

**PE301**

**ROAD TRAFFIC ACT 1974**

**ROAD TRAFFIC CODE AMENDMENT REGULATIONS (NO. 4) 1994**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Road Traffic Code Amendment Regulations (No. 4) 1994*.

**Commencement**

2. These regulations come into operation on 1 January 1995.

**Principal regulations**

3. In these regulations the *Road Traffic Code 1975\** is referred to as the principal regulations.

[\* Reprinted as at 19 October 1983.

For amendments to 25 November 1994 see 1993 Index to Legislation of Western Australia, Table 4, pp. 228-29 and Gazettes of 18 March and 26 April 1994.]

**Part XV inserted**

4. The heading to Part XV of the principal regulations is deleted and the following Part inserted —

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**PART XV. — SEAT BELTS***Division 1 — Preliminary***Interpretation and application**

1501. (1) In this Part —

“child restraint” means a device that is fitted to a motor vehicle and complies with the requirements of Australian Standard AS:1754-1991 (“Child restraint systems for use in motor vehicles”) published jointly by the Standards Association of Australia and the Standards Association of New Zealand, and includes any device in that standard that utilises as part of its design, a seat belt;

“goods vehicle” means a motor vehicle constructed, equipped or fitted principally for the conveyance of goods or merchandise;

“omnibus” means a motor vehicle equipped to seat more than eight persons (including the driver) used for the carriage of passengers for hire or reward;

“passenger car” means a motor vehicle, other than a motor cycle or omnibus, constructed, or used, principally for the conveyance of persons, and includes a motor carrier other than a motorized wheel chair;

“passenger car derivative” means a motor vehicle of the same make as a factory produced passenger car and in which the forward part of the body form and the greater part of the mechanical equipment are the same as those in the passenger car;

“motor vehicle” means —

- (a) a passenger car;
- (b) a passenger car derivative; or
- (c) a goods vehicle,

but does not include an omnibus;

**"relevant time"**, in relation to an alleged offence, means the time at which the offence is alleged to have been committed;

**"seat belt"** means a belt or similar device that is fitted to a motor vehicle and designed to restrain or limit the movement of a person who is seated in the vehicle and wearing the belt or device, if the vehicle suddenly accelerates or decelerates, but does not include —

- (a) a child restraint;
- (b) a belt or similar device which is damaged, or which is defective and is not capable of being worn or of being properly adjusted or securely fastened.

(2) This Part does not apply to —

- (i) a police officer when the driving is in the course of his or her duty and in urgent circumstances;
- (ii) passengers of a police officer when, in the officer's opinion, the wearing of a seat belt would be inappropriate (for example, when the passenger is in lawful custody, or when the safety of the officer may be compromised);
- (iii) the drivers and passengers of fire fighting vehicles when engaged in fire fighting activity.

#### Medical certificate

1502. (1) In this regulation, **"medical practitioner"** has the same meaning as in section 3 of the *Medical Act 1894*.

(2) A medical certificate referred to in regulation 1503, 1504, 1505, 1506, 1507, 1508 or 1509 must —

- (a) be signed by a medical practitioner;
- (b) certify that —
  - (i) the person is unable for medical reasons to wear a seat belt; or
  - (ii) because of the person's size, build or other characteristic, it would be unreasonable to require the person to wear a seat belt, while driving or travelling in a motor vehicle;and
- (c) be current at the time of the alleged offence.

(3) A medical certificate is current for the purposes of subregulation (2) (c) if, at the relevant time —

- (a) it is specified to have effect only for a specified period and that period has not expired;
- (b) it is endorsed with the words "permanent disability"; or
- (c) in any other case, a period of not more than 2 years has expired from the day of its issue.

(4) A person must produce a medical certificate on demand to a police officer or, within a reasonable time after demand, to the Board or to the officer in charge of any police station.

*Division 2 — Driver's duties***Driver to wear seat belt**

**1503.** (1) A person shall not, while occupying a seat position in a motor vehicle to which a seat belt has been fitted for that position, drive upon a road unless the person is wearing the seat belt, and it is properly adjusted and securely fastened.

(2) It is a defence in proceedings for an offence against subregulation (1) for the person charged to prove that —

- (a) the motor vehicle was travelling backwards at the relevant time;
- (b) the person had a medical certificate under regulation 1502 at the relevant time and, if required to do so, the person produced the medical certificate in accordance with regulation 1502 (4);
- (c) at the relevant time, the person —
  - (i) was engaged in work that required the person to alight from and re-enter the motor vehicle at frequent intervals; and
  - (ii) was not driving the motor vehicle at a speed exceeding 25 kilometres per hour;or
- (d) the alleged offence took place during the hours of darkness and, at the relevant time, the person was driving a taxi that was carrying one or more passengers for reward.

**Driver to ensure that child aged between one and 14 years wears seat belt**

**1504.** (1) If a person or persons (in this regulation referred to as "the passenger" or "the passengers") of or over the age of one year and under the age of 14 years are occupying a seat position in a motor vehicle for which a seat belt has been fitted for that position, the driver of that motor vehicle shall not drive upon a road unless the passengers are wearing a seat belt and it is properly adjusted and securely fastened.

