STATUTORY INSTRUMENTS

2015 No. 193

ROAD TRAFFIC

The Retention and Sale of Registration Marks Regulations 2015

Made - - - -	*10th February 2015*
Laid before Parliament	*16th February 2015*
Coming into force - -	*9th March 2015*

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by sections 26, 27 and 57(2) of the Vehicle Excise and Registration Act 1994(**a**):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Retention and Sale of Registration Marks Regulations 2015.

(2) These Regulations come into force on 9th March 2015.

(3) In these Regulations "the 1993 Regulations" means the Retention of Registration Marks Regulations 1993(**b**) and "the 1995 Regulations" means the Sale of Registration Marks Regulations 1995(**c**).

Amendment of the Retention of Registration Marks Regulations 1993

2. The 1993 Regulations are further amended in accordance with Schedule 1.

Amendment of the Sale of Registration Marks Regulations 1995

3. The 1995 Regulations are further amended in accordance with Schedule 2.

Signed by authority of the Secretary of State

Claire Perry
Parliamentary Under Secretary of State
Department for Transport

10th February 2015

(**a**) 1994 c.22; section 26 was amended by section 1 of the Vehicle Registration Marks Act 2007 (c.14).
(**b**) S.I. 1993/987; these regulations were amended by S.I. 1994/2976, 2008/2850 and 2014/2358.
(**c**) S.I. 1995/2880; these regulations were amended by S.I. 2008/2372 and 2014/2358.

SCHEDULE 1

Regulation 2

Retention of Registration Marks

1. The 1993 Regulations are amended as follows.

2. In regulation 2(1) (interpretation)—

(a) the definitions of "the 1988 Act", "GB records", "retention document", "retention period" and "vehicle licence" are omitted;

(b) in the definition of "nominated person" for "3(b)" there is substituted "3(a)";

(c) at the end there is added—

""unique identification reference" means the reference provided for in regulation 9(f);".

3. For regulation 3(b)(i) (right of retention) there is substituted—

"(i) a period of 10 years beginning with the day on which the right is granted; or".

4. After regulation 3 there is inserted—

"**Conditions for the retention of a registration mark**

3A.—(1) A right of retention may not be granted in respect of a registration mark unless the conditions specified in paragraphs (2) and (3) are satisfied.

(2) The first condition is that the vehicle to which the mark is for the time being assigned is a vehicle in respect of which—

(a) a vehicle licence or a nil licence is in force; or

(b) the prescribed particulars have been furnished and the prescribed declaration has been made in accordance with section 22(1D) of the 1994 Act (statutory off-road notification).

(3) The second condition is that the Secretary of State is satisfied that the vehicle has not ceased to be capable of mechanical propulsion.

Applications under these Regulations

3B. Subject to regulation 16, an application to the Secretary of State under these Regulations is to be made—

(a) by post; or

(b) using a website controlled by the Secretary of State."

5. In regulation 4 (application for a right of retention)—

(a) for paragraph (1) there is substituted—

"(1) An applicant for the grant of a right of retention must, if required to do so by the Secretary of State—

(a) make the vehicle available for inspection at a place designated by the Secretary of State; or

(b) provide such documentary or other evidence as may be specified for the purpose of satisfying the Secretary of State that the vehicle has not ceased to be capable of mechanical propulsion."; and

(b) paragraphs (1A)(a) and (2) are omitted.

6. In regulation 4A (nominations)—

(a) in paragraphs (1)(b) and (2) for "conditions specified in paragraph (3) are" there is in each case substituted "condition specified in paragraph (3) is"; and

(b) for paragraph (3) there is substituted—

"(3) The condition referred to in paragraphs (1) and (2) is that the applicant provides the Secretary of State with the unique identification reference."

7. In regulation 5 (extensions)—

(a) in paragraph (2) for "12 months, 24 months or 36 months" there is substituted "10 years"; and

(b) for paragraph (3) there is substituted—

"(3) No extension of the relevant period may be granted unless the application is made in the period of 28 days ending with the day on which the relevant period is due to end."

8. Regulations 7(a) (payments on application for rights of retention) and 8 (payments on extension of right of retention) are omitted.

9. For regulation 9 (retention documents) there is substituted—

"**Decision to grant or extend a right of retention**

9. If the Secretary of State decides to grant a right of retention or to extend the relevant period, he must notify the grantee of—

(a) the registration mark to which the right relates;

(b) the type of vehicle to which the registration mark was assigned at the time of the grant;

(c) the name and address of the grantee (as the Secretary of State has recorded them) and, where appropriate, the name of the nominated person (as so recorded);

(d) the date of the grant or the extension (as the case may be);

(e) the date on which the right will cease to be exercisable; and

(f) the unique identification reference which the Secretary of State has allocated to the right."

