

**The Registration Marks (Sale and Retention) Ordinance,**  
**1997**

ARRANGEMENT OF SECTIONS

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## The Registration Marks (Sale and Retention) Ordinance, 1997

**THE STATES**, in pursuance of their Resolutions of the 28th day of October, 1993<sup>a</sup>, the 1st day of August, 1997<sup>b</sup> and the 29th day of October, 1997<sup>c</sup>, in exercise of the powers conferred on them by Article 18 of the Law entitled "Loi relative aux Automobiles" registered on the 11th day of December, 1926<sup>d</sup>, section 2 of the Motor Taxation and Licensing (Guernsey) Law, 1987<sup>e</sup>, sections 1 and 2 of the Registration Marks (Sale and Retention) (Guernsey) Law, 1997<sup>f</sup>, and in exercise of all other powers enabling them in that behalf, hereby order:-

### Categories of registration marks.

1. (1) For the purposes of this Ordinance, the Committee shall classify those categories of registration marks regarded by it as special ("special registration marks"), which shall thereafter only be available for assignment or re-assignment (as the case may be) upon acquisition of a special registration mark right or a right of retention.

(2) The Committee may, from time to time, add or delete such categories of special registration marks as it thinks fit.

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<sup>a</sup> Article XI of Billet d'État No. XIX of 1993.

<sup>b</sup> Article XVII of Billet d'État No. XVI of 1997.

<sup>c</sup> Article IX of Billet d'État No. XIX of 1997.

<sup>d</sup> Ordres en Conseil Vol. VIII, p. 56.

<sup>e</sup> Ordres en Conseil Vol. XXX, p. 341.

<sup>f</sup> Order in Council No. XV of 1997.

(3) For the purposes of this Ordinance, subject to subsection (4), the registration marks which are not regarded as special registration marks are referred to as "non-special registration marks".

(4) For the purposes of this Ordinance, registration mark "1" in respect of a motor vehicle other than a motorcycle shall be regarded as neither a special registration mark nor a non-special registration mark.

**Acquisition of a special registration mark right.**

2. (1) Subject to subsection (2), a person may acquire a right from the Committee to have a particular special registration mark to which section 1 of the principal Law applies assigned to a vehicle registered-

- (a) in that person's name; or
- (b) in the name of some other person nominated by him at the time of acquiring the right,

on payment of such sum as is payable under an agreement made in accordance with this section.

(2) A person may not during the period of validity of a certificate of entitlement in respect of a special registration mark, in which he is identified as the purchaser, acquire any additional rights as purchaser under an agreement under subsection (1); and any agreement purporting to grant him any such rights shall be void *ab initio*.

(3) An agreement for the acquisition of a special registration mark right may be made by means of-

- (a) public auction; or
  - (b) tender.
- (4) The Committee may determine as it thinks fit-
- (a) the reserve price applicable to the sale of a special registration mark right; or
  - (b) the manner in which the price is to be determined.

**Acquisition of a non-special registration mark right.**

3. (1) Subject to subsection (2), a person may acquire a right from the Committee to have a particular non-special registration mark to which section 1 of the principal Law applies assigned to a vehicle registered-

- (a) in that person's name; or
- (b) in the name of some other person nominated by him at the time of acquiring the right,

on payment of £50, or such other sum as the Committee may prescribe, under an agreement made in accordance with this section.

(2) A non-special registration mark which was previously assigned to a vehicle cannot be the subject of an agreement under subsection (1) until a period of at least three months has elapsed since its last surrender to or withdrawal by the Committee, during which period it has remained unassigned to any vehicle.

**Acquisition of a right of retention.**

4. Notwithstanding the provisions of Articles 12 and 15 of the 1932 Ordinance, a person in whose name a vehicle-

- (a) which is being broken up, destroyed or sent permanently out of Guernsey; or
- (b) in respect of which an exchange of marks (within the meaning of Article 15 of the 1932 Ordinance) is taking place,

is registered may acquire a right from the Committee to have the registration mark for the time being assigned to that vehicle assigned to some other vehicle registered in that person's name on payment of £50, or such other sum as the

Committee may prescribe, under an agreement made in accordance with this section.

**Waiting list for non-special registration marks.**

5. (1) A person may acquire a right from the Committee to reserve for future assignment to a vehicle registered-

- (a) in that person's name; or
- (b) in the name of some other person nominated by him at the time of acquiring the right,

a non-special registration mark which is for the time being assigned to some other vehicle, not being a vehicle registered in that person's name, on payment of £50, or such other sum as the Committee may prescribe, under an agreement made in accordance with this section.

