

# Road Transport (Road Rules) Amendment Regulation 2025 (No 1)

Subordinate law SL2025-23

made under the

*Road Transport (General) Act 1999*, section 23 (Regulations about infringement notice offences) and section 233 (General regulation-making power)

*Road Transport (Public Passenger Services) Act 2001*, section 57 (Regulations about operation of taxis) and section 126 (Regulation-making power)

*Road Transport (Safety and Traffic Management) Act 1999*, section 33 (General regulation-making power) and section 36 (Regulations about safety generally)

## EXPLANATORY STATEMENT

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### INTRODUCTION

This explanatory statement relates to the Road Transport (Road Rules) Amendment Regulation 2025 (No 1) (the Amendment Regulation). It has been prepared in order to assist the reader of the Amendment Regulation. It does not form part of the Amendment Regulation and has not been endorsed by the Legislative Assembly.

The explanatory statement must be read in conjunction with the Amendment Regulation. It is not, and is not meant to be, a comprehensive description of the Amendment Regulation. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

### OVERVIEW

The Amendment Regulation supports the implementation of the next phase of the Traffic Camera Expansion (TCE) initiative to expand mobile device detection cameras to detect seatbelts of drivers and passengers. This traffic camera enforcement of seatbelt requirements commences 3 November 2025.

Amendments to the Road Transport (Road Rules) Regulation 2017 (the Road Rules) and the Road Transport (Offences) Regulation 2005 (the Offences Regulation) are made to:

- a. Combine the two existing driver offences for not ensuring passenger compliance for different age groups into one offence to allow for infringement notices to be issued to the driver without knowing the age of the passenger

(the existing offences being combined are the driver offence at section 265(3) for passengers over 16 and at section 266(1) for passengers under 16);

- b. Include a clear definition of how to wear a seatbelt properly adjusted and fastened in line with existing policy and enforcement, the current model Australian Road Rules, and other jurisdictions;
- c. Allow persons with a medical exemption to provide evidence of the exemption within 28 days of receiving the infringement notice (this is done indirectly by linking to the existing 28-day timeframe for applying for withdrawal or disputing an infringement notice); and
- d. Make technical updates to the structure of the legislation to align with the current model Australian Road Rules where appropriate.

A minor consequential amendment is also made to a note of reference in the Road Transport (Public Passenger Services) Regulation 2002.

The Road Transport (Safety and Traffic Management) Amendment Bill 2025 (the Bill), presented 13 May 2025, introduced the high-level framework for the TCE initiative to expand traffic camera enforcement to seatbelts. The Amendment Regulation has progressed separately to the Bill due to the need for flexibility in drafting the technical aspects outside of the Cabinet process. This allowed for an iterative process to inform system development and testing in line with implementation timeframes.

## **CONSULTATION ON THE PROPOSED APPROACH**

The ACT Government has consulted Transport for New South Wales (NSW), the Department of Transport and Main Roads in Queensland (QLD), and the Department of Justice and Community Safety in Victoria (VIC), all of which have similar frameworks already in place. Western Australia commenced traffic camera enforcement of seatbelts from 8 October 2025 following a trial period.

In preparing for the implementation of the TCE initiative to expand to seatbelts, City and Environment Directorate (CED), including Access Canberra (AC), has arranged a comprehensive community education and awareness plan to inform the community prior to and following the 3 November 2025 commencement. The education and awareness activities will ensure drivers and passengers are aware of the new seatbelt detection method and serve as a reminder of the importance of seatbelts in preventing serious injury and death in a crash.

The Amendment Regulation does not introduce new road rules around seatbelts. Instead, the TCE initiative introduces new enforcement methods of existing seatbelt requirements for drivers. The amendments make it possible to enforce these existing road rules using traffic camera technology. All drivers are expected to be aware of the longstanding seatbelt requirements for themselves and their passengers.

## **CONSISTENCY WITH HUMAN RIGHTS**

An assessment of the Amendment Regulation against section 28 of the *Human Rights Act 2004* (HRA) is provided below. Section 28 provides that human rights are

subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

## **Background**

Some of the following content was previously used in analysing the human rights impacts of the Bill. This overlap is due to both the Bill and the Amendment Regulation introducing amendments to support the implementation of the TCE initiative to expand to seatbelts from 3 November 2025.

Following presentation of the Bill to the Legislative Assembly on 13 May 2025, the Standing Committee on Legal Affairs (Legislative Scrutiny Role) published its Scrutiny Report No 7 (the Report) of the 11th Assembly in June 2025. The Report made comments on the Bill and its accompanying explanatory statement requesting more specific details on the security safeguards for data relating to traffic camera enforcement of seatbelts and on the existing infringement review process.

A revised explanatory statement to the Bill was published on 3 September 2025 with the requested details and this version has been used in the below human rights analysis for the Amendment Regulation.

## **Rights engaged**

The Amendment Regulation engages the following rights:

- a. Right to life under section 9 (promoted)
- b. Right to equality and non-discrimination under section 8 (limited)
- c. Right to privacy under section 12 (limited)
- d. Right to presumption of innocence under section 22(1) (limited)

## ***Rights Promoted***

Section 9 of the HRA provides that everyone has the right to life. The right to life includes a duty to safeguard life.

Various studies have demonstrated that improper seatbelt use significantly increases the risk of serious injury or death in the event of a crash (CARRS-Q, 2018). Ensuring that seatbelts are worn correctly is crucial for protecting the lives of drivers and passengers. The government has a responsibility to maintain a robust regulatory framework that supports safe behaviours on ACT roads to protect the lives of all road users.

The Amendment Regulation promotes the right to life by introducing measures to more effectively enforce existing seatbelt requirements. This involves the use of mobile device detection cameras to identify improperly adjusted and fastened seatbelts, resulting in potential demerit points and financial penalty for the driver if they and/or their passengers are found not to be properly wearing a seatbelt.

Even a fastened seatbelt that is not properly adjusted can result in the person being propelled forward in a crash, such as being incorrectly adjusted under the arm instead of over the shoulder. The implementation of the TCE initiative is expected to

deter seatbelt non-compliance over time. These measures will help reduce serious injuries and fatalities on the road network.

## ***Rights Limited***

### **Right to equality and non-discrimination**

#### ***1. Nature of the right and the limitation (s28(a) and (c))***

Everyone has the right to enjoy their human rights without distinction or discrimination of any kind. Everyone is equal before the law and is entitled to equal protection of the law without discrimination.

#### **Infringements**

The Amendment Regulation may disproportionately impact people of lower socioeconomic backgrounds due to the increased enforcement of existing road transport offences, including Aboriginal and Torres Strait Islander people and people with a disability. The Amendment Regulation restructures the existing requirements and offences for seatbelts and seating positions in vehicles to allow for traffic camera enforcement of these offences.