10. In regulation 10 (exercise of a right of retention)—

(a) for paragraph (1A) there is substituted—

"(1A) The right is exercisable only in respect of a vehicle which is—

(a) registered under the 1994 Act in the name of the grantee or a nominated person; and

(b) different from the vehicle referred to in regulation 4.";

(b) for paragraphs (2) and (2A) there are substituted—

"(2) Subject to paragraphs (2A) and (2B) and regulations 11 and 16, the right is exercisable by the grantee or an agent of the grantee applying to the Secretary of State providing—

(a) the unique identification reference; and

(b) the document reference number stated on the registration document issued under the 1994 Act in respect of the vehicle.

(2A) Where—

(a) a right of retention in respect of a registration mark has been granted to a grantee, or has vested in a grantee by operation of law; and

(b) a relevant motor dealer is to assign that mark to a vehicle not registered in the United Kingdom or in any other country,

the right is exercisable by the grantee providing the dealer with the unique identification reference.

(2B) Where—

(a) the Secretary of State has issued the grantee with a document which states that a right of retention has been granted; and

(b) the grantee or an agent of the grantee exercises the right by means of a postal application to the Secretary of State,

the application must be accompanied by the document issued (or any replacement) and the registration document issued under the 1994 Act in respect of the vehicle.";

(c) for paragraph (3) there is substituted—

"(3) In this regulation, except paragraph (1A)(b), "the vehicle" means the vehicle to which the grantee proposes that the registration mark should be assigned."

11. In regulation 11(2) (conditions for the assignment of a registration mark)—

(a) for sub-paragraph (b) there is substituted—

"(b) the vehicle is one in respect of which either—

(i) a vehicle licence or a nil licence is in force; or

(ii) the prescribed particulars have been furnished and the prescribed declaration has been made in accordance with regulations made under section 22(1D) of the 1994 Act.";

(b) for sub-paragraph (c) there is substituted—

"(c) the Secretary of State is satisfied that the vehicle has not ceased to be capable of mechanical propulsion; and";

(c) "; and" is omitted from sub-paragraph (d);

(d) sub-paragraph (e) is omitted.

12. At the end of regulation 14 (revocation of a right of retention) there is added "or the grantee has notified the Secretary of State of the grantee's wish to surrender the right".

13. In regulation 15 (refunds)—

(a) in paragraph (2)(a) and (d) in each case the words from "or" to the end are omitted;

(b) in paragraph (2)(b) for "a written" there is substituted "an";

(c) for paragraph (2)(c) there is substituted—

"(c) the application specifies the unique identification reference; and";

(d) paragraph (3) is omitted.

14. After regulation 15 there is added—

"**Transitional provisions**

16.—(1) Subject to regulation 5, where a right of retention is granted before 9th March 2015, the "relevant period" for the purposes of these Regulations ends on the date stated in the retention document as being the date on which the retention period ends.

(2) In this regulation "retention document" means the document referred to in regulation 10(2B)(a).

(3) Paragraph (4) applies where a sum has been paid to the Secretary of State by virtue of regulation 7(b) and the right of retention expired before 9th March 2015 without having been exercised.

(4) Where this paragraph applies, the condition specified in regulation 15(2)(a) is treated as having been fulfilled and the period specified in regulation 15(2)(d) is treated as having started with the date on which the right ceased to be exercisable.

(5) Subject to paragraph (6), where the Secretary of State issued a retention document before 9th March 2015, the grantee or an agent of the grantee may not use a website to make an application under these Regulations in relation to the right of retention.

(6) Paragraph (5) shall not apply where the retention document states a unique identification reference in respect of the right or—

(a) the grantee or an agent of the grantee applies to the Secretary of State for the allocation of a unique identification reference in respect of the right;

(b) this application is accompanied by the retention document; and

(c) the Secretary of State allocates such a reference and notifies the applicant of it.

(7) Where—

(a) the Secretary of State issued a retention document before 9th March 2015; and

(b) the Secretary of State has not allocated a unique identification reference in respect of the right of retention,

the conditions specified in paragraph (8) apply in place of the condition provided for in regulations 4A(3) and 15(2)(c).

(8) For the purposes of paragraph (7) the conditions are that the application was made in writing and the applicant has submitted the retention document relating to the right of retention."

