

Chapter 4

County Court

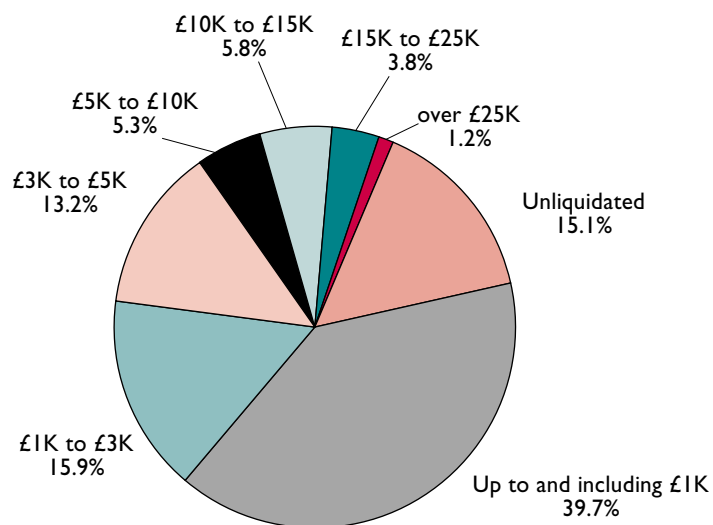
Around 220 county courts in England and Wales hear civil proceedings which can be commenced in either county courts or the High Court.

County courts also handle family proceedings such as divorce, domestic violence and matters affecting children. Generally the High Court handles the more substantial, important and complex cases (Chapters 2, 3, and 5).

During 2001-

- claims issued fell by 7% (Table 4.1)
- there was a decrease of nearly 12% in the number of mortgage possession orders made (Table 4.6)
- 58,333 claims were disposed of by way of small claims (Tables 4.7 & 4.8)
- the average waiting period for a trial was 73 weeks (Table 4.16)
- creditors' and debtors' bankruptcy petitions rose by 9% (Table 4.21)
- company winding-up petitions entered rose from 623 to 974

County Courts:
Claims issued by amount of claim, 2001



Figures based on three months sample data from selected county courts

Introduction

Since 1 July 1991 county courts can deal with all contract and tort cases and recovery of land actions, regardless of value. In addition, all county courts deal with the following types of proceedings-

- (a) certain equity and contested probate actions (for example, actions concerning an alleged breach of trust obligation by a trustee or questions concerning the administration of a will) where the value of the trust, fund or estate does not exceed £30,000
- (b) any action which all parties agree to have heard in a county court (eg defamation cases) except cases on certain aspects of trust, family and admiralty law

Some courts also hear-

- (a) divorce matters (see Chapter 5)
- (b) bankruptcy and insolvency matters
- (c) matters under the Race Relations Act 1976

Each county court is assigned at least one circuit judge and one district judge. Circuit judges generally hear the higher claims and matters of greater importance or complexity. District judges generally deal with uncontested matters and hear mortgage repossession claims and claims under £5,000 in value. In addition, district judges deal with some preliminary matters in cases which go for trial by a circuit judge.

Claims and miscellaneous hearings

Starting a case

The normal method of taking someone to court is for the person doing so (the claimant) to complete a claim form and issue it at a county court. The claim can be issued in any county court. On receipt of the claim form the court allocates a claim number and enters the details into the court's records. A response pack is attached to the claim form which is then sent to (served on) the person being sued (the defendant). The defendant has a specific time in which to reply to the claim. A defendant can then either pay the claim, dispute it (defend it), admit the claim and ask for time to pay it or ignore it. If the claim is defended, a judge will allocate the claim to one of three tracks for case management purposes:-

- (a) the small claims track - for cases with a value up to £5,000
- (b) the fast track - for cases with a value over £5,000 but less than £15,000
- (c) the multi-track - cases with a value in excess of £15,000

Each track involves a different degree of judicial involvement. Procedures in the small claims track are the most informal.

If a defendant does not reply to the claim, the claimant can ask the court to enter judgment, that is to make an order that the defendant pay the claim. If the defendant has admitted the claim and asks for time to pay and the claimant accepts the offer, a request for judgment can similarly be made.

Should the judgment not be paid as the court has ordered, it is open to the claimant to issue enforcement proceedings to obtain payment. Judgments and enforcement are explained in more detail later in this chapter.

