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STATUTORY INSTRUMENTS

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**1998 No. 1899 (L.3)**

**COUNTY COURTS**

**PROCEDURE**

**The County Court (Amendment) Rules 1998**

*Made* - - - - *30th July 1998*

*Coming into force*

*except for rules 2, 3, 4, 6  
and 7*

*1st September 1998*

*Rules 2, 3, 4, 6 and 7*

*28th September 1998*

- 1.—(1) These Rules may be cited as the County Court (Amendment) Rules 1998.
- (2) In these Rules, unless the context otherwise requires, a rule or Order referred to by number means the rule or Order so numbered in the County Court Rules 1981(1).

**Miscellaneous Amendments**

2. After rule 1 of Order 11, there shall be inserted the following—
- “(1A) Where a payment under paragraph (1) is made to which the Social Security (Recovery of Benefits) Act 1997(2) applies, the defendant shall state the gross amount of the compensation, the name and amount of any benefit by which the gross amount is reduced in accordance with section 8 of and Schedule 2 to the 1997 Act, and the net sum paid into court.”.
3. Rule 18(3) of Order 43 shall be omitted.
- 4.—(1) In rule 6(7)(i) of Order 49, at the beginning, there shall be inserted the words “the first written tenancy agreement and”.
- (2) For rule 6A(7)(i) of Order 49(4), there shall be substituted the following—
- “(i) the first written tenancy agreement and the current (or most recent) written tenancy agreement.”.
5. Rule 3 of the County Court (Amendment No. 3) Rules 1996(5) shall be revoked.

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(1) [S.I. 1981/1687](#); the relevant amending instruments are noted in footnotes to provisions in the body of the instrument.

(2) [1997 c. 27](#).

(3) Rule 18 of Order 43 was added by [S.I. 1988/278](#).

(4) Rule 6A of Order 49 was added by [S.I. 1993/2175](#).

(5) [S.I. 1996/3218](#).

## Vehicle Emissions

6. In the Arrangement of Orders, there shall be inserted after the entry for Order 48C(6)—  
“48D. Enforcement of Fixed Penalties under the Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997(7)
7. The following new Order shall be inserted after Order 48C—

### “ORDER 48D

#### ENFORCEMENT OF FIXED PENALTIES UNDER THE ROAD TRAFFIC (VEHICLE EMISSIONS) (FIXED PENALTY) REGULATIONS 1997

##### Application and interpretation

1.—(1) This Order applies for the recovery of fixed penalties as defined in regulations 2(1)(b) and 9 of the 1997 Regulations.

(2) In this Order, unless the context otherwise requires—

“authority” means a participating authority as defined in regulation 2(1)(f) of the 1997 Regulations;

“order” means an order made under regulation 10(1) of the 1997 Regulations;

“the Order” means the Enforcement of Road Traffic Debts Order 1993(8);

“respondent” means the person on whom the fixed penalty notice was served;

“specified debts” means the Part II debts specified in article 2(1)(a) of the Order;

“the 1997 Regulations” mean the Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997.

(3) Unless the context otherwise requires, expressions which are used in the 1997 Regulations have the same meaning in this Order as they have in those Regulations.

##### The Parking Enforcement Centre

2. The parking enforcement centre established in rule 1A(9) of Order 48B(10) shall have such functions relating to proceedings under this Order and other related matters as the Lord Chancellor may direct.

##### Requests for Orders and Warrants of Execution

3.—(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, a combined request for an order and a warrant of execution may be made, and such an order may be enforced and a warrant executed in accordance with the following provisions of this Order.

(2) An authority shall file a combined request for an order and a warrant of execution in the appropriate form or in another manner approved by the proper officer scheduling the

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(6) Order 48C was inserted by [S.I. 1994/1288](#).

(7) [S.I. 1997/3058](#).

(8) [S.I. 1993/2073](#).

(9) Order 48B, rule 1A was inserted by [S.I. 1996/2181](#).

(10) Order 48B was inserted by [S.I. 1993/2150](#) and was amended by [S.I. 1996/2181](#) and [2810](#).

fixed penalties in respect of which an order and warrant of execution are sought and Order 50, rule 4A(11) shall not apply to a request under this Order.