While no new offences are created, the Amendment Regulation enables implementation of the TCE initiative, which involves expanding existing mobile device detection cameras to also detect seatbelt compliance. The offences that will be enforced by traffic cameras are at section 264(1)(c) (driver not wearing a seatbelt properly adjusted and fastened) and section 265A(1) (driver not ensuring their passenger complies with the passenger requirements). This increases the risk of a driver receiving a \$574 fine and 3 demerit points and potentially multiple infringements from a single detection event.

#### **Medical exemptions**

The Amendment Regulation may have a disproportionate impact on people who have a medical condition or disability preventing them from wearing a seatbelt correctly. The amendments adapt the existing medical certificate exemption provisions to reflect camera enforcement so that camera-detected infringements don't require a person to immediately produce their medical certificate like they are required to do when requested by a police officer. This exemption has been amended to allow for a copy of a medical certificate exemption to be provided after the infringement is issued and in line with existing timeframes for infringement review processes (28 days).

Drivers of taxis and hire cars are exempt from ensuring children are in child restraints or passengers 16 and older wear a seatbelt. However, rideshare drivers do not have these exemptions and are instead subject to the same seatbelt and seating position requirements as a private car.

Traffic cameras can't accurately detect the identity of the occupants in a car. This means infringement notices will be able to be issued against people who cannot

wear a seatbelt due to medical reasons or to the driver of the vehicle if they were a passenger, resulting in the driver having to request withdrawal and provide evidence.

There is potential for repeated infringement notices to be issued for the same exempt person. For example, if the person's exemption is not recorded against the vehicle registration, or if the exempt person is travelling as a passenger and their driver is issued with an infringement notice. Drivers are responsible for ensuring a medically exempt passenger has a valid medical certificate and is complying with that certificate before driving.

If an infringement notice is issued when there was a valid medical certificate in force exempting them from wearing a seatbelt properly adjusted and fastened, the Road Transport Authority must be provided with a copy of the certificate for the infringement to be withdrawn. If the exempt person was the driver, they may be issued with an infringement notice and will have to request withdrawal by providing their exemption certificate. If the exempt person was a passenger, the person issued with the infringement for passenger non-compliance may provide a copy of the certificate on their behalf to have the infringement notice withdrawn or the passenger may provide the evidence directly to the Road Transport Authority.

## ***2. Legitimate purpose (s28(b))***

The purpose of the limitation is to support traffic camera enforcement of seatbelt requirements to reduce deaths and serious injuries on our roads. This will enhance road safety by encouraging drivers and passengers to properly wear seatbelts and by raising awareness of the dangers associated with not wearing a seatbelt correctly.

The ACT Government is committed to Vision Zero, outlined in the ACT Road Safety Strategy 2020-25, which aims to achieve zero road fatalities and serious injuries. Government regulation of seatbelts and education and awareness efforts are essential in reducing the road death toll in Australia.

The Amendment Regulation supports expanding existing traffic camera detection capabilities to detect seatbelts to effectively reduce the risk of serious injuries and fatalities on ACT roads.

## ***3. Rational connection between the limitation and the purpose (s28(d))***

The ACT's road safety camera program benefits the community by encouraging changes in behaviour that protect and support the safety of all road users and ensuring compliance with the ACT road transport legislation. Seatbelts are widely known and researched for saving lives and preventing serious injuries from crashes. An international analysis of multiple studies found seatbelts reduce front seat fatalities by 60% (Hoye, 2016).

Wearing a seatbelt correctly halves the risk of serious injury or death in a crash (Shiva, 2023). The human rights limitations of expanding mobile device detection cameras to detect seatbelts brings the ACT closer to achieving Vision Zero through increased enforcement which leads to deterrence and encourages compliance with

the existing seatbelt requirements. Seatbelt laws and enforcement activities relating to proper seatbelt use have been found effective at improving compliance and reducing risk of serious injury or death in a crash (Dinh-Zarr, 2001).

The Amendment Regulation doesn't change what's already required of drivers but does support more widespread enforcement of seatbelt offences by allowing traffic camera technology to be used for detecting seatbelt compliance and issuing infringement notices where an offence has occurred. The relevant seatbelt offences for the driver apply even where the seatbelt is fastened but not properly adjusted.

The road rules require seatbelts with a lap belt and sash to be worn correctly with the sash firmly across the chest and against the shoulder/collar bone and the hip belt firmly over the hips. Improper seatbelt use, such as wearing the sash under the arm or reclining the seat to separate the sash from the shoulder, can result in serious injury or death in a crash compared to wearing the seatbelt correctly (States et al, 1987).

Crash tests in recent years show that wearing the sash under the arm results in the person being propelled forward into the dashboard. Reclining the seat to separate the sash from the shoulder results in a high load concentrated on the abdomen, damaging organs. Wearing a seatbelt correctly prevents contact with the dashboard and distributes the impact across a greater surface area on the body.

Where multiple offences are detected in a single detection event (a single camera image), such as the driver using a mobile device, not wearing a seatbelt, and not ensuring their passenger wears a seatbelt, multiple fines and demerit points are needed for strong deterrence and behavioural change. The TCE initiative discourages drivers from engaging in high-risk behaviours and promotes awareness of following the road rules for everyone's safety.

#### **4. Proportionality (s28 (e))**

##### Infringements

There is a disproportionate impact of financial penalties and demerit points associated with receiving infringements on people from lower socioeconomic backgrounds. However, the potential impacts of high-risk behaviours on the road such as speeding, running a red light, using a mobile device while driving, and not wearing a seatbelt correctly are serious and also impact on this group disproportionately. This extends to the financial, medical, health, social, and psychological impacts of crashes on those involved in the crash, their families, and their community.

There is already an established risk of incurring a higher number of demerit points at once through the double demerits framework under sections 21-22 of the Offences Regulation, which includes seatbelt offences and takes place during holiday periods.

There are existing safeguards in place for managing financial penalties and potential loss of licence from demerit points, including from multiple infringements. These include:

- a. Entering into an infringement notice management plan by applying under section 31A of the *Road Transport (General) Act 1999*, including adding the penalty to an existing plan, with instalments as low as \$10 a fortnight under section 14EB of the Offences Regulation;
- b. Participating in an approved community work or social development program as part of an infringement notice management plan, which includes programs such as treatment for addiction, counselling sessions, mentoring programs, and community service;
- c. Waiver of the fine by applying under section 31F of the Road Transport (General) Act, which is available in cases of financial hardship or other relevant circumstances such as mental illness, disability, addiction, family violence, or homelessness;
- d. Withdrawal of the infringement notice by applying under section 34 of the Road Transport (General) Act if certain grounds are met, such as if an exemption applies, exceptional circumstances (e.g. a medical emergency), or prior good driving record; and
- e. If the maximum amount of demerit points within a 3-year period is reached, entering into a good behaviour alternative to licence suspension under section 19 of the *Road Transport (Driver Licensing) Act 1999*.

