

Road Transport (Driver Licensing) Driving Instruction and Assessment Code of Practice 2016 (No 1)

Disallowable Instrument DI2016—237

made under the

Road Transport (Driver Licensing) Regulation 2000, Section 118 (Code of practice for instructors and assessors)

1 Name of instrument

This instrument is the *Road Transport (Driver Licensing) Driving Instruction and Assessment Code of Practice 2016 (No 1)*.*

2 Commencement

This instrument commences on 28 August 2016.

3 Approval

I approve the Code of Practice for Accredited Driving Instructors 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) Driving Instruction Code of Practice 2011 (No 1)* (DI2011 – 40 notified on 15 March 2011).

Craig Simmons
Delegate of the Road Transport Authority

17 August 2016

*Name amended under Legislation Act, s 60

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CODE OF PRACTICE FOR DRIVING INSTRUCTION AND ASSESSMENT
ACCREDITED DRIVING INSTRUCTORS

Australian Capital Territory

**Road Transport (Driver Licensing) Driving Instruction Code of Practice
2016 (No 1)**

CODE OF PRACTICE
FOR DRIVING INSTRUCTION AND ASSESSMENT
BY ACCREDITED DRIVING INSTRUCTORS

Road Transport Authority
17 August 2016

SCHEDULE
CODE OF PRACTICE FOR DRIVING INSTRUCTION AND ASSESSMENT
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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 (instructors) accredited 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 instructors.
 2. a document which informs the public, especially learner drivers, of what they can expect in terms of performance and conduct from an 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 instructor in accordance with sections 111 and 112 of the *Road Transport (Driver Licensing) Regulation 2000*.

2. Definitions

2.1 In this code –

“ADI Audit section” means the Accredited Driving Instructor audit section within the Authority.

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

“Authority” means the Road Transport Authority of Access Canberra.

“Authority’s Standards” means the Provisional Car Licence Assessment Standards approved by the Authority under section 119 of the *Road Transport (Driver Licensing) Regulation 2000*.

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

“instructor” means a person who has been accredited as a driving instructor 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 under the CBT & A scheme by an instructor.

“Lesson Checklist” means the CBT & A Lesson Checklist published by the Authority.

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“logbook” means the ACT Learner Driver Logbook.

“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 118 of the *Road Transport (Driver Licensing) Regulation 2000* the Authority may approve a Code of Practice about the skills, vehicles, and activities of instructors.

4. Punctuality towards Student and Auditor

- 4.1 An instructor must ensure a lesson with a student for instruction or assessment is not delayed. Where a delay is unavoidable, the instructor must attempt to contact the student to advise him or her of the delay. The instructor must allow the student to cancel the appointment and make a new appointment.
- 4.2 If an instructor is likely to be late to attend a competency 23 assessment the instructor must notify the ADI Audit section and advise them of the delay if the delay means the assessment will likely commence more than five (5) minutes after the booked time.

5. Courtesy

- 5.1 An instructor must behave courteously towards all persons he or she comes in contact with, when providing instruction, assessment or during an audit. This includes students, parents of students, practice instructors and persons authorised by the Authority.
- 5.2 During a lesson, instructors must focus solely on the task of instruction or assessment and should not be distracted. The instructor must not read documentation or other material or operate items or equipment not relevant to the session. However, the use of mobile phones or two-way radios by the instructor for a period not exceeding 30 seconds is acceptable.

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- 5.3 If a learner driver or a guardian of the learner driver offers a bribe to, or threatens, an instructor for the purpose of influencing the result of a lesson, the instructor must notify the ADI Audit section as soon as possible.
- 5.4 An instructor must 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 (i.e. assumptions about a person's group behaviour, values, culture or abilities).
- 5.5 If a student cannot resolve the problems with the instructor, he or she can then approach the Authority, Access Canberra, or the ACT Human Rights Commissioner.

6. Presentation and Vehicle

- 6.1 A vehicle provided by an instructor to be used for a lesson must be clean and tidy. The vehicle must have a minimum of four legal adult seating positions fitted with seat belts and must comfortably carry an adult observer in a rear seat. The Authority has the power to approve a code of practice about the motor vehicles to be used for driver instruction and assessment, and instructors must comply with that code of practice if one is approved.
- 6.2 Section 114 of the Regulation specifies certain requirements that apply to motor vehicles used by an instructor to provide lessons. These include:
- (a) the appropriate display of L-plates
 - (b) an internal mirror for the use of the instructor, in addition to the driver's rear-vision mirror;
 - (c) dual controls (except when the vehicle used for the lesson is the student's own vehicle).

