



FALKLAND ISLANDS

Road Traffic Ordinance 1948

(ORDINANCE No. 20 OF 1948)

ARRANGEMENT OF PROVISIONS

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FALKLAND ISLANDS

Road Traffic Ordinance 1948

AN ORDINANCE To provide for the regulation and control of road traffic.

*[DATE OF COMMENCEMENT: 31ST DECEMBER 1948]
(Unless otherwise indicated)*

1 Short title

This Ordinance may be cited as the Road Traffic Ordinance 1948.

2 Interpretation

(1) In this Ordinance and in any Regulations made hereunder, unless the context otherwise requires-

"breath test" means a preliminary test for the purpose of obtaining, by means of a device approved by the Governor in Council, an indication whether the proportion of alcohol in a person's breath is likely to exceed the prescribed limit;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"cart" or **"carriage"** means any vehicle drawn by a horse;

"chief police officer" means the senior police officer for the time being at Stanley;

[S. 4(a)/Ord. 34/87/w.e.f. 16/5/88.]

"coach" means a public service vehicle which is not a hire car or taxi;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"commercial vehicle" means a motor vehicle which is constructed or adapted for use for the conveyance of goods or burden of any description;

"driver's licence" means a licence issued by the chief police officer enabling the holder to drive a motor vehicle and such other licence as may be recognized under the provisions of this Ordinance or regulations made hereunder as permitting a person to drive a motor vehicle;

[S. 2(a)(ii)/Ord. 10/85/w.e.f. 7/4/86.]

"drug" means any substance, other than alcohol, the consumption of which may have the effect of impairing a person's ability to drive;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"fail" includes refuse;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"highway" means any carriageway, street, thoroughfare, lane or access to a farm constructed by or at the expense of the Crown in right of the Falkland Islands with the intention that it shall be available for use by the public with motor vehicles as of right and regardless of whether-

- (a) it is within Stanley or within four miles of the boundary thereof; or
- (b) has been declared by the Governor by order to be a road for the purposes of this Ordinance;

[S. 2/Ord. 9/06/w.e.f. 1/6/06.]

"hire car" or **"taxi"** means a motor vehicle which-

- (a) plies for hire; or
- (b) not being constructed or adapted for the carriage of more than twelve persons in addition to the driver-
 - (i) is hired at an entire and separate fee including the services of the driver; or
 - (ii) carries passengers for hire or reward at separate fares for each passenger,

and in either case in the course of a business a substantial part of the activities of which consist of the provision of transport facilities;

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

"hospital" means an institution which provides medical or surgical treatment for in-patients or out-patients;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"invalid carriage" means a mechanically propelled vehicle the weight of which unladen does not exceed 5 cwt. and which is especially designed and constructed and not merely adapted, for the use of a person suffering from some physical defect or disability and is used solely by such person;

"motor vehicle" means any vehicle propelled by any form of mechanical power and intended or adapted for use on roads;

"police officer" means any person who is a member of the Falkland Islands Police Force and includes a reserve member of that Force;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"public place" means any place within the boundaries of Stanley to which the public are for the time being admitted and whether or not on payment of any admission or other charge or subject to conditions;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"public service vehicle" means a motor vehicle constructed or adapted or in fact used for the carriage of more than twelve persons in addition to the driver (but so that nothing in this definition shall preclude it from being also a hire car or taxi in the event that the vehicle plies for hire);

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

"registered" means registered with the chief police officer;

"road", except as otherwise provided by Order under subsection (3) of this section, includes any street, thoroughfare, highway, lane, court, alley, passage, or open place used or frequented by the public, or to which the public have or are permitted to have access in Stanley or within a radius of four miles of the boundary thereof and shall also include any other street, thoroughfare, highway, lane, court, alley, passage or open place declared by the Governor by order to be a road for the purpose of this Ordinance;

[S. 2(b)(ii)/Ord. 10/85/w.e.f. 7/4/86 and s. 2(a)/Ord 15/03/w.e.f. 10/6/03.]

"serious injury" means any injury to a person-

- (a) whereby any of the bodily senses of touch, sight, hearing or taste is significantly and permanently impaired;
- (b) whereby any permanent scar of cosmetic importance is occasioned;
- (c) involving any damage to any of his vital organs;
- (d) involving the loss of any digit;
- (e) involving any fracture of any bone;
- (f) whereby that person's enjoyment of life is significantly and permanently impaired or his expectation of life is significantly diminished;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

"trailer" means any vehicle having no independent motive power drawn by a motor vehicle but not including a side-car attached to a motor-cycle.

[S. 3/Ord. 9/88/w.e.f. 30/6/88.]

(2) Where a person is serving in any police section or corps of any of Her Majesty's Armed Forces and is a reserve member of the Falkland Islands Police Force he shall be deemed to be a police officer in uniform at all times that he is wearing the uniform of that police section or corps of Her Majesty's Armed Forces.

[S. 3/Ord. 9/88/w.e.f. 30/6/88.]

(3) The Governor may by Order provide that any street, thoroughfare, highway, lane, court, alley, passage or open place within Stanley or within a radius of 4 miles of the boundary thereof and specified by that Order shall be excluded from the operation of the subsequent provisions of this Ordinance.

[S. 2(b)/Ord. 15/03/w.e.f. 10/6/03.]

(4) An Order under subsection (3) may be made so as to apply only in respect of-

- (a) vehicles of a class or type or classes or types specified in the Order; and
- (b) use of such vehicles by persons under a specified age.

[S. 2(c)/Ord. 15/03/w.e.f. 10/6/03.]

3 Registration of motor vehicles

(1) Every motor vehicle in the Falkland Islands shall within twenty eight days of its first being used within the Falkland Islands be registered except that-

- (a) any motor vehicle owned by the Crown and used by the Governor; and
- (b) any motor vehicle to which section 4(3)(b) applies,

need not be registered.

(2) For the purposes of subsection (1), a motor vehicle is not used merely by reason of its being driven from the point of its arrival in the Falkland Islands to a place where it will be kept until sold or otherwise disposed of or by reason of its being driven for the purpose of demonstration to a person interested in the acquisition of that vehicle.

(3) The obligation to register a motor vehicle is upon the person who, other-wise than under a contract for hire of the vehicle for a period of less than fourteen days, is for the time being in law entitled against all others to the possession and use of that vehicle.

(4) Any person who-

- (a) being obliged under subsection (3) to register a motor vehicle, fails to do so; or
- (b) drives a motor vehicle required to be registered,

unless he proves that he was not aware that the motor vehicle was not registered, commits an offence and is liable on conviction of that offence to a fine not exceeding level 2 on the standard scale.

[S. 3/Ord. 27/88/w.e.f. 1/7/89 and S.R. & O. 10/11/w.e.f. 15/5/11.]

4 Motor vehicle and trailer licences

(1) Subject to subsection (3), there is payable in respect of a motor vehicle used on a road, duty at the following annual rate-

- (a) motor vehicles not exceeding 500 kilograms - £52.25;

[S. 29(a)(i)/Ord. 7/13/w.e.f. 1/7/13.]

- (b) (i) motor vehicles exceeding 500 kilograms but not exceeding 3 400 kilograms; and
- (ii) motor vehicle of any weight designed and constructed as an agricultural tractor - £120.50;

[S. 29(a)(ii)/Ord. 7/13/w.e.f. 1/7/13.]

- (c) motor vehicle exceeding 3 400 kilograms - £185.50;

[S. 29(a)(iii)/Ord. 7/13/w.e.f. 1/7/13.]

- (d) trailer drawn by motor vehicle described in (c) - £44.00.

[S. 29(a)(iv)/Ord. 7/13/w.e.f. 1/7/13.]

(2) Where a vehicle licence for a vehicle of any description is taken out for a period of twelve months, vehicle duty is payable on the licence at the annual rate of duty applicable to vehicles of that description under subsection (1).

[S. 23(3)/Ord. 6/11/w.e.f. 1/7/11.]

(2A) For the purposes of subsection (1) the circumstances in which a motor-vehicle or trailer is used on a road include the vehicle being permitted to remain at rest on a road.

[S. 2/Ord. 7/98/w.e.f. 1/7/98.]

(2AA) Where a vehicle licence for a vehicle of any description is taken out-

- (a) for a period of six months, vehicle duty is payable on the licence at a rate equal to fifty five per cent of that annual rate;
- (b) for a period of four months, vehicle duty is payable on the licence at a rate equal to thirty-seven per cent of that annual rate;
- (c) for a period of three months, vehicle duty is payable on the licence at a rate equal to twenty-eight per cent of that annual rate,
- (d) for a period of two months, vehicle duty is payable on the licence at a rate equal to nineteen percent of the annual rate, and
- (e) for a period of one month, vehicle duty is payable on the licence at a rate equal to ten per cent of the annual rate.

[S. 23(3)/Ord. 6/11/w.e.f. 1/7/11.]

(2AAB) In determining a rate of duty under subsection (2AA) any fraction of ten pence-

[Revision w.e.f. 31/07/2017]

- (a) if it exceeds five pence, is treated as ten pence; and
- (b) otherwise, is disregarded.

[S. 23(3)/Ord. 6/11/w.e.f. 1/7/11.]

