
Taxi-Driver-Offence Points Bill

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A BILL

To

Provide for the incurrence of points for various taxi-driver-related offences and for, if a certain number of points are incurred by a person, the disqualification of the person from driving taxis and the obligatory attendance of taxi service improvement courses by the person; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Taxi-Driver-Offence Points Ordinance.
- (2) Subject to subsection (3), this Ordinance comes into operation on the expiry of 9 months beginning on the day on which it is published in the Gazette.
- (3) Section 57 comes into operation on a day to be appointed by the Secretary for Transport and Logistics by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance—

Commissioner (署長) means the Commissioner for Transport;
driving licence (駕駛執照) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374);

fixed penalty (定額罰款) means a fixed penalty incurred under the Fixed Penalty Ordinance;

Fixed Penalty Ordinance (《定額罰款條例》) means the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240);

have no effect (無效)—see section 17;

points (分、分數) means taxi-driver-offence points incurred under section 7(1) or (2), 12(3)(b) or 13(4)(b);

points entry (分數記項) means an entry in the Register that records the information referred to in section 3(2)(b);

Register (記分冊) means the register of taxi-driver-offence points maintained under section 3(1);

scheduled offence (表列罪行) means an offence under a provision specified in column 2 of the Schedule;

taxi (的士) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374);

taxi course completion certificate (的士課程完課證書) has the meaning given by section 102A of the Road Traffic Ordinance (Cap. 374);

taxi service improvement course (的士服務改進課程) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374).

(2) In this Ordinance, a reference to being disqualified from driving a taxi includes being disqualified from holding or obtaining a driving licence to drive a taxi.

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- (3) In the Schedule, a reference in column 2 to a provision of an enactment includes any other provision of that enactment that makes the conduct or omission concerned an offence.
 - (4) A note located in the text of this Ordinance is provided for information only and has no legislative effect.
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Part 2

Register of Taxi-Driver-Offence Points

3. Register of taxi-driver-offence points

- (1) The Commissioner must maintain a register of taxi-driver-offence points.
- (2) The Commissioner must, for each person who has incurred points under this Ordinance, record in the Register—
 - (a) the name, and other particulars the Commissioner considers appropriate, of the person;
 - (b) for each offence for which points have been incurred—
 - (i) what the offence is;
 - (ii) the date of the commission of the offence;
 - (iii) the number of points incurred for the offence; and
 - (iv) the date on which the points were incurred;
 - (c) if applicable, the date on which the person was issued with a taxi course completion certificate;
 - (d) if applicable, the date on which points were deducted under section 16 and the number of points deducted; and
 - (e) any other information the Commissioner considers appropriate.

Note—

See section 75(7) and (8) of the Road Traffic Ordinance (Cap. 374) for the issue of an extract from the Register as part of the record of convictions of a person.

4. Cancellation of points entries in Register

The Commissioner may cancel a points entry for points incurred more than 5 years before the date of cancellation.

5. Rectification of Register on Commissioner's own initiative

- (1) If the Commissioner is of the opinion that an entry in the Register about a person is incorrect, the Commissioner must—
 - (a) rectify the Register; and
 - (b) notify the person in writing of the rectification.
- (2) The Commissioner may, before rectifying the Register under subsection (1), consult the Commissioner of Police if considered appropriate.

6. Rectification of Register on application

- (1) If a person considers that an entry in the Register about the person is incorrect, the person may apply to the Commissioner to rectify the Register.
- (2) On receiving the application, the Commissioner—
 - (a) must examine the Register;
 - (b) may require the person to provide, in support of the application, any information the Commissioner considers appropriate; and
 - (c) may consult the Commissioner of Police if considered appropriate.
- (3) If the Commissioner, having examined the Register, and (if applicable) considered any information provided by the person and (if applicable) consulted the Commissioner of Police—

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- (a) is satisfied that the entry is correct—the Commissioner must refuse the application; or
 - (b) is satisfied that the entry is incorrect—the Commissioner must rectify it.
- (4) The Commissioner must notify the person in writing of the decision under subsection (3).
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Part 3

Incurrence and Cancellation of Points etc.

Division 1—Incurrence of Points

Subdivision 1—General

7. Incurrence of points

- (1) If a person becomes liable to a fixed penalty for a scheduled offence as described in section 10, the person incurs taxi-driver-offence points for the offence on the day on which the person becomes so liable.
- (2) Also, subject to section 15, if a person is convicted of a scheduled offence, the person incurs taxi-driver-offence points for the offence on the day on which the person is so convicted.

Note—

See Part 4 for the consequences of incurrence of points—

- (a) 10 or more points—obligatory attendance of taxi service improvement course;
- (b) 15 or more points—disqualification from driving a taxi.

8. Number of points for scheduled offence

The number of points that a person incurs for a scheduled offence is specified in column 4 of the Schedule opposite to the offence.

9. Advice of taxi-driver-offence points

- (1) If a person incurs 8 or more, but less than 15, points for one or more scheduled offences that are committed within a 2-year period, the Commissioner must serve on the person an advice of taxi-driver-offence points informing the person—
 - (a) of the number of points so incurred by the person; and
 - (b) that, if 15 or more points are incurred by the person for scheduled offences that are committed within a 2-year period, the person will be disqualified from driving a taxi.
- (2) The operation of Division 2 of Part 4 is not affected by a failure to comply with subsection (1).
- (3) Subsection (1) applies subject to sections 11, 12, 13, 14, 15, 16 and 18.

Subdivision 2—Fixed Penalty**10. Becoming liable to fixed penalty**

For the purposes of sections 7, 11 and 32, a person becomes liable to a fixed penalty for a scheduled offence if—

- (a) the person pays the fixed penalty in accordance with a notice given to the person under section 3(1), or served on the person under section 3(3), of the Fixed Penalty Ordinance;
- (b) the person is ordered by a magistrate to pay the fixed penalty under section 3A(1) of the Fixed Penalty Ordinance;

- (c) the person is ordered by a magistrate to pay the fixed penalty under section 3B(1)(b)(i) of the Fixed Penalty Ordinance; or
- (d) the person pays the fixed penalty, an additional penalty and costs under section 9 of the Fixed Penalty Ordinance.

11. Cessation of liability to fixed penalty

- (1) A person ceases to be liable to a fixed penalty for a scheduled offence if—
 - (a) where the person became so liable in the circumstances described in section 10(a)—the notice is withdrawn by the Commissioner of Police under section 4 of the Fixed Penalty Ordinance;
 - (b) where the person became so liable in the circumstances described in section 10(b)—the order made against the person under section 3A(1) of the Fixed Penalty Ordinance is rescinded by a magistrate under section 3B(1) or (5) of that Ordinance; or
 - (c) where the person became so liable in the circumstances described in section 10(c)—the order made against the person under section 3B(1)(b)(i) of the Fixed Penalty Ordinance is rescinded by a magistrate under section 3B(5) of that Ordinance.
- (2) If a person ceases to be liable to a fixed penalty for a scheduled offence as described in subsection (1)—
 - (a) the points incurred for the offence have no effect; and
 - (b) if the points have already been recorded in the Register—the Commissioner must cancel the points entry relating to the offence.

Subdivision 3—Appeal against Conviction etc.**12. Appeal against conviction**

- (1) If a person convicted of a scheduled offence (*original offence*) appeals against the conviction, the points incurred for the original offence have no effect until the appeal is determined or withdrawn.
- (2) If the conviction is quashed on appeal without substituting a conviction for another scheduled offence—
 - (a) the points incurred for the original offence have no effect; and
 - (b) the Commissioner must cancel the points entry in the Register relating to the original offence.
- (3) If the conviction is substituted on appeal with a conviction for another scheduled offence (*substituted offence*)—
 - (a) the points incurred for the original offence have no effect;
 - (b) the person incurs taxi-driver-offence points for the substituted offence on the day of substitution; and
 - (c) the Commissioner must—
 - (i) cancel the points entry in the Register relating to the original offence; and
 - (ii) make a record for the substituted offence in the Register in accordance with section 3(2).

