



Australian Capital Territory

Road Transport Legislation (Accreditation and Licensing) Amendment Regulation 2006 (No 1)

Subordinate Law SL2006-59

The Australian Capital Territory Executive makes the following regulation under the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (General) Act 1999*, the *Road Transport (Public Passenger Services) Act 2001* and the *Road Transport (Vehicle Registration) Act 1999*.

Dated 15 December 2006.

JOHN HARGREAVES
Minister

ANDREW BARR
Minister

J2005-970

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au



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Part 1 Preliminary

1 Name of regulation

This regulation is the *Road Transport Legislation (Accreditation and Licensing) Amendment Regulation 2006 (No 1)*.

2 Commencement

This regulation commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

Part 2 Road Transport (Driver Licensing) Regulation 2000

3 Legislation amended—pt 2

This part amends the *Road Transport (Driver Licensing) Regulation 2000*.

4 Division 3.1

substitute

Division 3.1 Required medical standards

15 Meaning of *required medical standards*

For this regulation, the *required medical standards*, in relation to a person, are the medical standards set out in the publication *Assessing Fitness to Drive*, as amended from time to time, published by Austroads Incorporated, that apply to the person.

Note 1 The commercial standards in the publication apply in relation to the accreditation of a driving instructor (see s 104 (2)).

Note 2 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disappplied (see s 47 (7)).

Note 3 A notifiable instrument must be notified under the Legislation Act.

5 Section 70 (3) and (4)

substitute

- (3) Without limiting subsection (1) (c), the road transport authority may refuse an application for a public vehicle licence under subsection (1) because the person is not a suitable person to hold a driver licence or a driver licence of the class or kind applied for if—
- (a) the person has been convicted or found guilty of an offence that the road transport authority considers is relevant to the application; or
- Note* The road transport authority must comply with any guidelines approved by the Minister under s 90A (Public vehicle licence guidelines—relevant offences).
- (b) within the 5-year period before the day the application is made—
- (i) the person has been disqualified (whether or not by court order) from holding or obtaining an Australian driver licence under the law of any jurisdiction; or
- (ii) the person's Australian driver licence, or right to drive a motor vehicle (however described), has been suspended or cancelled under the law of any jurisdiction.
- (4) However, subsection (3) (b) (ii) does not apply if the suspension or cancellation is—
- (a) for the nonpayment of an infringement notice penalty; or
- (b) under the *Road Transport (General) Act 1999*, part 6 (Fine defaulters) or a corresponding law of another jurisdiction.

Note An infringement notice penalty includes an amount payable under an infringement notice served on a person under the law of another jurisdiction (see Act, dict, def ***infringement notice penalty***).

- (5) This section is subject to section 49 (Issue of restricted licence by road transport authority).

6 Section 87 (3)

substitute

- (3) Without limiting subsection (1) (c), the road transport authority may suspend or cancel a person's public vehicle licence under section 88 because the person is not a suitable person to hold a driver licence or a driver licence of the class or kind held by the person if—
- (a) the person has been convicted or found guilty of an offence that the road transport authority considers is relevant to the person's suitability to hold the licence or the class or kind of licence; or

Note The road transport authority must comply with any guidelines approved by the Minister under s 90A (Public vehicle licence guidelines—relevant offences).

- (b) the person has contravened the *Road Transport (Public Passenger Services) Act 2001*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

7 New section 90A

in division 5.4, insert

90A Public vehicle licence guidelines—relevant offences

- (1) The Minister may approve guidelines about the exercise of the road transport authority's functions under the following sections:
- (a) section 70 (3) (a) (When applications for issue and certain variations of driver licences can be refused);

- (b) section 87 (3) (a) (When authority may vary, suspend or cancel driver licences).
- (2) Without limiting subsection (1), the guidelines may make provision about—
 - (a) the offences that are relevant in relation to—
 - (i) an application for a public vehicle licence; and
 - (ii) the suitability of a person to continue to hold a public vehicle licence; and
 - (b) the matters or circumstances that may or must be considered, in deciding whether—
 - (i) an application for a public vehicle licence may or must be refused; or
 - (ii) a public vehicle licence may or must be suspended or cancelled.

