



## 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 that are filed (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 2012 through to 2015 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

	2012	2013	2014	2015	2016
<b>COURT OF APPEAL</b> <sup>1,2</sup>					
Filings (net new cases) <sup>3</sup>	493	502	461	379	397
Filings of appeals / applications for relief	333	334	310	255	261
Filings of applications for leave to appeal <sup>4</sup>	169	183	166	134	144
Disposals (final disposals) <sup>5</sup>	493	510	501	433	423
Disposals of appeals / applications for relief	319	337	330	312	278
Disposals of applications for leave to appeal	184	188	186	131	153
Pending cases at 31 December	338	330	290	236	210
Appeals / applications for relief	252	249	230	173	156
Applications for leave to appeal	86	81	60	63	54

<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> 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 application for leave to appeal and the appeal (if leave is granted).

<sup>5</sup> Where an appeal has been 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.

	2012	2013	2014	2015	2016
<b>COURT OF CRIMINAL APPEAL <sup>1</sup></b>					
Filings	339	385	373	342	362
Disposals	336	381	376	400	385
Pending cases at 31 December	225	229	226	168	145

<sup>1</sup> These statistics exclude appeals from decisions of the NSW State Parole Authority. There were 0, 4, 7, 7 and 8 applications lodged in the Court of Criminal Appeal for the years 2012 to 2016, respectively, for review of Parole Board decisions.

	2012	2013	2014	2015	2016
<b>COMMON LAW DIVISION – Criminal <sup>1,2</sup></b>					
<b>Criminal List</b>					
Filings (registrations) <sup>3</sup>	130	110	72	118	102
Disposals <sup>4</sup>	157	121	92	88	105
Pending cases at 31 December	116	105	85	115	112
<b>Bails List <sup>5</sup></b>					
Filings (applicants)	n/a	3,698 (est.)	3,780	4,401	3,992
Disposals (applicants)	n/a	3,742 (est.)	3,637	4,201	3,990
Pending applicants at 31 December	339	439	561	761	739

<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*), 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> 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. During 2016, 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.

	2012 <sup>1</sup>	2013	2014	2015	2016
<b>COMMON LAW DIVISION – Civil</b>					
<b>Administrative Law List</b>					
Filings	206	122	144	134	127
Disposals	119	148	136	158	149
Pending cases at 31 December	110	86	109	91	70
<b>Defamation List</b>					
Filings	46	67	58	47	69
Disposals	55	76	65	65	52
Pending cases at 31 December	90	84	81	65	84
<b>Common Law General List (formerly the General Case Management List)</b>					
Filings	982	1,177	1,056	1,176	1,105
Contested claims	496	503	454	484	484
– personal injury	251	213	266	315	291
– other claims	245	290	188	169	193
Uncontested claims	52	161	133	169	185
Proceeds of Crime cases	93	104	94	120	93
Other summons cases	341	409	375	403	378
Disposals	1,041	1,556	1,408	1,149	1,134
Contested claims	533	616	572	525	495
– personal injury	248	365	283	299	291
– other claims	285	251	289	226	204
Uncontested claims	32	317	185	109	154
Proceeds of Crime cases	97	100	116	77	97
Other summons cases	379	523	535	438	388
Pending cases at 31 December	1,891	1,656	1,286	1,275	1,247
Contested claims	1,104	999	886	850	865
– personal injury	554	418	531	562	575
– other claims	550	581	355	288	290
Uncontested claims	162	139	70	94	69
Proceeds of Crime cases	145	148	134	176	173
Other summons cases	480	370	196	155	140
<b>Possession List</b>					
Filings <sup>2</sup>	3,259	2,447	1,844	1,600	1,312
Disposals	4,439	3,647	2,641	1,592	1,376
Contested	207	155	136	100	60
Uncontested	4,232	3,492	2,505	1,492	1,316
Pending cases at 31 December	2,922	1,711	914	903	838
Contested	178	136	92	56	60
Uncontested	2,744	1,575	822	847	778
<b>Professional Negligence List</b>					
Filings	161	194	162	127	150
Disposals	138	204	193	191	153
Pending cases at 31 December	409	402	370	301	301

	2012 <sup>1</sup>	2013	2014	2015	2016
<b>Miscellaneous applications <sup>3</sup></b>					
Filings	458	566	415	454	453
Disposals	465	608	436	435	437
Pending cases at 31 December	77	26	11	32	52

**COMMON LAW DIVISION TOTALS - Civil**

<b>Filings</b>	<b>5,112</b>	<b>4,573</b>	<b>3,679</b>	<b>3,538</b>	<b>3,216</b>
<b>Disposals</b>	<b>6,257</b>	<b>6,239</b>	<b>4,879</b>	<b>3,590</b>	<b>3,301</b>
<b>Pending cases at 31 December</b>	<b>5,499</b>	<b>3,965</b>	<b>2,771</b>	<b>2,667</b>	<b>2,592</b>

<sup>1</sup> The figures reported for 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>2</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>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.

