
STATUTORY INSTRUMENTS

1993 No. 987

ROAD TRAFFIC

The Retention of Registration Marks Regulations 1993

<i>Made</i>	- - - -	<i>1st April 1993</i>
<i>Laid before Parliament</i>		<i>5th April 1993</i>
<i>Coming into force</i>	- -	<i>1st May 1993</i>

The Secretary of State for Transport, in exercise of the powers conferred by section 11 of the Finance Act 1989⁽¹⁾, and of all other enabling powers, hereby makes the following regulations

Citation, commencement and application

1.—(1) These Regulations may be cited as the Retention of Registration Marks Regulations 1993, and shall come into force on 1st May 1993.

(2) These Regulations apply where an application for the grant of a right of retention is made on or after 1st May 1993.

Interpretation

2.—(1) In these Regulations—

“the 1971 Act” means the Vehicles (Excise) Act 1971⁽²⁾;

“the 1988 Act” means the Road Traffic Act 1988⁽³⁾;

“G.B.records” means the records, kept under the 1971 Act, on behalf of the Secretary of State, by the Driver and Vehicle Licensing Agency and does not include any records kept under that Act, on behalf of the Secretary of State, by a Northern Ireland department;

“grantee” means the person to whom a right of retention is granted;

“nominated person” means a person nominated as provided in regulation 3(1)(b);

“retention document” means a document issued as provided in regulation 9(1) or (2);

“right of retention” means a right mentioned in regulation 3;

(2) In these Regulations, unless the context otherwise requires,—

(1) 1989 c. 26 as amended by section 13 of the Finance (No. 2) Act 1992 c. 48.

(2) 1971 c. 10.

(3) 1988 c. 52.

- (a) a reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations; and.
- (b) a reference to a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference occurs.

Rights of retention

3. Subject to the following provisions of these Regulations, a person in whose name a vehicle which is recorded as being a registered vehicle in the G.B.records may be granted by the Secretary of State a right to have the registration mark for the time being assigned to that vehicle assigned to some other vehicle registered—

- (a) in that person’s name; or
- (b) in the name of some other person nominated by him in the application for the grant of the right.

Application for a right of retention

4.—(1) An application for the grant of a right of retention shall be made to the Secretary of State and shall be accompanied by—

- (a) the registration document issued under the 1971 Act in respect of the vehicle;
- (b) a vehicle licence for the time being in force issued in respect of the vehicle under the 1971 Act, or a valid application for such a licence;
- (c) such of the following documents as relate to the vehicle—
 - (i) if the vehicle is one in respect of which a test certificate is required under section 45 of the 1988 Act, the test certificate in force under that section,
 - (ii) if the vehicle is one in respect of which a test certificate is required in accordance with article 34 of the Road Traffic (Northern Ireland) Order 1981(4), the certificate in force under that article,
 - (iii) if the vehicle is one in respect of which a plating certificate and a goods vehicle certificate under section 49 of the 1988 Act is required, the plating certificate and the goods vehicle certificate in force under that section;
- (d) payment of the sum specified in regulation 7(a); and
- (e) payment of the sum referred to in regulation 7(b).

(2) The applicant shall, if required to do so by the Secretary of State, make the vehicle available for inspection at a place designated by the Secretary of State.

(3) In this regulation “the vehicle” means the vehicle to which the registration mark is for the time being assigned.

Duration of a right of retention

5.—(1) Subject to the provisions of paragraph (2), a right of retention may be exercised only during the period of one year starting with the date on which the relevant retention document is issued.

(2) Subject to the provisions of paragraph (3), the Secretary of State may if he thinks fit to do so in the circumstances of the case extend, on one or more occasions, the period in which a right of retention may be exercised. Any such extension shall be for the period of one year starting with the date on which the right would otherwise have ceased to be exercisable.

(4) S.I.1981/154 (N.I.).

(3) No extension by virtue of paragraph (2) shall be granted unless the following conditions are satisfied—

- (a) the grantee has applied in writing for the extension;
- (b) if the application is made on or after 1st May 1993 but before 28th May 1993 in respect of a right which would cease to be exercisable on or before 28th May 1993 if an extension were not granted, the application is made before 28th May;
- (c) in any case other than one mentioned in subparagraph (b), the application is made in the period starting 28 days before the date on which the right would cease to be exercisable if an extension were not granted and ending with that date;
- (d) the application is accompanied by the retention document; and
- (e) the application is accompanied by payment of the sum specified in regulation 8.

Refusal of applications

6. The Secretary of State may refuse an application for the grant of a right of retention, or for an extension of the period in which a right of retention may be exercised, or for the assignment of a registration mark under a right of retention, if it appears to him that there are special reasons for doing so.

Payments on application for rights of retention

7. In respect of an application for a right of retention there shall be payable a fee made up as follows—

- (a) £25, and
- (b) a sum equal to the amount of the charge which could have been made pursuant to section 12(1) of the Finance Act 1976⁽⁵⁾ for an assignment of the registration mark to which the application relates if the assignment had been made on the date on which the application was made.

Payments on extension of right of retention

8. The fee payable in respect of an application for an extension of a period in which a right of retention may be exercised shall be £25.

Retention documents

9.—(1) If the Secretary of State decides to grant a right of retention he shall issue to the grantee a retention document. That document shall state—

- (a) the date of the grant;
- (b) the name and address of the grantee and, where appropriate, the name of the nominated person;
- (c) the date on which the period of one year mentioned in regulation 5(1) ends;
- (d) the registration mark in respect of which the grant has been made; and
- (e) the type of vehicle to which the registration mark was assigned at the time of the grant.

