

## Chapter 3

### High Court - Queen's Bench Division

The Queen's Bench Division deals mainly with civil actions in contract and tort (civil wrongs) and also hears more specialist matters, such as applications for judicial review.

At the end of 1999 the Queen's Bench Division comprised the Lord Chief Justice (its President) and 68 High Court judges.

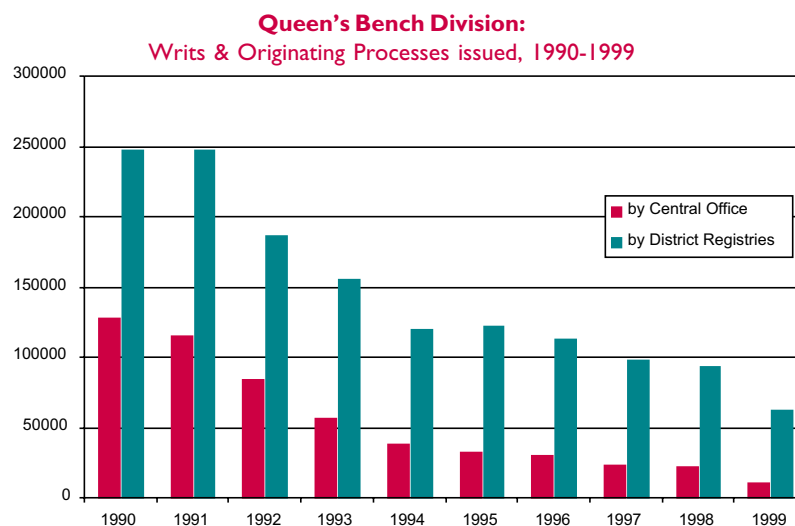
It contains within it the Commercial Court and the Admiralty Court (dealing with shipping matters such as collision and damage to cargo) and administers the Technology and Construction Court (formerly the Official Referees Court) which hear cases involving prolonged examination of technical issues, such as construction disputes.

Judges of the Queen's Bench Division also hear the most important criminal cases in the Crown Court (Chapters 6 and 9) and they also sit in the Restrictive Practices Court (Chapter 8) and Employment Appeals Tribunal (Chapter 7).

Queen's Bench Division work is dealt with at the Royal Courts of Justice in London and at district registries of the High Court, located at many of the county courts throughout England and Wales. Each registry covers a defined district consisting of one or more county court districts.

During 1999 -

- total claims and originating summonses issued fell 37% to 72,161 (Table 3.1)
- disposal of actions set down for trial fell nearly 19% from 3,530 in 1998 to 2,853 in 1999; 76% of disposals were cases settled, struck out or withdrawn before the hearing (Table 3.5)
- 44% of court judgments related to personal injury cases, 47% of which were for sums in excess of £50,000 (Table 3.6)
- the average waiting time from issue of claim to start of trial dropped by 2% to 174 weeks (Table 3.8)



## Queen's Bench

The Queen's Bench Division deals with common law business, that is, actions relating to contract (except those specifically allocated to the Chancery Division - see Chapter 2) and tort. Examples of contract cases dealt with in the Queen's Bench Division are failure to pay for goods and services and breach of contract. There are several types of tort (civil wrongs) including wrongs against persons only (eg defamation of character, libel) wrongs against property only (eg trespass) and wrongs which may be against persons or property (eg negligence or nuisance). Some matters may involve both contract and tort, eg personal injury cases which show negligence and breach of a contractual duty of care. Others may be crimes as well as torts, for example assault.

Actions are normally started by way of a claim or an originating summons. A claim is the most common method and is used, for example, when a claim is based on an allegation of fraud or tort; it informs defendants what is claimed against them. An originating summons is used in certain cases, such as applications under specific Acts; it outlines the nature of the case. The hearing of an originating summons is usually before a master or district judge (for descriptions of masters and district judges see Chapter 2).

If a defendant fails to respond to a claim a claimant may be entitled to a judgment in default. If a defendant responds any of the following may result-

- (a) the claimant discontinues the action
- (b) the parties settle (ie reach agreement)
- (c) the court decides that the defendant has no real defence to the action and gives summary judgment under order 14 of the Rules of the Supreme Court
- (d) a trial

There is a right of trial by jury for fraud, libel, slander, malicious prosecution or false imprisonment cases. In all other cases the judge has a discretion to allow trial by jury but it is only used exceptionally. A trial may result in an award of damages or a non-pecuniary remedy such as an injunction (an order to do or not do something). In jury trials the jury decides the amount of damages to be awarded.

