaining the optimal health, well-being and productivity of federal magistrates, the Court has implemented programs to encourage annual health checks and provide access to professional and confidential counselling. The Court continues to strive to improve its programs for induction and ongoing judicial education of federal magistrates and training and development of its staff.

The Court also continues to develop its practices, procedures and systems to achieve greater efficiency in the management of its workload.

In terms of the challenges faced by the Court when handling matters by self-represented litigants, the Court continues to develop support services and information for these litigants that will assist them use the Court effectively (see pages 40-41).