

Road Transport (Driver Licensing) Driving Instruction Code of Practice 2006 (No 1)*

Disallowable Instrument DI2006-269

made under the

Road Transport (Driver Licensing) Regulation 2000, Section 118 (Code of Practice for Driving Instruction)

1 Name of instrument

This instrument is the Road Transport (Driver Licensing) Driving Instruction Code of Practice 2006 (No 1).

2 Commencement

This instrument commences on the day after notification.

3 Approval

I approve the Code of Practice for Driving Instruction in the attached schedule under section 118 of the Road Transport (Driver Licensing) Regulation 2000.

4 Instrument revoked

This instrument revokes the Road Transport (Driver Licensing) Code of Practice for Driving Instruction DI2005-169 notified 1 August 2005.

Hamish McNulty
A/g Road Transport Authority

13 December 2006

*Name amended under Legislation Act, s 60

SCHEDULE

Australian Capital Territory

Road Transport (Driver Licensing) Regulation 2000

No 1 of 2006

CODE OF PRACTICE

FOR ACCREDITED DRIVING INSTRUCTORS

**Road Transport Authority
December 2006**

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CODE OF PRACTICE FOR ACCREDITED DRIVING INSTRUCTORS
December 2006

1. Introduction

- 1.1 The purpose of this Code of Practice is to provide a set of principles and operational guidelines for the conduct of Accredited Driving Instructors in the ACT Competency Based Training and Assessment (CBT & A) Scheme.
- 1.2 The Code has three functions:
- 1) A guide to the operation of the CBT & A Scheme for Accredited Driving Instructors.
 - 2) A document which informs the public, and especially learner drivers, of what they can expect in terms of performance and conduct from an Accredited Driving Instructor.
 - 3) An outline of the regulation process.
- 1.3 A breach of the Code of Practice may result in action being taken against an Accredited Driving Instructor in accordance with Sections 111 and 112 of the *Road Transport (Driver Licensing) Regulation 2000*.

2. Definitions

In this code -

“Accredited Driving Instructor’s Number” means the numeric code used to identify each Instructor.

“Authority” means the Road Transport Authority.

“applicant” means a person who applies to the Authority for accreditation.

“Authority’s Standards” means the standards set down in writing by the Authority.

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“bribe” means anything given, promised or offered to influence an instructor.

“instructor” means a person who has been granted a Certificate of Accreditation under section 107 of the *Road Transport (Driver Licensing) Regulation 2000*.

“lesson” means a period of time for the purpose of teaching or assessment of a student by an instructor.

“student” means a person who has been granted a learner licence or a learner licence receipt, in relation to a car licence under section 17 of the *Road Transport (Driver Licensing) Regulation 2000*.

3. Road Transport (Driver Licensing) Regulation 2000

3.1 The authority for this Code of Practice comes from *the Road Transport (Driver Licensing) Act 1999* and *the Road Transport (Driver Licensing) Regulation 2000*.

3.2 Under section 115 of the *Road Transport (Driver Licensing) Regulation 2000* the Authority is empowered to ensure that Accredited Driving Instructors maintain the appropriate insurance policy that insures the instructor against liability. Failure to comply with this requirement will result in an Accreditation being suspended until such time as the insurance policy is renewed.

3.3 Under section 118 of the *Road Transport (Driver Licensing) Regulation 2000* the Authority is empowered to approve a Code of Practice relating to the activities of persons who have been accredited under regulation 107 to assess a learner driver for the grant of a provisional licence.

3.4 This Code of Practice is a disallowable instrument. A disallowable instrument must be notified and presented to the Legislative Assembly under the *Legislation Act 2001*.