Judgments may be enforced in many ways, the following being the most frequently used-

- (a) a writ of fieri facias (fi-fa) directing the sheriff (the equivalent of the bailiff in the county courts) by his officers to seize and if necessary sell the debtor's goods to raise money to pay off the debt
- (b) a writ of possession of land (eviction takes place if necessary to ensure that possession of property or land is recovered)
- (c) a writ of delivery of goods which is an order to hand over specific goods
- (d) a charging order on land, securities or funds in court (usually on land - this has the same effect as a mortgage, so that if the property is sold the amount of the charge (debt) must be paid out of the proceeds of the sale)
- (e) a garnishee order, which orders that a third party, normally a bank, holding money for the judgment debtor pay it to the judgment creditor direct

- (f) appointment of a receiver who will manage the judgment debtor's property or part of it in such a way as to protect the judgment creditor's interest in it

Oral examination is a procedure used in connection with enforcement. The debtor is required to attend court to give details of his earnings, expenses, savings, etc, so that the creditor can decide how best to enforce the judgment. Often the debtor will pay before he can be questioned (orally examined). Alternatively, a High Court judgment for money may be enforced in a county court as if it was a judgment of that court.

During 1999, 72,161 claims and originating summonses were issued, 37% less than in 1998 (114,984).

**Table 3.1**  
**Queen's Bench Division: Proceedings started, 1999**

**Nature of proceedings**

Claims and originating summonses:	
Issued by Royal Courts of Justice	10,317
Issued by district registries	61,844 <sup>1</sup>
<b>Total</b>	<b>72,161</b>

<sup>1</sup> Includes an estimated 2,223 originating summonses

In London nearly 40% of claims were unliquidated (ie for an unspecified amount of money) and a further 37% were for specified amounts in excess of £5,000. Just over one half (55%) of claims were for debt and a further 12% were personal injury.

**Table 3.2**  
**Queen's Bench Division: Claims issued (including originating summonses) showing nature and amount of claim<sup>1</sup>, 1999**

	Up to £3,000	£3,000.01 -£5,000	£5,000.01 -£10,000	£10,000.01 -£15,000	£15,000.01 -£50,000	Over £50,000	Unspecified claims	Total
<b>Nature of claim</b>								
Claim for debt (goods sold and delivered, work carried out, etc)	1,486	931	916	418	1,106	642	192	5,691
Breach of contract	4	3	11	8	124	238	674	1,062
Personal injuries actions	..	..	..	..	..	..	1,187	1,187
Other negligence claims (including professional negligence)	..	..	..	..	..	..	373	373
Defamation (libel, slander)	..	..	..	..	..	..	236	236
Tort (eg nuisance, trespass, assault, wrongful arrest, etc)	..	..	3	1	1	9	88	102
Recovery of land/property	..	..	..	..	..	..	643	643
Miscellaneous	5	2	4	3	77	240	692	1,023
<b>Total</b>	<b>1,495</b>	<b>936</b>	<b>934</b>	<b>430</b>	<b>1,308</b>	<b>1,129</b>	<b>4,085</b>	<b>10,317</b>

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

In London the number of judgments given either in default of a response by the defendant or as summary judgment during 1999 totalled 4,026, a drop of 55% from 1998 (8,979).

**Table 3.3**  
**Queen's Bench Division - Judgment without trial: judgments by default and summary judgment (Under Order 14) by amount of judgment<sup>1</sup>, 1999**

Type of judgment	Up to £3,000	£3,001 -£5,000	£5,001 -£10,000	£10,001 -£15,000	£15,001 -£50,000	Over £50,000	Unspecified claims	Total
By default	1,296	432	381	409	428	304	420	3,670
Order (including order 14)	1	-	1	23	73	122	136	356
<b>Total</b>	<b>1,297</b>	<b>432</b>	<b>382</b>	<b>432</b>	<b>501</b>	<b>426</b>	<b>556</b>	<b>4,026</b>

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

During 1999, 2,756 cases were set down for trial (18% less than in 1998). There were 2,853 disposals in 1999, down 677 cases on 1998. Of these, just over 23% were determined after a trial. 51% of cases disposed were struck out (eg where a case is considered to be frivolous) or withdrawn before hearing. Just over half of disposals were personal injury cases. Around 87% of claimants in cases disposed of were individuals or groups of individuals whereas around 62% of defendants were firm(s) or corporation(s). Legal Aid was granted in 39% of cases - in most cases to the claimant only.

