

EXECUTIVE COUNCIL

PUBLIC

Title:	Road Traffic Law – Overseas Driving Licences
Paper Number:	159/24
Date:	24 September 2024
Responsible Director:	Director of Emergency Services and Islands Security Chief Police Officer - Royal Falkland Islands Police
Report Authors:	Mary Katerere (Legal Policy Advisor) Stuart Walker (Crown Counsel)
Portfolio Holder:	Hon. Jack Ford MLA (Emergency Services and Islands Security)
Reason for paper:	This paper is submitted to Executive Council: For policy update/information
Publication:	Yes
Previous papers:	N/A
List of Documents:	None

1. Recommendation

Honourable Members are recommended to:

- (a) approve in principle the recommendation for legislative reform;
- (b) approve a public consultation on the proposed model for the use of overseas driving licences in the Falkland Islands;
- (c) approve the work required to undertake the consultation, finalise policy proposals and prepare draft legislation for submission to Executive Council.

2. Additional Budgetary Implications

None.

3. Executive Summary

- 3.1 The Legislative Programme contains provision for work to be undertaken in relation to road traffic law and public service vehicle regulation. This work has been outstanding for a significant period of time because it is a complex area that is linked to wider issues such as the regulation of driving licences and public protection from the risk of sexual harm posed by

convicted sex offenders providing driving services for hire, reward or payment. It has proven difficult to resolve issues around public service vehicle regulation without first solving related issues.

- 3.2 The recent Criminal Laws (Amendment) Ordinance 2024 contains provisions which address the risk posed by convicted sex offenders providing driving services for hire, reward or payment. The resolution of this issue means that progress can now be made in relation to other issues related to public service vehicles.
- 3.3 A working group has reviewed the issues and identified that the use of overseas driving licences in the Falkland Islands is the next issue which should be addressed due to a public safety risk.
- 3.4 The law in relation to the use of overseas driving licences has not been reformed since the 1990s and it has been identified by the working group that the law does not provide sufficient regulation of the use of overseas driving licences.
- 3.5 This paper sets out an analysis of the position and a proposed regulatory model. The paper seeks approval in relation to the recommendation for reform, public consultation and the work required to prepare policy recommendations and draft legislation.

4. Background

- 4.1 The Chief Police Officer has overall responsibility for administering the driving licence scheme under the Road Traffic Ordinance 1948 and the Road Traffic (Provisional) Regulations Order 1986 and this includes making provision for testing competency to drive. Competency tests are provided by Falkland College on behalf of the Chief Police Officer.
- 4.2 The Royal Falkland Islands Police, Falkland College and the Law and Regulation Directorate have been working jointly to undertake a review of areas of road traffic law. The Legislation Programme 2024-2025 makes provision for work to be undertaken in relation to public service vehicles to resolve outstanding issues relating to this topic. Reform in this area is linked to other issues concerning motor vehicle classes and driving licences.
- 4.3 The Law and Regulation Directorate reviewed this area and prepared provisional proposals in relation to motor vehicle classes, driving licences and public service vehicle licences. These provisional proposals were considered by the Chief Police Officer and Falkland College.
- 4.4 In May 2024 the Chief Police Officer, Falkland College officers, driving examiners and lawyers met as a working group to review the provisional proposals. The provisional proposals benefited greatly from the expert advice of driving examiners, who were able to provide an expert view on road safety and the existing circumstances in the Falkland Islands.
- 4.5 The following three issues were identified:
 - (a) the current classes of motor vehicle are becoming outdated and do not offer a full set of options in relation to manual and automatic vehicles;
 - (b) public service vehicle licences do not operate effectively and require reform or abolition;
 - (c) there is inadequate restriction on the use of overseas driving licences, particularly regarding larger motor vehicle classes.
- 4.6 Issues (a) and (b) are linked and the provisional view of the working group was that if the classes of motor vehicles are reformed and modernised the new model would be able to

incorporate public service vehicles without the need for separate provision. The working group identified that reform of the motor vehicle classes system was a significant project which would require consultation and policy development.

