



2021 ASSESSING FITNESS TO DRIVE REVIEW

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 11 JUNE 2021

1. About the Australian Trucking Association

The Australian Trucking Association and its member associations collectively represent the 50,000 businesses and 200,000 people of the Australian trucking industry. Together we are committed to safety, professionalism and viability.

2. Nathan's story

In the early hours of 11 February 2010, Nathan Zanuso was driving his Nissan Navara southbound on the Pacific Highway near Ulmarra. Mr Zanuso worked as a rope access technician; he was loved by his family and highly regarded by his friends and colleagues.

Mr Zanuso should now be in his late 30s, but that morning a northbound B-double failed to make a left hand bend and crossed to the wrong side of the road. Mr Zanuso desperately attempted to avoid a collision but failed.

The B-double driver was unhurt. Mr Zanuso, however, was severely injured. He was airlifted to hospital in Newcastle but passed away on 19 February.

The B-double driver was working under the NHVAS BFM module. As a result, he was required to have regular medicals under *Assessing Fitness to Drive* (AFTD). His GP had last done his medical on 23 October 2009.

After the collision, the B-double driver returned to his GP, who referred him to a sleep physician. The physician diagnosed him with severe obstructive sleep apnoea.

The B-double driver had fallen asleep at the wheel. The AFTD medical exam had failed to reveal that he was not fit to drive a commercial vehicle.

Section 3 of this submission examines this and other issues with the AFTD commercial standards and proposes that the standards be amended to include elements of the rail medical standards.

Section 4 responds to the argument that the legal regime surrounding driver medicals does not allow AFTD to mandate specific medical examinations, such as a screening test for sleep apnoea.

Section 5 examines and rejects the option of creating another, separate driver health standard.

The ATA's formal recommendation is in **section 6**.

3. The AFTD commercial driver standards are not fit for purpose

The AFTD commercial standards are not fit for purpose. They are not adequate for determining if an individual is fit to drive a commercial vehicle.

Sleep apnoea

The 2010 Ulmarra crash (section 2) shows that AFTD does not deal adequately with sleep apnoea as a cause of excessive daytime sleepiness.

The model AFTD patient questionnaire uses the Epworth Sleepiness Scale (ESS) as a screening tool. This part of the questionnaire asks drivers to consider eight situations and mark down their chance of dozing off on a scale from zero to three. The situations range from sitting and reading, to lying down to rest in the afternoon, to being stopped in a car for a few minutes in traffic.¹

An ESS score of 16 to 24 is consistent with moderate to severe daytime sleepiness and is associated with an increased risk of sleepiness related accidents.²

But research shows that the ESS is not suitable for determining if commercial drivers have sleep apnoea.

Australian research conducted from 2008 to 2011 found that **41 per cent** of long-distance commercial drivers had obstructive sleep apnoea, but only **12.2 per cent** recorded a positive (>10) score when they filled in the ESS.³

More recently, Colquhoun and Casolin found that **7 per cent** of the Australian rail safety workers in their study population had sleep apnoea. **None of them reported an elevated ESS score.**⁴

In the last review of AFTD, the ATA successfully argued that the medical standards should be footnoted with warnings that the treating doctor should not solely rely on subjective measures of sleepiness to rule out sleep apnoea.⁵

These warnings are still included in draft 2021 standards,⁶ but they are no substitute for a more objective screening tool.

¹ NTC and Austroads, [Assessing fitness to drive for commercial and private vehicle drivers](#), 2021 edition (consultation draft released 3 May 2021). 173.

² NTC and Austroads, 2021. 172.

³ Sharwood, L et al, "Assessing sleepiness and sleep disorders in Australian long-distance commercial vehicle drivers: self-report versus an 'at home' measuring device," in *Sleep*, 2012. 35:4. 472.

⁴ Colquhoun, C and A Casolin, "Impact of rail medical standard on obstructive sleep apnoea prevalence," in *Occupational Medicine* 2016:66. 65.

⁵ ATA, "Assessing fitness to drive consultation report." Letter to NTC CEO Paul Retter AM, 15 December 2015. 3.

⁶ NTC and Austroads, 2021. 176.

Diabetes

The Monash University Driving Health study found that some **8.2 per cent** of truck drivers had diabetes,⁷ compared to the Australian proportion, **4.9 per cent**.⁸

AFTD points out that diabetes can affect a person's ability to drive in two ways. There is the risk of a severe hypoglycaemic event, and there is the risk posed by the side effects of the disease, including its effects on vision, cardiovascular disease and the potential for sleep apnoea.⁹

In line with the importance of diabetes as a disease affecting truck drivers, the 2003 edition of AFTD asked examining doctors to carry out a urine glucose test. The test was removed in the 2012 edition, because urinalysis is now deprecated as a way of screening for diabetes. The urine glucose test was not replaced with a more up to date screening tool.