13. Review of decision by magistrate under Magistrates Ordinance

- (1) This section applies if—
 - (a) a person convicted of a scheduled offence applies to a magistrate for a review under section 104(1) of the Magistrates Ordinance (Cap. 227); or

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- (b) the conviction of a person for a scheduled offence is reviewed under section 104(5) of that Ordinance.
- (2) The points incurred for the scheduled offence have no effect until—
 - (a) the application for review is withdrawn or dismissed; or
 - (b) the review is determined.
 - (3) If as a result of the review the person is acquitted—
 - (a) the points incurred for the scheduled offence have no effect; and
 - (b) the Commissioner must cancel the points entry in the Register relating to the offence.
 - (4) If as a result of the review the conviction of the person for the scheduled offence (*original offence*) is substituted with a conviction for another scheduled offence (*substituted offence*)—
 - (a) the points incurred for the original offence have no effect;
 - (b) the person incurs taxi-driver-offence points for the substituted offence on the day of substitution; and
 - (c) the Commissioner must—
 - (i) cancel the points entry in the Register relating to the original offence; and
 - (ii) make a record for the substituted offence in the Register in accordance with section 3(2).

Division 2—Cancellation and Deduction of Points

14. Cancellation of points entry on disqualification under section 31

If a person incurs 15 or more points for scheduled offences that are committed within a 2-year period and is, as a result, disqualified from driving a taxi under section 31—

- (a) all those points incurred by the person for the offences have no effect; and
- (b) the Commissioner must cancel the points entries in the Register relating to the offences.

15. Cancellation of points entry on disqualification under Road Traffic Ordinance

- (1) This section applies if, on being convicted of a scheduled offence (*current offence*), a person is disqualified from driving a taxi under section 69(1)(f) of the Road Traffic Ordinance (Cap. 374).
- (2) The person does not incur any points under this Ordinance for the current offence or for any other scheduled offence the person is convicted of on the same occasion.
- (3) For a scheduled offence (*previous offence*) committed by the person before committing the current offence—
 - (a) if the person has not yet been convicted of the previous offence at the time of being convicted of the current offence—the person does not incur any points under this Ordinance for the previous offence, even if the person is subsequently convicted of it; or
 - (b) if the person has already been convicted of the previous offence at the time of being convicted of the current offence and has incurred points under this Ordinance for the previous offence—

- (i) the points incurred have no effect; and
- (ii) the Commissioner must cancel the points entry in the Register relating to the previous offence.

16. Deduction of points on completion of taxi service improvement course

- (1) Subsection (2) applies if—
 - (a) relevant points are recorded in the Register for a person; and
 - (b) the person is issued with a taxi course completion certificate.
- (2) Subject to subsections (3) and (4), the Commissioner must, as soon as practicable after the issue of the certificate, deduct from the total number of relevant points incurred by the person—
 - (a) if the number before deduction is larger than 3—3 points; or
 - (b) if the number before deduction is not larger than 3—all the points.
- (3) If either of the following subsists on the completion day—
 - (a) an appeal referred to in section 12 against a conviction for a scheduled offence that the person committed within the past 2 years;
 - (b) an application for review, or a review, referred to in section 13 in relation to a conviction for a scheduled offence that the person committed within the past 2 years,no points may be deducted under subsection (2) pending the outcome of the appeal, application or review.

- (4) No points may be deducted under subsection (2) if—
- (a) on the completion day the total number of relevant points incurred by the person is—
 - (i) 0; or
 - (ii) 15 or more than 15; or
 - (b) within the 2-year period before the completion day the Commissioner has deducted points under subsection (2) for the person.
- (5) The points deducted under subsection (2) are regarded as having been deducted on the completion day.
- (6) If any points are deducted for a person under this section, the points so deducted—
- (a) are to be taken into account in calculating the number of points incurred by the person for the purposes of sections 9 and 26; but
 - (b) are not to be taken into account in calculating the number of points incurred by the person for the purposes of section 20.
- (7) In this section—

completion day (完課當日), in relation to a person issued with a taxi course completion certificate, means the day on which the person completes the taxi service improvement course for which the person is issued with the certificate;

relevant points (有關分數) means points incurred by a person that are to be taken into account in calculating the number of points incurred by the person for the purposes of sections 9 and 26.

Division 3—Calculating Points

17. Points having no effect not to be taken into account in calculation

If a provision of this Ordinance provides that points incurred by a person for a scheduled offence have no effect, it means that the points are not to be taken into account in calculating the number of points incurred by the person.

18. Calculating points for offences constituted by same act

- (1) This section applies if—
 - (a) a person has incurred points for 2 or more scheduled offences (*those offences*); and
 - (b) those offences are constituted by the same, or substantially the same, act.
- (2) In calculating the number of points incurred by the person for the purposes of sections 9, 20 and 26, only the points incurred for—
 - (a) the offence that attracts the highest number of points; or
 - (b) if each of those offences attracts the same number of points—one of those offences,are to be taken into account.

19. Calculating points for purposes of section 20

- (1) This section applies to the calculation of the number of points incurred by a person for the purposes of section 20.
- (2) If a person—
 - (a) was convicted of a scheduled offence in any proceedings; and

(b) was on that conviction ordered under section 72A(1)(b) of the Road Traffic Ordinance (Cap. 374) to attend and complete a taxi service improvement course,

all points incurred for that offence, and for any other scheduled offence the person was convicted of in the same proceedings, have no effect.

(3) If—

(a) a person was required to attend and complete a taxi service improvement course under section 20;

(b) a notice was served on the person under section 21; and

(c) the person accordingly attended and completed such a course,

all points specified in the notice have no effect.

(4) If a person—

(a) was required to attend and complete a taxi service improvement course under section 20; and

(b) attended and completed such a course on the person's own initiative before a notice was served on the person under section 21,

all points specified in the notice have no effect.

(5) If a person attended and completed a taxi service improvement course on the person's own initiative without being required to do so under section 20, all points incurred by the person before the date of completion of the course have no effect.

Part 4

Consequences of Incurring Points

Division 1—Obligatory Attendance of Taxi Service Improvement Course

20. Obligation to attend taxi service improvement course

- (1) If a person incurs 10 or more points for one or more scheduled offences that are committed within a 2-year period, the person must attend and complete a taxi service improvement course at the person's own cost—
 - (a) within 3 months after the date of a notice served on the person under section 21; or
 - (b) if the Commissioner fixes a longer period under section 22—within that longer period.
- (2) Subsection (1) applies subject to sections 11, 12, 13, 14, 15, 18 and 19.

21. Notice of obligatory attendance

- (1) For the purposes of section 20, the Commissioner must serve on the person a notice requiring the person to attend and complete a taxi service improvement course.
- (2) The notice must inform the person—
 - (a) of the number of points incurred by the person;
 - (b) of the offences for which the points have been incurred; and
 - (c) that the person is required to attend and complete a taxi service improvement course at the person's own cost in accordance with section 20(1)(a) or (b).

22. Application for longer compliance period

- (1) A person who has been served with a notice under section 21 may apply to the Commissioner in writing within 3 months after the date of the notice (*original compliance period*) to fix a longer period.
- (2) On receiving the application, if the Commissioner considers that the person has reasonable grounds for not attending and completing a taxi service improvement course within the original compliance period, the Commissioner—
 - (a) may fix a longer period within which the person must attend and complete the course for the purposes of section 20; and
 - (b) must notify the person as soon as reasonably practicable after fixing the period.

23. Non-compliance with section 20

- (1) A person who, without reasonable excuse, fails to comply with section 20 commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 1 month.
- (2) If a person is convicted under subsection (1), the court or magistrate must order the person to attend and complete a taxi service improvement course at the person's own cost within the period specified in the order.
- (3) However, the court or magistrate may for special reasons decide not to make an order under subsection (2).

24. Non-compliance with order under section 23

- (1) A person who, without reasonable excuse, fails to comply with an order made under section 23(2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months.
- (2) If—
 - (a) a court or magistrate convicts a person of an offence under subsection (1); and
 - (b) the person is not yet disqualified from driving a taxi, the court or magistrate must order that the person be disqualified from driving a taxi for a period of not less than 3 months beginning on the date of the order or until the person has attended and completed a taxi service improvement course at the person's own cost, whichever is the later.
- (3) However, the court or magistrate may for special reasons order that the person—
 - (a) be disqualified from driving a taxi for a period of less than 3 months beginning on the date of the order or until the person has attended and completed a taxi service improvement course at the person's own cost, whichever is the later; or
 - (b) not be disqualified from driving a taxi.