- 4.7 Reform of motor vehicle classes was identified as being a necessary step in keeping the law up to date and relevant to the modern circumstances of the Falkland Islands. However, the working group identified that issue (c) was the most pressing issue because inadequate restrictions on overseas driving licences poses a significant risk to road safety. This is due to the fact that the use of overseas driving licences is a gateway through which people may be permitted to drive classes of motor vehicle for which they do not have the required level of competence for driving in the Falkland Islands.
- 4.8 The working group considered how best to progress the identified issues and determined that in the interests of public safety, it is important that road traffic law makes adequate provision for the safe use of motor vehicles on roads. Road traffic law is a complex area where topics are often interlinked and this can make attempts at reform difficult. A number of past projects aimed at reforming road traffic law have not been successfully completed and although the reasons for this are varied a common contributing factor has been the size of the project.
- 4.9 More recently, there has been greater success in reforming areas of road traffic law by breaking topics down, where possible, and addressing them in a more manageable way. For example, road traffic offences were reformed in 2021 with the introduction of a modern set of criminal offences and in 2022 legislation was reformed to permit the use of electrically assisted cycles and mobility scooters.
- 4.10 As set out above, the working group considered the provisional proposals in relation to motor vehicle classes, public service vehicle licences and driving licences and identified the current use of overseas driving licences as being the issue which presented the greatest risk to public safety.
- 4.11 Following the more successful approach of addressing road traffic reform as smaller and more manageable projects, this paper looks at the topic of overseas driving licences as a specific issue with the other topics to be addressed in future submissions to Executive Council.

5. Review, Analysis and Recommendations

Overseas Driving Licences

Introduction

- 5.1 This topic is concerned with the law relating to when a person in the Falkland Islands can drive on an overseas driving licence or apply for a Falkland Islands driving licence based on an overseas licence¹.
- 5.2 The Falkland Islands is a modern jurisdiction and welcomes people from all over the world who come to visit, live and work in the Falkland Islands. People are in the Falkland Islands for different periods of time and different reasons. Some people are short term visitors, some are residents for the duration of a work permit and some become permanent residents. People coming to the Falkland Islands hold a wide range of overseas driving licences and a regulatory system is required to make provision for the circumstances in which people are permitted to

¹ This process is often referred to as licence exchange. The term “exchange” suggests that the overseas driving licence is surrendered upon the issuing of a Falkland Islands driving licence. Save for appearing in a prescribed form in Schedule 3 of the Road Traffic (Provisional) Regulations Order 1986 the substantive regulations do not use the term “exchange” and do not make provision for surrendering the overseas driving licence.

drive on Falkland Islands roads using an overseas driving licence, or to obtain a Falkland Islands driving licence based on their overseas licence.

- 5.3 There is no set international standard for issuing driving licences. Different jurisdictions have different road traffic rules and between jurisdictions there is significant variation in the standard of competency required to obtain a driving licence. Treaties, conventions and agreements between different countries allow for some overseas driving licences to be recognised across different jurisdictions. For example, the Convention on Road Traffic² is an international treaty designed to facilitate international travel by recognising the legality of driving licences from contracting states across different countries. However, not every state is a signatory to every treaty or convention and many countries, or groups of countries, have specific individual arrangements. This means that arrangements vary and do not have universal application.
- 5.4 Where standards of competency vary between other jurisdictions and the standard required in the Falkland Islands this can create public safety concerns, not necessarily because standards elsewhere are lower, although this may be the case, but because road signage and conditions may simply be different. It is therefore important that the law relating to the use of overseas driving licences promotes road safety whilst not creating an unnecessary burden on overseas drivers who need to drive in the Falkland Islands.
- 5.5 The current law is set out in the Road Traffic (Provisional) Regulations Order 1986 (“the Regulations”). The Regulations have been subject to some amendment since their inception but the provisions relating to overseas driving licences have not been subject to substantive amendment since the 1990s.
- 5.6 The issues to consider in relation to this topic can be divided into two categories:
- (1) Driving on an overseas driving licence; and
 - (2) Obtaining a Falkland Islands driving licence using an overseas driving licence.

(1) Driving on an overseas driving licence

Current law

- 5.7 Regulation 5(2) of the Regulations contains the provisions relating to overseas driving licences and provides as follows:
- (2) For the purposes of the Ordinance³, and subject to the provisions of the Ordinance and of these regulations in relation to provisional driving licences, a person holds a driving licence in respect of a motor vehicle if he is not for the time being disqualified by an order of a court in the Falkland Islands for holding or obtaining a driving licence and-*

² Known as the Vienna Convention, concluded in 1968 and amended in 1993 and 2006.

³ In the regulations, references to “the Ordinance” are references to the Road Traffic Ordinance 1948 which sets out the overarching framework for driving licences with the Regulations setting out specific requirements.

