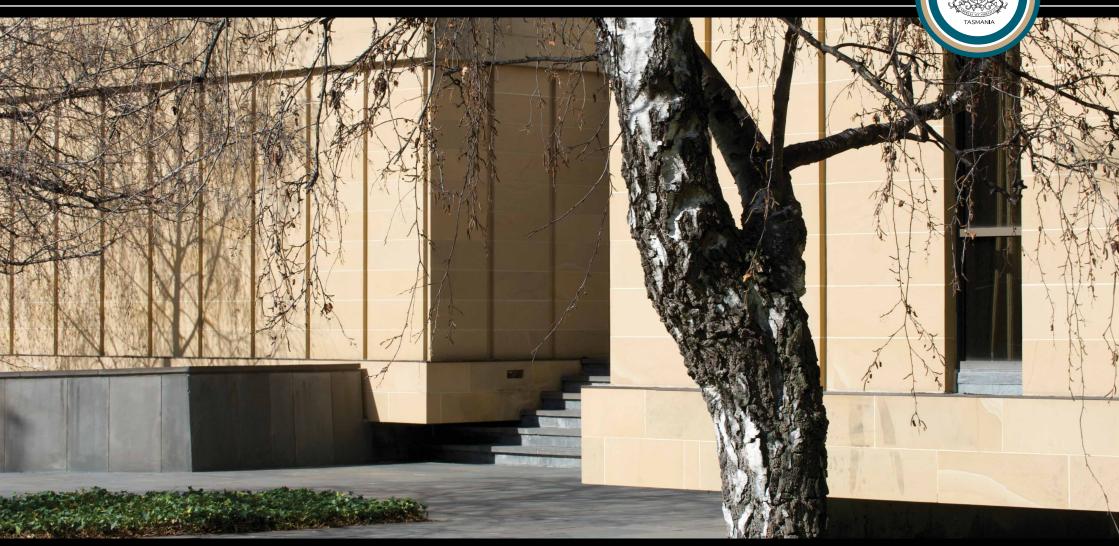


SUPREME COURT OF TASMANIA

ANNUAL REPORT







THE CHIEF JUSTICE'S ANNUAL REPORT

FOR

THE SUPREME COURT OF TASMANIA 2010 - 2011

This report is submitted in accordance with s194H of the Supreme Court Civil Procedure Act 1932, pursuant to which the Chief Justice is to provide a report to Parliament.

This report is to include details as to the administration of justice in the Court during the current year and any other matters that the Chief Justice considers appropriate.

- ISSN 1449-146X -



THE YEAR AT A GLANCE

WORK OF THE COURT

Over the last 5 years, civil lodgments have decreased and criminal lodgments increased

SIGNIFICANT BUILDING WORKS

Jury facilities improved

INFORMATION TECHNOLOGY

Major upgrade of Court recording equipment planned

• ROLE OF THE ASSOCIATE JUDGE

The Associate Judge deals with most civil pre-trial applications

• FAREWELL TO BRUCE CRAWFORD

Mr Crawford worked at the Court for over 40 years



THE YEAR AT A GLANCE

CRIMINAL JURISDICTION

Originating matters	613
Appeals	33
Total matters lodged	646
Finalised First Instance	616
Finalised Appeals	34
Total matters finalised	650

CIVIL JURISDICTION

Personal Injury	252
Debt Recovery	173
Corporations Law	
Winding up Applications	-
Registered Judgments	(
Other Actions	467
Total Lodgments	894
Total Appeal Lodgments	92

Total Finalised First Instance 905
Total Finalised Appeals 88
Total matters finalised 993

PROBATE

Grants of Probate	1976
Grants of Letters	
of Administration	179
Reseal	32

MEDIATION

Personal Injuries Motor Vehicle	2
Personal Injuries Industrial	1:
Contract	1
Testator Family Maintenance	1
Relationship Act	1
Building	
Other	4
Total conducted	14
Total settled at mediation	6





The Judicial Year in Review

A comparison of statistics over the last five years shows that the criminal work of the Court has increased and civil work has decreased. Non-appeal lodgments of criminal cases for the year under review were about 20 per cent greater in number than was the case five years ago.