The Claims Production Centre

The Claims Production Centre (CPC) was set up in January 1990 to process claims requests received on magnetic media from major claimants - i.e. claimants who generally issue more than 1,000 annually. Issue and dispatch of claims is guaranteed within 24-48 hours. The CPC has customers such as banks, credit/storecard issuers, mail order catalogues and utilities. It issued 706,220 claims representing 48% of the total default claims issued. Although located in Northampton, the CPC is deemed to be part of the court in whose name the claim is issued and once the claim is issued and served, that court will deal with the case in the usual way.

The 2001 figure of 1,739,090 claims entered represented a decrease of 7% on the 2000 figure. Money claims issued represented just over 86% of the total. The remainder were fixed date actions, 84% of which were actions for the recovery of land, mostly relating to residential premises.

Table 4.1
Claims issued and warrants of execution¹ issued in selected years since 1938

Year	Claims issued			Warrants of execution against goods issued
	'Money' claims ²	Claims for the recovery of land ³	Total	
1938	1,192,777	19,476	1,212,253	458,403
1958	1,273,193	27,749	1,300,942	813,689
1968	1,441,079	40,337	1,481,416	1,621,383
1978	1,356,519	111,026	1,467,545	1,070,533
1988	2,099,805	185,320	2,285,125	1,215,701
1990	3,034,923	276,334	3,311,257	1,344,326
1996	2,145,958	191,595	2,337,553	707,014
1997	2,011,642	197,236	2,208,878	622,408
1998	2,010,606	234,718	2,245,324	543,848
1999	1,760,308	240,029	2,000,337	538,337
2000	1,631,966	239,957	1,871,923	470,270
2001	1,502,879	236,211	1,739,090	394,611

¹ For years prior to 1978 figures relating to the Mayor's and City of London Court are not included

² From 1988 includes unliquidated claims

³ From 1990 does not include Order 24 originating applications

Table 4.2
Summary of proceedings started, 2001

Nature of proceedings

Claims entered:	
Default actions	1,461,105
Fixed date actions (other than for possession of land)	41,774
Actions for possession of land	236,211
Bankruptcy petitions	21,232
Companies Act:	
Winding-up petitions	5,245
Family matters (major areas of work) ¹ :	
Adoption applications (originating)	3,207
Divorce, nullity and judicial separation petitions	208,361

¹ For details of these and other family matters dealt with by county courts see Chapter 5

Table 4.3
Main proceedings started by circuit, 2001

Circuit	Default actions ¹		Fixed date actions ²	
	Number	%	Number	%
Midland & Oxford	140,184	9	49,777	15
North Eastern	140,148	9	37,548	11
Northern	119,043	7	36,205	11
South Eastern:				
London	84,362	5	55,272	17
Provinces	206,529	13	56,945	17
Wales & Chester	50,045	3	17,861	5
Western	113,889	7	24,377	7
County Court Bulk Centre ³	606,905	37
England & Wales	1,461,105	100	277,985	100

¹ Including claims issued by the Claims Production Centre

² Including actions for possession of land (except those under Order 24 of the County Court Rules)

³ Referred to later in this chapter

Table 4.4
Default actions: Claims issued by the Claims Production Centre, 2001

Circuit	Number	%
Midland & Oxford	7,776	1
North Eastern	16,544	2
Northern	5,395	1
South Eastern:		
London	5,264	1
Provinces	30,943	4
Wales & Chester	8,574	1
Western	24,819	4
County Court Bulk Centre ¹	606,905	86
England & Wales	706,220	100

¹ Referred to later in this chapter

Recovery of Land

The total number of actions started for recovery of land fell from 239,957 in 2000 to 236,211 in 2001. Mortgage possession actions fell by 11% from 73,045 in 2000 to 64,966. Of the total mortgage possession actions issued in 2001, 98% concerned private mortgages and the remainder, local authorities. During 2001, a total of 45,723 mortgage possession orders were made, of which 61% were suspended.

