

PRACTICE DIRECTION – ENFORCEMENT OF PARKING PENALTIES UNDER THE ROAD TRAFFIC ACT 1991

**THIS PRACTICE DIRECTION SUPPLEMENTS CCR ORDER 48B
(SCHEDULE 2 TO THE CPR)**

INTRODUCTORY

- 1.1 Where the court has made an order under CCR Order 48B, rule 2(4) (order for recovery of increased charge provided for in a charge certificate and court fee), the respondent¹ may apply under paragraph 8(3) of Schedule 6 to the Road Traffic Act 1991 for an order allowing a longer period than 21 days for service of the statutory declaration².
- 1.2 This Practice Direction sets out the procedure that a respondent should follow if he wishes to apply for such an order.

APPLICATIONS UNDER PARAGRAPH 8(3)

- 2.1 The respondent must send to the Parking Enforcement Centre ("the PEC")–
 - (a) a completed application notice (practice form N244 may be used); and
 - (b) a completed and sworn statutory declaration in form PE 3.

Forms N244 and PE 3 can be obtained from the PEC at Northampton County Court, Bulk Centre, 21/27 St. Katharine's Street, Northampton NN1 2LH. (Telephone number: 0345 045007)

- 2.2 A court officer will serve a copy of the application notice and a copy of the statutory declaration on the local authority that obtained the court order seeking its consent to the application.
- 2.3 If the local authority consents to the application or fails to reply within 14 days of service of the copy application notice and statutory declaration, a court officer will grant the application.
- 2.4 If the local authority opposes the application, the district judge will consider whether to deal with the application without a hearing.

¹ The person on whom the charge certificate was served (CCR Order 48B, rule 1(2)).

² A declaration in the appropriate form which complies with paragraph 8(2) of Schedule 6 to the 1991 Act (CCR Order 48B, rule 1(2)).

APPLICATION TO HAVE ORDER SET ASIDE, VARIED OR STAYED

- 3.1 Where an order is made without a hearing it will contain a statement of the right of the respondent and the local authority to apply to have the order set aside or, varied or stayed.
- 3.2 Any such application must be made within such period as is specified by the court, or, if the court does not specify a period, not more than 7 days after the date on which the order was served on the party making the application.
- 3.3 If such an application is made, it will be dealt with at a hearing unless both the respondent and the local authority consent to it being dealt with without a hearing.

PROCEEDINGS ALREADY TRANSFERRED

4. If the proceedings have been transferred under CCR Order 48B, rule 5(2) (transfer for enforcement) or under Rule 30.2 (general power to transfer), the PEC will transfer the application under paragraph 8(3) to the court where the proceedings have been transferred.

HEARING

- 4.1 If a hearing is to be held, the proceedings will be transferred to the county court for the district in which the respondent's address for service is situated.

This transfer is only for the purposes of holding the hearing and sending out the orders made as a result of the hearing.
- 4.2 The respondent's address for service is his address for service shown on the last of the following documents filed at court by the respondent—
 - (a) application notice or, if more than one, the latest application notice; and
 - (b) notice of appeal.
- 4.3 The court where the hearing is held will send out any orders made as a result of the hearing before returning the papers to the PEC, or, if the proceedings have been transferred, to the court where the proceedings have been transferred.
- 4.4 Evidence at any hearing may be given orally or by witness statement.

APPLICATIONS TO SUSPEND A WARRANT OF EXECUTION

5. Where:
 - (1) the respondent applies for permission to serve a statutory declaration out of time; and

- (2) before that application is determined, a warrant of execution is issued,

the local authority must suspend enforcement of the warrant of execution until the application to serve the statutory declaration out of time is determined.

(CCR Order 48B, rule 5(7) provides that, where a court order under rule 2(4) is revoked because a valid statutory declaration has been served, any execution issued on the order shall cease to have effect.)