

## Land Transport (Road User) Amendment Rule [2013]

### (Child restraints)

#### Questions and Answers

20 February 2013

#### 1. Why is this amendment Rule being proposed?

The amendment Rule will make changes to the child restraint requirements in the Land Transport (Road User) Rule 2004.

The overall objective of the proposed changes is to reduce preventable deaths and serious injuries to child passengers travelling on New Zealand's roads.

The proposals are part of the Government's action towards meeting its goal of bringing New Zealand's child restraint laws in line with international best practice – as outlined in the *Safer Journeys to 2020* road safety strategy. At the same time we need to ensure families can reasonably meet these improved child safety measures.

#### 2. What changes are proposed to child restraint legislation?

There are three main proposals:

1. Extend the mandatory use of child restraints to passengers who are aged under seven (ie until their seventh birthday) and keep the requirement for children aged seven to be restrained in an appropriate child restraint if one is available.
2. Extend the current provision that allows a child not to use a child restraint, for medical reasons, to all children of any age. This corrects an anomaly in the existing Rule where the use of medical exemptions currently is only available in respect of children aged five and above.
3. Remove the exemption for a driver of a goods vehicle having an unladen weight exceeding 2000 kg, in which seatbelts are not available, from ensuring that passengers under five years of age are restrained.

Requirement	Under current Rule	Under proposed Rule
Child must be restrained in an appropriate child restraint	Children aged under five (ie until their fifth birthday)	Children aged under seven (ie until their seventh birthday)
Child must be restrained in an appropriate child restraint or	Children aged five, six and seven	Children aged seven

<p><u>seatbelt if one is available</u></p> <p>Child must use seatbelt if available. If not available, they must travel in the back seat.</p>	<p>Children aged eight to 14</p>	<p>Children aged eight to 14 – no change</p>
<p>Exceptions from using a child restraint include:</p>	<ul style="list-style-type: none"> <li>• If a current medical certificate is provided certifying that use of a restraint is impracticable or undesirable for medical reasons, then the person does not have to be restrained in a child restraint or seatbelt. Applies to any person from age five and above</li> <li>• If the vehicle is a goods vehicle (with an unladen weight exceeding 2000 kg) in which seatbelts are not available, then a child under five years of age is not required to be restrained</li> <li>• If travelling in a passenger service vehicle in which there are no appropriate seatbelts available</li> <li>• If the vehicle was first registered before 1 January 1955 and in which seatbelts are not available</li> <li>• If the vehicle is a motorcycle</li> <li>• If the vehicle is being used by an enforcement officer in the execution of the driver's duty eg, a police officer transporting a child</li> </ul>	<ul style="list-style-type: none"> <li>• Extend the exemption to include children under the age of five to correct an anomaly in the current requirements whereby medical certificate exemptions only apply to children aged five or over.</li> <li>• The requirements for children to be restrained would also apply to children in these vehicles. Most modern goods vehicles do have seatbelts.</li> <li>• No change</li> <li>• No change</li> <li>• No change</li> <li>• No change</li> </ul>

### **Extending the mandatory use of child restraints to passengers who are aged under seven years (ie until their seventh birthday)**

#### **3. Why is this change proposed?**

Seats and seatbelts installed in vehicles are designed and manufactured to most effectively protect an average sized adult in the event of a crash. Children, because they are smaller and have a different body shape to adults, need additional seating equipment to keep them as safe as adults in a car.

Children who are smaller than car manufacturers' recommended heights for being seated in adult seats and seatbelts are vulnerable to a number of serious injuries in the event of a crash.

Currently, children aged under five (ie until their fifth birthday) must be restrained in an 'approved child restraint' suitable for the size and weight of the child. By extending the mandatory age limit to children aged under seven (ie until their seventh birthday) the children aged five and six years old will be more safely restrained.

The related provision for children aged seven to use a suitable child restraint or seatbelt if one is available will remain. So if a suitable child restraint is available it is proposed that a child should use it at least until their eighth birthday.

#### **4. What could happen to an incorrectly or unsecured child in the event of a crash?**

When children's calves and thighs are too short for the depth of the adult car seat they intuitively slide their hips forward for greater comfort. This causes the lap portion of seatbelt to ride up over the soft tissues of their abdomen, rather than being positioned over the rigid pelvic bones, as they are designed to do for adults. This can cause serious abdominal injuries in a crash.

The shoulder portion of the seatbelt can also cut across a child's neck and face and can cause severe upper neck and spinal trauma. A child may place the shoulder portion of the seatbelt under their arm or behind their back rather than off their shoulder as it is intended to be worn.

Because adult seatbelts are poorly fitting, children in this group are vulnerable to abandoning the use of the belt, preferring to ride unsecured. In the event of a crash unsecured children can be ejected through a vehicle window. Those situations are usually fatal.

