



New South Wales

# Road Amendment (Child Seating and Restraint) Rules 2010

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 Rules under the *Road Transport (Safety and Traffic Management) Act 1999*.

DAVID BORGER, MP  
Minister for Roads

## Explanatory note

The object of these Rules is to amend the *Road Rules 2008* as follows:

- (a) to provide that a passenger in a vehicle who is 4 years old or older, but less than 7 years old, may be seated in an additional vehicle seat in a part of the vehicle primarily used for the carriage of goods as long as he or she is appropriately restrained in that seat,
- (b) to clarify the circumstances in which a passenger who is 4 years old or older, but less than 7 years old, is permitted to sit in the front row of a vehicle,
- (c) to exempt a passenger who is under 7 years of age from certain front seat vehicle position restrictions on the basis of a medical condition,
- (d) to apply certain seatbelt wearing and other restraint provisions to small bus passengers who are under 16 years of age.

These Rules are made under the *Road Transport (Safety and Traffic Management) Act 1999*, including section 72A (the general rule-making power).

## **2010 No 370**

Rule 1 Road Amendment (Child Seating and Restraint) Rules 2010

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## **Road Amendment (Child Seating and Restraint) Rules 2010**

under the

Road Transport (Safety and Traffic Management) Act 1999

### **1 Name of Rules**

These Rules are the *Road Amendment (Child Seating and Restraint) Rules 2010*.

### **2 Commencement**

These Rules commence on the day on which they are published on the NSW legislation website.

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## Schedule 1 Amendment of Road Rules 2008

### [1] Rule 266 Wearing of seatbelts by passengers under 16 years old

Insert at the end of rule 266 (2B) (b):

, or

- (c) if he or she is seated in a seating position in a part of the vehicle that is designed primarily for the carriage of goods:
  - (i) be restrained by a suitable lap and sash style seatbelt that is properly adjusted and fastened, or
  - (ii) have his or her hip restrained by a suitable lap type seatbelt that is properly adjusted and fastened, and have his or her upper body restrained by an approved child safety harness that is properly adjusted and fastened.

### [2] Rule 266 (2B), Notes 4 and 5

Insert after Note 3:

**Note 4.** In relation to paragraph (c), under rule 268 (2), a person may only occupy a seating position in a part of a vehicle that is designed primarily for the carriage of goods if that part of the vehicle is enclosed and that position is suitable for the size and weight of the person.

**Note 5.** Paragraph (c) is an additional NSW paragraph. There is no corresponding paragraph in rule 266 (2B) of the *Australian Road Rules*.

### [3] Rule 266 (3A)

Omit the subrule. Insert instead:

- (3A) A passenger who is 4 years old or older, but is less than 7 years old, must not be in the front row of a motor vehicle that has 2 or more rows of seats unless there is no available seating position in the row or rows behind the front row in which the passenger can sit in accordance with this rule.
- (3A-1) For the purposes of subrule (3A), an *available seating position* includes a seating position that is occupied by another passenger who would, under this Part, be able to occupy a different seating position, but does not include a seating position in a part of the vehicle that is designed primarily for the carriage of goods.

**Example.** Subrule (3A) would permit a 6 year old to sit in the front row of a vehicle that has 2 rows of seats if 2 occupied approved child restraints in the back row encroached on an empty seating position between them in a way that made it impossible for another approved child restraint or booster seat to be placed in that position.

**Note.** Subrule (3A) is not uniform with the corresponding subrule in rule 266 of the *Australian Road Rules*. Subrule (3A-1) is an additional

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NSW subrule. There is no corresponding subrule in rule 266 of the *Australian Road Rules*.

**[4] Rule 266 (4A–1)**

Insert after rule 266 (4A):

(4A–1) Subrules (3) and (3A) do not apply if the passenger is, under rule 267–2, exempt from the front seat position restrictions set out in those subrules.

**Note.** This subrule is an additional NSW subrule. There is no corresponding subrule in rule 266 of the *Australian Road Rules*.

**[5] Rule 266 (5–1)**

Insert “or small buses” after “taxis”.

**[6] Rule 266 (5–1), Note 1**

Insert “and *small bus* is defined in subrule (7)” after “Dictionary”.

**[7] Rule 266 (7), definition of “small bus”**

Insert in alphabetical order:

*small bus* means a motor vehicle built mainly to carry people that seats between 9 and 12 (inclusive) adults (including the driver) and that is used to provide a public passenger service.

**Note 1. Public passenger service** is defined in the Dictionary.

**Note 2.** This is an additional NSW definition. There is no corresponding definition in rule 266 of the *Australian Road Rules*.

**[8] Rule 267–1 NSW rule: restraint of drivers who are holders of learner licences or provisional P1 or P2 licences and their passengers**

Insert after rule 267–1 (4):

(4A) If a person who is a passenger in a vehicle is exempt under rule 267–2 from the front seat position restrictions set out in rule 266 (3) or (3A), the driver of the vehicle is not required under this rule to ensure that the passenger is restrained in accordance with those front seat restrictions.

**[9] Rule 267–2**

Insert after rule 267–1:

**267–2 NSW rule: exemption from front seat position restrictions**

- (1) A person who is a passenger in a vehicle is exempt from the front seat position restrictions set out in rule 266 (3) and (3A) if:
- (a) the vehicle’s driver is carrying a certificate:

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- (i) that is signed by a medical practitioner, and
  - (ii) that states that, in the opinion of the medical practitioner, the person should be in the front row of a motor vehicle while a passenger due to the person's medical condition, and
  - (iii) that displays a date of issue, and
  - (iv) subject to subrule (2)—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 subrule (4).

- (2) Subrule (1) (a) (iv) does not apply to any certificate that belongs to a class of certificates that is exempted, by an order of the Authority, from the requirement to display an expiry date.
- (3) A person is not exempt under subrule (1) if the driver of the vehicle does not immediately produce the certificate mentioned in the subrule for inspection when a police officer or authorised person asks the driver whether the person is exempt from rule 266 (3) or (3A).

**Note.** *Authorised person* and *police officer* are defined in the Dictionary.

- (4) In this rule:

*medical practitioner* means a person registered or licensed as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of such persons.

**Note.** This rule is an additional NSW road rule. There is no corresponding rule in the *Australian Road Rules*.