Table 4.5
Recovery of Land: Actions entered and orders made for recovery of land by type of action, 2001

Nature of proceedings

Local authority mortgage possessions:	
Actions entered	1,278
Suspended orders made	620
Orders made	315
Other mortgage possessions:	
Actions entered	63,688
Suspended orders made	27,281
Orders made	17,507
Other possession actions by social landlords ¹ :	
Actions entered	150,563
Suspended orders made	70,293
Orders made	30,350
Other possession actions by private landlords ² :	
Actions entered	20,682
Suspended orders made	4,397
Orders made	8,094

¹ Includes actions by local authorities and housing associations

² Includes actions by all landlords except local authorities and housing associations

Table 4.6
Recovery of Land: Mortgage possession actions¹, selected years since 1988

	1988	1990	1998	1999	2000	2001
Actions entered	72,655	145,350	79,637	82,623	73,045	64,966
Orders made ²	47,769	103,508	58,249	60,657	52,081	45,723

¹ Local authority and private

² Including suspended orders

Judgments and hearings

Judgment can be entered in various ways in county courts. Most of the judgments in money claims are entered by default (ie in the absence of a response from the defendant within the allotted 14 days from the date of service of the claim) or by the claimant accepting the defendant's offer to pay all or part of the amount claimed. There is generally no need to involve either a circuit judge or a district judge in these cases. However, they become involved when there is a defence against all or part of the claim when the matter is set down for a trial or a small claims hearing. Fixed date actions can also lead to trials.

On 26 April 1999, the limit for small claims increased from £3,000 to £5,000 for all claims except personal injury which remained at £1,000. The increase has widened the value band of cases which are automatically referred to the small claims track when a defence is filed.

Table 4.7
Proceedings disposed of by trial or small claim¹ by circuit, 2001

Circuit	Trial		Small Claims	
	Number	%	Number	%
Midland & Oxford	1,761	13	8,350	14
North Eastern	1,843	14	8,191	14
Northern	2,116	16	5,513	9
South Eastern:				
London	2,398	18	9,604	16
Provinces	2,841	21	15,268	26
Wales & Chester	1,077	8	3,527	6
Western	1,394	10	7,880	14
England & Wales	13,430	100	58,333	100

¹ Due to differences in data collection practices there are inconsistencies in some small claims court-level data and this may be affecting overall accuracy. A review is being undertaken to improve the quality of the data. In the meantime the data should be interpreted with caution

Table 4.8
Proceedings disposed of¹ by small claim, by nature of claim and by circuit, 2001

Circuit	Personal injury	Other negligence	Debt	Non-possession housing disputes	Other	Total
	Midland & Oxford	755	1,075	5,667	65	788
North Eastern	553	1,076	6,001	57	504	8,191
Northern	867	715	3,376	86	469	5,513
South Eastern:						
London	968	942	5,637	173	1,884	9,604
Provinces	1,516	2,063	10,582	127	980	15,268
Wales & Chester	439	317	2,477	11	283	3,527
Western	415	647	6,384	60	374	7,880
England & Wales	5,513	6,835	40,124	579	5,282	58,333

¹ Due to differences in data collection practices there are inconsistencies in some small claims court-level data and this may be affecting overall accuracy. A review is being undertaken to improve the quality of the data. In the meantime the data should be interpreted with caution

Table 4.9
Small claims heard by nature of claim, type of claimant and defendant, 2001¹

Nature of claim	Claimant				Defendant			
	Individual	Firm	Corporation	Total	Individual	Firm	Corporation	Total
Debt	<i>13,500</i>	<i>8,620</i>	<i>13,140</i>	<i>35,260</i>	<i>20,520</i>	<i>6,430</i>	<i>8,300</i>	<i>35,260</i>
Negligence -								
personal injury	<i>2,080</i>	<i>80</i>	<i>120</i>	<i>2,280</i>	<i>1,600</i>	<i>280</i>	<i>400</i>	<i>2,280</i>
Other negligence	<i>8,780</i>	<i>560</i>	<i>960</i>	<i>10,300</i>	<i>6,830</i>	<i>1,560</i>	<i>1,920</i>	<i>10,300</i>
Non possession								
housing dispute	<i>400</i>	<i>120</i>	<i>200</i>	<i>720</i>	<i>680</i>	<i>-</i>	<i>40</i>	<i>720</i>
Other	<i>6,870</i>	<i>1,320</i>	<i>1,600</i>	<i>9,780</i>	<i>5,990</i>	<i>1,880</i>	<i>1,920</i>	<i>9,780</i>
Total	<i>31,620</i>	<i>10,700</i>	<i>16,010</i>	<i>58,333</i>	<i>35,610</i>	<i>10,140</i>	<i>12,580</i>	<i>58,333</i>