The risk of ejection from a vehicle does not only apply to unrestrained children. In a crash, a child who is restrained only by a seatbelt can also slide out from under the seatbelt (referred to as 'submarining') and be ejected from the vehicle.

Using a booster seat lifts a child to the correct height/dimensions to best fit the adult seat belt, which in turn reduces the potential trauma suffered by a child in the event of a crash.

### **Extend the current provision that allows a child not to use a child restraint, for medical reasons, to all children five and under**

#### **5. Why is this change proposed?**

Medical practitioners are able to provide an exemption certificate when, in their judgement, use of an approved child restraint, is impracticable or undesirable for medical reasons.

An example of the types of situations in which this could apply is when a child has recently had hip or other surgery where the child may not fit into a standard child restraint due to a cast that is fitted to immobilise the hip joint. Or there may be concerns about the seatbelt or the straps from a child restraint pressing against surgical wounds that are still healing.

This proposed amendment addresses a current anomaly in the Rule where only children aged five or over may be exempted from using a child restraint with a medical certificate, but not children under five.

The medical certificate would have to be produced on demand to an enforcement officer.

**Remove the exemption for a driver of a goods vehicle having an unladen weight exceeding 2000 kg, in which seatbelts are not available, from ensuring that passengers under five years of age are restrained**

**6. Why is this change proposed?**

This proposal would prevent deaths and injuries associated with children travelling in this type of vehicle that is not fitted with seatbelts. Modern goods vehicles are fitted with seatbelts and there is no longer any justification for keeping this exemption.

Removing this exemption would also align transport law with the Health and Safety in Employment Act 1992 requiring employers to take all practicable steps to ensure that no action or inaction of any employee while at work harms any other person.

Drivers of these vehicles would be responsible for ensuring all children aged under 15 (ie until their 15<sup>th</sup> birthday) travelling in their vehicle are secured in an appropriate child restraint or seatbelt.

**Background information**

**7. What are the different types of child restraints?**

Types of child restraints include:

- infant restraints for young babies (baby capsules);
- restraints for older babies, toddlers and preschool children (car seats or car restraints);
- booster seats for preschool and school-aged children (boosters). These position children in the seat so they can safely use the adult seatbelt;
- child safety harnesses (used with or without a booster seat) for preschool and school-aged children.

Child restraints used in New Zealand must be 'approved' and must display standards markings to show they are of an approved type and are safe to be used. Children must be seated in a restraint that provides a suitable fit (is appropriate) for their age and size.

It's the driver's responsibility for ensuring that any child under the age of 15 years travelling in their vehicle is correctly restrained.

## 8. How do we know the proposed changes will improve safety?

It is expected that the extension of child restraint requirements would save 2.2 deaths, 12.8 serious injuries and 131.1 other injuries over the first 10 years if there was 80 percent compliance with the proposal.

*Child passenger deaths and injuries aged 5 to (and including) 7 years from 2002 to 2011\**

Age of child	Nature of injuries			
	Fatal	Serious	Minor	Total
Five	7	31	272	310
Six	9	47	314	370
Seven	8	37	325	370

\*The data relates to child passengers in cars, vans and sports utility vehicles. Figures taken from Ministry of Transport motor vehicle crash reports.

## 9. Will there be additional costs for parents and caregivers as a result of the proposed changes to requirements?

This change will not affect every family. It may affect families of children who have a booster seat that is too small for their child to stay in from their fifth birthday or one that will become too small during the ages five to seven. Or families who do not currently have a child restraint for any children aged five and six.

It may also affect families with two working parents or caregivers who may have to purchase more than one child restraint per child. For example, if one parent drops off a child at school on their way to work and another parent or caregiver picks them after school in a different vehicle.

Approved booster seats vary in price and quality. Booster cushions are available from \$30. For a child restraint to provide optimum protection it needs to provide both back and side support to protect from side-impact injuries. A booster seat that provides both back and side support can be bought for between \$80 and \$150.

More expensive booster seats are available which offer more features and protection and can be used for a longer period such as from one to 12 years.

Retail Institute accredited Child Restraint Technicians ([www.nzta.govt.nz/traffic/students-parents/child-restraints-technician-list.html](http://www.nzta.govt.nz/traffic/students-parents/child-restraints-technician-list.html)), retailers and other child restraint stakeholders will be able to advise parents and caregivers on their options.

The proposed lead-in time (four and a half months) for the new child restraint rules takes into account the need for parents to plan ahead and make the most effective choice for their family.

Over time, parents will be able to better plan for the extended child restraint requirements, for example, by buying a child restraint which will fit a child up to the time they turn at least seven.

## 10. Will families be able to get assistance with buying child restraints?

The Ministry of Social Development provides recoverable financial assistance for approved child restraints under two schemes:

- Advanced Payment of Benefits, for beneficiaries
- Recoverable Assistance Payments, for non-beneficiaries.