Cardiovascular disease

Cardiovascular disease is a most significant issue for the trucking industry. **5.3 per cent** of the drivers who participated in the Driving Health study reported they had cardiovascular disease.¹⁰ Nationally, the figure is **2.9 per cent**.¹¹

The table below summarises the proportion of Driving Health study respondents with key cardiovascular disease risk factors.

Cardiovascular disease risk factors

Risk factor	Survey respondents (per cent)	Australia (per cent)
High blood pressure	25.8	10.6
High cholesterol	15.6	6.1
Diabetes	8.2	4.9

Sources: Monash University Driving Health study, ABS.

Upgrading the standards

Fortunately, we do not have to look very far to find medical standards that address these issues. The rail medical standards include—

- an objective screening matrix for sleep apnoea that includes an individual's BMI, comorbid hypertension and type 2 diabetes as triggers requiring a sleep study to be undertaken.¹² 91 per cent of the rail workers referred for a sleep study because of this screening test were found to have sleep apnoea.¹³

⁷ Monash Insurance Work and Health Group, [Driving health study: survey of the physical and mental health of Australian professional drivers](#). Report 6, November 2020. 19.

⁸ ABS, [2017-18 national health survey](#). December 2018. Table 3.3.

⁹ NTC and Austroads, 2021. 93.

¹⁰ Monash Insurance Work and Health Group, November 2020. 19.

¹¹ ABS, December 2018. Table 3.3.

¹² NTC, [National standard for health assessment of rail safety workers](#), 2017. 144.

¹³ Colquhoun, 2016. 62.

- A diabetes screening test, including a blood test for category 1 safety critical workers.¹⁴
- an objective cardiac risk assessment using the Australian absolute cardiovascular disease calculator.¹⁵

4. There are no legal reasons why AFTD cannot mandate specific examination procedures

In discussions with the ATA, the NTC argued that mandating specific medical examinations as a requirement for licensing is a decision for each individual state and territory and that it is beyond the scope of AFTD.

To test this argument, the ATA sought legal advice from national law firm Holding Redlich. The advice is attached to this submission.

After examining the relevant law in each state and territory, Holding Redlich concluded that—

In our view, no jurisdiction's legislation about medical examinations for driver licensing would prevent, in principle, the AFTD from mandating specific examination procedures similar to the rail worker medical standards. Provided that the medical examinations continue to fulfil their essential purpose of ensuring the person is 'fit to drive' (the precise language differs between jurisdictions), there is no legislative bar to such examinations being conducted in accordance with a revised AFTD modelled on the rail safety or any other standards.

5. The alternative approach, creating an extra driver health standard, would not be workable

The interim report states that the NTC is developing options to suitably address and manage heavy vehicle driver health and safety as part of the HVNL review.¹⁶

The ATA understands the NTC has put forward the option that drivers working for businesses certified under the proposed national operator assurance scheme would have to meet higher medical requirements than the ones in AFTD.

The ATA advanced a similar proposal in 2014;¹⁷ however, after further research and consideration we argued in the HVNL review that—

- all commercial heavy vehicle drivers should be required to have medicals at regular intervals
- those medicals should be carried out against an upgraded version of the AFTD commercial standards, with enhanced screening for sleep apnoea, type 2 diabetes and cardiovascular risk factors.¹⁸

¹⁴ NTC, 2017. 102.

¹⁵ NTC, 2017. 76.

¹⁶ NTC, 2021. 113.

¹⁷ ATA, [Assessing fitness to drive: 2014 review](#). December 2014. 3.

¹⁸ ATA, [Effective fatigue management](#). August 2019. 6.

We changed our view because we concluded that adding an extra medical standard would reverse the gains from the 2003 amalgamation of the private and commercial driver standards.

Before 2003, the private and commercial driver medical standards were set by different organisations and published in separate, inconsistent documents.

Austroads managed the private driver standards, which were published as *Assessing Fitness to Drive*. The National Road Transport Commission (NRTC) and the Federal Office of Road Safety (FORS) were responsible for the commercial standards, *Medical Examinations for Commercial Vehicle Drivers* (MECVD).¹⁹

Following the Hocking review of the medical standards in 2001, AFTD and MECVD were amalgamated into the single publication we have now.

The amalgamation was strongly supported by stakeholders. Medical practitioners and other health professionals were particularly strong in their support, because they formerly had to consult two different publications in two different formats from two different sources.²⁰

Creating a separate health standard for drivers working for certified businesses would be a return to the pre-2003 confusion.

6. Recommendation

Instead of creating an extra driver health standard, the AFTD commercial standards should be improved to include objective screening tests for sleep apnoea, diabetes and cardiac risk level.

¹⁹ Hocking, B and F Landgren, *Review of medical examinations for commercial vehicle drivers*. NRTC, Melbourne, 2001. 15.

²⁰ Hocking, 2001. 18.



