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ROAD TRAFFIC ACT 1974

**ROAD TRAFFIC CODE
AMENDMENT REGULATIONS
(No. 2) 2010**

Road Traffic Act 1974

Road Traffic Code Amendment Regulations (No. 2) 2010

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Road Traffic Code Amendment Regulations (No. 2) 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 October 2010.

3. Regulations amended

These regulations amend the *Road Traffic Code 2000*.

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4. Regulation 46 amended

After regulation 46(3) insert:

- (4) Subregulation (3) does not apply if the intersection is a roundabout.

5. Regulation 200 amended

After regulation 200(2) insert:

- (3) If a pedestrian has started to cross a railway line at a level crossing and —
- (a) warning lights (*for example, twin alternating red lights, red pedestrian lights or rotating red lights*) are illuminated or start flashing, or warning bells start ringing; or
 - (b) a gate, boom or barrier at the crossing starts to close,

the pedestrian must get off the railway line without delay.

6. Regulation 211 amended

At the end of regulation 211 insert:

Modified penalty: 1 PU.

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- (1) In regulation 230 delete “Division, and Divisions 2 and 3 —” and insert:

Part —

- (2) In regulation 230 insert in alphabetical order:

AS/NZS:1754-1991 means Australian Standard AS/NZS:1754-1991 (“Child restraint systems for use in motor vehicles”), or any subsequent version of, or amendments to, that standard, published jointly by Standards Australia and the Standards Association of New Zealand;

booster seat means —

- (a) a booster seat or cushion that complies with the requirements of AS/NZS:1754-1991; or
- (b) a device designed to be a booster seat that is integrated into a vehicle by the vehicle’s manufacturer; or
- (c) a booster seat or cushion that complies with the requirements of another standard approved by the Director General;

child safety harness means a harness that complies with —

- (a) the requirements of AS/NZS:1754-1991; or
- (b) another standard approved by the Director General;

seating position, in relation to a motor vehicle, means —

- (a) a position in that motor vehicle designed by the manufacturer to be sat upon; or

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- (b) a similar modification to the motor vehicle, approved by the Director General, that enables a person to be seated,

while the motor vehicle is being driven or ridden;

small charter vehicle means an omnibus of a type licensed by the Director General under the *Transport Co-ordination Act 1966* Part III Division 1;

suitable child safety harness means a child safety harness that is appropriate to restrain the size and weight of the child that is to use it, according to the recommendations of either AS/NZS:1754-1991, or the manufacturer's recommendations;

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 intends to be sharing the task of driving the truck or bus during the journey.

- (3) In regulation 230 in the definition of **child restraint**:
- (a) delete "Australian Standard AS/NZS:1754-1991 ("Child restraint systems for use in motor vehicles"), or any subsequent version of, or amendments to, that standard, published jointly by Standards Australia and the Standards Association of New Zealand," and insert:

AS/NZS:1754-1991,

- (b) in paragraph (a) delete "the relevant standard" and insert:

AS/NZS:1754-1991

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- (4) In regulation 230 in the definition of *medical practitioner* delete “section 3 of the *Medical Act 1894*,” and insert:

the *Medical Practitioners Act 2008* section 4;

- (5) In regulation 230 in the definition of *seat belt* delete the words “but does not include” to the end of the definition and insert:

but does not include a child restraint;

- (6) In regulation 230 in the definition of *suitable child restraint* delete “the relevant version of the standard, or the manufacturer’s recommendations.” and insert:

AS/NZS:1754-1991, or the manufacturer’s recommendations;

8. Part 16 Divisions 2 and 3 replaced

In Part 16 delete Divisions 2 and 3 and insert:

Division 2 — Requirement to wear seatbelts, etc.**232. Driver to wear seatbelt**

- (1) The driver of a motor vehicle that is moving, or is stationary but not parked, must comply with this regulation if the driver’s seating position —
- (a) is fitted with a seatbelt; or
 - (b) is required by a written law to be fitted with a seatbelt.

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- (2) The driver must wear a seatbelt properly adjusted and securely fastened unless the driver is —
- (a) reversing the vehicle; or
 - (b) exempt from wearing a seatbelt under regulation 235.