25. Appeal against order

- (1) If a person is ordered under section 23(2) to attend and complete a taxi service improvement course, the person may appeal against the order in like manner as if it were an order made against the person for the payment of a fine.

- (2) If a person appeals under subsection (1) against an order, the period specified in the order for attending and completing a taxi service improvement course does not start or continue to run (as the case requires) until the appeal is withdrawn or dismissed.

Division 2—Disqualification

Subdivision 1—Disqualification Proceedings

26. Disqualification on incurring 15 or more points

- (1) If a person incurs 15 or more points for scheduled offences that are committed within a 2-year period, the person is liable to be disqualified from driving a taxi in accordance with this Division.
- (2) Subsection (1) applies subject to sections 11, 12, 13, 14, 15, 16 and 18.

27. Issue of summons

- (1) If a person is liable to be disqualified from driving a taxi under section 26, the Commissioner must apply to a magistrate by way of complaint for the issue of a summons.
- (2) A summons issued as a result of the application must contain the following information—
 - (a) the date of the commission of each offence for which the points referred to in section 26 were incurred;
 - (b) the number of points incurred for each offence;
 - (c) the time and place the person is required to appear.

28. Service of summonses

- (1) A summons issued under section 27(1) may be served on a person—
 - (a) by hand in accordance with subsection (2); or
 - (b) by ordinary post or registered post in accordance with subsection (3).
- (2) If the summons is to be served on the person by hand, the summons—
 - (a) must be served by a police officer or an usher, or another officer, of a magistrate's court; and
 - (b) must—
 - (i) be delivered to the person personally; or
 - (ii) be left with a third person for the person at the person's address shown in the record of driving licences kept by the Commissioner under the Road Traffic Ordinance (Cap. 374).
- (3) If the summons is to be served on the person by ordinary post or registered post, the summons must be served by posting a prepaid envelope—
 - (a) addressed to the person at the person's address shown in the record of driving licences kept by the Commissioner under the Road Traffic Ordinance (Cap. 374); and
 - (b) containing the summons.

29. Supplementary provision to section 28

- (1) If—
 - (a) a summons issued under section 27(1) is served on a person by ordinary post in accordance with section 28(3); but

(b) the person fails to appear at the time and place specified in the summons for the person to appear, the service is regarded as never having been effected and the summons must then be served on the person by hand in accordance with section 28(2) or by registered post in accordance with section 28(3).

- (2) If a summons issued under section 27(1) is served on a person by registered post in accordance with section 28(3), the summons is regarded as having been served at the time at which it would have been delivered in the ordinary course of post, even if it is returned through the post undelivered to the person.

30. Hearing of summons in absence of person served with summons

- (1) If—
- (a) a summons issued under section 27(1) has been served on a person in accordance with sections 28 and 29 a reasonable time before the hearing of the summons; but
- (b) that person fails to appear at the hearing, the magistrate may proceed to deal with the matter in the absence of that person.
- (2) However, subsection (1) does not empower the magistrate to order, in the absence of that person, that the person be disqualified from driving a taxi.

31. Disqualification order

- (1) This section applies if, at the hearing of a summons issued under section 27(1), the magistrate is satisfied that the circumstances set out in section 26 apply to the person on whom the summons was served.

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- (2) Subject to subsection (3), the magistrate must order that the person be disqualified from driving a taxi for a period of—
 - (a) for a first disqualification under this section—3 months beginning on the date of the order; and
 - (b) for a subsequent disqualification under this section—6 months beginning on the date of the order.
 - (3) Taking into account all circumstances that are not excluded by subsection (4), if the magistrate is satisfied that there are grounds—
 - (a) to order a shorter period of disqualification—the magistrate may make an order to that effect; or
 - (b) not to order that the person be disqualified from driving a taxi—the magistrate may make a ruling to that effect.
 - (4) The following circumstances are excluded for the purposes of subsection (3)—
 - (a) any circumstances that are alleged to make the offence not a serious one;
 - (b) hardship, other than exceptional hardship;
 - (c) any circumstances that, within the 2-year period immediately preceding the issue of the summons under section 27(1), have already been taken into account under subsection (3) in ordering a shorter period of disqualification or not ordering a disqualification.

Subdivision 2—Evidence**32. Certificate of record**

- (1) A certificate—
 - (a) stating the information specified in subsection (2); and
 - (b) purporting to be signed by, or on behalf of, the Commissioner,
must be admitted in any proceedings commenced by a summons issued under section 27(1) on its production without further proof.
- (2) The following information is specified for the purposes of subsection (1)(a)—
 - (a) that the person named in the certificate became liable to fixed penalties for, or was convicted of, the scheduled offences specified in the certificate (*those offences*);
 - (b) the dates on which the person became liable to the fixed penalties or was convicted;
 - (c) the dates on which those offences were committed;
 - (d) the number of points incurred for each of those offences;
 - (e) if applicable, the date on which the person was issued with a taxi course completion certificate;
 - (f) if applicable, the date on which points were deducted for the person under section 16.
- (3) Until the contrary is proved, the magistrate must presume that—
 - (a) the certificate is signed by, or on behalf of, the Commissioner; and

- (b) the person named in the certificate is the person named in the proceedings.
- (4) Until the contrary is proved, the certificate is evidence of the facts stated in it.

33. Certificate of disqualification

- (1) A certificate—
 - (a) stating the information specified in subsection (2); and
 - (b) purporting to be signed by, or on behalf of, the Commissioner,must be admitted in any proceedings before any court on its production without further proof.
- (2) The following information is specified for the purposes of subsection (1)(a)—
 - (a) that the person named in the certificate was disqualified from driving a taxi under section 31;
 - (b) the date on which the disqualification was imposed;
 - (c) the period of the disqualification.
- (3) Until the contrary is proved, the court must presume that—
 - (a) the certificate is signed by, or on behalf of, the Commissioner; and
 - (b) the person named in the certificate is the person named in the proceedings.
- (4) Until the contrary is proved, the certificate is evidence of the facts stated in it.

34. Dispute of certificate

- (1) This section applies if—
 - (a) a summons issued under section 27(1) has been served on a person in accordance with sections 28 and 29; and
 - (b) the person alleges that the information stated in a certificate referred to in section 32 or 33 is incorrect.
- (2) The magistrate—
 - (a) must give the person an opportunity to apply to the Commissioner for rectification of the Register; and
 - (b) may adjourn the hearing for this purpose.

Division 3—Notice of Disqualification Order and Deposit of Driving Licence**35. Notice of disqualification order**

If a court or magistrate orders under section 24 or 31 that a person be disqualified from driving a taxi, the court or magistrate must, as soon as reasonably practicable, cause notice of the order to be sent to the Commissioner and the Commissioner of Police.

36. Deposit of driving licence

- (1) This section applies if—
 - (a) a court or magistrate orders under section 24 or 31 that a person be disqualified from driving a taxi; and
 - (b) on the date of the order the person holds a driving licence to drive a taxi.
- (2) The person must deposit the driving licence with the court or magistrate—

- (a) within 72 hours of the making of the order; or
 - (b) if the court or magistrate fixes a longer period—within that longer period.
- (3) After a driving licence has been deposited under subsection (2), the court or magistrate must, as soon as reasonably practicable, cause the licence to be forwarded to the Commissioner.

Note—

See regulation 35(4) of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) for arrangements after the licence is forwarded to the Commissioner.

37. Failure to deposit driving licence

If a person against whom an order under section 24 or 31 is made fails, without reasonable excuse, to deposit the person's driving licence in accordance with section 36, the person commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 1 month.

Division 4—Non-compliance with Disqualification Order

38. Non-compliance with disqualification order

If a person disqualified from driving a taxi under section 24 or 31, while being so disqualified—

- (a) applies for, or obtains, a driving licence to drive a taxi; or
- (b) drives a taxi, other than under regulation 19 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B),

the person commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 12 months.

Division 5—Reasonable Excuse

39. Reasonable excuse

- (1) This section applies if a provision of this Part that creates an offence makes a reference to a reasonable excuse for a failure to which the provision relates.
 - (2) The reference to a reasonable excuse is to be construed as providing for a defence to a charge in respect of the failure to which the provision relates.
 - (3) A defendant is taken to have established that the defendant had a reasonable excuse for the failure if—
 - (a) there is sufficient evidence to raise an issue that the defendant had such a reasonable excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
-

Part 5

Miscellaneous

40. Service of advice and notice

An advice or notice required under this Ordinance to be served on a person may be served on the person—

- (a) by hand; or
- (b) by ordinary post or registered post sent to the person's address shown in the record of driving licences kept by the Commissioner under the Road Traffic Ordinance (Cap. 374).