Memorandum

To: Bill McKinley
From: Nathan Cecil
Date: 4 June 2021
Subject: Medical examinations for fitness to drive standards in Australian States and Territories
Matter No: 18730021

Executive Summary

1. Every Australian State and Territory uses *Assessing Fitness to Drive (AFTD)* as the applicable standard in medical examinations for driver licensing. Jurisdictions incorporate the AFTD by:
 - (a) in NSW, ACT and Tas — explicitly referring to it in the relevant regulations;
 - (b) in Vic and SA — prescribing it by gazette as the applicable guideline for the purposes of the relevant legislation;
 - (c) in Qld — referring to it in an ‘approved form’ for the purpose of the relevant regulation; and
 - (d) in WA and NT — referring to it in forms used for medical assessments in practice.
2. In our view, no jurisdiction’s legislation about medical examinations for driver licensing would prevent, in principle, the AFTD from mandating specific examination procedures similar to the rail worker medical standards. Provided that the medical examinations continue to fulfil their essential purpose of ensuring the person is ‘fit to drive’ (the precise language differs between jurisdictions), there is no legislative bar to such examinations being conducted in accordance with a revised AFTD modelled on the rail safety or any other standards.
3. Indeed, and by way of example, reg 60(1)(c) of the Road Transport (Driver Licensing) Regulation 2017 (NSW) specifically anticipates a requirement for drivers to “...*produce evidence of compliance with the medical standards set out in that [AFTD]...*”. Other legislation and/or forms refer to assessments being conducted in accordance with AFTD. Whilst not as explicit on the issue of assessments being conducted in compliance with ‘medical standards set out in the AFTD’, the position is functionally identical.
4. For most jurisdictions, NTC and Austroads could make the proposed changes to AFTD and the revised version would enter into force automatically, without the need for any further regulatory change. However, in Victoria and possibly South Australia, a fresh Ministerial gazette would need to give effect specifically to the new version of AFTD.

5. We set out our conclusions in this regard in the **table** on the next page and provide the relevant legislative provisions and references to forms and other information for each jurisdiction in the **Appendix**.
6. If you have any queries, please let us know.

Jurisdiction	Necessary regulatory response
AFTD referred to in relevant legislation	
New South Wales	No regulatory change needed because the definition of AFTD in the regulations is general and would pick up later versions of the publication “as in force from time to time”.
Australian Capital Territory	No regulatory change needed because the reference to AFTD in the regulations is general and would pick up later versions of the publication “as amended from time to time”.
Tasmania	No regulatory change needed because the reference to AFTD in the regulations is general and would include amended or substituted versions of the document. The general references would pick up later versions of the publication “as amended or substituted from time to time”.
AFTD prescribed by Gazette	
Victoria	Any new or amended AFTD would need to be approved by Ministerial Gazette, since the existing approval refers specifically to the document issued on 1 October 2016. Any new gazetted Guidelines could incorporate the AFTD “as issued from time to time”, thereby avoiding the requirement for new Guidelines to be gazetted with each future update.
South Australia	The Ministerial Gazette that applies the AFTD under South Australian law refers to the 2016 publication “as amended from time to time”. So, if the proposed changes would only require (minor) amendment to the 2016 version, no further regulatory change would be needed. However, if the changes are significant and would require in a new edition of the document (e.g. the 2021 version), the new publication would need to be given force by Ministerial Gazette.
AFTD referred to in approved form	
Queensland	No regulatory change needed because the approved forms refer to AFTD in a general way, including providing a link to the Austroads website. The references would pick up later versions of the publication.
AFTD referred to in forms used in practice	
Western Australia	No regulatory change needed because the AFTD is only referred to in the forms used in practice, and then only generally. The general references would pick up later versions of the publication.
Northern Territory	No regulatory change needed because the AFTD is only referred to in the forms used in practice, and then only generally. The general references would pick up later versions of the publication.

Appendix – Legislative extracts and relevant forms

New South Wales

The applicable legislation is:

- Road Transport Act 2013 (NSW)
- Road Transport (Driver Licensing) Regulation 2017 (NSW) regs 4, 56, 60.

Most relevantly, regs 54 and 60 of the Road Transport (Driver Licensing) Regulation 2017 (NSW) provide:

54 Procedure to obtain or vary driver licences

(1) *An applicant for issue or variation of a driver licence must give Transport for NSW—*

- (a) *a completed application in an approved form, and*
- (b) *personal particulars necessary to identify the applicant and the applicant's residential address, including any evidence that Transport for NSW may reasonably require to verify those particulars (for example, evidence of the person's address on the electoral roll), and*
- (c) *an address for the service of notices, and*
- (d) *the applicable fee.*

(2) *Transport for NSW may require an applicant for issue or variation of a driver licence to do any one or more of the following—*

- (a) *undergo tests or assessments, or provide other evidence of the applicant's knowledge of road law, driving ability, training, experience or suitability to hold a driver licence,*
- (b) *provide evidence of the applicant's compliance with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or other drugs in force in the jurisdiction in which the applicant had last been disqualified from driving,*
- (c) ***undergo, at the applicant's own cost, a medical examination, or produce evidence of compliance with the medical standards contained in Assessing Fitness to Drive,***
- (d) *attend a specified medical practitioner or allied professional practitioner for the purpose of that examination,*

Appendix – Legislative extracts and relevant forms

New South Wales

- (e) provide evidence that the applicant is eligible to be granted the class of licence sought,
- (f) have the applicant's photograph taken, or provide a photograph in a form specified by Transport for NSW.

