



## Filings, disposals and pending cases

### NOTES:

The figures for pending cases 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 commenced in one case management list or Division may subsequently be transferred to another list or Division for further case management and disposal.

The statistics for 2014 through to 2018 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 statistics for the Court of Appeal, Court of Criminal Appeal, Criminal List, Bails List, Adoptions List, Protective List and contested Probate List matters are not supplied through the JusticeLink system; they 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

	2014	2015	2016	2017	2018
<b>COURT OF APPEAL</b> <sup>1,2</sup>					
Filings (net new cases) <sup>3</sup>	461	379	397	354	355
Filings of appeals / applications for relief	310	255	261	241	228
Filings of applications for leave to appeal <sup>4</sup>	166	134	144	121	139
Disposals (final disposals) <sup>5</sup>	501	433	423	380	361
Disposals of appeals / applications for relief	330	312	277	257	249
Disposals of applications for leave to appeal	186	131	154	131	124
Pending cases at 31 December	290	236	210	184	178
Appeals / applications for relief	230	173	157	141	120
Applications for leave to appeal	60	63	53	43	58

<sup>1</sup> These statistics exclude notices of intention to appeal. A notice of intention to appeal does not commence a substantive appeal or application.

<sup>2</sup> These statistics cover Court of Appeal cases only. They are not comparable to “civil appeal” case statistics reported within the Productivity Commission’s *Report on Government Services*, which include all civil cases of an appellate nature, including appeals and reviews dealt with in the Common Law Division or Equity Division.

<sup>3</sup> When a notice of appeal is filed after a successful application for leave to appeal, the appeal and the leave application are counted as one case (not two). For this reason, the figures for filings of notices of appeal (and applications for relief) and filings of applications for leave, combined, exceed the number of *net* new cases.

<sup>4</sup> This item includes not only leave applications, but also applications where parties have elected to have a concurrent hearing of both the leave application and the appeal (if leave is granted).

<sup>5</sup> Where an appeal is preceded by a grant of leave, this is counted as one continuous case, with a final disposal being counted only when the substantive appeal is finalised. For this reason, the figures for disposals of notices of appeal (and applications for relief) and disposals of applications for leave, combined, exceed the number of final disposals.

	2014	2015	2016	2017	2018
<b>COURT OF CRIMINAL APPEAL</b> <sup>1</sup>					
Filings	373	342	363	380	407
Disposals	376	400	386	395	366
Pending cases at 31 December	226	168	145	130	171

<sup>1</sup> These statistics exclude appeals from decisions of the NSW State Parole Authority. There were 7, 7, 8, 2 and 0 applications lodged in the Court of Criminal Appeal for the years 2014 to 2018, respectively, for review of Parole Board decisions.

	2014	2015	2016	2017	2018
<b>COMMON LAW DIVISION – Criminal</b> <sup>1, 2</sup>					
<b>Criminal List</b>					
Filings (registrations) <sup>3</sup>	72	118	102	112	93
Disposals <sup>4</sup>	92	88	105	105	99
Pending cases at 31 December	85	115	112	119	113

<b>Bails List</b> <sup>5</sup>					
Filings (applicants)	3,780	4,401	3,996	3,953	4,545
Disposals (applicants)	3,637	4,201	3,991	3,984	4,353
Pending applicants at 31 December	561	761	742	707	893

<sup>1</sup> In all years, the figures exclude matters under Part 7 of the *Crimes (Appeal and Review) Act*, applications for re-determination of a life sentence, and summary jurisdiction cases (which are included within the statistics for “other summons cases” within the Common Law General List, where they are managed).

<sup>2</sup> The Court uses counting rules that align with national counting rules, except concerning referrals from and to the Mental Health Review Tribunal (MHRT). Whenever the Court determines that an accused person is unfit to plead, it refers that person to the MHRT – the Court records that event a case disposal. If the MHRT subsequently determines that the person is fit to stand trial, the Court records that event as a new case commencement. If the MHRT determines that the accused person is unlikely to be fit to stand trial within the next 12 months it notifies the Court, which then obtains advice as to whether the Director of Public Prosecutions intends to take further proceedings against the accused. If the Director of Public Prosecutions advises that the proceedings are to be taken further, then the Court records a new case commencement.

<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. From 2016 onwards, new reports have been used which extract data from the JusticeLink system – it is possible that these do not take into account some data entered retrospectively.