The framework for having a road transport infringement notice withdrawn (removing the financial penalty and demerit points altogether) or the fine waived (waiving the financial penalty while retaining the demerit points) is administered using guidelines, which are disallowable instruments. These guidelines contain the policy and circumstances for withdrawal and waiver for the infringement review process. They have been reviewed in preparation for the commencement of enforcing seatbelt offences through traffic cameras to ensure they contain robust human rights safeguards. Separate guidelines exist for accessing work or development programs in lieu of paying an infringement notice financial penalty.

The review confirmed the Road Transport (General) Withdrawal of Infringement Notices Guidelines 2019 (No 1) and Road Transport (General) Waiver of Infringement Notice Penalties Guidelines 2019 (No 1) offer a suitable balance between alleviating the impacts of infringements on individuals and road safety. There were some ambiguities identified in the guidelines, particularly for withdrawal, where existing government policy could be better explained to ensure the guidelines are transparent, fit for purpose, and up to date. These ambiguities will be clarified in future versions. However, the various avenues available to the community through these guidelines to have infringements withdrawn or fines waived is considered appropriate for achieving Vision Zero – the principle that no one should die or suffer serious injury on our road transport network, while also ensuring everyone has options available to them where their unique circumstances are appreciated and considered fairly.

## Medical exemptions

The Amendment Regulation adapts the existing medical exemption provisions to allow a copy of the medical certificate to be provided within 28 days of the seatbelt infringement notice being received. The existing infringement review process will still allow for an application for withdrawal if the person does not provide the certificate within the 28-day timeframe. The 28-day timeframe ensures the person issued with the infringement notice can resolve the notice in a reasonable timeframe in line with existing processes and time limits for reminder notices, potential late fees, and escalation to court (if required). This is also the timeframe in NSW, giving consistency in the road transport legislation across the border. The existing processes and time limits for the ACT are set out on the Access Canberra website under the Traffic and Parking Fines (Infringements) section.

Public passenger drivers (e.g. taxis and hire cars) have exemptions for passengers, particularly passengers over 16. Rideshare drivers are not exempt for passengers and must ensure a medical exemption is in force before driving with an unrestrained passenger, including that the passenger is complying with the conditions on the certificate. This is an existing requirement and all drivers are responsible for ensuring their passengers are properly restrained before and during the trip.

The amendments remove the need for the driver themselves to be carrying the medical certificate, which allows for a passenger to hold onto the certificate if they prefer in the event they are medically exempt or the passenger is responsible for a child who is medically exempt. However, the driver offence for failing to ensure passengers wear a seatbelt means it is still appropriate for the driver to be required to produce the certificate immediately on request of a police officer, which is current practice. For a traffic camera infringement notice, evidence of a medical exemption may include a photo of the medical certificate or electronic copy.

Seatbelt requirements apply to all passengers and drivers unless certain circumstances apply, such as if the vehicle was not manufactured to be fitted with a lap and sash seatbelt, if the passenger is a child who must be restrained in a child restraint instead, the car is parked or reversing (only drivers are exempt when reversing), or if the individual has a medical certificate stating they are not able to wear the seatbelt correctly or at all.

For medical exemptions, traffic cameras are not able to discern if the person has a valid medical certificate at the time of the image being taken. Infringement review officers may not be aware of the exemption, and so an infringement notice may be issued to the registered operator. The infringement notice is withdrawn after evidence of the exemption in the form of a copy of the medical certificate is provided.

This process could be repeated in future camera detections if the vehicle registration is not recorded as being attached to an exempt individual. Operational processes will be identified and considered to reduce the likelihood of repeated infringement notices being issued for exempt persons. As the cameras can't detect an individual, the risk of repeated infringements may remain. These cases will be monitored



following commencement of the TCE seatbelts initiative. The application process for people with a medical exemption to have an infringement notice withdrawn is simple and easily accessible from the Access Canberra website under the Traffic and Parking Fines (Infringements) section.

NSW, QLD, and VIC all have similar traffic camera enforcement of seatbelt compliance to what this Amendment Regulation enables for the ACT. However, the ways medical exemptions are handled differ. The ACT Government has consulted these jurisdictions on the ways medical exemptions are shared with government and will continue to note developments in this space around Australia to assist in evaluation of the TCE initiative in the ACT.

There is no less restrictive means to support traffic camera enforcement of seatbelt requirements than the current drafting, which reflects how traffic cameras cannot detect the identity of the occupants and instead rely on the ability for the registered operator to nominate another driver or for the infringement notice to be withdrawn with evidence of an exemption.

The risks of improper seatbelt use are serious. The education and awareness campaign accompanying the TCE initiative will emphasise how to wear a seatbelt correctly and the dangers associated with improper use or not wearing a seatbelt at all. It is essential that exempt individuals and medical practitioners understand the risks associated with not wearing a seatbelt correctly when considering temporary or long-term exemptions for medical reasons.

The impacts on persons with medical exemptions from wearing a seatbelt will be monitored following implementation to assist in evaluation and to potentially identify non-legislative mechanisms that may further reduce any limitation on human rights.

## **Right to privacy**

### ***1. Nature of the right and the limitation (s28(a) and (c))***

Everyone has the right to not have their privacy interfered with unlawfully or arbitrarily. This includes communication and information privacy, where individuals should not arbitrarily be required to disclose documents or records containing personal information. Personal information should only be collected by the Road Transport Authority where it is in the interest of the community.

The Amendment Regulation does not directly contain provisions authorising traffic cameras to take images of drivers and passengers; however, it does enable the implementation of the expansion of traffic cameras to detect seatbelts.

Recently, the Bill introduced the ability for the existing network of mobile device detection cameras to use traffic camera detected images of drivers and passengers not correctly wearing seatbelts as evidence that the offence occurred. This Amendment Regulation further supports traffic camera enforcement of seatbelts by restructuring offences and amending exemptions. This enables the existing mobile

device detection cameras to also detect seatbelt offences, meaning images of the offence occurring will be taken and processed.

Mobile device detection cameras already limit the right to privacy as these devices collect images of a vehicle and images of the driver if the driver is detected using a mobile device. This will extend to passengers under the TCE seatbelts initiative. This data is personal information because the information collected can identify the driver and contains the vehicle's details such as numberplate or make and model and may contain details of a person's travel such as direction, location and time. This limitation on the right to privacy also applies for the use of the same technology to detect seatbelts. However, there is a further limitation as the devices will now also take images of passengers.

### Medical exemptions

There is already provision for persons with a medical exemption to not wear a seatbelt or to wear a seatbelt a certain way. The exemption is only applicable if the person is complying with the exemption, for example, the exemption may only allow for the sash to be worn under the arm but must still be fastened.

Currently, a person with a medical certificate exempting them from wearing a seatbelt properly adjusted and fastened is required to carry the certificate on them when travelling in a vehicle. If requested by police, the evidence must be produced immediately for the exemption to apply.

The introduction of traffic camera detection of seatbelts means that medical certificate exemptions will be able to be provided to the Road Transport Authority within 28 days of receiving the infringement notice. There are privacy implications associated with requiring a copy of a person's medical exemption to be provided to the Road Transport Authority.