(2B) Regulations made under this subsection may require there to be displayed on every motor-vehicle or trailer in respect of which duty has been paid pursuant to subsection (1) a label of such type as is specified in those regulations. The owner or person in charge for the time being of any motor-vehicle or trailer who fails to comply with any obligation imposed by those regulations to display a label on a motor-vehicle or trailer commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level two on the standard scale.

[S. 2/Ord. 7/98/w.e.f. 1/7/98.]

(3) Subsections (1) and (2) do not apply to vehicles which are-

- (a) the property of the Crown (whether in right of the Falkland Islands or of the United Kingdom of Great Britain and Northern Ireland) or of the British Antarctic Survey;
- (b) vehicles usually kept in the Falkland Islands at a place not in East Falkland.

[S. 2(1)/Ord. 25/91/w.e.f. 1/1/92.]

(4) Any person who drives, and the owner of any motor vehicle who permits any person to drive on a road any motor vehicle, or who draws or permits a trailer to be drawn by any motor vehicle, in respect of which a licence under this section is not in force, commits an offence and is liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale.

[S. 2(2)/Ord. 25/91/w.e.f. 1/1/92 and S.R. & O. 23/92/w.e.f. 2/10/92.]

5 Public service vehicle licences

(1) The authority having power to grant a public service vehicle licence shall be the chief police officer.

(2) A public service vehicle licence may be refused or, if it has already been granted may at any time be suspended or revoked by the chief police officer, if having regard to the conduct of the applicant for or holder of the licence or to the manner in which the vehicle is being used, it appears to the chief police officer that he is not a fit person to hold such a licence; and a licence suspended under this subsection shall during the time of suspension be of no effect.

(3) A public service vehicle licence shall be renewable and the licence fee of £6.25 paid annually on 1st January in every year.

[S. 29(b)/Ord. 7/13/w.e.f. 1/7/13.]

(4) No person shall use, cause or permit a motor vehicle to be used as a public service vehicle unless he is the holder of a licence so to use the vehicle in accordance with the conditions of the licence.

(5) If any person uses, or causes or permits a motor vehicle to be used in contravention of this section or fails to comply with any condition of the licence, he commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale, or in the case of a second or subsequent conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale.

[S. 5/Ord. 7/67/w.e.f. 1/6/67, s. 2(1)/Ord. 10/85/w.e.f. 7/4/86 and S.R. & O. 10/11/w.e.f. 15/5/11.]

6 Drivers' licences

(1) Except as may be provided by regulations, any person, not being the holder of a driver's licence in force, who drives a motor vehicle on a road and any person who causes or permits any person who is not the holder of a driver's licence in force to drive a motor vehicle on a road commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(2) For the purposes of subsection (1), a person is deemed not to be the holder of a driver's licence in force if he drives a motor vehicle of a class as to which no driver's licence he holds permits him to drive or he holds only a provisional licence in respect of that class of vehicle and he drives the vehicle in contravention of the conditions of that provisional licence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(3) Except as may be provided by regulations, a driver's licence shall not be granted until the applicant has passed a test as to his fitness and ability to drive a motor vehicle, and shall not be granted to-

- (a) a person under the age of sixteen years in respect of a motor cycle or a person under the age of seventeen years in respect of any other class of motor vehicle; or

[S. 6(a)/Ord. 7/67/w.e.f. 1/6/67.]

- (b) a person suffering from such disease or physical disability as would be likely to cause the driving by him of a motor vehicle to be a source of danger to the public, or from a prescribed disability.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(4) For the purpose of enabling a person to drive a motor vehicle with a view to passing a test under subsection (3), the chief police officer may, if he is satisfied-

- (a) that the person is of an age that a driver's licence of the relevant class could be granted to that person;
- (b) that the person is not suffering from any such disease or physical disability as is mentioned in subsection (3)(b); and
- (c) that the prescribed fee has been paid,

grant to that person a provisional licence which said licence shall-

- (i) be granted subject to such conditions as are prescribed;
- (ii) be restricted so as to authorize only the driving of vehicles of the classes mentioned in the provisional licence; and
- (iii) shall be valid for a period of three months (but may be renewed on or before its expiry).

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(5) Where it appears to the chief police officer-

- (a) that a licence granted by him to any person is required to be endorsed in pursuance of any enactment or was granted in error or with an error or omission in the particulars specified in the licence or required to be so endorsed on it; or
- (b) that the particulars specified in a licence granted by him to any person do not comply with any requirement imposed since the licence was granted by any provision made by or having effect under any enactment,

the chief police officer may serve notice in writing on that person revoking the licence and requiring him to deliver up the licence forthwith to him.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(6) Where the name or address of the licence holder specified in a licence ceases to be correct, its holder shall forthwith surrender the licence to the chief police officer and furnish to him particulars of the alterations falling to be made in the name or address.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(7) On the surrender of a licence by any person in pursuance of subsection (5) or (6), the chief police officer-

- (a) shall, except where the licence was granted in error or is surrendered in pursuance of the said subsection (5) in consequence of an error or omission appearing to the chief police officer to be attributable to that person's fault or in consequence of a current disqualification; and
- (b) may in such an excepted case which does not involve a current disqualification,

grant to that person free of charge a new licence for such a period that it expires on the date on which the surrendered licence would have expired had it not been surrendered, except that, where the period for which the surrendered licence was granted was based on an error with respect to the licence holder's date of birth such that, if that error had not been made, that licence would have been expressed to expire on a different date, the period of the new licence shall be such that it expires on that different date.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(8) If the chief police officer has reason to believe that the holder of a driver's licence is suffering from a disease or physical disability likely to cause the driving by him of a motor vehicle to be a source of danger to the public or that he is suffering from a prescribed disability, the chief police officer may revoke that licence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(9) Any person aggrieved by the refusal to grant, or the revocation of a driver's licence under this section may appeal to the magistrate who may make such order as he thinks fit.

[S. 2(i)/Ord. 10/85/w.e.f. 7/4/86.]

(10) Any court before which a person is convicted of an offence in connection with the driving of a motor vehicle may order him to be disqualified from holding or obtaining a driver's licence for such period as the court thinks fit but where any provision of this Ordinance provides that a court shall so disqualify him, the court shall so disqualify him and where a minimum period of disqualification is specified in any such provision, the court shall so disqualify him for at least that period, but may disqualify him for any greater period the court thinks fit.

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

(11) The court shall, unless it is empowered to do otherwise by any provision of this Ordinance and in any such case may order that the particulars of any conviction of a driving offence and of any disqualification to which a convicted person has become subject shall be endorsed on the driver's licence held by the offender.

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

(12) Any person whose driver's licence the court has ordered to be endorsed who fails to produce such licence to the court within seven days of the date of conviction commits an offence.

(13) If any person who is disqualified from holding a licence applies for and obtains a licence while so disqualified, or while so disqualified drives a motor vehicle on a road, or being a person whose licence has been endorsed applies for and obtains a licence without giving particulars of the endorsement, he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding six months or if the court thinks that, having regard to the special circumstances of the case, a fine would be adequate punishment for the offence, to a fine not exceeding level 5

on the standard scale or to both such imprisonment and fine, and any licence obtained as aforesaid shall be of no effect.

[S. 2(b)/Ord. 14/59/w.e.f. 30/6/59, s. 2(i)/Ord. 10/85/w.e.f. 7/4/86, s. 2(1) and (2)/Ord. 18/01/w.e.f. 1/7/59 and S.R. & O. 10/11/w.e.f. 15/5/11.]

(14) Any person driving a motor vehicle on a road who fails to produce his driver's licence when so required by a police officer commits an offence, provided that if within three days after being so required he produces the same to the chief police officer he shall not be convicted of an offence under this subsection.

[S. 4(a)/Ord. 34/87/w.e.f. 16/5/88.]

(15) When an order has been made in respect of a person under subsection (11) requiring the endorsement of a driver's licence held by him, he shall be entitled, subject to the payment of the fee of £11.75 and subject to the surrender of his licence, to have issued to him a new licence free from endorsement if he has during a continuous period of three years or upwards since the order was made had no such order made against him:

Provided that in reckoning the said continuous period of three years any period during which the person was by virtue of the order disqualified for holding or obtaining a licence shall be excluded.

[S. 38/Ord. 5/15/w.e.f. 1/7/15.]

(16) Any person who by virtue of a conviction or order under this Ordinance is disqualified from holding or obtaining a driver's licence may at any time after the expiration of whichever is relevant of the following periods from the date of the conviction or order, that is to say-

- (a) six months, if the disqualification is for less than a year;
- (b) one-half of the period of the disqualification, if it is for less than six years but not less than a year;
- (c) ten years if the disqualification is for the person's lifetime;

[S. 4(b)/Ord. 34/87/w.e.f. 16/5/88.]

- (d) three years in any other case,

apply to the court by which he was convicted or by which the order was made to remove the disqualification, and on any such application the court may, as it thinks proper having regard to the character of the person disqualified and his conduct subsequent to the conviction or order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application:

Provided that where an application under this subsection is refused, a further application thereunder shall not be entertained if made within three months after the date of the refusal.

If the court orders a disqualification to be removed the court shall cause particulars of the order to be endorsed on the licence, if any, previously held by the applicant.

[S. 6(b)/Ord. 7/67/w.e.f. 1/6/67.]

