
STATUTORY INSTRUMENTS

1993 No. 2150 (L.24)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1993

Made - - - - *30th July 1993*

Coming into force - - *1st September 1993*

Citation and interpretation

- 1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1993.
- (2) In these Rules, unless the context otherwise requires, an Order referred to by number means the Order so numbered in the County Court Rules 1981(1).
2. The definition of “proper officer” in Order 1, rule 3 shall be amended by substituting, for “and Order 39, rule 5”, “, Order 39, rule 5 and Order 48B, rule 4”.
3. After Order 48A, there shall be inserted the following new Order—

“ORDER 48B

**ENFORCEMENT OF PARKING PENALTIES
UNDER THE ROAD TRAFFIC ACT 1991(2)**

Application and interpretation

- 1.—(1) This Order applies for the recovery of—
 - (a) increased penalty charges provided for in parking charge certificates issued under paragraph 6 of Schedule 6 to the 1991 Act; and
 - (b) amounts payable by a person other than an authority under an adjudication of a parking adjudicator pursuant to section 73 of the 1991 Act.
- (2) In this Order, unless the context otherwise requires—

“authority” means the London authority which served the charge certificate;

“order” means an order made under paragraph 7 of Schedule 6 to the 1991 Act or, as the case may be, under section 73 of that Act;

(1) S.I. 1981/1687; the relevant amending instruments are S.I. 1990/1495, 1991/1126, 1328 and 1993/711.
(2) 1991 c. 40.

“the Order” means the Enforcement of Road Traffic Debts Order 1993(3) made under section 78 of the 1991 Act;

“relevant period” means the period of 21 days allowed for serving a statutory declaration by paragraph 8(1) of Schedule 6 to the 1991 Act or, where a longer period has been allowed pursuant to paragraph 8(4) of the said Schedule, that period;

“respondent” means the person on whom the charge certificate was served or, as the case may be, the person (other than an authority) by whom the amount due under an adjudication of a parking adjudicator is payable;

“specified debts” means the Part II debts specified in article 2 of the Order;

“statutory declaration” means a declaration in the appropriate form which complies with paragraph 8(2) of Schedule 6 to the 1991 Act;

“the 1991 Act” means the Road Traffic Act 1991.

(3) Unless the context otherwise requires, expressions which are used in the 1991 Act have the same meaning in this Order as they have in that Act.

Requests for orders

2.—(1) An authority which wishes to take proceedings under this Order shall give notice to the proper officer and, where the proper officer so allows, requests for orders may be made, and such orders may be enforced, in accordance with the following provisions of this Order.

(2) An authority shall file a request for an order in the appropriate form scheduling the increased penalty charges in respect of which an order is sought and Order 50, rule 4A shall not apply to requests under this Order.

(3) The authority shall in the request or in another manner approved by the proper officer—

(a) certify—

(i) that 14 days have elapsed since service of the charge certificate,

(ii) the amount due under the charge certificate and the date on which the charge certificate was served, and

(iii) that the amount due remains unpaid;

(b) give the charge certificate number;

(c) specify (whether by reference to the appropriate code or otherwise) the grounds stated in the notice to owner on which the parking attendant who issued the penalty charge notice believed that a penalty charge was payable with respect to the vehicle;

(d) state—

(i) the name and address of the respondent and, where known, his title;

(ii) the registration number of the vehicle concerned;

(iii) (whether by reference to the appropriate charge certificate number or otherwise) the authority’s address for service;

(iv) the court fee.

(4) If satisfied that the request is in order, the proper officer shall order that the increased charge (together with the court fee) may be recovered as if it were payable under a county court order by sealing the request and returning it to the authority.

(5) When the proper officer so orders and on receipt of the sealed request, the authority may draw up the order and shall annex to any such order a form of statutory declaration for the respondent's use.

(6) Within 14 days of receipt of the sealed request, the authority shall serve the order (and the form of statutory declaration) on the respondent by—

(a) delivering the order to the respondent personally; or

(b) sending it by first-class post to the respondent at the address given in the request, and Order 7, rules 10(3), 13(1) to (3) and 14 shall apply, with the necessary modifications, as they apply to the service of a summons.

(7) Where an authority requests an order in respect of amounts payable by a person other than an authority under an adjudication of a parking adjudicator pursuant to section 73 of the 1991 Act, paragraphs (2) and (3) shall apply with the necessary modifications and in addition the authority shall—

(a) state the date on which the adjudication was made;

(b) provide details of the order made on the adjudication;

(c) certify the amount awarded by way of costs and that the amount remains unpaid.

Documents

3.—(1) Where by or under these rules any document is required to be filed, that requirement shall be deemed to be satisfied if the information which would be contained in the document is delivered in computer-readable form but nothing in this paragraph shall be taken as enabling an authority to commence proceedings without supplying a written request in the appropriate form under rule 2(2).

(2) For the purposes of paragraph (1), information which would be contained in a document relating to one case may be combined with information of the same nature relating to another case.

(3) Where by or under these rules or by virtue of any order a document which contains information is required to be produced, that requirement shall be deemed to be satisfied if a copy of the document is produced from the computer records kept for storing such information.

Functions of proper officer

4.—(1) The functions of the district judge under paragraph 8(4) and (5)(d) of Schedule 6 to the 1991 Act (longer period for service of the statutory declaration and notice of effect of statutory declaration) may be exercised by the proper officer.

