

# A BILL

## To

Amend the Road Traffic (Driving-offence Points) Ordinance and the Road Traffic (Driving Licences) Regulations to—

- (a) provide for the service of a summons issued under the Ordinance;
- (b) require the Commissioner for Transport not to issue, reissue or renew a driving licence to a person if a summons issued under the Ordinance has been served on the person and the person has failed to appear before a magistrate in answer to the summons; and
- (c) provide for related matters.

Enacted by the Legislative Council.

### 1. Short title

This Ordinance may be cited as the Road Traffic (Driving-offence Points) (Amendment) Ordinance 2009.

### 2. Evidence

Section 9(2) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) is amended by repealing “is served under section 8” and substituting “issued under section 8(2) is served in accordance with section 14A”.

### 3. Service

Section 14 is amended by repealing the heading and substituting “Service of notice”.

#### 4. Section added

The following is added—

##### “14A. Service of summons

(1) A summons issued under section 8(2) may be served on a person by hand in accordance with subsection (2) or by post in accordance with subsection (3).

(2) If the summons is to be served on a person by hand, the summons must be served by a police officer, usher or other officer of a magistrate’s court—

(a) delivering it to the person personally; or

(b) leaving it 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 a person by post, the summons must be served by forwarding it by ordinary post or registered post to the person by prepaying and posting an envelope 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 containing the summons.

(4) If the summons is served by ordinary post, and the person to be served fails to appear at the time and place specified in the summons for the appearance of the person, the service is deemed to have never been effected and the summons must then be served on the person by hand or by registered post.

(5) If the summons is served by registered post, the summons is deemed to have 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 to be served.”.

#### 5. Procedure

(1) Section 16(1) is amended by repealing “has been served on a person under section 8” and substituting “issued under section 8(2) has been served on a person in accordance with section 14A”.

(2) Section 16 is amended by adding—

“(1A) Subsection (1) does not empower the magistrate to order a person to be disqualified from holding or obtaining a driving licence in the absence of that person.”.

(3) Section 16(2) is amended by repealing “subsection (1)” and substituting “subsections (1) and (1A)”.

### **Related Amendment**

#### **Road Traffic (Driving Licences) Regulations**

##### **6. Restrictions on issue of driving licences**

Regulation 6 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) is amended by adding—

“(3) If—

- (a) a person applies to the Commissioner under these regulations for the issue, reissue or renewal of a driving licence;
- (b) a summons issued under section 8(2) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) has been served on the person in accordance with section 14A of that Ordinance; and
- (c) the person has failed to appear before a magistrate in answer to the summons,

the Commissioner shall not issue, reissue or renew the driving licence to the person.”.

### **Explanatory Memorandum**

The purposes of this Bill are to—

- (a) specify the manner in which a summons issued under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) (“the Ordinance”) is to be served;
- (b) provide that a summons served by registered post in accordance with the Ordinance is deemed to have been served even if it is returned as undelivered; and
- (c) require the Commissioner for Transport to refuse to issue, reissue or renew a driving licence to a person under the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (“the Regulations”) if the person fails to appear in court to answer a summons served on the person under the Ordinance.

2. Clause 1 sets out the short title of the Bill when enacted.

3. Clause 4 adds a new section 14A to the Ordinance to specify the manner in which a summons issued under section 8(2) of the Ordinance is to be served and the circumstances under which a summons is deemed to have been served.
4. Clause 5 amends section 16 of the Ordinance to make it clear that a magistrate is not to order a person to be disqualified from holding or obtaining a driving licence in the absence of the person.
5. Clause 6 amends regulation 6 of the Regulations so that the Commissioner for Transport shall not issue, reissue or renew a driving licence to a person if a summons issued under the Ordinance has been served on the person and the person has failed to appear before a magistrate in answer to the summons.