There are also privacy implications associated with a registered operator/driver providing the exemption of their passenger. For example, if the person with a medical exemption is travelling in a rideshare vehicle and the rideshare operator is issued with an infringement notice for passenger non-compliance. The driver may request evidence of the medical exemption at the time of the booking or after receiving the infringement through the rideshare app to seek withdrawal.

## **2. *Legitimate purpose (s28(b))***

The purpose of the limitation is to achieve Vision Zero – the principle that no one should die or suffer serious injury on our road transport network. For further detail, see the legitimate purpose response above under the right to equality and non-discrimination.

## **3. *Rational connection between the limitation and the purpose (s28(d))***

The ACT's road safety camera program benefits the community by encouraging changes in behaviour that protect and support the safety of all road users. The TCE initiative to expand mobile device detection cameras to seatbelts discourages drivers

from engaging in high-risk behaviours and promotes awareness of following the road rules for everyone's safety.

For further detail, see the rational connection response above under the right to equality and non-discrimination.

#### **4. Proportionality (s28 (e))**

The ACT's road safety camera program does not arbitrarily interfere with privacy and this will continue to be the case following the expansion to include seatbelt detection of drivers and passengers. The purpose of collecting personal information, its usage, and storage is closely and directly connected to the enforcement of seatbelt requirements with the aim of improving road safety. It is also specifically limited to the identification and location of persons who were identified as committing an offence by not correctly wearing a seatbelt or ensuring their passengers comply.

The information collected as part of seatbelt camera detection is consistent with information collected in other jurisdictions with similar systems and will be handled and stored in accordance with the Territory Privacy Principles as provided in the *Information Privacy Act 2014*.

The operations enabled by the Amendment Regulation are considered reasonable, necessary, and proportionate given the safeguards included in the existing legislative framework for the operation of traffic offence detection devices. For example, images captured by the seatbelt detection system are only taken if a seatbelt offence is identified by the technology and only as much of the driver and/or passenger as necessary is shown on the image to prove the offence took place, such as by cropping the image.

There are other privacy safeguards in the existing legislation that apply to all traffic offence detection devices, including traffic camera enforcement of seatbelts.

Relevant legislation includes:

- a. Section 21 of the Information Privacy Act, which requires the ACT Government to only enter a contract with traffic offence detection device providers if the contract contains appropriate privacy protections;
- b. Section 29 of the *Road Transport (Safety and Traffic Management) Act 1999*, which requires the images taken as part of a seatbelt detection system to only be used as necessary for enforcement and to be collected and handled in a way that prevents loss, unauthorised access, modification or disclosure, or other misuses, and information may only be disclosed in limited circumstances that relate to improving road safety, such as supporting law enforcement, improving community education, and for specific road safety related research purposes; and
- c. Section 15 of the Road Transport (Safety and Traffic Management) Regulation 2017, which includes the following safeguards:

- i. Images taken by a traffic camera that do not show an offence took place must be deleted as soon as possible;
- ii. Images and data associated with an image taken by a traffic offence detection device must be encrypted; and
- iii. Images are only to be captured by traffic offence detection devices that are designed to capture this information for the purpose of enforcing a provision of the road transport legislation.

The purposes for which the personal information is collected, used and stored is closely and directly connected to the enforcement of seatbelt requirements with the aim of improving road safety.

### Medical exemptions

Requiring a person to provide evidence of a medical exemption is essential to the success of the TCE initiative. It is an established process for evidence to be provided when applying for an infringement notice to be withdrawn, including evidence for withdrawal on defence or exemption grounds or evidence of a medical emergency under exceptional circumstances.

Just as a person with a medical exemption from wearing a seatbelt must produce the certificate as evidence immediately upon request by a police officer, it must be provided to the Road Transport Authority to ensure the infringement can be withdrawn.

If evidence is not required, this would result in many registered operators/drivers applying for withdrawal under the guise of an exemption to avoid financial penalty and demerit points, which would significantly dilute the effectiveness of the road safety camera program in reducing road trauma and deaths. The information contained on a medical certificate is the minimum information necessary to uphold the framework and allow for only those with a valid exemption to have the infringement withdrawn for that reason. The information being provided to the Road Transport Authority is kept secure in accordance with privacy principles and is not shared.

If the exempt person is a passenger and is requested by the driver to provide a copy of the medical certificate, the person may choose to provide the certificate directly to the Road Transport Authority instead.

## **Rights in criminal proceedings**

### ***1. Nature of the right and the limitation (s28(a) and (c))***

Everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. Strict liability offences limit this right by removing the burden of proof from the prosecution in having to prove the mental fault elements of the offence.

The seatbelt laws applying to drivers and passengers are accompanied by various offences. The seatbelt offences to be enforced by traffic cameras under the TCE

initiative are for a driver failing to wear a seatbelt correctly under section 264(1)(c) and a driver failing to ensure a passenger wears a seatbelt correctly under section 265A(1) of the Road Rules. These are strict liability offences under the Amendment Regulation and were strict liability offences prior, although with different section numbers. The offence at section 265A(1) was previously divided across two different sections by passenger age group. The penalty amounts have not changed as part of updating the section numbers through the Amendment Regulation.

Drivers are responsible for ensuring their passengers comply. The use of seatbelt detection cameras in Australia involves applying existing strict liability offences to the driver of the vehicle for both the driver and/or passengers. In the ACT, the relevant offences are at Part 16 of the Road Rules, which relate to the driver not wearing a seatbelt correctly and the driver not ensuring a passenger wears a seatbelt correctly. Traffic cameras cannot identify the passenger, which means the existing passenger offence for passengers aged over 16 is not applied to offences detected through the traffic camera system.

People with medical exemptions may still be picked up by the traffic camera system and identified by the Infringement Review unit as constituting a seatbelt offence. This means infringement notices may be issued where there is a valid exemption in place. The exemption is only applicable if the person is complying with the exemption, for example, the exemption may only allow for the sash to be worn under the arm but must still be fastened.

The person issued with the infringement notice must provide the evidence of the exemption to the Road Transport Authority within 28 days of receiving the infringement notice before a reminder notice is sent and a late fee added.

The Amendment Regulation combines the existing offences for a driver failing to ensure passengers over 16 and under 16 comply with seatbelt and restraint requirements. This combined offence is new section 265A. The short description in the Offences Regulation for the combined offence is 'driver not ensure passenger complying with seatbelt or seating positions requirements'. This is to allow for traffic cameras to be used to enforce the requirements without knowing the age of the passenger.

The TCE initiative increases the risk of multiple infringements that bring demerit points and financial penalties. Currently, the ACT uses the following traffic cameras to detect offences as part of the ACT road safety camera program:

- a. Fixed red-light/speed cameras;
- b. Fixed speed cameras;
- c. Mobile speed camera vans;
- d. A point-to-point average speed camera; and
- e. Transportable and fixed mobile device detection cameras.

