



## Filings, disposals and pending cases

### NOTES:

The figures for pending cases, from 2012 onwards, exclude cases that have been re-opened after judgment.

Pending caseload figures within the Common Law and Equity Divisions (or within case management lists within those Divisions) will not always reconcile with associated filing and disposal figures. This is because cases that are filed (commenced) in one case management list or Division may be subsequently transferred to another list or Division for further case management and disposal.

The statistics for 2010 through to 2013 for civil cases in the Common Law Division and for the Equity Division (other than the Adoptions List, Protective List and contested Probate List cases) have been extracted from the JusticeLink system. The JusticeLink statistical and operational reporting functions are still under development.

The statistics for the Court of Appeal, Court of Criminal Appeal, Criminal List, Bails List, Adoptions List, Protective List and contested Probate List matters continue to be manually collated and are subject to audit and revision.

“n/a” – figures not available or not separately reported

“-“ – item not applicable

“0” – zero count

	2009	2010	2011	2012	2013
<b>COURT OF APPEAL <sup>1</sup></b>					
<b>Filings</b>					
<i>Appeals and applications for relief</i>	339	353	320	333	334
<i>Applications for leave to appeal <sup>2</sup></i>	172	166	182	169	183
<i>Net new cases <sup>3</sup></i>	496	501	490	493	502
<b>Disposals</b>					
<i>Appeals and applications for relief</i>	368	313	365	319	336
<i>Applications for leave to appeal</i>	192	156	177	184	188
<i>Net disposals <sup>4</sup></i>	545	451	533	493	509
<b>Pending cases at 31 December</b>					
<i>Appeals and applications for relief</i>	241	285	237	252	250
<i>Applications for leave to appeal</i>	88	99	101	86	81
<i>Total</i>	329	384	338	338	331

<sup>1</sup> These statistics exclude holding notices of appeal, holding summonses for leave to appeal and notices of intention to appeal because those forms do not commence substantive appeals or applications.

<sup>2</sup> This item also includes applications where parties have elected to have a concurrent hearing of both the application for leave to appeal and the appeal (if leave is granted).

<sup>3</sup> For reporting the *net new cases*, if a Court of Appeal case is commenced by a summons for leave to appeal and then a notice of appeal is filed pursuant to a grant of leave, this is counted as one continuous appeal case (not two separate cases).

<sup>4</sup> For reporting the *net disposals*, where an appeal has been preceded by a grant of leave, this is counted as one continuous case and a disposal is counted only when the substantive appeal is finalised.

	2009	2010	2011	2012	2013
<b>COURT OF CRIMINAL APPEAL <sup>1</sup></b>					
Filings	389	414	382	339	373
Disposals	391	417	340	336	381
Pending cases at 31 December	183	180	222	225	217

<sup>1</sup> These statistics exclude appeals from decisions of the NSW State Parole Authority. For the years 2009 to 2013, there were 5, 1, 4, 0 and 4 and applications lodged for review of Parole Board decisions, respectively.

	2009	2010	2011	2012	2013
<b>COMMON LAW DIVISION – Criminal <sup>1,2</sup></b>					
<b>Criminal List</b>					
Filings <sup>3</sup>	106	112	138	130	110
Disposals <sup>4</sup>	112	106	85	157	121
Pending cases at 31 December	84	90	143	116	105
<b>Bails List</b>					
Filings (applicants) <sup>5</sup>	n/a	n/a	n/a	n/a	3,698 (est.)
Disposals (applicants) <sup>5</sup>	n/a	n/a	n/a	n/a	3,742 (est.)
Pending applicants at 31 December	304	279	372	339	439
<b>Summary jurisdiction cases <sup>6</sup></b>					
Filings	0	-	-	-	-
Disposals	248	-	-	-	-
Pending cases at 31 December	0	-	-	-	-

<sup>1</sup> In all years, the figures exclude matters under Part 7 of the *Crimes (Appeal and Review) Act* (formerly s474D of the *Crimes Act*) and applications for re-determination of a life sentence.

