



## 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 2013 through to 2017 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

	2013	2014	2015	2016	2017
<b>COURT OF APPEAL</b> <sup>1,2</sup>					
Filings (net new cases) <sup>3</sup>	502	461	379	397	354
Filings of appeals / applications for relief	334	310	255	261	241
Filings of applications for leave to appeal <sup>4</sup>	183	166	134	144	121
Disposals (final disposals) <sup>5</sup>	510	501	433	423	380
Disposals of appeals / applications for relief	337	330	312	277	257
Disposals of applications for leave to appeal	188	186	131	154	131
Pending cases at 31 December	330	290	236	210	184
Appeals / applications for relief	249	230	173	157	141
Applications for leave to appeal	81	60	63	53	43

<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.

	2013	2014	2015	2016	2017
<b>COURT OF CRIMINAL APPEAL <sup>1</sup></b>					
Filings	385	373	342	362	380
Disposals	381	376	400	385	395
Pending cases at 31 December	229	226	168	145	130

<sup>1</sup> These statistics exclude appeals from decisions of the NSW State Parole Authority. There were 4, 7, 7, 8 and 2 applications lodged in the Court of Criminal Appeal for the years 2013 to 2017, respectively, for review of Parole Board decisions.

	2013	2014	2015	2016	2017
<b>COMMON LAW DIVISION – Criminal <sup>1, 2</sup></b>					
<b>Criminal List</b>					
Filings (registrations) <sup>3</sup>	110	72	118	102	112
Disposals <sup>4</sup>	121	92	88	105	105
Pending cases at 31 December	105	85	115	112	119
<b>Bails List <sup>5</sup></b>					
Filings (applicants)	3,698 (est.)	3,780	4,401	3,996	3,953
Disposals (applicants)	3,742 (est.)	3,637	4,201	3,991	3,984
Pending applicants at 31 December	439	561	761	742	707

<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. 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.

	2013	2014	2015	2016	2017
<b>COMMON LAW DIVISION – Civil</b>					
<b>Administrative Law List</b>					
Filings	122	144	134	127	121
Disposals	148	136	158	149	114
Pending cases at 31 December	86	109	91	70	79
<b>Defamation List</b>					
Filings	67	58	47	69	54
Disposals	76	65	65	52	56
Pending cases at 31 December	84	81	65	84	85
<b>Common Law General List (formerly the General Case Management List)</b>					
Filings	1,177	1,056	1,176	1,105	1,109
Contested claims	503	454	484	449	442
– <i>personal injury</i>	213	266	315	291	347
– <i>other claims</i>	290	188	169	158	95
Uncontested claims	161	133	169	185	194
Proceeds of Crime cases	104	94	120	93	108
Other summons cases	409	375	403	378	365
Disposals	1,556	1,408	1,149	1,134	1,057
Contested claims	616	572	525	495	509
– <i>personal injury</i>	365	283	299	291	317
– <i>other claims</i>	251	289	226	204	192
Uncontested claims	317	185	109	154	114
Proceeds of Crime cases	100	116	77	97	85
Other summons cases	523	535	438	388	349
Pending cases at 31 December	1,656	1,286	1,275	1,247	1,274
Contested claims	999	886	850	865	819
– <i>personal injury</i>	418	531	562	575	575
– <i>other claims</i>	581	355	288	290	244
Uncontested claims	139	70	94	69	99
Proceeds of Crime cases	148	134	176	173	200
Other summons cases	370	196	155	140	156
<b>Possession List</b>					
Filings <sup>1</sup>	2,447	1,844	1,600	1,312	1,218
Disposals	3,647	2,641	1,592	1,376	1,250
Contested	155	136	100	61	76
Uncontested	3,492	2,505	1,492	1,315	1,174
Pending cases at 31 December	1,711	914	903	838	820
Contested	136	92	56	60	39
Uncontested	1,575	822	847	778	781
<b>Professional Negligence List</b>					
Filings	194	162	127	150	180
Disposals	204	193	191	153	131
Pending cases at 31 December	402	370	301	301	364

	2013	2014	2015	2016	2017
<b>Miscellaneous applications <sup>2</sup></b>					
Filings	566	415	454	453	481
Disposals	608	436	435	437	503
Pending cases at 31 December	26	11	32	52	33

**COMMON LAW DIVISION TOTALS - Civil**

<b>Filings</b>	<b>4,573</b>	<b>3,679</b>	<b>3,538</b>	<b>3,216</b>	<b>3,163</b>
<b>Disposals</b>	<b>6,239</b>	<b>4,879</b>	<b>3,590</b>	<b>3,301</b>	<b>3,111</b>
<b>Pending cases at 31 December</b>	<b>3,965</b>	<b>2,771</b>	<b>2,667</b>	<b>2,592</b>	<b>2,655</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> 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.