41. Delegation

- (1) The Commissioner may delegate any of the Commissioner's powers or functions under this Ordinance to any public officer.
- (2) A delegation under subsection (1) may be subject to any restriction or condition the Commissioner considers appropriate.

42. Application of Magistrates Ordinance

Subject to section 30, the Magistrates Ordinance (Cap. 227) applies, with any necessary adaptations and as far as it is consistent with this Ordinance, to proceedings under this Ordinance as it applies to proceedings in respect of a summary offence.

43. Amendment of Schedule

The Legislative Council may, by resolution, amend the Schedule.

Part 6

Related Amendments

Division 1—Enactments Amended

44. Enactments amended

The enactments specified in Divisions 2, 3 and 4 are amended as set out in those Divisions.

Division 2—Amendments to Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A)

45. Schedule amended

- (1) The Schedule, Form 1, list of offences and fixed penalty, code number 49—

Repeal

“49.”

Substitute

“§49.”

- (2) The Schedule, Form 1, list of offences and fixed penalty—

Repeal

“# 凡有“#”符號的罪行每宗記3分。

Offences marked with “#” carry 3 driving-offence points.

! 凡有“!”符號的罪行每宗記5分。

Offence marked with “!” carries 5 driving-offence points.

Ω 凡有“Ω”符號的罪行每宗記 10 分。

Offence marked with “Ω” carries 10 driving-offence points.

* 凡有“*”符號的罪行，車主均須負法律責任。

Vehicle owners liable for offences marked with “*”.”

Substitute

“# 有“#”符號的罪行，每宗記 3 分違例駕駛分數。

Offence marked with “#” carries 3 driving-offence points.

! 有“!”符號的罪行，每宗記 5 分違例駕駛分數。

Offence marked with “!” carries 5 driving-offence points.

Ω 有“Ω”符號的罪行，每宗記 10 分違例駕駛分數。

Offence marked with “Ω” carries 10 driving-offence points.

§ 有“§”符號的罪行，每宗記 3 分的士司機違例記分。

Offence marked with “§” carries 3 taxi-driver-offence points.

* 有“*”符號的罪行，車主均須負法律責任。

Vehicle owners liable for offences marked with “*”.”

Division 3—Amendments to Road Traffic Ordinance (Cap. 374)

46. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *disqualified*

Substitute

“*disqualified* (取消駕駛資格)—see section 2B;”.

(2) Section 2—

Add in alphabetical order

“*taxi service improvement course* (的士服務改進課程) means a taxi service improvement course provided by a taxi service improvement school under section 102B(3A)(a);

taxi service improvement school (的士服務改進學校) means a place designated by the Commissioner as a taxi service improvement school under section 102B(1) and in respect of which the designation is for the time being in force;”.

47. Section 2B added

Before section 3—

Add

“2B. Meaning of *disqualified*

- (1) A person is disqualified if the person is disqualified from holding or obtaining a driving licence under this Ordinance.
- (2) For the purposes of the following provisions, and without limiting subsection (1), a person is disqualified if the person is disqualified from holding or obtaining a driving licence under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375)—
 - (a) sections 102B(3)(a)(iii) and 111(5);
 - (b) regulations 6(1)(b), 10(2)(d), 12B(6)(b), 31(8)(b), 34(1), 37(2) and 39 of, and the Seventh Schedule to, the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (*Cap. 374B*).

- (3) For the purposes of the following provisions, and without limiting subsection (1), a person is disqualified if the person is disqualified from driving a taxi under the Taxi-Driver-Offence Points Ordinance (of 2023)—
- (a) sections 102B(3A)(a)(iii) and 111(5);
 - (b) regulations 6(1)(b), 10(2)(d), 34(1) and 39 of, and the Seventh Schedule to, Cap. 374B.
- (4) The word “disqualification” is to be construed in accordance with subsections (1), (2) and (3).
- (5) A reference to being disqualified from driving a taxi includes being disqualified from holding or obtaining a driving licence to drive a taxi.”.

48. Section 72A amended (power of court or magistrate to order persons to attend driving improvement courses)

- (1) Section 72A, heading—

Repeal

everything after “**order**”

Substitute

“**attendance of improvement courses**”.

- (2) Section 72A(1)—

Repeal

“an offence specified in Schedule 11,”

Substitute

“a specified general offence or a specified taxi offence.”.

- (3) Section 72A(1)(b)—

Repeal

everything after “**complete**”

Substitute

“—

- (i) for a specified general offence—a driving improvement course; and
- (ii) for a specified taxi offence—a taxi service improvement course.”.

- (4) Section 72A(1B)—

Repeal

everything after “convicted of”

Substitute

“a specified general offence in any proceedings, is ordered under subsection (1)(b) or (1A) to attend and complete a driving improvement course, the person is not to be ordered under that subsection to attend and complete a driving improvement course for any other specified general offence the person is convicted of in the same proceedings.”.

- (5) After section 72A(1B)—

Add

- “(1C) If a person, on being convicted of a specified taxi offence in any proceedings, is ordered under subsection (1)(b) to attend and complete a taxi service improvement course, the person is not to be ordered under that subsection to attend and complete a taxi service improvement course for any other specified taxi offence the person is convicted of in the same proceedings.”.

- (6) Section 72A(2), Chinese text—

Repeal

everything after “命令，”

Substitute

“則該懲罰可輕於法庭或裁判官若無作出該命令則本來可能判處的懲罰。”.

- (7) Section 72A(3)—

Repeal

everything after “is”

Substitute

“—

- (a) ordered under subsection (1)(b) or (1A) to attend and complete a driving improvement course; or
- (b) ordered under subsection (1)(b) to attend and complete a taxi service improvement course, must, at the person’s own cost, attend and complete that course in accordance with subsection (3A), (3B) or (3C) as may be applicable to the person.”.

- (8) Section 72A(3A)—

Repeal

“driving improvement course within 3 months beginning on the date the order is made to attend and complete”

Substitute

“course within 3 months beginning on the date of the order for attending and completing”.

- (9) Section 72A(3B)—

Repeal

“driving improvement”.

- (10) Section 72A(3C)—

Repeal

“driving improvement”.

- (11) Section 72A(4)—

Repeal

“is not able to or has failed to attend and complete a driving improvement course within the compliance period with reasonable excuse”

Substitute

“has reasonable grounds for not attending and completing a driving improvement course or taxi service improvement course within the compliance period”.

- (12) Section 72A(9A)—

Repeal

everything after “subsection (9), the court or magistrate”

Substitute

“must—

- (a) for a failure to comply with subsection (3) in respect of a driving improvement course—order the person to attend and complete a driving improvement course at the person’s own cost within the period specified in the order; or
- (b) for a failure to comply with subsection (3) in respect of a taxi service improvement course—order the person to attend and complete a taxi service improvement course at the person’s own cost within the period specified in the order,

unless the court or magistrate for special reasons decides not to make such an order.”.

(13) Section 72A—

Repeal subsection (9C)**Substitute**

“(9C) If—

(a) a court or magistrate convicts a person of an offence under subsection (9B) for a failure to comply with an order made under subsection (9A)(a); and

(b) the person is not yet disqualified,

the court or magistrate must make an order (*subsection (9C) order*) that the person be disqualified for a period of not less than 3 months beginning on the date of the subsection (9C) order or until the person has attended and completed a driving improvement course at the person’s own cost, whichever is the later, unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.

(9CA) If—

(a) a court or magistrate convicts a person of an offence under subsection (9B) for a failure to comply with an order made under subsection (9A)(b); and

(b) the person is not yet disqualified from driving a taxi,

the court or magistrate must make an order (*subsection (9CA) order*) that the person be disqualified from driving a taxi for a period of not less than 3 months beginning on the date of the subsection (9CA) order or until the person has

attended and completed a taxi service improvement course at the person’s own cost, whichever is the later, unless the court or magistrate for special reasons orders that the person be so disqualified for a shorter period or that the person not be so disqualified.”.