(a) he holds a driving licence issued by the chief police officer which is current and which operates, other than as a provisional driving licence, in respect of the class of motor vehicles to which that motor vehicle belongs; or

(b) he entered the Falkland Islands less than twelve months previously and-

(i) he holds a driving licence which is current and was issued by an overseas authority competent to issue driving licences in the place in which it was issued and which, in the country or territory in which it was issued, is a driving licence (other than a driving licence equivalent to a provisional driving licence) authorising him to drive in that country or territory the class of motor vehicles to which that motor vehicle belongs; and

(ii) he is not for the time being prohibited under any law of that country or territory from driving a motor vehicle of the class to which that motor vehicle belongs; and

(iii) he has not been present in the Falkland Islands for more than twelve months out of the preceding thirty-six months and;

(iv) he is at least eighteen years of age; or

(c) he holds a provisional driving licence issued by the chief police officer (but only in such circumstances, for such purposes and subject to such conditions authorises him to drive the motor vehicle in question).

5.8 Regulation 5(2)(b) deals with the situation where a person enters the Falkland Islands and wishes to drive on an overseas licence. In summary, a person can do so if:

(a) the person has a current overseas licence, it is not a provisional licence, and it authorises the person to drive the class of motor vehicle they intend to drive;

(b) the person is not currently disqualified by the overseas authority;

(c) the person has not been in the Falkland Islands for more than 12 months out of the last 36 months;

(d) the person is 18 years old or over.

5.9 If the above criteria are met the person can lawfully drive on the overseas licence for up to 12 months.

5.10 It is important to note that regulation 5(2)(b) places no restriction on the class of motor vehicle the person can drive. For example, if a person has an overseas driving licence which authorises them to drive a large lorry then the person can drive a large lorry in the Falkland Islands for up to 12 months so long as the other criteria in regulation 5(2)(b) are met.

Issue

5.11 The issue to consider is a road safety issue. What should happen if a person enters the Falkland Islands and drives on an overseas driving licence issued by a jurisdiction which tests competency to drive at a lower standard than the Falkland Islands?

5.12 For example, a jurisdiction may administer a standard competency test which authorises a wide range of motor vehicle classes to be driven, whereas the Falkland Islands has different

competency tests for different classes of motor vehicle. This means that a person may be authorised to drive a large vehicle on the overseas driving licence but has not passed a competency test of the standard which would be required to drive a large vehicle on a Falkland Islands driving licence.

- 5.13 Under the current law, there is no restriction on the class of motor vehicle a person can drive for up to 12 months on an overseas driving licence if the regulation 5(2)(b) criteria are met. An argument could be made that under the Road Traffic Ordinance 1948 the Chief Police Officer has overall superintendence for driving licences and could intervene to prevent a person driving on an overseas driving licence where appropriate, but such an argument is tenuous because it gives rise to the following questions:

- (a) how would the Chief Police Officer become aware of a person driving on an overseas driving licence?
- (b) in what circumstance could the Chief Police Officer intervene? and
- (c) what power would be exercised to prevent driving on the overseas driving licence?

- 5.14 The law contains no clear answer to these questions which means that it would be difficult to justify intervention by the Chief Police Officer and to ensure a consistent and fair approach between individuals under the current law. This leads to the conclusion that in the absence of an express regulatory scheme for managing the classes of motor vehicle a person can drive on an overseas driving licence within 12 months of entering the Falkland Islands there is in fact no power to limit the use of overseas driving licences outside of the regulation 5(2)(b) criteria.

Does the issue need to be addressed?

- 5.15 There is no available data which can be analysed to determine the impact of the use of overseas driving licences on road safety because such data is not currently collected. For example, it is not known whether there are an increased number of road traffic incidents in relation to people driving on overseas driving licences, either generally or in relation to a specific jurisdiction, within the first 12 months of being in the Falkland Islands.
- 5.16 Falkland College administers driving licence competency tests and there have been a number of concerns expressed by driving examiners about competency to drive in respect of larger classes of motor vehicle for which a person holds an overseas driving licence. This means that there is some anecdotal evidence that differences in competency standards between the Falkland Islands and some other jurisdictions is sufficiently different to lead to concerns being raised.
- 5.17 In the absence of specific data the issue needs to be considered as a matter of general principle in the context of the current situation in the Falkland Islands. This includes considering that since the Regulations were last amended in the 1990s there has been an increase in the number of motor vehicles on the roads and the increase in population numbers and diversity means that there are a wider range of overseas driving licences in use.
- 5.18 This leads to the following question, in the circumstances of the Falkland Islands as they exist today, should a person be able to enter the Falkland Islands and drive any class of motor vehicle on any overseas driving licence so long as they satisfy the regulation 5(2)(b) criteria?

