

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.

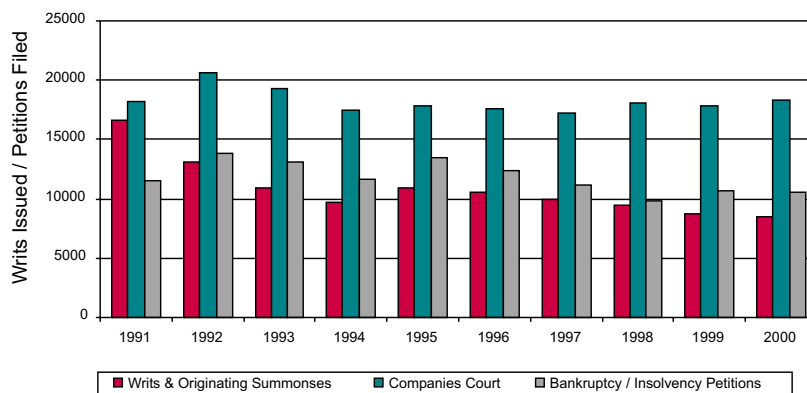
Although there is some overlap with the Queen’s Bench Division, certain matters are specifically assigned to the Chancery Division. Principal business of the Division comprises corporate and personal insolvency disputes, business, trade and industry disputes, the enforcement of mortgages, intellectual 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 2000-

- the total number of proceedings started remained steady at 37,333 (Table 2.1)
- 1,120 cases set down for trial in London were disposed of, a rise of just over 6% (Table 2.4)
- bankruptcy petitions issued in London fell by 2% to 10,511 (Table 2.5)
- the number of company winding-up petitions fell just over 1% to 10,377 (Table 2.7)

Chancery Division:
Proceedings started, 1991 - 2000



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 2000 there was an increase of just over 7% in the number of claims and originating summonses issued in London, from 5,406 in 1999 to 5,803; of these, disputes over land accounted for almost 46%. In dealing with this work in 2000, masters in London held 6,980 appointments in chambers (8,551 in 1999).

Table 2.1
Chancery Division: Summary of proceedings started, 2000

Nature of proceedings

Claims and other originating summonses issued:	
London	5,803
Outside London ¹	2,642
Bankruptcy petitions	10,511
Companies Court proceedings ² :	
London	12,041
Outside London	6,326
Patents Court appeals received	10
Total	37,333

¹ Contains an estimated 262 originating summonses

² Excluding transfers from the Chancery Division. See Table 2.7

Table 2.2
Chancery Division: Matters dealt with in chambers by masters in London, 2000

Orders made by masters¹:	
Drawn up by drafting section	9,666
Not drawn up	4,582
Drawn up by solicitors	576
Transfers Out:	243
Enforcement Issues:	
Possession	649
Writs of fi-fa	143
Appointments before the masters:	
On notice	5,570
Ex-parte	1,410

¹ Includes final and interlocutory orders

Table 2.3
Chancery Division: Claims and originating summonses issued in London by nature of proceedings, 2000

Nature of proceedings

Land:	
Contracts of sale and purchase	70
Landlord and tenant	235
Mortgages and charges	1,347
Squatters and trespassers	459
Restrictive covenants	35
Other proceedings	501
Business and industry:	
Partnership	89
Business fraud claims	8
Contracts of sale and purchase of shares and businesses	103
Other disputes	521
Intellectual property:	
Confidential information	39
Passing off and trade marks	335
Patents and registered designs ¹	105
Copyright and design right ¹	564
Professional negligence:	
Claims against solicitors	204
Claims against accountants	15
Claims against surveyors and estate agents	20
Claims against members of other professions	39
Trusts, wills and probate:	
Contentious probate actions	67
Disputes relating to trust property	101
Variation of trusts	53
Inheritance (provision for dependants)	34
Guardianship of minor's estates	13
Charities	6
Other applications concerning wills and trusts	253
Other:	
Other debts, damages and accounts	417
Revenue appeals	54
Solicitors	11
Originating process not otherwise classified	89
Total	5,787

¹ These matters are dealt with in the Patents Court

During 2000, the number of cases set down for trial in London (2,179) was over 68% more than in 1999. The number of cases disposed of rose by just over 6% to 1,120.