7 Driving with uncorrected defective eyesight

(1) If a person drives a motor vehicle on a road while his eyesight is such (whether through a defect which cannot be or one which is not for the time being sufficiently corrected) that he cannot comply with any requirement as to eyesight prescribed under this Ordinance for the purposes of tests of competence to drive, he commits an offence.

(2) A police officer having reason to suspect that a person driving a motor vehicle may be guilty of an offence under subsection (1) may require that person to submit to a test for the purpose of ascertaining whether, using no other means of correction than he had used at the time of driving, he can comply with the said requirement as to eyesight; and if that person refuses to submit to the test he commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

8 Notification of disease or disability

(1) If, in any proceedings for an offence committed in respect of a motor vehicle, it appears to the court that the accused may be suffering from any relevant disability, the court shall notify the chief police officer in writing with such particulars as to the name and address and description of the accused as may be necessary.

(2) On receipt of a notification to which subsection (1) relates, the chief police officer may revoke the licence pursuant to section 6(8).

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

9 Third party insurance

(1) Any person who drives, or causes or permits any other person to drive a motor vehicle on a road unless there is in force in relation to the user of the vehicle by that person, or that other person as the case may be, a policy of insurance in respect of such risks as may be prescribed commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 6 on the standard scale or to both such imprisonment and fine.

[S.R. & O. 10/11/w.e.f. 15/5/11.]

(2) Any person driving a motor vehicle on a road who fails to produce his certificate of insurance when so required by a police officer commits an offence:

[S. 2(d) and (i)/Ord. 10/85/w.e.f. 7/4/86.]

Provided that if within three days after being so required to produce his certificate he produces the same to the chief police officer he shall not be convicted of an offence under this subsection.

[S. 4(a)/Ord. 34/87/w.e.f. 16/5/88.]

10 Regulation of construction, weight, equipment and use of vehicles

(1) The Governor may make regulations generally as to the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be so used, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations with respect to any of the following matters:

- (a) the width, height and length of motor vehicles and trailers and the load carried thereby, the diameter of wheels, and the width, nature and conditions of tyres, of motor vehicles and trailers;
- (b) the towing of or drawing of vehicles by motor vehicles;
- (c) the number and nature of brakes, and for ensuring that brakes, silencers and steering gear are efficient and kept in proper working order;
- (d) the testing and inspection, by persons authorized by or under the regulations, of the brakes, silencers, steering gear, tyres, lighting equipment and reflectors of motor vehicles and trailers on any premises where they are, subject, however, to the consent of the owner of the premises;
- (e) the appliances to be fitted for signalling the approach of a motor vehicle, or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, or for intimating any intended change of speed or direction of a motor vehicle, and the use of any such appliance, and for ensuring that they shall be efficient and kept in proper working order.

(2) Different regulations may be made under subsection (1) as respects different classes or descriptions of vehicles or as respects the same class or description of vehicle in different circumstances and as respects different places in the Falkland Islands.

(3) Subject to the provisions of this section and section 11, a person-

- (a) who contravenes or fails to comply with any regulations made under this section; or
- (b) who uses on a road a motor vehicle or trailer which does not comply with any such regulations or causes or permits a vehicle to be so used,

commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

11 Tests of satisfactory condition of vehicles

(1) The provisions of this section shall have effect in relation to motor vehicles for the purpose of ascertaining whether the prescribed statutory requirements relating to the construction and condition of motor vehicles or their accessories or equipment are complied with.

(2) The Governor may by regulations make provision for the examination of vehicles submitted for examination under this section and for the issue, where it is found on such an examination that the said requirements are complied with, of a certificate (hereafter in this Ordinance referred to as a "test certificate") that at the date of the examination the requirements were complied with in relation to the vehicle.

(3) Examinations for the purposes of this section shall be carried out by persons authorized for those purposes by the Governor (in this section referred to as "authorized examiners").

(4) Where a test certificate is refused, the examiner shall issue a notification of the refusal stating the grounds thereof.

(5) The Governor may make regulations for the purposes of giving effect to the foregoing provisions of this section and for prescribing anything authorized by this section to be prescribed, and in particular as to-

- (a) the authorization of examiners, the imposition of conditions to be complied with by authorized examiners and the withdrawal of authorizations;
- (b) the manner in which, conditions under which and apparatus with which examinations are carried out, and the maintenance of that apparatus in an efficient state;
- (c) the manner in which applications may be made for the examination of vehicles under this section, information to be supplied and documents to be produced on such an application or examination;
- (d) the form of, and particulars to be contained in, test certificates and notifications of the refusal thereof; and
- (e) the issue of duplicates of test certificates lost or defaced and the fee to be paid for the issue thereof;
- (f) that where application is made for a licence under section 4 for a vehicle to which this section applies, that licence shall not be granted unless-
 - (i) there is produced such evidence as may be prescribed as to the granting of an effective test certificate (if it is so prescribed) there is produced such certificate or there is furnished to the chief police officer a copy thereof; or
 - (ii) the owner of the vehicle proves to the satisfaction of the chief police officer that the vehicle has not been used on roads (whether in the Falkland Islands or elsewhere) for a period or periods exceeding twelve months in aggregate since the date of its manufacture.

(6) Regulations to which subsection (5)(f) apply-

- (a) shall not come into operation until they have been approved by a resolution of the Legislative Assembly; and

[Revision w.e.f. 31/07/2017]

- (b) may be made so as to apply to such classes only of vehicles as may be specified in those regulations.

(7) For the purposes of this section, the date of manufacture of a vehicle shall be taken to be the date on which its final assembly is completed.

(8) In this section "effective test certificate" means, in relation to an application for a licence for a vehicle under section 4 of this Ordinance, a test certificate relating to the vehicle and issued within a period not exceeding four weeks before the date on which the application for the licence is made or the date on which the licence is to come into force, whichever of those dates is the later.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

12 Racing on roads prohibited

A person who promotes or takes part in a race or trial of speed between motor vehicles on a road commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

13 Road Code

(1) The Governor shall cause to be prepared and published a code ("the Road Code") comprising directions for the guidance of persons using roads.

(2) A failure on the part of a person to observe a provision of the Road Code shall not of itself render that person liable to criminal proceedings but any such failure may in any proceedings (whether civil or criminal) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

14 Causing death of another by reckless driving

(1) A person commits an offence who causes the death of another person by driving a motor vehicle on a road or in a public place recklessly.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding seven years and to a fine not exceeding the maximum of level 7 on the standard scale and shall be disqualified from holding or obtaining a driver's licence for such period as will result in his being so disqualified for a period of at least five years or, if on the same occasion he is sentenced to a term of imprisonment in respect of that offence, for a period of at least five years following his release from prison, and a court convicting a person of an offence against subsection (1) who has on a previous occasion been convicted of such an offence shall disqualify that person from holding or obtaining a driver's licence at any time during the remainder of his lifetime.

[S.R. & O. 4/03/w.e.f. 28/2/03.]

(3) A person who is indicted with an offence of manslaughter shall, if he is acquitted of that offence by the Supreme Court, be convicted of an offence under subsection (1) if the court considers that, on the evidence before the court, he has committed an offence under subsection (1), and notwithstanding that he has not been indicted with an offence under that subsection.

(4) A person shall not, in respect of the same facts, be convicted both of an offence under subsection (1) and of the offence of manslaughter.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

15 Manslaughter: disqualification from holding or obtaining driver's licence

Whenever a person is convicted of the offence of manslaughter and the court convicting him is satisfied that the death of another person giving rise to the conviction was caused by the driving on a road or in a public place by the convicted person of a motor vehicle, that court shall, in addition to any other punishment, disqualify the convicted person from holding or obtaining a driver's licence for such period as will result in his being so disqualified for a period of at least seven years from the date of his conviction but, if on the same occasion he is sentenced to a term of imprisonment, for a period of at least seven years following his release from prison:

Provided that where the court is satisfied that the convicted person has on a previous occasion been convicted-

- (a) of an offence of manslaughter in respect of which obligatory disqualification from holding or obtaining a driver's licence under this subsection arose, or would have arisen if this subsection had been in force at the time of such conviction; or
- (b) of an offence under section 8(1), the court shall disqualify him from holding or obtaining a driver's licence during his lifetime.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

16 Reckless driving

(1) A person commits an offence who causes serious injury to another person by driving a motor vehicle on a road or in a public place recklessly.

(2) A person who is convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding twelve months and to a fine not exceeding the maximum of level 6 on the standard scale and shall be disqualified from holding or obtaining a driver's licence for a period of at least twelve months from the date of his conviction, but, if on the same occasion he is sentenced to imprisonment, for a period of at least twelve months following his release from prison.

[S.R. & O. 4/03/w.e.f. 28/2/03.]

(3) A person commits an offence who drives a motor vehicle on a road or in a public place recklessly.

(4) A person who is convicted of an offence under subsection (3) is liable to imprisonment for a term not exceeding six months and to a fine not exceeding the maximum of level 5 on the standard scale and shall be disqualified from holding or obtaining a driver's licence for a period of at least six months but, if on the same occasion he is sentenced to imprisonment, for a period of at least six months following his release from prison.

[S.R. & O. 4/03/w.e.f. 28/2/03.]