¹ Figures in italics are weighted estimates based on three months sample data from selected county courts

Table 4.10
Small claims heard by nature of claim and award¹, 2001

Nature of claim	non monetary	£1k or less	£1k -£3k	£3k -£5k	over £5k	Total
Debt	<i>2,750</i>	<i>18,530</i>	<i>9,500</i>	<i>3,190</i>	<i>1,280</i>	<i>35,260</i>
Negligence - personal injury	<i>280</i>	<i>840</i>	<i>1,000</i>	<i>160</i>	-	<i>2,280</i>
Other negligence	<i>1,200</i>	<i>5,670</i>	<i>3,070</i>	<i>320</i>	<i>40</i>	<i>10,300</i>
Non possession housing dispute	<i>120</i>	<i>440</i>	-	<i>80</i>	<i>80</i>	<i>720</i>
Other	<i>880</i>	<i>4,230</i>	<i>2,830</i>	<i>1,040</i>	<i>800</i>	<i>9,780</i>
Total	<i>5,230</i>	<i>29,710</i>	<i>16,410</i>	<i>4,790</i>	<i>2,200</i>	<i>58,333</i>

¹ Figures in italics are weighted estimates based on three months sample data from selected county courts

Table 4.11
Average waiting and hearing times¹ for small claims, by nature of claim, 2001

Nature of claim	Average waiting time in weeks (issue of claim to start of small claims)	Average length of small claim (minutes)
Debt	<i>28</i>	<i>63</i>
Negligence - personal injury	<i>38</i>	<i>85</i>
Other negligence	<i>29</i>	<i>86</i>
Non possession housing dispute	<i>32</i>	<i>84</i>
Other	<i>27</i>	<i>81</i>
Total	<i>28</i>	<i>71</i>

¹ Figures are based on three months sample data from selected county courts

Table 4.12
Trials by nature of claim and whether legal aid granted¹, 2001

Nature of claim	Number of cases	Legal Aid granted for			
		Both parties	Claimant only	Defendant only	Neither party
Debt	<i>1,840</i>	<i>450</i>	<i>160</i>	<i>110</i>	<i>1,110</i>
Negligence - personal injury	<i>7,480</i>	<i>2,150</i>	<i>1,250</i>	<i>140</i>	<i>3,940</i>
Other negligence	<i>1,060</i>	<i>240</i>	<i>230</i>	<i>50</i>	<i>550</i>
Other	<i>3,050</i>	<i>920</i>	<i>420</i>	<i>310</i>	<i>1,400</i>
Total	<i>13,430</i>	<i>3,750</i>	<i>2,060</i>	<i>610</i>	<i>7,010</i>

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

Table 4.13**Actions set down for trial¹, disposed of and results by nature of claim, 2001**

Nature of Claim	Method of disposal				Result of action after attending court			
	Attending court				For claimant	For defendant	For both	Total
	After trial	Settled during hearing	Struck out	Total				
Debt	<i>1,380</i>	<i>330</i>	<i>130</i>	<i>1,840</i>	<i>1,390</i>	<i>240</i>	<i>80</i>	<i>1,710</i>
Negligence - personal injury	<i>5,520</i>	<i>1,580</i>	<i>380</i>	<i>7,480</i>	<i>4,900</i>	<i>1,710</i>	<i>490</i>	<i>7,100</i>
Other negligence	<i>750</i>	<i>260</i>	<i>60</i>	<i>1,060</i>	<i>580</i>	<i>340</i>	<i>80</i>	<i>1,000</i>
Other	<i>1,980</i>	<i>920</i>	<i>140</i>	<i>3,050</i>	<i>2,000</i>	<i>530</i>	<i>370</i>	<i>2,900</i>
Total	<i>9,640</i>	<i>3,080</i>	<i>720</i>	<i>13,430</i>	<i>8,880</i>	<i>2,810</i>	<i>1,020</i>	<i>12,710</i>

