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Introduction

The Queensland Legal Yearbook is now in its ninth year. From modest origins, the Yearbook has developed steadily into the most significant publication produced by the Supreme Court of Queensland Library each year — with a print circulation alone of almost 1000 copies. The Yearbook seeks to provide a permanent record of the key speeches, papers, ceremonies and other legal events of the year in Queensland. With the assistance of the courts, the Queensland Law Society and the Bar Association of Queensland, printed copies of the Yearbook are distributed free of charge to all judicial officers in Queensland and to interested legal practitioners and academics across the State. The Yearbook is also published electronically on the Supreme Court Library’s website.

The generous reception which the Yearbook has received appears to be explained by a broader movement within the Queensland legal community. For many years, legal practitioners were content to rely upon annual professional conferences to raise their awareness and stimulate their thinking about major developments in the law. Over the last 10 years, however, an appetite has developed for a different species of continuing legal education — with consistently strong attendances being attracted by scholarly lectures, given by speakers of the highest calibre, who seek to explore particular legal issues of contemporary or historical significance.

In Queensland, this movement has been enthusiastically embraced by the judiciary, the profession and the law schools. In 2000, the Queensland University of Technology founded the annual WA Lee Equity Lecture. In 2005, the deaths of Sir Harry Gibbs and Justice Richard Cooper prompted the establishment of three new lectures: the Sir Harry Gibbs Memorial Oration, which was sponsored by the Bar Association of Queensland; the annual Sir Harry Gibbs Law Dinner and Lecture, which was hosted by his alma mater, Emmanuel College within The University of Queensland; and the Richard Cooper Memorial Lecture, which was established by the TC Beirne School of Law at The University of Queensland. In 2006, upon the retirement from the Supreme Court of Mr Justice Bruce McPherson, The University of Queensland introduced the McPherson Lecture. Since 2011, the Supreme Court has also arranged an annual Supreme Court Oration. More recently, Griffith University has launched an annual Tony Fitzgerald Lecture and a Legal History Seminar Series, with the Australian Academy of Law also arranging regular lectures in Brisbane.

Amongst this impressive company, perhaps the most ambitious lecture series has been the Current Legal Issues Seminar Series. This series was the initiative of Professor Kit Barker of The University of Queensland and Dr Dominic O’Sullivan of the Queensland Bar, who were seeking an appropriate forum in which to forge closer links between academic and practising lawyers. Since 2009, this has been achieved through an annual series of up to five seminars, across a diverse range of topics, which combine contributions from leading academic and practising lawyers. This series is now jointly sponsored by The University of Queensland, the Queensland University of Technology, the Bar Association of Queensland and the Supreme Court Library.
The new Banco Court in the Queen Elizabeth II Courts of Law has provided the natural venue for many of these larger lectures. However, the presence of a smaller lecture theatre within the new Supreme Court Library has also allowed more specialised lectures to flourish. In 2013, for example, the Library was delighted to host two Selden Society legal history lectures — with a further lecture in this series being presented during the annual meeting of the Queensland Branch of the Society in the Supreme Court Judges’ Conference Room.

In the 2013 Yearbook, the Library seeks to provide all Queensland practitioners with a convenient record of the key lectures which were presented in Queensland during the course of the year. The 2013 Yearbook also includes a series of essays which celebrate the achievements of five significant legal figures in Queensland — Mr Justice Harding (one of the most scholarly of Queensland’s early Judges); Sir Neville Henderson (one of the founding partners of the Queensland firm of Henderson & Lahey, who was instrumental in the establishment of the Queensland Law Society); Mr WA Lee (one of Australia’s most influential legal academics); His Honour Judge Broad (a long-serving member of the District Court) and Mr Aladin Rahemtula OAM (who retired as Supreme Court Librarian during 2013). Gordon Dean also traces the origins of the Magistracy in Queensland.

Apart from its work on the Yearbook, the Supreme Court Library was also pleased to complete two festschrift projects during 2013, which were initiatives of the former Librarian, Aladin Rahemtula OAM. With the assistance of Dr Mark Sayers, of the Queensland Bar, the Library published two collections of essays — *The Idea of Legal History: A Tribute in Honour of Dr Michael White QC* and *Jurisprudence as Practical Reason: A Celebration of the Collected Essays of John Finnis*.

Once again, the Supreme Court Library wishes to express its sincere thanks to the many contributors who have made this Yearbook possible, to the Bar Association of Queensland and the Queensland Law Society for their financial contributions to the printing cost of the Yearbook and to all those who have supported the work of the Library during the course of the year.

Material in this volume may be cited as [2013] QLY.
Queensland Legal Year in Review
2013

1 January Annette Bradfield commenced to serve as President of the Queensland Law Society, with Ian Brown as Deputy President.


14 January Anthony Gett, Hayden Stjernqvist and Stuart Shearer were appointed Magistrates.

21 January Jenny Hogan SC was sworn in as a Judge of the Family Court of Australia. A biographical profile of Her Honour appears at [2013] QLY 551.

25 January Peter Tree SC was sworn in as a Judge of the Family Court of Australia. A biographical profile of His Honour appears at [2013] QLY 552.

26 January Australia Day Honours were awarded to the Justice Margaret White AO and Justice Glenn Martin AM.

29 January Judge John Newton retired from the District Court of Queensland. A biographical profile of His Honour appears at [2013] QLY 543.