Number of matters filed First instance Criminal Jurisdiction

	2005-06	2010-11	% DIFFERENCE
Burnie	113	119	5% ↑
Hobart	271	320	18% 🛧
Launceston	137	174	27% ↑
Total	521	613	18% 🛧

Number of matters filed First instance Civil Jurisdiction

	2005-06	2010-11	% DIFFERENCE
Burnie	134	84	37% ↓
Hobart	796	637	27% ❖
Launceston	160	173	8% 🛧
Total	1090	894	18% ❖



THE JUDICIAL YEAR IN REVIEW

For the first time in some years, there was a significant increase in the number of first instance civil lodgments by about 9 per cent in the year under review. Nevertheless, such lodgments were about 20 per cent fewer than was the case five years ago. The figure for the ensuing year will demonstrate whether or not the downward trend in civil lodgments has been arrested.

In general terms, the disposition rate was satisfactory. The overall clearance rate (finalisations divided by lodgments) for criminal and civil first instance and appellate work was 100 per cent. In civil non-appeal matters, only about 12 per cent of pending matters were over two years old, which is a pleasing figure.

The judges are conscious that busy criminal lists tend to dominate their workload. As a result there are times when they experience insufficient out of court time for judgment

writing and the timely publication of judgments. Whilst most judgments are published expeditiously, that is not always possible due to the day-to-day workload of individual judges.

Approximately 42 weeks of each year are allocated for the hearing of cases by the six judges. Appeals to the Full Court and the Court of Criminal Appeal (usually requiring a bench of three judges) are heard in 10 of those weeks. The other 32 weeks are allocated for the hearing of cases by single judges. Subject to a judge not being on leave, two judges sit in the civil jurisdiction and the other four judges deal with criminal cases, two in Hobart and one each in Launceston and Burnie.

The Associate Judge deals entirely with civil cases. More will be said about the nature of his work later.

Improvement of jury facilities

Jury facilities in Hobart, Launceston and Burnie have been substantially improved. In each of the courts used for criminal cases, uncomfortable bench seating has been replaced with comfortable chairs with arm rests and writing facilities. In Launceston and Burnie the size of the jury boxes has been increased to improve access for people with disabilities and to accommodate reserve jurors. The jury room in Burnie has been substantially upgraded with the installation of a kitchenette and improved toilet facilities. Some improvements have been made but there is still more to be done. Ideally there should be separate entrances into the courthouse for jurors so that they are not forced to enter and leave the Court by the same door as parties and their supporters, witnesses, counsel and the general public. Preliminary planning for that has commenced. The securing of necessary funds may prove an obstacle achieving what is obviously needed.









The Judicial Year in Review

Information Technology

Although many IT facilities have been introduced, in general terms the Court's facilities in this regard could be improved. An IT plan is being prepared which will prioritise the many needs of the Court. What can be achieved will also depend on funds being available.

A major step forward was the implementation of a new case management system into the Civil Registry. Part of the system which dealt with the basic requirements such as the receiving and recording of filed documents was made available in May 2007. Other functionality has been added and improvements made in other areas such as statistical reporting. The system has been modified for the Magistrates Court and also the Workers Rehabilitation and Compensation Tribunal. Even after a new system is in place.

it requires monitoring and maintenance.

The other major database system used by the Court is the case management system used in the Criminal Registry which is about 15 years old and running on outdated software. We are converting the system to run on new software as a short term solution but it requires a complete overhaul. The court recording equipment used by the Court is nearing the end of its useful life and a major upgrade will commence in December this year. The Court would like to introduce provision for eFiling of documents, permanent video conferencing facilities in the Hobart civil courts, and at least one court converted for use as a modern day eCourt. There any many other IT needs.