	2012	2013	2014	2015	2016
<b>EQUITY DIVISION <sup>1</sup></b>					
<b>Admiralty List</b>					
Filings	2	0	1	4	0
Disposals	10	2	1	1	4
Pending cases at 31 December	3	1	1	4	0
<b>Adoptions List <sup>2</sup></b>					
Applications	234	206	208	160	198
Orders made	203	218	214	168	179
Pending cases at 31 December	74	62	56	48	67
<b>Commercial List</b>					
Filings	148	175	195	155	147
Disposals	178	190	232	166	224
Pending cases at 31 December	283	278	277	282	223
<b>Commercial Arbitration List</b>					
Filings	6	3	3	2	1
Disposals	9	8	4	1	2
Pending cases at 31 December	7	2	1	1	0
<b>Corporations List</b>					
Filings	1,648	1,353	1,601	2,126	1,097
Disposals <sup>3</sup>	1,602	1,617	1,714	2,133	1,071
Pending cases at 31 December	759	465	336	331	357
<b>Equity General List</b>					
Filings	2,037	1,994	1,998	2,146	1,901
Family provision cases	792	790	774	972	1,018
Other cases	1,245	1,204	1,224	1,174	883
Disposals	2,089	2,098	2,595	2,207	2,058
Family provision cases	811	919	855	835	1,068
Other cases	1,278	1,179	1,740	1,372	990
Pending cases at 31 December	2,317	2,235	1,629	1,570	1,409
Family provision cases	649	513	419	554	492
Other cases <sup>4</sup>	1,668	1,722	1,210	1,016	917
<b>Probate (Contentious Matters) List</b>					
Filings	137	191	212	207	262
Disposals	116	172	200	187	245
Pending cases at 31 December	122	141	153	173	190
<b>Protective List <sup>5</sup></b>					
Applications	106	95	110	107	81
Disposals	85	99	109	105	91
Pending applications at 31 December	36	32	33	35	25
<b>Real Property List <sup>6</sup></b>					
Filings	-	-	-	150	394
Disposals	-	-	-	37	248
Pending cases at 31 December	-	-	-	141	292

	2012	2013	2014	2015	2016
<b>Revenue List</b>					
Filings	45	56	13	22	26
Disposals	15	35	39	8	18
Pending applications at 31 December	54	40	15	29	36
<b>Technology and Construction List</b>					
Filings	137	129	98	89	108
Disposals	115	95	180	114	139
Pending cases at 31 December	244	283	212	200	174
<b>EQUITY DIVISION TOTALS</b>					
<b>Filings</b>	<b>4,500</b>	<b>4,202</b>	<b>4,439</b>	<b>5,168</b>	<b>4,215</b>
<b>Disposals</b>	<b>4,422</b>	<b>4,534</b>	<b>5,288</b>	<b>5,127</b>	<b>4,279</b>
<b>Pending cases at 31 December</b>	<b>3,899</b>	<b>3,539</b>	<b>2,713</b>	<b>2,814</b>	<b>2,773</b>

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<b>PROBATE – Applications lodged for grant of probate etc <sup>7</sup></b>	<b>23,790</b>	<b>23,607</b>	<b>24,526</b>	<b>26,408</b>	<b>26,243</b>
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<sup>1</sup> The figures reported for 2012 through to 2015 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> Typically, registrars finalise about 90 per cent of Corporations List cases.

<sup>4</sup> During 2014 and 2015 a large number of inactive cases in this List were audited and, where appropriate, closed. Accordingly, the disposals figures are aberrantly high.

<sup>5</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 *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>6</sup> The Real Property List commenced on 1 June 2015. Some cases commenced earlier in the Equity General List have been transferred to this List for case management.

<sup>7</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.