(2) For the purposes of subsection (1), the Committee shall establish and thereafter maintain a Waiting List for Non-Special Registration Marks (the "waiting list") in such form as it thinks fit and shall, upon conclusion of such an agreement, enter against the registration mark being reserved the name and address of the purchaser.

(3) No more than one purchaser may be entered on the waiting list against a particular registration mark at any one time.

**Agreement in respect of a right.**

6. (1) An agreement under section 2(1), 3(1), 4 or 5(1)-

- (a) may contain terms affecting the rights and liabilities of the Committee and the purchaser, including in particular rights and liabilities arising in the event of non-payment of the sum payable under the agreement; and
- (b) may be made by reference to standard terms.

(2) It shall be a term of any agreement that the right to be acquired under it shall be exercisable only in respect of a vehicle registered, or the subject of an application for registration, in the Register of Motor Vehicles kept under Article 24 of the 1932 Ordinance.

**Certificates of entitlement.**

7. (1) As soon as practicable after payment of the sum payable under an agreement for the acquisition of a right, the Committee shall issue to the purchaser a certificate of entitlement stating-

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

- (b) the name and address of the purchaser and, where appropriate, the name of the nominated person;
- (c) the date of the agreement to purchase the right; and
- (d) save for an agreement under section 5(1), the date on which the period of one year mentioned in section 9(1) ends.

(2) In relation to an agreement under section 5(1), three months after the surrender to or withdrawal by the Committee of the registration mark which is the subject of the agreement, the Committee shall issue to the purchaser a replacement certificate of entitlement stating-

- (a) the registration mark to which the right relates;
- (b) the name and address of the purchaser and, where appropriate, the name of the nominated person;
- (c) the date of issue of the replacement certificate; and
- (d) the date on which the period of one year mentioned in section 9(1) ends,

and the certificate of entitlement which it replaces shall thereafter be of no effect.

(3) In any case where the period mentioned in section 9(1) has been extended the Committee shall issue a new certificate of entitlement which shall state the date on which the extension ends together with the matters referred to in subsection (1)(a), (b) and (c) or (2)(a), (b) and (c), as the case may be.

(4) Where the name or address of the purchaser or the name of the nominated person as specified in the certificate of entitlement ceases to be correct, upon-

- (a) notification in writing from the purchaser to the Committee indicating the new name or address, as the case may be; and
- (b) surrender of the certificate of entitlement,

the Committee shall issue free of charge a replacement certificate of entitlement stating the matters referred to in subsection (1) or (2) as the case may be.

**Duplicate certificates of entitlement.**

8. (1) If a purchaser to whom a certificate of entitlement has been issued notifies the Committee that it has been lost or destroyed, the Committee, upon being satisfied that the certificate has been lost or destroyed and upon payment to it of £25, or such other sum as the Committee may prescribe, shall issue a copy of the certificate marked as a duplicate.

(2) In any case where a duplicate of a lost certificate has been issued and the lost certificate subsequently comes into the possession of the purchaser he shall forthwith return it to the Committee.

(3) If a certificate of entitlement becomes defaced or illegible, the purchaser to whom it relates may return it to the Committee so that the Committee may upon payment to it of £25, or such other sum as the Committee may prescribe, issue a copy of the certificate marked as a duplicate.

(4) A duplicate certificate issued under this section shall have the same effect as the original certificate which said original certificate shall thereafter be of no effect.

(5) A person who-

(a) knowingly retains a certificate of entitlement in respect of which a duplicate is in force; or

(b) with intent to defraud, defaces or materially alters a certificate of entitlement or has in his possession a certificate of entitlement which has been defaced or materially altered,

is guilty of an offence and liable upon summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the uniform scale, or to both.

**Duration and extension of a right.**

9. (1) Subject to the following provisions of this section, a right may be exercised only during the period of one year starting with the date on which the certificate of entitlement to the right is issued.

(2) In relation to a right acquired under an agreement under section 5(1), the period referred to in subsection (1) shall start with the date on which the replacement certificate issued in accordance with section 7(2) is issued.

(3) The Committee may, if in the circumstances of the case it thinks fit, extend on one occasion the period during which a right may be exercised.