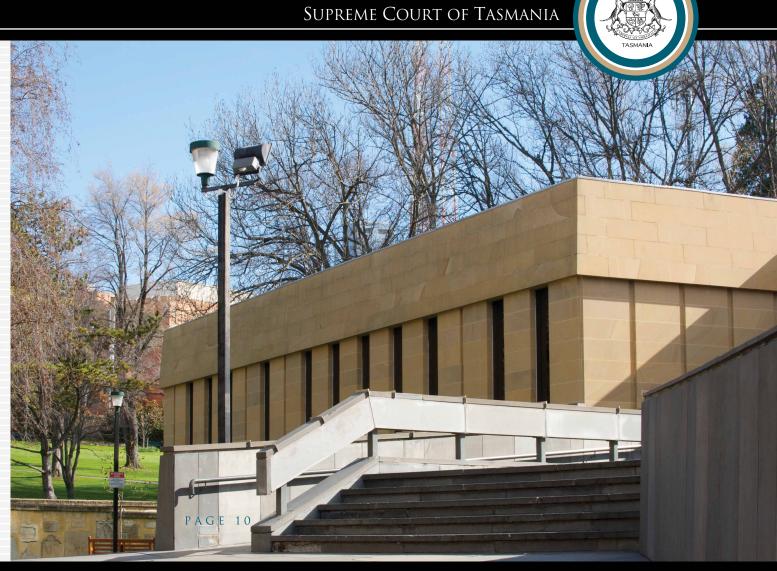
Ms Kath Kinsella demonstrates the court recording software.



THE JUDICIAL YEAR IN REVIEW

An architectural award

On 28 October 2010, the Australian Institute of Architects awarded the Supreme Court complex at Hobart the National 25 Year Award for Enduring Architecture. Its architect was the Department of Public Works/Peter Partridge. The building was regarded as an exemplary, enduring piece of public architecture that makes a poised, urban contribution to the City of Hobart. It is a building that is indebted to classicism but carries the burden of a period of architecture much maligned for its material brutality. The interior was described as carrying the gravity of the building's function, but at the same time being humane in its detail and scale. It was regarded as a reminder that investment in public architecture has a lasting effect on a city.



Supreme Court of Tasmania

THE JUDICIAL YEAR IN REVIEW

The role of the Associate Judge

The Associate Judge is the Hon Stephen Holt. His position is a judicial one and not administrative. Like the other judges of the Court, he has tenure until the age of 72.

The Associate Judge has authority to hear and determine all matters within classes specified by the judges other than criminal matters, appeals and judicial reviews. The judges have conferred a very wide jurisdiction on the Associate Judge so as to provide the greatest possible flexibility in the allocation of the civil business of the Court.

In addition to his other duties, the Associate Judge is responsible for the hearing and determination of most civil pre-trial applications and is responsible for the conduct of most directions hearings taking place under the Court's case management

regime. The over-arching purpose of that regime is to ensure that proceedings are conducted and resolved justly and efficiently. That is achieved by setting and enforcing timetables for the completion of pre-trial procedures and, where appropriate, dispensing with the application of procedural rules so as to tailor case preparation to suit the requirements of individual cases. By having the Associate Judge responsible for most of the case management, consistency of approach is achieved and hence predictability for the parties and their lawyers.

Because of case management, the Court has largely eliminated lengthy waiting periods for listings and it has achieved an excellent clearance rate. Pre-trial applications are generally heard and determined within two to four weeks of filing and trial dates are generally allocated within two to three months of a case being certified ready for hearing.

The judges of the Court, including the Associate Judge, work together in regularly reviewing procedures and performance to assist parties in having disputes resolved fairly, justly and without waste of time or money. This necessarily involves a consultative and cooperative approach between the Court and the legal profession.

In the year under review, a Civil User Group was established. The Associate Judge is one of the Court's representatives on that group. He is also a member of the Court's Rule Committee, which is responsible for making rules of procedure.

Associate Justice Stephen Holt and his Associate. Ms Clare Dirksen





THE JUDICIAL YEAR IN REVIEW

The Civil User Group

The Civil User Group was formed as a result of a suggestion from the Law Society and had its first meeting on 2 September 2010. The Civil User Group, chaired by Justice Evans, includes the Associate Judge, the Registrar, the Registry Supervisor and representatives from the Law Society, Independent Bar, Women Lawyers, Bar Association, and Young Lawyers. Meetings are to be held at least twice a year and will be open to all practitioners.

Issues can be raised for discussion at the Civil User Group meetings and a decision on whether the issue warrants further action such as consideration by the Rule Committee. The following list shows the breadth of matters raised by the Group during the year under report.