United Kingdom

5.19 In answering this question, it is helpful to consider the position in the jurisdiction which is most similar to the Falkland Islands. In the case of road traffic law this is the United Kingdom. In relation to the use of overseas driving licences in the United Kingdom (referred to as non-GB licences) there are different rules depending on where a person sat a test of competency and the jurisdiction where the non-GB licence was issued⁴.

5.20 In summary, the United Kingdom system operates as follows:

- A visitor or resident may drive a car, motorcycle or other small motor vehicle on a valid non-GB licence for up to 12 months.
- In relation to mini-buses, buses and lorries the position depends on where the non-GB licence was issued:
 - European Union or European Economic Area (excluding Switzerland) – a person can drive on their full, valid licence (all authorised classes) until the age of 45, or for 5 years after they become resident, whichever is longer. If the person is over the age of 45 but under the age of 65 they can drive for 5 years or until they are aged 66, whichever is the shorter period.
 - Gibraltar, Jersey, Guernsey or the Isle of Man – a person can drive on their full, valid driving licence (all authorised classes) for 12 months.
 - All other countries and territories (including designated countries or territories) – cannot drive mini-buses, buses and lorries in the UK.

5.21 The position in the United Kingdom demonstrates that significant limits are in place in relation to driving mini-buses, buses and lorries on a non-GB licence unless the licence is a European Union or European Economic Area licence or a licence from Gibraltar, Jersey, Guernsey or the Isle of Man.

5.22 The obvious policy behind these restrictions is road safety. People entering the United Kingdom can drive cars, motorcycles and other small vehicles for up to 12 months on a non-GB licence. Driving mini-buses, buses and lorries is restricted to a limited number of jurisdictions to control the immediate use of larger vehicles by people who only hold a non-GB licence and have not had to go through any system of approval in the United Kingdom. This system effectively mitigates the risk posed by drivers who have not passed a competency test in the United Kingdom by restricting the use of larger motor vehicle classes to a limited number of jurisdictions which have equivalent standards of competency.

Conclusion

5.23 Taking into account all the relevant factors, namely the current situation in the Falkland Islands, the incidents reported by driving examiners and the position in the United Kingdom, there is a sufficient road safety concern to conclude that the law should be amended in favour of restricting the use of overseas driving licences in the first 12 months of entering the Falkland Islands in relation to larger classes of motor vehicles and to limit the use of overseas driving licences to cars, motorcycles and other small vehicles.

⁴ [Driving in Great Britain on a non-GB licence - GOV.UK \(www.gov.uk\)](http://www.gov.uk) – the relevant legislative framework in the United Kingdom is complex. It derives from the Road Traffic Act 1988 and numerous secondary legislation, such as the Driving Licences (Exchangeable Licences) Orders.

Options

- 5.24 The following options are available:

Option One: Take no action (not recommended)

This option should be adopted if it is considered that there is not a sufficiently strong road safety concern to justify restricting the use of overseas driving licences beyond the criteria set out in the current law.

Option Two: Approve legislative reform (recommended)

This option should be adopted if it is considered that the current law needs to be reformed because there is a sufficient road safety concern to justify restricting the use of overseas driving licences.

Recommendation

- 5.25 It is recommended that legislative reform should be approved because the analysis set out above identifies that the current law does not place sufficient restriction on the use of overseas driving licences in the first 12 months of entering the Falkland Islands and this creates a road safety issue of sufficient seriousness to justify reform.
- 5.26 If legislative reform is approved the next step is to consider the nature of the reform. The similarity of the United Kingdom to the Falkland Islands in terms of road systems and the required standard of competency to drive, leads to the conclusion that reform should be based on the current position in the United Kingdom.
- 5.27 The benefit of this approach is that the United Kingdom has developed its system based on an assessment of risk and a determination of balancing the requirement to promote road safety with the reasonable use of overseas driving licences in the first 12 months of being in the jurisdiction. The Falkland Islands shares the same standard of driving competency as the United Kingdom and where the United Kingdom has determined that a jurisdiction has an acceptable standard of competency to permit the driving of larger motor vehicles on an overseas driving licence in the first 12 months the Falkland Islands can be satisfied that the required standard exists in relation to that jurisdiction without needing to undertake the task of making that assessment independently.
- 5.28 If legislative reform was based on the approach in the United Kingdom then the Falkland Islands model would be as follows:
- a person may drive a car, motorcycle or other small motor vehicle on an overseas driving licence for up to 12 months after arriving in the Falkland Islands.
 - a person may only drive a mini-bus, bus, lorry or other large vehicle on an overseas driving licence for up to 12 months after arriving in the Falkland Islands if the overseas licence was issued by the United Kingdom, a country in the European Union or European Economic Area, Gibraltar, Jersey, Guernsey or the Isle of Man.

