

APPLICATION TO THE DEPARTMENT FOR INFRASTRUCTURE FOR THE RETURN OF A DETAINED VEHICLE

Schedule 2 of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 - (the “2010 Act”).

The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 (S.R 2012 No. 261) - (the “Licensing of Operators Regulations”)

The Goods Vehicles (Enforcement Powers) Regulations (Northern Ireland) 2012 (S.R 2012 No. 258) - (the “Enforcement Powers Regulations”)

Data Protection

The personal information you provide on this form will be used for the purposes of the Department’s statutory functions. It will not be disclosed to other organisations unless required or permitted by law. The Department’s Privacy Notice for Compliance and Roadside Enforcement is available at:

<https://www.infrastructure-ni.gov.uk/sites/default/files/publications/infrastructure/dva-compliance-and-roadside-enforcement-privacy-notice.pdf>

You must answer all the following questions.

1. Owner's Name - Only the owner of the vehicle may apply for its return (see Owner's Name in Notes on page 5 for the definition of owner).

If you own the vehicle as an individual, please complete the following in capital letters:

Surname	Forenames	Title

If the vehicle is owned by a partnership, company or unincorporated body, please complete the following in capital letters:

Name(s) and details. Please state whether a partnership, company or unincorporated body:

Contact name and position in business:
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2. Address - Please give your business address and provide the following details -

- (a) for an individual, your usual address;
- (b) for a partnership, the principal place of business within the UK;
- (c) for a company, the registered office;
- (d) for an unincorporated body, the principal office.

Address:
Postcode:
Email address:
Daytime telephone number:

3. Correspondence Address - If you would like us to write to you at another address, please give details

Address:
Postcode:
Email address:
Daytime telephone number:

4. Vehicle Details

Vehicle Registration No:	DVA Detention Ref No:

5. Do you wish to receive correspondence in this matter by email? Otherwise correspondence will be sent by post.

YES		NO	
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6. **Hearings** - Would you like your application considered at a hearing (see Hearings in Notes on page 5 for further details). Please note that if no hearing is held, the application will be determined on the basis of the written evidence submitted by you and by DVA. The Transport Regulation Unit may decide to hold a hearing even if an applicant has indicated he/she does not wish a hearing to be held.

YES		NO	
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7. **Grounds** - the following are the only grounds of appeal. You must tick which ground(s) you are relying on for the return of your vehicle. Under Section 1(1) of the 2010 Act users of most goods vehicles that weigh over 3.5 tonnes for or in connection with any trade or business, or for hire or reward, must have a goods vehicle operator's licence. (See section 1 of the 2010 Act and The Goods Vehicles (Licensing of Operators) (Exemption) Regulations (Northern Ireland) 2012 for further details). Extra information supporting your application should be included at Question 8.

Grounds for application for return of vehicle. At the time the vehicle was detained:	
a) The user of the vehicle held a valid operator's licence (whether or not authorising the use of the vehicle). Licence no:	
b) It was not being, and had not been, used in contravention of section 1 of the 2010 Act.	
c) I did not know that it was being, or had been, used in contravention of section 1 of the 2010 Act.	
d) That although knowing that at the time the vehicle was detained that it was being, or had been, used in contravention of section 1 of the 2010 Act, the owner; (i) had taken steps with a view to preventing that use; and (ii) has taken steps with a view to preventing any further such use.	

8. Details of Application - Explain your case and write as clearly as you can in this section. If you need more space continue on a separate sheet.

9. Declaration - To be signed in ink. (See Declaration in Notes on page 5 for further details). Please send this form to the Transport Regulation Unit, Transport Strategy Division, Department for Infrastructure, Room 3-09, Clarence Court, 10-18 Adelaide Street, Town Parks, Belfast, BT2 8GB.

Declaration	
I confirm I have read the notes page attached to this application and the details in my application are correct to the best of my knowledge. I understand I may be liable to prosecution if I have made a false or misleading declaration	
Signed _____	Dated _____
Print Name _____	Position in Business _____

Notes

Owner / Hiring Agreement / Vehicle

“owner” means, in relation to a vehicle or trailer which has been detained in accordance with Regulation 3 of the Enforcement Powers Regulations) -

- (a) in the case of a vehicle which at the time of its detention was not hired from a vehicle-hire firm under a hiring agreement but was registered under the Vehicle Excise and Registration Act 1994, the person who can show to the satisfaction of an authorised person that he was at the time of its detention the lawful owner (whether or not he was the person in whose name it was so registered);
- (b) in the case of a vehicle or trailer which at the time of its detention was hired from a vehicle-hire firm under a hiring agreement, the vehicle-hire firm; or
- (c) in the case of any other vehicle or trailer, the person who can show to the satisfaction of an authorised person that he was at the time of its detention the lawful owner.

“hiring agreement” means an agreement for the hire of a vehicle being an agreement which contains such particulars as may be prescribed under Article 71 of the Road Traffic Offenders (Northern Ireland) Order 1996.

“vehicle” has the same meaning as “goods vehicle” in Section 58(1) of the 2010 Act but excludes those vehicles specified in Section 1(2) of that Act.

“vehicle-hire firm” has the same meaning as in Article 71 of the Road Traffic Offenders (Northern Ireland) Order 1996.

Article 71 of the Road Traffic Offenders (Northern Ireland) Order 1996 reads as follows-

“hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the [1974 c. 39.] Consumer Credit Act 1974, “vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

Hearings

Under Paragraph 2 of Schedule 3 of the Licensing of Operators Regulations, hearings will be held in public, unless the Department directs that the whole or any part of a hearing be held in private if it is satisfied that by reason of:

- a) the likelihood of disclosure of intimate personal or financial circumstances;
- b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- c) exceptional circumstances not falling within sub-paragraphs (a) or (b);

that it is just and reasonable to do so.

If you wish to make submissions to the Transport Regulation Unit about whether all or part of the hearing should be held in private, please enclose details as part of your case under section 6 Details of Application -.

Grounds

Section 1(1) of the 2010 Act provides that:

Subject to Subsection (2) and Section 3, a person shall not use a goods vehicle on a road for the carriage of goods -

- (a) for hire or reward, or
- (b) for or in connection with any trade or business carried on by that person, except under a licence issued under this Act; and in this Act such a licence is referred to as an “operator’s licence”.

Declaration

Regulation 19 of the Enforcement Powers Regulations states:

(1) Where a person makes a declaration with a view to securing the return of a vehicle and the declaration is that the vehicle was not being, or had not been, used in contravention of Section 1 of the 2010 Act, and the declaration is to the person's knowledge either false or in any material respect misleading, that person is guilty of an offence.

(2) A person guilty of an offence under Paragraph (1) shall be liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.