The TCE initiative involves expanding the types of offences detected by the existing technology. For example, when an offence is captured by red-light/speed cameras the vehicle registration is now checked. From 3 November 2025, mobile device

detection cameras will also detect seatbelts, which this Amendment Regulation enables. This will further increase the risk of multiple infringements.

## **2. *Legitimate purpose (s28(b))***

The purpose of the limitation is to achieve Vision Zero – the principle that no one should die or suffer serious injury on our road transport network. For further detail, see the legitimate purpose response above under the right to equality and non-discrimination.

## **3. *Rational connection between the limitation and the purpose (s28(d))***

The ACT's road safety camera program benefits the community by encouraging changes in behaviour that protect and support the safety of all road users. The TCE initiative to expand mobile device detection cameras to seatbelts discourages drivers from engaging in high-risk behaviours and promotes awareness of following the road rules for everyone's safety.

For further detail, see the rational connection response above under the right to equality and non-discrimination.

## **4. *Proportionality (s28 (e))***

The Amendment Regulation does not introduce any new requirements or new processes. It adapts the existing requirements so that they can be enforced by both ACT Policing and traffic camera detection devices and links this with the existing infringement review process so that evidence of exemptions can be provided within 28 days for the infringement notice to be withdrawn. The most significant amendment is to combine the two driver offences for failing to ensure passengers comply into the one offence (combining the offence for passengers over 16 at existing section 265(3) with the offence for passengers under 16 at existing section 266(1)). The combined offence is at new section 265A(1). This is so drivers can still be penalised for driving with unrestrained passengers even though the traffic camera technology can't determine the age of the passenger. These two offences have the same penalties and are similar in nature, so combining them does not change their application or the requirements for drivers.

The existing requirements for drivers and passengers have been restructured. While the policy intent of the Amendment Regulation is purely to make technical amendments to enable traffic camera enforcement while preserving all requirements and exemptions, the drafting of existing sections 264-266 in the Road Rules was found to be outdated and requiring structural updates to align with the model Australian Road Rules, particularly the requirements for passengers under age 16, which were all grouped into section 266, whereas the model legislation expands the age groups out into separate sections. The Amendment Regulation expands the drafting out into specific sections per age group for better clarity and in line with the model legislation for national consistency.

The Amendment Regulation seeks three main amendments, which are to:

1. combine the two age-specific offences for failing to ensure passengers comply into the one offence;
2. define properly adjusted and fastened; and
3. remove the requirement for medical exemption certificates to be produced immediately, allowing them to be provided afterwards within 28 days, similar to NSW.

However, the bulk of the drafting in the Amendment Regulation restructures existing section 266 to align with the model Australian Road Rules and to be clearer in line with standard drafting practice. Existing section 266 is now expanded out into sections 266 and 266C-K. These requirements have been in place for many years in the ACT and around Australia and are essential in reducing the severity of road trauma in a crash. Similar amendments to adapt legislation to enable traffic camera enforcement have already been made in NSW, QLD, and VIC, while still retaining the same requirements respectively.

Alternative methods of enhancing enforcement of seatbelt requirements would rely on enforcement by ACT Policing, which is subject to limited resources and is already in use. The use of police officers alone in enforcing seatbelt compliance is far less effective and less likely to contribute to achieving Vision Zero than complimenting this enforcement using the road safety camera program. This is due to the limited resources available to ACT Policing and the risks in directing resources to target seatbelts over other equally important road rules.

Introducing seatbelt detection to the existing cameras on ACT roads will provide ACT Policing with greater capacity to enforce offences under the road transport legislation in areas where the cameras are not located and for offences that cameras cannot enforce, increasing enforcement and compliance with the ACT's road transport laws.

A survey of 1,900 ACT YourSay Panel members during Road Safety Week in May 2025 found 98% of respondents wear a seatbelt all of the time (Road Safety Survey, 2025). This suggests a high compliance rate with seatbelt requirements in the ACT.

None of the penalties have been increased by the Amendment Regulation, as evidence supports increasing enforcement of existing penalties to be more effective in deterring non-compliance than solely relying on high penalty amounts. The technology and cameras are readily available to achieve this. QLD has higher financial penalties and demerit points for seatbelt offences than the ACT yet also relies on traffic camera enforcement of seatbelt offences to further reduce the risk of serious injuries and deaths on the road transport network.

The strict liability offences for a driver not wearing a seatbelt correctly or not ensuring their passenger/s wear a seatbelt correctly means it must be clear that the offence took place. While the seatbelt detection system relies on camera technology to identify an offence and take an image as evidence, the image is then reviewed by an infringement review officer to confirm the offence took place before an infringement notice can be issued. From this point, the person who receives the infringement notice can then apply for withdrawal if they have evidence the offence did not take

place e.g. a medical exemption or if certain circumstances were met that make the notice eligible for withdrawal.

The offences being enforced by the seatbelt detection cameras apply to the driver. As the driver's identity isn't detected, the infringement notice is issued to the registered operator under section 12A of the Offences Regulation. The driver can then be nominated if the registered operator was not responsible. While there is also an offence available in the Road Rules for a passenger over age 16 not wearing a seatbelt correctly, the traffic camera can't detect the identity of the passenger and there is no provision equivalent to section 12A for an infringement notice to be issued to them.

This means a driver will be penalised for their passenger's non-compliance. Drivers being held responsible for passenger seatbelt compliance is already an established offence enforced by ACT Policing and it is accepted practice that drivers are responsible for their passengers wearing their seatbelts correctly or otherwise complying with seatbelt, restraint, and seating position requirements. This is also accepted practice in all other Australian jurisdictions with seatbelt detection by traffic camera.

Establishing the traffic camera seatbelt enforcement framework where only the driver offences are enforced is the least restrictive means of enhancing seatbelt compliance in the absence of a suitable framework to allow for passengers over age 16 to be nominated to take the penalty.

Enforcement of the driver offence through the TCE initiative is essential to reach the purpose of Vision Zero. The ACT Government will monitor the TCE initiative and work with other jurisdictions to identify if nominating a passenger to be penalised instead of the driver is achievable and lawful.

The amendments to the Offences Regulation, which set the infringement notice penalty amounts for each offence, have been designed to enable traffic camera enforcement of passenger seatbelt and other restraint/seating requirements in the one infringement short description for new section 265A(1). The short description for this offence is 'driver not ensure passenger complying with seatbelt or seating positions requirements'. Section 75 of the Road Transport (General) Act states an offence against the road transport legislation is sufficiently stated or described in an information, summons, subpoena, warrant, notice, order or other document if it is stated or described using the short description or an expression substantially the same as the short description. Usually, the Offences Regulation would provide multiple different specific short descriptions for a single offence such as this; however, there are no alternative ways to drafting the Offences Regulation to enable camera enforcement to achieve the purpose of the amendments at this stage. This is why the short description covers all passenger seating requirements for section 265A(1). The various ways a passenger could be non-compliant are also interconnected and overlap; for example, a passenger may be wearing a seatbelt fastened but not properly adjusted due to sharing the seat with another passenger



who is medically exempt. This means the first passenger is not complying with both the general seatbelt requirement as well as seating position requirements at once. The drafting of the short description for section 265A(1) is appropriate to cover such a scenario.