(N.B. – it is an option for any person to apply for a Falkland Islands driving licence to drive any class of motor vehicle at any time if they meet the relevant requirements and pass the relevant competency test).

- 5.29 It would not be necessary to adopt similar rules to the United Kingdom relating to age, because the Falkland Islands does not have the United Kingdom age restriction rules in relation to some classes of licence.

Consultation

- 5.30 If legislative reform was undertaken based on the model proposed above this would restrict the use of overseas driving licences in the first 12 months of entering the Falkland Islands compared to the position under the current law.
- 5.31 It would be important to understand whether this would have an impact on individuals or business operations and whether any impact would require a different approach to the recommended model.
- 5.32 A public consultation is recommended in order to gather information to identify what issues, if any, may arise as a result of the proposed model and to assist in making an assessment of the need for legislative reform.

(2) Obtaining a Falkland Islands driving licence using an overseas driving licence

Current law

- 5.33 Regulation 5(3)(b) deals with what happens when a person wants to use their overseas driving licence to obtain a Falkland Islands driving licence. For example, where a person has been driving on an overseas driving licence for 12 months and is staying in the Falkland Islands for a longer period of time. The sub-regulation states:

(3) The chief police officer may issue a driving licence (other than a provisional driving licence) to a person authorising him to drive motor vehicles of the class or classes specified in the licence if that person is not disqualified by any order of a court in the Falkland Islands for holding or obtaining a driving licence and one or other of the following conditions is satisfied in relation to him-

(a) he has passed such test of competency to drive motor vehicles as satisfies the chief police officer that he is competent to drive motor vehicles of the class or classes to which the driving licence relates and he is at least seventeen years of age (except that a driving licence may be issued in respect of motor cycles to a person who is at least sixteen years of age);

(b) he satisfies the chief police officer that he holds a driving licence which under subparagraph (b) of paragraph (2) of this regulation authorises or would, (but for the period or periods for which he has been present in the Falkland Islands) authorise him to drive motor vehicles of the class or classes to which the driving licence issued by the chief police officer relates.

- 5.34 The reference in regulation 5(3)(b) to regulation 5(2)(b) is a reference to the criteria regarding being able to drive on an overseas licence for the first 12 months. In effect, if that same criteria are met then the person can use their overseas licence to obtain a Falkland Islands licence without needing to pass a competency test.
- 5.35 In summary, the current law states that the Chief Police Officer may issue a Falkland Islands driving licence authorising a person to drive motor vehicles of the class or classes specified in the licence if satisfied that:

- (a) the person is not disqualified from driving in the Falkland Islands;
- (b) the person satisfies the regulation 5(2)(b) criteria, in that:
 - (i) the person has a current overseas licence, it is not a provisional licence, and it authorises the person to drive the class of motor vehicle they intend to drive;
 - (ii) the person is not currently disqualified by the overseas authority;
 - (iii) the person has not been in the Falkland Islands for more than 12 months out of the last 36 months;
 - (iv) the person is 18 years old or over.

5.36 It is important to note that regulation 5(3)(b), just like regulation 5(2)(b), places no restrictions on the class of motor vehicle the person can obtain on a Falkland Islands driving licence on the basis of their overseas driving licence.

Issue

5.37 As with regulation 5(2)(b), the issue to consider is a road safety issue. What happens if a person applies to obtain a Falkland Islands driving licence based on an overseas driving licence issued by a jurisdiction which tests competency to drive at a lower standard than the Falkland Islands requires? If the person satisfies the regulation 5(3)(b) criteria, can the Chief Police Officer nonetheless refuse a person a Falkland Islands licence for all, or some, motor vehicle classes, and if so, on what grounds?

5.38 On the face of the Regulations the law provides for the issuing of a Falkland Islands driving licence with authorised classes on a like-for-like basis which matches the overseas driving licence. This is because the law makes no express provision for limiting the classes which can be obtained using an overseas licence.

5.39 This is the most obvious interpretation of the current law because regulation 5(3)(b) relies on regulation 5(2)(b), which permits a person to arrive in the Falkland Islands and drive classes of motor vehicle covered by their overseas licence without restriction for up to 12 months. Given the absence of restriction for the first 12 months it logically follows that regulation 5(3)(b) operates in the same manner. It would be illogical for a more severe restriction to suddenly apply after a period of 12 months when in the preceding period a lesser restriction had applied.