Reducing paper requirements generally

- Draft orders can be sent by email
- Electronic Notices of Hearing: A trial is being conducted with a small number of firms in Hobart, Launceston and Burnie and will be expanded in 2011-12
- Provision of part or all of appeal books and authorities electronically is being investigated

Fast track case management

- Circular to practitioners No 5 of 2011
- Rule 415 has been amended with effect from 8 April 2011

Interrogatories

- Circular to practitioners No 10 of 2011
- Rule 408A introduced with effect from 8 June 2011

Appeal books

- Circular to practitioners No 6 of 2011
- Rule 668 amended with effect from 8 April 2011 to allow appeal books to be printed on both sides of the page

Copies of authorities

 Practice Direction No 2 of 2011 published on 21 April 2011 reduces the burden of filing copies of authorities

Prerogative writs

- Circular to practitioners No 9 of 2011
- Amendments to the Rules, Pt26 and the Forms were gazetted on 20 April 2011

Costs

- Circular to practitioners No 2 of 2011
- Schedule 1 came into effect from 9 February 2011

Payment of court fees by credit card

- Circular to practitioners No 4 of 2011
- Payment by credit card available from 1 March 2011

Electronic lodgment of documents and electronic access to e-filed documents

 The Rule Committee has recommended that the Supreme Court Rules 2000 be amended to provide for electronic lodgment of documents. The necessary procedures and modifications to the Court's database system are being addressed.



The Judicial Year in Review



The retirement of Mr Bruce Crawford

When Mr Bruce Crawford retired on 21 July 2010, the Deputy Registrar, Robert Walker, prepared some notes about Mr Crawford's service with the Court. These comments have been taken from those notes:

"Bruce joined the staff of the Supreme Court on 2 January 1962 in long pants fresh from Hobart High School. He was appointed junior clerk in the Civil Registry. The Civil Registry had 5 full-time staff and was situated on the First Floor, Macquarie Street, Treasury Building.

In 1962, Sir Stanley Burbury was Chief Justice and Mr Tim Brettingham-Moore was Registrar and Master.

But for the Probate Registry, Bruce worked in all areas of the Civil Registry over the next 7 or 8 years including in the Companies Office and as a Matrimonial Causes Clerk; two jurisdictions we no longer exercise.

With 40 years in the job I think it fair to say Bruce will always be remembered for his time as a Deputy Sheriff. He joined the Sheriff's Office in April 1970 as the Senior Deputy Sheriff. Bailiffs were much more busy than today. There were 3 full-time bailiffs in the Sheriff's Office in Campbell Street, Criminal Courts. The office moved to its present accommodation in 1975.

Bruce as a Deputy Sheriff:

- seized everything from 90 motorcycles to a shop load of perfume.
- Auctioned everything from alcohol to an aeroplane.

Forty years' experience as a Deputy Sheriff and 20 years' experience as an Admiralty Marshal is not easy to replace. We are very fortunate that Bruce has put together a 128 page manual outlining the different aspects of his job."





THE JUDICIAL YEAR IN REVIEW

Long serving staff

The Court is fortunate to have many long-serving staff:

Robert Walker

Assistant Deputy Registrar from March 1984; appointed Deputy Registrar 2000; was an Associate to Justice Sir George Crawford between August 1976 and August 1977.

Mike Matthews

Budget officer for 25 years, 38 years public service.

Kath Kinsella

Commenced with the Supreme Court in 1975; joined the public service in 1961 with the Magistrates Court.

Carole Triffitt

Transcriber with the Court since February 1984.

Shelley Bawden

Commenced as Assistant to the Deputy Registrar September 1993; joined the public service January 1981.

Malcolm Farmer

Commenced with the Court August 1974.

Sandra Langridge

Transcriber with the Court since January 1985.

Virginia Morgan

Commenced as a Transcriber in 1976; now works in Sheriff's Office.

Helen Russell

Transcriber with the Court since October 1986.

Jill Hayes

Commenced as a casual Transcriber in February 1977; after about two years took on a

supervising role of coordinating the Transcribing Section of the Launceston Supreme Court; appointed a full-time employee in January 1998 as Executive Assistant to the Judge as well as incorporating the supervising role of the Transcribing Section; became Executive Assistant to Chief Justice Crawford (when in Launceston) in 2008.