1 February A valedictory ceremony was held for retiring Deputy Chief Magistrate Brian Hine.

1 February Richard Chesterman AO RFD QC was appointed Commissioner of the Queensland Health Payroll System Commission of Inquiry. Peter Flanagan SC, Jonathan Horton and Anastasia Nicholas were appointed as counsel assisting. The Commission’s Final Report was delivered on 31 July 2013.

13 February Justice John Dyson Heydon AC retired as a Justice of the High Court of Australia.

15 February Special leave to appeal against the decision in R v Dunrobin [2012] QCA 209 was granted by the High Court. The appeal was allowed instanter, because of a conceded absence of evidence to support one charge, with the matter being otherwise remitted to the Court of Appeal: [2013] HCATrans 23. The Court of Appeal subsequently allowed the appeal and ordered a retrial: R v Dunrobin [2013] QCA 175.

27 February The High Court further defined the limits of the constitutional freedom of political communication in the cases of Monis v The Queen (2013) 295 ALR...
259 and *Attorney-General (SA) v Corporation of the City of Adelaide* (2013) 295 ALR 197. In *Monis*, the High Court rejected an appeal by Muslim cleric Man Haron Monis against 12 charges relating to offensive letters he sent to the families of soldiers killed in Afghanistan. In *Attorney-General (SA)*, the High Court rejected a challenge to Adelaide by-laws which prevented preaching in public places without a permit. Later in the year, this implied constitutional freedom was considered again in *Unions NSW v State of New South Wales* (2013) 304 ALR 266, in a case concerning statutory limits imposed on political donations.

1 March  Graham Hiley QC, formerly of the Queensland Bar, was sworn in as a Judge of the Supreme Court of the Northern Territory.

4 March  Justice James Allsop AO, formerly President of the New South Wales Court of Appeal, was sworn in as the Chief Justice of the Federal Court of Australia.

5 March  Justice Patrick Keane, formerly Chief Justice of the Federal Court, was sworn in as a Justice of the High Court of Australia. A transcript of the swearing-in ceremony appears at [2013] QLY 436.

8 March  The Bar Association of Queensland 2013 Annual Conference was held at Sheraton Mirage, Gold Coast. The keynote address was given by Lady Justice Rafferty DBE, entitled ‘The Modern Bar: Accessible, Adaptable and Relevant’: [2013] QLY 172. Judge Brian Barker QC (Recorder of London) also gave a lecture on ‘New Developments in Criminal Practice and Procedure — The Old Bailey: a Judge’s Perspective’: [2013] QLY 177.

8 March  Paul Smith was appointed a Judge of the District Court. A biographical profile of His Honour appears at [2013] QLY 543.

14 March  Former Bundaberg Hospital surgeon, Dr Jayant Patel, was found not guilty of the manslaughter of patient Mervyn Morris in a trial conducted before Justice George Fryberg. Prior to the commencement of the trial, Dr Patel’s lawyers successfully applied for potential jurors to be surveyed to determine if they were prejudiced against Dr Patel, pursuant to section 47 of the *Jury Act 1995 (Qld)*: *R v Patel (No 4)* [2013] 2 Qd R 544.

14 March  In *Assistant Commissioner Condon v Pompano Pty Ltd* (2013) 295 ALR 638, the High Court upheld the validity of provisions of the *Criminal Organisation Act 2009 (Qld)*, finding that they were not inconsistent with the institutional integrity of the Supreme Court.

14 March  The *Commercial Arbitration Act 2013 (Qld)* was enacted, replacing the former *Commercial Arbitration Act 1990 (Qld)*.

15 March  The annual Queensland Law Society Symposium 2013 was held at the Brisbane Convention and Exhibition Centre. The Symposium was opened with an address from the Chief Justice, which raised for consideration a number of reforms in criminal practice which have been introduced in the United Kingdom. A transcript of this address appears at [2013] QLY 181.

2 April  The long-established Brisbane firm of solicitors, MacGillivray, merged with a national firm, Gadens Lawyers.

3 April  In Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd (2013) 247 CLR 656, the High Court considered the operation of the proportionate liability legislation.

12 April  The Federal Circuit Court of Australia Legislation Amendment Act 2012 (Cth) amended the Federal Magistrates Act 1999 (Cth) and other legislation to rename the Federal Magistrates Court of Australia the Federal Circuit Court of Australia. The titles of ‘Chief Federal Magistrate’ and ‘Federal Magistrate’ were also changed to ‘Chief Judge’ and ‘Judge’ respectively.

19 April  The 8th annual Sir Harry Gibbs Law Dinner was held at Emmanuel College, University of Queensland, at which Justice Patrick Keane presented the paper ‘What Do Judges Know?’ The paper appears at [2013] QLY 219.

29 April  The Electronic Conveyancing National Law (Queensland) Act 2013 (Qld) was enacted by the Queensland Parliament. This legislation is intended to implement a national electronic conveyancing system.

14 May  The Queensland Civil and Administrative Tribunal (Justices of the Peace) Amendment Act 2013 (Qld) was enacted. This legislation permits the jurisdiction of QCAT, in relation to minor civil disputes, to be exercised by two Justices of the Peace. A six month pilot programme for the use of JPs in QCAT commenced on 3 June.