**Table 3.4**  
**Queen's Bench Division: Actions set down for trial and disposed of by type of claimant and defendant, whether legal aid granted, and nature of claim<sup>1</sup>, 1999**

Nature of Claim	Claimant					Defendant					Legal Aid granted				
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Claims for debt	30	-	60	-	90	30	10	40	-	80	10	-	-	60	10
Breach of contract	90	10	160	20	280	60	30	160	30	280	30	30	10	140	80
Recovery of land/property	30	-	30	-	60	10	20	30	-	60	10	10	-	20	30
Negligence:															
Medical	550	30	-	10	590	120	-	430	30	580	330	-	10	60	180
Personal injury	1,420	60	-	-	1,480	610	60	700	110	1,480	580	-	30	190	680
Action against															
solicitors	60	20	10	-	90	10	-	70	10	90	10	-	-	40	30
Other	60	10	30	-	100	30	-	50	30	110	40	-	-	30	40
Miscellaneous	110	10	50	-	170	80	20	70	10	180	30	10	10	40	80
<b>Total</b>	<b>2,340</b>	<b>140</b>	<b>330</b>	<b>30</b>	<b>2,853</b>	<b>940</b>	<b>140</b>	<b>1,550</b>	<b>210</b>	<b>2,853</b>	<b>1,040</b>	<b>40</b>	<b>40</b>	<b>590</b>	<b>1,130</b>

<sup>1</sup> All figures in italics are weighted estimates based on two months sample data and may not add up due to rounding

A An individual

B A number of individuals

C A corporation or firm

D A number of corporations or firms

E Total

F An individual

G A number of individuals

H A corporation or firm

I A number of corporations or firms

J Total

K Claimant only

L Defendant only

M Both parties

N Neither party

O Not known

**Table 3.5**  
**Queen's Bench Division: Actions set down for trial disposed of, and results of trial, by nature of claim<sup>1</sup>, 1999**

Nature of Claim	Method of disposal					Result of actions after attending court					
	Attending Court										
	A	B	C <sup>2</sup>	D	E	F	G	H	I	J	
Claim for debt	..	30	30	30	90	20	20	10	10	60	
Breach of contract	..	130	70	80	280	90	70	10	30	200	
Recovery of land/property	..	30	30	-	60	40	-	-	20	60	
Negligence:											
Medical	..	80	210	280	570	170	50	10	60	290	
Personal injury	..	300	320	870	1,490	420	70	10	40	540	
Actions against solicitors	..	20	10	60	90	10	10	-	10	30	
Other	..	30	30	50	110	30	10	10	10	60	
Miscellaneous	..	50	40	80	170	60	10	-	30	100	
<b>Total</b>		<b>2,756</b>	<b>670</b>	<b>730</b>	<b>1,450</b>	<b>2,853</b>	<b>840</b>	<b>230</b>	<b>30</b>	<b>200</b>	<b>1,290</b>

<sup>1</sup> All figures in italics are weighted estimates based on two months sample data and may not add up due to rounding

<sup>2</sup> includes settled at door of court and approval of prior settlement given

A Numbers set down during year	E Total	J Total
B Determined after trial	F Judgment for claimant	
C Settled during course of trial or hearing	G Judgment for defendant	
D Settled with consent order, struck out or withdrawn before hearing	H Judgment for claimant and defendant	
	I No court Judgment	

There were 1,290 judgments in 1999 18% more than in 1998. 65% of judgments were in favour of the claimant only; awards in excess of £10,000 were made in most judgments. In 1999, around 42% (540) of judgments related to claims for personal injury; 47% of these judgments were for sums in excess of £50,000.