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4. Punctuality Towards Student and Auditor

- 4.1 An instructor shall arrange his or her affairs so as to ensure, as far as practicable, that an appointment with a student for instruction or assessment is not delayed. Where a delay is unavoidable the instructor shall endeavour to contact the student by telephone to advise him or her of the extent of the delay and shall provide an opportunity for the student to cancel the appointment and make a new appointment.
- 4.2 If an instructor is likely to be late to a Competency 22 assessment the instructor must notify the Audit staff of Road User Services by phone and advise them of the extent of the delay if more than five (5) minutes after the booked time.

5. Courtesy

- 5.1 An instructor shall behave courteously towards all persons with whom he or she comes in contact when providing instruction, assessment or during an audit. This includes students, parents of students, practice instructors and persons authorised by the Authority.
- 5.2 In particular, an instructor shall not smoke whilst providing instruction or assessment. The instructor has the right to terminate a lesson if a student smokes during that lesson.
- 5.3 During a session of instruction or assessment instructors shall apply themselves solely to the task of instruction or assessment and should not allow themselves to be distracted. The instructor shall not read documentation or other material or operate items such as a computer or any equipment not relevant to the session. However, use of mobile phones or two-way radios for a period not exceeding 30 seconds is acceptable.
- 5.4 If a learner driver or an agent of that learner driver offers a bribe to, or threatens, an instructor for the purpose of influencing the result of a lesson or assessment, the instructor must notify the Audit staff of Road User Services as soon as reasonably practical.

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- 5.5 An instructor shall not harass, abuse or threaten a student. Some examples of harassment include:
- Offensive jokes;
 - Suggestions or derogatory comments about the student's (or other person's) racial or ethnic background, sex, sexual preference, disability or physical appearance;
 - Unwelcome comments or questions about a person's sex life or any other personal issues;
 - Unnecessary familiarity such as deliberately touching a person;
 - Display of pictures which can be interpreted as offensive and/or obscene;
 - Coercive behaviour intended to inappropriately influence;
 - Expressing stereotyping (ie assumptions about a person's group behaviour, values, culture or abilities).
- 5.6 If a student cannot resolve the problems outlined in paragraph 5.5 by discussion with the instructor, he or she can then approach the Road Transport Authority, the ACT Consumer Affairs Bureau, or the ACT Human Rights Commissioner.

6. Presentation and Vehicle

- 6.1 A vehicle provided by an instructor to be used for instruction or assessment must be clean and tidy, both inside and outside, having regard to prevailing weather conditions. The vehicle must have a minimum of four legal adult seating positions fitted with seat belts and must be capable of comfortably carrying an adult observer in a rear seating position in accordance with the list of approved vehicles agreed between the Road Transport Authority (RTA) and the Australian Driver Training Association (ADTA) and the requirements of Section 8.2 and 8.3 of the Code of Practice. The Road Transport Authority holds the list of authorised vehicles.
- 6.2 The vehicle must be registered and roadworthy. CBT & A Auditors will have the authority to inspect the vehicle to ensure it complies with the ACT inspection manual and section 114 of the *Road Transport (Driver Licensing) Regulation 2000*, eg internal mirrors, dual controls, tyres with sufficient tread. The Auditor will have the authority to request that an instructor's vehicle, or any other vehicle designated to be used for CBT & A driving lesson/assessments, be inspected by an authorised person.

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- 6.3 Any replacement vehicle supplied by an instructor may be used for a period not exceeding four weeks and must comply by the conditions in 6.1 and 6.2 (except for the fitment of dual controls). The vehicle must be inspected prior to it being used for instruction or assessment.
- 6.4 A vehicle supplied by a Learner driver must abide by conditions in 6.1 and 6.2 (except for the fitting of dual controls).
- 6.5 The instructor should have a neat and tidy appearance, including safe and practical clothing and footwear (eg no thongs).
- 6.6 An instructor must not be under the influence of illegal drugs and must have a blood alcohol level (BAC) of below 0.02 when instructing or assessing a student. It should be noted that one standard alcoholic drink will put a person over 0.02.