14 May  The Succession to the Crown Act 2013 (Qld) was enacted. Legislation in this form was enacted in numerous Commonwealth jurisdictions to remove discriminatory aspects of the existing law concerning succession to the Crown.

23 May  The Supreme Court Library hosted the second Selden Society lecture for 2013, ‘The Story behind the Land Borders of the Australian States — A Legal and Historical Overview’ by Professor Gerard Carney. The text of this paper appears at [2013] QLY 231.

23 May  Justice Margaret White AO was appointed Commissioner of the Queensland Racing Commission of Inquiry. James Bell QC and Tom Pincus were appointed counsel assisting the Commission. The Final Report of the Commission was delivered on 7 February 2014.


3 June  Norton Rose, a London-based firm whose Brisbane office traces its origins to the firm of Cannan & Peterson, merged with the US legal group, Fulbright & Jaworski, to become Norton Rose Fulbright.
4 June  Justice Margaret White AO, the first woman appointed to the Supreme Court, retired as a Judge of the Court and a Judge of Appeal. A valedictory ceremony for Her Honour was held in the Banco Court on 20 August. A biographical profile of Her Honour appears at [2013] QLY 535. A transcript of this ceremony appears at [2013] QLY 446.


6 June  Letters Patent were issued to all Senior Counsel in Queensland who had indicated their wish to be appointed Queen’s Counsel.

10 June  Queen’s Birthday honours were awarded to Justice John Byrne RFD AO and Peta Stilgoe OAM (Senior Member of QCAT).

19 June  In Maloney v The Queen (2013) 298 ALR 308, the High Court upheld the validity of the Queensland legislative provisions which were used to regulate alcohol usage on Palm Island. The decision of the Court of Appeal in R v Maloney [2013] 1 Qd R 32 was affirmed.

21 June  The Australian Government requested that the Productivity Commission conduct an inquiry into Australia’s system of civil dispute resolution, with a focus on constraining costs and promoting access to justice and equality before the law. The Final Report of the Commission is to be presented on 19 September 2014.

23 June  The Professional Standards (Bar Association of Queensland Scheme) Notice 2013 (Qld) was issued. Pursuant to this notice, a statutory limitation of liability was introduced for barristers in Queensland.

24 June  Ray Rinaudo was sworn in as Deputy Chief Magistrate and Penelope Hay as a Magistrate.

26 June  Australia challenged Japan’s ‘scientific’ whaling before the International Court of Justice in Whaling in the Antarctic (Australia v Japan: New Zealand intervening). Australia sought a declaration that Japan is in breach of its international obligations in authorising and implementing the Japanese Whale Research Program under Special Permit in the Antarctic Phase II (JAPRA II) in the Southern Ocean. The public hearings in the case concluded on 16 July. Judgment in Australia’s favour was delivered on 31 March 2014.

1 July  Commissioner Tim Carmody QC delivered the Final Report of the Queensland Child Protection Commission of Inquiry, which concerned a review of the State’s current child protection system.

1 July  Professor Sarah Derrington was appointed Dean of the TC Beirne School of Law at The University of Queensland.

4 July  Terry Ryan was appointed a Magistrate and as Queensland’s new Coroner, replacing Michael Barnes.
8 July The annual church service for the opening of the Law Year was held in Brisbane at Saint Paul’s Presbyterian Church.

19 July The Bar Association of Queensland, in collaboration with Queensland University of Technology, hosted a lecture by Justice John Dowsett AM in the Banco Court entitled ‘Lawyers and Legislation’. This paper appears at [2013] QLY 297.

25 July The second Current Legal Issues Seminar for 2013 was held in the Banco Court. Professor Michael Bryan of the University of Melbourne presented a paper entitled ‘What Exactly is Remedial Constructive Trust?’. This paper appears at [2013] QLY 313.

2 August The Queensland Chapter of the Selden Society held its Annual Meeting in the Supreme Court Judges’ Conference Room in the Queen Elizabeth II Courts of Law. Ian Callinan AC QC presented the paper ‘Court Art — Tales and Trials’. A new work concerning the artworks of the courthouse, A Unique Collection, written by the Chief Justice and published by the Supreme Court Library, was also launched.

2 August Philip Morrison QC was appointed a Judge of the Supreme Court and a Judge of Appeal, following the retirement of Justice White. A ceremony in the Banco Court was held on 8 August to welcome His Honour. A biographical profile of His Honour appears at [2013] QLY 536. A transcript of the ceremonial proceedings appears at [2013] QLY 455.

7 August In Fortescue Metals Group Limited v Commonwealth (2013) 87 ALJR 935, the validity of the Commonwealth minerals resource rent tax was upheld.

13 August Darryl Rangiah QC was appointed a Judge of the Federal Court of Australia, to be based in Brisbane. A biographical profile of His Honour appears at [2013] QLY 549.

22 August The third Current Legal Issues Seminar for 2013 was held in the Banco Court. John McKenna QC presented a paper entitled ‘The Griffith Opinion Books’. This paper appears at [2013] QLY 329.

28 August The Griffith Law School’s annual Legal History Seminar was conducted in the Banco Court. Dr Paul du Plessis, presented a paper entitled ‘Historicising Codes’.