Points and modified penalty: *see regulation 235A.*

233. 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 subregulation (2) if the passenger —
- (a) has reached the age of 16 years; and
 - (b) is not exempt from wearing a seatbelt under regulation 235.
- (2) The passenger —
- (a) must occupy a seating position —
 - (i) that is fitted with a seatbelt; or
 - (ii) that is required by a written law to be 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 regulation 235); and
 - (c) must wear the seatbelt properly adjusted and securely fastened.

Modified penalty: 10 PU.

- (3) The driver of a motor vehicle (except a bus, small charter vehicle or taxi) that is moving, or that is stationary but not parked, must ensure that each

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passenger in or on the vehicle who has reached the age of 16 years complies with subregulation (2), unless the passenger is exempt from wearing a seatbelt under regulation 235.

Points and modified penalty: *see regulation 235A.*

234. Wearing of seatbelts by passengers under 16 years old

- (1) The driver of a motor vehicle (except a bus or motor cycle) that is moving, or is stationary but not parked, must ensure that this regulation is complied with for each passenger in or on the vehicle who has not reached the age of 16 years.

Points and modified penalty: *see regulation 235A.*

- (2) If the passenger has not reached the age of 6 months, the passenger must be restrained in a suitable and properly fastened and adjusted rearward facing approved child restraint.
- (3) If the passenger has reached the age of 6 months, but has not reached the age of 4 years, the passenger must be restrained in a suitable and properly fastened and adjusted —
 - (a) rearward facing approved child restraint; or
 - (b) forward facing approved child restraint that has an inbuilt harness.
- (4) If the passenger has reached the age of 4 years, but has not reached the age of 7 years, the passenger must —
 - (a) be restrained in a suitable and properly fastened and adjusted forward facing approved child restraint that has an inbuilt harness; or
 - (b) be placed on a properly positioned approved booster seat and be restrained by a seatbelt that is properly adjusted and fastened.

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- (5) A passenger who has not reached the age of 4 years must not be in the front row of a motor vehicle that has 2 or more rows of seats.
- (6) A passenger who has reached the age of 4 years, but has not reached the age of 7 years, must not be in the front row of a motor vehicle that has 2 or more rows of seats unless all of the other seats in the row or rows behind the front row are occupied by passengers who have not reached the age of 7 years.
- (7) If the passenger has reached the age of 7 years but has not reached the age of 16 years —
 - (a) the person must be restrained in a suitable approved child restraint that is properly adjusted and securely fastened; or
 - (b) the person —
 - (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 regulation 235); and
 - (iii) must wear the seatbelt properly adjusted and securely fastened.
- (8) Subregulations (2), (3), (4) and (5) do not apply if the passenger is exempt from wearing a seatbelt under regulation 235.
- (9) If a passenger cannot safely be restrained as required by subregulation (2) because of the passenger's height or weight, the passenger must be restrained as if subregulation (3) applied to the passenger.

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- (10) If a passenger cannot safely be restrained as required by subregulation (3) or (9) because of the passenger's height or weight, the passenger must be restrained as if subregulation (4) applied to the passenger.
- (11) If a passenger cannot safely be restrained as required by subregulation (4) or (10) because of the passenger's height or weight, the passenger must be restrained as if subregulation (7) applied to the passenger.
- (12) In the case of a passenger sitting in a seating position that is fitted with a lap and sash type seatbelt, it is sufficient compliance with subregulation (4)(b) or (7)(b)(iii), as the case may be, if, instead of using the sash part of the seatbelt, an approved child safety harness that is properly adjusted and fastened is used to restrain the upper body of the passenger.
- (13) The driver of a taxi, bus or small charter vehicle is exempt from subregulations (2), (3) and (4) in relation to a passenger if —
 - (a) there is no suitable approved child restraint available in the taxi, bus or small charter vehicle for the passenger; and
 - (b) if the taxi, bus or small charter vehicle has 2 or more rows of seats — the passenger is not in the front row of seats.
- (14) For the purposes of this regulation —
 - (a) an approved child restraint is available in the motor vehicle for a passenger if an approved child restraint is fitted in the vehicle and is not occupied by someone else who has not reached the age of 16 years; and
 - (b) an approved child restraint or seatbelt is suitable for a passenger if it is suitable for restraining, or to be worn by, the passenger.

