



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—
- (a) 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
 - (b) 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}]^[F3]Except in the case of a registered disabled instructor,] the relevant conditions are]—
- (a) that he held [^{F4}none]of the kinds of current licence mentioned in section 125(3)(b) of this Act,
 - (b) 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,
 - (c) that he refused to undergo a [^{F5}test or assessment such as is mentioned in section 125(5)(a)(i) or (ii)] of this Act,
 - (d) that he failed to pass such a test,
 - [^{F6}(da) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 125(5)(a)(ii),
 - (db) that he gave instruction in the driving of a motor car in breach of the condition in section 125(5)(b) (ability to take control of motor car in an emergency),]

Changes to legislation: Road Traffic Act 1988, Section 128 is up to date with all changes known to be in force on or before 16 June 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) View outstanding changes

- (e) 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.
- [^{F7}(2A) [^{F8}In the case of a registered disabled instructor, the relevant conditions are—
- (a) that he did not hold a current emergency control certificate,
 - (b) that he did not hold a current disabled person’s limited driving licence,
 - (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.
- [^{F9}(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) [^{F10}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.

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- [^{F11}(7A) The Registrar may suspend a person's registration if the Registrar—
- (a) has given, or is about to give, the person notice under subsection (4),
 - (b) is considering whether to remove the person's name from the register, or has decided to remove the name but the decision is not yet in effect, and
 - (c) believes that the person would pose a significant threat to the safety of members of the public if the person's registration were not suspended.
- (7B) The Registrar must, on deciding to suspend a person's registration, give written notice of the decision to the person.
- (7C) The decision to suspend takes effect on the giving of the notice.
- (7D) No notice may be given under subsection (7B) before the notice under subsection (4) is given but the subsection (7B) notice may be included in the subsection (4) notice if the subsection (4) notice is still to be given when the decision to suspend is made.
- (7E) A suspension under subsection (7A) is terminated if—
- (a) the Registrar decides not to remove the person's name from the register,
 - (b) the Registrar decides to remove the person's name from the register but the decision has not taken effect and an appeal against the decision is successfully concluded,
 - (c) the Registrar has not decided whether to remove the person's name from the register and the period of 75 days beginning with the giving of the subsection (4) notice has ended,
 - (d) the person's name is removed from the register (whether under this section or otherwise), or
 - (e) the Registrar decides to terminate the suspension.
- (7F) The Registrar must give written notice to a person of the fact that the person's suspension is terminated as mentioned in subsection (7E)(a) to (c) or (e).
- (7G) For the purposes of this Part of this Act the fact that a person's registration is suspended does not prevent the person's name from being in the register.]
- [^{F12}(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
 - (b) his name was removed on the grounds that he has failed to pass such a test as is mentioned in subsection [^{F13}(5)(a)(i)] 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.]
- [^{F14}(9) [^{F15}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

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(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** Words in s. 128(2) omitted (8.6.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(2), **Sch. 2 para. 21(2)(a)**; S.I. 2015/994, **art. 7(a)** (with Sch. Pt. 3)
- F4** Word in s. 128(2)(a) substituted (1.4.1999) by S.I. 1999/357, **reg. 2(4)**
- F5** Words in s. 128(2)(c) substituted (8.6.2015) by Deregulation Act 2015 (c. 20), s. 115(2), **Sch. 2 para. 21(2)(b)**; S.I. 2015/994, **art. 7(a)** (with Sch. Pt. 3)
- F6** S. 128(2)(da) inserted (8.6.2015) by Deregulation Act 2015 (c. 20), s. 115(2), **Sch. 2 para. 21(2)(c)**; S.I. 2015/994, **art. 7(a)** (with Sch. Pt. 3)
- F7** S. 128(2A) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(4)**; S.I. 1996/1980, **art. 2**
- F8** S. 128(2A) omitted (8.6.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(2), **Sch. 2 para. 21(3)**; S.I. 2015/994, **art. 7(a)** (with Sch. Pt. 3)
- F9** 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))
- F10** 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))
- F11** S. 128(7A)-(7G) inserted (6.7.2012) by Driving Instruction (Suspension and Exemption Powers) Act 2009 (c. 17), s. 7(3), **Sch. 1 para. 1(2)**; S.I. 2012/1356, art. 4(b)
- F12** S. 128(8) inserted by S.I. 1991/1129, **art. 2**
- F13** Word in s. 128(8)(b) substituted (8.6.2015) by Deregulation Act 2015 (c. 20), s. 115(2), **Sch. 2 para. 21(4)**; S.I. 2015/994, **art. 7(a)** (with Sch. Pt. 3)
- F14** S. 128(9) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(5)**; S.I. 1996/1980, **art. 2**
- F15** S. 128(9) omitted (8.6.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(2), **Sch. 2 para. 21(5)**; S.I. 2015/994, **art. 7(a)** (with Sch. Pt. 3)