Dorothy Shea

Supreme Court Librarian from 1988, prior to this worked in the Commonwealth Public Service 1981 – 1987.

Sharon Barnett

Commenced work at the Public Trust Office (which was then located in North Hobart) on 5 January 1976 as a typist in the typing pool; February 1980 started work as a secretary in the Legal Section of the Attorney-General's Department; July 1980 commenced working

as a Judge's Secretary in the Supreme Court; January 1990 moved to the Registry as Registrar's Secretary and worked for lan Ritchard for 16 years; commenced working in the Probate Registry in July 2006.

Christine Parker

Commenced in October 1986 as Judges' Secretary; became Executive Assistant to Chief Justice Underwood in 2004 and Chief Justice Crawford (when in Hobart) in 2008.

Natalie Luttrell

Commenced with Magistrates Court in February 1985; Supreme Court District Registrar since November 2002.



Overview

The work of the Court is divided into two major jurisdictional areas – crime and civil. Unlike many other Supreme Courts, the Court is not divided into divisions. All judges hear matters at first instance and on appeal, in both jurisdictions. In addition, the Court sits in three regions within the State; Hobart, Launceston and Burnie.

The workload of the Court is subject to fluctuations that are beyond the ability of the Court to control. The nature of the legal process requires it to hear any matter falling within the jurisdiction of the Court that is brought before it. As the jurisdiction of the Court expands and contracts with statutory changes and social conditions, so does its workload

The Court's Performance

The overall objectives for Court Administration for the reporting year were:

- To be open and accessible
- To process matters in an expeditious and timely manner
- To provide due process and equal protection before the law
- To be independent yet accountable for performance

A National framework of performance indicators adopted by the Court supports the objectives of the Court and the two principal indicators are summarised as follows:

Backlog Indicator

This is a measure of timeliness that relates the age of the Court's pending caseload to timeliness standards.

Clearance Rate

A measure of whether the Court is keeping up with its workload.

The Results

Backlog Indicator

The backlog indicator is a measure of timeliness and delay. This indicator specifically measures the Court's pending caseload against national time standards. The national time standards have been set as follows:

- No more than 10% of lodgments pending completion are to be more than 12 months old.
- No lodgments pending completion are to be more than 24 months old.



Backlog Indicator Criminal Jurisdiction

Supreme Court Criminal First Instance

	2008-09	%	2009-10	%	2010-11	%
Total Pending Caseload	312	100	321	100	324	100
Pending < 12mths	282	90	282	88	270	83
Pending > 12mths and < 24mths	21	7	26	8	39	12
Pending > 24mths	9	3	13	4	15	5

Supreme Court Criminal Appeal

	2008-09	%	2009-10	%	2010-11	%
Total Pending Caseload	24	100	17	100	16	100
Pending < 12mths	23	96	15	88	16	100
Pending > 12mths and < 24mths	1	4	2	12	0	0
Pending > 24mths	0	0	0	0	0	0



Backlog Indicator Civil Jurisdiction

0	0	0: :1	F:	1
Supreme	Court	CIVII	FIRST	instance

	2008-09	%	2009-10	%	2010-11	%
Total Pending Caseload	1041	100	868	100	830	100
Pending < 12mths	691	66	535	62	560	68
Pending > 12mths and < 24mths	237	23	231	27	168	20
Pending > 24mths	113	11	102	12	102	12

	2008-09	%	2009-10	%	2010-11	%
Total Pending Caseload	57	100	51	100	52	100
Pending < 12mths	41	72	36	70	47	90
Pending > 12mths and < 24mths	16	28	10	20	4	8
Pending > 24mths	0	0	5	10	1	2



Clearance Rate (finalisations/lodgments) All Matters

Supreme Court % clearances (excluding probate matters)

	2008-09	2009-10	2010-11
Criminal Jurisdiction	98.4%	95.7%	100.6%
Civil Jurisdiction	98.7%	118.3%	100.7%
Total Court	98.6%	108.6%	100.6%

Clearance Rate

The Clearance Rate indicator is a measure that shows whether the Court is keeping up with its workload. The indicator denotes the number of finalisations in the reporting period expressed as a percentage of the number of lodgments for the same period. A result of 100% indicates the Court is finalising as many matters as it receives. A result greater than 100% indicates the Court is reducing its pending caseload.



