



National Transport Commission (Road Transport Legislation — Australian Road Rules) Amendment Regulations 2008 (No. 3)¹

Select Legislative Instrument 2008 No. 157

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *National Transport Commission Act 2003*.

Dated 17 July 2008

P. M. JEFFERY
Governor-General

By His Excellency's Command

ANTHONY ALBANESE
Minister for Infrastructure, Transport, Regional Development
and Local Government

1 Name of Regulations

These Regulations are the *National Transport Commission (Road Transport Legislation — Australian Road Rules) Amendment Regulations 2008 (No. 3)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Model legislation — Australian Road Rules

For section 7 of the *National Transport Commission Act 2003* (the NTC Act), Schedule 1 sets out model legislation, in the form of amending Regulations, about the rules to be followed by all road users.

Note 1 The model legislation set out in Schedule 1 does not have the force of law (see paragraph 7 (2) (a) of the NTC Act).

Note 2 These Regulations must be made in accordance with the Agreement (see subparagraph 3 (b) (ii) of the NTC Act).

Note 3 These Regulations are not subject to disallowance — see the *Legislative Instruments Act 2003*, subsection 44 (2) (table, item 44) and the *Legislative Instruments Regulations 2004*, regulation 8 and Schedule 2 item 7.

Note 4 These Regulations are not subject to sunseting — see the *Legislative Instruments Act 2003*, subsection 54 (2) (table, item 51) and the *Legislative Instruments Regulations 2004*, regulation 9 and Schedule 3 item 4.

Note 5 The amendments set out in Schedule 1 were approved by the Australian Transport Council on 29 September 2006.

4 **Amendment of *National Transport Commission (Road Transport Legislation — Australian Road Rules) Regulations 2006***

Schedule 1 amends the text set out in Schedule 1 to the *National Transport Commission (Road Transport Legislation — Australian Road Rules) Regulations 2006* as if a reference in Schedule 1 to a provision of the Australian Road Rules were a reference to the corresponding provision in that text.

Schedule 1 Amendments

(regulation 3)

[1] Rule 265

substitute

265 Wearing of seatbelts by passengers 16 years old or older

- (1) The driver of a motor vehicle (except a bus or taxi) that is moving, or is stationary but not parked, must ensure that each passenger in or on the vehicle who is 16 years old or older complies with subrule (3), unless the passenger is exempt from wearing a seatbelt under rule 267.

Offence provision.

Note **Bus**, **motor bike**, **motor vehicle**, **park** and **taxi** are defined in the dictionary.

- (2) A passenger in or on a motor vehicle that is moving, or is stationary but not parked, must comply with subrule (3) if the passenger:
- (a) is 16 years old or older; and
 - (b) is not exempt from wearing a seatbelt under rule 267.

Offence provision.

- (3) The passenger:
 - (a) must occupy a seating position:
 - (i) that is fitted with a seatbelt; and
 - (ii) that is not occupied by a person who is not exempt, under rule 267, from wearing a seatbelt; and
 - (b) must not occupy the same seating position as another passenger (whether or not the other passenger is exempt from wearing a seatbelt under rule 267); and
 - (c) must wear the seatbelt properly adjusted and fastened.
- (4) If a vehicle does not have seatbelts fitted to all its passenger seating positions, a passenger who is exempt from wearing a seatbelt under rule 267 must not occupy a seating position that is fitted with a seatbelt if the result would be that a passenger who is not exempt from wearing a seatbelt under that rule would be required to occupy a seating position that is not fitted with a seatbelt.

Offence provision.

[2] Subrules 266 (3) and (4), including the note

substitute

- (3) If the passenger is under 1 year old, and the motor vehicle has 2 or more rows of seats, he or she must not be in the front row of seats.
- (4) If the passenger is at least 1 year old but under 16 years old, and is not exempt from wearing a seatbelt under rule 267:
 - (a) he or she must be restrained in a suitable approved child restraint that is properly adjusted and fastened; or
 - (b) he or she:
 - (i) must occupy a seating position that is fitted with a suitable seatbelt; and
 - (ii) must not occupy the same seating position as another passenger (whether or not the other passenger is exempt from wearing a seatbelt under rule 267); and

(iii) must wear the seatbelt properly adjusted and fastened.

(4A) If a vehicle does not have seatbelts or child restraints fitted to all its passenger seating positions, a passenger who is exempt from wearing a seatbelt under rule 267 must not occupy a seating position that is fitted with a seatbelt or child restraint if the result would be that a passenger who is not exempt from wearing a seatbelt under that rule would be required to occupy a seating position that is not fitted with a seatbelt or child restraint.

[3] Paragraph 266 (6) (b)

omit

[4] After subrule 267 (1), including the note

insert

(1A) A person in or on a motor vehicle is exempt from wearing a seatbelt if the vehicle:

- (a) has no seatbelts fitted; and
- (b) is not required to have any seatbelts fitted.

(1B) To avoid doubt, subrule (1A) does not authorise a passenger to whom subrule 266 (3) applies to occupy a seat in the front row of seats in a vehicle that has 2 or more rows of seats.

[5] Paragraph 267 (3) (a)

omit

certificate,

insert

certificate (other than a medical certificate),

[6] After subrule 267 (3)

insert

- (3A) A person is exempt from wearing a seatbelt if:
- (a) he or she (or, if he or she is a passenger in a vehicle, the vehicle's driver) is carrying a medical certificate that:
 - (i) states that he or she is not required to wear a seatbelt; and
 - (ii) displays a date of issue; and
 - (iii) displays an expiry date that is a date not more than 12 months after the date of issue; and
 - (iv) has not expired; and
 - (b) he or she is complying with any conditions stated in the certificate.

[7] Subrule 267 (4)

omit

subrule (3) from wearing a seatbelt

insert

subrule (3) or (3A)

[8] After subrule 267 (5), including the note

insert

- (6) A person is exempt from wearing a seatbelt if he or she is a two-up driver who is occupying the sleeper compartment of a truck or bus for rest purposes.

Note **Bus** and **truck** are defined in the dictionary.

- (7) In this rule:

two-up driver means a person accompanying a driver of a truck or bus on a journey, or part of a journey, who has been, is or will be sharing the task of driving of the truck or bus during the journey.

[9] Subrule 268 (2), including the note

substitute

- (2) A person must not travel in or on a part of a motor vehicle that is a part designed primarily for the carriage of goods unless:
- (a) the part is enclosed; and
 - (b) he or she occupies a seat that is suitable for the size and weight of the person.

Offence provision.

Note 1 **Enclosed** is defined in subrule (7).

Note 2 Rule 265 deals with the wearing of seatbelts by passengers 16 years old or older, and rule 266 deals with the wearing of seatbelts by passengers under 16 years old.

[10] Subrule 268 (4B)

omit

if the part is:

insert

unless:

[11] Paragraphs 268 (4B) (a) and (b)

substitute

- (a) the part is enclosed; and
- (b) the person occupies a seat that is suitable for the size and weight of the person.

[12] Subrule 268 (4B), at the foot

insert

Note Rule 265 deals with the wearing of seatbelts by passengers 16 years old or older, and rule 266 deals with the wearing of seatbelts by passengers under 16 years old.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.