

Australian Capital Territory

# Road Transport (General) Application of Road Transport Legislation (Use of Specialised Child Restraint) Declaration 2023 (No 1)

Disallowable instrument DI2023–269

made under the

***Road Transport (General) Act 1999, s 13 (Power to exclude vehicles, persons or animals from road transport legislation)***

## EXPLANATORY STATEMENT

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Subsection 13 (1) of the *Road Transport (General) Act 1999* allows for the Minister to declare that a provision or provisions of the road transport legislation does not apply to a vehicle, person or animal. Subsection 13 (3) of the Act makes such a declaration a disallowable instrument.

### Overview

Section 266 of the *Road Transport (Road Rules) Regulation 2017* requires passengers under the age of 16 years to be appropriately restrained. Passengers under the age of 4 must be restrained in a suitable and properly fastened approved child restraint. An approved child restraint means a child restraint approved by the road transport authority under the *Road Transport (Safety and Traffic Management) Regulation 2017*, section 73 (1) (c).

The purpose of this instrument is to allow for a driver of a particular vehicle, who has a disability, to use the Romer-Britax “Hero-NXT” child restraint. This child restraint is not approved under section 73 (1) (c) of the *Road Transport (Safety and Traffic Management) Regulation 2017*, however is necessary to facilitate safe vehicle transfers of the passenger by the driver of the vehicle. The instrument will be revoked when the exemption is no longer required due to the child’s weight or height, or if it is no longer required following a review of the *Road Transport (Safety and Traffic Management) Booster Seat, Child Restraint and Child Safety Harness Approval 2020 (No 1)*.

### Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters.

In this case, human rights are promoted. The instrument allows for the driver of the vehicle to utilise a child restraint system otherwise not permitted under the Road Transport Legislation to take part in public life.

### **Climate Change**

Transport Canberra and City Services considers that exempting the driver of the vehicle from restraining their child in an approved child restraint, subject to prescribed circumstances, will not have a measurable impact on climate change.

### **Outline of Provisions**

Clause 1 names the instrument the *Road Transport (General) Application of Road Transport Legislation (Use of Specialised Child Restraint) Declaration 2023 (No 1)*.

Clause 2 states that the instrument commences on the day after its notification.

Clause 3 disapplies section 266 of the *Road Transport (Road Rules) Regulation 2017* for the driver of the vehicle with registration YQM 34U displayed on the numberplate, when the circumstances detailed in Clause 4 are complied with.

Clause 4 outlines the provisions that must be complied with for the declaration to be in force. It limits the exemption to when the driver's child is being transported in the Romer-Britax "Hero-NXT" child restraint in accordance with the manufacturer's user manual and guidelines.