7. Assessment of Students

- 7.1 An instructor will read the preamble at the front of the Logbook to the student prior to the commencement of the first lesson in a professional manner and ask the student if he or she understands the information. Where necessary, an explanation should be given. Before beginning a review, the instructor will advise the student that the assessment will be conducted as previously explained in the preamble.
- 7.2 An instructor shall not assess any student against any competency or perform any review without verifying the identity of the student being assessed. Students must hold a valid ACT Learner licence when undertaking a lesson or assessment.
- 7.3 An instructor shall not undertake the assessment of a student who is a member of his or her family. However, in this context, “family” is limited to meaning a spouse, son, daughter, sibling or parent of the instructor.
- 7.4 An instructor will not breach or instruct any student to breach any section or regulation of the Road Transport Legislation.
- 7.5 An instructor must document all lessons accurately in the student’s Logbook.

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- 7.6 An instructor must correctly and legibly complete and stamp the Certificate of Competency supplied by the Road Transport Authority (RTA) at the end of a successful CBT & A assessment program, sign it and ensure that the learner driver also signs the certificate in the presence of that instructor.
- 7.7 An instructor must issue each Certificate of Competency in ascending numerical order (from low number to high number as they appear in the book), corresponding to the order in which each final assessment was conducted.
- 7.8 An instructor must ensure that all the details of the Certificate of Competency appear on the duplicate copies.
- 7.9 An instructor must notify the Audit staff of Road User Services of the number(s) of any Certificate of Competency which has been lost or stolen as soon as is reasonably practicable.
- 7.10 An instructor must cancel any Certificate of Competency which has been damaged, defaced or incorrectly completed and return the original certificate to the RTA Audit Section within 28 days.
- 7.11 An instructor must not use a Certificate of Competency from a book which has been assigned to another instructor.
- 7.12 An instructor must retain the pink (duplicate) and yellow (triplicate) copies of the Certificate of Competency for a minimum of six (6) months from the date of issue. If the original is lost by the student, the ADI can issue the pink (duplicate) copy as a replacement.
- 7.13 An instructor shall accurately assess and instruct a student to the Authority's Standards, against the driver competencies listed below:
- 1 Vehicle Controls
 - 2 Cabin drill
 - 3 Starting up procedure
 - 4 Moving off procedure

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- 5 Gear changing
 - 6 Steering Control
 - 7 Turns left and right
 - 8 Speed control
 - 9 Slowing procedure
 - 10 Stopping procedure
 - 11 Hill start
 - 12 Give way rules, intersections, traffic lights, roundabouts, traffic signs, road markings, pedestrian crossings, school crossings
 - 13 Reversing
 - 14 Right angle park (front in)
 - 15 Reverse parallel parking
 - 16 U Turn
 - 17 Turn around on the road eg. three point turn
 - 18 Lane changing, merging, entering freeways
 - 19 Overtaking
 - 20 Observation skills, visual searching and scanning, hazard recognition
 - 21 Compliance with the System of Vehicle Control
 - 22 Driving on busy and unfamiliar roads. Driving in a variety of environmental conditions.
- 7.14 All of the above mentioned driver competencies and the review points are listed in the student's CBT & A Logbook.
- 7.15 It is mandatory that instructors assess to the Authority's Standards and accurately record all lesson information on the CBT & A Lesson Checklist. In the lesson checklist the instructor shall keep a record of every lesson by entering the date, the student's name and the competency passed during that lesson, if a competency was passed in the lesson.

It is also mandatory that the instructor and the student sign the Lesson Checklist.

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The advantages are:

- Operational efficiency - The list provides a high quality, ready-made record for CBT & A.
- Instructor protection - It allows an instructor to easily, quickly and clearly indicate why a student has or has not been found competent on a particular competency.
- Consumer protection - The student can have access to a record of his or her performance.
- Quality Assurance - The list will be used by the Auditors to assess instructors' compliance with the Authority's Standards.
- Safety net - In the event of a logbook being lost the Checklist will be used to verify the competency level of the student.