- (3) Transport for NSW may accept evidence of compliance with a requirement in subclause (2)(a), (b) or (c) obtained by an applicant in another jurisdiction.
- (4) If Transport for NSW is satisfied that it is not practicable for the applicant to comply with the requirements in subclause (2)(b) of another jurisdiction, Transport for NSW may require the applicant to comply with the requirements of an equivalent assessment.

60 Tests and medical examinations of licensed drivers

- (1) Transport for NSW may by notice require the holder of a driver licence, within a time specified in the notice—
 - (a) to submit to tests of the holder's knowledge of safe driving practices and road law, or
 - (b) to submit to tests or assessments of driving ability, or
 - (c) **to undergo a medical examination, conducted in accordance with Assessing Fitness to Drive, by a medical practitioner or allied professional practitioner, or produce evidence of compliance with the medical standards set out in that publication, to determine the holder's medical fitness to hold a driver licence, or a licence of a particular class, or**
 - (d) to attend a specified medical practitioner or allied professional practitioner for the purpose of that examination.
- (2) Transport for NSW may require the holder of a driver licence to provide to it any information relevant to the holder's medical fitness to hold a driver licence.
- (3) Transport for NSW must accept, for the purposes of this clause, a certificate, in an approved form, of the results of a medical examination conducted in another jurisdiction if that examination otherwise complies with this clause.

Regulation 4 in the Road Transport (Driver Licensing) Regulation 2017 (NSW) contains definitions and relevantly states:

“Assessing Fitness to Drive” means the publication *Assessing Fitness to Drive* published by Austroads Ltd and approved by the Transport and Infrastructure Council, **as in force from time to time.**

Appendix – Legislative extracts and relevant forms
New South Wales
General information about medical fitness to drive in NSW, referring to AFTD and including links to relevant forms, is here .

Queensland

The applicable legislation is:

- Transport Operation (Road Use Management) Act 1995 (Qld)
- Transport Operations (Road Use Management—Driver Licensing) Regulation 2010 (Qld) regs 50, 51.

Most relevantly, regs 50 and 51 of the Transport Operations (Road Use Management—Driver Licensing) Regulation 2010 (Qld) provide:

50 Eligibility if mental or physical incapacity likely to adversely affect ability to drive safely

- (1) *A person is not eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes the person has a mental or physical incapacity that is likely to adversely affect the person's ability to drive safely.*
- (2) *However, the person is eligible for the grant or renewal of a Queensland driver licence if the chief executive reasonably believes that, by stating conditions on the licence, the person's incapacity is not likely to adversely affect the person's ability to drive safely.*

Example—

A person with unstable night time vision has a certificate from a doctor stating the person can drive safely only during daylight. The chief executive may reasonably believe that by imposing a condition, for example, that the person may only drive during daylight, the person's incapacity is not likely to adversely affect the person's ability to drive safely.

- (3) *For this section, the chief executive may require the person to give the chief executive a certificate, in the approved form, from a stated type of health professional—*
 - (a) *stating the person does not have a mental or physical incapacity likely to affect the person's ability to drive safely; or*
 - (b) *providing information about the person's mental or physical incapacity that may allow the chief executive to form a belief as mentioned in subsection (2).*

51 Responsibility to give notice of mental or physical incapacity likely to adversely affect ability to drive safely

- (1) *At the time of applying for the grant or renewal of a Queensland driver licence, the applicant must give notice in the approved form to the chief executive about any mental or physical incapacity that is likely to adversely affect the applicant's ability to drive safely.*

Maximum penalty—60 penalty units.

Queensland

(2) *The holder of a Queensland driver licence must give notice in the approved form to the chief executive about either of the following that is likely to adversely affect the holder's ability to drive safely, if either happens after the grant or renewal of the licence—*

(a) *any permanent or long-term mental or physical incapacity;*

(b) *any permanent or long-term increase in, or other aggravation of, a mental or physical incapacity, if notice in the approved form has previously been given to the chief executive about the incapacity.*

Maximum penalty—60 penalty units.

(3) *It is a defence to the prosecution of a person for an offence against this section if the person establishes that, at the time of the offence, the person was unaware that—*

(a) *he or she had a mental or physical incapacity; or*

(b) *the incapacity was likely to adversely affect the person's ability to drive safely.*

(4) *Also, it is a defence to the prosecution of a person for an offence against subsection (2)(b) if the person establishes that, at the time of the offence, the person was unaware that—*

(a) *the incapacity had increased or otherwise been aggravated; or*

(b) *the increase in, or other aggravation of, the incapacity was likely to adversely affect the person's ability to drive safely.*

Relevant approved forms for the purposes of medical examinations pursuant to the regulations, **which cite the AFTD in general form**, are:

- Private and Commercial Vehicle Driver's Health Assessment — [here](#)
- Medical Certificate for Motor Vehicle Driver (form F3712) — [here](#).

