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**Hire and Reward drivers:**

**Statutory Administrative Criteria {DRAFT}**

**Date of commencement: [TO BE INSERTED].**

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# 1. Introduction

* The overriding aim of the Royal Falkland Islands Police (RFIP) is to protect the safety of the public.
* This document sets out a series of criteria that bars an individual from driving passengers for hire and reward.
* These criteria apply to any class of vehicle being used to convey passengers for money or other reward on any road or public place in the Falkland Islands.
* There is no requirement to apply for any form of permission to drive passengers for hire and reward but if you do not meet the criteria set out in these documents you will commit an offence.
* A new offence of driving passengers for hire and reward while barred will be introduced. The Attorney General will determine if an induvial is to be prosecuted as per the AG’s guidelines of prosecutions.

# 2. Definitions

Hire and reward is any payment in cash or kind which gives a person the right to be carried, regardless of whether or not that right is exercised. It is also regardless of whether or not a profit is made.

# 3. At a Glance

Any person in the Falkland Islands can drive a person for hire and reward as long as they meet the following “fit and proper person” criteria;

* You must be at least 21 years of age at the time of applying. There is no upper age limit, as long as you meet the other licensing requirements.
* You must have held a full driver’s licence for at least 24 months and currently hold a Falkland Islands full driver’s licence for the class of vehicle you wish to drive.(see Your Driver’s Licence section).
* You must have the right to live and work in the Falkland Islands.
* You must be of good character.
* You must be insured to carry passengers for hire and reward.
* You must be medically fit.
* If you employ people to drive for hire and reward you will be liable for any offences your drivers commit **under this legislation** as principle and/or aid, abet, counsel, or procure.

## 3.1 Driving licences, declarable medical conditions, eyesight and insurance.

 To drive any motor vehicle on a designated road or public place in the Falklands you must comply with the provisions of section 6,7,8 ,9 and 10 of the Road Traffic Ordinance 1948. If you drive passengers for hire and reward and are found in breach of these elements of the RTO 1948 you will commit an offence of driving while barred under this legislation as well as any other offences relating to no insurance, defective eyesight, no drivers licences or failing to declare a medical condition.

## 3.2 If you have lived abroad

If you have spent a period of 12 months or more overseas RFIP may need to see evidence of a criminal record check from the country/countries covering the period(s). When criminal record checks are not available from the countries in question, a Certificate of Good Conduct with certified written English translation may be acceptable. These documents should not be dated more than three months prior to leaving the overseas country in question.. You should be able to produce this if asked to do so by a constable in uniform and provide proof that you are not barred from driving people for hire and reward.

# 4. Criminal history

## 4.1 General

* The RFIP conducts local vetting checks and may require a person to produce an Enhanced Vetting Check from the UK or other national authorities if it considers it is required in order to ensure an individual is a “fit and proper” driver.
* You are convicted of any offences listed below you are no longer entitled to drive passengers for hire and reward.
* It is an offence for any person knowingly or recklessly to make a false declaration, or to omit any material information; particularly when giving information required by the RFIP in order to determine an individual’s fitness to drive for hire and reward.

**4.2 Serious offences involving violence**

A person is barred from driving for hire and reward if that person has a conviction for an offence of:

* + - Murder
		- Manslaughter
		- Manslaughter or culpable homicide while driving
		- Terrorism offences
		- Or any similar offences, including attempts or conspiracy to commit the offences listed above

A person is barred from driving for hire and reward if they have more than one conviction in the last 10 years for an offence of violence (section 71 assault or above) or has a conviction less than **10 years** old for an offence or similar offence(s) to those listed below:

* + - Arson
		- Malicious wounding or grievous bodily harm which is racially aggravated/ religiously aggravated
		- Actual bodily harm which is racially aggravated/ religiously aggravated
		- Grievous bodily harm with intent
		- Robbery
		- Illegal possession of firearm
		- Riot
		- Assault Police
		- Common assault which is racially/religiously aggravated
		- Violent disorder

It is illegal to discriminate against, harass or victimise any person with a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). A person with a conviction for this type of offence less than **5 years old** will be barred from driving for hire and reward.