THE SUPREME COURT OF TASMANIA IN PROFILE

About the Court

The Supreme Court of Tasmania (the Court), created by the Charter of Justice 1823, forms part of a multi-layered court system, which exercises both Federal and State jurisdictions. The Court is the superior court of the State and, is equal in status to, but independent of, the Legislature and the Executive.

Currently six judges constitute the Court. The Associate Judge, Registrar and 50 administrative staff support them.

The Structure of the Court

Court systems throughout Australia are hierarchical with most States adopting three levels of courts;

- Magistrates (or local) Courts
- · County or District Courts
- Supreme Courts

In Tasmania, there are only two levels in the court hierarchy, being the Magistrates Court and the Supreme Court.

The Court is divided into three broad areas of operation, namely criminal, civil and appeal matters.

Criminal matters are those in which an accused person is charged with an indictable offence. Upon entry of a plea of not guilty, an indictable offence is tried by a judge and jury of twelve persons.

In civil matters, the Court determines disputes involving sums in excess of \$50,000. The trials are usually conducted by a judge sitting alone, although provision does exist for some cases to be tried with a jury of five or seven people.

Appeals from the decisions of a single judge, or a judge and jury, are heard by a Bench of three or more judges, called a Court of Criminal Appeal when sitting in criminal matters and the Full Court when sitting in civil matters. There is provision enabling an appeal to be heard by only two judges.

The Jurisdiction of the Court

The Court exercises both original and appellate jurisdictions. Original jurisdiction is when a matter comes before the Court for a decision for the first time. Appellate jurisdiction is when the Court determines appeals from single judges, from the Magistrates Court, or from various tribunals where there exists a right to appeal to the Supreme Court.



THE SUPREME COURT OF TASMANIA IN PROFILE

Mediation

Only a very small percentage of civil cases require resolution by a hearing in the court. Most of these cases settle at mediation. The mediators are the Registrar and other court officers as well as selected legal practitioners where necessary. The Court has the power to direct that a case be referred to mediation before it will be listed for trial. Court-annexed mediation is a very popular and successful means of resolving civil disputes. It provides expedition, saves costs and produces a just result. Without it, the Court would not be able to cope with its caseload.

The Registries of the Court

The Court operates civil, criminal, probate and district registries.

Civil Registry

The Civil Registry receives and processes all documents lodged in the civil jurisdiction of the Court and is the first point of reference for enquiries from the public and the legal profession. This Registry also receives and processes appeals to the Full Court and single judge appeals. It has responsibility for the management of the Court's records and the listing and case management functions for the Court's civil and appellate jurisdictions.

Criminal Registry

The Criminal Registry receives and processes documents lodged by the Director of Public Prosecutions, which initiate criminal proceedings, and lists criminal trials and other hearings. It receives and processes appeals and applications for leave to appeal and prepares appeal documentation for use by the Court of Criminal Appeal. It also receives and processes applications to review decisions from the Magistrates Court and State tribunals.

Probate Registry

The Probate Registry deals with applications for grants of probate, letters of administration and other related matters. It is responsible for determining, on application for a grant of representation, what document or documents constitute the last will of the deceased and/or who is entitled to be the legal personal representative of the deceased.

Most of these applications are decided without a court hearing. If there is a dispute, it is heard and determined by the Court in the same way as all other civil cases are heard and determined. When these determinations have been made, a grant is issued to the legal personal representative of the deceased.

District Registries

The Court maintains registries in Launceston and Burnie, to deal with civil and criminal matters.



THE SUPREME COURT OF TASMANIA IN PROFILE

The Judges and the Associate Judge

Judges

Judges of the Supreme Court are appointed by the Governor on the advice of the Executive Council (a Council of State Ministers including the Premier), from the ranks of barristers and solicitors who have at least ten years' standing in their profession.

