

Fit and proper person guidelines

for inspecting organisations and
vehicle inspectors



NZ TRANSPORT AGENCY
WAKA KOTAHI

New Zealand Government



Fit and proper person guidelines for inspecting organisations and vehicle inspectors

NZ Transport Agency
August 2011

ISBN 978-0-478-38027-9 (online)
Copyright: 2011 NZ Transport Agency

National Office
50 Victoria Street
Private Bag 6995
Wellington 6141
New Zealand

T 64 4 894 5400
F 64 4 894 6100

Terms

Terms used in this guide.

Term	Meaning
Duty of care	A legal obligation imposed on people and organisations to ensure that their actions or inaction do not cause harm to others.
Fit and proper (person)	The suitability of a person to be an IO or VI. A fit and proper person assessment is an assessment of this suitability.
IO or VI	Inspecting organisation or vehicle inspector.
The Agency	The NZ Transport Agency.
The Rule	Land Transport Rule: Vehicle Standards Compliance 2002
The Act	Land Transport Act 1998
Transport-related offences	In the context of a fit and proper person assessment, transport-related offences include but are not limited to infringement offences and summary traffic related offences incurred while driving any motor vehicle in a private and/or commercial environment.
Vehicle inspector/Inspecting organisation	A person or organisation appointed by the Agency who is responsible for vehicle inspection and certification outcomes.
VIN	Vehicle identification number.
VIRM	<i>Vehicle inspection requirements manual.</i>

Background

A person seeking or holding appointment as an inspecting organisation or vehicle inspector (IO or VI) must be and remain a fit and proper person¹.

This booklet describes the criteria the NZ Transport Agency (the Agency) will consider when assessing applicants to become an IO or VI. These criteria will also be used when considering the fitness of an appointed IO or VI to continue to hold that appointment.

¹Clause 2.5(2) of the Rule

The legislation

Clause 2.5(2)(a) of the Land Transport Rule: Vehicle Standards Compliance 2002 includes the requirement for a person to be fit and proper.

Primary responsibilities of participants in the land transport system are included in section 4 of the Land Transport Act 1998. Participants include holders of land transport documents. These documents include, but are not limited to: licences, permits, approvals, authorisations, exemptions, certificates, and similar documents issued under the Act and a number of related Parliamentary Acts. The requirements of this section apply to applicants wanting to become IOs or VIs and those who are already approved.

Why have the fit and proper person requirements?

IOs and VIs have a key role in ensuring that all vehicles that require certification while operating on New Zealand roads are roadworthy and safe.

The Agency has a duty of care to New Zealand citizens and visitors. This includes ensuring that appointed IOs and VIs who carry out vehicle safety inspections understand the key role they have in maintaining vehicle safety and the flow-on effect of reducing harm.

To maintain this standard the Agency requires each IO or VI to:

1. be ethical and behave in an appropriate way, and
2. be mindful of their influence on road safety, and
3. not bring the Agency or the vehicle standards it administers into disrepute, and
4. be able to read, understand and query technical notices related to the role they are appointed to, and
5. be legally permitted to work in New Zealand.

Having met this standard, each IO or VI must maintain this during the period of their appointment. Failure to do this could result in suspension or revocation of the IO's or VI's appointment.

Relationship to other legislation

The term 'fit and proper person' is frequently used in legislation. It means that people who provide services to the public of New Zealand are required to be fit and proper. These services may be as an agent of the Agency or through a service approved or licensed by the Agency.

The frequent use of the term places an obligation on the Agency to ensure consistency of its application taking into consideration the following:

1. Each application must be considered on its individual merits.
2. Each application must be considered in the context of the intent of the legislation that relates to that particular application.

The standard

Ethics and behaviour

Ethics means that a person acts in accordance with accepted principles of right and wrong. Proven unethical actions such as:

- fraud
- dishonesty
- offending by the person in respect of transport-related offences, including but not limited to drink driving and infringement offences
- complaints made in relation to any transport service provided or operated by the person or in which the person is involved, particularly complaints made by users of the service
- a history of persistent failure to pay fines incurred by the person in respect of
- transport-related offences,

could indicate an applicant's behaviour (past or present) is not acceptable and could be a reason to decline their application or to revoke their approval.

Generally any such behaviour that occurred within the five years prior to the application will be investigated further to establish the seriousness and/or frequency of the behaviour.

A term of imprisonment for 12 months or more within the previous five years will be treated as serious offending and the application assessed accordingly.