2 September Aladin Rahemtula OAM retired as Supreme Court Librarian. He was succeeded by David Bratchford, formerly the Librarian of Legal Aid Queensland. A tribute to Mr Rahemtula appears at [2013] QLY 164.

12 September The fourth Current Legal Issues Seminar for 2013 was held in the Banco Court. A paper entitled ‘The Challenge of Principled Gap-Filling — A Study of Implied Terms in a Comparative Context’ was presented by the Justice Andrew Phang Boon Leong (Judge of Appeal, Supreme Court of Singapore). The paper appears at [2013] QLY 351.

16 September An Australian Academy of Law Lecture was delivered in the Banco Court. Justice Patrick Keane presented a lecture on ‘The Public/Private Divide; and its Implications for the Extent of Judicial Intervention in Civil Disputes’. The paper appears at [2013] QLY 396.
16 September  David Thomas, formerly a partner of Minter Ellison, was appointed a Judge of the Supreme Court of Queensland and President of the Queensland Civil and Administrative Appeals Tribunal. A biographical profile of His Honour appears at [2013] QLY 537. A transcript of the ceremony held in the Banco Court to welcome His Honour appears at [2013] QLY 460.

16 September  The Honourable Timothy Carmody QC was sworn in as a Judge of the District Court and as Chief Magistrate. A biographical profile of His Honour appears at [2013] QLY 544.

19 September  The 2013 Supreme Court Oration was delivered by Justice Nicholas Kearns (President of the High Court of Ireland) in the Banco Court. The paper was entitled ‘Judicial Independence in Times of Financial Cholera — Lessons from the Irish Experience’.

24 September  The 9th Richard Cooper Memorial Lecture was presented at the Commonwealth Law Courts, Brisbane. Raelene Webb QC spoke on the subject of ‘Indigenous Sea Rights — the Grotius Heritage’.

1 October  The High Court of Australia commenced making audio-visual recordings of its hearings available to the public. Audio-visual recordings can be accessed via the High Court website. The first audio-visual recording made available was BCM v The Queen [2013] HCATrans 231.

2 October  In Bugmy v R (2013) 302 ALR 192, which concerned an Indigenous man convicted of assault, wounding and grievous bodily harm, the High Court found that a history of social disadvantage should be taken into account in sentencing.

7 October  The Honourable Bruce McPherson CBE, a former Judge of the Supreme Court of Queensland, died. A valedictory sitting in his honour was held at the Banco Court on 16 December 2013. Tributes to Dr McPherson appear at [2013] QLY 418. A transcript of the valedictory sitting appears at [2013] QLY 475.

11 October  In Magaming v R (2013) 302 ALR 461, which concerned an appeal by an Indonesian man who pleaded guilty to a charge of aggravated people smuggling, the High Court found that the imposition of a mandatory minimum sentence was not inconsistent with the institutional integrity of the courts and did not involve the imposition of an arbitrary sentence.

15 October  The final criminal trial in Queensland concerning the former Bundaberg Hospital surgeon, Dr Jayant Patel, concluded when Judge Terry Martin discharged the jury after they were unable to reach a verdict in relation to charges concerning the treatment of Mr Ian Vowles. In November, Dr Patel pleaded guilty to certain charges of fraud (for which he was given a wholly suspended sentence), with the DPP indicating that no further charges would be pursued.

16 October  Three anti-gang statutes, the Vicious Lawless Association Disestablishment Act 2013 (Qld), the Tattoo Parlours Act 2013 (Qld) and the Criminal Law (Criminal Organisations Disruption) Amendment Act 2013 (Qld), were enacted. On 29 October, the Queensland Parliament also enacted the
Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013 (Qld), which sought to authorise the indefinite detention of dangerous sex offenders. This legislation generated substantial public controversy, with key provisions of the latter statute being held to be unconstitutional in Attorney-General (Qld) v Lawrence [2013] QCA 364 and Attorney-General (Qld) v Fardon [2013] QCA 365.

18 October The Queensland Justices Association annual State Conference was held in Bundaberg. Justice Alan Wilson, outgoing President of QCAT, gave the keynote speech ‘The Work of JPs and the New QCAT Scheme’ [2013] QLY 412.

18 October The Chief Justice issued the first Supreme Court Practice Direction governing the citation of authority (Practice Direction 15 of 2013). Practice Directions in identical terms were subsequently issued by the District Court, the Planning & Environment Court and the Magistrates Court.

19 October Dr Rachel Field (QUT Law School) and Nerida Wilson (Barrister) were named Queensland Women Lawyers of the Year by the Women Lawyers Association of Queensland. Corin Morcom (Allens) was named Emergent Lawyer of the Year and Michelle James (Maurice Blackburn) was awarded the Agnes McWhinney award.

29 October The G20 Safety and Security Act 2013 (Qld) was enacted in preparation for the G20 Summit, to be held in Brisbane on 15–16 November 2014.


31 October In R v Brown [2013] QSC 299, Justice Fryberg stayed proceedings in a bail application for an alleged bikie member after concerns about public comments attributed to the Premier concerning the matter. This decision was reversed in R v Brown [2013] QCA 337, with the Court of Appeal finding that the relevant remarks would not lead a reasonable member of the Queensland public to apprehend that any Queensland judicial officer would fail to be true to their judicial obligations.