(5) A person who is charged with an offence under subsection (1) shall, if he is acquitted of that offence be convicted of an offence under subsection (3) if the court considers that, on the evidence before the court, he has committed an offence under subsection (3) and notwithstanding that he has not been charged with an offence under that subsection.

(6) A person may not be convicted, upon the same facts, both of an offence under subsection (1) and of an offence under subsection (3).

(7) A person who is acquitted of an offence under subsection (1) and is not convicted of an offence under subsection (3) by virtue of subsection (5), and a person who is charged with and acquitted of an offence under sub-section (3), shall be convicted of an offence under section 18(1) if the court considers that on the evidence before the court he has committed an offence under section 18(1), and notwithstanding that he has not been charged with an offence under that subsection.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

17 Obvious and serious risk test

(1) A person shall not be convicted of an offence under section 14(1) or section 16(1) or (3) by reason of the manner of his driving unless the court is satisfied that that person was driving the

motor vehicle in such a manner as to create an obvious and serious risk of causing physical injury to some other person who might happen to be using the road or be in close proximity to the road or of doing substantial damage to property ("an obvious and serious risk"), and the court is further satisfied that in driving in that manner the accused did so without having given any thought to the possibility of there being any such risk or, having recognized that there was some risk involved, the accused had nevertheless gone on to take it.

(2) In considering whether, for the purposes of subsection (1), the risk created by the manner in which the vehicle was being driven was both obvious and serious, the court shall apply what appears to it to be the standard of the ordinary prudent motorist.

(3) If the court is satisfied that an obvious and serious risk was created by the manner of the accused's driving, the court shall be entitled to infer that the accused was in one or other of the states of mind required under subsection (1) but before so inferring the court shall give regard to any explanation the accused gives as to his state of mind which may displace that inference.

(4) It is irrelevant for the purposes of this section that the accused was at the time in question by reason of a self-induced state of intoxication by drink or drugs incapable of thinking of or recognizing the risk referred to in subsection (1).

(5) The foregoing subsections of this section shall apply in relation to an indictment of manslaughter where it is alleged that the death of another was caused by the manner in which the accused drove a motor vehicle with the following modifications:

- (a) for the words "as to create an obvious and serious risk of causing physical injury to some other person" in subsection (1) there shall be substituted the words "as to render it more likely than not that physical injury of some kind would be done to some other person" and the words "or of doing substantial damage to property" shall be omitted;
- (b) in subsection (2) for the words "was both obvious and serious" shall be substituted the words "was such as to render it more likely than not that physical injury would be done to some other person"; and
- (c) in subsection (3) for the words "an obvious and serious risk was created" there shall be substituted the words "it was more likely than not that physical injury would be done to some other person".

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

18 Driving without due care and attention

(1) A person commits an offence who drives a motor vehicle on a road without due care and attention.

(2) A person commits an offence who drives a motor vehicle on a road without reasonable consideration for other persons using that road.

(3) A person convicted of an offence under subsection (1) or (2) is liable-

- (a) on the first occasion on which he is so convicted, to a fine of the maximum of level 4 on the standard scale;

[S.R. & O. 4/03/w.e.f. 28/2/03.]

- (b) on any subsequent occasion on which he is so convicted to a fine of the maximum of level 5 on the standard scale.

[S.R. & O. 4/03/w.e.f. 28/2/03.]

(4) A person who, prior to the commencement of this section was convicted of an offence under section 8(4) as it existed immediately prior to the commencement of this section shall for the purposes of subsection (3) of this section be deemed to have been convicted of an offence under subsection (1) or (2) of this section.

(5) A person shall not be convicted on the same facts of offences-

- (a) both under subsection (1) and under subsection (2) of this section; or
- (b) both under subsection (1) or (2) of this section and of an offence under section 14(1), section 16(1) or section 16(3).

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

19 Driving or being in charge, while under the influence of drink or drugs

(1) A person commits an offence who, when driving or attempting to drive a motor vehicle on a road or in a public place, is unfit to drive through drink or drugs.

(2) Without prejudice to subsection (1), a person commits an offence who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs.

(3) For the purposes of subsection (2), a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of driving so long as he remained unfit to drive through drink or drugs but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

(4) For the purposes of this section a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

20 Powers of arrest, etc., in respect of specified offences

(1) A police officer may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing or has committed a relevant offence.

(2) For the purpose of arresting a person under the power conferred by subsection (1), a police officer may enter (if need be by force) any place where that person is, or where the police officer, with reasonable cause, suspects him to be.

(3) For the purposes of subsection (1), "relevant offence" means an offence under sections 14, 16 or 19 of this Ordinance.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

21 Driving or being in charge of motor vehicle with alcohol concentration above prescribed limit

- (1) A person commits an offence who-
- (a) drives or attempts to drive a motor vehicle on a road or in a public place; or
 - (b) is in charge of a motor vehicle on a road or other public place,

after consuming so much alcohol that the proportion of it in his breath exceeds the prescribed limit.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that at the time he is alleged to have committed the offence the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath remained likely to exceed the prescribed limit; but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

22 Meaning of "prescribed limit", etc.

(1) For the purposes of the sections 21, 23, 27 and 28 "the prescribed limit" means such amount of alcohol in his breath as is prescribed by regulations.

(2) For the purposes of this Ordinance, a person does not provide a specimen of breath for a breath test or for analysis unless the specimen is sufficient to enable the test or analysis to be carried out and it is provided in such a way as to enable the objective of the test or analysis to be achieved.

(3) The Governor in Council may make regulations for the purposes of subsection (1).

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

23 Breath tests

- (1) If a police officer in uniform has reasonable cause to suspect-
- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion; or
 - (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or in a public place with alcohol in his body and that that person still has alcohol in his body; or
 - (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion,

he may, subject to section 25, require him to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place a police officer may require any person whom he has reasonable cause to believe was driving or attempting to drive or in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test, but subject to section 25.

(3) A person may be required under subsection (1) or subsection (2) of this section to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) and the police officer thinks fit, at a police station specified by the police officer.

(4) A person commits an offence who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section.

(5) A police officer may arrest a person without warrant if-

- (a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath exceeds the prescribed limit; or
- (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.

(6) For the purpose of requiring a person to provide a specimen of breath under subsection (2) in a case where he has reasonable cause to suspect that the accident involved injury to another person or of arresting him in such a case under subsection (5) a police officer may enter (if need be by force) any place where that person is or where the police officer, with reasonable cause, suspects him to be.

(7) In this section "traffic offence" means any offence under sections 10, 14, 16, 18, 19, 21, 29 or 30.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

24 Provision of specimens for analysis

(1) In the course of an investigation whether a person has committed an offence under section 19 or 21 of this Ordinance a police officer may, subject to this section, require him to provide two specimens of breath for analysis by means of a device of a type approved by the Governor in Council.

(2) A requirement under this section to provide specimens of breath can only be made at a police station.

(3) On requiring any person to provide a specimen of breath in pursuance of this section a police officer shall warn him that a failure to provide it may render him liable to prosecution.

(4) A person commits an offence who, without reasonable excuse, fails to supply a specimen of breath when required to do so under this section.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

25 Protection for hospital patients

(1) When a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test under section 23 unless the medical practitioner in immediate charge of his case has been notified of the proposal to make a requirement and if the requirement is then made

it shall be for the breath test to be undertaken at the hospital, but if the medical practitioner objects on the ground specified in subsection (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement would be prejudicial to the proper care and treatment of the patient.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

26 Penalties in respect of specified offences

(1) A person convicted of an offence in respect of section 19(1), 19(2), 21(1), 23(4) or 24(4) is, subject to subsection (3) of this section, liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding level 6 on the standard scale or to both such imprisonment and fine.

[S.R. & O. 10/11/w.e.f. 15/5/11.]

(2) A person who is convicted of an offence to which subsection (1) relates shall, unless for special reasons to be recorded in writing the court otherwise orders, be disqualified from holding or obtaining a driver's licence, subject to subsection (3), for a period of not less than twelve months from the date of his conviction.

(3) A person who is convicted of an offence to which subsection (1) relates who has, on any previous occasion within the ten years preceding the date of conviction of the offence of which he is then convicted, been convicted of any offence to which subsection (1) relates or of any offence under the equivalent to section 29(1) in the form in which it existed immediately before the commencement of this section-

- (a) is liable to imprisonment for a term not exceeding three years or to a fine not exceeding level 6 on the standard scale or to both such imprisonment and fine; and

[S.R. & O. 10/11/w.e.f. 15/5/11.]

- (b) unless for special reasons to be recorded in writing the court otherwise orders, shall be disqualified from holding or obtaining a driver's licence for a period of not less than three years from that date.

(4) A court convicting a person of an offence to which subsection (1) relates shall order that any driver's licence he may hold shall be endorsed with particulars of that conviction.

(5) In this section, "special reasons" means special reasons related to the commission of the offence and does not, except in so far as they may be related to the commission of the offence, extend to circumstances related to the offender.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

27 Evidence in proceedings for an offence under section 19 or 21

(1) The following provisions apply with respect to proceedings for an offence under section 19 or section 21 of this Ordinance.

