

# EXECUTIVE COUNCIL

## CONFIDENTIAL

**Title of Report:** Taxi Licensing  
**Paper No:** 255/11  
**Date:** 14 December 2011  
**Report of:** Attorney General  
Inspector, Royal Falkland Islands Police

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### 1.0 Purpose

The purposes of this paper are:

- (a) to seek Executive Council's initial views on the policy to be adopted in relation to the licensing of those driving vehicles carrying passengers for hire or reward (not just taxis but also those driving tourists, etc); and
- (b) to seek Executive Council's approval for a period of public consultation on an interim permit scheme for drivers carrying passengers for hire or reward (to be implemented by subsidiary legislation), supplementing the existing provisions for public service vehicle licensing.

### 2.0 Recommendations

Executive Council is recommended to approve a public consultation exercise (described in section 6) on the interim permit scheme suggested in section 5.

### 3.0 Summary of Financial Implications

None

### 4.0 Background

4.1 When considering legislative drafting priorities at the start of 2011, Executive Council indicated that taxi licensing was one of the matters that needed to be given priority ahead of the rest of the Road Traffic project.

4.2 The purpose of this paper is to outline options for an interim permit scheme that could be introduced relatively quickly, pending further work on a system to apply in the longer term – although there would still need to be a lead in period (even for the interim scheme) to enable permit applications to be made and processed.

4.3 The purpose of the scheme would be to provide the public with confidence about their safety. That confidence does not just need to be provided in relation to the taxis that circulate in Stanley but also in relation to the transport provided to tourists who make an important contribution to the Islands' economy.

4.4 For that reason, it is proposed that the requirement for a permit should apply to everyone who drives a vehicle carrying passengers for hire or reward, not just to those who drive taxis full time. However, under the interim scheme suggested in section 5, the requirement would not be onerous, even for those who only drive on a casual basis rather than as their main employment.

4.5 This would not affect everyone those who drives others in the course of their employment. The usual meaning of "hire or reward" depends on payment being made by (or for) the passengers for the right to be carried, not whether or not the driver is being paid. That would not apply to those carrying work colleagues to and from work sites nor those collecting government or business visitors from MPA and taking them back there.

4.6 However, there are some situations in which it might apply. Examples might include: teachers taking pupils on school trips if a charge for transport is made; house-parents taking children living at Stanley House out on trips (on the basis that this is an element of the fees that are charged there); and transport to or from Stanley provided (but charged for) by an MPA-based employer.

4.7 The suggested system would still directly or indirectly affect many members of the community in some way: those who drive passengers for hire or reward (whether full time or just on cruise ship days) would be affected directly; but taxi users and other stakeholders (such as those in the tourism industry) would also be affected indirectly.

4.8 For that reason, it is proposed that there should be a period of public consultation on the interim scheme suggested in section 5. Details of the proposed consultation exercise are set out in section 6.

#### *Legal framework*

4.9 Section 5 of the Road Traffic Ordinance already deals with public service vehicle licences (PSV licences), which are required by those driving vehicles capable of carrying more than 12 passengers.

4.10 The Chief Police Officer has the power under section 5(2) to refuse, revoke or suspend the PSV licences of those who appear not to be fit to hold them. However, the Ordinance does not specify the criteria for this process nor does it provide for an appeals process – there is provision for appeals to the Senior Magistrate about drivers' licences but not about PSV licences.

4.11 Section 59(1)(q) provides for subsidiary legislation to be made in relation to "the granting and cancellation by the chief police officer of permits authorising the use of public service vehicles and other motor vehicles for the carriage of passengers for hire or reward". That could be used to introduce an interim permit

scheme covering those driving vehicles carrying passengers for hire or reward within the Stanley area and on designated roads.

4.12 Section 59(1)(o) provides for subsidiary legislation to be made to regulate fares. However, it is not proposed to regulate fares at this stage.

4.13 There is also already provision in the Road Traffic Ordinance for vehicle testing (and not just in relation to public service vehicles, taxis and vehicles used for private hire). That could be incorporated into a system under which permits were required for the vehicles used to carry passengers for hire or reward, as well as by those driving them.