	2014	2015	2016	2017	2018
<b>COMMON LAW DIVISION – Civil</b>					
<b>Administrative Law List</b>					
Filings	144	134	127	121	152
Disposals	136	158	149	114	132
Pending cases at 31 December	109	91	70	79	100
<b>Defamation List</b>					
Filings	58	47	69	54	39
Disposals	65	65	52	56	61
Pending cases at 31 December	81	65	84	85	65
<b>Common Law General List (formerly the General Case Management List)</b>					
Filings	1,056	1,176	1,105	1,109	1,231
Contested claims	454	484	449	442	542
– personal injury	266	315	291	347	427
– other claims	188	169	158	95	155
Uncontested claims	133	169	185	194	214
Proceeds of Crime cases	94	120	93	108	123
Other summons cases	375	403	378	365	352
Disposals	1,408	1,149	1,134	1,057	1,102
Contested claims	572	525	495	509	475
– personal injury	283	299	291	317	323
– other claims	289	226	204	192	152
Uncontested claims	185	109	154	114	151
Proceeds of Crime cases	116	77	97	85	110
Other summons cases	535	438	388	349	366
Pending cases at 31 December	1,286	1,275	1,247	1,274	1,362
Contested claims	886	850	865	819	913
– personal injury	531	562	575	575	677
– other claims	355	288	290	244	236
Uncontested claims	70	94	69	99	105
Proceeds of Crime cases	134	176	173	200	215
Other summons cases	196	155	140	156	129
<b>Possession List</b>					
Filings <sup>1</sup>	1,844	1,600	1,312	1,218	1,235
Disposals	2,641	1,592	1,376	1,250	1,207
Contested	136	100	61	76	46
Uncontested	2,505	1,492	1,315	1,174	1,161
Pending cases at 31 December	914	903	838	820	847
Contested	92	56	60	39	67
Uncontested	822	847	778	781	780
<b>Professional Negligence List</b>					
Filings	162	127	150	180	214
Disposals	193	191	153	131	173
Pending cases at 31 December	370	301	301	364	420
<b>High Risk Offender List <sup>2</sup></b>					
Filings	-	-	-	-	48
Disposals	-	-	-	-	36
Pending cases at 31 December	-	-	-	-	29

	2014	2015	2016	2017	2018
<b>Miscellaneous applications <sup>3</sup></b>					
Filings	415	454	453	481	633
Disposals	436	435	437	503	540
Pending cases at 31 December	11	32	52	33	127

**COMMON LAW DIVISION TOTALS - Civil**

<b>Filings</b>	<b>3,679</b>	<b>3,538</b>	<b>3,216</b>	<b>3,163</b>	<b>3,552</b>
<b>Disposals</b>	<b>4,879</b>	<b>3,590</b>	<b>3,301</b>	<b>3,111</b>	<b>3,251</b>
<b>Pending cases at 31 December</b>	<b>2,771</b>	<b>2,667</b>	<b>2,592</b>	<b>2,655</b>	<b>2,950</b>

<sup>1</sup> All Possession List cases are assumed to be uncontested at the time of filing. If a subsequent defence or cross-claim is filed the case is listed for case management and counted as a contested case.

<sup>2</sup> The High Risk Offender List commenced during 2018. Some cases commenced earlier in the Common Law General List were transferred to this List for case management and final disposal.

<sup>3</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.

	2014	2015	2016	2017	2018
<b>EQUITY DIVISION <sup>1</sup></b>					
<b>Admiralty List</b>					
Filings	1	4	0	1	0
Disposals	1	1	4	0	2
Pending cases at 31 December	1	4	0	2	0
<b>Adoptions List <sup>2</sup></b>					
Applications	208	160	198	222	242
Orders made	214	168	179	195	273
Pending cases at 31 December	56	48	67	94	63
<b>Commercial List</b>					
Filings	195	155	147	155	196
Disposals	232	166	224	182	184
Pending cases at 31 December	277	282	223	200	222
<b>Commercial Arbitration List</b>					
Filings	3	2	1	5	1
Disposals	4	1	2	2	6
Pending cases at 31 December	1	1	0	4	1
<b>Corporations List</b>					
Filings	1,601	2,126	1,097	952	860
Judges' list	79	111	137	185	172
Registrar's list	1,522	2,015	960	767	688
Disposals	1,714	2,133	1,071	958	883
Judges' list	115	138	138	191	184
Registrar's list	1,599	1,995	933	767	699
Pending cases at 31 December	336	331	357	358	338
Judges' list	53	65	96	128	154
Registrar's list	283	266	261	230	184
<b>Equity General List</b>					
Filings	1,998	2,146	1,915	1,856	1,815
Family provision cases	774	972	1,018	973	981
Other cases	1,224	1,174	897	883	834
Disposals	2,595	2,207	2,058	1,774	1,910
Family provision cases	855	835	1,068	928	1,044
Other cases <sup>3</sup>	1,740	1,372	990	846	866
Pending cases at 31 December	1,629	1,570	1,409	1,494	1,417
Family provision cases	419	554	492	544	470
Other cases	1,210	1,016	917	950	947
<b>Probate (Contentious Matters) List</b>					
Filings	212	207	265	294	316
Disposals	200	187	244	246	300
Pending cases at 31 December	153	173	194	241	257
<b>Protective List <sup>4</sup></b>					
Applications	110	107	83	110	102
Disposals	109	105	93	90	101
Pending applications at 31 December	33	35	25	45	46