<sup>2</sup> Since 2005, the Court has used counting rules that align with national counting rules. Therefore the figures reported now are not directly comparable with those reported before 2005.

<sup>3</sup> The figures include committals for trial/sentence, ex officio indictments, re-trials ordered by the Court of Criminal Appeal or High Court, matters referred from the Mental Health Review Tribunal, transfers from the District Court, and re-activated matters (eg where a bench warrant is executed).

<sup>4</sup> Disposals are counted at sentence, acquittal or other final disposal. Previously disposals were counted at verdict, plea of guilty, or other final disposal. ("Other final disposal" includes referral to the Mental Health Tribunal, no bill, death of the accused, order for a bench warrant to issue, transfer to another court, and other final orders).

<sup>5</sup> The figures for Bails List cases now count the number of applicants, not the number of applications. At a Bails List hearing, the Court may deal concurrently with multiple applications for any one applicant. Because the change in counting was implemented in mid-2013 and was not retrospective, an estimate has been made for the filings and disposals for 2013.

<sup>6</sup> Normally, the few summary jurisdiction cases that come to the Court are included with civil cases within the Summons List of the Common Law Division, where they are managed. During 2007 and 2008, a total of 248 related prosecutions under the *Food Act 2003* (against one company and its two directors) were lodged. They were finalised in 2009. These cases have been separately reported to prevent skewing of the statistics in the Summons List for those years. Note that the 248 cases reported here were reported to the Productivity Commission as 9 cases only, in accordance with the national counting rules.

	2009 <sup>1</sup>	2010 <sup>2</sup>	2011 <sup>2</sup>	2012 <sup>2</sup>	2013
<b>COMMON LAW DIVISION – Civil</b>					
<b>Administrative Law List</b>					
Filings	125	186	183	206	122
Disposals	110	218	156	119	148
Pending cases at 31 December	74	180	222	110	86
<b>Defamation List</b>					
Filings	73	72	59	46	67
Disposals	89	65	63	55	76
Pending cases at 31 December	88	99	100	90	84
<b>Common Law General List (formerly the General Case Management List) <sup>3</sup></b>					
Filings	1,072	939	1,012	982	1,177
Contested claims	402	472	462	496	503
– <i>personal injury</i>	272	275	230	251	213
– <i>other claims</i>	130	197	232	245	290
Uncontested claims	173	65	100	52	161
Proceeds of Crime cases	127	114	125	93	104
Other summons cases	370	288	325	341	409
Disposals	1,073	778	863	1,041	1,556
Contested claims	414	337	422	533	616
– <i>personal injury</i>	232	219	188	248	365
– <i>other</i>	182	118	234	285	251
Uncontested claims	120	135	105	32	317
Proceeds of Crime cases	127	95	74	97	100
Other summons cases	412	211	262	379	523
Pending cases at 31 December	1,168	1,342	1,648	1,891	1,656
Contested claims	770	843	923	1,104	917
– <i>personal injury</i>	443	483	550	554	538
– <i>other</i>	327	360	373	550	379
Uncontested claims	105	192	243	162	221
Proceeds of Crime cases	156	157	216	145	148
Other summons cases	137	150	266	480	370
<b>Possession List <sup>4</sup></b>					
Filings	4,610	3,658	3,994	3,259	2,447
<i>Contested</i>	286	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>
<i>Uncontested</i>	4,324	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>
Disposals	5,431	2,827	2,239	4,439	3,647
<i>Contested</i>	286	<i>n/a</i>	<i>n/a</i>	207	155
<i>Uncontested</i>	5,145	<i>n/a</i>	<i>n/a</i>	4,232	3,492
Pending cases at 31 December	2,007	2,679	4,319	2,922	1,711
<i>Contested</i>	220	<i>n/a</i>	<i>n/a</i>	178	136
<i>Uncontested</i>	1,787	<i>n/a</i>	<i>n/a</i>	2,744	1,575
<b>Professional Negligence List</b>					
Filings	172	202	150	161	194
Disposals	185	167	189	138	204
Pending cases at 31 December	419	406	394	409	402