- 7.16 In addition to assessing a student against each of the 22 driver competencies, an instructor shall also conduct two reviews of the skills acquired by the student.
- 7.17 The first review shall be conducted not less than 36 hours after competencies 1 to 17 have been achieved and shall cover competencies 1 - 17. The second review shall be conducted not less than 36 hours after competencies 18 to 21 have been achieved and shall cover competencies 1 - 21.
- 7.18 Competencies 18 - 21 (with the exception of 19 which may be assessed out of sequence) are not to be assessed until such time as the first review is completed successfully. Competency 22 is not to be assessed until such time as the second review has been completed successfully.
- 7.19 Competency 22 may not be undertaken until the student has held the learner licence for a period of six months and has reached the age of 16 years and 350 days (15 days prior to the students 17th birthday). Competency 22 may be undertaken when a student has attained the age of 17 or more years provided that he or she has held a learner licence for at least five and a half months. Where a student is deemed competent in these circumstances, the Instructor is required to make note in the 'restrictions section' of the CBT&A Certificate of Competency, advising on which date the student is eligible to obtain his or her Provisional Driver licence (ie 17 years of age and the holder of a learner licence for at least six months).

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- 7.20 After completion of the second review and when a learner driver is ready for the competency 22 driving assessment, the instructor will notify the Auditor. This notification may be by fax, e-mail or in writing and must be received at least one (1) clear public service working day prior to the driving assessment. The details of the auditable driving assessment will be entered into the Computerised Auditing System. The Auditor shall check that the instructor's accreditation and vehicle's registration are current.
- 7.21 Alterations to vehicle details, substitution of an instructor, cancellation of a booked auditable assessment, or a change in the start time or location for a lesson, must be telephoned to the Auditor a minimum of two hours (where possible) prior to a Competency 22 assessment being undertaken. Where it is not practicable, the Auditor must be advised as soon as possible by telephone. Confirmation of any changes will be required by e-mail, fax or in writing from the instructor within 24 hours after the original assessment time.
- 7.22 Details of other lessons audited will be entered into the Computerised Auditing System after the completion of that lesson.
- 7.23 a) To ensure traffic conditions are appropriate, the second review may only be conducted and completed between the hours of 7.00am and 7.00pm Monday to Thursday, 7.00am to 9.00pm Fridays and 7.00am to 7.00pm Saturday in a vehicle with four legal seating positions fitted with seat belts.
- b) The Competency 22 assessment may only be conducted and completed between the hours of 7.00am and 7.00pm Monday to Thursday, 7.00am to 9.00pm Fridays and 7.00am to 7.00pm Saturdays in a vehicle with four legal seating positions fitted with seat belts.
- 7.24 The Logbook shall be retained by the student except where the student gives permission in writing for the instructor to hold the Logbook.

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- 7.25 An instructor shall obtain the Logbook from the student prior to commencing an instruction or assessment session and return it to him or her on completion of the session. It is unacceptable for an instructor to assess a student in relation to one of the competencies or reviews when the Logbook is not available. An instructor shall not make an entry in a logbook that has not been taught or assessed at the time of the entry.
- 7.26 Where an instructor is satisfied that a student has correctly demonstrated a particular competency or satisfactorily undertaken a review, the instructor must accurately certify to that fact in the Logbook. The instructor shall request the student to sign his or her name in the Logbook in relation to that competency or review in the instructor's presence. The instructor shall also stamp the logbook.
- 7.27 The learner driver's Logbook and Certificate of Competency are the primary documents upon which the Authority will exercise its discretion to grant a provisional licence under section 32 or an additional provisional class under section 34 of the *Road Transport (Driver Licensing) Regulation 2000*.
- 7.28 An instructor will inform the Auditor as soon as practical if he or she has a student from another instructor who has a Logbook filled out incorrectly.
- 7.29 For an upgrade from an automatic condition to a manual licence, the applicant must complete competencies 2 to 17 then progress directly to the competency 22 review. However, the notification of booking for the competency 22 assessment must still be received at least one clear public service working day prior to the assessment. When booking the competency 22 assessment, ADI's must advise Audit Section that the 22 is an upgrade to a manual licence.

