



Road Traffic Act 1988

1988 CHAPTER 52

PART V

DRIVING INSTRUCTION

Registration

128 Removal of names from register.

- (1) The Registrar may remove the name of a person from the register if he is satisfied that—
- in a case where his name has not been retained in the register under section 127 of this Act, at any time since the entry of his name was made, and
 - in a case where his name has been so retained under that section, at any time since it was last retained,
- any of the [^{F1}relevant] conditions was fulfilled in his case.
- (2) [^{F2}Except in the case of a registered disabled instructor, the relevant conditions are]—
- that he held [^{F3}none]of the kinds of current licence mentioned in section 125 (3)(b) of this Act,
 - that he was disqualified under section 34 or 36 of the ^{M1}Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act,
 - that he refused to undergo a test such as is mentioned in section 125 (5) of this Act,
 - that he failed to pass such a test,
 - that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name included in the register.

[^{F4}(2A) In the case of a registered disabled instructor, the relevant conditions are—

- that he did not hold a current emergency control certificate,
- that he did not hold a current disabled person's limited driving licence,

Status: Point in time view as at 01/04/2002. This version of this provision has been superseded.

Changes to legislation: Road Traffic Act 1988, Section 128 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) that he was disqualified under section 34 or 36 of the Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act,
 - (d) that he refused to undergo any such assessment as is mentioned in section 125B(6)(a) of this Act,
 - (e) that he refused to undergo, or failed to pass, any such test as is mentioned in section 125B(6)(b) of this Act,
 - (f) that he ceased, apart from fulfilment of the preceding conditions, to be a fit and proper person to have his name included in the register as that of a disabled instructor.]
- (3) The Registrar may remove the name of a person from the register if the entry of his name in the register, or the retention of his name in the register, was made by mistake or procured by fraud.
- (4) Before removing the name of a person from the register under this section, the Registrar must give him written notice stating that he is considering the removal and giving particulars of the grounds on which he is considering it.
- (5) Where the Registrar gives notice to a person under subsection (4) above—
- (a) that person may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed removal,
 - (b) the Registrar must not decide to remove his name from the register until after the expiration of that period, and
 - (c) before deciding whether or not to remove his name from the register, the Registrar must take into consideration any such representations made by him within that period.
- (6) The Registrar must, on making a decision to remove a name from the register, give notice in writing of the decision to the person concerned.
- [^{F5}(6A) A decision to remove a name from the register shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).]
- (7) [^{F6}But the Registrar may, when giving notice of his decision to remove the name from the register, direct that the decision shall instead] take effect—
- (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, on the expiration of that time,
 - (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal,
 - (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.
- [^{F7}(8) Where a person whose name has been removed from the register under this section applies under subsection (2) of section 125 of this Act for his name to be entered again in the register and either—
- (a) the application is made after the end of the period of one year beginning with the date on which his name was removed; or

Status: Point in time view as at 01/04/2002. This version of this provision has been superseded.

Changes to legislation: Road Traffic Act 1988, Section 128 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) his name was removed on the grounds that he has failed to pass such a test as is mentioned in subsection (5) of that section,

the Registrar shall not regard the condition specified in paragraph (a) of subsection (3) of that section as fulfilled unless he is satisfied that that person has again passed the examination mentioned in that paragraph since the date on which his name was removed from the register.]

[^{F8}(9) Where a person whose name was entered in the register as that of a disabled instructor and whose name has been removed from the register under this section applies under subsection (1) of section 125A of this Act for his name to be entered again in the register as that of a disabled instructor and either—

(a) the application is made after the end of the period of one year beginning with the date on which his name was removed, or

(b) his name was removed on the ground that he has failed to pass such a test as is mentioned in section 125B(6)(b) of this Act,

the Registrar shall not regard the condition mentioned in section 125A(6)(a) of this Act as fulfilled unless he is satisfied that that person has again passed the examination mentioned in the said section 125A(6)(a) since the date on which his name was removed from the register.]

Textual Amendments

- F1** Word in s. 128(1) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(2)**; S.I. 1996/1980, **art. 2**
- F2** Words in s. 128(2) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(3)**; S.I. 1996/1980, **art. 2**
- F3** Word in s. 128(2)(a) substituted (1.4.1999) by S.I. 1999/357, **reg. 2(4)**
- F4** S. 128(2A) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(4)**; S.I. 1996/1980, **art. 2**
- F5** S. 128(6A) inserted (1.4.2002) by 2000 c. 38, s. 259(2); S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(1))
- F6** Words in s. 128(7) substituted (1.4.2002) by 2000 c. 38, s. 259(2); S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(1))
- F7** S. 128(8) inserted by S.I. 1991/1129, **art. 2**
- F8** S. 128(9) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(5)**; S.I. 1996/1980, **art. 2**

Modifications etc. (not altering text)

- C1** S. 128 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**
- C2** S. 128(2) modified (1.1.2007) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), **reg. 10**
- C3** S. 128(2)(b) extended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 5, **Sch. 4 para. 7(2)**
- C4** S. 128(2A) modified (1.1.2007) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), **reg. 10**

Marginal Citations

- M1** 1988 c. 53.

Status:

Point in time view as at 01/04/2002. This version of this provision has been superseded.

Changes to legislation:

Road Traffic Act 1988, Section 128 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.