

## Chapter 2

# High Court - Chancery Division

In England and Wales civil justice is administered mainly by the county courts (Chapter 4) and the High Court, the latter handling the more substantial and complex cases.

The Chancery Division of the High Court comprises the Lord Chancellor, the Vice-Chancellor (its Head for practical purposes) and 17 High Court judges.

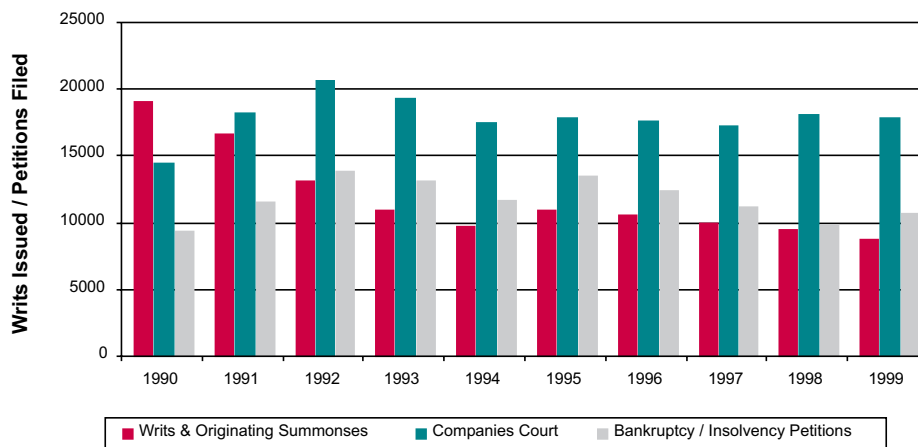
Although there is some overlap with the Queen’s Bench Division, certain matters are specifically assigned to the Chancery Division. Principal business of the Division comprises corporate and personal insolvency disputes, business, trade and industry disputes, the enforcement of mortgages, intellectual property matters, copyright and patents, disputes relating to trust property and contentious probate actions.

Most chancery business is dealt with in the Royal Courts of Justice in London and in eight provincial High Court centres which have Chancery jurisdiction. The Chancery Division also has administrative responsibility for the Restrictive Practices Court (Chapter 8).

During 1999-

- the total number of proceedings started fell by just under 1% to 37,281 (Table 2.1)
- 1,054 cases set down for trial in London were disposed of, a rise of just over 4% (Table 2.4)
- bankruptcy petitions issued in London rose by 8% to 10,709 (Table 2.5)
- the number of company winding-up petitions fell by nearly 3% to 10,507 (Table 2.7)

**Chancery Division:**  
Proceedings started, 1990-1999



## Chancery

Most actions begin with the issue of a claim or originating summons by the claimant against the defendant and are disposed of without a trial. Before an action comes to trial there may be a number of interlocutory hearings which are heard by judges and masters (in London) and district judges (outside London). Both masters and district judges are appointed by the Lord Chancellor and are solicitors or barristers of at least seven years standing. Trials come before High Court judges or deputy High Court judges (ie approved practitioners, retired High Court judges or circuit judges).

In 1999 there was a decrease of just over 21% in the number of claims and originating summonses issued in London, from 6,878 in 1998 to 5,406 in 1999; of these, disputes over land accounted for almost 50%. In dealing with this work in 1999, masters in London held 8,551 appointments in chambers (9,525 in 1998).

