

Accredited Bus Operator Guideline

Annual inspection by an Independent
Licensed Bus Tester

April 2008

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Definitions

This Guideline includes a number of terms which have a defined meaning, as follows:

bus operator means an operator of a road transport passenger service, private bus service, courtesy bus service and hire & drive service that is accredited under the PTC Act.

LBT means a licensed bus tester who holds a tester's licence issued under Part 6 of the RSV Regulations authorising the person to examine and test buses

person includes a body corporate

PTC Act means the *Public Transport Competition Act 1995*

PTC Regs means the *Public Transport Competition Regulations 1999*

PTSV means Public Transport Safety Victoria

RSV Regulations means *Road Safety (Vehicles) Regulations 1999*

Safety Director means the Director, Public Transport Safety

1. Introduction

1.1 This Guideline is issued by PTSV to assist bus operators. PTSV provides support to the Safety Director in the administration of the Safety Director's duties under the PTC Act. In this Guideline, the Safety Director and PTSV are collectively referred to as PTSV.

1.2 Bus operators are required under the PTC Act to ensure that any public passenger vehicle operated by the bus operator has, within the previous 12 months, undertaken and passed an inspection by an LBT that is an **independent person**¹.

1.3 The purpose of this Guideline is to assist bus operators to determine whether an LBT is an "independent person" for the purposes of the PTC Act (i.e. an independent LBT).

1.4 This Guideline has been developed following consultation with industry and VicRoads. Practical difficulties in regional areas have been taken into account in the development of this Guideline.

2. What is an Independent Licensed Bus Tester?

2.1 An independent LBT is interpreted by PTSV to be a person who holds a tester's licence issued under Part 6 of the RSV Regulations, and who is not, or could not reasonably be perceived to be, under the control or direction of another person in conducting bus tests.

2.2 In the following circumstances PTSV considers that an LBT **cannot** be considered to be an independent LBT:

2.2.1 Where the LBT is the bus operator.

2.2.2 Where the LBT and the bus operator have a majority of common board members.

2.2.3 Where the LBT's employer is the bus operator.

2.2.4 Where the bus operator's employer is the LBT.

2.2.5 Where the LBT's employer is the same person as the bus operator's employer.

2.2.6 Where the bus operator is in a position to exercise control over the operations of the LBT, or vice versa.

2.3 In cases where a bus operator, their employer, or a related body corporate of the bus operator or their employer:

- has a relationship with the LBT beyond engaging the LBT to perform the testing work^{*}; and
- that relationship is not described at 3.2 above;

PTSV will generally accept that the LBT is independent if the bus operator provides to PTSV a completed declaration in the form set out in the attached "Bus Operator Declaration".

2.4 Completing the declaration, however, does not of itself create an independent relationship between a bus operator and an LBT. If there is clearly not an independent relationship between the bus operator and the LBT, the declaration is ineffective.

2.5 Comments about completing the declaration are attached to this Guideline.

* Without limiting 2.3, examples include:

- where the LBT does work for the bus operator other than conducting the testing work
- where an employee of the LBT has a close relationship with a person who is or works for the bus operator
- where the LBT is in a position to obtain a profit from the bus operator (through a shareholding, for example), and vice versa.

2.6 Completion of the Bus Operator Declaration is not compulsory.

Further copies are available from www.ptsv.vic.gov.au or by calling (03) 9655 8949.

¹ See ss 10(1)(b) and 38 of the PTC Act and r 9(q) of the Public Transport Competition Regulations 1999

Declaration*

Name of accredited bus operator:

ABN:

Contact number:

Address:

Name of LBT:

ABN:

Contact number:

Address:

I acknowledge that an LBT must conduct the inspection of the buses operated by me/ my organisation independently of any relationship or any interest with me/ my organisation, its/my employees, holding company, or associates.

I understand that this declaration may be used in reviewing the Application for Accreditation/Renewal of Accreditation or assessing the Application for Renewal of Accreditation lodged by me/my organisation. I acknowledge that it is an offence under section 18(1) of the *Public Transport Competition Act 1999* to give information that is false or misleading in relation to an Application for Accreditation or Application for Renewal of Accreditation.

I have read and understand the comments on making this declaration, as well as the PTSV "Accredited Bus Operator Guideline: Annual Inspection by an Independent Licensed Bus Tester". I have made all enquiries that are reasonable in the circumstances to determine whether the LBT that I have asked to inspect the buses operated by me/my organisation is an independent LBT in accordance with the PTSV guideline.

I declare that those buses operated by me/ my organisation have been inspected by an **independent LBT** for the purposes of satisfying the requirements of the *Public Transport Competition Act 1999*.

*** The definitions used in the PTSV "Accredited Bus Operator Guideline: Annual inspection by an Independent Licensed Bus Tester" apply in this declaration**

Declared at:

Date:

by:

[signature of Licensed Bus Tester]

before:

[signature of bus operator]

Comments about the declaration

The following comments do not form part of the declaration, but are provided to assist in the interpretation of the declaration. The comments outline what PTSV would expect to be the main features of an inspection conducted by an independent LBT. Accredited bus operators may wish to provide these comments to an LBT in order to help determine whether the LBT is an independent LBT.

1. Conduct the inspection of the accredited bus operator's vehicles independently of any relationship or any interest with the accredited bus operator, its employees, holding company, or associates.

- An independent LBT is interpreted by PTSV to be a LBT who is not, or could not reasonably be perceived to be, under the control or direction of a third party in conducting bus tests. In this particular situation "control or direction" means being in a position to dictate to, or influence, the LBT in any decision arising from the results of an annual bus inspection. This might arise because of contractual, business or corporate arrangements.

- An independent LBT conducts the inspection independently of any business relationship with an accredited bus operator.
- An independent LBT will conduct the inspection as a separate activity independently from, and regardless of, any maintenance or previous inspections they have conducted on the bus.

2. Conduct the inspection under the principles of due care, diligence, and skill and in accordance with the conditions, limitations and restrictions that VicRoads requires.

- Comply with the requirements of the RSV Regulations.
- Make sure all employees who conduct an inspection are qualified motor mechanics and have also completed the LBT course.
- Ensure that any equipment related to the vehicle inspection is used or provided in accordance with any direction given by VicRoads.
- Ensure full compliance with any conditions, limitations and restrictions imposed by VicRoads regarding the provision of bus inspection services.

3. Inspect the bus in accordance with relevant standards regardless of who owns or operates the bus.

- The LBT must ensure that the bus is examined in accordance with appropriate industry and legal requirements, and apply normal industry standards and test procedures.
- Buses must be constructed, repaired and modified in accordance with all other applicable standards.

4. Keep records in a form that is required by VicRoads or PTSV and can be audited

- Keep any records required to be kept in a legible and orderly fashion and furnish any returns in accordance with the lawful requirements of VicRoads and PTSV.
- Inform PTSV via facsimile on (03) 9655 8929 as soon as practicable after a Critical Defect Notice is issued.
- Supply monthly reporting requirements to PTSV in accordance with VicRoads instructions for LBTs.