(2) Where pursuant to paragraph 8(4) of Schedule 6 to the 1991 Act a longer period is allowed for service of the statutory declaration, the proper officer shall notify the authority and the respondent accordingly.

Enforcement of orders

5.—(1) Subject to the Order and to this rule, the following provisions of Orders 25 to 27, 30 and 31 of these Rules shall apply for the enforcement of specified debts.

Order 25, rules 1, 2 (except paragraph (3)(b), (c) and (d)), 3, 5 (except paragraph (1) (a) and (b)) and 9.

Order 26, rule 5.

Order 27, rules 1 to 7, 7A, 9 to 16 and 18 to 22.

Order 30, rules 1 to 3, 5 and 7 to 15.

Order 31, rules 1 to 4.

(2) In proceedings under this Order, no order under Order 16, rule 1 (general power of transfer) may be made except under paragraph (d) of that rule.

(3) An authority desiring to issue a warrant of execution shall file a request in that behalf in the appropriate form or in another manner approved by the proper officer—

- (a) certifying the amount remaining due under the order,
- (b) specifying the date of service of the order on the respondent, and
- (c) certifying that the relevant period has elapsed.

(4) The proper officer shall seal the request and return it to the authority which shall, within 7 days of the sealing of the request, prepare the warrant in the appropriate form.

(5) No payment under a warrant shall be made to the court.

(6) A warrant shall, for the purpose of execution, be valid for 12 months beginning with the date of its issue and nothing in this rule or in Order 26 shall authorise an authority to renew a warrant.

(7) Where an order is deemed to have been revoked under paragraph 8(5) of Schedule 6 to the 1991 Act—

- (a) the proper officer shall serve a copy of the statutory declaration on the authority;
- (b) any execution issued on the order shall cease to have effect, and
- (c) on receipt of the proper officer's notice under paragraph 8(5)(d) of the said Schedule 6, the authority shall forthwith inform any bailiff instructed to levy execution of the withdrawal of the warrant.

(8) In addition to the requirements of that rule, any application by an authority under Order 25, rule 2, shall—

- (a) where the authority has not attempted to enforce by execution, give the reasons why no such attempt was made;
- (b) certify that there has been no relevant return to the warrant of execution;
- (c) specify the date of service of the order on the respondent, and
- (d) certify that the relevant period has elapsed.

(9) An application under Order 30, rule 2 and (unless provided pursuant to an application under Order 25, rule 2) any application by an authority under Order 25, rule 3, Order 27, rule 4(1) or Order 31, rule 1(2) shall, in addition to the requirements of those rules—

- (a) where the authority has not attempted to enforce by execution, give the reasons why no such attempt was made;
- (b) certify that there has been no relevant return to the warrant of execution;
- (c) specify the date of service of the order on the respondent, and
- (d) certify that the relevant period has elapsed.

(10) In paragraphs (8) and (9) “no relevant return to the warrant” means that

- (i) the bailiff has been unable to seize goods because he has been denied access to the premises occupied by the respondent or because the goods have been removed from those premises;
 - (ii) any goods seized under the warrant of execution are insufficient to satisfy the specified debt and the costs of execution; or
 - (iii) the goods are insufficient to cover the cost of their removal and sale.
- (11) If the proper officer allows, an authority may combine information relating to one charge certificate with information concerning the same respondent in another charge certificate in any request made, or any application brought, under one of the provisions mentioned in paragraph (8) or (9) above.”.

The undersigned members of the Rule Committee appointed by the Lord Chancellor under section 75 of the County Courts Act 1984(4), having made these Rules, certify them and submit them to the Lord Chancellor.

*Frank J. White
R. H. Hutchinson
J. H. Wroath
R. Greenslade
Margaret Wilby
Peter Birts
Henrietta Manners
E. C. Gee*

I allow these Rules, which shall come into force on 1st September 1993.

Dated 30th July 1993

Mackay of Clashfern, C.

(4) 1984 c. 28; section 75 was amended by the Courts and Legal Services Act 1990 (c. 41), sections 2(4), 16, Schedule 18, paragraph 47.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

Following the establishment by the Road Traffic Act 1991 of a new regime for the enforcement of parking charges in London which removes enforcement proceedings from the jurisdiction of magistrates' courts, these Rules amend the County Court Rules 1981 so as to enable local authorities to issue court orders to recover certain parking charges and to provide for such orders to be enforced.

The rule amendments provided by this instrument are to be read with three other instruments. Article 5 of the High Court and County Courts Jurisdiction (Amendment) Order 1993, [S.I. 1993/1407](#), gives Cardiff County Court exclusive jurisdiction to deal with the initial processing of orders. The Enforcement of Road Traffic Debts Order 1993, [S.I. 1993/2073 \(L.18\)](#), provides requirements to be satisfied before enforcement proceedings are taken and enables warrants to be executed by certificated bailiffs; the Order also modifies the County Courts Act 1984 in its application to enforcement by certificated bailiffs. The Enforcement of Road Traffic Debts (Certificated Bailiffs) Regulations 1993, [S.I. 1993/2072 \(L.17\)](#), provide the mechanism for certificating bailiffs for Road Traffic purposes.