(2) Evidence of the proportion of alcohol in a specimen of breath provided by the accused shall in all cases be taken into account, and it shall be assumed that the proportion of alcohol in the accused's breath at the time of the alleged offence was not less than in the specimen; but if the proceedings are for an offence under section 21, or for an offence under section 19 in a case where

the accused is alleged to be unfit through drink, the assumption shall not be made if the accused proves-

- (a) that he consumed alcohol after he had ceased to drive or be in charge of a motor vehicle on a road or other public place and before he provided the specimen; and
- (b) that had he not done so the proportion of alcohol in his breath would not have exceeded the prescribed limit and, if the proceedings are for an offence under section 19, would not have been such as to impair his ability to drive properly.

(3) Evidence of the proportion of alcohol in a specimen of breath may, subject to subsection (4) of this section, be given by the production of a document purporting to be a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement.

(4) A document purporting to be such a statement or such a certificate as or both such a statement and such a certificate is mentioned in subsection (3) is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing; but a document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing, or within such further time as the court may in special circumstances allow, has served notice on the chief police officer requiring the attendance at the hearing of the police officer by whom the document purports to be signed.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

28 Detention of persons affected by alcohol

A person required to provide a specimen of breath may thereafter be detained at a police station until it appears to a police officer that, were that person then driving or attempting to drive a motor vehicle on a road or other public place, he would not be committing an offence under section 19 or section 21 of this Ordinance; but a person shall not be detained in pursuance of this section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath exceeds the prescribed limit.

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

29 Speed limit

- (1) Subject to subsection (4), a person commits an offence who drives a motor vehicle-
- (a) on a road within the boundaries of Stanley or on any other road designated by the Governor by order as an urban road at a speed greater than twenty-five miles per hour or greater than such lower speed as the Governor may by Order in Council prescribe for that road; or

[S. 2/Ord. 23/96/w.e.f. 24/12/96 and S.R. & O. 18/97/w.e.f. 24/11/97.]

- (b) on any other road designated by the Governor as a restricted road at a speed greater than forty miles an hour or greater than such lower speed as the Governor may by order prescribe for that road.

(2) A person who is convicted of any offence under subsection (1) is liable in the case of a first conviction to a fine not exceeding the maximum of level 3 on the standard scale and in the case of any later conviction of any offence under that subsection to a fine not exceeding the maximum of level 4 on the standard scale.

[S.R. & O. 37/98/w.e.f. 1/8/98.]

(3) A person who prior to the commencement of this section was convicted of any offence under the equivalent of subsection (1) in the form in which it existed at any time before the commencement of this section shall be deemed for the purposes of subsection (2) of this section to have been convicted of that offence under subsection (1) of this section.

(4) No offence under subsection (1) is committed by a person who being a police officer drives a police vehicle, being a member of the fire service drives a fire appliance or other vehicle belonging to the fire service, or being an ambulance driver drives an ambulance, and in any such case at a speed in excess of that permitted under subsection (1) if, in all the circumstances, the reasonable performance of his duty required him so to do.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

[S. 3/Ord. 34/87/w.e.f. 16/5/88.]

30 ...

[S. 3/Ord. 34/87/w.e.f. 16/5/88; S.R. & O. 10/11/w.e.f. 15/5/11 and Ord 13/2014/w.e.f. 21/4/2017.]

31 Summary offences

(1) A person commits an offence who contravenes any of the regulations made under this Ordinance and relating to the use of motor vehicles.

(2) Subject to subsection (3) a person commits an offence who drives a motor vehicle on the pavement or footway of a road or without lawful authority on a public jetty.

(3) A person shall not be convicted of an offence under subsection (2) if he satisfies the court that the motor vehicle was driven for the purpose of saving life or extinguishing fire or any like emergency.

(4) A person who is convicted of an offence under this section is liable to a fine of not exceeding level 3 on the standard scale but if he has previously been convicted of an offence of the like kind under this section or of an offence under the equivalents of sections 16(3), 18(1) and (2), 19(1) and (2) and 29(1) of this Ordinance in the form in which they existed immediately before the commencement of this section, to a fine not exceeding level 4 on the standard scale.

[S. 3/Ord. 34/87/w.e.f. 16/5/88 and S.R. & O. 10/11/w.e.f. 15/5/11.]

32 Tampering with vehicles

Any person who without lawful authority or reasonable cause gets on to a motor vehicle standing on a road or tampers with the brake or any part of the mechanism of the vehicle commits an offence.

33 Restriction on number of passengers on motor-cycle

Any driver of a motor-cycle (other than one with a side-car attached) who-

- (a) carries more than one passenger; or
- (b) carries such passenger otherwise than sitting astride the cycle and on a proper seat securely fixed to the cycle behind the driver's seat,

commits an offence and is liable in the case of the first conviction to a fine not exceeding level 2 on the standard scale and in the case of a second or subsequent conviction to a fine not exceeding level 3 on the standard scale.

[S. 2(i)/Ord. 10/85/w.e.f. 9/4/86 and S.R. & O. 10/11/w.e.f. 15/5/11.]

34 Wearing of protective headgear

(1) The Governor in Council may make regulations requiring, subject to such exceptions as may be specified in the regulations, persons driving or riding (otherwise than in side-cars) on motor cycles of any class specified in the regulations to wear protective headgear of such description as may be so specified.

(2) Regulations under this section may make different provision in relation to different circumstances.

(3) Any person who drives or rides on a motor cycle in contravention of regulations under this section commits an offence.

(4) A requirement imposed by regulations under this section (whenever made) shall not apply to any follower of the Sikh religion while he is wearing a turban.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

[S. 2/Ord. 8/81/w.e.f. 1/1/82.]

35 Protective helmets for motor cyclists

(1) The Governor in Council may make regulations prescribing (by reference to shape, construction or any other quality) types of helmet recommended as affording protection to persons on or in motor cycles, or motor cycles of different classes, from injury in the event of accident and may also make regulations prescribing (by reference, construction, or any other quality) types of appliance or any description to which this section applies as authorized for use by persons driving or riding (otherwise than in side-cars) on motor cycles of any class specified in the regulations.

[S. 2/Ord. 8/81/w.e.f. 1/1/82 and S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(2) Regulations made under subsection (1) in relation to appliances other than helmets-

- (a) may impose restrictions or requirements with respect to the circumstances in which appliances of any type prescribed by the regulations may be used; and
- (b) may make different provision in relation to different circumstances.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(3) If a person driving or riding on a motor cycle on a road uses an appliance (here including a helmet) of any description for which a type is prescribed under this section, he commits an offence

if that appliance is not of a type so prescribed or is otherwise used in contravention of regulations under this section.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(4) If a person sells, or offers for sale, a helmet as a helmet for affording protection as aforesaid, and the helmet is neither-

- (a) of a type prescribed under this section; nor
- (b) of a type authorized under regulations made under this section and sold or offered for sale subject to any conditions specified in the authorization,

he commits an offence.

[S. 2/Ord. 7/81/w.e.f. 1/1/82 and S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(5) If a person sells, or offers for sale, an appliance (other than a helmet) of any such description as authorized for use by persons on or in motor cycles, or motor cycles of any class, and that appliance is not of a type prescribed under this section as authorized for such use, he commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(6) The provisions of Schedule 1 shall have effect in relation to contraventions of section 34 and to contraventions of this section but references to helmets shall be construed as extending to references to appliances which are not helmets and any reference to a type of helmet which could lawfully be sold or offered for sale shall extend to a reference to a type of appliance (not being a helmet) which could be lawfully sold or offered for sale as authorized for use in the manner in question.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

(7) In this section, any reference to an appliance other than a helmet means an appliance of any description designed or adapted for use-

- (a) with any head gear; or
- (b) by being attached to or placed upon the head (as, for example, eye-protectors or ear-phones); and
- (c) references to selling or offering for sale include respectively references to letting on hire and offering to let on hire.

36 Wearing of seat belts

(1) The Governor may make regulations requiring, subject to such exceptions as may be prescribed, persons who are driving or riding in motor vehicles on a highway to wear seat belts of such descriptions as may be specified.

[S. 3/Ord. 9/06/w.e.f. 1/6/06.]

(2) Regulations under this section-

- (a) may be expressed so as to apply only to vehicles imported into the Falkland Islands on or after the date specified therein;

- (aa) may be expressed to have effect so as to limit the requirement to wear seat belts to persons driving or riding in motor-vehicles on the roads specified in the regulations;

[S. 3(1)(a)/Ord. 16/95/w.e.f. 1/1/96.]

- (b) may make different provision in relation to different classes of vehicles, different descriptions of persons and different circumstances;
- (c) shall include exceptions for-
 - (i) the users of vehicles constructed or adapted for the delivery of goods to consumers or addressees, as the case may be, while engaged in making local rounds of deliveries;
 - (ii) the drivers of vehicles while performing a manoeuvre which includes reversing; and
 - (iii) any person holding a valid certificate signed by a medical practitioner to the effect that it is inadvisable on medical grounds for him to wear a seat belt;
- (d) may make any prescribed exceptions subject to such conditions as may be prescribed; and
- (e) may prescribe cases in which a fee of a prescribed amount may be charged on an application for any certificate required as a condition of any prescribed exception.

(3) Any person who drives or rides in a motor vehicle in contravention of regulations under this section commits an offence; but notwithstanding any enactment or rule of law no person other than the person actually committing the contravention commits an offence by reason of the contravention.