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

Table 4.14**Trials disposed of¹ by amount of award and nature of claim, 2001**

Nature of Claim	Monetary award							Non monetary	Total
	£1k or less	£1k -£3k	£3k -£5k	£5k -£7.5k	£7.5k -£10k	£10k -£50k	Over £50k		
Debt	<i>90</i>	<i>170</i>	<i>150</i>	<i>260</i>	<i>190</i>	<i>480</i>	<i>70</i>	<i>290</i>	<i>1,710</i>
Negligence - personal injury	<i>400</i>	<i>1,330</i>	<i>900</i>	<i>540</i>	<i>350</i>	<i>1,000</i>	<i>430</i>	<i>2,150</i>	<i>7,100</i>
Other negligence	<i>70</i>	<i>250</i>	<i>110</i>	<i>60</i>	<i>50</i>	<i>100</i>	<i>10</i>	<i>350</i>	<i>1,000</i>
Other	<i>150</i>	<i>280</i>	<i>170</i>	<i>150</i>	<i>180</i>	<i>370</i>	<i>130</i>	<i>1,460</i>	<i>2,900</i>
Total	<i>720</i>	<i>2,030</i>	<i>1,340</i>	<i>1,010</i>	<i>780</i>	<i>1,950</i>	<i>640</i>	<i>4,240</i>	<i>12,710</i>

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

Table 4.15**Trials disposed of¹ by type of judge and average length of hearing, by nature of claim, 2001**

Nature of Claim	Heard by			Total	Average length of hearing
	Circuit judge	District judge	Deputy district judge		
Debt	<i>1,100</i>	<i>520</i>	<i>80</i>	<i>1,710</i>	4hrs 04mins
Negligence - personal injury	<i>3,960</i>	<i>2,800</i>	<i>340</i>	<i>7,100</i>	3hrs 44mins
Other negligence	<i>640</i>	<i>300</i>	<i>60</i>	<i>1,000</i>	4hrs 12mins
Other	<i>1,900</i>	<i>890</i>	<i>110</i>	<i>2,900</i>	4hrs 59mins
Total	<i>7,610</i>	<i>4,510</i>	<i>590</i>	<i>12,710</i>	<i>4hrs 06mins</i>

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

Table 4.16
Average waiting times¹ for trials by centre and nature of claim, 2001

	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:	50	31	81
Personal injury	45	36	81
Other	51	30	81
Outside London:	37	35	73
Personal injury	38	39	76
Other	37	30	67
England & Wales	39	35	73

¹ Figures are based on a two month sample and may not add up due to rounding

Table 4.17
Average waiting times¹ for trials

	1990	1998	1999	2000	2001
Average waiting time (in weeks) between:					
Issue of claim and setting down	63	55	53	48	39
Setting down and start of trial	17	30	26	26	35
Issue of claim and start of trial	81	85	79	74	73

¹ Figures are based on a two month sample and may not add up due to rounding

Registration of judgments

The Registry of County Court Judgments is administered by Registry Trust Ltd (a private non-profit making company). Entries on the Register can be cancelled when a judgment is set-aside, reversed or is paid in full within a month. Judgments paid in full after a month can be noted on the Register as satisfied. All entries are automatically removed at the end of the sixth calendar year after the date of judgment. The Register is open for public inspection and is used in particular by credit reference agencies for credit rating. During 2001, 887,049 judgments were registered, 12% fewer than in 2000. Judgments satisfied and cancelled increased by 17% to 204,182.

Table 4.18
Registry of County Court Judgments: Judgments registered, satisfied, cancelled and searches carried out, 2001

Judgments:	
Registered	887,049
Satisfied	132,914
Cancelled	71,268
Searches:	
Postal	21,662
Personal	2,794

Enforcement of judgments

There are various methods of enforcing judgments in county courts. The most common method is the warrant of execution against a debtor's goods, where saleable items owned by a debtor can be sold, unless the amount due under the warrant is paid.

During 2001, 394,611 such warrants were issued, a decrease of 16% over 2000. The number of warrants issued for possession of land fell by 1% to 133,500, while the number of warrants executed (possession taken) rose from 63,239 to 65,599. In order to obtain security for payment of a judgment or order, rather than to obtain the money itself, a creditor (the person to whom the debt is owed) may impose a charge on the debtor's property, for example on the debtor's house. Should the debtor later sell the property the creditor is assured of receiving some money before most other claims are met. This is called a charging order. Once a charging order has been made absolute a plaintiff may apply for an order for sale. The number of applications for charging orders issued in 2001 rose by over 35% to 22,098.

