

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
FEDERAL COURT OF AUSTRALIA

Question No. 140

Senator Ludwig asked the following question at the hearing on 24 May 2007:

Workload and Vacancies

- a) For the years 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08 (to date):
 - i) For all judicial vacancies in that year, provide the length of time before that position was filled (and indicate whether or not it was filled by another judge or a magistrate appointment to the FMC).

- b) Is there a breakdown available for target workloads which judges are expected to perform their various roles (i.e. sitting on trials, writing judgements, etc.)?
 - i) If not, why not?
 - ii) If so, please provide for 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08 (to date).

- c) Is there a breakdown available for the average workloads which judges are expected to perform their various roles (i.e. sitting on trials, writing judgements, etc.)?
 - i) If not, why not?
 - ii) If so, please provide for 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08 (to date).

The answer to the honourable senator's question is as follows:

- a) The information requested by the honourable senator is set out in the following tables. As at 31 January 2008, no judicial vacancies on the Federal Court have been filled by the appointment of a Federal Magistrate to the Federal Magistrates Court.

2003-2004

Balance as at 1 July 2003 – 46 judges (with 1 vacancy)

Judge	Date vacancy occurred	Date vacancy filled and by whom	Length of vacancy as at 30 June 2004	Length of vacancy as at date of replacement
Drummond J (Old)	12 Apr 2003	3 Feb 2004 Crennan J (Vic)	297 days	297 days
von Doussa J (SA)	16 Aug 2003	14 Jul 2003 Lander J (SA)	- 33 days	-33 days
Nicholson J (Family Court)	1 Jun 2004	No replacement required – Chief Justice of Family Court no longer requires a commission on the Federal Court		
Average length of vacancies			132 days	132 days

Balance as at 30 June 2004 – 46 judges (with nil vacancies)

2004-2005

Balance as at 1 July 2004 – 46 judges (with nil vacancies)

Judge	Date vacancy occurred	Date vacancy filled and by whom	Length of vacancy as at 30 June 2005	Length of vacancy as at date of replacement
Carr J (WA)	1 Aug 2004	14 Apr 2005 (Siopis J)	256 days	256 days
Beaumont J (NSW)	11 Feb 2005	5 May 2005 (Edmonds J)	83 days	83 days
Cooper J* (Qld)	15 Mar 2005	4 Aug 2005 (Greenwood J)	108 days	142 days
Selway J* (SA)	11 Apr 2005	3 Apr 2006 (Besanko J)	81 days	357 days
Whitlam J (NSW)	1 May 2005	24 May 2005 (Graham J)	23 days	23 days
Average length of vacancies			110.2 days	172.2 days

* denotes Judge died in office

Balance as at 30 June 2005 – 44 judges (with 2 vacancies)

2005-2006

Balance as at 1 July 2005 – 44 judges (with 2 vacancies)

Judge	Date vacancy occurred	Date vacancy filled and by whom	Length of vacancy as at 30 June 2006	Length of vacancy as at date of replacement
Hill J* (NSW)	25 Aug 2005	2 Feb 2006 Rares J (NSW)	161 days	161 days
Hely J* (NSW)	2 Oct 2005	13 Mar 2006 Cowdroy J (NSW)	162 days	162 days
Crennan J** (Vic)	1 Nov 2005	31 Jul 2006 Middleton J (Vic)	242 days	272 days
Lee J (WA)	1 May 2006	11 Dec 2006 Gilmour J (WA)	61 days	224 days
Merkel J (Vic)	15 May 2006	20 Apr 2007 Gordon J (Vic)	47 days	340 days
Average length of vacancies			134.6 days	231.8 days

* denotes Judge died in office

** denotes appointment to the High Court

Balance as at 30 June 2006 – 45 judges (with 3 vacancies), including two of the four additional judges (namely Collier J (Qld) and Jessup J (Vic)) appointed for the expected increase in workload due to workplace relations reforms

2006-2007

Balance as at 1 July 2006 – 43 judges (with 3 vacancies)

Judge	Date vacancy occurred	Date vacancy filled and by whom	Length of vacancy as at 30 June 2007	Length of vacancy as at date of replacement
Wilcox J (NSW)	1 Oct 2006	19 Nov 2007 Reeves J (NT)	273 days	415
Young J (Vic)	24 Jan 2007	Not yet filled	372 days*	n/a
Average length of vacancies			215.5 days	n/a

* not yet filled, length of vacancy as at 31 January 2008

Balance as at 30 June 2007 – 47 judges (with 2 vacancies) including the final two of the four additional judges (namely Tracey J (Vic) and Buchanan J (NSW)) appointed for the expected increase in work due to workplace relations reforms

2007-2008

Balance as at 1 July 2007 – 47 judges (with 2 vacancies)

Judge	Date vacancy occurred	Date vacancy filled and by whom	Length of vacancy as at 30 June 2008	Length of vacancy as at date of replacement
Nicholson J (WA)	7 Aug 2007	15 Oct 2007 McKerracher J (WA)	n/a	69
Conti J (NSW)	19 Aug 2007	15 Oct 2007 Flick J (NSW)	n/a	57
Kiefel J**	3 September 2007	27 Sept 2007 Logan J (QLD)	n/a	24
Average length of vacancies			n/a	50

** denotes appointed to the High Court

- b) No breakdown is available for target workloads which judges are expected to perform in their various roles (i.e. sitting on trials, writing judgements, etc.).
- i) Each Judge is responsible for the management and resolution of the first instance proceedings allocated to his or her docket, and in addition will usually hear and determine a number of appeals each year. The number and duration of hearings and the time required to write judgments in a matter will vary depending on such factors as the complexity of the legal and factual issues, the number of parties, the number of witnesses and the amount of documentary and other evidence.

The Individual Docket System means each Judge is able to allocate his or her time appropriately having regard to the nature of the cases in his or her docket and the Court's time standards in relation to the resolution of 85% of cases within 18 months of filing and the delivery of judgments within 3 months of a decision being reserved.

- ii) Not applicable.
- c) No breakdown is available for the average workloads which judges are expected to perform in their various roles (i.e. sitting on trials, writing judgements, etc.)
- i) The Court does not record the time spent by judges performing their various roles.
- ii) Not applicable.