A similar approach to the short description has been taken by NSW and QLD which have similar frameworks and has previously been taken in the ACT when mobile device detection cameras were first introduced. For example, the Offences Regulation provides a simple short description of 'driver using mobile device' under section 300(1) of the Road Rules despite there being various ways to commit the offence in section 300, such as not having the device in a mounting affixed to the vehicle properly or using the device for messaging, social networking, etc. The simple short description is used to be enforceable using traffic camera detection devices.

The offences for a driver failing to wear a seatbelt or failing to ensure their passenger complies are strict liability. This means there are no mental fault elements to the offence, but the defence of mistake of fact is available.

The amendments do not remove a person's right to contest the evidence of the seatbelt offence captured by a traffic camera. As is the current administrative practice for camera detected offences, a person may apply to Access Canberra to raise any issues they believe support the withdrawal of an infringement notice or dispute the infringement notice in court.

None of the amendments limit the right of a person to dispute an infringement notice in court and therefore will not limit rights to a fair trial under section 21 of the HRA. If a matter proceeds to court, the person may provide evidence contesting the infringement notice and the evidence provided. It will then be a matter for the court to determine whether an offence has been committed.

### Multiple infringements

The TCE initiative increases the risk of multiple infringements from a single detection event that bring demerit points and financial penalties. This is already possible through police enforcement; however, the use of traffic cameras increases the likelihood of offenders being detected.

This is justified to reach the objectives of improving road safety by reducing unnecessary injuries and deaths on the road transport network. The intent of issuing multiple infringements is to deter offences being committed. Effective enforcement is a proven method in improving road safety.

Safeguards are available, such as the infringement review process, waiver of fines in cases of financial hardship or other relevant circumstances or entering into a payment plan or a work or development program. Further detail on these safeguards is set out under the proportionality response above for the right to equality and non-discrimination.

To ensure that existing infringement review policies are reflective of human rights considerations while upholding road safety principles, the Road Transport (General) Withdrawal of Infringement Notices Guidelines 2019 (No 1) and Road Transport (General) Waiver of Infringement Notice Penalties Guidelines 2019 (No 1) and associated policies and legislation have been reviewed. The review confirmed the available safeguards are sufficient to ensure the road rules can be effectively enforced while the individual circumstances of people impacted can be fairly taken into account. The review identified minor updates that would improve the clarity of the guidelines but did not identify the need for policy changes.

A comprehensive communications campaign accompanies the TCE seatbelts initiative prior to and following 3 November 2025 aligning closely with that of NSW and QLD. Website materials will be updated and education and awareness activities will be rolled out to ensure the Canberra community is aware of the risk of multiple infringements.

## References

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## CLAUSE NOTES

### Clause 1 Name of regulation

This clause states that the name of the Amendment Regulation is the Road Transport (Road Rules) Amendment Regulation 2025 (No 1).

### Clause 2 Commencement

This clause states that the Amendment Regulation commences on either the day after notification or 3 November 2025; whichever is later. As the seatbelt camera enforcement scheme commences 3 November 2025, this is the planned commencement for the Amendment Regulation.

### Clause 3 Legislation amended

This clause states the legislation amended by the Amendment Regulation is primarily the Road Transport (Road Rules) Regulation 2017.

Minor amendments are also made to the Road Transport (Offences) Regulation 2005 to include the new infringement notice penalty amounts for the restructured offences and the Road Transport (Public Passenger Services) Regulation 2002 to update a note with the new section numbers.

### Clause 4 New division 16.1 heading

This clause inserts new division 16.1 'Application – pt 16' into part 16 of the Road Rules, which is the part of the Road Rules that sets out rules for people travelling in or on vehicles, including seatbelts.

Previously, part 16 of the Road Rules was not divided into separate divisions. The Amendment Regulation makes structural updates to align more closely with the current version of the model Australian Road Rules, including separating out seatbelt and restraint requirements for different age groups into separate sections and dividing the entire part into separate divisions.

These amendments are technical in nature and do not change the substance of the requirements.

### Clause 5 Sections 264 to 266

This clause contains the bulk of the Amendment Regulation by replacing existing sections 264-266, which contain seatbelt and restraint requirements for drivers and passengers of all ages.

The existing sections are divided into division 16.2, which covers drivers and passengers over 16, and division 16.3, which covers passengers under 16.

#### Division 16.2 – Wearing seatbelts and seating positions – drivers and passengers

This division includes new sections 264 (Wearing seatbelt and seating position – driver), 265 (Wearing seatbelt and seating position – passenger 16 years old or

older), and 265A (Driver to ensure passengers comply with seatbelt and seating position requirements). These replace existing sections 264-266.

These new sections replicate the existing requirements in a way which aligns more closely with the structure of the current model Australian Road Rules.

The sections in division 16.2 are summarised below:

a. Section 264: Wearing seatbelt and seating position – driver

- i. This section states the driver of a vehicle that is moving, or is stationary but not parked, must occupy a driver's seating position that is fitted with an approved seatbelt, must not occupy the same seating position as another passenger, and must wear their seatbelt properly adjusted and fastened.
- ii. An example of what constitutes 'properly adjusted and fastened' is provided, which reflects existing policy and enforcement practice. The Road Rules already required seatbelts to be worn properly adjusted and fastened but did not offer a clear explanatory note in the legislation itself. The example states properly adjusted and fastened means, for a lap and sash seatbelt, securing the seatbelt in the buckle with the lap portion of the belt sitting low and firmly over the hips and the sash portion positioned firmly over the shoulder and not under the arm or behind the back. For a lap belt, the buckle must be secured with the belt sitting low and firmly over the hips.
- iii. General exemptions are referenced, as the Road Rules do not require seatbelts to be worn by drivers when reversing or if certain exemptions apply under existing section 267. For example, section 267 exempts a person aged 7 or older from wearing a seatbelt if the seating position isn't fitted with a seatbelt and isn't required to be and there are no available seats that are fitted with one, which means a motorcyclist is exempt.
- iv. These replicate the existing requirements at section 264 of the Road Rules and the penalties remain unchanged at 20 penalty units. The Amendment Regulation substitutes existing section 264 with this new wording to reflect the model Australian Road Rules, which all jurisdictions generally strive for when amending road transport legislation to maintain national consistency across borders where appropriate.

b. Section 265: Wearing seatbelt and seating position – passenger 16 years old or older

- i. This section states a passenger 16 years old or older in a vehicle that is moving, or is stationary but not parked, must occupy a seating position that is fitted with an approved seatbelt, must not occupy the same seating position as another passenger, and must wear the seatbelt properly adjusted and fastened.