The Bench of the Supreme Court currently consists of the Chief Justice and five other judges, known as puisne judges. This is an Anglo-French term meaning 'subordinate' and pronounced "puny".

Associate Judge

The Governor appoints the Associate Judge of the Supreme Court in the same manner as a judge. The Associate Judge assists the Judges in conducting the civil jurisdiction of the Court. For instance, the Associate Judge deals with interlocutory, that is procedural, applications in civil matters, before they come on for trial.

The Associate Judge can also hear and determine many cases that formerly could only be heard by a judge. This legislative change has assisted the capacity of the Court to manage its caseload.

The Supreme Court Act 1887, s2, provides that the Court consists of a maximum of seven judges. Six judges presently constitute the Court. Those presently holding office are:

The Chief Justice

The Honourable Ewan Charles Crawford

The Judges

The Honourable Peter Ethrington Evans
The Honourable Alan Michael Blow OAM
The Honourable Shan Eve Tennent
The Honourable David James Porter
The Honourable Helen Mary Wood

The Associate Judge

The Honourable Stephen Holt





OPERATING ACCOUNT - Effective Year ending 30 June 2011

RECEIPTS	Note	2009-10 ACTUAL	201	10-11 A CTUAL
Recurrent Appropriation		4,396,593		4,398,662
Registry Fees & Collections		426,069		468,498
Provision of Transcript		24,731		16,964
Probate Fees & Charges		779,415		807,797
Mediation Fees		47,110		36,510
Sheriff's Fees		6,418		6,755
Court Reporting		58,134		46,263
Video Conferencing		22,145		11,805
Recoveries of Salary		0		0
TOTAL RECEIPTS		5,760,615		5,793,254

EXPENDITURE	Nоте	2009-10 ACTUAL	2010-11 ACTUAL
EMPLOYEE EXPENSES			
Salaries & Wages etc	1	2,636,186	2,844,945
Fringe Benefits Tax		35,843	32,819
Payroll Tax		177,731	195,760
Superannuation		268,488	312,201
Worker Compensation Insurance		22,061	29,728
Training		2,744	2,885
TOTAL EMPLOYEE RELATED		3,143,053	3,418,338



OPERATING ACCOUNT - Effective Year ending 30 June 2011

ADMINISTRATION & OTHER EXPENSES	Nоте	2009-10 ACTUAL	2010-11 ACTUAL
Fuel, Light & Power		205,345	193,571
Advertising & Recruitment		1,015	1,415
Rental		16,316	13,432
Communications		74,126	68,067
Travel		71,356	70,303
Consultancies	2	80,710	73,158
Printing & Stationery		21,796	19,154
Rates		161,716	162,662
Other Administration	3	170,218	179,085
Repairs & Maintenance		139,164	125,864
Minor Equipment	4	48,794	72,707
Library Materials		95,380	88,964
Computers & IT		326,080	312,926
Expenses of Witnesses		65,838	71,106
Expenses of Jurors		472,268	621,753

Other Expenses	129,354	132,851
TOTAL ADMINISTRATIVE & OTHER EXPENSES	2,079,476	2,207,018
TOTAL EXPENDITURE	5,222,529	5,625,356

OVERHEAD CONTRIBUTION BY THE DEPARTMENT OF JUSTICE

	Note	2009-10 A CTUAL	2010-11 Actual
OVERHEAD CONTRIBUTION BY DOJIR	5	673,952	794,550



OPERATING ACCOUNT - Effective Year ending 30 June 2011

RESERVED BY LAW PAYMENTS RECEIVED (SALARIES OF JUDICIAL OFFICERS)

Note	2009-10 ACTUAL	2010-11 ACTUAL
Salaries & Other Entitlements of Judges	2,470,790	2,577,088
Salary & Other Entitlements of the Associate Ju	udge 346,379	365,656
TOTAL	2,817,169	2,942,744

NOTES TO FINANCIAL STATEMENTS

Note 1: New State Award

Note 2: This figure includes external mediators, specialist advice on specifications for video conference and court recording equipment and data extraction from criminal database.

Note 3: Increase is due to increased security costs

Note 4: Includes purchase of mobile video conference equipment for Burnie

Note 5: Incorrect figure in last Annual Report