



PART FIVE BACKGROUND INFORMATION



Establishment_____	17
Functions and powers_____	17
Sittings of the Court_____	18
Seat of the High Court_____	18
Appointment of Justices of the High Court_____	18
Composition of the Court_____	19
Chief Justices and Justices of the Court_____	19



Establishment

The High Court of Australia is established by s 71 of the Constitution which provides in part: The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction.

To the extent that legislative provision was necessary, the Court was given the power to administer its own affairs by the *High Court of Australia Act 1979* (Cth). The minister responsible for the Court's administration is the Commonwealth Attorney-General.



Functions and powers

The Constitution confers both appellate and original jurisdiction upon the High Court. Appeals from the Supreme Courts of the states and territories, the Federal Court of Australia and the Family Court of Australia are heard if special leave is granted by the Court. Under the Constitution, the High Court is the final arbiter of constitutional questions. Such questions may come on appeal from a lower court or may be initiated by an application to the High Court itself. Appeals may also be brought to the High Court from the Supreme Court of the Republic of Nauru.

Sittings of the Court

The Court conducts its sittings in Canberra and such other places as are determined by a Rule of Court made by the Justices in the preceding year. Approximately two-thirds of all sitting days of the Full Court are in Canberra. In addition, applications for special leave to appeal to the Court are heard regularly in Sydney and Melbourne, and the Court continues the practice, established on its inauguration, of sitting in Brisbane, Adelaide, Perth and Hobart if warranted by the amount of business. When sitting in Sydney, Melbourne, Brisbane, Adelaide and Perth, the Court uses Commonwealth Law Courts buildings. In Hobart, facilities are available with the cooperation and assistance of the Tasmanian Supreme Court.

Seat of the High Court

Section 14 of the *High Court of Australia Act 1979* (Cth) provides that the seat of the High Court shall be at the seat of government in the Australian Capital Territory.

The High Court building in Canberra is located on 3.4 hectares of land fronting the shores of Lake Burley Griffin in the Parliamentary Zone. The Court is forty metres tall, and consists of three courtrooms, Justices' chambers, the Court's Principal Registry, library, administrative wing and large public hall. Its total floor area, including car parks and patios, is approximately 29 400 square metres.

The Court was designed by architectural firm Edwards Madigan Torzillo and Briggs Pty Ltd, the winners of a national architectural design competition held

in 1972–73. The builder was PDC Constructions (ACT) Pty Ltd. Construction costs totalled \$46.5m. The building was opened by Her Majesty Queen Elizabeth II on 26 May 1980.

Appointment of Justices of the High Court

Under section 72 of the Constitution, Justices of the High Court:

- are appointed by the Governor-General in Council
- cannot be removed except by the Governor-General in Council on an address from both Houses of Parliament in the same session, praying for such removal on the grounds of proved misbehaviour or incapacity
- receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office
- must retire on attaining the age of 70 years.

Part Two of the *High Court of Australia Act 1979* (Cth) contains further provisions concerning the Court and the Justices, including:

- the Attorney-General shall, before an appointment is made to a vacant office of Justice of the Court, consult with the Attorneys-General of the states in relation to the appointment

A person shall not be appointed as a Justice unless:

- he or she has been a judge of a court created by the parliament or of a court of a state or territory, or

- he or she has been enrolled as a barrister or solicitor or as a legal practitioner of the High Court or of a Supreme Court of a state or territory for not less than five years
- a Justice is not capable of accepting or holding any other office of profit within Australia
- the Chief Justice and the other Justices shall receive salary and other allowances at such rates as are fixed from time to time by Parliament.

Composition of the Court

The Justices of the High Court in 2010–11 and the dates they were sworn in, are as follows:

Chief Justice French AC	1 September 2008
Justice Gummow AC	21 April 1995
Justice Hayne AC	22 September 1997
Justice Heydon AC	11 February 2003
Justice Crennan AC	8 November 2005
Justice Kiefel AC	3 September 2007
Justice Bell	3 February 2009

Chief Justices and Justices of the Court

There have been 12 Chief Justices and 42 Justices since the High Court was established in 1903, including the current members of the Court.

Three members of the Court – Sir Isaac Isaacs, Sir Ninian Stephen and Sir William Deane – resigned to be appointed to the office of Governor-General.

The name and years of service of each High Court Chief Justice and Justice follow:

Chief Justices of the Court

Sir Samuel Walker Griffith	1903–19
Sir Adrian Knox	1919–30
Sir Isaac Alfred Isaacs	1930–31
Sir Frank Gavan Duffy	1931–35
Sir John Greig Latham	1935–52
Sir Owen Dixon	1952–64
Sir Garfield Edward John Barwick	1964–81
Sir Harry Talbot Gibbs	1981–87
Sir Anthony Frank Mason	1987–95
Sir (Francis) Gerard Brennan	1995–98
(Anthony) Murray Gleeson	1998–2008
Robert Shenton French	2008–

Justices of the Court

Sir Edmund Barton	1903–20
Richard Edward O'Connor	1903–12
Sir Isaac Alfred Isaacs	1906–30
Henry Bournes Higgins	1906–29
Sir Frank Gavan Duffy	1913–31
Sir Charles Powers	1913–29
Albert Bathurst Piddington	1913–13
Sir George Edward Rich	1913–50
Sir Hayden Erskine Starke	1920–50
Sir Owen Dixon	1929–52
Herbert Vere Evatt	1930–40
Sir Edward Aloysius McTiernan	1930–76
Sir Dudley Williams	1940–58
Sir William Flood Webb	1946–58
Sir Wilfred Kelsham Fullagar	1950–61
Sir Frank Walters Kitto	1950–70

Sir Alan Russell Taylor	1952–69
Sir Douglas Ian Menzies	1958–74
Sir Victor Windeyer	1958–72
Sir William Francis Langer Owen	1961–72
Sir Cyril Ambrose Walsh	1969–73
Sir Harry Talbot Gibbs	1970–81
Sir Ninian Martin Stephen	1972–82
Sir Anthony Frank Mason	1972–87
Sir Kenneth Sydney Jacobs	1974–79
Lionel Keith Murphy	1975–86
Sir Keith Arthur Aickin	1976–82
Sir Ronald Darling Wilson	1979–89
Sir (Francis) Gerard Brennan	1981–95
Sir William Patrick Deane	1982–95
Sir Daryl Michael Dawson	1982–97
John Leslie Toohey	1987–98
Mary Genevieve Gaudron	1987–2003
Michael Hudson McHugh	1989–2005
William Montague Charles Gummow	1995–
Michael Donald Kirby	1996–2009
Kenneth Madison Hayne	1997–
Ian David Francis Callinan	1998–2007
(John) Dyson Heydon	2003–
Susan Maree Crennan	2005–
Susan Mary Kiefel	2007–
Virginia Margaret Bell	2009–