- ii. The same example of properly adjusted and fastened is provided as explained above.
  - iii. General exemptions under existing section 267 are referenced.
  - iv. Further exemptions for passengers 16 years old or older in buses, public minibuses, taxis, hire cars, or tow trucks are set out for if the passenger has a child under 12 months old on their lap if no suitable child restraint is fitted and available and they aren't seated in the front row (unless there is no second row available).
  - v. These replicate the existing requirements at section 265 and the penalty remains unchanged at 20 penalty units.
- c. Section 265A: Driver to ensure passengers comply with seatbelt and seating position requirements
- i. This section states drivers must ensure their passengers of all ages comply with the seatbelt and seating position requirements applicable to them.
  - ii. This section combines the existing offences at existing sections 265(3) and 266(1) into the one offence to allow for traffic camera infringements to be issued for drivers who fail to ensure passengers are properly restrained without needing to know the age of the passenger. Previously, existing section 265(3) required drivers to ensure passengers aged 16 or older were restrained and existing section 266(1) required drivers to ensure passengers aged under 16 were restrained.
  - iii. Exemptions for drivers of buses, taxis, and hire cars are provided for passengers aged 16 or older. An exemption for drivers of corrections vehicles, youth detention vehicles, or sheriff's vehicles for passengers of all ages is provided if the passenger fails or refuses to wear a seatbelt or other restraint required.
  - iv. These are already existing requirements in the ACT (with the exemption that passengers in corrections, youth detention, and sheriff's vehicles previously did not have to refuse or fail to wear a seatbelt for the exemption to apply; however, this is current practice) and the penalties remain unchanged at 20 penalty units. This single combined offence for a driver failing to ensure passengers of all ages comply with seatbelt and seating requirements aligns with the current legislation in NSW more closely than with the model Australian Road Rules. This is because the model rules separate the offences by the age of the passenger, which is not enforceable by traffic camera technology as the cameras cannot determine the age of the passenger.

#### Division 16.3 – Requirements for seatbelts and seating positions – passengers under 16 years old

This division replaces existing section 266 with sections 266 and 266C-K. Existing section 266 included various requirements for all age groups under 16. The Amendment Regulation replaces this approach with the approach taken in the model Australian Road Rules to separate out these age group requirements into specific sections for clarity.

There is no section 266A or 266B, which is a deliberate drafting decision to align with how the different age group requirements are titled in the model legislation (e.g. both the model legislation and the Amendment Regulation detail requirements for passengers under 6 months old at section 266C, passengers 6 months to under 4 years old at section 266D, and so on).

The sections in division 16.3 are summarised below:

- a. Section 266: Definitions – div 16.3
  - i. This section contains certain definitions that are relevant to division 16.3. The definitions for an available child restraint and a suitable child restraint replicate section 266(6) of the existing Road Rules and the definitions of forward facing and rearward facing child restraints replicate section 266(6A).
- b. Section 266C: Wearing seatbelts – passengers under 6 months old
  - i. This section contains the requirements for passengers under 6 months old. Section 266C(1) replicates existing section 266(2), which states the passenger must be restrained in a suitable and properly fastened and adjusted rearward facing approved child restraint.
  - ii. Requirements for older children are allowed if they can't fit into the restraints specified for their age group, and various exemptions under existing section 267 are acknowledged. Sections 266C(2) to (4) replicate existing sections 266(4B) to (4D). Section 266C(5) replicates existing section 266(4A).
- c. Section 266D: Wearing seatbelts – passengers 6 months old or older but under 4 years old
  - i. This section contains the requirements for passengers aged between 6 months to under 4 years old. Section 266D(1) replicates existing section 266(2A), which states the passenger must be restrained in a suitable and properly fastened and adjusted rearward facing or forward facing (with an inbuilt harness) approved child restraint.
  - ii. Requirements for older children are allowed if they can't fit into the restraints specified for their age group, and various exemptions under existing section 267 are acknowledged. Sections 266D(2) to (3) replicate existing sections 266(4C) to (4D). Section 266D(4) replicates existing section 266(4A).
- d. Section 266E: Wearing seatbelts – passengers 4 years old or older but under 7 years old

- i. This section contains the requirements for passengers aged between 4 years to under 7 years old. Section 266E(1) replicates existing section 266(2B), which states the passenger must be restrained in a suitable and properly fastened and adjusted forward facing (with an inbuilt harness) approved child restraint or booster seat (with a seatbelt or harness), or a seatbelt if in a vehicle for the carriage of goods.
  - ii. Requirements for older children are allowed if they can't fit into the restraints specified for their age group, and various exemptions under existing section 267 are acknowledged. Section 266E(2) replicates existing section 266(4D). Section 266E(3) replicates existing section 266(4A).
  - iii. Section 266E(5) contains the definition of approved booster seat, replicating the definition from existing section 266(7).
- e. Section 266F: Exemption for driver – passenger's medical condition etc
  - i. Section 266F replicates the medical certificate exemptions from existing sections 266(2C) to (2D). These apply to medical or disability exemptions from the child restraint requirements for children aged under 7 years old.
  - ii. However, the existing provisions require the driver to produce the medical certificate immediately when requested by an authorised person or police officer, which doesn't accurately reflect the process for traffic camera infringement notices. Section 266F sets out an alternate process for these circumstances so that the evidence of a medical exemption can be provided to the Road Transport Authority (Access Canberra) in line with the existing infringement withdrawal process. Under the infringement review process a person has 28 days to apply for withdrawal (or dispute the infringement notice) before a reminder notice is sent and a late fee added.
- f. Section 266G: Seating position – passenger under 4 years old
  - i. This section contains seating position requirements for passengers under 4 years old. It states they must not occupy the front row if there is another row in the vehicle, unless they are permitted to under a medical certificate.
  - ii. Section 266G(1) replicates the seating position requirements for children aged under 4 years old at existing section 266(3).
  - iii. The medical exemption at existing sections 266(3B) to (3C) is replicated at sections 266G(2) to (3). However, the existing provisions require the driver to produce the medical certificate immediately when requested by an authorised person or police officer, which doesn't accurately reflect the process for traffic camera infringement notices. Section 266G(3)(a) sets out an alternate process for these circumstances so that the evidence of a medical exemption can be

provided to the Road Transport Authority (Access Canberra) in line with the existing infringement withdrawal process. Under the infringement review process a person has 28 days to apply for withdrawal (or dispute the infringement notice) before a reminder notice is sent and a late fee added.