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- (15) For the purposes of this regulation, a child restraint that is properly fastened and adjusted —
- (a) is forward facing if, once it restrains a passenger, his or her head is closer to the rear of the vehicle than his or her feet; or
 - (b) is rearward facing if, once it restrains a passenger, his or her feet are closer to the rear of the vehicle than his or her head.

235. Specific exemptions from wearing seatbelts and defences

- (1) A passenger who has reached the age of 4 years, but has not reached the age of 7 years, is exempt from complying with regulation 234(4) if the passenger is —
- (a) seated in a part of the motor vehicle designed primarily for the carriage of goods, in a seating position that is suitable for the passenger's size and weight; and
 - (b) restrained by a seatbelt that is properly adjusted and securely fastened.
- (2) In the case of a passenger sitting in a seating position that is fitted with a seatbelt, it is sufficient compliance with subregulation (1)(b) if, instead of using the seatbelt, an approved child safety harness that is properly adjusted and securely fastened is used to restrain the passenger.
- (3) Subject to subregulation (4), a person in or on a motor vehicle has a defence to a charge under this Division relating to the wearing of a seatbelt if the person can show —
- (a) the seating position that the person occupies is not fitted with a seatbelt; and

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- (b) there is no requirement under a written law for that seating position to be fitted with a seatbelt; and
 - (c) all passengers in the vehicle who are exempt from wearing a seatbelt or who have a defence to a charge under this Division are complying with subregulation (12).
- (4) Subregulation (5) does not apply to a person who has not reached the age of 7 years.
- (5) To avoid doubt, subregulation (3) does not authorise —
 - (a) more passengers in a motor vehicle than there are seating positions; or
 - (b) a passenger to whom regulation 234(5) or (6) applies to occupy a seat in the front row of seats in a vehicle that has 2 or more rows of seats.
- (6) A person in or on a motor vehicle has a defence to a charge under this Division relating to the wearing of a seatbelt if the person can show —
 - (a) the person is engaged in the door-to-door delivery or collection of goods, or in the collection of waste or garbage, and is required to get in or out of the vehicle, or on or off the vehicle, at frequent intervals; and
 - (b) the vehicle does not exceed 25 kilometres per hour.
- (7) A person in or on a motor vehicle has a defence to a charge under this Division relating to the wearing of a seatbelt if the person has a medical certificate at the relevant time and, if required to do so, produces the medical certificate.

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- (8) A person is exempt from wearing a seatbelt during the hours of darkness if at the relevant time the person is driving a taxi that is carrying one or more passengers for reward.
- (9) 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.
- (10) A passenger is exempt from wearing a seatbelt if, at the relevant time, the passenger was lawfully detained by an officer of a detention centre (as defined in the *Young Offenders Act 1994* section 3) or an officer of a prison.
- (11) 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.
- (12) 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 regulation, or has a defence to a charge under this Division, 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 regulation would be required to occupy a seating position that is not fitted with a seatbelt or an approved child restraint.

235A. Penalties for seatbelt offences by driver

- (1) In this regulation —
 - unrestrained*, in relation to a passenger, means —
 - (a) a person who is not wearing a seatbelt or child restraint when required to do so under this Part; and

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- (b) a person who has not reached the age of 16 years who —
- (i) is not restrained in accordance with regulation 234, whether or not that person is wearing a child restraint or a child safety harness; or
 - (ii) is in a front seat, or in a seating position without a seatbelt, contrary to regulation 234.
- (2) The following points and modified penalties apply for the offences in this Division that refer to this regulation for their penalty, where the driver is not wearing a properly adjusted and securely fastened seatbelt.

