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**Hire and Reward drivers:**

**Statutory Administrative Criteria. {DRAFT}**

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# 1. Introduction

1. The overriding aim of the Royal Falkland Islands Police (RFIP) is to protect the safety of the public. The RFIP is concerned to ensure:

* That the public are safeguarded from dishonest people
* The safeguarding of all; especially children, young people and other vulnerable people
* That anyone driving people for hire and reward is a fit and proper person
* That the ability to provide a safe environment for fare passengers is facilitated.
* The purpose of this document is to provide guidance on what convictions and what medical issues would bar an individual from driving any class of vehicle for hire and reward.
* The term “fit and proper person” for the purposes of this policy is defined as someone who is not barred from driving people for hire and reward by virtue of relevant previous convictions or medical history. This document is not exhaustive, nor is it a definitive statement of the legislation currently in force.

# Definitions

1. A large passenger vehicle means a motor vehicle constructed or adapted or in fact used for the carriage of more than 12 persons in addition to the driver (but so that nothing in this definition shall preclude it from being used as a hire car or taxi in the event that the vehicle plies for hire)

2. 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. A taxi means a motor vehicle used for the carriage of fare paying passengers operated on a regular basis and which either plies for hire or takes booking via telephone or other means. Such vehicles operate in Stanley and are habitually used all year round in Stanley. This definition also applies to vehicles used for private hire transfer from any of the air ports or sea ports in the Falklands.

4. A tourist driver is someone who drives or seeks to drive passengers for hire and reward when a cruise ship is visiting Stanley or any other location where cruise ships dock in the Falkland Islands.

**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 Convictions

1. Hire and reward drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. You are barred from driving anyone for hire and reward if you have any of the following convictions:

* Any conviction for a major violent offence (murder, manslaughter etc.)
* If you have more than one conviction of any type of violent offence in the last 10 years
* If you are still serving a custodial sentence, even if you have been released early on licence or the sentence was suspended
* If you have been convicted, cautioned or subjected to any other penalty for serious sexual offences (rape, indecent assault, trafficking, possession of indecent images, etc. modern day slavery).
* If you have been convicted, cautioned or subjected to any other penalty for more than one sexual offence of any type, irrespective of age
* If you are listed on the UK’s Children's or UK’s Adults' barred list

1. Please be advised that this is not an exhaustive list, decisions are made on a case by case basis, and other offences can also disqualify you from driving people for hire and reward. For more information, see Section 5 of this document.

## 3.2 Medical

1. Before undertaking any driving for hire and reward it is the driver’s responsibility to ensure their fitness to drive.
2. Under the revised declarable medical conditions, anyone driving any motor vehicle in the Falkland Islands must declare any medical condition that has prevented or could prevent them from being fit to drive.
3. If you suffer from any medical condition stated in Section 4 of this administrative criterion or any other condition that may affect your ability to drive, then this could disqualify you from driving any motor vehicle.
4. For more information on medical fitness, please see Section 4 in this administrative criterion.

## 3.3 Your Driver’s Licence

1. **It is an offence** to drive a motor vehicle on a road without a driver’s licence in force for the class of vehicle you are driving.

## 3.4 Your Insurance

1. A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance.
2. **It is an offence** to drive a vehicle for hire and reward without the adequate third party insurance covering passengers carried for hire and reward (Regulation 6 of the Road Traffic (Provisional) Regulations Order 1986).
3. An isolated incident in the past will not necessarily stop someone being allowed to drive people for hire and reward; provided the applicant has been free of conviction for **3 years**, however strict warning should be given as to future behaviour. More than one conviction for these offences would prevent a person from driving for hire and reward.
4. **It is an offence** to forge, or alter, or use, or lend, or allow such a document to be used by any other person, any certificate of insurance policy. The individual(s) who commits such an offence is liable on summary conviction to a fine up to level 3 on the standard scale and in the case of a second or subsequent conviction to imprisonment for a term of up to three months or to a fine of up to level 4 on the standard scale (Sections 48 and 56 of the Road Traffic Ordinance).

## 3.5 If you have lived abroad

1. 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), or in cases where criminal record checks are not available from the countries in question, a Certificate of Good Conduct, with certified written English translation, not older than 3 months. 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. Medical

## 4.1. General

1. Any driver with any medical condition that may affect their ability to drive must declare as soon as it materialises or within seven days after it has been diagnosed (whatever occurs first).

## 4.2 Eyesight

1. Before driving anyone for hire and reward you should ensure you are fit to drive by being able to read; in good light with glasses or contact lenses if worn, a car number plate from at least 20 metres (post 01.09.2001 font) and have eyesight (visual acuity) of 6/12 (decimal Snellen equivalent 0.5) or better.

If you cannot meet the above standard, you cannot drive for hire and reward.

1. Anyone who has sight in one eye only or their sight in one eye has deteriorated to a corrected acuity of less than 3/60 (decimal Snellen equivalent 0.05) cannot drive for hire and reward.
2. Anyone with uncontrolled symptoms of double vision, or double vision treated with a patch, will not be allowed to drive for hire and reward.

## 4.3 Epilepsy

Anyone that has been diagnosed as having epilepsy: this includes all events- major, minor and auras; cannot drive for hire and reward.

## 4.4 Insulin treated diabetes

If you have insulin-treated diabetes, you may be eligible to apply to drive for hire and reward as long as you can present medical evidence, produced by a medical professional, stating that you have met strict criteria for controlling and monitoring your diabetes and are fit to drive.