	2014	2015	2016	2017	2018
<b>Real Property List <sup>5</sup></b>					
Filings	-	150	394	406	409
Disposals	-	37	248	357	388
Pending cases at 31 December	-	141	292	310	310
<b>Revenue List</b>					
Filings	13	22	26	8	24
Disposals	39	8	18	18	27
Pending applications at 31 December	15	29	36	27	26
<b>Technology and Construction List</b>					
Filings	98	89	108	138	163
Disposals	180	114	139	125	130
Pending cases at 31 December	212	200	174	195	229
<b>EQUITY DIVISION TOTALS</b>					
<b>Filings</b>	<b>4,439</b>	<b>5,168</b>	<b>4,234</b>	<b>4,147</b>	<b>4,128</b>
<b>Disposals</b>	<b>5,288</b>	<b>5,127</b>	<b>4,280</b>	<b>3,947</b>	<b>4,204</b>
<b>Pending cases at 31 December</b>	<b>2,713</b>	<b>2,814</b>	<b>2,777</b>	<b>2,970</b>	<b>2,909</b>

<b>PROBATE – Applications lodged for grant of probate etc <sup>6</sup></b>	<b>24,526</b>	<b>26,408</b>	<b>26,243</b>	<b>27,294</b>	<b>26,538</b>
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<sup>1</sup> The figures reported for 2014 through to 2018 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>2</sup> In this List all applications types are counted, including information applications.

<sup>3</sup> During 2014 and 2015 a large number of inactive cases in this List were audited and, where appropriate, closed. Accordingly, in those years the disposals figures are unusually high.

<sup>4</sup> In this List, 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 *NSW Trustee and Guardian 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>5</sup> The Real Property List commenced on 1 June 2015. Some cases commenced earlier in the Equity General List were transferred to this List for case management and disposal.

<sup>6</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 transferred to the Probate (Contentious Matters) List and are counted additionally as filings there. The figures here do not include probate-related matters handled by the registry, such as 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>	2014	2015	2016	2017	2018
<b>COURT OF APPEAL</b>						
Total number of cases pending		290	236	210	184	178
Cases within 12 months of age	90%	270 (93%)	214 (91%)	192 (91%)	176 (96%)	167 (94%)
Cases within 24 months of age	100%	288 (99%)	234 (99%)	210 (100%)	183 (99%)	177 (99%)
<b>COURT OF CRIMINAL APPEAL</b>						
Total number of cases pending		226	168	145	130	171
Cases within 12 months of age	90%	194 (86%)	158 (94%)	144 (99%)	127 (98%)	167 (98%)
Cases within 24 months of age	100%	222 (98%)	166 (99%)	145 (100%)	130 (100%)	171 (100%)
<b>COMMON LAW DIVISION – Criminal <sup>5, 6</sup></b>						
Total number of defendants pending		85	115	112	119	113
Cases within 12 months of age	90%	56 (66%)	93 (81%)	80 (71%)	89 (75%)	61 (54%)
Cases within 24 months of age	100%	77 (91%)	109 (95%)	107 (96%)	109 (92%)	107 (95%)
<b>COMMON LAW DIVISION - Civil</b>						
Total number of cases pending		2,771	2,667	2,592	2,655	2,950
Cases within 12 months of age	90%	1,785 (64%)	1,834 (69%)	1,766 (68%)	1,783 (67%)	2,055 (70%)
Cases within 24 months of age	100%	2,299 (83%)	2,242 (84%)	2,204 (85%)	2,243 (84%)	2,549 (86%)
<b>EQUITY DIVISION (excluding uncontested probate matters)</b>						
Total number of cases pending		2,713	2,814	2,777	2,970	2,909
Cases within 12 months of age	90%	1,865 (69%)	2,001 (71%)	1,975 (71%)	2,055 (69%)	1,950 (67%)
Cases within 24 months of age	100%	2,369 (87%)	2,508 (89%)	2,471 (89%)	2,629 (89%)	2,531 (87%)

<sup>1</sup> For Equity Division cases and the civil cases of the Common Law Division, the information is based on data from the JusticeLink system. Until the end of 2012, many finalised cases remained open in the JusticeLink system, contributing inaccurately to the data for the age of pending cases. During 2013, 2014 and 2015, with improved JusticeLink reports, the Registry was able to identify inactive cases in these Divisions – those cases were audited and, where appropriate, closed. As a result of the audits, the size of the pending caseloads was reduced and the age profiles changed.