## 4.3 Sex and indecency offences

Anyone with a conviction for these offences is barred for life from driving for hire and reward:

* + - Rape
		- Assault by penetration
		- Offences involving children or vulnerable adults
		- Sexual assault
		- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

Convictions **less than 10 years old** (or at least 10 years must have passed since the completion of the sentence, whichever is the longer), for the offences listed below will bar a person from driving for hire and reward.

* + - Possession of indecent images
		- Exploitation of prostitution
		- Making or distributing obscene material
		- Grooming, Trafficking or sexual exploitation

Convictions **less than 5 years** **old** (or at least 5 years must have passed since the completion of the sentence, whichever is longer), for the offences listed below will bar a person from driving for hire and reward:

* + - Indecent exposure
		- Making indecent telephone calls
		- Soliciting (kerb crawling)
		- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

In addition to the above, anyone who has a SHPO or SOPO in force is also barred from driving for hire and reward.

More than one conviction for any sex or indecency offence also bars anyone from driving for hire and reward for life.

## 4.4 Dishonesty

In general, a minimum period of **3 years** free of conviction or at least 3 years from completion of sentence (whichever is longer) will be required to avoid being barred from driving a person for hire and reward for the below offences:

* + - theft
		- burglary
		- fraud
		- benefit fraud
		- handling or receiving stolen goods
		- forgery
		- conspiracy to defraud
		- obtaining money or property by deception
		- other deception
		- taking a vehicle without consent
		- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

## 4.5 Drugs

The nature and quantity of the drugs, whether for personal use or supply, are issues that will be considered.

A conviction less than **5 years old** for offences related to the supply of drugs will bar a person from driving for hire and reward.

More than one conviction for offences related to the possession of drugs also bar a person from driving for hire and reward.

If there is evidence of persistent drugs use, dependency or prescription drug misuse you cannot drive for hire and reward.

If there is evidence of previous drugs use, misuse or dependency, a specialist medical examination may be required. See driving licence legislation for further guidance.

## 4.6 Major Traffic Offences

Any driver who has been convicted of a driving offence that resulted in the loss of life will be barred from driving for hire and reward. Such offences include:

* + - Causing death by dangerous driving
		- Causing death by careless driving whilst under the influence of drink or drugs
		- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
		- Causing death by careless driving
		- Causing death by driving: unlicensed, disqualified or uninsured drivers
		- Aggravated TWOC

An isolated conviction for other major traffic offences, such as driving without due care and attention requires a period of **2 years** to elapse before you can drive for hire and reward.

## 4.7 Drink driving/driving under the influence of drugs

One conviction for these offences means that you will be barred from driving for hire and reward for 5 years. 2 convictions will mean a bar of 10 years. Any more than 2 Convictions for these offences will mean that the driver is barred from driving for hire and reward for life.

Spent convictions are taken into account when determining if an individual will be barred from driving for hire and reward.

# 5. Responsibilities

## 5.1 Number of passengers

A hire and reward driver vehicle is not permitted to carry more passengers than the number which the vehicle is constructed to carry. This number will normally be indicated by the number of fixed seats and available seat belts.

Large passenger carrying vehicles shall display a sign in the vehicles showing the maximum number of passengers the vehicle can carry and indicate whether these are seated or standing passengers.

## 5.2 Seatbelts

Drivers should advise all passengers of the need to wear a seatbelt. Subject to the Wearing of Seatbelts Regulations 1996, any passenger who fails to wear a seatbelt commits an offence. Appropriate child seats and restraints should be available and used when necessary.

## 5.3 Enforcement and expanded police powers

As a hire and reward driver you have accepted the responsibilities which come with the benefit of driving people for hire and reward. There are regulations and ordinances in force to regulate the industry. Enforcement is viewed as part of the overall control process exercised by the Falkland Islands Government and is seen as an important way of maintaining and improving the standards within the trade and the quality of service delivered to the general public.

Usually enforcement action will be taken to:

* protect the public interest
* support the policies of the Falkland Islands Government
* respond to individual public complaints

Authorised officers of the RFIP are empowered to give or recommend any of the following measures:

* verbal warning
* fines
* prosecution

Hire and reward drivers have a clear legal duty to offer assistance and information to any authorised officer and must not wilfully obstruct or give false information.

**E+W+S**