SCHEDULE 2

Regulation 3

Sale of Registration Marks

1. The Scheme set out in the Schedule to the 1995 Regulations (the Sale of Registration Marks Scheme 1995) is amended as follows.

2. In paragraph 1(1) (interpretation)—

(a) the definitions of "the 1988 Act", "certificate of entitlement", "GB records", "NI records", "purchase period", "the Registration and Licensing Regulations" and "vehicle licence" are omitted; and

(b) for "and" which appears before the definition of "vehicle licence" there is substituted—

""unique identification reference" means the reference provided for in paragraph 8(e); and".

3. In paragraph 2(3) (acquisition of a relevant right) for "the purchase period" there is substituted "a period of 10 years beginning on the date specified under paragraph 4(2)".

4. After paragraph 2 there is inserted—

"**Applications under these Regulations**

2A. Subject to paragraph 16, an application to the Secretary of State under these Regulations is to be made—

(a) by post; or

(b) using a website controlled by the Secretary of State."

5. In paragraph 3 (nominations)—

(a) in sub-paragraph (2) for "the conditions specified in sub-paragraph (3) are" there is substituted "the condition specified in sub-paragraph (3) is"; and

(b) for sub-paragraph (3) there is substituted—

"(3) The condition is that the applicant provides the Secretary of State with the unique identification reference."

6. In paragraph 4 (agreements for acquisition)—

(a) in sub-paragraph (2) for "duration of the purchase period" there is substituted "start of the relevant period"; and

(b) sub-paragraph (3) is omitted.

7. In paragraph 5 (extensions)—

(a) in sub-paragraph (2) for "12 months, 24 months or 36 months" there is substituted "10 years"; and

(b) for sub-paragraph (3) there is substituted—

"(3) No extension of the relevant period may be granted unless the purchaser applies for the extension in the period commencing 28 days before the date on which the relevant period is due to end."

8. Paragraph 7 (payments on extension of a relevant right) is omitted.

9. For paragraph 8 (certificates of entitlement) there is substituted—

"**Notification of entitlement and extensions**

8. As soon as practicable after a purchaser has acquired a relevant right or the Secretary of State has extended the relevant period, the Secretary of State must notify the purchaser of—

(a) the registration mark to which the relevant right relates;

(b) the name and address of the purchaser (as the Secretary of State has recorded them) and, where appropriate, the name of the nominated person (as so recorded);

(c) the date of the agreement to purchase the right;

(d) the date on which the right will cease to be exercisable; and

(e) the unique identification reference which the Secretary of State has allocated to the right."

10. In paragraph 9 (exercise of a relevant right)—

(a) sub-paragraph (1A) is omitted;

(b) for sub-paragraph (2) there is substituted—

"(2) Subject to sub-paragraph (2A) and paragraphs 10 and 16, the right is exercisable by the purchaser or an agent of the purchaser providing the Secretary of State with—

(a) the unique identification reference; and

(b) the document reference number stated on the registration document issued under the 1994 Act in respect of the vehicle.";

(c) for sub-paragraph (2A) there is substituted—

"(2A) Where—

(a) a relevant right has been granted to a purchaser in respect of a registration mark; and

(b) a relevant motor dealer is to assign that mark to a vehicle not registered in the United Kingdom or in any other country,

the relevant right shall be exercisable by the purchaser providing the dealer with the unique identification reference.";

(d) after sub-paragraph (2A) there is inserted—

"(2B) Where—

(a) the Secretary of State has issued the purchaser with a certificate of entitlement to a relevant right; and

(b) the purchaser or an agent of the purchaser exercises the right by means of a postal application to the Secretary of State,

the application must be accompanied by the certificate issued (or any replacement) and the registration document issued under the 1994 Act in respect of the vehicle.";

(e) sub-paragraph (3)(a) is omitted.

11. In paragraph 10(2) (conditions for the assignment of a registration mark)—

(a) in paragraph (a) from "where" to "records" is omitted;

(b) for paragraph (b) there is substituted—

"(b) the vehicle is one in respect of which—

(i) a vehicle licence or a nil licence is in force; or

(ii) the prescribed particulars have been furnished and the prescribed declaration has been made in accordance with regulations made under section 22(1D) of the 1994 Act (statutory off-road notification).";

(c) for paragraph (c) there is substituted—

"(c) the Secretary of State is satisfied that the vehicle has not ceased to be capable of mechanical propulsion; and"; and

(d) paragraphs (e) and (f) are omitted.