## 4.5 Age related fitness to drive.

Getting older is not necessarily a barrier to driving. Nevertheless, drivers need to be aware of the following conditions:

* Functional ability, not chronological age is important in assessments.
* Multiple comorbidity should be recognised as becoming more likely with advancing age and considered when advising older drivers.
* Discontinuation of driving should be given consideration when an older person –or people around them – becomes aware of any combination of these potential age-related conditions: progressive loss of memory, impaired concentration and reaction time, or loss of confidence that may not be possible to regain.
* Physical frailty in itself would not necessarily restrict licensing, but assessment needs to include careful consideration of any potential impact on road safety.
* Age-related physical and mental changes vary greatly between individuals, though most will eventually affect driving.
* Professional judgement must determine what acceptable decline is and what is irreversible and/or a hazardous deterioration in health that may affect driving.

## 4.6 Other medical conditions

Drivers are required to report the following conditions to the licensing authority as soon as they materialise:

* Within 3 months of a coronary artery bypass graft (CABG)
* Angina, heart failure or cardiac arrhythmia which remains uncontrolled
* Heart pain or fainting
* Implanted cardiac defibrillator
* Hypertension where the blood pressure is persistently 180 systolic or more and/or 100 diastolic or more
* Severe anxiety or depression, hypomania or mania, dementia, perspicacity disorder,
* A stroke or transient ischemic attack (TIA) within the last 12 months
* Unexplained loss of consciousness with liability to recurrence
* Meniere’s disease, or any other sudden and disabling vertigo within the past year, with a liability to recurrence
* Unexplained syncope, vasovagal syncope,
* Major brain surgery and/or recent severe head injury with serious continuing after-effects or a likelihood of causing seizures
* Parkinson’s disease, multiple sclerosis or other chronic neurological disorders with symptoms likely to affect safe driving
* Psychotic illness in the past 3 years
* Serious psychiatric illness
* If major psychotropic or neuroleptic medication is being taken
* Alcohol and/or drug misuse in the past 1 year or alcohol and/or drug dependence in the past 3 years
* Dementia
* Cognitive impairment likely to affect safe driving
* Any malignant condition in the last 2 years, with a significant liability to metastasise (spread) to the brain
* Any other serious medical condition likely to affect safe driving
* Cancer of the lung.
* Sleep disorders, including but not solely: excessive sleepiness, apnoea syndrome, narcolepsy, etc.
* Sudden and unprovoked or precipitated episodes of disabling dizziness.
* Brain and pituitary tumours.
* Subdural haematoma, intracranial aneurysm, arteriovenous information.

Your driving licence is likely to be revoked if you have or are suffering from any of the above mentioned conditions.

Any other medical condition would be reviewed in a case by case basis.

The medical standards are continually reviewed and updated in line with new developments in medicine generally, and traffic medicine in particular.

## 4.7 Medication

It is an offence to drive or attempt to drive while unfit because of drug use – and driving laws do not distinguish between **illegal and prescribed drugs**. Therefore, drivers must be aware of the following conditions:

* Some prescription and over-the-counter medicines can affect driving skills through drowsiness, impaired judgement and other effects.
* Without providing an exhaustive list, the following drug groups require consideration:
* Benzodiazepines
* Antidepressants
* Antipsychotics
* Opioids

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# 5. Criminal history

## 5.1 General

1. 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.
2. The RFIP is also entitled to use other records and information that may be available to it in determining an entitlement to continue to drive for hire and reward. This may include information held by the RFIP, the Falkland Islands Departments of Health & Social Services and Immigration and International police agencies.
3. You are required to notify the RFIP in writing as soon as possible and within **seven days** of receiving a criminal conviction (including cautions).
4. 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.

**5.2 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
    - Actual bodily harm which is racially aggravated
    - Grievous bodily harm with intent
    - Robbery
    - Illegal possession of firearm
    - Riot
    - Assault Police
    - Common assault which is racially 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.

## 5.3 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
    - Indecent assault
    - Possession of indecent photographs, child pornography etc.
    - Exploitation of prostitution
    - Making or distributing obscene material
    - Grooming, Trafficking for sexual exploitation
    - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

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 is currently on the UK and/or Falkland Islands’ Sex Offenders Register is also barred.

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

## 5.4 Dishonesty

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

* + - 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

## 5.5 Drugs

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply, are issues which will be considered.

A conviction less than **5 years old** for offences related to the supply of drugs 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 for a period of 5 years.

If there is evidence of persistent drugs use, misuse or dependency 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.

## 5.6 Major Traffic Offences

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. The following offences mean you cannot drive for hire and reward:

* + - 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.

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

One conviction for these offences barred for 5 years. 2 convictions- 10 years. Any more than 2 – life time bar.

# 6. Responsibilities

## 6.1 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.

The regulations may make further provisions with regards to the number of passengers allowed to be carried and the means of controlling this. If a person contravenes, or fails to comply with, a provision of regulations they shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. For more information, please consult the regulations.

## 6.2 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.

## 6.3 Assistance

Where the hire and reward vehicle has been hired:

* by or for a disabled person who is accompanied by a guide dog, a hearing dog or an assistance dog of that person,
* by a person who wishes such a disabled person to accompany that person in the hire and reward vehicle,

The driver shall assist the disabled person and shall not make any additional charge for doing so. However, non assistance animals not travelling to the veterinary department are not permitted in the vehicle and drivers can refuse a request for them to be carried.

## 6.4 Fitness of Driver

The RFIP may reasonably require a driver to produce a medical certificate from a medical practitioner to the effect that they are, or continues to be, physically fit to hold a drivers licence for that class of vehicle.

Whether or not such a certificate is produced; the driver must if required by the RFIP at any time, undergo a medical examination by a medical practitioner selected by the RFIP.

## 6.7 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**