**Table 3.6**  
**Queen's Bench Division: Court judgments showing nature of claim and amount of judgment<sup>1</sup>, 1999**

Nature of Claim	Up to £1,000	£1,000.01 to £3,000	£3,000.01 to £5,000	£5,000.01 to £7,500	£7,500.01 to £10,000	£10,000.01 to £50,000	Over £50,000	Non-money judgments	Total
Claim for debt	-	10	-	10	-	10	10	10	50
Breach of contract	10	-	10	-	-	20	60	100	200
Recovery of land/property	-	-	-	-	-	10	10	30	50
Negligence:									
Medical	-	-	-	-	-	10	190	60	260
Personal injury	-	-	10	10	10	40	270	230	570
Actions against solicitors	-	-	-	-	-	10	10	10	30
Other	-	-	-	-	-	10	30	10	50
Miscellaneous	-	-	-	-	-	10	10	80	100
<b>Total</b>	<b>10</b>	<b>10</b>	<b>20</b>	<b>10</b>	<b>10</b>	<b>110</b>	<b>580</b>	<b>540</b>	<b>1,290</b>

<sup>1</sup> All figures are weighted estimates based on two months sample data and may not add up due to rounding

**Table 3.7**  
**Queen's Bench Division: Trial hearings by type of judge and nature of claim<sup>1</sup>, 1999**

Nature of Claim	High Court judge	Deputy High Court judge	Circuit judge sitting as High Court judge	Official Referee	Other	Total	Average hearing time
Claim for debt	30	10	10	-	-	50	5hrs 15mins
Breach of contract	60	60	60	-	10	190	11hrs 5mins
Recovery of land/property	30	10	10	-	-	60	7hrs 23mins
Negligence:							
Medical	210	20	60	-	-	290	3hrs 37mins
Personal injury	270	150	110	-	10	540	5hrs 21mins
Actions against solicitors	10	-	10	-	-	30	12hrs 8mins
Other	30	10	20	-	-	60	6hrs 18mins
Miscellaneous	60	30	10	-	-	90	6hrs 4mins
<b>Total</b>	<b>700</b>	<b>280</b>	<b>290</b>	<b>-</b>	<b>20</b>	<b>1,290</b>	<b>6hrs 20mins</b>

<sup>1</sup> All figures in italics are weighted estimates based on two months sample data and may not add up due to rounding

In 1999 the average period between issue of a claim and start of trial or date of disposal of actions set down for trial, was 174 weeks - 178 weeks in 1998.

**Table 3.8**  
**Queen's Bench Division: Average waiting times for trials by centre and nature of claim<sup>1</sup>, 1999**

Centre and nature of claim	Average time between issue of claim and setting down (weeks)	Average time between setting down and start of trial (or date of disposal) (weeks)	Average time between issue of claim and start of trial (or date of disposal) (weeks)
London:	121	32	153
Personal injury (including fatal)	143	29	173
Others	105	34	139
Outside London:	154	33	187
Personal injury (including fatal)	151	33	184
Others	161	33	194
<b>All Centres</b>	<b>141</b>	<b>33</b>	<b>174</b>

<sup>1</sup> All figures are estimates based on two months sample data. Figures have been rounded to the nearest week

**Table 3.9**  
**Queen's Bench Division: Average waiting times for trials<sup>1</sup> since 1992**

All Centres	1992	1993	1994	1995	1996	1997	1998	1999
Average time between issue of claim and setting down (weeks)	129	139	137	122	135	138	143	141
Average time between setting down and start of trial (or date of disposal) (weeks)	35	38	40	39	44	41	35	33
Average time between issue of claim and start of trial (or date of disposal) (weeks)	164	177	177	161	179	178	178	174

<sup>1</sup> All figures are estimates based on two months data. Figures have been rounded to the nearest week

Although Queen's Bench Division cases are only tried at the Royal Courts of Justice and first tier centres outside London, interlocutory proceedings (applications preparatory or incidental to the main proceedings) are dealt with at all district registries and at the Royal Courts of Justice. This area of work continued to decrease in 1999 - applications for masters in London fell over 46% to 11,651. The court determines what, if anything, must be done before a case can be set down for trial, gives directions as to when this is to be done and where the trial is to take place. If either party is dissatisfied with an order of a master, an appeal may be made to a judge in chambers (a private hearing). There were 379 such appeals in 1999.