General information about medical fitness to drive in Queensland, including links to the current forms referring to AFTD, is [here](#).

The separate licensing regimes for public passenger services and for the transport of dangerous goods both incorporate the AFTD by explicit reference in the relevant regulations: see Transport Operations (Passenger Transport) Regulation 2005 (Qld), Division 6 and Schedule 11 (definition of "prescribed medical certificate"); Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018 (Qld), reg 192 and Schedule 3 (definition of "fitness to drive standards").

South Australia

The applicable legislation is:

- Motor Vehicles Act 1959 (SA) s 80
- Motor Vehicles Regulations 2010 (SA)
- SA Gazette 2016 No. 56 (22 September 2016).

Most relevantly, section 80 of the Motor Vehicles Act 1959 (SA) provides:

80—Ability or fitness to be granted or hold licence or permit

- (1) *If in the opinion of the Registrar it is desirable that the ability or fitness of an applicant for the issue or renewal of a licence or learner's permit, or of the holder of a licence or learner's permit, to drive a motor vehicle should be tested, **the Registrar may require the person to undergo such tests or to furnish such evidence of ability or fitness to drive as the Registrar directs.***
- (1a) *The Registrar may, with the approval of the Minister, direct that all applicants for the issue or renewal of a licence or learner's permit who are of a particular class must undergo such tests, or furnish such evidence as to ability or fitness to drive a motor vehicle, or a motor vehicle of a particular class, as the Registrar may require.*
- (2) **Medical tests required by the Registrar under this section must be conducted in accordance with guidelines published or adopted by the Minister by notice in the Gazette and the results of the tests must be applied by the Registrar, in accordance with any policies published or adopted by the Minister by notice in the Gazette, in assessing the person's competence to drive motor vehicles or motor vehicles of a particular class.**
- (2a) *If—*
- (a) *a person fails to comply with a requirement of the Registrar under this section; or*
 - (b) *the Registrar is satisfied—*
 - (i) *after considering the results of tests or evidence required under this section; or*
 - (ii) *from information furnished to the Registrar by a health professional or from any other evidence received by the Registrar, that a person is not competent to drive a motor vehicle or a motor vehicle of a particular class,*

South Australia

the Registrar may—

- (c) refuse to issue a licence or permit to the person; or*
 - (d) refuse to renew the person's licence or permit; or*
 - (e) suspend the person's licence or permit for such period as the Registrar considers necessary in the circumstances of the case, or until the person satisfies the Registrar, in such a manner as the Registrar directs, that the person is competent to drive a motor vehicle; or*
 - (f) remove a classification assigned to the person's licence, or substitute for a classification assigned to the person's licence another classification.*
- (3) The Registrar may issue to any person who has been required to undergo tests, or to furnish other evidence of ability or fitness to drive a motor vehicle, a temporary driving permit authorising that person, subject to such conditions and restrictions as may be specified in the permit, to drive motor vehicles.*
- (4) A temporary driving permit has, subject to any conditions and restrictions specified in the permit, effect as a licence.*
- (5) A person must not contravene any condition or restriction of a temporary driving permit.*

Maximum penalty: \$1 250.

The SA Gazette 2016 No. 56 (22 September 2016) on page 3815 relevantly states:

South Australia

Motor Vehicles (Guidelines for Medical Testing) Notice 2016

under section 80(2) of the Motor Vehicles Act 1959

1—Short title

This notice may be cited as the Motor Vehicles (Guidelines for Medical Testing) Notice

2016.

South Australia

2—Commencement

This notice will come into operation on Saturday, 1 October 2016.

3—Adoption of guidelines for conduct of medical tests of competence to drive

*For the purpose of section 80(2) of the Motor Vehicles Act 1959 (“the Act”) the **guidelines and policies contained within the publication entitled Assessing Fitness to Drive published by Austroads Incorporated in 2016 (ISBN 978-1-925451-10-8), as amended from time to time**, are adopted, except when the Registrar of Motor Vehicles (“Registrar”) is of the opinion that it is appropriate, considering the nature/or type of driving tasks to be performed or to be performed by the holder of, or applicant for, a licence or learner’s permit, to require the person to meet the Medical Standards for Licensing—Commercial Vehicle Driver Standards (referred to as “Commercial Standards” within this publication) (“Commercial Standards”). In these circumstances the medical tests required by the Registrar under section 80 of the Act must be conducted in accordance with the Commercial Standards and the results of those medical tests must be applied by the Registrar in accordance with the Commercial Standards, regardless of the class of licence or learner’s permit held or being applied for.*

4—Revocation of previous notices

All previous notices pursuant to section 80(2) of the Act publishing or adopting guidelines or policies are hereby revoked.

