

Australian Capital Territory

# Road Transport (Public Passenger Services) Accreditation Guidelines 2006 (No 1)

Disallowable instrument DI2006-260

made under the

**Road Transport (Public Passenger Services) Regulation 2002, section 19A (Accreditation guidelines - relevant offences)**

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## 1. Name of instrument

This instrument is the Road Transport (Public Passenger Services) Accreditation Guidelines 2006 (No 1).

## 2. Commencement

This instrument commences on the commencement of the *Road Transport Legislation (Accreditation and Licensing) Amendment Regulation 2006*.

## 3. Guidelines

I approve the following Guidelines about the exercise of the road transport authority's functions under section 8(2)(b) (Mandatory Refusal of accreditation).

John Hargreaves MLA  
Minister for Territory and Municipal Services  
29 November 2006

## **Road Transport (Public Passenger Services) Accreditation Guidelines 2006 (No 1)**

The *Road Transport (Public Passenger Services) Regulation 2002* provides that the Road Transport Authority must refuse an application for accreditation if the authority believes, on reasonable grounds, that (amongst other things) the person is not a suitable person to operate the kind or size of regulated service to which the application relates.

The Road Transport Authority may conclude that a person is not suitable to hold an accreditation if the person has been convicted or found guilty of an offence that is relevant to the application.

The Road Transport (Public Passenger Services) Accreditation Guidelines 2006 (No.1) (the Guidelines) set out the principles to be applied in considering whether a person's disclosable convictions provide reasonable grounds for considering the applicant as being unsuitable to hold an accreditation.

The Guidelines cover a range of relevant conviction categories that must or may be considered in deciding whether a person's application for accreditation will be approved or not. The conviction categories include:

- offences of dishonesty;
- driving offences;
- drug offences;
- other offences; and
- multiples of various offences.

### **PART A Offences of Dishonesty**

Convictions for offences of dishonesty such as fraud, bribery, theft and robbery are relevant to the operation of a transport service carrying passengers and their property for a fare or other consideration.

A single conviction for a dishonesty offence such as theft, burglary or robbery may be sufficient to find an applicant unsuitable. However, in assessing whether a single conviction for a dishonesty offence of this type is grounds to find a person unsuitable, regard should be had to:

- the period of time which has elapsed since the conviction;
- the nature and circumstances of the offence – and whether it is likely to be an offence which could be committed in a person's capacity as a public vehicle driver;
- the seriousness of the offence as evidenced by the penalty imposed by the court;
- the age of the applicant when the offence was committed; and

- any other factors which could reasonably be considered relevant.

A conviction for the commission of a dishonesty offence within the 10 years prior to the date of the application should be regarded as a strong indicator that an applicant is not a suitable person to operate a public passenger service. Convictions for such offences that are more than 10 years old should also be taken into consideration when determining an applicant's suitability to hold an accreditation authorising the person to operate a public passenger service.

Offences of dishonesty such as theft, burglary or robbery that are committed whilst a person holds a public passenger service accreditation should be assessed as bearing greater significance as the person would be aware of the 'suitable person' requirements associated with his/her holding the accreditation.

Where an applicant has multiple convictions for such offences this may be an indication of habitual behaviour and provide grounds for the refusal to issue the accreditation.

## **PART B      Driving Offences**

A conviction for culpable driving, reckless, menacing or furious driving or multiple driving offences such as speeding or drink driving, may be sufficient to find that an applicant is unsuitable to hold an accreditation authorising the person to operate a public passenger service.

In assessing whether a conviction for such an offence provides grounds to find an applicant unsuitable regard should be had to:

- the time which has elapsed since the conviction;
- the seriousness of the offence as evidenced by the penalty imposed by the court;
- the applicant's age at the time the offence was committed; and
- any other factors which could reasonably be considered relevant.

A conviction for the commission of a serious driving offence within the 10 years prior to the date of the application should be regarded as a strong indicator that an applicant is not a suitable person to hold an accreditation. Convictions for such offences that are more than 10 years old should also be taken into consideration when determining an applicant's suitability to hold an accreditation. A single offence committed when the applicant was a juvenile may be regarded as less serious than an offence committed by an adult.

A single drink driving offence or a single speeding (or similar traffic) offence will not ordinarily indicate that an applicant is unsuitable to hold an accreditation.

Further, a conviction for a driving or traffic offence (including drink driving and speeding) committed whilst a person holds an accreditation should be assessed as bearing greater significance, as the person would be aware of the 'suitable person' requirements associated with his/her holding the accreditation.

Multiple convictions for driving offences may indicate habitual behaviour and provide grounds for the refusal to grant an accreditation.

### **PART C Drug Offences**

A conviction for a serious drug offence (eg manufacture, sale or supply of a drug of dependence, prohibited substance or cannabis, cultivation of prohibited plants) may provide grounds to be satisfied that an applicant is not a suitable person to hold an accreditation authorising the person to operate a public passenger service. Where an applicant has a conviction for such an offence regard must be had to:

- the period of time which has elapsed since the conviction;
- the seriousness of the offence as evidenced by the penalty imposed by the court;
- the nature and circumstances of the offence;
- the age of the applicant when the offence was committed;
- any other factors which could reasonably be considered relevant.

Where an applicant has a single conviction for possession or self-administration of a drug of dependence or prohibited substance (which may include cannabis), this would not ordinarily provide grounds to be satisfied that the applicant is not a suitable person to hold an accreditation.

More than one conviction for possession or self-administration of a drug of dependence or prohibited substance may provide grounds to be satisfied that the applicant is not a suitable person to hold a public passenger service accreditation, given the possibility/risk that an habitual drug user may use the service to conduct dealing for the acquisition of illicit drugs.

### **PART D Other Offences**

While convictions for dishonesty offences, drug offences and driving related offences are directly relevant to considerations of a person's suitability to hold a public vehicle licence, convictions for other offences may also be considered in assessing suitability.

## **PART E Multiple Various Offences**

Where an applicant for an accreditation has convictions for various offences (though not more than one conviction for a particular type of offence), for example one conviction for theft, one conviction for possession of a prohibited substance and one drink driving conviction, the totality of the applicant's criminal convictions can provide a basis for finding the person unsuitable. A person with multiple convictions for a range of offences could reasonably be regarded as having demonstrated limited capacity to make appropriate choices with regard to the safety and security of others or their property.