Examples for par (b)

- 1 whether a person has been convicted for a single offence or multiple offences and the nature and seriousness of the offence
- 2 the age of the person when the offence was committed
- 3 the time elapsed since the offence was committed

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The road transport authority must comply with any guidelines approved under this section.
- (4) Approved guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

8 Section 104 (1) (c)

substitute

- (c) the person has sufficient driving ability, and knowledge of safe driving practices and road law, to provide driver instruction and assessment; and
- (ca) the person has the other skills needed to provide driver instruction and assessment; and

9 Section 104 (1) (f)

substitute

- (f) the person has complied with the required training for accreditation as a driving instructor under section 104A; and

10 Section 104 (3), (4) and (5)

substitute

104A Required training for driving instructors

- (1) For section 104 (1) (f), a person has complied with the required training for accreditation as a driving instructor if—
 - (a) the person has successfully completed an approved driving instructors training course within the 1-year period before the day the application for accreditation is made; or
 - (b) the person has been accredited within the 5-year period before the day the application for accreditation is made.
- (2) If the road transport authority is satisfied that a person has appropriate training or experience for accreditation, the authority may exempt the person from section 104 (1) (f).
- (3) An exemption under subsection (2) may be conditional.

- (4) If an exemption under subsection (2) is subject to conditions, the exemption applies only if all the conditions of the exemption are being complied with.

11 Section 106 (1) (b) and (c)

omit

12 Section 106 (2)

substitute

- (2) Without limiting subsection (1) (a), the road transport authority may refuse to approve the application because the person is not a suitable person to be accredited if—
- (a) the person has been convicted or found guilty of an offence that the road transport authority considers is relevant to the application; or
- Note* The road transport authority must comply with any guidelines approved by the Minister under s 122A (Accreditation guidelines—relevant offences).
- (b) within the 5-year period before the day the application is made—
- (i) the person has been disqualified (whether or not by court order) from holding or obtaining an Australian driver licence under the law of any jurisdiction; or
- (ii) the person's Australian driver licence, or right to drive a motor vehicle (however described), has been suspended or cancelled under the law of any jurisdiction.
- (3) However, subsection (2) (b) (ii) does not apply if the suspension or cancellation is—
- (a) for the nonpayment of an infringement notice penalty; or

- (b) under the *Road Transport (General) Act 1999*, part 6 (Fine defaulters) or a corresponding law of another jurisdiction.

Note An infringement notice penalty includes an amount payable under an infringement notice served on a person under the law of another jurisdiction (see Act, dict, def *infringement notice penalty*).

13 Section 107 (3)

substitute

- (3) The maximum period the road transport authority may accredit a person is 5 years.

14 Section 111 (a) to (f)

substitute

- (a) the person is not eligible to apply for accreditation; or
- (b) the person has been convicted or found guilty of an offence that the road transport authority considers is relevant to the person's suitability to hold the accreditation; or

Note The road transport authority must comply with any guidelines approved by the Minister under s 122A (Accreditation guidelines—relevant offences).

- (c) the person obtained the accreditation (or any renewal of the accreditation) because of a false or misleading statement made, or false or misleading information supplied, by the person; or

15 Section 111, note

omit

16 New section 122A

in division 7.4, insert

122A Accreditation guidelines—relevant offences

- (1) The Minister may approve guidelines about the exercise of the road transport authority's functions under the following sections:
 - (a) section 106 (2) (a) (When applications for accreditation can be refused);
 - (b) section 111 (b) (When authority may take action in relation to accreditation).
- (2) Without limiting subsection (1), the guidelines may make provision about—
 - (a) the offences that are relevant in relation to—
 - (i) an application for accreditation as a driving instructor; and
 - (ii) the suitability of a person to continue to hold an accreditation; and
 - (b) the matters or circumstances that may or must be considered, in deciding whether—
 - (i) an application for accreditation may or must be refused; or
 - (ii) an accreditation may or must be suspended or cancelled.