5—Transitional provisions

For the purpose of section 80(2) of the Act, the guidelines and policies contained within the publication entitled Assessing Fitness to Drive published by Austroads Incorporated in 2012 (ISBN 978-1-921991-01-1) are also adopted for use until 31 December 2016. For the avoidance of any doubt, after this date the only guidelines and policies adopted or published by me for the purpose of section 80(2) of the Act are those referred to in clause 3 of this notice.

Made by the Minister for Road Safety

pursuant to a delegation by the Minister for Transport on 15 December 2011 (published in the Government Gazette on 15 December 2011).

PETER MALINAUSKAS, MLC

19 September 2016

Relevant forms for the purposes of medical examinations, which cite the AFTD, are:

South Australia

- MR712 Certificate of fitness for light vehicles — [here](#)
- MR713 Certificate of fitness for heavy vehicle and commercial drivers — [here.](#)

General information about medical fitness to drive in South Australia referring to AFTD, including links to the current forms, is [here](#).

Victoria

The applicable legislation is:

- Road Safety Act 1986 (Vic) ss 27, 96B
- Vic Gazette 2016 No. S 293 (23 September 2016).

Most relevantly, section 27 of the Road Safety Act 1986 (Vic) provides:

27 Power of Secretary to require tests to be undergone

- (1) *Subject to subsection (3A), the Secretary may require a relevant person to undergo a test or assessment to determine—*
- (a) *if the person is unfit to drive motor vehicles or a category of motor vehicles; or*
 - (b) *if it is dangerous for the person to drive motor vehicles or a category of motor vehicles; or*
 - (c) *whether any driver licence or learner permit held by the person should be subject to conditions and, if conditions are to be imposed, the type of conditions to be imposed.*
- (1A) *Subject to subsection (3A), the Secretary may require a person who is authorised under the regulations to drive a motor vehicle on a highway to undergo a test or assessment to determine—*
- (a) *if the person is unfit to drive motor vehicles or a category of motor vehicles; or*
 - (b) *if it is dangerous for the person to drive motor vehicles or a category of motor vehicles.*
- (2) *For the purposes of subsections (1) and (1A), the person may be required to undergo—*
- (a) ***a test or assessment in relation to the person's fitness, including a test or assessment in relation to the person's health or medication the person is taking and its effect on the person's ability to drive; or***
 - (b) *a test or assessment in relation to the person's competence; or*
 - (c) *any other test or assessment the Secretary considers necessary and appropriate in the circumstances.*
- (3) *If the Secretary requires a person to undergo a test or assessment under this section—*

Victoria

(a) **the test or assessment must be carried out—**

(i) *by a person of the class prescribed in relation to that class of test or assessment; and*

(ii) **in accordance with any relevant guidelines; and**

(b) *the use of the results of the test or assessment by the Secretary to determine a matter referred to in subsections (1) and (1A) must be in accordance with any relevant guidelines.*

(3A) *The Secretary must not use or disclose any information collected or received by the Secretary under section 90J(1) in relation to the accessible parking permit scheme in the exercise of any power under this section.*

(4) *No action may be taken against a person who carries out a test or assessment under this section and who expresses to the Secretary an opinion formed by that person as a result of the test or assessment.*

(5) *No action may be taken against a person who, in good faith, reports to the Secretary any information which discloses or suggests that a person is unfit to drive or that it may be dangerous to allow that person to hold or be granted a driver licence, a driver licence variation, a learner permit or a learner permit variation.*

(6) *In this section—*

“accessible parking permit scheme” has the same meaning as in section 90I;

“relevant guidelines”, in relation to a test or assessment undergone by a person, means guidelines issued by the Minister under section 96B that are relevant to the test or assessment;

“relevant person” means a person who is—

(a) *the holder of a driver licence or a learner permit; or*

(b) *an applicant for a driver licence or a learner permit; or*

(c) *an applicant for the variation of a driver licence; or*

(d) *an applicant for the variation of a learner permit.*

Victoria

Section 96B of the Road Safety Act 1986 (Vic) provides:

96B Minister may issue guidelines about testing of persons under section 27

- (1) *The Minister may, from time to time, issue guidelines about testing or assessing a person under section 27 to determine whether—*
 - (a) *the person is unfit to drive motor vehicles or a category of motor vehicles; or*
 - (b) *it is dangerous for the person to drive motor vehicles or a category of motor vehicles; or*
 - (c) *the person's driver licence or learner permit should be subject to conditions and, if conditions are to be imposed, the type of conditions to be imposed.*
- (2) *Without limiting subsection (1), the guidelines may provide for—*
 - (a) *the way in which tests or assessments carried out under section 27 are to be carried out; and*
 - (b) *the use of the results of the tests or assessments by the Secretary to determine a matter referred to in subsection (1).*
- (3) ***The Minister must ensure the guidelines are published in the Government Gazette.***
- (4) ***The guidelines may incorporate any matter contained in an external document whether—***
 - (a) ***wholly or partially as amended by the guidelines; or***
 - (b) ***as issued at the time the guidelines are made or at any time before then; or***
 - (c) ***as issued from time to time.***
- (5) ***If guidelines have incorporated any matter contained in an external document as issued from time to time and the external document is amended, for the purpose of applying the guidelines the external document is taken not to have been amended until the Minister publishes notice of the amendment in the Government Gazette.***
- (6) *In this section—*

Victoria

“external document” means a document, code, guidelines, rule, specification or method formulated, issued, prescribed or published by any authority, person or body;

“Incorporate” includes apply or adopt;

“Issued”, in relation to an external document, includes formulated, prescribed or published.