**Table 2.1**  
**Chancery Division: Summary of proceedings started, 1999**

**Nature of proceedings**

Claims and other originating summonses issued:	
London	5,406
Outside London <sup>1</sup>	3,314
Bankruptcy petitions	10,709
Companies Court proceedings <sup>2</sup> :	
London	12,458
Outside London	5,386
Patents Court appeals received	8
<b>Total</b>	<b>37,281</b>

<sup>1</sup> Contains an estimated 119 originating summonses

<sup>2</sup> Excluding transfers from the Chancery Division. See Table 2.7

**Table 2.2**  
**Chancery Division: Matters dealt with in chambers by masters in London, 1999**

<b>Orders made by masters<sup>1</sup>:</b>	
Drawn up by drafting section	8,001
Not drawn up	3,684
Drawn up by solicitors	84
<b>Transfers Out:</b>	138
<b>Enforcement Issues:</b>	
Possession	752
Writs of fi-fa	132
<b>Appointments before the masters:</b>	
On notice	7,333
Ex-parte	1,218

<sup>1</sup> Includes final and interlocutory orders

**Table 2.3**  
**Chancery Division: Claims and originating summonses issued in London by nature of proceedings, 1999**

Nature of proceedings

Land:	
Contracts of sale and purchase	71
Landlord and tenant	258
Mortgages and charges	1,291
Squatters and trespassers	553
Restrictive covenants	21
Other proceedings	491
Business and industry:	
Partnership	63
Business fraud claims	4
Contracts of sale and purchase of shares and businesses	63
Other disputes	462
Intellectual property:	
Confidential information	29
Passing off and trade marks	304
Patents and registered designs <sup>1</sup>	86
Copyright and design right <sup>1</sup>	463
Professional negligence:	
Claims against solicitors	150
Claims against accountants	13
Claims against surveyors and estate agents	8
Claims against members of other professions	58
Trusts, wills and probate:	
Contentious probate actions	58
Disputes relating to trust property	79
Variation of trusts	38
Inheritance (provision for dependants)	29
Guardianship of minor's estates	8
Charities	4
Other applications concerning wills and trusts	296
Other:	
Other debts, damages and accounts	316
Revenue appeals	36
Solicitors	8
Originating process not otherwise classified	146
<b>Total</b>	<b>5,406</b>

<sup>1</sup> These matters are dealt with in the Patents Court

During 1999, the number of cases set down for trial in London (1,295) was over 13% more than in 1998. The number of cases disposed of rose by just over 4% to 1,054.

**Table 2.4**  
**Chancery Division: Cases listed in London, set down and disposed of, 1999**

	Number of cases set down	Cases disposed of		
		After trial or hearing	Otherwise	Total
Witness list Part I	723	173	218	391
Witness list Part II	99	123	95	218
Non-Witness list	473	338	107	445
<b>Total</b>	<b>1,295</b>	<b>634</b>	<b>420</b>	<b>1,054</b>

## Bankruptcy

Bankruptcy is a term applied to insolvency (inability to pay debts) of individuals. Proceedings are started with a petition for bankruptcy. Although a debtor may issue his own petition it is more usual for a creditor to do so. Bankruptcy work is carried out in the High Court at the Royal Courts of Justice and in those county courts with bankruptcy jurisdiction (see chapter 4 for more information).

The number of bankruptcy petitions issued in the High Court in London during 1999 rose 8% to 10,709 (9,885 in 1998). The total number of bankruptcy petitions filed in the High Court and the county courts during 1999 was, at 29,889, almost 8% more than in 1998 and halted a downward trend which started in 1993.

**Table 2.5**  
**Chancery Division: Bankruptcy petitions issued<sup>1</sup>, 1999**

Petitions issued	
By creditors	10,185
By debtors and legal representatives of deceased debtors	524
<b>Total</b>	<b>10,709</b>

<sup>1</sup> Figures are for the Royal Courts of Justice only. See chapter 4 for details of bankruptcy petitions issued in the county courts

During 1999, other applications dealt with by the registrars and administratively (mainly to set aside statutory demands, for interim orders, transfers and summonses) rose by 8% to 13,895.

