

Information Bulletin

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Operator Accreditation - Suitability Checks and Effect of a Disqualifying Offence

The Department of Transport and Main Roads (TMR) has responsibility for administering operator accreditation (OA) in Queensland. The *Transport Operations (Passenger Transport) Act 1994* (TOPTA) requires operators of (road-based) public passenger services to hold OA unless an exemption applies. The purpose of OA is to encourage the high-quality operation of public passenger services.

A person's suitability to hold OA is assessed prior to the issue of an accreditation and may be re-assessed any time after issue. For corporations, suitability checks are undertaken on all directors of the corporation and any other executive officers nominated on the OA application form. Suitability checks include criminal history checks and, if applicable, consideration of a person's previous history with respect to the operation of public passenger services. If a person is not considered suitable, OA may be refused, cancelled, suspended or amended. TOPTA prescribes a range of *disqualifying offences* for which action against an OA may be taken.

Applicants for OA must declare all criminal history regardless of time elapsed. The time provision as stated under section 5 and 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, does not apply. OA holders must inform TMR if they are charged with a disqualifying offence and when the outcome of the charge has been finalised. Failure to supply this information is an offence.

Disqualifying offences

Disqualifying offences for OA include:

- Offences against sections of the *Criminal Code* listed in Schedule 1 of the TOPTA. Examples include homicide, assault, kidnapping, dangerous use of vehicles, property offences, stealing offences, fraud and sexual offences.
- Offences against the *Drugs Misuse Act 1986* or the *Weapons Act 1990* that are punishable by imprisonment for one year or more, even though a fine may be imposed in addition or as an alternative.
- Offences against the TOPTA.
- Offences prescribed by the *Transport Operations (Passenger Transport) Regulation 2018* (or superseded versions of the regulation).
- Corresponding offences committed in other jurisdictions.

Criteria used for assessing the suitability of persons to hold OA

The following information outlines the criteria used by TMR to assess a person's suitability to hold OA. This information is provided as a guideline only and each case is assessed on its own merits.

When a person has been convicted of a disqualifying offence, TMR may consider that a waiting period must be completed before the person can be considered suitable to hold OA. The duration of a waiting period will depend on the severity of an offence and the circumstances surrounding it.

TMR may consider issuing OA before the end of a waiting period. An application may be supported by written personal references and if representations include any comments attributed to a court judgment these should be supported by court transcripts (to be supplied by the applicant).

Consideration of a person's history regarding public passenger services

OA can be refused, suspended or cancelled if it is considered that a person has behaved in a way:

- that has damaged the reputation of public passenger services or accredited operators; or
- that is contrary to section 11 of the TOPTA, which states that the purpose of OA is to encourage the high-quality operation of public passenger services by: (a) raising standards and awareness of operators in the areas of safety, service delivery and business acumen; and (b) ensuring public passenger service operators are held accountable for complying with appropriate standards.

When considering an application to grant or renew OA, TMR will consider the applicant's history with regard to the provision and operation of public passenger services. For example, if a person has previously held an OA that was cancelled by TMR, the circumstances will be considered in any new application for OA. Similarly, any previous offences committed as an operator of a public passenger service will also be considered.

If a person has held an OA that has been suspended or cancelled, a waiting period of up to 5 years may be considered necessary before OA can be granted. A longer waiting period may be considered appropriate where there were serious grounds for the cancellation or suspension (for example, if public safety was at risk). Longer waiting periods may also be considered appropriate for persons who have a history of repeated non-compliance with OA requirements.

Reviews of decisions affecting OA

If a person is dissatisfied with a decision regarding OA (for example, refusal or cancellation), they may request an internal review of the decision. If the person is not satisfied with the outcome of the review, then the person may appeal to the Queensland Civil and Administrative Tribunal (QCAT) for an external review. For more information please refer to the information bulletin *Reviews of Decisions affecting Operator Accreditation and Driver Authorisation*.

Additional information

This bulletin has been produced as a guideline and is not a reference to a point of law. Clarification of any information in this bulletin may be obtained by contacting a regional passenger transport office. Contact details can be found at translink.com.au/contact-us

The *Transport Operations (Passenger Transport) Act 1994*, *Transport Operations (Passenger Transport) Regulation 2018* and *Transport Operations (Passenger Transport) Standard 2010* can be accessed on the internet at legislation.qld.gov.au

Additional information about public passenger services is available on the Department of Transport and Main Roads internet site at tmr.qld.gov.au/information_bulletins.