Vic Gazette 2016 No. S 293 (23 September 2016) provides:

Road Safety Act 1986

GUIDELINES FOR ASSESSING FITNESS TO DRIVE

1. Purpose

The purpose of this notice is to issue guidelines about testing or assessing a person under section 27 of the Road Safety Act 1986 (‘the Act’) to determine whether –

- (a) the person is unfit to drive motor vehicles or a category of motor vehicles; or*
- (b) it is dangerous for the person to drive motor vehicles or a category of motor vehicles; or*
- (c) the person’s driver licence or learner permit should be subject to conditions and, if conditions are to be imposed, the type of conditions to be imposed.*

2. Authorising provision

These guidelines are issued under section 96B of the Act.

3. Commencement

This notice comes into operation for the purposes of section 27 of the Act on 1 October 2016.

4. Revocation

Victoria

The guidelines published in the Government Gazette No. S 26 on 12 February 2015 entitled 'Guidelines for Assessing Fitness to Drive under section 27' are revoked.

5. Definition

*In this notice, "**Assessing Fitness to Drive Guidelines**" means the document entitled 'Assessing fitness to drive for commercial and private vehicle drivers' issued by Austroads and the National Transport Commission on **1 October 2016**.*

6. Incorporation of the Assessing Fitness to Drive Guidelines

I, Luke Donnellan, Minister for Roads and Road Safety and Minister responsible for administering the Road Safety Act 1986, under section 96B of that Act, state that tests under section 27 of that Act are to be conducted in accordance with the Assessing Fitness to Drive Guidelines as amended from time to time.

Note: *A copy of the Assessing Fitness to Drive Guidelines is available at <http://www.austroads.com.au/drivers-vehicles/assessing-fitness-to-drive>*

Dated 20 September 2016

LUKE DONNELLAN MP

Minister for Roads and Road Safety

General information about medical fitness to drive in Victoria referring to AFTD is available [here](#) and [here](#).

Australian Capital Territory

The applicable legislation is:

- Road Transport (Driver Licensing) Act 1999 (ACT)
- Road Transport (Driver Licensing) Regulation 2000 (ACT) regs 69, 70, 78A.

Most relevantly, reg 78A of the Road Transport (Driver Licensing) Regulation 2000 (ACT) states:

78A Meaning of required medical standards

- (1) *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, that apply to the person.*
- (2) *The Legislation Act, section 47(6) does not apply to the required medical standards.*

Note The commercial standards mentioned in the required medical standards apply in relation to the accreditation of a driving instructor and of a heavy vehicle driver assessor (see s 104(2)).

Regulation 69 of the Road Transport (Driver Licensing) Regulation 2000 (ACT) provides for the application procedure for the issue and certain variations of driver licences. It permits the road transport authority to require a person to undergo a medical examination in accordance with the “required medical standards”. Regulation 70 permits the road transport authority to refuse such an application if satisfied on reasonable grounds that the person does not comply with the “required medical standards”.

General information about medical fitness to drive in the Australian Capital Territory, which refers to AFTD, is available [here](#).

Western Australia

The applicable legislation is:

- Road Traffic (Authorisation to Drive) Act 2008 (WA) s 4
- Road Traffic (Authorisation to Drive) Regulations 2014 (WA) regs 16, 18, 23, 25(b), 64.

Regulation 23 of the Road Traffic (Authorisation to Drive) Regulations 2014 (WA) states:

23 Applying for driver's licence

- (1) *A person who wishes to obtain a driver's licence may give to the CEO a written application for a driver's licence.*
- (2) *The application must be made in a form approved by the CEO and give details of the authorisation sought.*
- (3) *The CEO may require the applicant to provide evidence sufficient to satisfy the CEO of the applicant's identity and residential address.*

Regulation 25 of the Road Traffic (Authorisation to Drive) Regulations 2014 (WA) states:

25 Some grounds for refusing to grant driver's licence

The CEO may refuse to grant a driver's licence to a person if the CEO has reason to believe that the person —

- (a) *is not of good character; or*
- (b) *suffers from a mental or physical condition (which may include a dependence on drugs or alcohol) that is likely to, or treatment for which is likely to, impair the person's ability to control a motor vehicle; or*
- (c) *is disqualified under a foreign law, as defined in section 15(1), from being authorised to drive; or*
- (d) *should not hold a driver's licence because of the number or nature of the person's convictions for —*
 - (i) *offences under any road law; or*
 - (ii) *offences under laws referred to in paragraph (c) that are similar in substance to offences under any road law.*

Regulation 64 of the Road Traffic (Authorisation to Drive) Regulations 2014 (WA) states:

Western Australia

64 Duty to reveal things that might impair ability to drive

(1) *In this regulation —*

driving impairment of the person means any permanent or long-term mental or physical condition (which may include a dependence on drugs or alcohol) that is likely to, or treatment for which is likely to, impair the person's ability to control a motor vehicle either —

- (a) in all circumstances; or*
- (b) except under certain conditions or subject to certain limitations; or*
- (c) unless measures are taken to overcome the impairment.*

(2) *A person applying for the grant of a learner's permit or a driver's licence, other than by way of renewal must, when applying, inform the CEO of any driving impairment of the person.*

Penalty for this subregulation: a fine of 10 PU.

