

2008 No. 2850

ROAD TRAFFIC

**The Retention of Registration Marks (Amendment) Regulations
2008**

<i>Made</i>	- - - -	<i>4th November 2008</i>
<i>Laid before Parliament</i>		<i>6th November 2008</i>
<i>Coming into force</i>	- -	<i>1st December 2008</i>

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

Citation and commencement

1. These Regulations may be cited as the Retention of Registration Marks (Amendment) Regulations 2008 and shall come into force on 1st December 2008.

Amendment of Regulations

2. The Retention of Registration Marks Regulations 1993(b) shall be amended in accordance with the following Regulations.

3. In regulation 2 (interpretation) in paragraph (1)—

- (a) at the end of the definition of “grantee” there shall be added “or any person in whom such right vests by operation of law”;
- (b) after the definition of “nominated person” there shall be inserted—
 - ““relevant motor dealer” means a motor dealer selling or supplying vehicles to which Part 1A or Part 2 of Schedule 1 to the 1994 Act applies and to whom registration marks are allocated for assignment to such vehicles;
 - “relevant period” means the period during which a right of retention is exercisable;”;
- (c) after the definition of “retention document” there shall be inserted—
 - ““retention period” means a period of 12 months, 24 months or 36 months; and
 - “vehicle licence” includes a nil licence.”(c); and
- (d) the definition of “right of retention” shall be omitted.

4. For regulation 3 (rights of retention) there shall be substituted—

(a) 1994 c.22; section 26 was amended by the Vehicle Registration Marks Act 2007 (c.14), section 1.
(b) S.I. 1993/987, amended by S.I. 1994/2976.
(c) A “nil licence” is defined in section 62(1) of the Vehicle Excise and Registration Act 1994.

“Right of retention

3. Subject to the following provisions of these Regulations, the Secretary of State may, in respect of the registration mark for the time being assigned to a vehicle, grant a right of retention—

- (a) to the person in whose name the vehicle is registered under the 1994 Act or, if that person so requests, to another person; and
- (b) which is exercisable only during—
 - (i) the retention period for which application is made; or
 - (ii) any extension of that period granted pursuant to regulation 5.”.

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

- (a) in paragraph (1)(a) for “1971” there shall be substituted “1994”;
- (b) after paragraph (1) there shall be inserted—

“(1A) An application for the grant of a right of retention shall specify—

 - (a) the retention period in respect of which the application is made; and
 - (b) the person to whom the right is to be granted if other than the person in whose name the vehicle is registered under the 1994 Act.”.

6. In regulation 4A (nominations)—

- (a) in paragraph (1) for sub-paragraph (b) there shall be substituted—

“(b) if the Secretary of State accepts an application for a nomination by the grantee in relation to which the conditions specified in paragraph (3) are fulfilled—

 - (i) after the grant of the right of retention but before its exercise; or
 - (ii) upon the exercise of a right of retention.”;
- (b) in paragraph (2)—
 - (i) after “exercised” there shall be inserted “, or upon the exercise of that right,”;
 - (ii) after “application” there shall be inserted “for a nomination”.

7. For regulation 5 (duration of a right of retention) there shall be substituted—

“Extensions

5.—(1) Subject to paragraph (3), the Secretary of State may extend the relevant period on one or more occasions.

(2) Any such extension shall be for a period of 12 months, 24 months or 36 months, beginning on the day after that on which the relevant period would have ended but for the extension.

(3) No extension of the relevant period shall be granted unless the application is—

- (a) made in writing;
- (b) made in the period of 28 days ending with the day on which the relevant period would end but for any extension; and
- (c) accompanied by the retention document and the fee payable under regulation 8.”.

8. In regulation 7 (payments on application for rights of retention) in paragraph (a) for “£25” there shall be substituted “£25 where the retention period for which application is made is 12 months, £50 where that period is 24 months or £75 where that period is 36 months”.

9. In regulation 8 (payments on extension of right of retention) there shall be added at the end “for a period of 12 months, £50 for a period of 24 months or £75 for a period of 36 months”.

10. In regulation 9 (retention documents)—

- (a) in paragraph (1) for sub-paragraph (c) there shall be substituted—
“ (c) the date on which the retention period granted ends;”;
- (b) in paragraph (2) for “the period mentioned in regulation 5(1)” there shall be substituted “the relevant period”; and
- (c) in paragraph (6)—
 - (i) for “4(2)” there shall be substituted “(2)”; and
 - (ii) for “he shall” there shall be substituted “the Secretary of State shall, save where the application is accepted upon exercise of the right of retention,”.

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

- (a) in paragraph (2) after “provisions of” there shall be inserted “paragraph (2A) and”;
- (b) after paragraph (2) there shall be inserted—
“(2A) Where—
 - (a) a right of retention in respect of a registration mark has been granted to a grantee, or has vested in the grantee by operation of law; and
 - (b) a relevant motor dealer is to assign that mark to a new vehicle,
 the right shall be exercisable by the grantee surrendering the retention document to the dealer.”; and
- (c) for paragraph (3) there shall be substituted—
“(3) In this regulation—
 - (a) “new” in relation to a vehicle, means not registered in the United Kingdom or in any other country; and
 - (b) “the vehicle” means the vehicle to which the grantee proposes that the registration mark should be assigned.”.

12. In regulation 11 (conditions for the assignment of a registration mark) in paragraph (2)(a) there shall be omitted “where the registration mark contains a single letter of the alphabet,”.

Signed by authority of the Secretary of State

4th November 2008

Jim Fitzpatrick
Parliamentary Under Secretary of State,
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Retention of Registration Marks Regulations 1993.

The Regulations provide that—

- (a) the definition of “grantee” includes a person in whom a right, to have a mark which is assigned to a vehicle assigned to another vehicle (a “right of retention”), vests by operation of law (*regulation 3(a)*);
- (b) where a motor dealer who supplies new cars or motorcycles is to assign a registration mark, a right of retention may be exercised by surrendering the retention document to the dealer (*regulations 3(b) and 11*);
- (c) the period for which a right of retention may be extended is no longer limited to 12 months as it may now also be extended for a period of 24 or 36 months, upon payment of the fee of £50 and £75 respectively (*regulations 3(b), 7 and 9 which also make consequential amendments*);
- (d) a right of retention is no longer limited to a duration of 12 months as it may now also be acquired for a period of 24 or 36 months, upon payment of a fee of £50 and £75 respectively, (*regulations 3(c), 5(b), 8 and 10(a) and (b) which also make consequential amendments*);
- (e) a right of retention may be granted to a person other than the registered keeper if the keeper so requests (*regulations 3(d), 4 and 5(b)*);
- (f) application for a right of retention may be made, and is exercisable, in respect of a vehicle which has a nil licence (*regulation 3(e)*);
- (g) a nomination may be made at the same time as the exercise of a right of retention (*regulations 6 and 10(c)(ii) which also make consequential amendments*);
- (h) the condition for assignment of a registration mark that it must not indicate that the vehicle to which the mark is to be assigned was first used more recently than is the case now also applies to registration marks consisting of a group of two letters and two numbers followed by a group of three letters, for example DE51 ABC (*regulation 12*);
and
- (i) errors are corrected (*regulations 5(a), 10(c)(i)*).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Policy, Research and Development Directorate, the Driver and Vehicle Licensing Agency, Swansea, SA6 7RL and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website, www.opsi.gov.uk. A copy of the assessment has been placed in the library of each House of Parliament.

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