**Table 3.10**  
**Queen's Bench Division<sup>1</sup>: Applications for masters in London, 1999**

Type of application	Total
For directions	845
Summary judgment (Order 14)	453
Other summonses	10,353
<b>Total</b>	<b>11,651</b>

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

During 1999, the number of enforcement proceedings issued in London increased by 115% to 19,519. Writs of fi-fa formed 95% of proceedings. Outside London enforcement proceedings fell by 30% to 27,608. Writs of fi-fa accounting for 94% of proceedings. Charging orders and oral examinations were the second and third most common methods of enforcement.

**Table 3.11**  
**Queen's Bench Division: Enforcement proceedings issued, 1999**

	London	Outside London	Total
<b>Nature of Enforcement</b>			
Writs of fi-fa	18,596	25,996	44,592
Writs of possession	231	419	650
Writs of delivery	1	61	62
Charging orders	341	664	1,005
Garnishee orders absolute	350	108	458
Oral examinations by officers of the court	..	360	360
<b>Total</b>	<b>19,519</b>	<b>27,608</b>	<b>47,127</b>

## Admiralty Court

The Admiralty Court deals with shipping matters. The two most common matters dealt with are collision of ships and damage to cargo. Most cases are dealt with at the Royal Courts of Justice in London but some are disposed of in county courts with appropriate jurisdiction. During 1999, there were 382 Admiralty actions started in the Royal Courts of Justice, 0.5% more than in 1998 (380). Of the claims issued in London, 133 (35%) related to damaged cargo and 40 (10%) were collision cases.

**Table 3.12**  
**Queen's Bench Division: Admiralty proceedings<sup>1</sup>, 1999**

**Nature of proceedings**

Claims issued	382
Summonses issued:	
Judges	180
Registrars	40
Applications heard	29
References to registrar	10
Warrants of arrest executed <sup>2</sup>	90
Sales by the Court	13

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

<sup>2</sup> Vessels or property arrested

**Table 3.13**  
**Queen's Bench Division: Admiralty claims issued showing nature of action<sup>1</sup>, 1999**

**Nature of action**

Collision	40
Damage to cargo	133
Goods supplied and/or repairs	32
Personal injury (including fatal)	6
Mortgage	8
Limitation of liability	33
Others	130
<b>Total</b>	<b>382</b>

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

**Table 3.14**  
**Queen's Bench Division: Admiralty actions for trial in the High Court set down, tried or otherwise disposed<sup>1</sup>, 1999**

**Actions for trial**

Set down during year	6
Tried during year	13
Otherwise disposed of	32

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

## Commercial Court

The Commercial Court also deals with shipping matters but is largely concerned with matters regarding contracts related to ships, insurance, carriage of cargo and the construction and performance of mercantile contracts. Other matters dealt with involve banking, international credit, contracts relating to aircraft, the purchase and sale of commodities and the practice of arbitration and questions arising from arbitrations.

During 1999, 60% of the 1,205 claims were unliquidated. The majority of these (54%) were for breach of contract. Of the 220 judgments made during the year, 94% were in excess of £20,000. In 1998, only 23 judgments were made after a trial.

## Technology and Construction Court

The Technology and Construction Court, as the name implies, deals with building and engineering disputes and computer litigation. Other matters dealt with include sale of goods, valuation disputes, landlord and tenant (especially dilapidations), torts relating to the occupation of land and questions arising from arbitrations in building and engineering disputes.

The business of the court also includes any cases in the Chancery or the Queen's Bench Divisions which involve issues or questions which are technically complex or for which trial by such judges is any reason desirable.

There are seven full time circuit judges based in London assigned to the Supreme Court Group. They are nominated by the Lord Chancellor, and presided over by a resident High Court judge. Outside London, nominated circuit judges sit on each of the circuits with further full time designated judges at Birmingham, Manchester and Liverpool.

**Table 3.15**  
**Technology and Construction Court business: Actions received, tried and disposed of<sup>1</sup>, 1999**

<b>Received:</b>	
Claims and originating summonses issued in registry	346
By transfer	137
<b>Total</b>	<b>483</b>
<b>Disposed of:</b>	
Tried	64
Struck out, settled or discontinued	553
Transferred	23
Default judgments entered	-
<b>Total</b>	<b>640</b>
Pending at end of year	269
Number of summonses and interlocutory applications heard during year	1,466

<sup>1</sup> Figures relate to the Royal Courts of Justice only