Table

Description	Points	Modified Penalty
r. 232(2)		
Driver not wearing a seatbelt (appropriately restrained passengers or no passengers) —		
(a) during a holiday period	8	10 PU
(b) other than a holiday period	4	10 PU
r. 232(2) with r. 233(3) or 234(1)		
Driver not wearing a seatbelt with one unrestrained passenger —		
(a) during a holiday period	8	12 PU
(b) other than a holiday period	4	12 PU

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Description	Points	Modified Penalty
r. 232(2) with r. 233(3) or 234(1)		
Driver not wearing a seatbelt with 2 unrestrained passengers —		
(a) during a holiday period	8	14 PU
(b) other than a holiday period	4	14 PU
r. 232(2) with r. 233(3) or 234(1)		
Driver not wearing a seatbelt with 3 unrestrained passengers —		
(a) during a holiday period	8	16 PU
(b) other than a holiday period	4	16 PU
r. 232(2) with r. 233(3) or 234(1)		
Driver not wearing a seatbelt with 4 or more unrestrained passengers —		
(a) during a holiday period	8	18 PU
(b) other than a holiday period	4	18 PU

- (3) The following points and modified penalties apply for the offences in this Division that refer to this regulation for their penalty where the driver is wearing a properly adjusted and securely fastened seatbelt.

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Table

Description	Points	Modified Penalty
r. 233(3) or 234(1)		
Driver wearing a seatbelt with one unrestrained passenger —		
(a) during a holiday period	8	10 PU
(b) other than a holiday period	4	10 PU
r. 233(3) or 234(1)		
Driver wearing a seatbelt with 2 unrestrained passengers —		
(a) during a holiday period	8	12 PU
(b) other than a holiday period	4	12 PU
r. 233(3) or 234(1)		
Driver wearing a seatbelt with 3 unrestrained passengers —		
(a) during a holiday period	8	14 PU
(b) other than a holiday period	4	14 PU
r. 233(3) or 234(1)		
Driver wearing a seatbelt with 4 or more unrestrained passengers —		
(a) during a holiday period	8	16 PU
(b) other than a holiday period	4	16 PU

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9. Part 16 Division 4 heading amended

In the heading to Part 16 Division 4 delete “**Utes etc.**” and insert:

Exceptions**10. Regulations 238, 238A and 239 deleted**

Delete regulations 238, 238A and 239.

11. Regulation 240 amended

In regulation 240(1) delete “2 or 3, or regulation 238A or 239.” and insert:

2.

12. Regulation 241 amended

- (1) In regulation 241(1) delete “regulation 235(1), 238A(1) or 239(1)” and insert:

regulation 234(1)

- (2) In regulation 241(3) delete “regulation 235(1), 238A(1) or 239(1)” and insert:

regulation 234(1)

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r. 13**13. Regulation 264 amended**

In regulation 264(2):

- (a) in paragraph (c) delete “information.” and insert:

information; or

- (b) after paragraph (c) insert:

- (d) the visual display unit is a mobile data terminal fitted to a police or emergency vehicle.

- (c) after paragraph (a) insert:

or

14. Regulation 284 amended

- (1) In regulation 284(2) delete “2, 3 and 4” and insert:

2 and 4

- (2) In regulation 284(3) delete “233, 234 and 235” and insert:

233 and 234

- (3) In regulation 284(4) delete “235” and insert:

234

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In regulation 285(2) in the Table delete:

Regulation 232 (Driver to wear seat belt)
Regulation 233 (Driver to ensure that passenger wears seatbelt)
Regulation 234 (Driver to ensure that passenger occupies position with seat belt if available)
Regulation 236 (Passenger to wear seat belt)

and insert:

Regulation 232(2) (Driver to wear seatbelt)
Regulation 233(2) (Passenger to wear seatbelt)
Regulation 233(3) (Driver to ensure that 16 year old passenger wears seatbelt)
Regulation 234(3) (Driver to ensure that under 16 year old passenger is restrained)

16. Other provisions amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
r. 230 def. of <i>child restraint</i> par. (a)	seat belt	seatbelt
r. 230 def. of <i>seat belt</i>	<i>seat belt</i>	<i>seatbelt</i>
r. 231(1)(b)(i)	seat belt	seatbelt

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Provision	Delete	Insert
r. 231(1)(b)(ii)	seat belt	seatbelt
r. 284(2)	seat belt	seatbelt

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.