- (14) Section 72A(9D)—

Repeal

“to attend and complete a driving improvement course under subsection (1)(b), (1A) or (9A), he may appeal against the order in like manner as if it were an order made against him”

Substitute

“under subsection (1)(b), (1A) or (9A) to attend and complete a course, the person may appeal against the order in like manner as if it were an order made against the person”.

- (15) Section 72A(9E), Chinese text—

Repeal

everything after “上訴，”

Substitute

“在上訴被撤回或駁回之前，下述限期不得開始計算或繼續計算（視屬何情況而定）：遵從限期、根據第(4)款延展的遵從限期，或（就根據第(9A)款作出的命令而言）命令所指明的限期。”。

- (16) Section 72A(11), definition of *compliance period*—

Repeal

“(1) or (1A) to attend and complete a driving improvement”

Substitute

“(1)(b) or (1A) to attend and complete a driving improvement course or taxi service improvement”.

- (17) Section 72A(11), definition of *disqualification order*—

Repeal

everything after “(停牌令)”

Substitute

“__

- (a) in relation to an order to attend and complete a driving improvement course made under subsection (1)(b) or (1A)—means an order made under section 36(2), 36A(2), 37(2), 39(2), 39A(2), 39B(7), 39C(16), 39J(2), 39K(2), 39L(2), 39O(4), 39S(3), 41(3), 55(2) or 69(1)(a) that a person be disqualified; and
- (b) in relation to an order to attend and complete a taxi service improvement course made under subsection (1)(b)—means an order made under section 69(1)(f) that a person be disqualified from driving a taxi;”.
- (18) Section 72A(11), definition of *disqualification period*—

Repeal

“driving improvement”.

- (19) Section 72A(11)—

Add in alphabetical order

“*specified general offence* (指明一般罪行) means an offence specified in Schedule 11;

specified taxi offence (指明的士罪行) means a scheduled offence as defined by section 2(1) of the Taxi-Driver-Offence Points Ordinance (of 2023);”.

- (20) Section 72A(13)—

Repeal

“he is disqualified for a period of less than 3 months, or until the person has attended and completed a driving improvement course at his”

Substitute

“the person is disqualified for a period of less than 3 months beginning on the date of the subsection (9C) order or until the person has attended and completed a driving improvement course at the person’s”.

- (21) After section 72A(13)—

Add

“(13A) For the purposes of subsection (9CA), a person is disqualified for a shorter period if the person is disqualified for a period of less than 3 months beginning on the date of the subsection (9CA) order or until the person has attended and completed a taxi service improvement course at the person’s own cost, whichever is the later.”.

49. Section 75 amended (proof of matters relating to previous convictions)

After section 75(6)—

Add

“(7) A document issued under this section may contain an extract from the register of taxi-driver-offence points maintained under section 3(1) of the Taxi-Driver-Offence Points Ordinance (of 2023) (*TDOP Register*).

(8) This section applies to an extract from the TDOP Register as if the extract were a record of convictions compiled and maintained by the Commissioner of Police under this section.”.

50. Part 10A heading amended (driving improvement schools)

Part 10A, heading, after “Schools”—

Add

“and Taxi Service Improvement Schools”.

51. Section 102A amended (interpretation)

(1) Section 102A, definition of *attendance certificate*, paragraphs (a) and (b)—

Repeal

“102E(d)”

Substitute

“102E(d)(i)”.

- (2) Section 102A, definition of *course certificate*, paragraphs (a) and (b)—

Repeal

“102E(d)”

Substitute

“102E(d)(i)”.

- (3) Section 102A, definition of *proprietor*—

Repeal

everything after “improvement”

Substitute

“school or taxi service improvement school, means a person having the conduct or control of it, whether or not the person is its owner;”.

- (4) Section 102A—

Add in alphabetical order

“*taxi course attendance certificate* (的士課程修習證書)—

- (a) means a certificate issued under section 102B(3A)(b)(i) or 102E(d)(ii); and
- (b) includes, except for the purposes of section 102B(3A)(b)(i) or 102E(d)(ii), a duplicate of the certificate;

taxi course completion certificate (的士課程完課證書)—

- (a) means a certificate issued under section 102B(3A)(b)(ii) or 102E(d)(ii); and
- (b) includes, except for the purposes of section 102B(3A)(b)(ii) or 102E(d)(ii), a duplicate of the certificate.”.

52. Section 102B amended (Commissioner may designate driving improvement schools)

- (1) Section 102B, heading, after “schools”—

Add

“and taxi service improvement schools”.

- (2) Section 102B(1)—

Repeal

“school and may impose such conditions relating to the designation as he”

Substitute

“school, or as a taxi service improvement school, and may impose any conditions relating to the designation as the Commissioner”.

- (3) Section 102B(2)—

Repeal

“school under”

Substitute

“school, or as a taxi service improvement school, under”.

- (4) Section 102B(2)(a)—

Repeal

“shall authorize the person specified in the designation as the proprietor to operate that place as a driving improvement school”

Substitute

“authorizes the person specified in the designation as the proprietor to operate that place as a driving improvement school, or as a taxi service improvement school,”.

- (5) Section 102B(2)(a)—

Repeal subparagraph (i)

Substitute

“(i) (for a driving improvement school) Part 1 of Schedule 12 or (for a taxi service improvement school) Part 2 of Schedule 12;”.

- (6) Section 102B(2)(a)(ii), before “code”—

Add

“relevant”.

- (7) Section 102B(2)(a)—

Repeal subparagraph (iii)

Substitute

“(iii) the condition set out—

(A) for a driving improvement school—in subsection (3); or

(B) for a taxi service improvement school—in subsection (3A); and”.

- (8) Section 102B(2)(a), Chinese text—

Repeal subparagraph (iv)

Substitute

“(iv) 符合署長在該項指定內指明的條件；及”.

- (9) Section 102B(2)(a), Chinese text—

Repeal

“經營該地方為駕駛改進學校；及”.

- (10) Section 102B(3)—

Repeal

“is that the proprietor of a driving improvement school shall”

Substitute

“for a driving improvement school is that the proprietor of the school must”.

- (11) Section 102B(3)(a), before “code”—

Add

“relevant”.

- (12) Section 102B(3)(a)(iii), Chinese text—

Repeal

“駕駛資格被取消”

Substitute

“被取消駕駛資格”.

- (13) Section 102B(3)(b)(ii), before “code”—

Add

“relevant”.

- (14) After section 102B(3)—

Add

“(3A) The condition referred to in subsection (2)(a)(iii) for a taxi service improvement school is that the proprietor of the school must ensure that—

- (a) taxi service improvement courses are provided by the school in accordance with the relevant code of practice—

- (i) to a holder of a driving licence to drive a taxi;

- (ii) to a person who—
 - (A) is ordered under section 72A(1)(b) or (9A); or
 - (B) is required under section 20, or ordered under section 23(2), of the Taxi-Driver-Offence Points Ordinance (of 2023),
to attend and complete a taxi service improvement course; and
 - (iii) to a person who is disqualified from driving a taxi until the person has attended and completed a taxi service improvement course at the person’s own cost; and
 - (b) if a person attends and completes a taxi service improvement course at the school—
 - (i) a taxi course attendance certificate in a form specified by the Commissioner is issued by the school to the person immediately after the attendance and completion, indicating that the person has attended and completed the course;
 - (ii) a taxi course completion certificate in a form specified by the Commissioner is issued by the school, on the Commissioner’s direction, to the person, indicating that the person has attended and completed the course in accordance with the relevant code of practice.”.
- (15) Section 102B(5)—

Repeal

“prejudice to the generality of”

Substitute

“limiting”.

- (16) Section 102B(5)(a)—

Repeal

everything after “be charged”

Substitute

“__

- (i) by the proprietor of a driving improvement school for a driving improvement course and the issue of an attendance certificate or course certificate; or
- (ii) by the proprietor of a taxi service improvement school for a taxi service improvement course and the issue of a taxi course attendance certificate or taxi course completion certificate;”.

- (17) Section 102B(5)(b)—

Repeal

everything after “fees charged”

Substitute

“__

- (i) by the proprietor of a driving improvement school for a driving improvement course and the issue of an attendance certificate or course certificate; or

(ii) by the proprietor of a taxi service improvement school for a taxi service improvement course and the issue of a taxi course attendance certificate or taxi course completion certificate, must not exceed their respective maximum fees as determined under paragraph (a); and”.