It is proposed that both schemes would be amended to cover the extended use of child restraints.

People applying for financial assistance under either of these regimes will need to meet the Ministry of Social Development's eligibility criteria.

### 11. Do any other countries have similar child restraint rules to New Zealand?

Below are the mandatory child restraint requirements of New Zealand and other selected OECD countries. A number of countries mandate a height at which a child no longer has to use a booster seat.

Country	Height requirement	Age requirement*
Australia	No height requirement	0-7 years
Belgium	No height requirement	0-12 years
Canada	Alberta: No height requirement	Alberta: 0-7 years
	Quebec: 63 centimetres seated height	Quebec: No age requirement
	British Columbia: 145 centimetres	British Columbia: 0-10 years
Germany	0-150 centimetres	0-12 years
Hungary	0-150 centimetres	0-12 years
Japan	No height requirements	0-7 years
Switzerland	0-150 centimetres	0-12 years
<b>New Zealand</b>	<b>No height requirement</b>	<b>0-5 years</b>
Spain	0-150 centimetres	0-12 years
United Kingdom	0-135 centimetres	0-12 years
United States	Varies by State	Varies by state, generally 0-9 years

\* The age requirements are up to the age stated.

There is evidence that all children who are shorter than 148 cm in height are significantly safer in a booster seat than when using an adult seat alone.

Extending New Zealand's requirements to children up to a standing height of 148 cm or up to 11 years age, therefore, would be more consistent with international best practice and car manufacturer recommendations. However, these proposals also take

into account that there will be an increased cost to some parents and caregivers for children to whom the extended requirements will apply.

## Consultation information

### **12. What is the authority for making the amendment Rule?**

The *Land Transport Act 1998* provides for the Minister of Transport to make land transport Rules concerning road user behaviour, including the setting of standards and requirements concerning the conduct of drivers, pedestrians and other road users; and regulating traffic of all classes, and prohibiting traffic or a class of traffic on a specified road or class of road.

### **13. What is the consultation process for the amendment Rule?**

The public consultation (yellow) draft amendment Rule has been released for comment. The availability of the draft Rule and associated information material will be advertised in major daily newspapers and in the *New Zealand Gazette*. Groups and individuals who have registered their interest in the Road User Rule will be directly advised of the availability of the yellow draft and invited to make a submission.

### **14. How can I obtain a copy of the draft amendment Rule?**

The yellow draft amendment Rule, with the accompanying overview, can be accessed on the NZ Transport Agency's website at [www.nzta.govt.nz/consultation/child-restraints-amendment/index.html](http://www.nzta.govt.nz/consultation/child-restraints-amendment/index.html)

For a copy of the yellow draft or if you any queries about the content of the amendment Rule after reading the consultation material, telephone the NZ Transport Agency Contact Centre on 0800 699 000.

### **15. Does the draft amendment Rule give me all the information I need to fully understand what is proposed?**

This is an amendment Rule, and therefore contains only the proposed amendment provisions. The accompanying overview provides information about why the amendments are required.

### **16. How can I see how the proposed change will fit into the Road User Rule?**

The material on the website links the proposed amendments with the Rule on the website. This is intended to help put the proposed changes into context.

### **17. Where can I get a copy of the *Land Transport (Road User) Rule 2004*?**

The *Land Transport (Road User) Rule 2004* is available from selected bookshops that sell legislation or direct from the printers, Legislation Direct (telephone (04) 568 0005). Land Transport Rules are also available on the NZTA's website at [www.nzta.govt.nz/resources/rules/about](http://www.nzta.govt.nz/resources/rules/about).

### **18. How can I make a submission?**

You can send your submission by email to [rules@nzta.govt.nz](mailto:rules@nzta.govt.nz) and, if you wish, follow it up with a signed paper copy.

Alternatively, you can submit your comments on the online submission form available at [www.nzta.govt.nz/consultation/child-restraints-amendment/index.html](http://www.nzta.govt.nz/consultation/child-restraints-amendment/index.html)

If posting your submission, please address it to:

Child Restraints Amendment  
Rules Team  
NZ Transport Agency  
Private Bag 6995  
Wellington 6141

Please send your submission to reach the NZTA by 5pm on 3 April 2013.

Please note: submissions are public information. The NZ Transport Agency may publish any information that you submit and may identify you as the submitter should it publish your submission or provide it to a third party. You should, therefore, indicate clearly if your comments are commercially sensitive, or if, for some other reason, you do not want them disclosed, or the reason why you should not be identified as the submitter.

#### **19. What will happen to my comments?**

Comments made in submissions will be analysed and taken into account in redrafting the Rule for the final draft phase.

The final version of the Rule will be submitted to the Minister of Transport or Associate Minister of Transport for signing.

#### **20. When would the Rule come into force?**

Subject to Government approval, it is proposed that the amendment Rule would come into force on 1 November 2013.

**ENDS**