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.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 128 amendment to earlier affecting provision 2006 c. 49 Sch. 6 para. 10 by 2016 c. 16 s. 4(3)
- s. 128 substituted by 2006 c. 49 Sch. 6 para. 10
- s. 128(2)(a) and word omitted by 2015 c. 20 Sch. 2 para. 8(a) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 128(2)(b) words omitted by 2015 c. 20 Sch. 2 para. 8(b) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 128(6) words inserted by 2016 c. 16 s. 2(3)
- s. 128(6A) words inserted by 2016 c. 16 s. 2(3)
- s. 128(7) words inserted by 2016 c. 16 s. 2(3)
- s. 128(7A)-(7G) repealed by 2009 c. 17 Sch. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34A inserted by 2000 c. 37 Sch. 7 para. 6 (This amendment not applied to legislation.gov.uk. The amending provision has been repealed)
- s. 41(2)(m) inserted by 2006 c. 49 s. 18(1)(a)
- s. 41(2)(ba) inserted by 2006 c. 49 s. 56(3)
- s. 49(3A) inserted by 2006 c. 49 s. 48(1)
- s. 66(7A) inserted by 2006 c. 49 s. 56(5)
- s. 85(1) words omitted (temp.) by S.I. 2019/648 reg. 2(5)(a) (This amendment not applied to legislation.gov.uk. Reg. 2(5)(a) substituted (1.9.2020) by S.I. 2020/818, regs. 1(b), Sch. 6 para. 39(2)(c)(i))
- s. 85(1) words omitted (temp.) by S.I. 2019/648 reg. 2(5)(d) (This amendment not applied to legislation.gov.uk. Reg. 2(5)(a) substituted (1.9.2020) by S.I. 2020/818, regs. 1(b), Sch. 6 para. 39(2)(c)(ii))
- s. 85(2) added by 1988 c. 54 Sch. 2 para. 17(c)
- s. 97(1)(c)(ia) words repealed by 2006 c. 49 Sch. 3 para. 6(2)(b) Sch. 7(4)
- s. 97(1)(d)(ii) words omitted by S.I. 2018/1251 reg. 2(4)
- s. 97(1ZA) inserted by 2006 c. 49 s. 38(2)
- s. 108(1BA) inserted by S.I. 2018/1251 reg. 2(5)(c)
- s. 123123A substituted for s. 123 by 2006 c. 49 Sch. 6 para. 2
- s. 123A(3) words inserted by 2009 c. 17 s. 1(3)
- s. 124(3)-(5) inserted by 2009 c. 17 s. 3
- s. 124(6) inserted by 2015 c. 20 Sch. 2 para. 2(b) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125(3A)-(3D) inserted by 2015 c. 20 Sch. 2 para. 3(2) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125(5A) inserted by 2015 c. 20 Sch. 2 para. 3(3) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125A(5)-(7E) substituted for s. 125A(5)-(7) by 2006 c. 49 Sch. 6 para. 6(3)
- s. 125ZA inserted by 2006 c. 49 Sch. 6 para. 5