14 November The annual WA Lee Equity Lecture was held in the Banco Court. The lecture, presented by Justice Kiefel AC of the High Court of Australia, was entitled ‘Lessons from a ‘Conversation’ about Restitution’.

20 November The launch of the third edition of The Law of Liability Insurance by the Honourable Des Derrington QC and Ron Ashton was held in the Supreme Court Library.

21 November The Legislative Assembly voted to discharge the membership of the Parliamentary Crime and Misconduct Committee, following its criticism of the Acting Chairperson of the Crime and Misconduct Commission, Dr Ken Levy.

22 November The Honourable Neil John Buckley, formerly a Judge of the Family Court of Australia, died. A tribute appears at [2013] QLY 428.
27 November  At the Annual General Meeting of the Bar Association of Queensland, Peter Davis QC was elected President and Shane Doyle QC elected Vice-President.

27 November  In *BCM v The Queen* (2013) 303 ALR 387, the High Court upheld the challenge to the sufficiency of the reasons given by the Court of Appeal in *R v BCM* [2012] QCA 333, but affirmed the decision of the Court of Appeal on its substantive merits.


6 December  In *Attorney-General (Qld) v Fardon* [2013] QCA 365, convicted sex offender Robert Fardon was released into supervised accommodation after the Court of Appeal held that sections of the *Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013* were invalid. See also *Attorney-General (Qld) v Lawrence* [2013] QCA 364.

12 December  In *Commonwealth v Australian Capital Territory* (2013) 304 ALR 204, legislation of the ACT dealing with same sex marriage was held to be invalid.

19 December  The Annual Exchange of Christmas Greetings Ceremony was held at the Banco Court during which the 13 new Queen’s Counsel for 2013 signed the roll. A transcript of proceedings appears at [2013] QLY 479.
Queensland Legal Statistics
2013

Introduction

Queensland is served by a hierarchy of State and Federal Courts.

In the State Court system, there are three main tiers in the court hierarchy — Magistrates Courts, District Courts and Supreme Courts (in ascending order). All State judicial officers are appointed by the executive government of the State. Each court has both a criminal and a civil jurisdiction, with an associated appellate structure. The precise extent of each court’s jurisdiction is reformulated, from time to time, by legislation. In general, however, this system is designed to refer more serious matters to a higher court in the hierarchy.

The Federal Court system is primarily designed to provide specialist courts to apply federal laws. The principal courts are the Federal Court, the Family Court and the Federal Circuit Court. All Federal judicial officers are appointed by the executive government of the Commonwealth. The Family Court is designed to deal with family law matters. The Federal Court is designed to deal with other federal matters. The Federal Circuit Court was established more recently to deal with less serious family law and other federal matters. Each of these courts has its own appellate structure. In Queensland, these courts are served by local registries, with matters primarily heard by federal judicial officers who are based within the State. For appellate and some other matters, they are assisted by visiting federal Judges from other States and Territories.

The High Court of Australia is the final appellate court in both the State and Federal court systems. The High Court sits primarily in Canberra, but most individual Justices are based in their home jurisdiction. At least one of the High Court Justices has conventionally been based in Queensland. Since September 2007, Justice Susan Kiefel (formerly a Judge of the Federal Court) has been the only Queensland-based Justice of the High Court. In 2013, however, Justice Kiefel was joined by Justice Keane (formerly Chief Justice of the Federal Court).

The legal profession in Queensland is formally divided between barristers and solicitors. In practice, however, the functional division between the two branches of the legal profession is blurred, as many solicitors undertake court appearances and many barristers deal directly with clients. Primary legal education is provided through eight Queensland universities which offer degrees in law: University of Queensland (TC Beirne School of Law), Queensland University of Technology, Griffith University, Bond University, James Cook University, University of Southern Queensland, Central Queensland University and the University of the Sunshine Coast.
Judiciary and Legal Profession

Table 1 records the numerical size of the judiciary and practising legal profession in Queensland over a six year period. For comparison purpose, State population and economic growth figures are also included. The table records an overall growth in the State’s population of 8.9% over the six year period and a 2.2% increase in the State’s population in the last 12 months. However, the table records a 24.4% growth in the legal profession over the six year period. The size of the judiciary is shown to have remained essentially unchanged (a decreased of 0.7% over the six years).

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</tr>
<tr>
<td>District Court Judges(^{3})</td>
<td>39</td>
<td>38</td>
<td>38</td>
<td>38</td>
<td>38</td>
<td>38</td>
</tr>
<tr>
<td>Magistrates(^{6})</td>
<td>87</td>
<td>87</td>
<td>87</td>
<td>83</td>
<td>86</td>
<td>87</td>
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<tr>
<td><strong>Queensland-Based Federal Judiciary</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Federal Court Judges(^{8})</td>
<td>5</td>
<td>5</td>
<td>7</td>
<td>6</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Family Court Judges(^{9})</td>
<td>9</td>
<td>8</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Federal Circuit Court Judges(^{10})</td>
<td>10</td>
<td>9</td>
<td>9</td>
<td>9</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td><strong>Queensland Legal Profession</strong></td>
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<tr>
<td>Practising Barristers(^{11})</td>
<td>978</td>
<td>1010</td>
<td>1058</td>
<td>1069</td>
<td>1065</td>
<td>1062</td>
</tr>
</tbody>
</table>

