

In relation to applicants for accreditation as either a licence holder, an operator or a Network Service Provider, the Taxi Services Commission **must** refuse an application if it divulges information that is covered by the checklist below (see section 132D of the *Transport (Compliance and Miscellaneous) Act 1983* (Vic.)). Please read this checklist before you apply for accreditation to ensure you are eligible to be accredited.

Any of the following circumstances will result in mandatory refusal in relation to an applicant for accreditation as a **licence holder**:

The Taxi Services Commission (TSC) **must refuse an application** if it believes on reasonable grounds that the applicant, or a relevant person in relation to the applicant:

- is disqualified under section 132H (discretionary disqualification by the TSC after refusal of an application) or 135A (disqualification by the TSC as a disciplinary measure)
- does not personally or through relevant persons, have a sound knowledge of the activities in respect of which accreditation is sought
- does not personally or through relevant persons, have the competency and capacity (other than financial) to meet the Business and Service Standards for the activities in respect of which accreditation is sought
- does not have the financial capacity to meet the Business and Service Standards for the activities in respect of which accreditation is sought.

In assessing an applicant's financial capacity, the TSC must refuse an application if the applicant is subject to any of the following factors:

- the applicant is a company and
 - a receiver or receiver and manager, within the meaning of the *Corporations Act 2001* (Cwlth), has been appointed in relation to the applicant
 - the applicant has been placed in administration under the *Corporations Act 2001* (Cwlth) or under the law of any place outside Australia
 - a court has made an order under the *Corporations Act 2001* (Cwlth) for the winding up of the applicant.
- the applicant or a relevant person in relation to the applicant, is an undischarged bankrupt under the law of Australia or of any place outside Australia

- the applicant, or a relevant person in relation to the applicant, is disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001* (Cwlth) – for example, for failing to notify ASIC where requirements or prohibitions in its constitution have not been complied with – or disqualified from managing a corporation under the law of any place outside Australia
- the applicant, or a relevant person in relation to the applicant, has been found guilty of an offence against section 209(3) (dishonestly giving a financial benefit to a related party) or Part 5.8 of the *Corporations Act 2001* (Cwlth) (for example trading while insolvent) or of an offence against a law of a place outside Australia that corresponds to that section or part.

Any of the following circumstances will result in mandatory refusal in relation to an applicant for accreditation as an **operator** or a **Network Service Provider**.

The TSC **must refuse an application** if it believes on reasonable grounds that the applicant, or a Relevant Person in relation to the applicant:

1. Has been found guilty of a tier 1 offence (see section 130A of the *Transport (Compliance and Miscellaneous) Act 1983* (Vic.)), which includes:
 - (a) an offence against the *Crimes Act 1958* (Vic.) that involves sexual penetration (within the meaning given by section 35(1) of that Act) – for example Rape
 - (b) an offence against a provision of the *Crimes Act 1958* (Vic.) amended or repealed before the commencement of Part 2 of the *Transport (Taxi-cab Accreditation and Other Amendments) Act 2006* (Vic.) of which the necessary elements at the time it was committed consisted of elements that constitute an offence referred to in paragraph (a) – for example Carnal Knowledge
 - (c) an offence specified in clause 1 of Schedule 1 to the *Sentencing Act 1991* (Vic.), if the victim of the offence was a child or a person with a cognitive impairment, that is not an offence referred to in paragraph (a) or (b) – for example Indecent Assault
 - (d) a child pornography offence within the meaning of the *Working with Children Act 2005* (Vic.) – for example Production of Child Pornography
 - (e) an offence within the meaning of Division 101 of the Criminal Code of the Commonwealth – for example Committing Terrorist Acts
 - (f) an offence specified in clause 3 of Schedule 1 to the *Sentencing Act 1991* (Vic.) – for example, Causing Serious Injury Intentionally (including attempted, or conspiracy to commit, or incitement to commit the offence)

Mandatory refusal checklist

- (g) an indictable offence involving fraud or dishonesty – for example Obtaining Property by Deception
- (h) an offence specified in clause 4 of Schedule 1 to the *Sentencing Act 1991* (Vic.) – Drug Offences for example trafficking in a commercial quantity of a drug of dependence
- (i) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition.

In this context, a reference to a person who has been found guilty of an offence is a reference to a person –

- (a) against whom a court has made a formal finding that he or she is guilty of the offence
- (b) from whom a court has accepted a plea that he or she is guilty of the offence
- (c) from whom a court has accepted an admission under section 100 of the *Sentencing Act* that he or she has committed the offence, or from whom a similar admission has been accepted under equivalent provisions of the laws of a jurisdiction other than Victoria
- (d) against whom a finding has been made under –
 - (i) section 17(1)(b) of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic.) that he or she was not guilty of the offence because of mental impairment
 - (ii) under section 17(1)(c) of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic.) that he or she committed the offence –

or against whom a similar finding has been made under equivalent provisions of the laws of a jurisdiction other than Victoria (including jurisdictions outside Australia) – being an admission, plea or finding that has not been subsequently quashed or set aside by a court.

A reference to a person who has been charged with an offence is a reference to a person –

- (a) against whom a presentment has been made or an indictment has been laid for the offence
- (b) against whom a charge has been filed for the offence, whether or not –
 - (i) a summons to answer to the charge
 - (ii) a warrant to arrest the person –

has been issued or served.

A reference to a charge that has not been finally disposed of is a reference to a charge that has not been finally dealt with by –

- (a) being withdrawn or by the entering of a nolle prosequi
- (b) the charge having been dismissed by a court
- (c) the person against whom the charge has been laid having been discharged by a court following a committal hearing
- (d) the person against whom the charge has been laid having been acquitted or found guilty of the offence that was the subject of the charge by a court
- (e) any other prescribed means.

2. Is a person who is subject to:

- reporting obligations referred to in Part 3 of the *Sex Offenders Registration Act 2004* (Vic.)
- subject to an extended supervision order under the *Serious Sex Offenders Monitoring Act 2005* (Vic.) (see section 132D of the *Transport Act (Compliance and Miscellaneous) Act 1983* (Vic.)).

3. Or where the applicant:

- is disqualified under section 132H (discretionary disqualification by the TSC after refusal of an application) or 135A (disqualification by the TSC as a disciplinary measure)
- does not personally or through relevant persons, have a sound knowledge of the activities in respect of which accreditation is sought
- does not personally or through relevant persons, have the competency and capacity (other than financial) to meet the Business and Service Standards for the activities in respect of which accreditation is sought
- does not have the financial capacity to meet the Business and Service Standards for the activities in respect of which accreditation is sought.

Please see page 1 for the criteria used for assessing an applicant's financial capacity.