(4) Regulations under the previous provisions of this section requiring the wearing of seat belts by persons riding in motor vehicles shall not apply to children under the age of fourteen (to whom the following subsections of this section apply).

(5) Except as provided by regulations made under subsection (7) a person shall not, without reasonable cause, drive a motor vehicle on a road when there is in the front of the vehicle a child under the age of fourteen years who is not wearing a seat belt in conformity with regulations made under that subsection.

(5A) Except as provided by regulations, where:

- (a) a child who is under age of 12 years and less than 150 centimetres in height is in the rear of a passenger car;
- (b) no seat belt is fitted in the rear of the passenger car; and
- (c) a seat in the front of the passenger car is provided with a seat belt but is not occupied by any person,

a person must not without reasonable excuse drive the passenger car on a road in relation to which the regulations relate.

[S. 3(1)(b)/Ord. 16/95/w.e.f. 1/1/96.]

(6) A person who drives a motor vehicle in contravention of subsection (5) or subsection (5A) commits an offence.

[S. 3(1)(c)/Ord. 16/95/w.e.f. 1/1/96.]

(7) The Governor may by regulations-

- (a) except from the prohibition in subsection (5) children of any prescribed description, vehicles of a prescribed class or the driving of vehicles in such circumstances as may be prescribed;
- (b) define in relation to any class of vehicle what part of the vehicle is to be regarded as the front of the vehicle for the purposes of that subsection;
- (c) prescribe for the purposes of that subsection the description of seat belt to be worn by children of any prescribed description and the manner in which such a belt is to be fixed and used.

(7A) Regulations made under-

- (a) subsection (7):
 - (i) may make different provision in relation to different vehicles and different circumstances;
 - (ii) shall include an exemption for any child holding a valid certificate signed by a medical practitioner in the Falkland Islands or in an approved country to the effect that it is inadvisable on medical grounds for him to wear a seat belt; or
 - (iii) may be expressed to have effect so as to limit the requirement for children to wear seat belts to children riding in motor vehicles on roads specified in the regulations;
- (b) subsection (2) or (7) may authorise the wearing of a seat belt approved under the law of any country outside the Falkland Islands.

[S. 3(1)(d)/Ord. 16/95/w.e.f. 1/1/96.]

(8) In subsections (5) and (7) "seat belt" includes any description of restraining device for a child and any reference to wearing a seat belt shall be construed accordingly.

(8A) In this section:

"goods vehicle" means a motor vehicle designed or adapted for use for the carriage of goods, or a trailer so constructed or adapted;

"maximum laden weight" in relation to a vehicle means the weight which the vehicle is designed or adapted not to exceed when in normal use and traveling on a road laden;

"passenger car" means a motor vehicle which:

- (a) is constructed or adapted for use for the carriage of passengers and is not a goods vehicle;
- (b) has no more than eight seats in addition to the driver's seat;
- (c) has four or more wheels;

- (d) has a maximum design speed exceeding 25 kilometres per hour; and
- (e) has a maximum laden weight not exceeding 3.5 tonnes.

[S. 3(1)(e)/Ord. 16/95/w.e.f. 1/1/96.]

(9) No regulations made under any provision of this section shall come into operation until those regulations have been approved by a resolution of the Legislative Assembly.

[S. 3/Ord. 27/88/w.e.f. 1/7/89 and Revision w.e.f. 31/07/2017.]

37 Pedal cycles

Any person in charge of a pedal cycle on a road who-

- (a) fails to keep to the left or near side of the road when he meets traffic proceeding in the opposite direction or fails to keep to the right or offside of the road when he passes traffic proceeding in the same direction; or
- (b) fails to have attached thereto an instrument capable of giving audible and sufficient warning of approach of the pedal cycle; or
- (c) during the period between one hour after sunset and one hour before sunrise, fails to have attached thereto-
 - (i) a lamp showing to the front a white light visible for a reasonable distance; and
 - (ii) an unobscured and efficient red light or red reflector showing to the rear:

Provided that this paragraph shall not apply to a pedal cycle being wheeled by a person on foot as near as possible to the left or nearside of the carriageway, or

- (d) rides on the pavement or footway of a road or on a public jetty,

commits an offence and is liable to a fine not exceeding level 2 on the standard scale.

[S. 2(i)/Ord. 10/85/w.e.f. 7/4/86 and S.R. & O. 10/11/w.e.f. 15/5/11.]

38 Restriction on carriage of persons on pedal cycles

(1) It shall not be lawful for more than one person over the age of eight years to be carried on a road on a pedal cycle not propelled by mechanical power unless it is constructed or adapted for the carriage of more than one person.

(2) If any person is carried on such a pedal cycle in contravention of the provisions of the foregoing subsection, each of the persons carried commits an offence and is liable in the case of a first conviction to a fine not exceeding level 1 on the standard scale, and in the case of a second or subsequent conviction to a fine not exceeding level 2 on the standard scale.

[S. 2(i)/Ord. 10/85/w.e.f. 7/4/86 and S.R. & O. 10/11/w.e.f. 15/5/11.]

(3) In this section references to a person carried on a pedal cycle shall include references to a person riding the pedal cycle.

39 Offences connected with riding of pedal cycles

- (1) A person commits an offence who rides a cycle, not being a motor vehicle, on a road recklessly.
- (2) A person commits an offence who rides a cycle, not being a motor vehicle, on a road without due care and attention or without reasonable consideration for other persons using the road.
- (3) A person commits an offence who, when unfit to ride through drink or drugs, rides a cycle, not being a motor vehicle, on a road or other public place.
- (4) A person liable to be charged with an offence under subsection (3) shall not be liable to be charged under section 12 of the Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage. A police officer may arrest without warrant a person committing an offence under subsection (3).
- (5) In this section-
 - (a) "unfit to ride through drink or drugs" means, as regards a person riding a cycle, under the influence of drink or a drug to such an extent as to be incapable of having proper control of it;
 - (b) "road" includes a footpath within the boundaries of Stanley.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

40 Carts or carriages

Any person in charge of a cart or carriage on a road who-

- (a) fails to keep such vehicle to the left or nearside of the road when he meets traffic proceeding in the opposite direction or fails to keep such vehicle to the right or offside of the road when he passes traffic proceeding in the same direction; or
- (b) during the period between one hour after sunset and one hour before sunrise, fails to have attached thereto-
 - (i) a lamp on the offside of the vehicle showing to the front a white light visible for a reasonable distance; and
 - (ii) an unobscured and efficient red reflector or red light attached to the offside of the vehicle and showing to the rear; or
- (c) drives such vehicle on a pavement or footway of a road,

commits an offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

[S. 2(i)/Ord. 10/85/w.e.f. 7/4/86 and S.R. & O. 10/11/w.e.f. 15/5/11.]

41 Animals

Any person in charge of an animal on a road who-

- (a) fails to keep the animal as close as possible to the edge of the carriageway; or
- (b) without reasonable cause leads, or rides, the animal on a pavement or footway of a road,

commits an offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

[S.R. & O. 10/11/w.e.f. 15/5/11.]

42 Holding, etc., vehicle in order to be towed or carried

(1) A person commits an offence who, otherwise than with lawful authority or reasonable cause, takes or retains hold of, or gets on to, a motor vehicle or trailer while in motion on a road, for the purpose of being carried.

(2) A person commits an offence who takes or retains hold of a motor vehicle or trailer while in motion on a road for the purpose of being drawn.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

43 Requirements in respect of policies of insurance

(1) A policy of insurance required by section 9(1) must satisfy the provisions of this section.

(2) A policy must be issued by an insurer who either-

(a) in respect of policies to which Part VI of the Road Traffic Act 1988 relates is in the United Kingdom an authorised insurer within the meaning of the expression "authorised insurer" given by section 145(5) of that Act; or

(b) is a person who has been granted permission by the Governor under section 3(2) of the Insurance Ordinance 2003 to carry on in the Falkland Islands either-

(i) general business (as defined in section 2(2) of that Ordinance); or

(ii) motor business: that is insurance business of all of-

(aa) class 1 (to the extent that the relevant risks are risks to the person insured sustaining injury, or dying, as the result of travelling as a paragraph);

(bb) class 3 (land vehicles);

(cc) class 7 (goods in transit);

(dd) class 10 (motor vehicle liability),

as described in Part I of Schedule 2 to the Insurance Companies Act 1982 of the United Kingdom.

[S. 6(1)/Ord. 22/03/w.e.f. 19/11/03.]

(3) Subject to subsection (4), the policy must insure such person, persons or classes of person as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by, or arising out of, the use of the vehicle on a road, including the payment or repayment of all charges by any Government hospital for emergency medical treatment for any such injury.

(4) The policy shall not, merely by virtue of subsection (3), be required to cover-

- (a) liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment; or
- (b) any contractual liability.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

44 Avoidance of certain exceptions to policies of insurance

(1) Where a policy of insurance to which section 9(1) relates or a certificate of insurance has been delivered by whomsoever such a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured by the policy by reference to any of the following matters, that is to say-

- (a) the age or physical or mental condition of the person driving the vehicle; or
- (b) the condition of the vehicle; or
- (c) the number of persons that the vehicle carries; or
- (d) the weight or physical characteristics of the goods that the vehicle carries; or
- (e) the time at which or the areas in which the vehicle is used; or
- (f) the horse-power or cylinder capacity or value of the vehicle; or
- (g) the carrying on the vehicle of any particular apparatus; or
- (h) the carrying on the vehicle of any particular means of identification other than plates prescribed by or under the provisions of this Ordinance, bearing the registered number of the vehicle,

shall, as respects such liabilities as are required to be covered by a policy under section 43, be of no effect:

Provided that nothing in this subsection shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this subsection shall be recoverable by the insurer or giver of the security from that person.