Behavioural and other matters

When assessing an applicant's suitability, the Agency may take into account any other matter it considers to be appropriate in the public interest. These may include but are not limited to:

- a history of serious behavioural problems
- offending in respect of offences of violence, sexual offences, drugs offences, firearms offences or offences involving organised criminal activities
- involvement in managing a business that has been declared bankrupt or placed into liquidation
- instances where the applicant has been prohibited from being the director of a company.

Road safety

Improving road safety is a priority for the Agency. IOs and VIs play a critical role in improving road safety by ensuring that vehicles are safe and comply with required standards when they are inspected and/or certified for use in New Zealand and during routine vehicle safety inspections.

An IO or VI who demonstrates a reluctance to accept the responsibilities associated with their role is effectively opting out of the safety principles and practices expected of them. Consideration must be given to the suitability of an applicant or appointee if at any time during the five years prior to the application being made or at any time during their appointment, there is evidence to show that the applicant or appointee has:

- tampered with vehicle identification including tampering with VIN or chassis numbers for the purpose of altering the identification of the vehicle, or
- provided the Registrar of Motor Vehicles with false details, including but not limited to, evading entry certification by registering a car or truck as a mobile machine, tractor or similar, or
- made illegal use of trade plates or was complicit in their use, or
- been convicted of theft of a motor vehicle, or
- operated an unlicensed motor vehicle or a motor vehicle that did not display a current vehicle safety inspection certificate unless the operation was in the course of carrying out their role as an IO or VI, or
- had a previous approval as an IO or VI revoked.

Aspects such as the period of time since the last event occurred, patterns and/or history of any recidivist offending and the role the applicant or appointee played in the offending will also be taken into consideration.

Driver licensing offences or convictions

A person with a history of vehicle related convictions or infringements, including accumulated demerit points, driving with excess blood alcohol levels, dangerous or careless driving, is displaying a level of road user behaviour that seriously brings into question their suitability to be appointed or continue to hold appointment as IO or VI.

A review of the applicant's or appointee's suitability will be undertaken if over the past five years their driving history shows:

- there is pattern of recidivist offending, or
- the applicant has been disqualified from holding a driver licence, or
- their driver licence was suspended due to the accumulation of demerit points.

If a current vehicle inspector is identified as a risk to road safety then their ongoing suitability to continue as a vehicle inspector will be seriously considered.

Not bring the Agency into disrepute

The Agency expects that the actions of IOs or VIs will not bring the Agency or the vehicle standards into disrepute.

The expected standard of behaviour includes, but is not limited to:

- treating everyone fairly and with respect
- being professional and responsive
- carrying out the functions of a vehicle inspector or inspecting organisation unaffected by personal beliefs
- acting lawfully and objectively
- treating information with care and using it only for proper purposes
- being trustworthy.

Communication skills

A vehicle inspector must be able to communicate at a level that is appropriate to their role. This means they must be able to read and understand technical notices, the VIRM and similar publications. They must be able to verbally communicate with others at the same level.

The ability to communicate appropriately will be evident by the way in which the application form is completed and/or by verbal communication.

Be legally permitted to work in New Zealand

It is illegal to work in New Zealand unless a person has a legal right to do so. This includes holding;

- New Zealand citizenship, or
- a New Zealand residents permit, or
- a valid permit permitting the applicant to work in New Zealand.

A vehicle inspector must be able to demonstrate that they are legally entitled to work in New Zealand.

The Agency cannot be a party to an event that directly or indirectly allows a person to work in New Zealand when they are not legally entitled to do so.

If it is unclear that a vehicle inspector is legally entitled to work in New Zealand, the person should be asked to declare this by way of a Statutory Declaration. If there is any doubt about their work status this can be confirmed through the Immigration Service.

Our contact details

For general enquiries or contact information about the NZ Transport Agency please check our website www.nzta.govt.nz or email us at info@nzta.govt.nz

NZ Transport Agency
National Office
50 Victoria Street
Private Bag 6995
Wellington 6141
New Zealand
Phone: +64 4 894 5400
Fax: +64 4 894 6100

NZ Transport Agency
Palmerston North Office
Private Bag 11777
Palmerston North 4442
New Zealand
Phone: 0800 108 809 (motor vehicle registration)
Phone: 0800 822 422 (driver licensing)
Fax: +64 6 653 6406



NZ TRANSPORT AGENCY
WAKA KOTAHI