- s. 125ZA(2)(b) word omitted by [2015 c. 20 Sch. 2 para. 4\(2\)\(a\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125ZA(2)(d) and word inserted by [2015 c. 20 Sch. 2 para. 4\(2\)\(b\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125ZA(4)(c) word omitted by [2015 c. 20 Sch. 2 para. 4\(3\)\(c\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125ZA(4)(c) words substituted by [2015 c. 20 Sch. 2 para. 4\(3\)\(b\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125ZA(4)(ba)(bb) inserted by [2015 c. 20 Sch. 2 para. 4\(3\)\(a\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 125ZA(4)(ca) inserted by [2015 c. 20 Sch. 2 para. 4\(3\)\(d\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 126(5) omitted by [2015 c. 20 Sch. 2 para. 6](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 126A inserted by [2016 c. 16 s. 1\(3\)](#)
- s. 126A omitted (cond.) by [2006 c. 49 Sch. 6 para. 8A](#) (as inserted) by [2016 c. 16 s. 3\(3\)](#)
- s. 126A heading words inserted by [S.I. 2016/1089 reg. 3\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 126A(1) words inserted by [S.I. 2016/1089 reg. 3\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 126A(1) words inserted by [S.I. 2016/1089 reg. 3\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 128A inserted by [2006 c. 49 Sch. 6 para. 11](#)
- s. 128A(4) inserted by [2006 c. 49 Sch. 6 para. 11](#) (as inserted) by [2016 c. 16 s. 4\(4\)](#)
- s. 128B inserted by [2015 c. 20 Sch. 2 para. 9](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 128ZA inserted by [2009 c. 17 s. 1\(1\)](#)
- s. 128ZB inserted by [2009 c. 17 s. 2](#)
- s. 128AZA128AZB inserted by [2016 c. 16 s. 2\(2\)](#)
- s. 128AZA128AZB inserted (cond.) by [2006 c. 49 Sch. 6 para. 10A](#) (as inserted) by [2016 c. 16 s. 4\(2\)](#)
- s. 128AZA128AZB substituted (cond.) by [2006 c. 49 Sch. 6 para. 10A](#) (as inserted) by [2016 c. 16 s. 4\(2\)](#)
- s. 128AZA heading words inserted by [S.I. 2016/1089 reg. 4\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 128AZA(1) words inserted by [S.I. 2016/1089 reg. 4\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 128AZA(4) words inserted by [S.I. 2016/1089 reg. 4\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 128AZB heading words inserted by [S.I. 2016/1089 reg. 4\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))

- s. 128AZB(1) words inserted by [S.I. 2016/1089 reg. 4\(3\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 128AZB(1) words inserted by [S.I. 2016/1089 reg. 4\(3\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Regs. 3, 4 omitted (1.12.2023) without ever being in force by virtue of S.I. 2023/1286, regs. 1, 7(3))
- s. 131(A1)-(C1) inserted by 2006 c. 49, Sch. 6 para. 13(1A) (as inserted) by [S.I. 2023/1286 Sch. 3 para. 92\(2\)\(a\)\(i\)](#)
- s. 131(3)(b)(c) substituted for s. 131(3)(b) and word by [2006 c. 49 Sch. 6 para. 13\(4\)](#)
- s. 131(6) inserted by [2016 c. 16 s. 2\(4\)](#)
- s. 131(6) inserted by 2006 c. 49 Sch. 6 para. 13(9) (as inserted) by [2016 c. 16 s. 4\(5\)](#)
- s. 131(6) substituted by 2006 c. 49 Sch. 6 para. 13(9) (as inserted) by [2016 c. 16 s. 4\(5\)](#)
- s. 132-133ZA and cross-heading substituted for ss. 132, 133 and cross-heading by [2006 c. 49 Sch. 6 para. 14](#)
- s. 133(2)(a) words omitted by [2015 c. 20 Sch. 2 para. 10\(a\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 133(2)(b) words omitted by [2015 c. 20 Sch. 2 para. 10\(b\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 133D(1A) inserted by [2015 c. 20 Sch. 2 para. 14\(2\)](#) (This amendment is to Part 5 of the Road Traffic Act 1988 as amended by Schedule 6 to the Road Safety Act 2006. Those amendments have not yet come into force)
- s. 140(1)(2) inserted by [2006 c. 49 Sch. 6 para. 23\(2\)](#)
- s. 140(1A) inserted in earlier affecting provision 2006 c. 49, Sch. 6 para. 23(2) by [S.I. 2023/1286 Sch. 3 para. 92\(2\)\(b\)](#)
- s. 140(3) s. 140 renumbered as s. 140(3) by [2006 c. 49 Sch. 6 para. 23\(1\)](#)
- s. 141A(5) words repealed by [2006 c. 49 Sch. 3 para. 24](#)[Sch. 7\(4\)](#)
- s. 143(1A) repealed (cond.) by [S.I. 2019/1047 Sch. 2 para. 2](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 143(1A) by 2018 c. 18, Sch. para. 17 was repealed (1.11.2019) by The Motor Vehicles (Compulsory Insurance) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1047), reg. 1, Sch. 2 para. 1 (with reg. 5) without ever being brought into force.)
- s. 173(2)(g)-(gb) substituted for s. 173(2)(g) by [2006 c. 49 Sch. 6 para. 27](#)
- s. 173(2)(n) and word inserted by [2006 c. 49 s. 37\(8\)](#)
- s. 174(1)(da) inserted by [2006 c. 49 Sch. 6 para. 28](#)
- s. 183(6A) inserted by [2006 c. 49 Sch. 6 para. 29](#)