Examples for par (b)

- 1 whether a person has been convicted for a single offence or multiple offences and the nature and seriousness of the offence
- 2 the age of the person when the offence was committed

3 the time elapsed since the offence was committed

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The road transport authority must comply with any guidelines approved under this section.

(4) Approved guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

17 Dictionary, definition of *disqualifying offence*

omit

18 Dictionary, definition of *required medical standards*

omit

section 15 (2)

substitute

section 15

19 Further amendments, mentions of s 15 (2)

omit

s 15 (2)

substitute

s 15

in

- section 56 (5), note
- section 70 (1), note 1
- section 87 (1), note
- section 88 (5), note

- section 102, note
- section 103 (5), note

Part 3 Road Transport (General) Regulation 2000

20 Legislation amended—pt 3

This part amends the *Road Transport (General) Regulation 2000*.

21 Schedule 1, part 1.4, items 34 to 36

substitute

34	104A (2)	road transport authority—refuse exemption from compliance with required training for accreditation as a driving instructor
35	104A (3)	road transport authority—impose conditions on exemption from compliance with required training for accreditation as a driving instructor
36	106 (1)	road transport authority—refuse to approve application for/renewal of accreditation as a driving instructor
36A	107 (3)	road transport authority—period of issue of accreditation as a driving instructor

Part 4

Road Transport (Public Passenger Services) Regulation 2002

22 Legislation amended—pt 4

This part amends the *Road Transport (Public Passenger Services) Regulation 2002*.

23 Section 6, definition of *mandatory disqualifying offence*

omit

24 New section 8 (2) (aa)

insert

- (aa) whether a relevant person has been convicted or found guilty of an offence that the road transport authority considers is relevant to the application; and

Note The road transport authority must comply with any guidelines approved by the Minister under s 19A (Accreditation guidelines—relevant offences).

25 Section 8 (2) (a) to (c)

renumber as section 8 (2) (a) to (d)

26 Section 8 (3) (a)

omit

27 Section 14 (1), example 2

substitute

- 2 A relevant person is disqualified from managing a corporation under the Corporations Act, pt 2D.6.

28 New section 19A

insert

19A Accreditation guidelines—relevant offences

- (1) The Minister may approve guidelines about the exercise of the road transport authority's functions under section 8 (2) (b) (Mandatory refusal of accreditation).
- (2) Without limiting subsection (1), the guidelines may make provision about—
 - (a) the offences that are relevant in relation to an application for accreditation to operate a regulated service; and
 - (b) the matters or circumstances that may or must be considered, in deciding whether—
 - (i) an application for accreditation may or must be refused; or
 - (ii) action may or must be taken under chapter 8 (Disciplinary action) in relation to an accreditation.

Examples for par (b)

- 1 whether a person has been convicted for a single offence or multiple offences and the nature and seriousness of the offence
- 2 the age of the person when the offence was committed
- 3 the time elapsed since the offence was committed

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The road transport authority must comply with any guidelines approved under this section.
- (4) Approved guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

29 Section 500 (4)

omit

chapter

substitute

part

30 Dictionary, definition of *mandatory disqualifying offence*

omit

Part 5 Road Transport (Vehicle Registration) Regulation 2000

31 Legislation amended—pt 5

This part amends the *Road Transport (Vehicle Registration) Regulation 2000*.

32 Section 116 (1) (b)

substitute

- (b) has not been convicted or found guilty of an offence that the road transport authority considers is relevant to the application; and

Note The road transport authority must comply with any guidelines approved by the Minister under s 153A (Authorisation and approval of premises guidelines—relevant offences).