---

1 All figures represent the number of appointments as of 30 June each year.
2 Supreme Court of Queensland Annual Reports 2008–2013.
3 Whilst Justice White AO retired on 3 June 2013, her successor Justice Morrison only commenced his appointment as a Judge of the Supreme Court and Judge of Appeal on 8 August 2013 and has not been included in this figure.
4 Supreme Court of Queensland Annual Reports 2008–2013.
5 District Court of Queensland Annual Reports 2008–2013.
6 Magistrates Court of Queensland Annual Reports 2008–2013. These are full-time equivalent positions. Part time and Acting Magistrates also served.
7 All figures represent the number of appointments as of 30 June each year.
11 These figures, which were provided by the Bar Association of Queensland from their annual reports 2008–13, represent the number of practising certificates on issue by the BAQ as at 30 June in each year. Figures do not include interstate members.
Table 1: Queensland Judiciary and Legal Profession (2008–2013)

Court of Appeal

The Court of Appeal is the highest appellate court within the State court system. It hears criminal and civil appeals from a range of courts and tribunals, including the Trial Division of the Supreme Court and the District Court. The Court usually sits as a panel of three Judges, comprising both specialist Judges of Appeal (including the President of the Court of Appeal) and a rotation of Judges from the Trial Division of the Supreme Court (including the Chief Justice). Appeals from the Court of Appeal can only be pursued to the High Court with the special leave of the High Court.

Table 2 records the key performance indicators of the Court of Appeal over a six year period. These figures suggest that the caseload of the court, which remains relatively stable, is cleared with a high level of efficiency and unanimity. Over the last six years, the Court has generally managed an active docket of about 170–80 criminal matters and about 100 civil matters. Virtually all matters were resolved well within 12 months of lodgement. During the calendar year 2013, there were points of substantial dissent in only 20 of 406 written judgments (4.9%). This represents a material increase from the previous year (3.5%). The 20 dissenting judgments came from a wide range of Judges: Justice Margaret McMurdo (5); Justice Dalton and McMeekin (3 each); Justices Holmes and Atkinson (2 each); the Chief Justice and Justices Morrison, Fryberg, Daubney and Peter Lyons (1 each).

Only four matters per year, on average, have attracted a grant of special leave to appeal from the High Court. In 2012–13, for the third year in succession, no grant of special leave was obtained in civil matters. The three criminal matters in which special leave was granted were: Dunrobin v The Queen [2013] HCA Trans 23 (on appeal from [2012] QCA 209); Maloney v The Queen (2013) 298 ALR 308 (on appeal from [2012] QCA 105) and PEB v The Queen [2013] HCA Trans 135 (on appeal from [2012] QCA 333).

<table>
<thead>
<tr>
<th>Year</th>
<th>Lodged</th>
<th>Finalised</th>
<th>Active</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>440</td>
<td>399</td>
<td>172</td>
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<td>2009</td>
<td>369</td>
<td>397</td>
<td>149</td>
<td>372</td>
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<tr>
<td>2010</td>
<td>349</td>
<td>344</td>
<td>156</td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>377</td>
<td>337</td>
<td>196</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>391</td>
<td>407</td>
<td>180</td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>376</td>
<td>349</td>
<td>208</td>
<td></td>
</tr>
</tbody>
</table>

12 These figures, which were provided by the Queensland Law Society from their annual reports 2008–13, represent the number of practising certificates on issue by the QLS as at 30 June in each year.


Table 2: Court of Appeal: Lodgements, Finalisations and Appeals (2008–13)

<table>
<thead>
<tr>
<th>Civil Appeals</th>
<th>Lodged</th>
<th>Finalised</th>
<th>Active</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications for Special Leave to Appeal to the High Court</td>
<td>236</td>
<td>266</td>
<td>76</td>
</tr>
<tr>
<td>Special Leave Granted</td>
<td>2</td>
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<td>4</td>
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<td></td>
<td>270</td>
<td>250</td>
<td>94</td>
</tr>
<tr>
<td></td>
<td>266</td>
<td>248</td>
<td>112</td>
</tr>
<tr>
<td></td>
<td>239</td>
<td>250</td>
<td>110</td>
</tr>
<tr>
<td></td>
<td>270</td>
<td>266</td>
<td>105</td>
</tr>
<tr>
<td></td>
<td>284</td>
<td>283</td>
<td>114</td>
</tr>
<tr>
<td></td>
<td>261</td>
<td>261</td>
<td>100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Supreme Court Trial Division</th>
</tr>
</thead>
</table>

Within the State court system, the Trial Division of the Supreme Court generally hears only the most serious criminal matters (including homicide) and the most significant civil matters (including monetary claims which exceed the $750,000 limit upon the District Court’s jurisdiction).

For a number of years (2008–11), the Court in its criminal jurisdiction dealt with around 1500 new matters each year. In 2011–12, however, there was a large decline in criminal lodgements. The 2012–13 year has seen this decline continue by 21.4%. Overall, in the period 2008–13, there has been a decrease of 43.8% in criminal lodgements. The Court remains efficient with 81% of matters finalised within 12 months. About 9.3% of finalised criminal matters are the subject of an appeal.

