

Road Transport (Vehicle Registration) Authorisation and Approval of Premises Guidelines 2006 (No 1)

Disallowable instrument DI2006-257

made under the

**Road Transport (Vehicle Registration) Regulation 2000, section 153A
(Authorisation and approval of premises guidelines - relevant offences)**

1. Name of instrument

This instrument is the Road Transport (Vehicle Registration) Authorisation and Approval of Premises 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 the following provisions:

- section 116(1)(b) (Eligibility to apply for authorisation as examiners);
- section 124(b) (When authority may take action in relation to authorisation);
- section 127(1)(b) (Eligibility for approval of premises);
- section 135(c)(ii) (When authority may take action in relation to approval of premises).

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

Road Transport (Vehicle Registration) Authorisation and Approval of Premises Guidelines 2006 (No 1)

The *Road Transport (Vehicle Registration) Regulation 2000* provides that a person is eligible to apply for authorisation as an examiner of vehicles if the person has not been convicted or found guilty of an offence that the Road Transport Authority considers provides reasonable grounds to consider the person unsuitable. Further, premises used for the examination of vehicles are eligible for approval for a class of vehicles if the proprietor of the premises or, if the proprietor is a corporation, each director of the corporation, has not been convicted or found guilty of an offence that the Road Transport Authority considers provides reasonable grounds to consider the person unsuitable.

The *Road Transport (Vehicle Registration) Regulation 2000* also provides that the Road Transport Authority may cancel or suspend a person's authorisation as an examiner if the person is convicted or found guilty of an offence that the Road Transport Authority considers relevant. Similarly, the Road Transport Authority may cancel or suspend the approval of premises if the proprietor of the premises or, if the proprietor is a corporation, a director of the corporation, is convicted or found guilty of an offence that the Road Transport Authority considers provides reasonable grounds to consider the person unsuitable.

The Road Transport (Vehicle Registration) Authorisation and Approval of Premises 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 authorisation or approval.

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

- offences of dishonesty;
- 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 being an authorised examiner of vehicles and the proprietor of approved premises.

A single conviction for a dishonesty offence such as theft, burglary or robbery may be sufficient to find a person ineligible. 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 eligible to be an authorised examiner nor a proprietor of approved premises. Convictions for such offences that are more than 10 years old should also be taken into consideration when determining an applicant's eligibility.

Offences of dishonesty that are committed whilst a person holds approval as an authorised examiner or an approval of premises should be assessed as bearing greater significance as the person would be aware of the eligibility requirements associated with his/her holding the approval.

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

PART B Other Offences

While convictions for dishonesty offences are directly relevant to considerations of a person's eligibility to hold an approval as an authorised examiner or for approved premises, convictions for other offences may also be considered in assessing suitability.

PART C Multiple Various Offences

Where a person has convictions for various offences, for example one conviction for theft, one conviction for assault and one drink driving conviction, the totality of the applicant's criminal convictions can provide a basis for finding the person ineligible. 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.