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

Number pending (and % of total)	National standard <sup>4</sup>	2012	2013	2014	2015	2016
<b>COURT OF APPEAL</b>						
Total number of cases pending		338	330	290	236	210
Cases within 12 months of age	90%	307 (91%)	297 (90%)	270 (93%)	214 (91%)	191 (91%)
Cases within 24 months of age	100%	332 (98%)	328 (99%)	288 (99%)	234 (99%)	210 (100%)
<b>COURT OF CRIMINAL APPEAL</b>						
Total number of cases pending		225	229	226	165	145
Cases within 12 months of age	90%	187 (83%)	206 (90%)	194 (86%)	155 (94%)	143 (99%)
Cases within 24 months of age	100%	211 (94%)	220 (96%)	222 (98%)	163 (99%)	145 (100%)
<b>COMMON LAW DIVISION – Criminal <sup>5, 6</sup></b>						
Total number of defendants pending		116	105	85	115	112
Cases within 12 months of age	90%	95 (82%)	85 (81%)	56 (66%)	93 (81%)	80 (71%)
Cases within 24 months of age	100%	114 (98%)	101 (96%)	77 (91%)	109 (95%)	107 (96%)
<b>COMMON LAW DIVISION - Civil</b>						
Total number of cases pending		5,499	3,965	2,771	2,667	2,592
Cases within 12 months of age	90%	3,178 (58%)	2,674 (67%)	1,799 (65%)	1,834 (69%)	1,766 (68%)
Cases within 24 months of age	100%	4,474 (81%)	3,365 (85%)	2,299 (83%)	2,242 (84%)	2,204 (85%)
<b>EQUITY DIVISION (excluding uncontested probate matters)</b>						
Total number of cases pending		3,899	3,539	2,713	2,814	2,773
Cases within 12 months of age	90%	2,208 (57%)	2,059 (58%)	1,865 (69%)	2,001 (71%)	1,972 (70%)
Cases within 24 months of age	100%	3,027 (78%)	2,751 (78%)	2,369 (87%)	2,508 (89%)	2,468 (88%)

<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, which was not fully reliable until the end of 2012 because many finalised cases remained open in the JusticeLink system and were improperly contributing 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. The changes in percentages for the civil cases in these Divisions during 2013, 2014 and 2015 are, to some extent, affected by those audits.

- <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 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. This Court’s Criminal List deals with a narrow range of offences, with most indictments presented being for homicide offences; other matters, generally involving the most serious criminality, may be brought but only with the approval of the Chief Justice. In contrast, most other supreme courts in Australia regularly deal with a broader range of offences. For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards (see table 7A.21 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 a new trial).
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**Timeliness – listing delays after the end of the year <sup>1,2</sup>**

	2012	2013	2014	2015	2016
<b>COURT OF APPEAL <sup>3</sup></b>	4 months	4 months	3.8 months	2.3 months	1 month
<b>COURT OF CRIMINAL APPEAL</b>	2.5 months	3 months	3 months	2.5 months	1.5 months
<b>COMMON LAW DIVISION</b>					
<b>Criminal List <sup>4</sup></b>	5 months	6.5 months	2.8 months	5.5 months	7.3 months
<b>Civil lists <sup>5</sup></b>	9.5 months	5 months	6.8 months	6.0 months	7.3 months
<b>Bails List <sup>6</sup></b>	4 weeks	4 weeks	3 weeks	10.5 weeks	9 weeks
<b>EQUITY DIVISION <sup>7</sup></b>	2.5 months	3.8 months	2.8 months	3.0 months	5.3 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 2016 it is the position at the start of the 2017 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. For 2016, 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

	2012	2013	2014	2015	2016
<b>Court-annexed mediations listed</b> <sup>1, 2</sup>					
Total	711	671	486 <sup>3</sup>	518 <sup>3</sup>	615 <sup>3</sup>
Common Law Division	34	44	28	32	38
Equity Division – not probate cases	660	605	432	447	528
Equity Division – probate cases	16	21	25	39	48
Court of Appeal	1	1	1	0	1
Percentage settling at mediation <sup>4</sup>	54%	55%	54%	51%	51%
Waiting time after the end of the year <sup>5</sup>	6 weeks	3 weeks	6 weeks	4 weeks	5 weeks
<b>Referrals to mediation generally</b>					
Total referrals recorded <sup>6</sup>	1,092	1,088	839 <sup>8</sup>	1,071 <sup>8</sup>	806 <sup>8</sup>
Mediation referral index <sup>7</sup>	23.9%	23.7%	19.0% <sup>8</sup>	23.1% <sup>8</sup>	17.3% <sup>8</sup>
<b>Arbitrations listed</b>					
Common Law Division	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> The reduction in cases being referred to the court-annexed mediation program since 2014 is principally due to early use of informal settlement conferences for family provision cases involving estates valued at less than \$500,000. (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 2016 it is the position at the start of the 2017 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), but is considered to be inapplicable 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 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 cases on that basis.

<sup>8</sup> Reduced usage of court-annexed mediation, as a result of use of early informal settlement conferences (see footnote 3), has some impact on these figures.