(2) In any case where there is an extension of the period mentioned in regulation 5(1), the Secretary of State shall issue a new retention document. In addition to stating the matters specified in paragraph (1) the new retention document shall state the date on which the period of extension ends.

(5) 1976 c. 40.

(3) If a grantee to whom a retention document has been issued notifies the Secretary of State that the document has been lost or destroyed, the Secretary of State, on being satisfied that the document has been lost or destroyed, shall issue a replacement document.

(4) In any case where a replacement of a lost document has been issued and the lost document subsequently comes into the possession of the grantee, he shall forthwith return it to the Secretary of State.

(5) If a retention document becomes defaced or illegible, the grantee to whom it was issued may return it to the Secretary of State so that he may issue a replacement document.

Exercise of a right of retention

10.—(1) A right of retention shall be exercisable on only one occasion.

(2) Subject to the provisions of regulation 11, a right of retention shall be exercisable by the grantee—

- (a) surrendering to the Secretary of State, for retention by him, the retention document;
- (b) surrendering to the Secretary of State, for replacement by him;
 - (i) the registration document issued under the 1971 Act in which the name and address of the grantee or, where appropriate, the nominated person, are stated as the owner of the vehicle within the Registration and Licensing Regulations, and
 - (ii) the vehicle licence in force under the 1971 Act, or a valid application for such a licence; and
- (c) sending to the Secretary of State, for endorsement and return, such of the following documents as relate to the vehicle in respect of which the grantee proposes to exercise the right of retention—
 - (i) if the vehicle is one in respect of which a test certificate is required under section 45 of the 1988 Act, the test certificate in force under that section;
 - (ii) if the vehicle is one in respect of which a test certificate is required in accordance with article 34 of the Road Traffic (Northern Ireland) Order 1981, the certificate in force under that article;
 - (iii) if the vehicle is one in respect of which a plating certificate and a goods vehicle test certificate under section 49 of the 1988 Act is required, the certificates in force under that section.

(3) In this regulation “the vehicle” means the vehicle to which the grantee proposes that the registration mark shall be assigned.

Conditions for the assignment of a registration mark

11.—(1) A registration mark may not be assigned to a vehicle in pursuance of a right of retention unless the conditions specified in paragraph (2) are satisfied.

(2) Those conditions are—

- (a) where the registration mark contains a single letter of the alphabet, the assignment of that mark would not indicate that the vehicle was first used more recently than is the case;
- (b) a vehicle licence issued under the 1971 Act is in force for the vehicle or a valid application for such a licence has been made;
- (c) the vehicle is one to which either;

- (i) section 45 of the 1988 Act applies or would apply if the vehicle had been registered under the 1971 Act more than three years before the date of the assignment or if no certificate of a type mentioned in regulation 10(2)(c)(ii) were in force, or
- (ii) section 49 of the 1988 Act applies;
- (d) the Secretary of State is satisfied as to the origins of the vehicle and the date on which it was first used; and
- (e) the vehicle is recorded as being a registered vehicle in the G.B. records, or a valid application has been made for the vehicle to become a registered vehicle in the G.B. records.

Exemption from charge

12. No charge under section 12(1) of the Finance Act 1976 shall be payable in respect of an assignment of a registration mark pursuant to the exercise of a right of retention in a case where the sum specified in regulation 7(b) has been paid.

Non-transferability of a relevant right

13. A right of retention shall not be transferable, but without prejudice to the vesting of any such right in a person by operation of law.

Revocation of a right of retention

14. The Secretary of State may revoke a right of retention, whether or not the period in which the right is exercisable has been extended, if it appears to him that there are special reasons for doing so.

Refunds

15.—(1) Subject to the conditions specified in paragraph (2), if the Secretary of State revokes a right of retention, or if the period in which a right of retention is exercisable expires without the right having been exercised, the Secretary of State shall refund the amount of any sum paid under regulation 7(b). No interest shall be payable on any sum refunded.

(2) Those conditions are that—

- (a) a written application for the refund is made by the grantee;
- (b) in a case where a right of retention has been granted, the application is accompanied by the retention document; and
- (c) The application is received by the Secretary of State within the period of 6 years starting with the date on which the right of retention ceased to be exercisable.

(3) The Secretary of State may retain any payment of a sum specified in regulation 7(a) or 8 whether or not the application in respect of which the payment was made is granted.

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

Signed by authority of the Secretary of State for Transport

1st April 1993

Kenneth Carlisle
Parliamentary Under Secretary of State,
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make new provisions, to replace those contained in the Retention of Registration Marks Regulations 1992, for a person in whose name a vehicle is registered to be granted a right to have the registration mark which is assigned to the vehicle assigned to another vehicle which is registered in the name of that person or of that person's nominee.

Under the new provisions, the fee payable in respect of an application for the grant of a right of retention will be £25 and a sum equal to the amount of the charge which could have been made under section 12(1) of the Finance Act 1976 on an assignment of a mark. That sum will be payable when the application for the grant of the right of retention is made and not, as under the present regulations, at the time when the registration mark is assigned to the vehicle. Provision is made for a refund of that sum where a right of retention is revoked or where the period in which the right could have been exercised has expired.

Under the new provisions the period in which the right of retention may be exercised (one year starting with the date on which the retention document is issued) may be extended on one or more occasions. Each extension will be for one year starting with the date on which the right would otherwise have ceased to be exercisable. A fee of £25 is prescribed in respect of an application for an extension of a right of retention.

Any sum of £25 mentioned above may be retained whether or not the application in respect of which it is paid is granted.