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**Miscellaneous applications**<sup>5</sup>

Filings	261	339	525	458	566
Disposals	491	319	490	465	608
Pending cases at 31 December	50	45	85	77	26

**COMMON LAW DIVISION TOTALS - Civil**

<b>Filings</b>	<b>6,313</b>	<b>5,396</b>	<b>5,923</b>	<b>5,112</b>	<b>4,573</b>
<b>Disposals</b>	<b>7,395</b>	<b>4,374</b>	<b>4,000</b>	<b>6,257</b>	<b>6,239</b>
<b>Pending cases at 31 December</b>	<b>3,806</b>	<b>4,751</b>	<b>6,768</b>	<b>5,499</b>	<b>3,965</b>

<sup>1</sup> Between 17 and 21 December 2009 the Court changed to a new case information and management system – JusticeLink. The data for 2009 were taken at 17 December 2009, not 31 December 2009.

<sup>2</sup> The figures reported for 2010, 2011 and 2012 are affected by errors in classification of some case types – particularly, the distribution of cases between the Administrative Law List and the Common Law General List is considered to be inaccurate. Those errors were addressed at the end of 2012 when the Court implemented a new set of case-type descriptors.

<sup>3</sup> For 2009, the disposals figures exclude 248 summons cases that comprised a group of related prosecutions under the *Food Act 2003* – those cases are reported under the heading “Summary jurisdiction cases” within the criminal workload of this Division.

<sup>4</sup> The statistics from the JusticeLink system do not reliably identify cases in the Possession List that become contested. Based on historical data, approximately 5 per cent of Possession List cases become contested.

<sup>5</sup> These include applications under the Mutual Recognition Act, Trans-Tasman Mutual Recognition Act, applications for production orders, requests for service within NSW of documents related to civil proceedings being conducted outside NSW, and applications to enforce judgments given outside Australia. This list was audited during 2009 and approximately 350 cases were finalised as a result of the audit.

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	2009 <sup>1</sup>	2010	2011	2012	2013
<b>EQUITY DIVISION <sup>2</sup></b>					
<b>Admiralty List</b>					
Filings	22	11	4	2	0
Disposals	4	16	10	10	2
Pending cases at 31 December	21	17	11	3	1
<b>Adoptions List <sup>3</sup></b>					
Applications	220	212	189	234	206
Orders made	204	199	194	203	217
Pending cases at 31 December	35	48	43	74	63
<b>Commercial List</b>					
Filings	212	172	178	148	175
Disposals	240	173	188	178	190
Pending cases at 31 December	283	308	328	283	278
<b>Commercial Arbitration List</b>					
Filings	-	5	7	6	3
Disposals	-	3	5	9	8
Pending cases at 31 December	-	3	8	7	2
<b>Corporations List</b>					
Filings	2,764	2,149	1,837	1,648	1,353
Disposals <sup>4</sup>	2,201	2,198	1,767	1,602	1,617
Pending cases at 31 December	686	672	838	759	465
<b>Equity General List <sup>5</sup></b>					
Filings	1,993	2,250	2,101	2,037	1,994
– family provision cases	512	858	803	792	790
– other	1,481	1,392	1,298	1,245	1,204
Disposals <sup>6</sup>	3,098	2,031	1,944	2,089	2,098
– family provision cases	605	719	738	811	919
– other	2,493	1,312	1,206	1,278	1,179
Pending cases at 31 December	1,856	2,111	2,410	2,317	2,235
– family provision cases	459	646	760	649	513
– other <sup>6</sup>	1,397	1,465	1,650	1,668	1,722
<b>Probate (Contentious Matters) List</b>					
Filings	125	172	138	130	191
Disposals	123	160	145	116	172
Pending cases at 31 December	92	104	97	111	141
<b>Protective List <sup>7</sup></b>					
Applications	75	80	72	106	92
Disposals	73	58	95	85	98
Pending applications at 31 December	17	39	16	37	31
<b>Revenue List <sup>8</sup></b>					
Filings	-	21	17	45	56
Disposals	-	3	8	15	35
Pending applications at 31 December	-	22	32	54	40