8. Auditing of Accredited Driving Instructors

- 8.1 Instructors agree to abide by the rules and procedures of the Road Transport Authority's Auditing System for the Competency Based Training and Assessment Scheme.

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- 8.2 An instructor shall note that any officer authorised by the Authority, may observe any session of instruction or assessment. An instructor will cooperate with the authorised officer and comply with any reasonable request the officer may make either verbally or in writing.
- 8.3 An instructor will inform his or her student that an Auditor can attend any lesson or assessment under the CBT & A Scheme.
- 8.4 An instructor will inform a student that in order to meet the Authority's auditing requirements, he or she will be sending a booking advice to the Auditing Area for the student's Competency 22 driving assessment.
- 8.5 The booking advice will include the student's name, the learner driver's licence number, the date and time of the driving lesson and the address for the commencement of the driving lesson. Incorrect details on the booking advice may result in an unsatisfactory audit but will not result in an invalid assessment. However, failure to lodge a booking advice will result in an invalid assessment.
- 8.6 A CBT & A Lesson Checklist will be used as a source of evidence to verify the competency level of the student in the case of a lost Logbook where the student has commenced training or assessment. A replacement Logbook can only be issued by an Auditor after viewing the Lesson Checklist. The Lesson Checklist will also be used for the purpose of auditing. The instructor will keep the Lesson Checklist in his or her vehicle during the student's lessons and will keep records for a minimum period of 12 months. The Authority, or a person appointed by the Authority, may view the Lesson Checklist on request.
- 8.7 If an audit result requires the issue of a new Logbook, an Auditor will issue a new Logbook indicating where the student will recommence training.
- 8.8 An Auditor has the authority to alter a student's Logbook to reflect the student's level of competence if the student can or cannot demonstrate the correct level of skill set by the Authority's Standard.
- 8.9 An Auditor will assess the instructor against the Authority's Standard.
- 8.10 An Auditor will assess the student against the Authority's Standard for the purpose of comparison with the instructor's Lesson Checklist.

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9. Relations with clients

9.1 The instructor shall inform the student before their first lesson of the fee for the lesson (or package of lessons). Students shall also be advised whether any fee increases can be imposed during the series of lessons, whether there is an additional fee for a Certificate of Competency, acceptable methods of payment and the instructor's refund policy. The instructor shall also inform the student of the following appeal rights:

- i) If it is an issue about driver training, assessment, conduct or any other issue covered by the provisions of the *Road Transport (Driver Licensing) Regulation 2000*, the student can approach the Authority.
- ii) If it is an issue about fees or service contract matters, the student can approach the ACT Consumer Affairs Bureau.
- iii) If it is an issue about discrimination, the student can approach the ACT Human Rights Commissioner.

10. ACT Legislation Covering Accredited Driving Instructors

10.1 The *Road Transport (Driver Licensing) Regulation 2000* sets out the eligibility criteria for an application for accreditation and provide that the Authority may require applicants and instructors to undergo tests or assessments or undertake training.

10.2 Section 111 provides the circumstances in which the Authority may take action in relation to an accreditation. A breach of the Code of Practice is one such circumstance. Others are described in '11. Offences' below. Section 112 outlines the actions that may be taken and the procedures that must be followed if action is taken. The actions that may be taken are:

- Cancel the accreditation and disqualify the person from applying for accreditation for up to two years;

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- Suspend the accreditation for up to one year;
- If accreditation is already suspended, cancel the accreditation and disqualify the person from applying for accreditation for up to two years or suspend the accreditation for an additional period of up to one year.