- g. Section 266H: Seating position – passenger 4 years old or older but under 7 years old
  - i. This section contains seating position requirements for passengers aged between 4 years and under 7 years old. It states they must not occupy the front row if there is another row in the vehicle, unless there is no room due to the other rows already being occupied by other children aged under 7.
  - ii. Section 266H(1) replicates the existing seating position requirements and exceptions for children aged between 4 years and under 7 years old at section 266(3A).
  - iii. The existing medical exemption at sections 266(3B) to (3C) is replicated at sections 266H(2) to (3). However, the existing provisions require the driver to produce the medical certificate immediately when requested by an authorised person or police officer, which doesn't accurately reflect the process for traffic camera infringement notices. Section 266H(3)(a) sets out an alternate process for these circumstances so that the evidence of a medical exemption can be provided to the Road Transport Authority (Access Canberra) in line with the existing infringement withdrawal process. Under the infringement review process a person has 28 days to apply for withdrawal (or dispute the infringement notice) before a reminder notice is sent and a late fee added.
- h. Section 266I: Seating position – passenger 7 years old or older but under 16 years old
  - i. This section contains requirements for passengers aged between 7 years old to under 16 years old. It states they must be restrained either in a suitable approved child restraint that is properly adjusted and fastened or wear a seatbelt properly adjusted and fastened without sharing the seat with another passenger. The restraint and seatbelt requirements don't apply where an exemption is in place under section 267. There is no exemption from the seating position requirement.
  - ii. Section 266I(1) replicates the existing seating requirements for passengers aged between 7 years and under 16 years old at section 266(4).
- i. Section 266J: Passenger sitting in seating position fitted with particular seatbelt



- i. This section contains an alternative option of an approved properly adjusted and fastened child safety harness instead of the sash part of a seatbelt for passengers aged between 4 years to under 16 years old.
  - ii. This replicates existing section 266(4E).
- j. Section 266K: Exemptions for driver – public minibus, taxi, hire car or tow truck
  - i. This section contains exemptions from seatbelt, restraint, and seating position requirements for passengers under 7 for various types of vehicles. Section 265A already exempts drivers of buses, taxis, and hire cars from requiring passengers 16 and older and exempts drivers of corrections vehicles, youth detention vehicles or sheriff's vehicles for passengers of all ages if the passenger refuses or fails to comply. Police and emergency vehicles are also already exempt more broadly under existing section 267(5) if the passenger isn't in the front row. Section 267(1A) also provides a general exemption for passengers over age 7 if the seat isn't required to be fitted with a seatbelt (e.g. a public bus) and section 310 exempts road workers where necessary.
  - ii. Section 266K(1) states the driver of a public minibus, taxi, or hire car is exempt from the requirements at sections 266C (passengers under 6 months old), 266D (passengers aged between 6 months to under 4 years old), and 266E (passengers aged between 4 years to under 7 years old) if there is no suitable approved child restraint available and, for vehicles with more than one row, the passenger isn't in the front row. This replicates existing section 266(5).
  - iii. However, section 266K(2) states the public minibus, taxi, or hire car driver must ensure passengers aged between 1 and under 7 years are still wearing an approved properly adjusted and fastened seatbelt to the best extent possible unless they're exempt under section 267. This replicates existing section 266(5A).
  - iv. Section 266K(3) states the driver of a public minibus, taxi, hire car, or tow truck doesn't have to ensure passengers aged under 1 year old comply if there is no suitable approved child restraint available and they're seated on the lap of another passenger aged over 16 and are not in the front row if there is more than one row. However, this exemption only applies to the driver of a tow truck if the tow truck is towing another vehicle due to the other vehicle breaking down or being involved in a crash. This replicates existing section 266(5B).

## **Division 16.4 Exemptions from wearing seatbelts**

### **Clause 6 Section 267 (1C)**

This clause replaces references to sections 266(3) and (3A) with references to new sections 266G(1) and 266H(1), as these are the equivalent sections in the

Amendment Regulation after restructuring all of the existing requirements for passengers under 16.

#### **Clause 7     Section 267 (3A)**

This clause amends the general medical certificate exemption provision which required the driver to carry the medical certificate even when the exempt person is a passenger. This has been amended to require the medical certificate to be in force at the time without specifying who has to be carrying it. This reflects the practicalities of situations where the exempt passenger or their parent/carer may not want the certificate to be carried by a driver who they don't know, such as a rideshare driver. The driver could still, with their permission, obtain a copy if required (such as asking to take a picture of the certificate on their phone when parked prior to driving).

#### **Clause 8     Section 267 (4)**

This clause amends the general medical certificate exemption provision which required the person carrying the certificate to produce it immediately on request by an authorised person or police officer in order for the exemption to be valid. The amendments retain this requirement but also add an alternative for infringement notices relating to traffic camera detection of seatbelt offences. This alternative requirement means a copy of the certificate can be provided to the Road Transport Authority (Access Canberra) as part of an application for withdrawal (or a dispute). The timeframe under the existing infringement review process for these options is 28 days from receipt of the infringement notice before a reminder is sent and a late fee added to the penalty.

#### **Clause 9     Section 267 (9), new note**

This clause adds a standard note referencing the *Criminal Code 2002* to clarify that the defendant has an evidential burden in relation to the exemptions in section 267. This note is added in line with standard drafting practice for provisions concerning exemptions to strict liability offences to ensure it is clear the exemption is only valid if the person can demonstrate that they met the exemption criteria.

#### **Clause 10    New division 16.5 heading**

This clause inserts new division 16.5, 'Other rules for people travelling in or on vehicles'.

Part 16 of the Road Rules weren't separated into divisions, but this has been done in the Amendment Regulation to reflect the increased number of sections after expanding section 266 out into sections by age group and to align with the model Australian Road Rules.

#### **Clause 11    Section 310 (2) (h) and (i)**

This clause updates the references to section titles for sections 264 and 265 in the list of sections which road workers are exempt from.

## **Clause 12 Dictionary, new definitions**

This clause relocates the definition of ‘approved child safety harness’ from existing section 266(7) to the Road Rules dictionary as the Amendment Regulation expands section 266 into different sections by age group, meaning the term is now used across multiple sections.

This clause also adds references to terms that are now defined in new section 266. These terms are ‘available’, ‘forward facing’, ‘rearward facing’, and ‘suitable’.

## **SCHEDULE 1 Consequential amendments**

### **Part 1.1 Road Transport (Offences) Regulation 2005**

#### **Clause 1.1 Section 21 (2) (a) (ii) to (iv)**

This clause makes consequential changes to update section numbers and offence titles for the double demerit point provisions.

#### **Clause 1.2 Schedule 1, part 1.16, items 466 to 469.7**

Schedule 1 of the Offences Regulation contains the short descriptions, penalty amounts, and demerit points for various road transport offences. This clause replaces the existing rows for seatbelt and seating position requirements with updated section numbers and associated short descriptions.

This is consequential to the restructuring of sections in the Road Rules and has been done to align with the model legislation and to ensure traffic camera technology can be used to enforce the existing requirements without needing to know the age of passengers. Penalty amounts and demerit points remain unchanged for their equivalent offences.

### **Part 1.2 Road Transport (Public Passenger Services) Regulation 2002**

#### **Clause 1.3 Section 132 (3), note 1**

This clause updates a reference to the Road Rules following the expansion of section 266 into various separate sections under the Amendment Regulation. Previously, the note referenced only sections 265 and 266. However, the Amendment Regulation relocates and duplicates exemptions for passengers across many sections in part 16 of the Road Rules. Therefore, the reference to sections 265 and 266 is replaced with a reference to part 16.