**Table 2.6**  
**Chancery Division: Summary of bankruptcy proceedings before registrars<sup>1</sup> under the Insolvency Act 1986, 1999**

**Nature of proceedings**

Applications filed:	
Bankruptcy petitions by creditors	10,185
Bankruptcy petitions by debtors	524
Other applications and summonses	13,895
<b>Total applications</b>	<b>24,604</b>
Number of appointments before registrars:	
Listed	24,114
Unlisted	19,122
Orders made:	
Bankruptcy orders on creditors' petitions	5,089
Bankruptcy orders on debtors' petitions	518
<b>Total orders made</b>	<b>5,607</b>
Withdrawn/dismissed	5,221
Transfers to county courts	4,246
Others	26,014

<sup>1</sup> Figures are for the Royal Courts of Justice only

## Companies Court

The Companies Court in London deals predominantly with the compulsory liquidation of companies and other matters under the Insolvency Act 1986 and Companies Acts. Unlike an individual, a company cannot be made bankrupt but may, because of insolvency or if there is some other reason it should cease to exist, be wound up instead. In addition to winding-up proceedings, the Court exercises other powers in relation to registered companies. For example, a company can only reduce its capital with the approval of the Court. The court also deals with an increasing number of claims to prevent individuals from being a director, liquidator, administrator or receiver or manager of a company or to take part in the running of a company under the Company Directors Disqualification Act 1986. Most proceedings in the Companies Court are dealt with by registrars but certain applications are heard by judges. The Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne and Preston District Registries have concurrent jurisdiction with the Companies Court in London.

The overall number of originating proceedings started in the Companies Court in London and the above district registries outside London in 1999 (17,844) was 1% less than in 1998. Orders made rose by just over 4%. 59% (10,507) of proceedings started were company winding-up petitions; in London they rose by 19% to 5,789 but outside London they fell over 20% to 4,718. Overall, winding-up petitions fell by nearly 3%. Winding-up petitions in the High Court and the county courts during 1999 totalled 11,315, just under 4% fewer than in 1998.

**Table 2.7**  
**Chancery Division: Summary of Companies Court proceedings<sup>1</sup>, 1999**

	London	Outside London	Total
<b>Applications filed:</b>			
Winding-up petitions	5,789	4,718	10,507
Other petitions, applications and summonses	6,669	668	7,337
<b>Orders made:</b>			
On winding-up petitions:			
Winding-up orders made	2,535	2,165	4,700
Dismissed/withdrawn	3,201	3,328	6,529
On other petitions, applications and summonses	11,603	808	12,411
Transfers to county courts	1,605	1,893	3,498
<b>Applications before registrar:</b>			
Listed	14,244	3,718	17,962
Unlisted	725	254	979

<sup>1</sup> See chapter 4 for company winding-up petitions filed in the county courts

**Table 2.8**  
**Chancery Division: Petitions for winding-up by the Court presented at centres outside London, since 1993**

Centre	1993	1994	1995	1996	1997	1998	1999
Birmingham	822	854	488	680	509	354	384
Bristol	107	75	59	41	46	61	43
Cardiff	45	26	10	16	11	13	19
Leeds	2,124	3,168	3,723	3,235	3,331	3,207	2,640
Liverpool	485	1,079	1,118	1,173	1,316	1,704	1,090
Manchester	1,123	704	507	431	424	489	458
Newcastle-upon-Tyne	61	63	70	67	43	98	61
Preston	39	239	36	38	27	15	23
<b>Total</b>	<b>4,806</b>	<b>6,208</b>	<b>6,011</b>	<b>5,681</b>	<b>5,707</b>	<b>5,941</b>	<b>4,718</b>

## Patents Court

The Patents Court deals only with matters concerning patents, registered designs and appeals against the decision of the Comptroller General of Patents. Cases suitable to be heard by a county court, are dealt with at Central London County Court.

Since February 1998, the Patents Court diary and judgments can be found on the Internet, at [www.courtservice.gov.uk](http://www.courtservice.gov.uk).

In 1999 the Patents Court heard 286 matters (trials and interlocutories). Of these, 95 were dealt with by agreed orders or were withdrawn. Eight appeals against the decision of the Comptroller General of Patents were received and five were withdrawn.