The County Court Bulk Centre

The County Court Bulk Centre (CCBC) was set up in March 1992, initially to process the work of 'distributed' claimants who, until the venue rule change in July 1991, had issued in all or most county courts. The CCBC is a central processing unit, attached to Northampton County Court, which is designed to relieve the courts of the routine repetitive tasks associated with processing large volumes of debt recovery cases, such as entry of judgment and issue of warrants of execution. The CCBC provides a service for entry of judgment and warrant production for major claimants who between them issued 606,905 claims through the Claim Production Centre during 2001. The CCBC also entered 422,321 judgments (down 28% on 2000) and issued 209,086 warrants of execution (a decrease of 16% on 2000).

Table 4.19
Enforcement proceedings, 2001

Nature of proceedings

Warrants of execution against goods issued	394,611
Warrants of delivery of goods issued	7,799
Warrants of possession of land:	
Issued	133,500
Executed	65,599
Interpleader summonses issued	449
Judgment summonses issued	3,640
Garnishee summonses issued	4,139
Charging order applications issued	22,098

Attachment of earnings orders

Another common method of enforcement is for a creditor to obtain an attachment of earnings order which obliges the debtor's employer to deduct a set sum from the debtor's pay and forward it to the court. The number of applications to secure payment of a debt in this way fell by 4% in 2001 to 77,876. Orders made as a result of such applications were just over 18% higher than in 2000. Applications to secure payment of maintenance during 2001 fell by 16% to 614.

Table 4.20
Enforcement proceedings: Proceedings under the Attachment of Earnings Act 1971, 2001

Nature of proceedings

To secure payment of maintenance:	
Applications	614
Orders made ¹	150
To secure payment of a judgment debt:	
Applications	77,876
Orders made ²	42,011

¹ Includes re-direction and discharge of orders

² Includes re-direction of orders

Administration orders and oral examinations

In certain circumstances a debtor may combine all his debts into an administration order. The debtor must have at least one court judgment against him which he is unable to pay immediately. All his other debts must be included in the request for an administration order and the total indebtedness should not exceed £5,000. Once the debts have been examined and found to be correctly calculated a district judge can make an order for the debtor to pay regular payments in court. The court will then distribute the money in the appropriate proportions to the creditors listed by the debtor. 7,548 administration orders were granted in 2001, just under 5% less than in 2000.

Oral examination is used to assist the claimant in determining the most appropriate method of enforcing a judgment; it is not a method of enforcement. However, the fact that debtors will be ordered to attend court to provide details of their means often results in the debtor paying the debt. The debtor has to provide information such as income, expenditure, employment and bank accounts. Applications filed for oral examination rose just over 13% from 59,548 in 2000 to 67,435 in 2001.

Bankruptcy and company winding-up

A person or company with debts which they are unable to pay is called insolvent. When speaking about individuals the term bankrupt is used to indicate insolvency. Proceedings in insolvency are presently regulated by the Insolvency Act 1986. Proceedings start with the issue of a petition for bankruptcy which either the debtor or a creditor may issue. Proceedings may be started at county courts with the appropriate jurisdiction or in the Chancery Division of the High Court. The total of 21,232 bankruptcy petitions issued during 2001 was just over 9% more than in 2000.

Table 4.21
Bankruptcy petitions issued¹, 2001

By creditors	6,947
By debtors or by legal representatives of deceased debtors	14,285
Total	21,232

¹ See also Table 2.5 (High Court - Bankruptcy)

When it becomes necessary to bring to an end a company's existence, whether due to insolvency or some other reason, the process is called 'winding-up'. There is a restriction on proceedings that may be started in county courts based on the paid-up capital of the company to be wound up; most winding-up work is commenced and carried out in the Chancery Division of the High Court at the Royal Courts of Justice and at eight provincial centres. County courts issued 974 petitions for winding-up in 2001, compared with 623 in 2000 (see Chapter 2 for overall trends in company winding-up petitions).