33 Section 124

substitute

124 When authority may take action in relation to authorisation

The road transport authority may take action under section 125 in relation to a person's authorisation if—

- (a) the person is not eligible to apply for authorisation or for authorisation for a class of vehicles for which the person is authorised; or
- (b) the person is convicted or found guilty of—
- (i) an offence against this part; or

- (ii) another offence that the road transport authority considers is relevant to the authorisation; or

Note The road transport authority must comply with any guidelines approved by the Minister under s 153A (Authorisation and approval of premises guidelines—relevant offences).

- (c) the person was authorised because of a false or misleading statement made, or false or misleading information supplied, by the person in or in relation to the application for (or for renewal of) authorisation; or
- (d) the person contravenes either of the following sections:
- (i) section 145 (Duties of authorised examiners inspecting and testing vehicles);
- (ii) section 146 (Issue of certificates of inspection etc).

Note If an authorised examiner does not pay a fee for the examiner's authorisation, or pays in a way that is not effective, the authorisation may also be cancelled (see *Road Transport (General) Regulation 2000*, pt 5).

34 Section 127 heading

substitute

127 Eligibility for approval of premises

35 Section 127 (1) (b)

substitute

- (b) 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 is relevant to the approval; and

Note The road transport authority must comply with any guidelines approved by the Minister under s 153A (Authorisation and approval of premises guidelines—relevant offences).

36 Section 135

substitute

135 When authority may take action in relation to approval of premises

The road transport authority may take action under section 136 in relation to the approval of premises if—

- (a) the premises are not eligible to be approved premises or to be approved premises for a class of vehicles for which the premises are approved; or
- (b) the premises were approved because of a false or misleading statement made, or false or misleading information given, by the proprietor of the premises in or in relation to the application for (or for renewal of) the approval; or
- (c) the proprietor of the premises or, if the proprietor is a corporation, a director of the corporation is convicted or found guilty of—
- (i) an offence against this part; or

- (ii) another offence that the road transport authority considers is relevant to the approval; or

Note The road transport authority must comply with any guidelines approved by the Minister under s 153A (Authorisation and approval of premises guidelines—relevant offences).

- (d) the proprietor of the premises contravenes any of the following sections:
 - (i) section 144 (Vehicles to be inspected on request);
 - (ii) section 146 (Issue of certificates of inspection etc);
 - (iii) section 148 (Fees payable on inspection).

Note If the proprietor fails to pay a fee for renewal of the approval of premises, or pays in a way that is not effective, the approval may also be cancelled (see *Road Transport (General) Regulation 2000*, pt 5).

37 New section 153A

in part 6.3, insert

153A Authorisation and approval of premises guidelines—relevant offences

- (1) The Minister may approve guidelines about the exercise of the road transport authority's functions under the following provisions:
 - (a) section 116 (1) (b) (Eligibility to apply for authorisation as examiners);
 - (b) section 124 (b) (When authority may take action in relation to authorisation);
 - (c) section 127 (1) (b) (Eligibility for approval of premises);
 - (d) section 135 (c) (ii) (When authority may take action in relation to approval of premises).

- (2) Without limiting subsection (1), the guidelines may make provision about—
- (a) the offences that are relevant in relation to—
- (i) an application for authorisation as an examiner; and
 - (ii) the suitability of a person to continue to hold an authorisation; and
 - (iii) the eligibility for approval of premises; and
 - (iv) the suitability of premises to continue to be approved premises; and
- (b) the matters or circumstances that may or must be considered in deciding whether—
- (i) an application for an authorisation or approval of premises may or must be refused; or
 - (ii) an authorisation or approval of premises may or must be suspended or cancelled.

Examples for par (b)

- 1 whether a person has been convicted for a single offence or multiple offences and the nature and seriousness of the offence
- 2 the age of the person when the offence was committed
- 3 the time elapsed since the offence was committed

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The road transport authority must comply with any guidelines approved under this section.
- (4) Approved guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Endnotes

1 Notification

Notified under the Legislation Act on 18 December 2006.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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