<b>Technology and Construction List</b>					
Filings	115	100	147	137	129
Disposals	109	91	119	115	95
Pending cases at 31 December	163	178	221	244	283

#### **EQUITY DIVISION TOTALS**

<b>Filings</b>	<b>5,526</b>	<b>5,172</b>	<b>4,690</b>	<b>4,493</b>	<b>4,199</b>
<b>Disposals</b> <sup>9</sup>	<b>6,052</b>	<b>4,932</b>	<b>4,475</b>	<b>4,422</b>	<b>4,532</b>
<b>Pending cases at 31 December</b>	<b>3,153</b>	<b>3,502</b>	<b>4,004</b>	<b>3,889</b>	<b>3,539</b>

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>PROBATE – Applications lodged for grant of probate etc</b> <sup>10</sup>	<b>21,580</b>	<b>22,324</b>	<b>22,449</b>	<b>23,790</b>	<b>23,607</b>

<sup>1</sup> Between 17 and 21 December 2009 the Court changed to a new case information and management system – JusticeLink. The data for 2009 were taken at 17 December – the exceptions are the Adoptions List, Protective List and Probate (Contentious Matters) List, for which the data were taken at 31 December.

<sup>2</sup> The figures reported for 2010 through to 2013 have been extracted from the JusticeLink system, except for the figures for the Adoptions List, Probate (Contentious Matters) List and Protective List (the data for those lists are obtained from manually collated data).

<sup>3</sup> In this List, all applications types are counted, including information applications.

<sup>4</sup> For 2009, these are registrars' disposals only, with disposals by judges and associate judges being included in the total for the Equity General List. For 2010 and onwards, all disposals in this List are recorded. Typically, registrars finalise about 90 per cent of Corporations List cases.

<sup>5</sup> The Equity General List figures for 2009 include Revenue List cases.

<sup>6</sup> The disposals in this List for 2009 include cases disposed from the Corporations List by a judge or associate judge.

<sup>7</sup> Applications are counted instead of "cases" because cases in this List can be of a perpetual nature. During the period when a person's affairs or property are managed under the *Protected Estates Act*, it is possible that more than one application will be made in relation to that person. "Disposals" refers to the number of disposed applications.

<sup>8</sup> For 2009, the Revenue List cases were included within the Equity General List.

<sup>9</sup> For 2009, the counts of disposals for the Equity Division should be considered with caution because, for the Equity General List and Corporations List (the two largest lists), a significant number of cases may have more than one disposal recorded per case. This is because many cases are re-opened but not counted as fresh filings. Consequently, such matters (which have been recorded only once as a filing) may have more than one disposal recorded against them.

<sup>10</sup> This includes all probate applications that are lodged as uncontested applications for a grant of probate or letters of administration, or for reseal of a probate grant. Registrars deal with uncontested applications. Only a small proportion of these applications become contested. Contested applications are then transferred to the Probate (Contentious Matters) List and are counted additionally as filings there.

<sup>11</sup> These are counts of applications for grant of various forms of probate or letters of administration, or for reseal of probate grants. There is no longer any separate counting of probate-related matters handled by the registry - for example, probate accounts matters, caveats, deposited wills, and elections to administer estates.