Modified penalty for this subregulation: 1 PU.

(3) *If a person who holds a learner's permit or a driver's licence becomes affected by any driving impairment of the person of which the person has not already informed the CEO the person must, as soon as practicable, inform the CEO in writing of the impairment.*

Penalty for this subregulation: a fine of 10 PU.

Modified penalty for this subregulation: 1 PU.

(4) *If a person who has informed the CEO of a driving impairment of the person becomes affected by an increase in the extent of the impairment to a degree that is substantially different from that of which the CEO was most recently informed the person must, as soon as practicable, inform the CEO in writing of the development.*

Penalty for this subregulation: a fine of 10 PU.

Modified penalty for this subregulation: 1 PU.

Western Australia

(5) *If a person who has informed the CEO of a driving impairment of the person later informs the CEO that the person has ceased to be affected by the impairment but subsequently becomes again affected by it the person must, as soon as practicable, inform the CEO in writing of the development.*

Penalty for this subregulation: a fine of 10 PU.

Modified penalty for this subregulation: 1 PU.

Relevant forms used for the purposes of medical examinations, **which cite the AFTD**, are:

- Medical Assessment Instructions M106A — [here](#)
- Medical Assessment Certificate – Fitness to Drive M107A — [here](#).

Northern Territory

The applicable legislation is:

- Motor Vehicles Act 1949 (NT) s 11.

Most relevantly s 11 of the Motor Vehicles Act 1949 (NT) states:

11 Physical or mental incapacity or unfitness to hold licence

(1) *In this section a reference to a person who is licensed to drive a motor vehicle includes a reference to a person who is licensed to drive a motor vehicle under a law of another country, a State or another Territory of the Commonwealth.*

(1A) *A “registered person” is:*

- (a) *a medical practitioner; or*
- (b) *person registered under the Health Practitioner Regulation National Law (other than as a student) to practise in the occupational therapy, optometry or physiotherapy profession.*

(2) *If the Registrar considers an applicant for, or the holder of, a licence to drive a motor vehicle (including a learner licence) may be:*

- (a) *physically or mentally incapable of driving a motor vehicle with safety to the public; or*
- (b) *otherwise physically or mentally unfit to be licensed;*

the Registrar may require the person to be medically examined by a registered person approved by the Registrar.

(3) *If a person who is licensed to drive a motor vehicle is suffering from a physical or mental incapacity that may affect the person's ability to drive a motor vehicle with safety to the public, the person, or the person's personal representative, must notify the Registrar of the nature of the incapacity or unfitness.*

(4) *If a registered person reasonably believes that a person the registered person has examined:*

- (a) *is licensed to drive a motor vehicle; and*
- (b) *is physically or mentally incapable of driving a motor vehicle with safety to the public or is physically or mentally unfit to be licensed,*

the registered person must notify the Registrar in writing of the person's name and address and the nature of the incapacity or unfitness.

Northern Territory

- (5) *A registered person who provides information or advice to the Registrar in good faith under this section is not civilly or criminally liable, or in breach of any professional code of conduct, for providing the information or advice.*

The relevant form for the purposes of medical examinations, **which cites the AFTD**, is the MVR Medical Assessment of Fitness to Drive (L2) form — [here](#).

General information about medical fitness to drive in the Northern Territory, which refers to AFTD and the form above, is available [here](#).

Tasmania

The applicable legislation is:

- Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2021 (Tas) reg 176.

Most relevantly reg 176 of the Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2021 (Tas) states:

176 Medical examinations

- (1) ***A medical examination to be conducted under the Act or these regulations by a medical practitioner or registered health care practitioner must be conducted in accordance with the standards set out in the publication entitled Assessing Fitness to Drive for Commercial and Private Vehicle Drivers 2016 published by Austroads Inc., as amended or substituted from time to time.***
- (2) *Evidence of the results of a medical examination conducted in another jurisdiction –*
 - (a) *may be given, for the purposes of proceedings under the Act, by certificate in an approved form; and*
 - (b) *if given in that form to the Registrar, must be taken into consideration by the Registrar.*

The relevant form for the purposes of medical examinations, which cites the AFTD, is the Medical Fitness to Drive Assessment Form MR68 — [here](#).

General information about medical fitness to drive in Tasmania, which refers to AFTD and the form above, is available [here](#).