	2013	2014	2015	2016	2017
<b>EQUITY DIVISION <sup>1</sup></b>					
<b>Admiralty List</b>					
Filings	0	1	4	0	1
Disposals	2	1	1	4	0
Pending cases at 31 December	1	1	4	0	2
<b>Adoptions List <sup>2</sup></b>					
Applications	206	208	160	198	222
Orders made	218	214	168	179	195
Pending cases at 31 December	62	56	48	67	94
<b>Commercial List</b>					
Filings	175	195	155	147	155
Disposals	190	232	166	224	182
Pending cases at 31 December	278	277	282	223	200
<b>Commercial Arbitration List</b>					
Filings	3	3	2	1	5
Disposals	8	4	1	2	2
Pending cases at 31 December	2	1	1	0	4
<b>Corporations List</b>					
Filings	1,353	1,601	2,126	1,097	952
Judges' list	24	79	111	137	185
Registrar's list	1,329	1,522	2,015	960	767
Disposals	1,617	1,714	2,133	1,071	958
Judges' list	59	115	138	138	191
Registrar's list	1,558	1,599	1,995	933	767
Pending cases at 31 December	465	336	331	357	358
Judges' list	54	53	65	96	128
Registrar's list	411	283	266	261	230
<b>Equity General List</b>					
Filings	1,994	1,998	2,146	1,901	1,856
Family provision cases	790	774	972	1,018	973
Other cases	1,204	1,224	1,174	883	883
Disposals	2,098	2,595	2,207	2,058	1,774
Family provision cases	919	855	835	1,068	928
Other cases	1,179	1,740	1,372	990	846
Pending cases at 31 December	2,235	1,629	1,570	1,409	1,494
Family provision cases	513	419	554	492	544
Other cases <sup>3</sup>	1,722	1,210	1,016	917	950
<b>Probate (Contentious Matters) List</b>					
Filings	191	212	207	265	294
Disposals	172	200	187	245	246
Pending cases at 31 December	141	153	173	193	241
<b>Protective List <sup>4</sup></b>					
Applications	95	110	107	83	110
Disposals	99	109	105	93	90
Pending applications at 31 December	32	33	35	25	45

	2013	2014	2015	2016	2017
<b>Real Property List <sup>5</sup></b>					
Filings	-	-	150	394	406
Disposals	-	-	37	248	357
Pending cases at 31 December	-	-	141	292	310
<b>Revenue List</b>					
Filings	56	13	22	26	8
Disposals	35	39	8	18	18
Pending applications at 31 December	40	15	29	36	27
<b>Technology and Construction List</b>					
Filings	129	98	89	108	138
Disposals	95	180	114	139	125
Pending cases at 31 December	283	212	200	174	195
<b>EQUITY DIVISION TOTALS</b>					
<b>Filings</b>	<b>4,202</b>	<b>4,439</b>	<b>5,168</b>	<b>4,220</b>	<b>4,147</b>
<b>Disposals</b>	<b>4,534</b>	<b>5,288</b>	<b>5,127</b>	<b>4,281</b>	<b>3,947</b>
<b>Pending cases at 31 December</b>	<b>3,539</b>	<b>2,713</b>	<b>2,814</b>	<b>2,776</b>	<b>2,970</b>

<b>PROBATE – Applications lodged for grant of probate etc. <sup>6</sup></b>	<b>23,607</b>	<b>24,526</b>	<b>26,408</b>	<b>26,243</b>	<b>27,294</b>
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<sup>1</sup> The figures reported for 2013 through to 2017 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 have been transferred to this List for case management.

