

TR303*

Road Traffic Act 1974

Road Traffic Code Amendment Regulations (No. 2) 1999

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Road Traffic Code Amendment Regulations (No. 2) 1999*.

2. Commencement

These regulations come into operation on 1 January 2001.

3. The regulations amended

The amendments in these regulations are to the *Road Traffic Code 1975**.

[* Reprinted as at 23 September 1997.

For amendments to 3 September 1999 see 1998 Index to Legislation of Western Australia, Table 4, p. 263-4, and Gazette 5 February 1999.]

4. Regulation 1501 amended

After regulation 1501(2) the following subregulation is inserted —

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- (3) Regulations 1507 and 1510 do not apply to the following:
- (a) the driver of, or passengers on or in, an emergency vehicle;
 - (b) the driver of, or passengers on or in, a vehicle while it is being used solely, or principally, for agricultural purposes or farming activities.

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5. Regulation 1507 amended

- (1) Regulation 1507(1) is amended by deleting “unless each seat position for which a seat belt is fitted is occupied by another person”.
- (2) Regulation 1507(2)(b) is amended by deleting “section 4 (1) of the *Child Welfare Act 1947*” and inserting instead —
- “ section 3 of the *Young Offenders Act 1994* ”.
- (3) After regulation 1507(2) the following subregulations are inserted —

“

- (3) On or before 31 December 2005, the driver does not commit an offence against subregulation (1) if —
- (a) a passenger is in a part of the passenger car derivative, or goods vehicle, that is enclosed;
 - (b) all seating positions in that vehicle are occupied by other passengers;
 - (c) the doors and hatches used to enter that part of the vehicle are closed; and
 - (d) any goods carried in that part of the vehicle are securely stowed.
- (4) In subregulation (3) —
- “**enclosed**” means enclosed —
- (a) at the time of manufacture; or
 - (b) by a “roll over protection device” to which is affixed an identification plate, approved by the Director General, indicating that the device is constructed and fitted in an approved manner.

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6. Regulation 1510, 1511 and 1512 inserted

In Part XV, after regulation 1509, the following regulations are inserted —

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1510. No passengers in open utes, trays, etc.

- (1) A person who is travelling upon a road as a passenger in a passenger car derivative or goods vehicle shall not travel in or on the back of that vehicle.
- (2) It is a defence in proceedings for an offence against subregulation (1) for the passenger to prove that —
 - (a) at the relevant time the driver was an officer of a detention centre (as defined in section 3 of the *Young Offenders Act 1994*) or an officer of a prison, and the passenger was lawfully detained;
 - (b) at the relevant time, the passenger was undergoing or giving *bona fide* medical treatment; or
 - (c) at the relevant time —
 - (i) the passenger was engaged in work that required the passenger to alight from and re-enter the vehicle at frequent intervals; and
 - (ii) the vehicle was being driven at a speed not exceeding 25 kilometres per hour.
- (3) On or before 31 December 2005, the passenger does not commit an offence under subregulation (1) if —
 - (a) the passenger is in a part of the passenger car derivative, or goods vehicle, that is enclosed;
 - (b) all seating positions in that vehicle are occupied by other passengers;
 - (c) the doors and hatches used to enter that part of the vehicle are closed; and
 - (d) any goods carried in that part of the vehicle are securely stowed.
- (4) In subregulation (3) —

“enclosed” means enclosed —

 - (a) at the time of manufacture; or
 - (b) by a “roll over protection device” to which is affixed an identification plate, approved by the Director General, indicating that the device is constructed and fitted in an approved manner.

1511. Exemptions

- (1) The Director General may, in writing, exempt the driver of a particular vehicle and any passengers on that vehicle, either generally, or for a specified time or purpose, from the provisions of regulations 1507 and 1510.
- (2) The Director General may at any time, and in the same manner, revoke an exemption given under subregulation (1).

1512. Police to consider safety of alleged offenders

- (1) A police officer who apprehends a driver or a passenger committing an offence under regulation 1507 or 1510 may, having regard to the location in which the offence is alleged, and the safety of the apprehended person, give a direction authorizing the apprehended person to travel to a specified destination, even though travelling to that destination would otherwise involve a further breach of the relevant regulation.
- (2) A person acting under the authority of a police officer under subregulation (1) does not commit a further offence against regulation 1507 or 1510 when travelling to the specified destination.

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