12. At the end of paragraph 13 (revocation of a relevant right) there is added, "or the purchaser has notified the Secretary of State of the purchaser's wish to surrender the right".

13. In paragraph 14(2) (refunds)—

(a) in paragraphs (a) and (d) in each case from "or" to the end is omitted;

(b) in paragraph (b) for "a written" there is substituted "an";

(c) for paragraph (c) there is substituted—

"(c) the application specifies the unique identification reference;".

14. After paragraph 15 there is added—

"**Transitional provisions**

16.—(1) Subject to paragraph 5, where a relevant right is acquired before 9th March 2015, the relevant period ends on the date stated by the Secretary of State in the certificate of entitlement issued to the purchaser as being the date on which the purchase period ends.

(2) Sub-paragraph (3) applies where a sum has been paid to the Secretary of State in accordance with paragraph 6(2) and the period during which the relevant right was exercisable has expired without having been exercised.

(3) Where this sub-paragraph applies, the condition specified in paragraph 14(2)(a) is treated as having been fulfilled and the period specified in paragraph 14(2)(d) is treated as having started with the date on which the right ceased to be exercisable.

(4) Subject to sub-paragraph (5), where a relevant right is acquired before 9th March 2015, the purchaser or an agent of the purchaser may not use a website to make an application under these Regulations in relation to the relevant right.

(5) Sub-paragraph (4) shall not apply where the certificate of entitlement issued to the purchaser states a unique identification reference in respect of the right or—

(a) the purchaser or the agent of the purchaser applies to the Secretary of State for the allocation of a unique identification reference in respect of the right;

(b) this application is accompanied by the certificate of entitlement issued to the purchaser; and

(c) the Secretary of State allocates such a reference and notifies the applicant of it.

(6) Where—

(a) a relevant right is acquired before 9th March 2015; and

(b) the Secretary of State has not allocated a unique identification reference in respect of the right of retention,

the conditions specified in sub-paragraph (7) apply in place of the condition provided for in paragraphs 3(3) and 14(2)(c).

(7) For the purposes of sub-paragraph (6) the conditions are that the application was made in writing and the applicant has submitted the certificate of entitlement relating to the relevant right."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Retention of Registration Marks Regulations 1993 and the Sale of Registration Marks Regulations 1995 to allow applications for retention, or assignment, of vehicle registration marks to be made on the internet and not just (as previously) by submitting written documents. Other changes are made to the provisions relating to the retention and sale of registration marks.

Paragraphs 3 and 6 of Schedule 1 extend the duration of the right of retention. In future the right will be granted for a (renewable) period of 10 years.

Paragraph 4 of Schedule 1 specifies the permissible methods of making applications to the Secretary of State.

Paragraphs 4 to 7 and 11 of Schedule 1 remove the requirements to provide the Secretary of State with specified documents relating to the relevant vehicle when applying for, altering or exercising, a right of retention. In future when a person applies for, or exercises, such a right the Secretary of State will have a discretion to demand documentary or other evidence of the existence and continuing functioning of the relevant vehicle. In addition it will become possible to assign a mark to a vehicle included in the registration records for Northern Ireland.

Paragraphs 6 to 8 of Schedule 1 remove an element of the fee payable on application for a right of retention and remove altogether the requirement to pay a fee for extending a right of retention or altering the beneficiary of the right of retention.

Paragraph 9 of Schedule 1 provides for the Secretary of State to provide a unique identification reference when he or she grants a right of retention. Along with the document reference number stated on the vehicle registration document, the unique identification reference is intended to be used as a security device in the making of subsequent electronic or telephone applications in respect of the right (see *paragraph 10 of Schedule 1*). Where the grantee of a right of retention obtains written confirmation of the grant from the Secretary of State and subsequently makes a postal application to exercise the right, the retention document and vehicle registration document must be submitted along with the application.

Paragraph 12 of Schedule 1 extends the Secretary of State's power of revocation to cases where the grantee wishes to surrender the right of retention.

Paragraph 13 of Schedule 1 removes the right to a refund where the right of retention has been allowed to expire through non-use.

Paragraph 14 of Schedule 1 makes transitional provisions concerning rights of retention granted before the coming into force of these Regulations.

Schedule 2 makes equivalent changes to the provisions relating to the sale of registration marks.

A full impact assessment of the effect that these Regulations will have on costs of business and the voluntary sector is available from the Driver and Vehicle Licensing Agency, Longview Road, Morriston, Swansea, SA6 7JL (telephone: 01792 783864) and is published with the Explanatory Memorandum alongside these Regulations on the website www.legislation.gov.uk.

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