<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>	2013	2014	2015	2016	2017
<b>COURT OF APPEAL</b>						
Total number of cases pending		330	290	236	210	184
Cases within 12 months of age	90%	297 (90%)	270 (93%)	214 (91%)	192 (91%)	176 (96%)
Cases within 24 months of age	100%	328 (99%)	288 (99%)	234 (99%)	210 (100%)	183 (99%)
<b>COURT OF CRIMINAL APPEAL</b>						
Total number of cases pending		229	226	168	145	130
Cases within 12 months of age	90%	206 (90%)	194 (86%)	158 (94%)	144 (99%)	127 (98%)
Cases within 24 months of age	100%	220 (96%)	222 (98%)	166 (99%)	145 (100%)	130 (100%)
<b>COMMON LAW DIVISION – Criminal <sup>5, 6</sup></b>						
Total number of defendants pending		105	85	115	112	119
Cases within 12 months of age	90%	85 (81%)	56 (66%)	93 (81%)	80 (71%)	89 (75%)
Cases within 24 months of age	100%	101 (96%)	77 (91%)	109 (95%)	107 (96%)	109 (92%)
<b>COMMON LAW DIVISION - Civil</b>						
Total number of cases pending		3,965	2,771	2,667	2,592	2,655
Cases within 12 months of age	90%	2,674 (67%)	1,799 (65%)	1,834 (69%)	1,766 (68%)	1,783 (67%)
Cases within 24 months of age	100%	3,365 (85%)	2,299 (83%)	2,242 (84%)	2,204 (85%)	2,243 (84%)
<b>EQUITY DIVISION (excluding uncontested probate matters)</b>						
Total number of cases pending		3,539	2,713	2,814	2,776	2,970
Cases within 12 months of age	90%	2,059 (58%)	1,865 (69%)	2,001 (71%)	1,975 (71%)	2,057 (69%)
Cases within 24 months of age	100%	2,751 (78%)	2,369 (87%)	2,508 (89%)	2,471 (89%)	2,632 (89%)

<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 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* (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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<b>Timeliness – listing delays after the end of the year</b> <sup>1, 2</sup>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>COURT OF APPEAL</b> <sup>3</sup>	4 months	3.8 months	2.3 months	1 month	2.2 months
<b>COURT OF CRIMINAL APPEAL</b>	3 months	3 months	2.5 months	1.5 months	1.2 months
<b>COMMON LAW DIVISION</b>					
<b>Criminal List</b> <sup>4</sup>	6.5 months	2.8 months	5.5 months	7.3 months	5.5 months
<b>Civil lists</b> <sup>5</sup>	5 months	6.8 months	6.0 months	7.3 months	7.0 months
<b>Bails List</b> <sup>6</sup>	4 weeks	3 weeks	10.5 weeks	9 weeks	7 weeks
<b>EQUITY DIVISION</b> <sup>7</sup>	3.8 months	2.8 months	3.0 months	5.3 months	4.5 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 2017 it is the position at the start of the 2018 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. The listing delay reported for 2016 is aberrantly short and does not reflect the amount of time required realistically for the preparation of documentation for an appeal.

<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

	2013	2014	2015	2016	2017
<b>Court-annexed mediations listed</b> <sup>1, 2</sup>					
Total	671	486 <sup>3</sup>	518 <sup>3</sup>	615 <sup>3</sup>	571 <sup>3</sup>
Common Law Division	44	28	32	38	51
Equity Division – not probate cases	605	432	447	528	455
Equity Division – probate cases	21	25	39	48	64
Court of Appeal	1	1	0	1	1
Percentage settling at mediation <sup>4</sup>	55%	54%	51%	51%	46%
Waiting time after the end of the year <sup>5</sup>	3 weeks	6 weeks	4 weeks	5 weeks	2 weeks
<b>Referrals to mediation generally</b>					
Total referrals recorded <sup>6</sup>	1,088	839 <sup>8</sup>	1,071 <sup>8</sup>	806 <sup>8</sup>	943 <sup>8</sup>
Mediation referral index <sup>7</sup>	23.7%	19.0% <sup>8</sup>	23.1% <sup>8</sup>	17.3% <sup>8</sup>	20.8% <sup>8</sup>
<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> The reduction in cases being referred to the court-annexed mediation program since 2014 is principally due to early use of judicial 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 2017, for example, in addition to the 46 per cent of cases that settled at the close of their court-annexed mediation session, a further 26 per cent 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 2017 it is the position at the start of the 2018 law term). The waiting time will not apply if an urgent mediation session is ordered by the Court.

<sup>6</sup> This covers all cases in which, during the year, the Court makes a referral to mediation or otherwise notes it in case-management directions, 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 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 early judicial settlement conferences (see footnote 3), has some impact on these figures.

<sup>9</sup> Referral for arbitration is possible for Supreme Court cases but none has been recorded since 2006.