(4) Any such extension shall be for a period of one year starting with the date on which, but for the extension, the right would have ceased to be exercisable.

(5) No extension shall be granted unless the following conditions are satisfied-

- (a) the purchaser has applied in writing for the extension;
- (b) the application is made in the period of 28 days ending with the date on which the right would cease to be exercisable if no extension were granted;
- (c) the application is accompanied by the certificate of entitlement;
- (d) a fee of £50, or such other sum as the Committee may prescribe, is paid.

**Exercise of a right.**

10. (1) A right acquired under this Ordinance shall be exercisable on only one occasion.

(2) Subject to subsection (3), a right shall be exercisable-

- (a) by the purchaser surrendering to the Committee for retention by it the certificate of entitlement;
- (b) by the purchaser or the nominated person, as the case may be, surrendering to the Committee for replacement by it-

(i) the registration book relating to the vehicle issued under the 1932 Ordinance in which his name and address are given as the owner of the vehicle; and

(ii) where there is one, the licence for the time being in force taken out under the 1932 Ordinance for the vehicle,

(except that if there is no such registration book he shall submit a valid application for a licence instead); and

(c) where appropriate, payment by the purchaser or the nominated person, as the case may be, of such fee as is for the time being required in accordance with Article 15 of the 1932 Ordinance.

(3) A registration mark may not be assigned to a vehicle in pursuance of a right unless the following conditions are satisfied-

(a) the vehicle is registered in the Register of Motor Vehicles kept under Article 24 of the 1932 Ordinance or a valid application has been made for it to be so registered; and

(b) at the time of assignment the vehicle is present in Guernsey, proof whereof may be required by the Committee.

(4) In this section, "the vehicle" means the vehicle in respect of which the purchaser wishes to exercise the right.

**Non-transferability of a right.**

11. (1) Subject to subsection (2), and without prejudice to its vesting by operation of law, a right acquired under this Ordinance shall not be transferable.

(2) A purchaser may free of charge at any time during the period of validity of a certificate of entitlement transfer the right which is the subject of that certificate to his spouse.

(3) Upon the purchaser notifying the Committee in writing of a transfer in accordance with subsection (2) and surrendering the certificate of entitlement in respect of that right, the Committee shall issue a replacement certificate of entitlement complying with section 7(1) or (2), as the case may be, save that in relation to paragraph (b) for the name and address of the purchaser there shall be substituted the name and address of his spouse and thereafter the spouse shall be treated for all purposes as if she were the purchaser.

**Revocation of a right.**

12. (1) The Committee may revoke a right, whether or not it has been extended, if it appears to it that there are special reasons for it doing so.

(2) Before deciding to revoke a right the Committee shall give the purchaser notice in writing stating-

- (a) that it is considering revoking the right in question; and
- (b) that the purchaser may, within 14 days of the date of service of the notice, make written or oral representations why the revocation should not be ordered; and

(c) that in the event of the Committee deciding to revoke the right an appeal against the decision may be brought under this section.

(3) If the Committee, after giving the purchaser the opportunity to make representations as aforesaid, decides to revoke the right in question, it shall serve notice in writing to that effect on the purchaser.

(4) A purchaser aggrieved by a decision of the Committee to revoke a right may appeal to the Royal Court sitting as an Ordinary Court against that decision on the grounds that it was ultra vires or was an unreasonable exercise of the powers of the Committee.

(5) An appeal under this section shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served upon the President of the Committee within a period of 28 days immediately following the date of the notice giving the decision of the Committee.

(6) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(7) An appeal on a question of law shall lie to the Court of Appeal from any decision of the Court under this section within such period and in such manner as may be prescribed by Order of the Royal Court.

### **Refunds.**

13. Any sum paid to the Committee in accordance with this Ordinance shall be retained by it, whether or not there is an assignment of the registration mark in respect of which the sum was paid, except where the Committee has revoked the right in respect of which the sum was paid, in which case the Committee may in its

absolute discretion refund the sum (but not interest on the sum), less such deduction as it thinks fit to cover reasonable administrative costs, to the purchaser of the right in respect of which it was paid.