(2) A condition in a policy issued or given for the purposes of section 9(1) providing that no liability shall arise under the policy, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security, shall be of no effect in connection with such liabilities as are required to be covered by a policy under section 43:

Provided that nothing in this subsection shall be taken to render void any provision in a policy requiring the person insured to pay to the insurer or the giver of the security any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

(3) Where a person uses a motor vehicle in circumstances such that under section 9(1) there is required to be in force in relation to his use of it a policy of insurance of the kind mentioned in that provision, then, if any other person is carried in or upon the vehicle while the user is so using it, any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect so far as it purports or might be held-

- (a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vehicle as is required by section 43 to be covered by a policy of insurance; or
- (b) to impose any conditions with respect to the enforcement of any such liability of the users,

and the fact that a person so carried has willingly accepted as his the risk of negligence on the part of the user shall not be treated as negating any such liability of the user.

For the purposes of this subsection, references to a person being carried in or upon a vehicle include references to a person entering or getting on to, or alighting from, the vehicle, and the reference to an antecedent agreement is to one made at any time before the liability arose.

(4) Notwithstanding anything in any enactment, a person issuing a policy of insurance to which section 43(2) relates shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

45 Power of police to stop vehicles

(1) A person driving a motor vehicle on a road and a person riding a cycle, not being a motor vehicle, on a road shall stop the same on being so required by a police officer in uniform.

(2) A person who fails to comply with a requirement to which subsection (1) relates commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

46 Failure to give name and address, etc.

(1) Any such person as the following, namely-

- (a) the driver of a motor vehicle who is alleged to have committed an offence against section 15, 16 or 17 of this Ordinance; or
- (b) the rider of a cycle who is alleged to have committed an offence against section 39(1) or (2),

who refuses, on being so required by any person having reasonable ground for so requiring, to give his name and address, or gives a false name or address, commits an offence.

(2) A police officer may-

- (a) arrest without warrant the driver of a motor vehicle who within his view commits an offence to which subsection (1)(a) relates unless the driver either gives his name and address or produces for examination his licence to drive a motor vehicle;

- (b) arrest without warrant the rider of a cycle who within his view commits an offence to which subsection (1)(b) relates unless the rider gives his name and address.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

47 Duty of driver in case of accident involving injury to another

(1) If in a case where, owing to the presence on a road of a motor vehicle, an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce to a police officer or some person who, having reasonable grounds for so doing has required its production, a certificate of insurance or other evidence of insurance in accordance with section 9(1), the driver shall as soon as possible, and in any case within 24 hours of the occurrence of the accident, report the accident at a police station or to a police officer and thereupon produce such a certificate or other evidence as aforesaid, and if he fails to do so, subject to subsection (2), he commits an offence.

(2) A person shall not be convicted of an offence under subsection (1) by reason only of a failure to produce a certificate or other evidence if, within five days after the occurrence of the accident, the certificate or other evidence is produced at such a police station as may be specified by him at the time the accident was reported.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

48 Forgery of documents

- (1) A person commits an offence who, with intent to deceive-
 - (a) forges, or alters, or uses, or lends to, or allows to be used by, any other person, a document or other thing to which this section applies; or
 - (b) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive.
- (2) This section applies to the following documents and other things, namely:
 - (a) any driver's licence and any vehicle test certificate;
 - (b) any driver's or driving licence issued by any authority overseas;
 - (c) any policy or certificate of insurance.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

49 False statements and withholding material information

- (1) A person commits an offence who knowingly makes a false statement for the purpose-
 - (a) of obtaining the grant of a licence under any provision of this Ordinance to himself or any other person; or
 - (b) of preventing the grant of any such licence; or
 - (c) of procuring the imposition of a condition or limitation in relation to any such licence.

(2) A person commits an offence who makes a false statement or withholds any material information for the purpose of obtaining the issue of any policy of insurance to which section 9(1) relates.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

50 Drivers to comply with traffic directions

(1) Where a police officer is for the time being engaged in the regulation of traffic in a road, or where a traffic sign, being a sign authorized under the provisions of any regulations made under this Ordinance, has been lawfully placed on or near a road, a person driving or propelling a vehicle commits an offence if-

- (a) he neglects or refuses to stop the vehicle or to make it proceed in, or keep to, a particular line of traffic when directed to do so by the police officer in the execution of his duty; or
- (b) he fails to comply with the indication given by the sign.

(2) A traffic sign shall not be treated for the purposes of this section as having been lawfully placed unless either-

- (a) the indication given by the sign is an indication of a prohibition, restriction or requirement; or
- (b) it is expressly provided by or under any provision of this Ordinance that this section shall apply to the sign or signs of a type of which the sign is one;

and where the indication mentioned in paragraph (a) is of a general nature only of the prohibition, restriction or requirement to which the sign relates, a person shall not be convicted of failing to comply with the indication unless he has failed to comply with the said prohibition, restriction or requirement.

(3) For the purposes of this section a traffic sign placed on or near a road shall be deemed to be one authorized by the Governor and to have been lawfully so placed unless the contrary is so proved.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

51 Pedestrians to comply with directions to stop given by police officer

Where a police officer in uniform is for the time being engaged in the regulation of vehicular traffic in a road, a person on foot who proceeds across or along the carriageway in contravention of a direction to stop given by the police officer in the execution of his duty, either to persons on foot or to persons on foot and other traffic, commits an offence.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

52 Leaving vehicles in dangerous position

A person commits an offence who, being in charge of a vehicle, causes or permits the vehicle or a trailer drawn thereby to remain at rest on a road in such a position or in such condition or in such circumstances as to be likely to cause danger to other persons using the road.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

53 Pedestrian crossings

- (1) The Governor may make regulations providing for-
 - (a) the establishment on (and removal from) roads of crossings for pedestrians to be indicated in the manner prescribed by regulations under this section; and
 - (b) the precedence of motor vehicles, carts, carriages and pedestrians respectively, and generally with respect to the movement of traffic (including pedestrians), at and in the vicinity of crossings.
- (2) Without prejudice to the generality of subsection (1), regulations made thereunder may be made with respect to the indication of the limits of a crossing, or of any other matter whatsoever relating to the crossing by marks or devices on or near the road or otherwise.
- (3) Different regulations may be made under this section in relation to different conditions and, in particular, but without prejudice to the generality of the foregoing words, different regulations may be made in relation to crossings in the vicinity of, and at a distance from, a junction of roads, and to traffic which is controlled by the police, and by traffic signals, and by different kinds of traffic signals.
- (4) Regulations may be made under this section applying only to a particular crossing or particular crossings specified in the regulations.
- (5) A person commits an offence who contravenes any regulations made under this section.
- (6) In this section "crossing" means a crossing for pedestrians established by the Governor in accordance with the provisions hereof and indicated in accordance with the regulations having effect as respects that crossing; and for the purposes of the prosecution of a contravention of any of the provisions of a regulation having effect as respects a crossing the crossing shall be deemed to be established and indicated as aforesaid unless the contrary is proved.

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

54 Arrangements for patrolling school crossings

- (1) Arrangements may be made by the Governor for the patrolling of places where children cross roads on their way to or from school, during periods between the hours of 8 a.m. and 5.30 p.m. when children are so on their way, by persons appointed by him for that purpose.
- (2) Persons appointed under subsection (1) shall be entitled to receive such remuneration as may from time to time be allowed by the Governor.
- (3) For the sake of avoidance of doubt, it is hereby declared that every police officer in uniform may exercise all the powers under section 55 of a school crossing patrol.
- (4) Under this section and in section 55, "school crossing patrol" means a person appointed under subsection (1) above.

[S. 2/Ord. 15/89/w.e.f. 4/8/89.]

55 Stopping of vehicles at school crossing

- (1) When between the hours of 8 a.m. and 5.30 p.m. a vehicle is approaching a place in a road where children on their way to or from school are crossing or seeking to cross the road, a school crossing patrol wearing a uniform approved by the Governor shall have power, by exhibiting a prescribed sign, to require the person driving or propelling the vehicle to stop it.
- (2) When a person has been required under subsection (1) to stop a vehicle-
 - (a) he shall cause the vehicle to stop before reaching the place where the children are crossing or seeking to cross and so as not to stop or impede their crossing; and
 - (b) the vehicle shall not be put in motion again so as to reach the place in question so long as the sign continues to be exhibited.
- (3) A person who fails to comply with subsection (2)(a), or causes a vehicle to be put in motion in contravention of subsection (2)(b), commits an offence.
- (4) For the purposes of this section-
 - (a) where it is proved that a sign was exhibited by a school crossing patrol, it shall be presumed, unless the contrary is proved, to be of a size, colour and type prescribed, or of a description authorized under the provisions of this Ordinance;
 - (b) where it is proved that a school crossing patrol was wearing a uniform, the uniform shall be presumed, unless the contrary is proved, to be a uniform approved by the Governor; and
 - (c) where it is proved that a prescribed sign was exhibited by a school crossing patrol at a place in a road where children were crossing or seeking to cross the road, it shall be presumed, unless the contrary is proved, that those children were on their way to or from school.