5.40 As with regulation 5(2)(b), an argument can be made to say that the Chief Police Officer has a discretion to make a person sit a competency test, or to refuse to add certain classes of motor vehicle when a person applies to use an overseas licence to obtain a Falkland Islands licence, but there is no express provision made for this and the argument runs into the same issues concerning the basis upon which the Chief Police Officer could exercise such a discretion and the power which would be relied upon to refuse an application.

5.41 Interpreting the current law in this way creates a significant risk of unfairness because the Chief Police Officer would be left in a position where it was said that there was a discretion to refuse an application but without any legislative framework in which to exercise the discretion.

5.42 For example, the Chief Police Officer may consider that there are a high number of fraudulent driving licences associated with a specific jurisdiction and may therefore decide to refuse all

applications from this jurisdiction and exercise the discretion to require a test of competency before a Falkland Islands licence was issued to a person with an overseas licence from this jurisdiction. This would result in people from the jurisdiction being treated differently to other applicants and because not all licences from the jurisdiction would be fraudulent would include people who held a genuine overseas driving licence and who, but for the Chief Police Officer's decision, would be able to obtain a Falkland Islands driving licence using their overseas licence.

- 5.43 As the example demonstrates, in the absence of express legislative provision there will be a significant risk of unfair or discriminatory outcomes. The reason for this is that people will be presenting overseas driving licences which appear, on the face of the document, to be genuine, but may be refused a Falkland Islands driving licence because of a perceived issue with the veracity of the licence or the standard of driving in the jurisdiction. Whereas a person from another jurisdiction in the same position could be granted a Falkland Islands driving licence because it is perceived that their jurisdiction has appropriate safeguards and standards.
- 5.44 There is nothing preventing a regulatory scheme treating jurisdictions differently, but the scheme must be clear, fair and based on a reasonable and proportionate assessment of the factors relating to the jurisdiction in question. It is not a scheme which can be read into the current law based on the argument that the Chief Police Officer has a general discretion to refuse to issue Falkland Islands driving licences.

Does the issue need to be addressed?

- 5.45 There is no available data to analyse to determine whether people are being issued Falkland Islands driving licences based on overseas driving licences when they would not otherwise meet the standard of competency which would be required to pass a competency test in the Falkland Islands.
- 5.46 However, there have been a number of people referred to Falkland College by employers to undergo a competency test for the purposes of driving work-place motor vehicles as a result of concerns over competency standards. Driving examiners have also raised concerns about levels of competency in relation to overseas driving licences being used to obtain Falkland Islands driving licences.
- 5.47 As with regulation 5(2)(b), the issue needs to be considered as a matter of general principle in the context of the current situation in the Falkland Islands.
- 5.48 This leads to the question, in the circumstances of the Falkland Islands as they exist today, should a person be able to obtain a Falkland Islands driving licence for any class of motor vehicle on the basis of matching classes listed on an overseas driving licence?

United Kingdom

- 5.49 To answer this question, it is again helpful to consider the position in the United Kingdom.
- 5.50 Obtaining a driving licence in the United Kingdom on the basis of a non-GB driving licence is known as licence exchange⁵.

⁵ [Exchange a non-GB driving licence - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/exchange-a-non-gb-driving-licence)

5.51 In summary, the United Kingdom system operates as follows:

- the starting point in the United Kingdom is that a person must take a theory test and a practical test to obtain a licence.
- a non-GB licence can be exchanged for a United Kingdom licence if it is from a specified or designated country or territory and depending on the class of motor vehicle to which the licence exchange relates.

The list of specified countries and territories are:

European Union or European Economic Area, Jersey, Guernsey or the Isle of Man.

The list of designated countries and territories are:

Andorra, Australia, Barbados, British Virgin Islands, Canada, Cayman Islands, Falkland Islands, Faroe Islands, Gibraltar, Hong Kong, Japan, Monaco, New Zealand, Republic of Korea, Republic of North Macedonia, Singapore, South Africa, Switzerland, Taiwan, Ukraine, United Arab Emirates and Zimbabwe.