11. Offences

11.1 An instructor must not have been convicted of a ‘disqualifying offence’ within the five year period prior to application for accreditation [Subsection 106(2)].

‘disqualifying offence’ means an offence against -

- a) the *Road Transport (Alcohol and Drugs) Act 1977*, or a law of another jurisdiction, an external Territory or a foreign country corresponding to that Act, including any offence involving driving while affected by alcohol or a drug; or
- b) any of the following offences, or an offence against the law of another jurisdiction, an external Territory or foreign country corresponding to any of the following offences:
 - (i) an offence against section 29 (culpable driving) of the *Crimes Act 1900*;
 - (ii) any offence against the *Crimes Act 1900* where a necessary fact to constitute the offence is that someone dies or is injured because, of or as a result of, the way a person drove a motor vehicle;
 - (iii) an offence against subsection 5 A (1) or (5) of the *Road Transport (Safety and Traffic Management) Act 1999* (which are about races, attempts on speed records, speed trials etc);

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- (iv) an offence against subsection 5 B (2) or (4) of the *Road Transport Safety and Traffic Management) Act 1999* (which are about burnouts and other prohibited conduct);
 - (v) an offence against subsection 6 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which is about negligent driving) that occasions death or grievous bodily harm (within the meaning of that subsection);
 - (vi) an offence against subsection 7 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which is about furious, reckless or dangerous driving;
 - (vii) an offence against subsection 8 (1) or (2) of the *Road Transport (Safety and Traffic Management) Act 1999* (which are about menacing driving); or
 - c) an offence against Part 3 of the *Road Transport (Driver Licensing) Act 1999* or the *Road Transport (Driver Licensing) Regulation 2000*; or
 - d) an offence against a law of any jurisdiction, an external Territory or foreign country -
 - (i) involving dishonesty, bribery, misrepresentation, blackmail, or actual or threatened violence; or
 - (ii) of a sexual nature; or
 - (iii) involving the use or possession, or the supply to another person, of a drug; or
 - e) an offence against a law of any jurisdiction, an external Territory or foreign country for which a person is sentenced to a term of imprisonment.
- 11.2 The Authority will cancel the accreditation of a driving instructor who is convicted of a ‘disqualifying’ offence (see above) [Subsection 111 (a)].
- 11.3 A driving instructor’s accreditation is suspended during any period when the instructor’s full driving licence is suspended. [Subsection 110 (a)].

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- 11.4 A driving instructor's accreditation is cancelled if the instructor's full driving licence is cancelled. [Subsection 110(b)].
- 11.5 A driving instructors accreditation is cancelled if the instructor fails to maintain liability insurance in accordance with Subsection 115 [1].

12. Vehicle Requirements

- 12.1 When an accredited driving instructor is instructing or assessing a learner, the instructor will ensure that [Section 114]:
- i) 'L' plates are correctly displayed;
 - ii) the vehicle is registered;
 - iii) the vehicle is equipped with an internal mirror, in addition to a rear-vision mirror, placed so that the instructor can see traffic approaching from the rear (the mirror must be of a type approved by the Authority);
 - iv) dual controls that actuate the brake and clutch (for a manual transmission) are fitted and operational (must be of a type approved by the Authority).

13 Appeals

- 13.1 An instructor has the right to appeal to the Authority on any matter related to the issuing of a Notice of Unsatisfactory Audit. Such appeals should be directed to the Manager, Quality Assurance. The Authority may, as necessary, consult an independent authority.
- 13.2 An instructor has the right to seek a review of any suspension or cancellation decision imposed by the Authority under section 112 of the *Road Transport (Driver Licensing) Regulation 2000*. In the first instance, an application for internal review must be made in writing to The Director, City Operations, PO Box 778, Dickson ACT 2602. If the instructor is not satisfied with the result of the internal review, the instructor may refer that decision to the Administrative Appeals Tribunal for review.

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