4.14 However, it is not proposed to introduce a system of vehicle testing immediately, even for public service vehicles and vehicles used to carry passengers for hire or reward. Further options would need to be developed in order to introduce such a system and it is proposed to leave this until a later stage of the project to modernise road traffic legislation in the Islands.

## **5.0 Proposed interim permit scheme**

5.1 It is proposed that subsidiary legislation should be introduced to make it a requirement to have a permit issued by the RFIP Licensing Bureau (on behalf of the Chief Police Officer) to drive a vehicle carrying passengers for hire or reward.

5.2 Although a more permanent system might involve more stringent requirements (such as advanced driving tests and/or medical examinations and/or formal criminal records checks), it is suggested that the interim scheme should be administered as far as possible on the basis of self-certification by applicants.

5.3 The key issues relevant for public confidence are:

- Driving ability:

A higher standard of driving ability might well be required for those driving passengers for hire or reward than for ordinary drivers.

In the longer term, this could be assessed by means of an advanced driving test.

However, for the interim regime, it is suggested that the requirement should simply be for an “ordinary” driving licence, but that permits could be refused or revoked on the basis of driving convictions (eg an unspent conviction for a serious driving offence or multiple unspent convictions for minor driving offences) or road accidents for which the applicant was to blame (eg a serious accident in the last few years or a series of minor accidents in the same period).

It is not suggested that formal checks should be required routinely but that applicants should be asked to declare if they have convictions or if they have had accidents.

Applicants might also be asked to give consent for criminal records checks to be carried out and enquiries made to their insurers.

Those with clean records or very bad records (such as recent convictions for drink driving or reckless driving) would be straightforward to deal with. The difficulty would be in assessing the cases in the middle, where there are convictions or accidents that are less serious or older. Further work remains to be done to settle detailed criteria to be applied for dealing with these cases.

- Health:

In this context, health is relevant only to the extent that it affects driving safety (eg eyesight, hearing, epilepsy, diabetes, heart condition).

In the longer term, a requirement for medical examinations could be introduced.

However, for the interim regime, it is suggested that applicants should simply be required to provide a declaration (similar to one provided for “ordinary” licence applications) that they do not have physical or mental illnesses or disabilities that affect their safety to drive and that are not corrected or under control.

Again, applicants might be asked to give consent for enquiries to be made about their health.

Although medical examinations would not be required routinely, those with conditions that might affect their driving safety should be asked to provide medical evidence about their fitness to drive.

- Personal conduct:

In order to ensure that the public are protected from those who might pose a risk to their safety, it is suggested that permits should not be granted to those who have convictions for sexual offences or offences involving violence or dishonesty.

It is not suggested that formal checks should be required on a routine basis but that applicants will be asked to declare if they have convictions.

However, there may be difficulty in assessing applications from those who have convictions for more minor matters, perhaps some length of time before. Further work remains to be done to settle detailed criteria to be applied for dealing with these cases.

Many local authorities in the UK impose more stringent requirements about drivers’ conduct (including dress codes). These might form part of a longer term scheme but are not being suggested at this time.

- Insurance:

It is essential that those carrying passengers have insurance that provides cover for those passengers (and their belongings) as well as for other third parties and that includes driving for hire or reward.

It is suggested that applicants for permits should be able to show that they have that extended insurance coverage, in the same way as proof of ordinary third party insurance is already required when vehicle licenses are renewed each year.

It is worth noting – as an aside – that, for hire and reward cover obtained through FIC’s insurance agency, vehicles over 5 years old need to be checked as an underwriting requirement. To this extent, there may be some element of self-regulation in relation to vehicle standards and it may be that there is also a similar element of self-regulation in relation to driving ability and health.

5.4 It is suggested that, for applicants who meet the following requirements, permits could be issued by the RFIP Licensing Bureau purely administratively:

- they already hold a driving licence;
- they self-declare that they are fit to drive;
- they have no unspent driving convictions;
- they self-declare that they have not been to blame for a road traffic accidents in the last 3 years;
- they have no convictions for sexual offences or convictions for offences involving violence or dishonesty;
- they can show that they have suitable insurance cover; and
- they give consent for a criminal records check and for enquiries to be made to their insurers and about their health.