(2) It is a defence in proceedings for an offence against subregulation (1) for the person charged to prove that —

- (a) the passenger was under the age of 8 years at the relevant time and was wearing a child restraint which was properly adjusted and securely fastened; or
- (b) the passenger had a medical certificate under regulation 1502 at the relevant time and, if required to do so, the medical certificate was produced in accordance with regulation 1502 (4).

**Driver to ensure that child aged between one and 14 years occupies position with seat belt**

**1505.** (1) If a person or persons (in this regulation referred to as "the passenger" or "the passengers") of or over the age of one year and under the age of 14 years are travelling upon a road as passengers in a motor vehicle fitted with one or more seat belts, the driver of the motor vehicle shall not cause or permit the passengers to occupy a position which is not fitted with a seat belt unless every seat position for which a seat belt is fitted is occupied by another person.

(2) It is a defence in proceedings for an offence against subregulation (1) for the person charged to prove that —

- (a) at the relevant time, the passenger was under the age of 8 years and was wearing a child restraint which was properly adjusted and securely fastened; or
- (b) the passenger had a medical certificate under regulation 1502 at the relevant time and, if required to do so, the medical certificate was produced in accordance with regulation 1502 (4).

**Driver to ensure that child under the age of one year wears a child restraint**

**1506.** (1) If a person or persons (in this regulation referred to as "the passenger" or "the passengers") under the age of one year are in a motor vehicle, the driver shall not drive the motor vehicle on a road unless the passengers are wearing child restraints and they are properly adjusted and securely fastened.

(2) It is a defence in proceedings for an offence against subregulation (1) for the person charged to prove that —

- (a) the motor vehicle was a passenger car manufactured on or before 1 July 1976 or any other vehicle was not required to be fitted with child restraint anchor points;
- (b) the motor vehicle was a taxi or a special purpose vehicle;
- (c) at the relevant time the driver —
  - (i) was only licensed as a driver under the laws of another State or a Territory of Australia; and
  - (ii) was not obliged to ensure that a passenger under one year is wearing a child restraint under the laws of that State or Territory;
- (d) the passenger had a medical certificate under regulation 1502 at the relevant time and, if required to do so, the medical certificate was produced by the driver in accordance with regulation 1502 (4); or
- (e) at the relevant time, the passenger was not wearing a child restraint because of exceptional circumstances, such as a medical emergency.

**Driver of passenger car derivative not to permit persons to travel in back of the vehicle if seat belt positions are unoccupied**

**1507.** (1) The driver of a passenger car derivative, or a goods vehicle shall not cause or permit a person or persons (in this regulation referred to as "the passenger" or "the passengers") to travel in or on the back of that vehicle unless each seat position for which a seat belt is fitted is occupied by another person.

(2) It is a defence in proceedings for an offence against subregulation (1) for the driver to prove that —

- (a) the passenger had a medical certificate under regulation 1502 at the relevant time and, if required to do so, produced the medical certificate in accordance with regulation 1502 (4);

- (b) at the relevant time the driver was an officer of a detention centre (as defined in section 4 (1) of the *Child Welfare Act 1947*), an officer of a prison, and the passenger was lawfully detained;
- (c) at the relevant time one or more of the passengers was undergoing or giving *bona fide* medical treatment; or
- (d) 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.

### *Division 3 — Duties of passenger*

#### **Passenger to wear seat belt**

**1508.** (1) A person shall not, while occupying a seat position in a passenger car to which a seat belt has been fitted for that position, travel upon a road as a passenger unless the person is wearing the seat belt, and it is properly adjusted and securely fastened.

(2) It is a defence in proceedings for an offence against subregulation (1) for the person charged to prove that —

- (a) the person was under the age of 14 years at the relevant time;
- (b) the person had a medical certificate under regulation 1502 at the relevant time and, if required to do so, produced the medical certificate in accordance with regulation 1502 (4); or
- (c) at the relevant time —
  - (i) the person was engaged in work that required the person to alight from and re-enter the passenger car at frequent intervals; and
  - (ii) the passenger car was being driven at a speed not exceeding 25 kilometres per hour.

#### **Passenger to occupy position with seat belt**

**1509.** (1) A person who is travelling upon a road as a passenger in a passenger car fitted with one or more seat belts shall not occupy a position which is not fitted with a seat belt unless every seat position for which a seat belt is fitted is occupied by another person.

(2) It is a defence in proceedings for an offence against subregulation (1) for the person charged to prove that —

- (a) at the relevant time, the person was under the age of 14 years;
- (b) the person had a medical certificate under regulation 1502 at the relevant time and, if required to do so, produced the medical certificate in accordance with regulation 1502 (4); or

- (c) at the relevant time —
  - (i) the person was engaged in work that required the person 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.

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**Regulation 1621 repealed**

5. Regulation 1621 of the principal regulations is repealed.

By Command of the Lieutenant-Governor and deputy of the Governor.

M. C. WAUCHOPE, Clerk of the Council.

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