- if the non-GB licence is for a car, motorcycle or other small motor vehicle and is from one of the specified or designated countries or territories, then it can be exchanged for a United Kingdom car, motorcycle or other small motor vehicle licence without the person having to take a theory test and a practical test.
- a non-GB licence for a car, motorcycle or other small motor vehicle which is from another country or territory which is not specified or designated cannot be exchanged and the person must take a theory and practical test to obtain a United Kingdom licence.
- in relation to mini-buses, buses or lorries the position depends on where the non-GB licence competency test was sat and the non-GB licence issued:
 - European Union or European Economic Area – the non-GB licence can be exchanged for a United Kingdom licence (subject to the same age requirements as set out above for driving on the non-GB licence in the first 12 months).
 - Jersey, Guernsey or Isle of Man – the non-GB licence can be exchanged for a United Kingdom licence but this must be done within 12 months of becoming resident in the United Kingdom.
 - Gibraltar – the non-GB licence can be exchanged for a United Kingdom licence up to 5 years after becoming resident in the United Kingdom (but it can only be used to drive on for 12 months – see above).
 - All other countries and territories (including designated countries and territories) – the non-GB licence cannot be exchanged for a United Kingdom licence and a theory test and a practical test must be passed for the relevant mini-bus, bus or lorry category.

5.52 The list of designated countries and territories is made up of countries and territories where the United Kingdom has a specific agreement and/or is satisfied that the testing and licensing standards in the country or territory is equivalent, or sufficiently similar, to those applied in the United Kingdom.

- 5.53 It should also be noted that the list of designated countries is concerned with cars, motorcycles, and small vehicles only. In relation to exchanging a non-GB licence for a United Kingdom licence in respect of mini-buses, buses or lorries the number of qualifying countries and territories is limited to the European Union and European Economic Area, Gibraltar, Jersey, Guernsey and the Isle of Man.

Conclusion

- 5.54 Taking into account all the relevant factors, namely the current situation in the Falkland Islands, the incidents reported by driving examiners and the position in the United Kingdom, there is a sufficient road safety concern to support a conclusion in favour of restricting the ability to use an overseas driving licence to obtain a full Falkland Islands driving licence for any class of motor vehicle.

Options

- 5.55 The following options are available:

Option One: Take no action (not recommended)

This option should be adopted if it is considered that there is not a sufficiently strong road safety concern to justify restricting the ability to obtain Falkland Islands driving licences to designated jurisdictions and certain classes of motor vehicle.

Option Two: Approve legislative reform (recommended)

This option should be adopted if it is considered that the current law needs to be reformed because there is a sufficient road safety concern to justify restricting the ability to obtain Falkland Islands driving licences to designated jurisdictions and certain classes of motor vehicle.

Recommendation

- 5.56 It is recommended that legislative reform should be approved because the analysis set out above identifies that the current law does not place sufficient restriction on the use of an overseas driving licence to obtain a full Falkland Islands driving licence for any class of motor vehicle and this creates a road safety issue of sufficient seriousness to justify reform.
- 5.57 If legislative reform is approved the next step is to consider the nature of the reform. The similarity of the United Kingdom to the Falkland Islands in terms of road systems and the required standard of competency to drive, leads to the conclusion that reform should be based on the current position in the United Kingdom.
- 5.58 Again, the benefit of this approach is that the United Kingdom has developed its system based on assessing jurisdictions and determining which jurisdictions can be designated countries and territories for the purpose of licence exchange. It would be difficult for the Falkland Islands, in terms of resourcing and diplomatic limits on being able to enter into specific arrangements with other jurisdictions, to develop a Falkland Islands list of designated countries. A sensible and effective approach would be to rely on the United Kingdom designations, given the close alignment in this area of the law and the fact that the United

Kingdom has already applied a robust assessment in relation to the countries and territories it has specified or designated.

5.59 If legislative reform was based on the approach in the United Kingdom then the Falkland Islands model would be as follows:

- the starting point would be that a person wishing to obtain a Falkland Islands driving licence should pass a competency test in the Falkland Islands.
- a person may obtain a Falkland Islands licence for a car, motorcycle or other small motor vehicle using an overseas licence without taking a competency test if the overseas licence is valid and the competency test which led to the overseas licence being issued was taken in:
 - (a) the United Kingdom;
 - (b) the European Union or European Economic Area;
 - (c) Gibraltar, Jersey, Guernsey or the Isle of Man;
 - (d) Andorra, Australia, Barbados, British Virgin Islands, Canada, Cayman Islands, Faroe Islands, Hong Kong, Japan, Monaco, New Zealand, Republic of Korea, Republic of North Macedonia, Singapore, South Africa, Switzerland, Taiwan, Ukraine, United Arab Emirates and Zimbabwe.
- all other overseas licence holders must take a competency test in order to obtain a Falkland Islands driving licence to drive a car, motorcycle or other small motor vehicle.
- a person may obtain a Falkland Islands driving licence using a overseas licence for a mini-bus, bus, lorry or other large vehicle without taking a competency test if the overseas licence is valid and the competency test which led to the overseas licence being issued was taken in: (a) the United Kingdom;
 - (a) the European Union or European Economic Area;
 - (b) Gibraltar, Jersey, Guernsey or the Isle of Man;
- all other overseas driving licence holders must take a competency test to drive a mini-bus, bus, lorry or other large vehicle in the Falkland Islands.