(18) Section 102B(5)(c)—

Repeal

“certificate or course”

Substitute

“certificate, course certificate, taxi course attendance certificate or taxi course completion”.

(19) Section 102B(8)—

Repeal paragraph (a)

Substitute

“(a) is valid for a maximum period of 3 years from the date specified in the designation; and”.

(20) Section 102B(8)(b)—

Repeal

“a driving improvement”

Substitute

“the”.

(21) Section 102B(8), Chinese text—

Repeal

“，指定”。

53. Section 102C amended (revocation of designation)

(1) Section 102C—

Repeal subsection (1)**Substitute**

- “(1) A designation of a driving improvement school may, in accordance with this section, be revoked on any of the following grounds—
- (a) any proprietor of the school—
 - (i) has breached—
 - (A) Part 1 of Schedule 12;
 - (B) a relevant code of practice;
 - (C) the condition referred to in section 102B(2)(a)(iii) for a driving improvement school; or
 - (D) any of the conditions specified under section 102B(2)(a)(iv) in the designation of the school;
 - (ii) has issued any attendance certificate or course certificate improperly;
 - (iii) has entered any incorrect particulars on an attendance certificate or course certificate for fraudulent purposes; or
 - (iv) has ceased to have the conduct or control of the school, or is being wound up;
 - (b) grounds exist for a creditor to present a bankruptcy petition against any proprietor of the school.
- (1A) A designation of a taxi service improvement school may, in accordance with this section, be revoked on any of the following grounds—

-
- (a) any proprietor of the school—
 - (i) has breached—
 - (A) Part 2 of Schedule 12;
 - (B) a relevant code of practice;
 - (C) the condition referred to in section 102B(2)(a)(iii) for a taxi service improvement school; or
 - (D) any of the conditions specified under section 102B(2)(a)(iv) in the designation of the school;
 - (ii) has issued any taxi course attendance certificate or taxi course completion certificate improperly;
 - (iii) has entered any incorrect particulars on a taxi course attendance certificate or taxi course completion certificate for fraudulent purposes; or
 - (iv) has ceased to have the conduct or control of the school, or is being wound up;
 - (b) grounds exist for a creditor to present a bankruptcy petition against any proprietor of the school.
- (1B) If it appears to the Commissioner that a designation of a school may be revoked on any of the grounds referred to in subsections (1) and (1A), the Commissioner may serve on the proprietor a written notice—
- (a) stating the Commissioner's intention to revoke the designation and the ground or grounds for the revocation; and

(b) stating that the proprietor may make representations in writing, within 28 days after the service of the notice, why the designation should not be so revoked.”.

(2) Section 102C(2)(a)—

Repeal

“school under subsection (1);”

Substitute

“school, or on the proprietor of a taxi service improvement school, under subsection (1B);”.

(3) Section 102C(2)(b)(i)—

Repeal

“(1)(ii);”

Substitute

“(1B)(b);”.

(4) Section 102C(3)—

Repeal

“school”

Substitute

“school, or the proprietor of a taxi service improvement school,”.

(5) Section 102C(7)—

Repeal

“improvement school”

Substitute

“improvement school, or to the proprietor of a taxi service improvement school,”.

(6) Section 102C—

Repeal subsection (9)

Substitute

“(9) Within 28 days after the revocation of a designation under subsection (2) has come into effect—

(a) for a revocation of designation as a driving improvement school—the last proprietor of the former driving improvement school to which the designation relates must refund a person the fee the person has paid for taking a driving improvement course at the school for any part of the course that has not been completed; or

(b) for a revocation of designation as a taxi service improvement school—the last proprietor of the former taxi service improvement school to which the designation relates must refund a person the fee the person has paid for taking a taxi service improvement course at the school for any part of the course that has not been completed.

(9A) The amount to be refunded under subsection (9) is the amount obtained by dividing the fee paid by the total number of parts of a course and multiplying the result by the number of parts of a course that has not been given.”.

(7) Section 102C(10)—

Repeal

everything after “affect”

Substitute

“__

- (a) for a revocation of designation as a driving improvement school—the validity of attendance certificates or course certificates issued lawfully by the former driving improvement school to which the designation relates; or
- (b) for a revocation of designation as a taxi service improvement school—the validity of taxi course attendance certificates or taxi course completion certificates issued lawfully by the former taxi service improvement school to which the designation relates.”.

54. Section 102D amended (termination of designation)

- (1) Section 102D—

Repeal subsection (1)

Substitute

“(1) Despite section 102C, if the proprietor of a driving improvement school or a taxi service improvement school serves a written notice of termination of not less than 3 months on the Commissioner, the designation of the school terminates on the expiry of the period of the notice.”.

- (2) Section 102D—

Repeal subsection (3)

Substitute

“(3) Within 28 days after a designation is terminated under subsection (1)—

- (a) for a termination of designation as a driving improvement school—the last proprietor of the former driving improvement school to which the designation relates must refund a person the fee

the person has paid for taking a driving improvement course at the school for any part of the course that has not been completed; or

- (b) for a termination of designation as a taxi service improvement school—the last proprietor of the former taxi service improvement school to which the designation relates must refund a person the fee the person has paid for taking a taxi service improvement course at the school for any part of the course that has not been completed.

(3A) The amount to be refunded under subsection (3) is the amount obtained by dividing the fee paid by the total number of parts of a course and multiplying the result by the number of parts of a course that has not been given.”.

(3) Section 102D(4)—

Repeal

everything after “affect”

Substitute

“—

- (a) for a termination of designation as a driving improvement school—the validity of attendance certificates or course certificates issued lawfully by the former driving improvement school to which the designation relates; or
- (b) for a termination of designation as a taxi service improvement school—the validity of taxi course attendance certificates or taxi course completion certificates issued lawfully by the former taxi

service improvement school to which the designation relates.”.

55. Section 102E amended (ancillary powers of Commissioner)

(1) Section 102E(a)(i)—

Repeal

“courses;”

Substitute

“courses or taxi service improvement courses;”.

(2) Section 102E(a)(ii)—

Repeal

everything after “procedures”

Substitute

“—

(A) for providing information by a driving improvement school to the Commissioner in respect of a person’s completion of driving improvement courses; or

(B) for providing information by a taxi service improvement school to the Commissioner in respect of a person’s completion of taxi service improvement courses;”.

(3) Section 102E(a)(iii)—

Repeal

“school;”

Substitute

“school or taxi service improvement school;”.

- (4) Section 102E(a)(iv)—

Repeal

everything after “procedures”

Substitute

“__

- (A) for issuing an attendance certificate or course certificate to a person who has attended and completed a driving improvement course; or
- (B) for issuing a taxi course attendance certificate or taxi course completion certificate to a person who has attended and completed a taxi service improvement course; and”.

- (5) Section 102E(b)—

Repeal

“course certificate”

Substitute

“course certificate, taxi course attendance certificate, taxi course completion certificate”.

- (6) Section 102E(c)—

Repeal

everything after “sign”

Substitute

“__

- (i) attendance certificates and course certificates; or
- (ii) taxi course attendance certificates and taxi course completion certificates;”.

- (7) Section 102E—

Repeal paragraph (d)

Substitute

- “(d) cause—
- (i) if a driving improvement school fails to issue an attendance certificate under section 102B(3)(b)(i) or a course certificate under section 102B(3)(b)(ii)—the certificate to be issued for the school; or
 - (ii) if a taxi service improvement school fails to issue a taxi course attendance certificate under section 102B(3A)(b)(i) or a taxi course completion certificate under section 102B(3A)(b)(ii)—the certificate to be issued for the school; and
- (e) recover any expenses incurred by causing a certificate to be issued under paragraph (d) from—
- (i) the proprietor of the school; or
 - (ii) if the designation of the school has been revoked under section 102C(2) or terminated under section 102D(1)—the last proprietor of the school.”.

56. Section 102F amended (power to enter and inspect)

- (1) Section 102F(1)—

Repeal

“improvement school”

Substitute

“improvement school or taxi service improvement school”.

- (2) Section 102F(1)(a)—

Repeal

“courses”

Substitute

“courses or taxi service improvement courses”.