[S. 2/Ord. 15/89/w.e.f. 4/8/89.]

56 Penalties

Any person found guilty of an offence under this Ordinance or any regulation made thereunder for which a penalty is not prescribed is liable on summary conviction to a fine not exceeding level 3 on the standard scale and in the case of a second or subsequent conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale.

[S. 2(i)/Ord. 10/85/w.e.f. 7/4/86.]

[S.R. & O. 10/11/w.e.f. 15/5/11.]

57 Restrictions on prosecution

- (1) After the commencement of this section,^{i*} no prosecution may be brought in respect of an alleged offence under section 35 of the Offences Against the Person Act 1861 in its application to the Falkland Islands where-
 - (a) the alleged offence was committed after the commencement of this section;
 - (b) the alleged offence arises out of the furious driving or racing of a carriage within the meaning of that provision; and

- (c) that carriage or vehicle is a motor vehicle within the meaning of that expression under section 2 of this Ordinance,

but section 35 of the Offences Against the Person Act 1861 shall otherwise remain in full force and effect in the Falkland Islands.

(2) No prosecution in respect of an alleged offence under section 14(1) (causing death by reckless driving) or section 16(1) (causing serious injury by reckless driving) may be brought except by or with the written consent of the Attorney General.

(3) No prosecution may be commenced in respect of an alleged offence under section 3, 4, 5, 6, 9, 10, 18, 19, 21, 23, 24, 29, or 31 after the expiration of six months from the date of the alleged offence and for the purposes of this subsection, a prosecution is commenced when a person is charged by the police with that offence or a summons is issued in respect of it, whichever is the earlier.

[S. 5/Ord. 34/87/w.e.f. 16/5/88.]

58 Jurisdiction of the courts

(1) The Senior Magistrate has jurisdiction to try and determine any alleged offence under this Ordinance and, on conviction of any person of such an offence, to sentence any such person to imprisonment for any period provided for, and to order him to pay any fine provided for, and to make any other order provided for by this Ordinance.

(2) The Summary Court has the like jurisdiction as the Senior Magistrate has under subsection (1) except that it has no jurisdiction in respect of alleged offences under section 14(1) or section 16(1).

[S. 5/Ord. 34/87/w.e.f. 16/5/88.]

59 Regulations

(1) The Governor in Council may by order make regulations providing for-

- (a) the registration of motor vehicles and the division of vehicles into classes for that purpose;
- (b) the exemption from registration, conditional or otherwise, of any vehicle or class of vehicle;
- (c) the display on vehicles of-
 - (i) prescribed identification marks;
 - (ii) vehicle licences;
 - (iii) any other means of identification of vehicles or the owners thereof;
- (d) controlling, restricting or specifying-
 - (i) the colours of motor vehicles or any specified class thereof; and
 - (ii) special markings to be displayed or carried on motor vehicles or on any class of motor vehicles;

- (e) the licensing of drivers of motor vehicles;
- (f) the classes of motor vehicles for which persons may be licensed to drive;
- (g) the grant of temporary and provisional licences to drive;
- (h) the testing of persons applying for or holding drivers' licences;
- (i) the specification of any countries the holders of driving licences or driver's certificates of which are exempt from the requirements to take a test;
- (j) controlling or restricting traffic, whether vehicular or pedestrian, including the imposition of one way traffic systems;
- (k) controlling the driving of motor vehicles and the use of motor vehicles, their equipment and apparatus, including the testing, inspection and weighing thereof for the purpose of ascertaining whether there is or has been a contravention of any provision of this Ordinance;
- (l) controlling the conduct of persons using motor vehicles and drivers, conductors and passengers including intending passengers on motor vehicles;
- (m) controlling the user of roads and in particular prohibiting either absolutely or during specified hours in the day-
 - (i) the driving of any specified type or class of motor vehicle on a road;
 - (ii) the manner in which a motor vehicle of any specified type or class may be used on a road;
 - (iii) the parking of motor vehicles on a road;
- (n) the arrest of persons who commit offences under this Ordinance;
- (o) controlling charges for the hire of motor vehicles and fares payable by passengers carried therein;
- (p) restricting the number of passengers who may be carried in or on any motor vehicle;
- (q) the granting and cancellation by the chief police officer of permits authorizing the use of public service vehicles and other motor vehicles for the carriage of passengers for hire or reward;
- (r) the designation of car parks and their administration;
- (s) the removal from roads, car parks and parking places of motor vehicles, without notice to the owners thereof, which contravene any provision of this Ordinance, and the fees payable in respect of such removal;
- (t) the seizure, impounding and detention for a period not exceeding two months of any motor vehicle which has been driven or used in contravention of this Ordinance;
- (u) the disposal by way of sale or otherwise or the destruction of unclaimed motor vehicles which have been seized, impounded or detained pursuant to regulations made under this section;

- (v) road signs and markings and including the observance thereof;
- (w) forms and other documents;
- (x) fees payable for any licence or on any application made under this Ordinance or Regulations made thereunder;
- (y) risks against which insurance shall be taken out;
- (z) the general carrying into effect of the provisions of this Ordinance.

(2) Any regulations made under subsection (1) may provide that contravention- thereof shall be an offence and may provide a penalty therefor not exceeding a fine of level 5 on the standard scale or imprisonment for six months or both.

[S. 2(h)/Ord. 10/85/w.e.f. 7/4/86 and S.R. & O. 10/11/w.e.f. 15/5/11.]

SCHEDULE

SUPPLEMENTARY PROVISIONS IN CONNECTION WITH PROCEEDINGS FOR OFFENCES RELATING TO HELMETS AND HEAD GEAR

[S. 3/Ord. 27/88/w.e.f. 1/7/89.]

1. (1) A person against whom proceedings are brought for an offence under section 34 of this Ordinance (hereinafter referred to as "the relevant section") shall, upon information duly laid by him and on giving the prosecution not less than three clear days' notice of his intention, be entitled to have any person to whose act or default he alleges that the contravention of the relevant section was due brought before the court in the proceedings; and if, after the contravention has been proved, the original accused proves that the contravention was due to the actual default of that other person, that other person may be convicted of the offence, and, if the original accused further proves that he has used all due diligence to secure that the relevant section was complied with, he shall be acquitted of the offence.

(2) Where an accused seeks to avail himself of the provisions of sub-paragraph (1)-

- (a) the prosecution, as well as the person whom the accused charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears that an offence under the relevant section has been committed in respect of proceedings which might be taken against some person (hereinafter referred to as "the original offender"), and a person proposing to take proceedings in respect of the offence is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person, being an act or default which took place in the Falkland Islands, and that the original offender could establish a defence under sub-paragraph (1), the proceedings may be taken against that other person without proceedings first being taken against the original offender.

In any such proceedings the accused may be charged with, and on proof that the contravention was due to his act or default be convicted of, the offence with which the original offender might have been charged.

2. (1) Where proceedings are brought against a person (hereafter in this paragraph referred to as "the accused") in respect of a contravention of the relevant section, and it is proved-

- (a) that the contravention was due to the act or default of some other person, being an act or default which took place outside the Falkland Islands; and
- (b) that the accused used all diligence to secure compliance with the relevant section,

the accused shall, subject to the provisions of this paragraph, be acquitted of the offence.

(2) The accused is not entitled to be acquitted under this paragraph unless within seven days from the date of service of the summons on him he has given notice in writing to the prosecution of his intention to rely upon the provisions of this paragraph specifying the name and address of the person to whose act or default he alleges that the contravention was due and has sent a like notice to that person.

(3) The person specified in a notice served under this paragraph is entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(4) Subject to the provisions of this paragraph, in any proceedings for an offence under the relevant section it shall be a defence for the accused to prove-

- (a) that he purchased the helmet in question as being of a type which under the relevant section could be lawfully sold or offered for sale, and with a written warranty to that effect;
- (b) that he had no reason to believe that at the time of the commission of the alleged offence it was not of such a type; and
- (c) that it was then in the same state as when he purchased it.

(5) The warranty shall only be a defence in any such proceedings if-

- (a) the accused-
 - (i) has, not later than three clear days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it; and
 - (ii) has also sent a like notice of his intention to that person, if that person is within the Falkland Islands; and
- (b) in the case of a warranty given by a person resident outside the Falkland Islands, the accused proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(6) Where the accused is an employee of the person who purchased the helmet in question under a warranty, he shall be entitled to rely on the provisions of this paragraph in the same way as his employer would have been entitled to do if he had been the accused.

(7) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

3. (1) An accused who in any proceedings for an offence under the relevant section wilfully applies to a helmet a warranty not given in relation to that helmet, commits an offence.

(2) A person commits an offence who, in respect of a helmet sold by him, being a helmet in respect of which a warranty might be pleaded under paragraph 2, gives to the purchaser a false warranty in writing (but for the purposes of this sub-paragraph a warranty shall be deemed not to be false if the accused proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate).

ⁱ 16th May 1988