**Amendments to 1932 Ordinance.**

**14.** The 1932 Ordinance is hereby amended as follows-

- (a) in paragraph ii(a) of Article 14, for "registration number" substitute "registration mark";
- (b) for Article 15 substitute the following article-

**"Registration Marks.**

**15.** (1) The Committee may, in such circumstances as it may determine-

- (a) assign a registration mark to a vehicle to which another registration mark has previously been assigned;
- (b) assign to a vehicle (whether on its first registration or later) a registration mark previously assigned to another vehicle;
- (c) (whether or not in connection with an assignment within paragraph (a) or (b)) withdraw any registration mark for the time being assigned to a vehicle; and

(d) re-assign to a vehicle a registration mark previously assigned to it but subsequently withdrawn.

(2) The registration mark so assigned to the motor vehicle shall thereafter attach to that motor vehicle until the same is broken up, destroyed, or sent permanently out of Guernsey.

(3) Notwithstanding the provisions of paragraph (2), the Committee may-

(a) on application being made to it by the owner of a motor vehicle to which a registration mark has been assigned; and

(b) upon payment of a fee of twenty-five pounds,

assign to the first mentioned motor vehicle a new registration mark which has become available in substitution for the first mentioned registration mark (an "exchange of marks").

(4) An application in pursuance of paragraph (3) shall be accompanied by the registration book and licence of the motor vehicle to which the application relates together with such other information as the Committee may, from time to time, require and, if the Committee assigns a new

registration mark to the motor vehicle in pursuance of the provisions of paragraph (3), it shall amend the said registration book and licence accordingly and return the same to the applicant."; and

- (c) in Article 18, for "registration number" substitute "registration mark".

**Service of notices.**

**15. (1)** Any notice to be served for the purposes of this Ordinance may be served-

- (a) on an individual, by being delivered to him, or by being left at, or sent by registered post or recorded delivery service to, his usual or last known place of abode;
- (b) on a body corporate with a registered office in the Islands, by being left at, or sent by registered post or recorded delivery service to, the registered office;
- (c) on an unincorporated body, by being served on any partner, manager or other similar officer thereof in accordance with paragraph (a), or by being left at, or sent by registered post or recorded delivery service to, the body's principal or last known principal place of business in Guernsey.

(2) If a notice cannot be served in accordance with subsection (1), it may be served by being published on two occasions in La Gazette Officielle.

(3) Subsections (1) and (2) are without prejudice to any other lawful method of service.

**Orders of the Committee.**

**16. (1)** An order of the Committee under this Ordinance-

- (a) may be amended or repealed by a subsequent order hereunder;
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to the Committee to be necessary or expedient;
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done under it or to the making of a new order.

(2) Any power conferred upon the Committee by this Ordinance to make an order may be exercised-

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;
- (b) so as to make, as respects the cases in relation to which it is exercised-

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes;
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

**Interpretation.**

17. (1) In this Ordinance, unless the context otherwise requires-

"**certificate of entitlement**" means a certificate issued in accordance with section 7(1) or (2), or a duplicate thereof or a replacement therefor;

"**Guernsey**" includes Herm and Jethou;

"**nominated person**" means a person nominated as mentioned in section 2(1)(b), 3(1)(b) or 5(1)(b), as the case may be;

"**non-special registration mark**" has the meaning assigned by section 1(3);

"**non-special registration mark right**" means the right mentioned in section 3(1);

"**prescribed**" means prescribed by Order of the Committee;

**"the principal Law"** means the Registration Marks (Sale and Retention) (Guernsey) Law, 1997;

**"purchaser"** means a person who enters into an agreement under this Ordinance to acquire a right;

**"registered"** means registered under the 1932 Ordinance;

**"right"** means a special registration mark right, a non-special registration mark right, a right of retention or a right of reservation;

**"right of reservation"** means the right mentioned in section 5(1);

**"right of retention"** means the right mentioned in section 4;

**"special registration mark"** has the meaning assigned by section 1(1);

**"special registration mark right"** means the right mentioned in section 2(1);

**"waiting list"** has the meaning assigned by section 5(2);

and other expressions have the same meanings as in the principal Law.

(2) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

**Repeal.**

18. The Vehicular Traffic (Motor Licences) (Amendment) Ordinance, 1969<sup>g</sup> is hereby repealed.

**Extent**

19. This Ordinance shall have effect in the Island of Guernsey.

**Citation**

20. This Ordinance may be cited as the Registration Marks (Sale and Retention) Ordinance, 1997.

**Commencement**

21. This Ordinance shall come into force on the 1st November, 1997.

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<sup>g</sup> Recueil d'Ordonnances Tome XVI, p. 14.