- (3) Section 102F(1)(b)—

Repeal

everything after “breach of”

Substitute

“—

- (i) (for a driving improvement school) Part 1 of Schedule 12 or (for a taxi service improvement school) Part 2 of Schedule 12;
 - (ii) a relevant code of practice;
 - (iii) the condition referred to in section 102B(2)(a)(iii); or
 - (iv) any of the conditions specified under section 102B(2)(a)(iv) in the designation of the school;”.
- (4) Section 102F(1)(c) and (d)—

Repeal

“courses”

Substitute

“courses or taxi service improvement courses”.

57. Section 132 amended (interpretation of Part 15)

Section 132, definition of *traffic provision*, after paragraph (k)—

Add

“(l) the Taxi-Driver-Offence Points Ordinance (of 2023);”.

58. Schedule 12 amended (requirements applicable to driving improvement schools)

- (1) Schedule 12, heading, after “Schools”—

Add

“and Taxi Service Improvement Schools”.

- (2) Schedule 12, before section 1—

Add

“Part 1

Driving Improvement Schools”.

- (3) Schedule 12, Chinese text, section 2(c)—

Repeal

everything after “具有”

Substitute

“理由，針對該東主提出破產呈請，或該東主已進行清盤或已與其債權人訂立債務重整協議，又或該東主的物品遭扣押或有人針對該東主的物品執行判決。”.

- (4) Schedule 12, section 4—

Repeal

“section 3”

Substitute

“section 3 of this Schedule”.

- (5) Schedule 12, section 5—

Repeal

“section 4”

Substitute

“section 4 of this Schedule”.

- (6) Schedule 12, after Part 1—

Add

“Part 2

Taxi Service Improvement Schools

6. Only taxi service improvement course instructors who have been authorized by the Commissioner and who meet the conditions specified by the Commissioner in the designation concerned may give taxi service improvement courses.
7. Notice must be given by the proprietor of a taxi service improvement school to the Commissioner immediately if—
 - (a) there is any change in the persons employed at the school who are authorized to sign taxi course attendance certificates or taxi course completion certificates under section 102E of this Ordinance;
 - (b) there is any change in the particulars of the proprietor of the school, or any other matter specified by the Commissioner by written notice to the proprietor which relates to the school; or
 - (c) grounds exist for a creditor to present a bankruptcy petition against the proprietor or the proprietor has entered into liquidation or has entered into any composition with the proprietor’s creditors or has suffered any distress

or execution to be levied on the proprietor's goods.

8. The Commissioner may from time to time determine the fees payable for designation, or renewal of designation, of a taxi service improvement school.
9. The Commissioner must cause notice of the fees the Commissioner has determined under section 8 of this Schedule to be published in the Gazette.
10. A notice under section 9 of this Schedule is not subsidiary legislation.”.

Division 4—Amendments to Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B)

59. Regulation 6 amended (restrictions on issue of driving licences)

- (1) Regulation 6(1)—

Repeal

“prejudice to”

Substitute

“limiting”.

- (2) Regulation 6(1)(a), Chinese text, after “ , 或”—

Add

“申請”.

- (3) Regulation 6(2)—

Repeal

“prejudice to”

Substitute

“limiting”.

- (4) Regulation 6(2)(a), Chinese text, after “、或”—

Add

“申請”.

- (5) Regulation 6(3)(a), Chinese text, after “、或”—

Add

“申請”.

- (6) After regulation 6(3)—

Add

“(4) Without limiting regulation 35, if—

- (a) a person applies to the Commissioner under these regulations for the issue, reissue or renewal of a driving licence to drive a taxi;

- (b) the person—

(i) is ordered under section 72A(1)(b) or (9A) of the Ordinance; or

(ii) is required under section 20, or ordered under section 23(2), of the Taxi-Driver-Offence Points Ordinance (of 2023),

to attend and complete a taxi service improvement course; and

- (c) the person has not complied with the order or requirement,

the Commissioner must not issue or reissue the driving licence to the person, or renew it.

- (5) If—
- (a) a person applies to the Commissioner under these regulations for the issue, reissue or renewal of a driving licence to drive a taxi;
 - (b) a summons issued under section 27(1) of the Taxi-Driver-Offence Points Ordinance (of 2023) has been served on the person in accordance with sections 28 and 29 of that Ordinance; and
 - (c) the person has failed to appear in answer to the summons,
- the Commissioner must not issue or reissue the driving licence to the person, or renew it.”.

60. Regulation 31 amended (application to take a driving test)

After regulation 31(8)—

Add

“(8A) For the purposes of paragraph (8)(b), without affecting any other grounds under the Ordinance, a person is ineligible to obtain a driving licence to drive a taxi if the person is disqualified from driving a taxi under the Taxi-Driver-Offence Points Ordinance (of 2023).”.

61. Regulation 35 amended (procedure on disqualification)

After regulation 35(2)—

Add

“(3) If—

- (a) a person has been disqualified from holding or obtaining a driving licence under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375); and
- (b) the court or magistrate has caused the person's driving licence to be forwarded to the Commissioner,

the Commissioner must withhold the driving licence until the expiry of the period of disqualification.

(4) If—

- (a) a person has been disqualified from driving a taxi under the Taxi-Driver-Offence Points Ordinance (of 2023); and
- (b) the court or magistrate has caused the person's driving licence to be forwarded to the Commissioner,

the Commissioner must cancel the driving licence and issue to the person a driving licence limited to the driving of motor vehicles of the class or description for which the person is still qualified to drive.”.

Schedule

[ss. 2, 8 & 43]

Offence

| Column 1 Item | Column 2 Provision | Column 3 Description | Column 4 Points |
|------------------|-----------------------|-------------------------|--------------------|
|------------------|-----------------------|-------------------------|--------------------|

Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A)

| | | | |
|----|-------------------|--|----|
| 1. | Regulation 121(4) | Defacing, damaging or altering a taximeter | 10 |
|----|-------------------|--|----|

Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D)

| | | | |
|----|------------------|--|----|
| 2. | Regulation 37(a) | Wilfully refusing or neglecting to accept a hire | 10 |
| 3. | Regulation 37(b) | Refusing or neglecting to drive a taxi to the place indicated by the hirer | 10 |
| 4. | Regulation 37(c) | Refusing or neglecting to carry the number of passengers required by the hirer | 3 |

Taxi-Driver-Offence Points Bill

Schedule

C2629

| Column 1 Item | Column 2 Provision | Column 3 Description | Column 4 Points |
|------------------|-----------------------|---|--------------------|
| 5. | Regulation 37(d) | Driving to a destination other than by the most direct practicable route | 5 |
| 6. | Regulation 37(e) | Permitting any person other than the hirer to enter the taxi without the consent of the hirer | 5 |
| 7. | Regulation 37(f) | Refusing or neglecting to issue a receipt | 3 |
| 8. | Regulation 40 | Soliciting | 5 |
| 9. | Regulation 45(2)(a) | Deceiving or refusing to inform a passenger or intending passenger as to the proper fare and route to any place | 5 |
| 10. | Regulation 47(2) | Overcharging | 10 |
| 11. | Regulation 49(2) | Not setting taximeter to recording position | 3 |

Explanatory Memorandum

The objects of this Bill are—

- (a) to provide for—
 - (i) the incurrance of points for various taxi-driver-related offences; and
 - (ii) if a certain number of points are incurred by a person—the disqualification of the person from driving taxis and the obligatory attendance of taxi service improvement courses by the person; and
- (b) to provide for related matters.

2. The Bill contains 6 Parts and a Schedule.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.
4. Clause 2 contains definitions that are necessary for the interpretation of the Bill, namely the expressions *Commissioner*, *driving licence*, *fixed penalty*, *Fixed Penalty Ordinance*, *have no effect*, *points*, *points entry*, *Register*, *scheduled offence*, *taxi*, *taxi course completion certificate* and *taxi service improvement course*. The clause also explains what a reference to being disqualified from driving a taxi and a reference to a provision of an enactment referred to in column 2 of the Schedule mean.

Part 2—Register of Taxi-Driver-Offence Points

5. Clause 3 requires the Commissioner for Transport (*Commissioner*) to maintain a register of taxi-driver-offence points (*Register*) and requires certain information to be recorded in it.
6. Clause 4 provides that the Commissioner may cancel a points entry in the Register for points incurred more than 5 years before the date of cancellation.
7. Clauses 5 and 6 respectively provide for the rectification of any incorrect entry in the Register on the Commissioner's own initiative and on a person's application.