The civil jurisdiction of the Court encompasses a diverse range of matters, from the very simple (e.g. undefended debt recoveries) to the very complex (e.g. complex commercial disputes). From 1 December 2010, the civil caseload of the Court was substantially reduced by an extension of the civil jurisdiction of the District Court (from a monetary limit of $250,000 to $750,000). Since then, the state of economic activity has further contributed to a decline in civil lodgements. With the legal consequences of the global financial crisis (2007–8) having been largely resolved, and economic activity remaining in a subdued state, civil lodgements have continued to decline. They declined by 11.2% over the last year — to a level which is about half that experienced in 2010. In the civil jurisdiction, contested judgments are more commonly the subject of an appeal. On average, a notice of appeal is filed in more than one-third of all contested civil cases in which formal reasons are delivered.

15 Supreme Court of Queensland Annual Reports 2008–2013.
Table 3 records the key performance indicators of the Trial Division of the Supreme Court over a six year period.

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>Six Year Average</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criminal Proceedings</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lodged</td>
<td>1493</td>
<td>1531</td>
<td>1403</td>
<td>1527</td>
<td>1068</td>
<td>839</td>
<td>1310</td>
</tr>
<tr>
<td>Finalised</td>
<td>1538</td>
<td>1525</td>
<td>1302</td>
<td>1504</td>
<td>1130</td>
<td>993</td>
<td>1332</td>
</tr>
<tr>
<td>Active</td>
<td>436</td>
<td>430</td>
<td>540</td>
<td>549</td>
<td>502</td>
<td>345</td>
<td>467</td>
</tr>
<tr>
<td>Finalised in less than 1 year</td>
<td>86%</td>
<td>87%</td>
<td>83%</td>
<td>83%</td>
<td>75%</td>
<td>74%</td>
<td>81%</td>
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<tr>
<td>Appeals to Court of Appeal</td>
<td>92</td>
<td>99</td>
<td>97</td>
<td>96</td>
<td>85</td>
<td>93</td>
<td>94</td>
</tr>
<tr>
<td><strong>Civil Proceedings</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lodged</td>
<td>5455</td>
<td>7167</td>
<td>7309</td>
<td>5185</td>
<td>3961</td>
<td>3516</td>
<td>5432</td>
</tr>
<tr>
<td>Finalised</td>
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<td>6270</td>
<td>6937</td>
<td>6721</td>
<td>5118</td>
<td>3960</td>
<td>5741</td>
</tr>
<tr>
<td>Active</td>
<td>5042</td>
<td>5907</td>
<td>6263</td>
<td>4694</td>
<td>3512</td>
<td>3054</td>
<td>4745</td>
</tr>
<tr>
<td>Finalised in less than 1 year</td>
<td>74%</td>
<td>79%</td>
<td>76%</td>
<td>67%</td>
<td>72%</td>
<td>70%</td>
<td>73%</td>
</tr>
<tr>
<td>Appeals to Court of Appeal</td>
<td>139</td>
<td>167</td>
<td>195</td>
<td>165</td>
<td>174</td>
<td>145</td>
<td>164</td>
</tr>
</tbody>
</table>

Table 3: Supreme Court Trial Division: Lodgements, Finalisations and Appeals (2008–13)

District Court and Planning and Environment Court

Judges of the District Court may exercise five main jurisdictions. There is an appellate jurisdiction, dealing with appeals from the Magistrates Court in both criminal and civil matters. In its criminal jurisdiction, the District Court hears almost all serious criminal charges. In its civil jurisdiction, the District Court may hear many matters within a monetary limit of $750 000. There are also two main specialist jurisdictions. Judges who are specially authorised for this purpose may sit in the Planning and Environment Court (dealing primarily with town planning matters) or in the Childrens Court (dealing with a range of criminal and other matters concerning children).

Table 4 records the key performance indicators of the District Court and the Planning and Environment Court over a six year period.

In the appellate jurisdiction, the number of criminal appeals has decreased in the last 12 months by 23.3%, during a period when criminal lodgements in the Magistrates Court have remained relatively stable. The number of civil appeals has also decreased by a similar proportion (18.5%), during a period when civil lodgements in the Magistrates Court were also relatively stable.

In the criminal jurisdiction, the number of lodgements has gradually declined over a six year period (28.8%). By contrast, in the civil jurisdiction, the number of lodgements has shown a gradual increase over the initial five years to reach a peak of 6297 lodgements in
2012, followed by a decrease of 12% in 2013. The gradual rise up until 2012 in lodgements was to be expected, given the substantial increase in the District Court’s civil jurisdiction from 1 December 2010 (rising from a monetary limit of $250 000 to $750 000). In both jurisdictions, despite the increasing complexity of many cases, about 80% of matters are finalised within 12 months of lodgement. 2013 saw a 50% rise in the number of appeals from the civil jurisdiction of the District Court to the Court of Appeal. By contrast, in the criminal jurisdiction, there a small decrease in appeals. In the Planning and Environment Court, the number of lodgements has also gradually declined over a six year period (42.7%), with a 20.6% decline over the last 12 months. This would seem to be a reflection of the relatively low level of economic growth during this period. Perhaps because of the increasing complexity of the cases, fewer are able to be resolved within a 12 month period.