## Timeliness – age of pending cases at 31 December <sup>1, 2, 3</sup>

Number pending (and % of total)	National standard <sup>4</sup>	2009	2010	2011	2012	2013
<b>COURT OF APPEAL</b>						
Total number of cases pending		329	384	338	338	331
Cases within 12 months of age	90%	295 (90%)	328 (85%)	296 (88%)	307 (91%)	297 (90%)
Cases within 24 months of age	100%	320 (97%)	373 (97%)	323 (96%)	332 (98%)	329 (99%)
<b>COURT OF CRIMINAL APPEAL</b>						
Total number of cases pending		183	180	222	225	217
Cases within 12 months of age	90%	167 (91%)	170 (94%)	205 (92%)	187 (83%)	194 (89%)
Cases within 24 months of age	100%	175 (96%)	176 (98%)	219 (99%)	211 (94%)	208 (96%)
<b>COMMON LAW DIVISION – Criminal <sup>5, 6</sup></b>						
Total number of defendants pending		90	84	90	143	105
Cases within 12 months of age	90%	68 (81%)	81 (90%)	108 (76%)	95 (82%)	85 (81%)
Cases within 24 months of age	100%	78 (93%)	90 (100%)	140 (98%)	114 (98%)	101 (96%)
<b>COMMON LAW DIVISION - Civil</b>						
Total number of cases pending		3,806	4,751	6,768	5,499	3,965
Cases within 12 months of age	90%	-	3,513 (74%)	3,689 (55%)	3,178 (58%)	2,674 (67%)
Cases within 24 months of age	100%	-	4,193 (88%)	5,938 (88%)	4,474 (81%)	3,365 (85%)
<b>EQUITY DIVISION (excluding uncontested probate matters)</b>						
Total number of cases pending		3,153	3,502	4,004	3,889	3,539
Cases within 12 months of age	90%	-	2,340 (67%)	2,356 (59%)	2,208 (57%)	2,077 (59%)
Cases within 24 months of age	100%	-	2,960 (85%)	3,302 (82%)	3,027 (78%)	2,752 (78%)

<sup>1</sup> Equity Division cases and the civil cases of the Common Law Division have been included in this table since 2010 only and the information is based on data from the JusticeLink system. Until the end of 2012, however, the available reports from JusticeLink were not fully reliable for identifying inactive cases. This allowed many inactive cases to remain in the pending caseload, consequently reducing the percentage of young cases within the pending caseload. Auditing commenced in 2012, principally in the Common Law Division, to finalise old, inactive cases and continued during 2013. During 2014 the audit will be principally in the Equity Division. For the Court of Appeal, the Court of Criminal Appeal and Criminal list cases the information comes from manually collated data, not from JusticeLink system reports.

<sup>2</sup> For cases in the Court of Appeal and the Court of Criminal Appeal, the age of cases includes time taken to deal with any associated application for leave to appeal.

<sup>3</sup> These figures include the effect of factors outside the control of the Court, such as the time taken to complete relevant cases in other courts, interlocutory appeals, time taken to prepare essential reports, and time occupied by trials that result in a hung jury.

<sup>4</sup> The national standards are taken from the “backlog” performance indicator within the Courts chapter of the *Report on Government Services* (published by the Productivity Commission). Note that the national standards apply to district/county courts as well as supreme courts; consequently the national standards apply to a large range of indictments, criminality and civil case types. The case-mix of any court can influence that court’s capacity to achieve the standards. Most indictments presented in the Criminal List in this Court are for homicide offences. Other matters may be brought before this Court only with the approval of the Chief Justice and generally involve the most serious criminality. Most other supreme courts in Australia usually deal with a broader range of criminal cases. All supreme courts in Australia continue to have difficulty achieving the national standards in relation to their civil non-appeal cases (see table 7A.18 of the latest *Report on Government Services*).

<sup>5</sup> The figures exclude matters under Part 7 of the *Crimes (Appeal and Review) Act* (formerly s474D of the *Crimes Act*) and applications for re-determination of a life sentence.

<sup>6</sup> The figures are comparable from year to year: the counting unit is defendants. Cases are considered to be pending until the time of sentence/acquittal or other final disposal. Where a trial collapses and a new trial is ordered, the counting of the age of the case is calculated from the date of committal (not from the date of the order for the new trial).