Table 2.4
Chancery Division: Cases listed in London, set down and disposed of, 2000

	Number of cases set down	Cases disposed of		
		After trial or hearing	Otherwise	Total
Witness list Part I	997	222	419	641
Witness list Part II	491	110	99	209
Non-Witness list	691	123	147	270
Total	2,179	455	665	1,120

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 2000 fell 2% to 10,511 (10,709 in 1999). The total number of bankruptcy petitions filed in the High Court and the county courts during 2000 was, at 29,977, almost the same as in 1999.

Table 2.5
Chancery Division: Bankruptcy petitions issued¹, 2000

Petitions issued	
By creditors	9,924
By debtors and legal representatives of deceased debtors	587
Total	10,511

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

During 2000, other applications dealt with by the registrars and administratively (mainly to set aside statutory demands, for interim orders, transfers and summonses) fell by nearly 16% to 11,721.

Table 2.6
Chancery Division: Summary of bankruptcy proceedings before registrars¹ under the Insolvency Act 1986, 2000

Nature of proceedings

Applications filed:	
Bankruptcy petitions by creditors	9,924
Bankruptcy petitions by debtors	587
Other applications and summonses	11,721
Total applications	22,232
Number of appointments before registrars:	
Listed	23,124
Unlisted	16,795
Orders made:	
Bankruptcy orders on creditors' petitions	4,484
Bankruptcy orders on debtors' petitions	585
Total orders made	5,069
Withdrawn/dismissed	5,301
Transfers to county courts	3,674
Others	22,904

¹ 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 2000 (18,367) was 3% more than in 1999. Orders made remained steady at 27,191. 57% (10,377) of proceedings started were company winding-up petitions; in London they fell by over 6% to 5,418 but outside London they rose 5% to 4,959. Overall, winding-up petitions fell by just over 1%. Winding-up petitions in the High Court and the county courts during 2000 totalled 11,000, just under 3% fewer than in 1999.

Table 2.7
Chancery Division: Summary of Companies Court proceedings¹, 2000

	London	Outside London	Total
Applications filed:			
Winding-up petitions	5,418	4,959	10,377
Other petitions, applications and summonses	6,623	1,367	7,990
Orders made:			
On winding-up petitions:			
Winding-up orders made	2,403	1,929	4,332
Dismissed/withdrawn	2,888	2,995	5,883
On other petitions, applications and summonses	11,987	1,460	13,447
Transfers to county courts	1,722	1,807	3,529
Applications before registrar:			
Listed	13,940	4,136	18,076
Unlisted	621	378	999

¹ 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 1994

Centre	1994	1995	1996	1997	1998	1999	2000
Birmingham	854	488	680	509	354	384	388
Bristol	75	59	41	46	61	43	65
Cardiff	26	10	16	11	13	19	23
Leeds	3,168	3,723	3,235	3,331	3,207	2,640	2,514
Liverpool	1,079	1,118	1,173	1,316	1,704	1,090	1,294
Manchester	704	507	431	424	489	458	586
Newcastle-upon-Tyne	63	70	67	43	98	61	50
Preston	239	36	38	27	15	23	39
Total	6,208	6,011	5,681	5,707	5,941	4,718	4,959

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.

The Patents Court diary and judgments can be found on the Internet, at www.courtservice.gov.uk together with a list of all trials and applications set down for hearing.

69 actions, which included trials, appeals, applications for strike out, were listed. Of these 46 were withdrawn due to settlement or by order resulting from an interlocutory hearing. The hearings took about 117 court days, not taking into account pre-reading or judgment writing time.

218 interlocutories, which included case management conferences, applications for directions, summary judgment etc, were listed and 91 withdrawn by consent. In the majority of cases of those withdrawn the terms of the order sought were agreed by the parties. The average time for this type of hearing is 45 minutes and the total time taken throughout the year is about 20 court days.

10 appeals against the decision of the Comptroller General of Patents were listed with four being withdrawn and judgment being given in the remaining six cases.