5.5 Applications that require further consideration would have to be referred to an appropriate level within the RFIP and cross-checks could be carried out on some self-certified applications to ensure compliance.

5.6 It is suggested that permits should have to be renewed each year and that permit holders should be under an ongoing duty to disclose changes during the year.

5.7 If a change is disclosed, consideration would need to be given at an appropriate level within RFIP to whether the permit should be revoked (or suspended pending further consideration, possibly following appropriate enquiries). The same should apply if the RFIP becomes aware of a change that has not been declared or that a self-declaration was not correct.

5.8 There would have to be provision for appeals if permits are refused, revoked or suspended. This should be either to the Senior Magistrate or the Summary Court.

5.9 It is suggested that permit holders should be issued with a photocard (which should be secure but need not be as elaborate as a photocard driving licence) and required to wear or display it when carrying passengers for hire or reward (or seeking them). It may be that (particularly with tourist drivers and guides in mind) the photocard could be co-branded in some way in conjunction with the Tourist Board – however, that would need to be explored.

5.10 It is suggested that a fee should be charged for permits to cover the costs of the scheme should be covered by a fee for permit applications. The fee charged for a new licence is £27.50 and the fee charged for the annual renewal of a PSV licence is £5.75. Provided the costs of producing the photocards to be worn/displayed can be kept to a reasonable level, the fee for a permit might well be comparable to that.

5.11 Offences would need to be created to ensure compliance with the scheme. These would need to cover the following aspects:

- driving carrying passengers for hire or reward without a permit
- failing to display the photocard when required
- giving a false declaration when applying for a permit
- failing to disclose a change during the year

5.12 However, backed up by cross-checks on applications, the need for annual renewal of permits and suitable publicity for the photocard element of the scheme, the scheme is likely to be self-regulating to a large extent.

5.13 It is considered that the interim system being suggested would fulfil the basic requirements for promoting and maintaining public confidence (and maintaining and enhancing the image given to tourists) without imposing more bureaucracy than necessary. Taxi companies and tour drivers/guides who hold permits may even be able to use the scheme as a means of promotion, especially if there is co-branding with the Tourist Board.

5.14 To deal to some extent with the issue identified in paragraph 4.6, it is suggested that there should be an exemption from the requirement for a permit in when carrying passengers in the course of duties for FIG. The Management Code contains requirements at least as stringent as those proposed for the interim system. FIG employees would still need to take out permits in their own right if they need them for activities in their own time.

## **6.0 Public consultation**

6.1 As indicated in paragraphs 4.7 and 4.8, it is recognised that the suggested scheme would affect many people (both directly and indirectly) and that public consultation needs to be carried out.

6.2 If Executive Council approves the recommendation of this paper, the following consultation plan is suggested:

- A consultation paper would be produced and made available from Gilbert House.
- This would be publicised by means of a press release (distributed to the media organisations and also through the Gilbert House e-mail list), adverts in the Penguin News and announcements on FIRS.
- The RFIP and the AG's Chambers would make themselves available to the media for interviews during the consultation period to explain the proposals and invite comments.
- The consultation period would be 4 weeks and the public would be invited through the consultation paper and publicity drive to submit comments in writing to the RFIP.
- Taxi operators, the Tourist Board and the Chamber of Commerce would be contacted directly and asked to comment.

6.3 Following the consultation period, the responses would be collated and a further paper submitted to Executive Council reporting on the outcome with further proposals.

## **7.0 Financial Implications**

None at this stage

As indicated in paragraph 5.10, it is suggested that an administrative fee should be charged for permit applications to cover the costs of the scheme.

## **8.0 Legal Implications**

The legal implications of this paper are set out in sections 4 and 5.

## **9.0 Human Resources Implications**

None at this stage

The scheme being suggested would largely be run through the RFIP Licensing Bureau and, although some additional support might be needed to deal with initial applications and seasonal peaks, it is envisaged this could be found from within existing resources.