

FEDERAL COURT OF AUSTRALIA

INSURANCE LIST FOR SHORT MATTERS

- 1 The Court intends to establish from 2016 an insurance list within the Commercial Contracts, Banking, Finance and Insurance sub-area of the Commercial and Corporations National Practice Area.
- 2 The list is not intended to deal with all insurance claims, but principally short matters, in particular, of policy interpretation and concerning the operation of insurance legislation. The list will be held on a regular basis in such Registries as have appropriate matters filed for hearing.
- 3 The list will to provide a forum for questions of construction of policies or questions of law, especially statutory construction, the hearing of which will take no more than about two hours. The resolution of such questions may not resolve the totality of the particular dispute, but may provide a greater opportunity for the resolution of the balance of the dispute by agreement or mediation. It will also provide a streamlined and expeditious method of policy interpretation where such is important for the wording or pricing of policies more generally.
- 4 It is intended that the list be run, at least initially, by the Chief Justice. The aim will be to provide a regular availability of hearing times for such short matters. To the extent that leave to appeal is sought from judgments, such will be arranged expeditiously before judges of the Commercial Contracts, Banking, Finance and Insurance sub-area of the Commercial and Corporations NPA, not necessarily being required to await a Full Court sitting period.
- 5 The aim is to provide to the insurance commercial community: underwriters, reinsurers, brokers and insureds a list which caters for the prompt and efficient resolution of legal issues to enable the parties to otherwise resolve their disputes without the need for full-blown hearings where a crucial issue could be decided discretely and swiftly.
- 6 The list will cover marine as well as non-marine insurance. The Court's jurisdiction in relation to marine insurance is wide within its Admiralty and maritime jurisdiction and does not necessarily depend upon the matter arising under the *Marine Insurance Act 1909* (Cth). The Court's jurisdiction in relation to non-marine insurance is also

wide, but is based usually on the matter arising under a law of the Commonwealth Parliament, generally relevantly in this context a Commonwealth insurance statute, such as is often the case with the *Insurance Contracts Act 1984* (Cth). But two things should be noted: *First*, the word and phrase “matter” and “arising under a law of the Parliament” and drawn from s 76(ii) of the Constitution are very broad: see Allsop, “Federal jurisdiction and the jurisdiction of the Federal Court of Australia” (2002) 23 *Australian Bar Review* 29 at 34-41; and Lindgren and Branson *Federal Civil Litigation Precedents: Tab 1 Introduction to the Jurisdiction of the Federal Court of Australia*; *secondly*, once the matter, that is the whole controversy, is in federal jurisdiction, any question in the matter can be heard in the Federal Court, including any question such as the construction of an insurance policy that does not, of itself, raise any issue of a federal statute.

7 The list will be called over at 12 noon on a nominated day and will run to 5 pm on the following day. If necessary, once called over, matters may be given a special fixture outside the list days.

8 The list will commence on 10 and 11 March in Melbourne and be called over in the following cities on the following dates:

Sydney: 21, 22 March

Perth: 5, 6 April

Brisbane: 19, 20 April

Adelaide: 26, 27 April

9 Should practitioners wish to file a matter to be heard in the list, they should provide a statement of no more than half a page, lodged as correspondence at the time of filing, outlining why the application should be heard in the list. A decision will be made by the Court as to the suitability of the matter for the list. In case of doubt, the matter will be called over by the Chief Justice either before or at the next list in that Registry.

10 Practitioners are invited to comment on the effectiveness and utility of the list once the list commences to operate.