(N.B. – it is an option for any person to apply for a Falkland Islands driving licence to drive any class of motor vehicle at any time if they meet the relevant requirements and pass the relevant competency test).

5.60 It would not be necessary to adopt similar rules to the United Kingdom relating to age, because the Falkland Islands does not have the United Kingdom age restriction rules in relation to some classes of licence.

Consultation

5.61 If legislative reform was undertaken based on the model proposed above this would restrict the ability to use an overseas driving licence to obtain a Falkland Islands driving licence compared to the position under the current law.

5.62 It would be important to understand whether this would have an impact on individuals or business operations and whether any impact would require a different approach to the recommended model.

- 5.63 A public consultation is recommended in order to gather information to identify what issues, if any, may arise as a result of the proposed model and to assist in making an assessment of the need for legislative reform.

6. Resource Implications

Financial Implications

- 6.1 None.

Human Resources Implications

- 6.2 The work required to progress this project will be undertaken by designated officers in the Royal Falkland Islands Police, Falkland College and the Law and Regulation Directorate. The officers involved are required to deliver operational commitments and these commitments take precedence over long term project work. The project will be progressed when operational commitments allow.
- 6.3 In order to undertake a public consultation assistance will be required from the Policy, Economy and Corporate Services Department to formulate the content of the consultation, to run the consultation and to collate the outcome.

Other Resource Implications

- 6.4 None.

7. Legal and Legislative Implications

- 7.1 See above for analysis of the current law.

8. Equalities and Human Rights Implications

- 8.1 The proposed model for legislative reform suggests taking a different approach to overseas driving licences depending on the jurisdiction where the driving licence test was administered.
- 8.2 If the proposed model is adopted, in whole or in part, Members will need to be satisfied that adopting a different approach to overseas driving licences, based on the jurisdiction where the licence was issued, is reasonable, proportionate and Constitutional.
- 8.3 Public consultation will assist in identifying the need for legislative reform and the subsequent Executive Council paper will contain a Constitutional analysis which considers this issue.

9. Environmental & Sustainability Implications

- 9.1 None.

10. Camp Implications

- 10.1 None in addition to those which apply to all residents.

11. Significant Risks

- 11.1 As set out above, the current law regulating the use of overseas driving licences in the Falkland Islands, and the use of overseas driving licences to obtain Falkland Islands driving licences, is broad and has very few restrictions.

- 11.2 It has been identified that this creates a risk that people may be permitted to drive classes of motor vehicle for which they do not have a level of competency equivalent to that which would be required if a competency test was undertaken in the Falkland Islands.
- 11.3 People who drive classes of motor vehicle, particularly larger classes of motor vehicle, without the necessary level of competence required in the Falkland Islands, present a risk to other road users. Where a road traffic incident occurs due to a lack of driving competency the consequences can be devastating and include serious injury and death. It is therefore important that the regulatory regime provides adequate safeguards against this risk.

12. Publicity

- 12.1 The public consultation will be advertised and assistance will be sought from the Policy, Economy and Corporate Services Department in respect of public engagement.
- 12.2 The consultation is likely to be in the form of a public survey, supported by information documents, media engagement and a consultation workshop if appropriate.
- 12.3 It is also intended to engage with the Committee system and consult the Police Committee, College Committee and Transport Advisory Committee for their views and comments.

13. Reasons for Recommending Preferred Options

- 13.1 The recommendations are:
 - (a) approve in principle the recommendation for legislative reform;
 - (b) approve a public consultation on the proposed model for the use of overseas driving licences in the Falkland Islands;
 - (c) approve the work required to undertake the consultation, finalise policy proposals and prepare draft legislation for submission to Executive Council.
- 13.2 As set out in detail above, the reason for these recommendations is that the current law has not been reviewed for a significant period of time, circumstances in the Falkland Islands have changed and there is an identifiable risk to road safety which justifies the recommendations.