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

- (a) certify—
  - (i) that 56 days have elapsed since the issue of the fixed penalty notice,
  - (ii) the amount due under the fixed penalty notice and the date on which it was issued, and
  - (iii) that the amount due remains unpaid;
- (b) give the number of the fixed penalty notice;
- (c) specify (whether by reference to the appropriate code or otherwise) the grounds stated in the fixed penalty notice and in regulation 2(1)(d) of the 1997 Regulations on which the authorised person who issued the fixed penalty notice believed that a fixed penalty was payable with respect to that 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 fixed penalty notice number or otherwise) the authority’s address for service;
  - (iv) the court fee.

(4) If satisfied that the combined request is in order, the proper officer shall order that the fixed penalty (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 shall, within 7 days of the sealing of the request, prepare the warrant in the appropriate form.

### **Documents**

4.—(1) Rule 3 of Order 48B shall apply to this Order with the modification referred to in paragraph (2).

(2) The reference to rule 2(2) in rule 3(1) of Order 48B shall be a reference to rule 3(2) of this Order.

### **Enforcement of Orders**

5.—(1) Rule 5 of Order 48B shall apply to this Order with the modifications referred to in paragraphs (2), (3) and (4).

(2) Paragraphs (3), (4) and (7) of rule 5 shall not apply.

(3) Sub-paragraphs (c) and (d) of rule 5(9) shall not apply.

(4) In paragraph (11) of rule 5, the references to the words “charge certificate” shall be references to the words “fixed penalty notice”.

(5) Where a fixed penalty notice is withdrawn under regulation 12 of the 1997 Regulations—

- (a) any order made or warrant issued in respect of that fixed penalty notice is deemed to be revoked;

- (b) any execution issued on the order shall cease to have effect, and
- (c) the authority shall forthwith inform any bailiff instructed to levy execution of the withdrawal of the warrant.”.

**Protection from Harassment Act 1997**

8. After rule 15 of Order 49, there shall be inserted the following—

“Protection from Harassment Act 1997(12)

**15A.**—(1) In this rule, “the 1997 Act” means the Protection from Harassment Act 1997.

(2) This rule shall apply to injunctions granted on or after the date of the commencement of this rule and injunctions granted before that date shall be treated as if this rule had not come into force.

(3) Proceedings under section 3 of the 1997 Act to a county court shall be filed—

- (a) in the court for the district in which the plaintiff resides or carries on business; or
- (b) in the court for the district in which the defendant resides or carries on business.

(4) Where the court grants an injunction under section 3 of the 1997 Act, it shall be issued in the appropriate prescribed form.

(5) An application for the issue of a warrant for the arrest of the defendant under section 3(3) of the 1997 Act shall—

- (a) state that it is an application for the issue of a warrant for the arrest of the defendant;
- (b) set out the grounds for making the application and be supported by an affidavit or evidence on oath;
- (c) state whether the plaintiff has informed the police of the defendant’s conduct as described in sub-paragraph (b); and
- (d) state whether, to the plaintiff’s knowledge, criminal proceedings are being pursued.

(6) Where the court issues a warrant for the arrest of the defendant, the warrant shall be issued in the appropriate prescribed form.

(7) The court before whom a person is brought following his arrest may—

- (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the injunction, or
- (b) adjourn the proceedings and, where such an order is made, the arrested person shall be released and—
  - (i) may be dealt with within 14 days of the day on which he was arrested; and
  - (ii) be given not less than 2 days' notice of the adjourned hearing.”.

The undersigned members of the Rule Committee appointed by the Lord Chancellor under section 75 of the County Courts Act 1984(13), having made these Rules, certify them and submit them to the Lord Chancellor.

*Neil Butter  
Hugh Jones  
Margaret Wilby  
Peter Birts  
Henrietta Manners  
E. C. Gee*

I allow these Rules, which shall come into force on 1st September 1998, except for rules 2, 3, 4, 6 and 7 which shall come into force on 28th September 1998.

Dated 30th July 1998

*Irvine of Lairg, C.*

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(13) 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.

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the County Court Rules 1981 so as to—

- (a) provide that certain additional information be given when making a payment into court to which the Social Security (Recovery of Benefits) Act 1997 applies (*rule 2*);
- (b) make minor amendments (*rules 3, 4 and 5*);
- (c) provide the procedure for the enforcement of fixed penalties under the Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997 (*rules 6 and 7*), and
- (d) provide a procedure for a plaintiff who wishes to apply for a warrant for the arrest of a defendant under section 3(3) of the Protection from Harassment Act 1997 (*rule 8*).