

Australian Capital Territory

Road Transport (Driver Licensing) Accreditation Guidelines 2006 (No 1)

Disallowable instrument DI2006-259

made under the

**Road Transport (Driver Licensing) Regulation 2000, section 122A
(Accreditation guidelines - relevant offences)**

EXPLANATORY STATEMENT

Section 122A of the *Road Transport (Driver Licensing) Regulation 2000* allows the Minister to approve guidelines about the exercise of the road transport authority's functions under the following sections:

- section 106(2)(a) (When applications for accreditation can be refused); and
- section 111(b) (When authority may take action in relation to accreditation).

Accredited driving instructors (ADIs) provide private driving tuition to learner drivers who are seeking to qualify for the issue of a driver licence. The majority of learner drivers are young people.

ADIs are in charge of a vehicle in which a person undergoing driving instruction is travelling. The vehicle is adapted to provide the ADI with that level of control. The ADI makes entries in the learner driver's log book about the driver instruction and assessment provided by the ADI. When all 22 competencies in the log book have been assessed by the ADI as being met, the learner driver can then be issued with a provisional licence (providing all other eligibility requirements are met).

This environment presents a potential opportunity for an ADI to take advantage of a person under instruction.

Given the seriousness of sexual offences against children, there is a need to ensure that there is no opportunity for ADIs to perpetrate such crimes on persons to whom they provide driving instruction. This justifies treating registrable offenders as not suitable to hold an accreditation as an ADI.

Given the seriousness of sexual offences, convictions for such offences may indicate that a person is not suitable to hold an accreditation as a driving instructor. However, some discretion should be permitted in relation to offences committed when a person was a juvenile. A single conviction in these circumstances may disqualify someone from holding an accreditation as a driving instructor. However, the seriousness of the offence and the period of time that has elapsed since the conviction should be taken into account in determining whether a conviction provides grounds to find a person unsuitable to hold accreditation.

Given the seriousness of certain offences against the person, including murder, manslaughter, inflicting grievous bodily harm, assaults, kidnapping and stalking, recent convictions for such offences may indicate that a person is not suitable to be an ADI. However, the age of the applicant at the time of the conviction, the seriousness of the offence as evidenced by the penalty imposed by the court, the nature and circumstances of the offence and the period of time since the conviction must also be considered.

A conviction for bribery, fraud or dishonesty is relevant given that there is a need to be satisfied that driving instructors are not likely to be influenced, in assessing students, by inducements which might be offered or solicit personal benefits in return for falsifying the outcome of driving assessments.

Serious driving offences (culpable driving, reckless, menacing or furious driving) are highly relevant to the role of driving instructor and such convictions may indicate that a person is not suitable to teach other people to drive. One of the main requirements for an ADI is that the person has a good knowledge of safe driving practices.

However, the period of time since the conviction and the age of the applicant when the offence was committed would also be relevant and must be taken into account.

Serious drug offences are relevant because operating as a driving instructor could provide cover for a person supplying drugs. In assessing whether a person with a drug conviction is a suitable person to be an ADI, regard must be had to: the period of time since the conviction; the seriousness, nature and circumstances of the offence; and the age of the applicant when the offence was committed.

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