Part 3—Incurrence and Cancellation of Points etc.*Division 1—Incurrence of Points*

8. Clause 7 provides that a person incurs taxi-driver-offence-points (*points*) for a scheduled offence if the person—
 - (a) becomes liable to a fixed penalty for the scheduled offence; or
 - (b) is convicted of the scheduled offence.
9. Clause 8 provides that the number of points that a person incurs for a scheduled offence is specified in column 4 of the Schedule opposite to the offence.
10. Clause 9 provides that, if a person incurs 8 or more, but less than 15, points for one or more scheduled offences that are committed within a 2-year period, the Commissioner must

serve on the person an advice of taxi-driver-offence points. The advice is to inform the person—

- (a) of the number of points so incurred by the person; and
- (b) that, if 15 or more points are incurred by the person for scheduled offences that are committed within a 2-year period, the person will be disqualified from driving a taxi.

11. Clauses 10 and 11 respectively explain when a person becomes liable to a fixed penalty for a scheduled offence and when the person ceases to be so liable.
12. Clause 12 provides what would happen to the points incurred for a scheduled offence, and to the corresponding points entry, if the person convicted of the scheduled offence appeals against the conviction.
13. Clause 13 provides what would happen to the points incurred for a scheduled offence, and to the corresponding points entry, if—
 - (a) the person convicted of the offence applies to the magistrate for a review under section 104(1) of the Magistrates Ordinance (Cap. 227); or
 - (b) the conviction of a person for the offence is reviewed under section 104(5) of that Ordinance.

Division 2—Cancellation and Deduction of Points

14. Clause 14 provides that if a person incurs 15 or more points for scheduled offences that are committed within a 2-year period and is, as a result, disqualified from driving a taxi under clause 31—

-
- (a) all those points incurred by the person for the offences have no effect; and
 - (b) the Commissioner must cancel the corresponding points entries in the Register.
 - 15. Clause 15 provides that if, on being convicted of a scheduled offence (*current offence*), a person is disqualified from driving a taxi under section 69(1)(f) of the Road Traffic Ordinance (Cap. 374) (*Cap. 374*)—
 - (a) the person does not incur any points for the current offence or for any other scheduled offence the person is convicted of on the same occasion; and
 - (b) for a scheduled offence (*previous offence*) committed by the person before committing the current offence—the person does not incur any points for the previous offence even if the person is subsequently convicted of it or, if points have already been incurred, the points have no effect and the Commissioner must cancel the corresponding points entry in the Register.
 - 16. Clause 16 provides that, after a person is issued with a taxi course completion certificate, the Commissioner must, as soon as practicable, deduct points from the total number of points that have been incurred by the person. The clause also provides for circumstances where points cannot be deducted.

Division 3—Calculating Points

17. Clause 17 gives the meaning of *have no effect*: if a provision of the Bill provides that points incurred by a person for a scheduled offence have no effect, it means that the points are not to be taken into account in calculating the number of points incurred by the person.
18. Clause 18 provides that, for offences constituted by the same, or substantially the same, act, only the points incurred for—
- (a) the offence that attracts the highest number of points; or
 - (b) if each of those offences attracts the same number of points—one of those offences,
- are to be taken into account in calculating the number of points incurred by the person for the purposes of clauses 9, 20 and 26.
19. Clause 19 provides for the calculation of the number of points incurred by a person for the purposes of clause 20.

Part 4—Consequences of Incurring Points*Division 1—Obligatory Attendance of Taxi Service Improvement Course*

20. Clause 20 requires a person to attend and complete a taxi service improvement course at the person's own cost within 3 months after the date of the notice served on the person under clause 21, or a longer period fixed by the Commissioner under clause 22, if the person incurs 10 or more points for one or more scheduled offences that are committed within a 2-year period.

21. Clause 21 requires the Commissioner to serve on the person a notice requiring the person to attend and complete a taxi service improvement course.
22. Clause 22 provides that the person may apply to the Commissioner in writing to fix a longer period for attending and completing a taxi service improvement course.
23. Clause 23 provides that a failure to comply with clause 20 constitutes an offence; and that, on convicting a person of such an offence, the court or magistrate must order the person to attend and complete a taxi service improvement course at the person's own cost within the period specified in the order.
24. Clause 24 provides that a failure to comply with an order made under clause 23(2) constitutes an offence; and that, on convicting a person of such an offence, the court or magistrate must order that the person be disqualified from driving a taxi if the person is not yet so disqualified.
25. Clause 25 deals with appeals against an order made under clause 23(2).

Division 2—Disqualification

26. Clause 26 provides that a person is liable to be disqualified from driving a taxi if the person incurs 15 or more points for scheduled offences that are committed within a 2-year period.
27. Clauses 27, 28 and 29 deal with the issue of summons to, and the service of summons on, a person liable to be disqualified from driving a taxi under clause 26.

28. Clause 30 provides that if a summons issued under clause 27(1) has been served on a person in accordance with clauses 28 and 29 a reasonable time before the hearing of the summons, but that person fails to appear at the hearing, the magistrate may proceed to deal with the matter in the absence of that person.
29. Clause 31 provides that if, at the hearing of a summons issued under clause 27(1), the magistrate is satisfied that the circumstances set out in clause 26 apply to the person on whom the summons was served, the magistrate must order that the person be disqualified from driving a taxi for a period of—
- (a) for a first disqualification under clause 31—3 months beginning on the date of the order; and
 - (b) for a subsequent disqualification under clause 31—6 months beginning on the date of the order,
- unless the magistrate is satisfied that there are grounds to order a shorter period of disqualification or not to order a disqualification.
30. Clauses 32 and 33 respectively deal with the use of certificates of records and certificates of disqualifications in proceedings. Clause 34 deals with disputes relating to such certificates.

Division 3—Notice of Disqualification Order and Deposit of Driving Licence

31. Clause 35 requires that, if a court or magistrate orders under clause 24 or 31 that a person be disqualified from driving a taxi, the court or magistrate must, as soon as reasonably practicable, cause notice of the order to be sent to the Commissioner and the Commissioner of Police.

32. Clause 36 requires—
- (a) a person disqualified under clause 24 or 31 to deposit the person's driving licence with the court or magistrate within 72 hours of the making of the disqualification order or a longer period fixed by the court or magistrate; and
 - (b) the court or magistrate to, as soon as reasonably practicable, cause the licence to be forwarded to the Commissioner.
33. Clause 37 provides that a failure to deposit a driving licence in accordance with clause 36 constitutes an offence.

Division 4—Non-compliance with Disqualification Order

34. Clause 38 provides that a person disqualified under clause 24 or 31 from driving a taxi commits an offence if the person—
- (a) applies for, or obtains, a driving licence to drive a taxi while the person is so disqualified; or
 - (b) drives a taxi, other than under regulation 19 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (**Cap. 374B**) while the person is so disqualified.

Division 5—Reasonable Excuse

35. Clause 39 deals with the defence of reasonable excuse.

Part 5—Miscellaneous

36. Clause 40 deals with the service of advice and notice under the Bill.

37. Clause 41 provides that the Commissioner may delegate any of the Commissioner's powers or functions under the Bill to any public officer.
38. Clause 42 provides for the application of the Magistrates Ordinance (Cap. 227) to proceedings under the Bill.
39. Clause 43 empowers the Legislative Council to amend the Schedule by resolution.

Part 6—Related Amendments

40. Clauses 45 to 61 make related amendments to the following enactments—
 - (a) Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A);
 - (b) Cap. 374;
 - (c) Cap. 374B.
41. In particular—
 - (a) clauses 46 and 47 add new definitions of *taxi service improvement course* and *taxi service improvement school* to section 2 of Cap. 374 and amend the definition of *disqualified*;
 - (b) clause 48 amends section 72A of Cap. 374 to empower a court or magistrate, on convicting a person of certain offences, to order the person to attend and complete a taxi service improvement course at the person's own cost; and

- (c) clauses 50 to 56 and 58 amend Part 10A of, and Schedule 12 to, Cap. 374 to provide for the designation of taxi service improvement schools and the provision of taxi service improvement courses.

Schedule—Offence

- 42. The Schedule sets out a list of taxi-driver-related offences and the number of points to be incurred for each one of them.