- <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 or 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 to 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. For criminal cases, for example, while other supreme courts in Australia typically deal with a broad range of offences, this Court deals typically with cases involving homicide offences (any other matters, generally involving the most serious criminality, may be brought only with the approval of the Chief Justice). For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards (see the “Backlog” tables in Chapter 7A in the latest *Report on Government Services*).
- <sup>5</sup> The figures exclude matters under Part 7 of the *Crimes (Appeal and Review) 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 a new trial).
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<b>Timeliness – listing delays after the end of the year <sup>1, 2</sup></b>					
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
<b>COURT OF APPEAL <sup>3</sup></b>	3.8 months	2.3 months	1 month	2.2 months	1.7 months
<b>COURT OF CRIMINAL APPEAL</b>	3 months	2.5 months	1.5 months	1.2 months	3.0 months
<b>COMMON LAW DIVISION</b>					
<b>Criminal List <sup>4</sup></b>	2.8 months	5.5 months	7.3 months	5.5 months	6.5 months
<b>Civil lists <sup>5</sup></b>	6.8 months	6.0 months	7.3 months	7.0 months	6.0 months
<b>Bails List <sup>6</sup></b>	3 weeks	10.5 weeks	9 weeks	7 weeks	2 weeks
<b>EQUITY DIVISION <sup>7</sup></b>	2.8 months	3.0 months	5.3 months	4.5 months	6.0 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 2018 it is the position at the start of the 2019 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> For years up to 2015, this refers to cases requiring at least 3 weeks of trial time. From 2016 onwards, it refers to cases requiring at least 4 weeks of trial time.

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

<sup>6</sup> This refers to adult applicants receiving public funding. Applications by juveniles are usually heard within 2 weeks.

<sup>7</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

	2014	2015	2016	2017	2018
<b>Court-annexed mediations listed</b> <sup>1, 2</sup>					
Total	486 <sup>3</sup>	518 <sup>3</sup>	615 <sup>3</sup>	571 <sup>3</sup>	428 <sup>3</sup>
Common Law Division	28	32	38	51	29
Equity Division – not probate cases	432	447	528	455	344
Equity Division – probate cases	25	39	48	64	55
Court of Appeal	1	0	1	1	0
<b>Percentage settling at mediation</b> <sup>4</sup>					
	54%	51%	51%	46%	47%
<b>Waiting time after the end of the year</b> <sup>5</sup>					
	6 weeks	4 weeks	5 weeks	2 weeks	5 weeks
<b>Referrals to mediation generally</b>					
Total referrals recorded <sup>6, 8</sup>	839	1,071	806	943	1,169
Mediation referral index <sup>7, 8</sup>	19.0%	23.1%	17.3%	20.8%	24.7%
<b>Arbitrations listed</b> <sup>9</sup>					
Total	0	0	0	0	0

<sup>1</sup> “Court-annexed mediation” refers to mediations conducted by the registrars of the Court who are also qualified as mediators. It excludes settlement conferences conducted by judges and 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> Since 2014 there has been extensive use of judicial settlement conferences for family provision cases, particularly when jointly requested by the parties or where the estate is valued at less than \$500,000. This has resulted in a reduced use of court-annexed mediation (a more detailed explanation of the impact is given in the 2014 Annual Review).

<sup>4</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). In 2015, for example, in addition to the 51% of cases that settled at the close of their court-annexed mediation session, a further 26% of cases were negotiating a settlement. The registry does not collect settlement data for mediations conducted by private mediators.

<sup>5</sup> This is the waiting time to 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 2018 it is the position at the start of the 2019 law term). The waiting time will be less if an urgent mediation session is ordered by the Court.

<sup>6</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>7</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, High Risk Offender 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 a particular aspect of that case individually that makes it inappropriate for mediation; however, the calculation of the mediation referral index does not exclude any individual cases on that basis.

<sup>8</sup> Reduced usage of court-annexed mediation, as a result of use of judicial settlement conferences (see footnote 3), has impacted these figures from 2014 onwards.

<sup>9</sup> Referral for arbitration is possible for Supreme Court cases but no referrals have been recorded since 2006.