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criminal Appeals from Magistrates Court</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lodged</td>
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<td>475</td>
<td>399</td>
<td>868</td>
<td>528</td>
<td>405</td>
<td>502</td>
</tr>
<tr>
<td>Finalised</td>
<td>316</td>
<td>452</td>
<td>488</td>
<td>334</td>
<td>441</td>
<td>1101</td>
<td>522</td>
</tr>
<tr>
<td>Active</td>
<td>311</td>
<td>327</td>
<td>237</td>
<td>755</td>
<td>885</td>
<td>161</td>
<td>446</td>
</tr>
<tr>
<td>Finalised in less than 1 Year</td>
<td>66%</td>
<td>95%</td>
<td>86%</td>
<td>93%</td>
<td>37%</td>
<td>91%</td>
<td>78%</td>
</tr>
<tr>
<td><strong>Civil Appeals from Magistrates Court</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lodged</td>
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<td>103</td>
<td>52</td>
<td>65</td>
<td>53</td>
<td>80</td>
</tr>
<tr>
<td>Finalised</td>
<td>76</td>
<td>146</td>
<td>102</td>
<td>68</td>
<td>71</td>
<td>63</td>
<td>88</td>
</tr>
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<td>69</td>
<td>51</td>
<td>45</td>
<td>38</td>
<td>64</td>
</tr>
<tr>
<td>Finalised in less than 1 Year</td>
<td>71%</td>
<td>90%</td>
<td>75%</td>
<td>57%</td>
<td>78%</td>
<td>76%</td>
<td>75%</td>
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<td><strong>Criminal Proceedings</strong></td>
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<td>5120</td>
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<td>1757</td>
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<td>1956</td>
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<td>80%</td>
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<td>82%</td>
<td>83%</td>
<td>82%</td>
</tr>
<tr>
<td>Appealed to Court of Appeal</td>
<td>358</td>
<td>270</td>
<td>247</td>
<td>281</td>
<td>304</td>
<td>282</td>
<td>290</td>
</tr>
<tr>
<td><strong>Civil Proceedings</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>4939</td>
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<td>5415</td>
<td>6297</td>
<td>5543</td>
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<td>4817</td>
<td>5125</td>
<td>4710</td>
<td>4609</td>
</tr>
<tr>
<td>Finalised in less than 1 Year</td>
<td>78%</td>
<td>79%</td>
<td>80%</td>
<td>80%</td>
<td>82%</td>
<td>80%</td>
<td>80%</td>
</tr>
<tr>
<td>Appealed to Court of Appeal</td>
<td>75</td>
<td>72</td>
<td>57</td>
<td>49</td>
<td>48</td>
<td>72</td>
<td>62</td>
</tr>
<tr>
<td><strong>Planning and Environment Court</strong></td>
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<td>679</td>
<td>637</td>
<td>564</td>
<td>448</td>
<td>645</td>
</tr>
<tr>
<td>Finalised</td>
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<td>677</td>
<td>680</td>
<td>793</td>
<td>670</td>
<td>597</td>
<td>698</td>
</tr>
<tr>
<td>Active</td>
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<td>818</td>
<td>812</td>
<td>676</td>
<td>575</td>
<td>434</td>
<td>677</td>
</tr>
<tr>
<td>Finalised in less than 1 Year</td>
<td>75%</td>
<td>67%</td>
<td>55%</td>
<td>58%</td>
<td>53%</td>
<td>56%</td>
<td>61%</td>
</tr>
</tbody>
</table>
Magistrates Court

The Magistrates Court of Queensland has jurisdiction to deal with a wide range of minor criminal matters. Its criminal caseload comprises more than 95% of all criminal matters dealt with by Queensland courts. In the period to 2010, the number of criminal lodgements rose steadily with the State population. In 2011, however, the number of criminal lodgements dropped (11%). This was attributed to a change in policing practices, with an increased use of on-the-spot fines, and the significant effect on the State of major flooding (December 2010 – January 2011). In 2013, the workload remained relatively constant.

Prior to 1 November 2010, the Magistrates Court was also the primary court in which civil claims up to $50 000 were heard. During the 2009–10 period, however, there was a significant refocussing of the Court’s jurisdiction. From 1 December 2009, small debt claims (up to $25 000) could be brought in the Queensland Civil and Administrative Tribunal. Then, from 1 November 2010, the civil jurisdiction of the Magistrates Court was increased substantially to $150 000. This resulted in an effective halving (48%) of the number of civil commencements (stabilising at about 30 000 per year), but an increase in the significance and complexity of the matters before the Court. Again, in 2013, the workload of the court remained relatively constant.

<table>
<thead>
<tr>
<th>Year</th>
<th>Criminal Lodgements</th>
<th>Civil Lodgements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>201208</td>
<td>57943</td>
</tr>
<tr>
<td>2009</td>
<td>209499</td>
<td>60067</td>
</tr>
<tr>
<td>2010</td>
<td>214491</td>
<td>41061</td>
</tr>
<tr>
<td>2011</td>
<td>189776</td>
<td>30648</td>
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<tr>
<td>2012</td>
<td>195458</td>
<td>29776</td>
</tr>
<tr>
<td>2013</td>
<td>199674</td>
<td>30354</td>
</tr>
</tbody>
</table>

Table 5: Magistrates Court of Queensland: Lodgements (2008–13)\(^{18}\)
Graph 1: Magistrates Court of Queensland: Lodgements (2008–13)