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**Timeliness – listing delays at the end of the year <sup>1, 2</sup>**

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>COURT OF APPEAL <sup>3</sup></b>	1.5 months	3 months	4 months	4 months	4 months
<b>COURT OF CRIMINAL APPEAL</b>	2.5 months	2 months	4 months	2.5 months	3 months
<b>COMMON LAW DIVISION</b>					
<b>Criminal List <sup>4</sup></b>	3 months	1.5 months	5 months	5 months	6.5 months
<b>Civil lists <sup>5</sup></b>	3 months	1.5 months	7 months	9.5 months	5 months
<b>Bails List</b>	3 weeks	4 weeks	2.5 weeks	4 weeks	4 weeks
<b>EQUITY DIVISION <sup>6</sup></b>	2.5 months	3.3 months	2.5 months	2.5 months	3.8 months

<sup>1</sup> This is the time between the establishment of readiness for hearing and the first group of available hearing dates that the Court offers for criminal and civil trial cases, criminal and civil appeals and Bails List cases. These delays do not apply if the Court orders an expedited hearing.

<sup>2</sup> The listing delays show the position at the start of the new law term (for example, for 2013 it is the position at the start of the 2014 law term). This removes the end-of-year impact of the law vacation.

<sup>3</sup> This refers to substantive appeals (including those heard concurrently with a leave application). The listing delay is significantly shorter for a hearing of a leave application alone.

<sup>4</sup> This refers to cases requiring at least 3 weeks of hearing time.

<sup>5</sup> This refers to cases requiring up to 5 days of hearing time.

<sup>6</sup> This refers only to General List and Probate (Contentious Matters) List cases requiring 2 or more days of hearing time before a judge.

## Alternative dispute resolution

	2009	2010	2011	2012	2013
<b>Court-annexed mediations listed</b> <sup>1, 2</sup>					
Total	666	719	698	711	671
– <i>Common Law Division</i>	68	55	57	34	44
– <i>Equity Division – not probate cases</i>	553	651	623	660	605
– <i>Equity Division – probate cases</i>	36	12	18	16	21
– <i>Court of Appeal</i>	9	1	0	1	1
Percentage of cases settling at mediation <sup>3</sup>	49%	51%	50%	54%	55%
Listing delay <sup>4</sup>	5 weeks	7-8 weeks	5 weeks	6 weeks	3 weeks

### Referrals to mediation generally

Total referrals recorded <sup>5</sup>	1,111	1,144	902	1,092	1,088
Mediation referral index <sup>6</sup>	23.9%	23.5%	19.4%	23.9%	25.1%

### Arbitrations listed

Common Law Division	0	0	0	0	0
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<sup>1</sup> “Court-annexed mediation” refers to mediations conducted by the registrars of the Court who are also qualified as mediators. It excludes mediations conducted by private mediators.

<sup>2</sup> This section refers to court-annexed mediation listings for the year – note that *referrals* to court-annexed mediation that are made late in one year may result in *listings* early in the following year.

<sup>3</sup> This refers only to cases that have settled and either agreed upon finalising orders or drafted heads of agreement *by the close of the mediation procedure*. It does not include cases that advise a settlement at any later time (even though the mediation may have contributed significantly to reaching that settlement). The registry does not collect settlement data for mediations conducted by private mediators.

<sup>4</sup> This is the delay until the first available group of mediation sessions within the court-annexed mediation program, as reported at the start of the new law term (for example, for 2013 it is the position at the start of the 2014 law term). Earlier mediation sessions are arranged, if ordered by the Court.

<sup>5</sup> This covers all occasions when the Court refers a case to mediation, regardless of whether the mediation is to be conducted through the court-annexed mediation program or by a private mediator.

<sup>6</sup> The “mediation referral index” is the number of cases referred to mediation during the year, divided by the number of cases lodged (in that year) that are of a type for which mediation is considered to be applicable. For the purpose of calculating the mediation referral index, mediation is considered to be applicable for all civil cases types (including appeal cases) except for proceeds of crime cases, cases that have a high likelihood of proceeding to default judgment or have no defendant element, all cases in the Adoptions List or Protective List, and 90 per cent of cases in the Corporations List. While a case may be of a type for which mediation is considered to be applicable, there may be particular aspects of that case that make it inappropriate for mediation; however, the calculation of the mediation referral index does not exclude any cases on that basis.