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- 6.3 ADI Auditors have the authority to inspect the vehicle to ensure it complies with these requirements, as well as other obligations under the road transport legislation more generally (e.g. tyres with sufficient tread). ADI Auditors have the authority to request that an instructor's vehicle, or any other vehicle designated to be used for a lesson/assessments, be inspected by an authorised person.
- 6.4 Any replacement vehicle supplied by an instructor may be used for a period not exceeding four weeks and must comply with 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.
- 6.5 A vehicle supplied by a learner driver must comply with conditions in 6.1, 6.2 and 6.3 (except for the fitting of dual controls).
- 6.6 An instructor must report any motor vehicle accident to the ADI Audit section that involved a student and/or instructor, including any motor vehicle accident which occurred outside of a lesson.
- 6.7 The instructor should have a neat and tidy appearance, including safe and practical clothing and footwear (e.g. no thongs).
- 6.8 An instructor must not be under the influence of illegal drugs and must have a zero blood alcohol concentration (BAC) level when instructing or assessing a student.
- 6.9 The instructor must display his or her Certificate of Accreditation during all lessons.
- 6.10 The instructor must inform the ADI Audit section immediately if they develop a medical condition, or undertake any medical treatment which may impact their capacity to drive or instruct and assess students.

7. Assessment of Students

- 7.1 An instructor will read the preamble at the front of the logbook to the student prior to commencement of the first lesson and ask the student if he or she understands the information. Where necessary, an explanation should be given. If the student indicates he or she understands the information, the instructor will ask the student to sign the preamble in their presence. 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 must 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.

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- 7.3 An instructor must 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, parent or grandparent 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 ensure that the student’s name, licence number and expiry date details on the first page of the logbook are completed and that they document all lessons accurately in the back of the student’s logbook.
- 7.6 An instructor must complete and stamp the Certificate of Competency supplied by the Authority at the end of a successful CBT & A assessment program, sign it and ensure that the learner driver also signs the certificate in their presence.
- 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 all details of the Certificate of Competency appear on the duplicate copies.
- 7.9 An instructor must notify the ADI Audit section of the number(s) of any Certificate of Competency lost or stolen as soon as possible.
- 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 ADI Audit sections 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 instructor can issue the pink (duplicate) copy as a replacement and advise the ADI Auditors.
- 7.13 An instructor must accurately assess and instruct a student to the Authority’s Standards, against the driver competencies provided in those standards.
- 7.14 Instructors must accurately record all lesson information on the Authority’s published Lesson Checklist.

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- 7.15 In addition to assessing a student against each of the 23 driver competencies, an instructor must also conduct two reviews of the skills acquired by the student.
- 7.16 The first review must be conducted not less than 36 hours after competencies 1 – 17 have been achieved and must cover competencies 1 – 17. The second review must be conducted not less than 36 hours after competencies 18 – 22 have been achieved and must cover competencies 1 – 22.
- 7.17 Competencies 18 – 22 (with the exception of 19 which may be assessed out of sequence) are not to be assessed until the first review is completed successfully. Competency 23 is not to be assessed until the second review has been completed successfully.
- 7.18 Requirements for completion of competency 23 are as follows:
- competency 23 may not be undertaken until the student has held a learner licence for at least five and a half months and is aged at least 16 years and 350 days (15 days prior to the student's 17th birthday).
 - If a student has held an interstate learner licence for five and a half months, this will meet the above requirement of holding a learner licence for at least five and a half months.
 - If the student has held a full overseas licence they are not required to wait the qualifying period and can undertake competency 23 when ready. Applicants are required to bring in their overseas licence documents in order to obtain an ACT licence at an Access Canberra Shopfront.
 - Where a student is deemed competent, 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 (i.e. 17 years of age and the holder of a learner licence for at least six months or the holder of a full overseas licence)
 - After completion of the second review and when a learner driver is ready for the competency 23 driving assessment, the instructor will notify the ADI Audit section. This notification may be by fax, e-mail or in writing and must be received at least one whole working day prior to the driving assessment.
 - Details of the notification must include the student's name, ACT learner licence number, date, time, pick up address in full, drop off address in full and additional information as required (i.e. interstate learner licence number or overseas licence details).
 - 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 may result in an Unsatisfactory Record of Audit.
 - Alterations to vehicle details, substitution of an instructor, cancellation of a booked auditable assessment, or a change in the start time or pick up or drop off location for a lesson, should be advised to the ADI Audit section within two hours (where possible) prior to a competency 23 assessment being undertaken.

