



Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Safety) Regulation 2003

under the

Road Transport (Safety and Traffic Management) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Safety and Traffic Management) Act 1999*.

CARL SCULLY, M.P.,

Minister for Roads

Explanatory note

The object of this Regulation is to amend the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* to provide additional measures for the safety of persons travelling in or on a motor vehicle. In particular, this Regulation:

- (a) creates offences relating to holders of learner and provisional licences driving without wearing a seatbelt or driving with passengers who are not appropriately restrained, and
- (b) makes it an offence for the driver of certain motor vehicles to drive such a motor vehicle if a person is in or on the boot of the vehicle.

This Regulation is made under the *Road Transport (Safety and Traffic Management) Act 1999*, including sections 71 (the general regulation-making power) and 72.

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Clause 1 Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (Safety) Regulation 2003

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Safety) Regulation 2003

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Road Transport (Safety and Traffic Management) Act 1999

1 Name of Regulation

This Regulation is the *Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Safety) Regulation 2003*.

2 Amendment of Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

The *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 28 How persons must travel in or on a motor vehicle

Insert after clause 28 (2):

- (3) For the purposes of rule 268 (2) (b) of the *Australian Road Rules* the boot of a motor vehicle is declared to be a part of the motor vehicle in or on which a person must not be carried.
- (4) Despite subclause (1), a person is not exempt from rule 268 (2) of the *Australian Road Rules* if the person is in or on the boot of a motor vehicle.

Note. Clause 47D sets out an additional provision to rule 268 of the *Australian Road Rules* prohibiting a driver from driving certain motor vehicles on a road with a person in or on the boot of such a vehicle.

[2] Clause 47B Driving with unrestrained passengers

Insert after clause 47B (2):

- (3) Subclause (1) does not apply to a driver of a motor vehicle to whom clause 47C applies.

[3] Clauses 47C and 47D

Insert after clause 47B:

47C Restraint of drivers who are holders of learner licences or provisional P1 or P2 licences and their passengers

- (1) This clause applies to the driver of a motor vehicle (other than a motor bike) who is the holder of a learner licence (within the meaning of the *Road Transport (Driver Licensing) Act 1998*) or a provisional P1 or P2 licence.
- (2) The driver of a motor vehicle to whom this clause applies must not drive the motor vehicle on a road unless:
 - (a) the driver and each passenger who is 16 years old or older occupies a seating position fitted with a suitable seatbelt and is wearing the seatbelt properly fastened and adjusted, and

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Schedule 1 Amendments

- (b) each passenger who is at least 1 year old but under 16 years old occupies a seating position that is fitted with an approved child restraint or suitable seatbelt and is restrained by the approved child restraint, or is wearing the seatbelt, properly fastened and adjusted, and
- (c) each passenger who is under 1 year old occupies a seating position that is fitted with an approved child restraint and is restrained by the suitable approved child restraint properly fastened and adjusted.

Maximum penalty: 20 penalty units

- (3) A person who is 16 years or older must not travel in or on a motor vehicle (other than a motor bike) driven by the driver of a motor vehicle to whom this clause applies unless the person is occupying a seating position to which a suitable seat belt or approved child restraint device is fitted and the person is using the seat belt or restraint properly fastened and adjusted.

Maximum penalty: 20 penalty units.

- (4) Subclauses (2) and (3) do not apply to a driver or a passenger of a motor vehicle if the driver or passenger belongs to a class of persons exempted from the application of the subclause by an order of the Authority.

47D Persons must not travel in the boot of a motor vehicle

The driver of a motor vehicle must not drive the motor vehicle on a road if any person is in or on the boot of the motor vehicle.

Maximum penalty: 20 penalty units.

[4] Schedule 1 Qualifications on application of Australian Road Rules

Insert after clause 17:

18 Holders of learner licences and provisional P1 or P2 licences not to drive motor vehicle unless all persons restrained

- (1) Rules 264–267 of the *Australian Road Rules* do not apply to the driver of a motor vehicle to whom this clause applies.

- (2) This clause applies to the driver of a motor vehicle (other than a motor bike) who is the holder of a learner licence (within the meaning of the *Road Transport (Driver Licensing) Act 1998*) or a provisional P1 or P2 licence.

[5] Dictionary

Insert in alphabetical order in Part 1:

boot of a motor vehicle means a compartment that:

- (a) is enclosed, or is fitted with a device that enables it to be enclosed, and that is located separately from the driver and passenger seating positions (whether in use or not) of the vehicle, and
- (b) is intended for the carriage of luggage or other goods of the driver or passengers,

but does not include a luggage compartment of a station waggon or of a vehicle of a kind known as a utility or panel van.