

Australian Capital Territory

Road Transport (Driver Licensing) Public Vehicle Licence Guidelines 2006 (No 1)

Disallowable instrument DI2006-261

made under the

Road Transport (Driver Licensing) Regulation 2000, section 90A (Public vehicle licence guidelines - relevant offences)

EXPLANATORY STATEMENT

Section 90A 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 70(3)(a) (When applications for issue and certain variations of driver licences can be refused); and
- section 87(3)(a) (When authority may vary, suspend or cancel driver licences).

Public vehicle licence holders drive taxis, hire cars and buses. They are, therefore, in charge of a vehicle in which their passenger(s) is travelling. This environment presents a potential opportunity for a person to take advantage of a vulnerable passenger. Public passenger vehicles transport many vulnerable groups – children, the aged and disabled.

Given the seriousness of sexual offences against children, there is a need to ensure that there is no opportunity for public vehicle drivers to perpetrate such crimes on their passengers.

This justifies treating 'registrable offenders' as not suitable to hold a public vehicle licence authorising a person to drive a bus or a hire car unless the person can provide evidence, from the person's employer, of:

- established protocols ensuring the person does not provide public transport services to young persons unaccompanied by an adult; and
- the effectiveness of those protocols.

Taxi networks cannot provide such protocols for taxi drivers and therefore registrable offenders are to be treated as not suitable to drive taxis.

A registrable offender is defined in the *Crimes (Child Sex Offenders) Act 2005* (the Act) as a person who has been sentenced by a court for a registrable offence, is the subject of a child sex offender registration order, or is a prescribed corresponding offender. A registrable offence is defined as being any class 1 or class 2 offence, as outlined in table 1 or table 2 of the Act.

Given the seriousness of sexual offences, convictions for such offences may indicate that a person is not suitable to hold a public vehicle licence. However, some discretion should be permitted in relation to offences committed when a person was a juvenile. For example, a person may have a single conviction whilst being underage. A conviction in these circumstances ought not, of itself, disqualify someone from holding a public vehicle licence. Similarly, the seriousness of the offence and the period of time that has elapsed since the conviction should also be taken into account.

Given the seriousness of certain offences against the person, including murder, manslaughter, inflicting grievous bodily harm, assaults, kidnapping and stalking, convictions for such offences may indicate that a person is not suitable to hold a public vehicle licence. 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 time since the conviction must also be considered.

A conviction for bribery, fraud or dishonesty may be relevant given that there is a need for public vehicle drivers to complete a large number of financial transactions with passengers and with the operator of the taxi service, and to give lost property found in the taxi to the taxi network.

Serious driving offences (culpable driving, reckless, menacing or furious driving) are highly relevant to the role of public vehicle driver as such convictions may indicate that a person is not suitable for work that requires the person to be driving most of the time and driving members of the public for a considerable proportion of the work period. 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 driving a public vehicle could provide cover for a person engaged in supplying drugs. In assessing whether a person with a drug conviction is a suitable person to hold a public vehicle licence, the period of time since the conviction, the seriousness of the offence, the nature and circumstances of the offence, and the age of the applicant when the offence was committed must all be considered.

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