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- 7.19 The competency 23 assessment may only be conducted and completed between the hours of 7.00am and 7.00pm Monday to Thursday and Saturday and between the hours of 7.00am and 9.00pm on Friday. Please note that the competency 23 assessment is NOT to be assessed on Sundays or ACT Public Holidays.
- 7.20 The logbook must be retained by the student except where the student gives permission in writing for the instructor to hold the logbook.
- 7.21 An instructor must obtain the logbook from the student prior to commencing a lesson and return it to him or her on completion of the lesson. It is unacceptable for an instructor to assess a student in relation to one of the competencies or reviews when the logbook or Lesson Checklist is not available. An instructor must not make an entry in a logbook or Lesson Checklist that has not been taught or assessed at the time of the entry.
- 7.22 Where an instructor is satisfied that a student has correctly demonstrated a particular competency or satisfactorily undertaken a review, the instructor must certify the competency achieved in the logbook. The student must sign his or her name in the logbook, in relation to that competency or review, in the instructor's presence at the end of the lesson that the competency was achieved. The instructor must also stamp and initial the logbook.
- 7.23 The learner driver's logbook and Certificate of Competency are the primary documents which the Authority will use in its decision to grant a provisional licence under road transport legislation.
- 7.24 An instructor will inform the ADI Audit section as soon as possible if he or she has a student from another instructor who has a logbook filled out incorrectly.
- 7.25 For an upgrade from an automatic condition to a manual licence, the student must complete competencies 2 to 17 then progress directly to the competency 23 review. However, the notification of booking for the competency 23 assessment must still be received at least one full working day prior to the assessment. When booking the competency 23 assessment, an instructor must advise the ADI Audit Section that the competency 23 assessment is for an upgrade to a manual licence.

8. Auditing of Accredited Driving Instructors

- 8.1 An instructor must note that any officer authorised by the Authority may observe any lesson. An instructor must comply with any reasonable request made by the officer during an audit, either verbally or in writing.
- 8.2 An instructor will inform his or her student that an auditor can attend any lesson under the CBT & A Scheme.

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- 8.3 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 ADI Audit section for the student's competency 23 driving assessment.
- 8.4 The Lesson Checklist will be used as evidence to verify the competency level of the student in the case of a lost logbook. 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.
- 8.5 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.
- 8.6 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 Standards.
- 8.7 An Auditor will assess the instructor against the Authority's Standards.
- 8.8 An Auditor will assess the student against the Authority's Standards for the purpose of comparison with the instructor's Lesson Checklist.

9. Relations with clients

- 9.1 The instructor must inform the student before their first lesson of the fee for the lesson (or package of lessons). Students must 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 must also inform the student of the following appeal rights:
1. 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 Regulation), the student can approach the Authority.
 2. If it is an issue about fees or service contract matters, the student can approach the ACT Commissioner for Fair Trading.
 3. If it is an issue about discrimination, the student can approach the ACT Human Rights Commission.

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10. ACT Legislation Covering Accredited Driving Instructors

- 10.1 The Regulation sets out the eligibility criteria for an application for accreditation and provides that the Authority may require applicants and instructors to undergo tests or assessments or undertake training.
- 10.2 Section 111 of the Regulation prescribes 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. Section 112 of the Regulation prescribes the actions that may be taken and the procedures that must be followed if action is to be taken. The actions that may be taken are:
- Cancel the accreditation and disqualify the person from applying for accreditation for up to two years;
 - 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.
- 10.3 Under Section 121 of the Regulation the Authority may, by written notice, require an instructor to attend and pass an approved training course relevant to their accreditation.

11. Offences

- 11.1 The Regulation provides that the Authority may suspend or cancel an instructor's accreditation if the person has been convicted or found guilty of an offence that the authority considers is relevant to the person's suitability to hold the accreditation.
- 11.2 The Authority's Accreditation Guidelines sets out the principles to be applied in considering whether a person's disclosable convictions provide reasonable grounds for considering the instructor as being unsuitable to hold an accreditation. The Guidelines cover a range of relevant conviction categories which must or may be considered in deciding whether a person's accreditation should be suspended or cancelled. The conviction categories include:
- sexual offences;
 - offences against the person;
 - offences of dishonesty;
 - driving offences;
 - drug offences;
 - other offences; and
 - multiples of various offences.

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- 11.3 An instructor's accreditation is suspended during any period when the instructor's full driving licence is suspended. [Subsection 110 (a) of the Regulation.]
- 11.4 An instructor's accreditation is cancelled if the instructor's full driving licence is cancelled. [Subsection 110(b) of the Regulation.]
- 11.5 Under section 115 of the *Road Transport (Driver Licensing) Regulation 2000* an instructor commits an offence if they do not have an appropriate insurance policy insuring the instructor against liability in place during a lesson. It is a condition of this Code of Practice that an instructor has an appropriate insurance in place that complies with the requirements set out in section 115. Failure to maintain that insurance is a breach of this Code and may result in the Authority taking action to suspend or cancel an instructor's accreditation in accordance with section 111 of the Regulation.

12. Appeals

- 12.1 An instructor has the right to appeal to the Authority on any matter related to the issuing of a Notice of Unsatisfactory Audit. A Notice of Unsatisfactory Audit will contain information on any appeal rights.
- 12.2 An instructor may have the right to seek a review of any suspension or cancellation decision imposed by the Authority under road transport legislation. A decision to suspend or cancel an instructor's accreditation will be in writing and will provide information on any internal and external reviews that may be available.