



# **National Transport Commission (Model Amendments Regulations: Australian Road Rules — Package No. 5 — Seatbelts) Regulations 2009<sup>1</sup>**

**Select Legislative Instrument 2009 No. 242**

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I, QUENTIN BRYCE, 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 September 2009

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

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

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**1 Name of Regulations**

These Regulations are the *National Transport Commission (Model Amendments Regulations: Australian Road Rules — Package No. 5 — Seatbelts) Regulations 2009*.

**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 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 3* 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 4* The amendments set out in Schedule 1 were approved by the Australian Transport Council on 29 September 2006. An earlier version of these amendments was set out in the *National Transport Commission (Road Transport Legislation — Australian Road Rules) Amendment Regulations 2008 (No. 2)*. Contrary to what was stated in note 5 to regulation 3 of those Regulations, the amendments set out in those Regulations were not approved by the Australian Transport Council. These Regulations revoke the 2008 Regulations (regulation 5) and set out the amendments concerning seatbelts that were approved by the Council on 29 September 2006.

**4 Amendments of the *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.

**5 Revocation of the *National Transport Commission (Road Transport Legislation — Australian Road Rules) Amendment Regulations 2008 (No. 3)***

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

## **Schedule 1 Amendments**

(regulations 3 and 4)

**[1] Rule 265**

*substitute*

**265 Wearing of seatbelts by passengers 16 years old or older**

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

Offence provision.

- (2) The passenger:
  - (a) must occupy a seating position that is fitted with 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.
- (3) The driver of a motor vehicle (except a bus or taxi) that is moving, or that 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 (2), unless the passenger is exempt from wearing a seatbelt under rule 267.

Offence provision.

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

**[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.

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**[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:
- (a) the seating position that he or she occupies is not fitted with a seatbelt; and
  - (b) there is no requirement for that seating position to be fitted with a seatbelt; and
  - (c) all passengers in the vehicle who are exempt from wearing a seatbelt are complying with subrule (8).
- (1B) Subrule (1A) does not apply to a person who is under 1 year old.
- (1C) 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 certificate issued under subrule (3A)),

**[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 certificate:
    - (i) that is signed by a medical practitioner; and
    - (ii) that states that, in the opinion of the medical practitioner, the person should not wear a seatbelt due to the person's medical condition; and
    - (iii) that displays a date of issue; and
    - (iv) that displays an expiry date that is a date not more than 12 months after the date of issue; and
    - (v) that has not expired; and
  - (b) he or she is complying with any conditions stated in the certificate; and
  - (c) there is no other law of this jurisdiction that states that this subrule does not apply in this jurisdiction.

*Note* **Medical practitioner** is defined in sub-rule (9).

**[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 providing or receiving medical treatment of an urgent and necessary nature while in or on a vehicle.
- (7) If a truck or bus has a sleeper compartment, a two-up driver of the truck or bus is exempt from wearing a seatbelt while he or she occupies the sleeper compartment for rest purposes.

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

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

- (9) In this rule:

**medical practitioner** means a person who is a medical practitioner within the meaning of [the relevant law of this jurisdiction].

**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 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 seating position that is suitable for the size and weight of the person and that is fitted with a seatbelt.

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 seating position that is suitable for the size and weight of the person and that is fitted with a seatbelt.

**[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.

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**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>.