



New South Wales

# Road Amendment (Isabelle Broadhead Child Restraint Measures) Rules 2010

under the

Road Transport (Safety and Traffic Management) Act 1999

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

DAVID CAMPBELL, MP  
Minister for Transport and Roads

## Explanatory note

The object of these Rules is to amend the *Road Rules 2008* to implement the amendments made to the *Australian Road Rules* by the *National Transport Commission (Model Amendments Regulations: Australian Road Rules—Package No 7) Regulations 2008* of the Commonwealth concerning the use of child restraints in motor vehicles and to make other related amendments.

These Rules are made under the *Road Transport (Safety and Traffic Management) Act 1999*, including section 72A (the general rule-making power), section 71 and Schedule 1.

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Rule 1

Road Amendment (Isabelle Broadhead Child Restraint Measures) Rules  
2010

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**Road Amendment (Isabelle Broadhead Child Restraint  
Measures) Rules 2010**

under the

Road Transport (Safety and Traffic Management) Act 1999

**1 Name of Rules**

These Rules are the *Road Amendment (Isabelle Broadhead Child Restraint Measures) Rules 2010*.

**2 Commencement**

These Rules commence on 1 March 2010 and are required to be published on the NSW legislation website.

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## Schedule 1 Amendment of Road Rules 2008

### [1] Rule 265 Wearing of seatbelts by passengers 16 years old or older

Insert “or to any passenger in a motor vehicle (other than a motor bike) driven by such a driver” after “provisional P1 or P2 licence” in rule 265 (3–1).

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

Omit rule 266 (2). Insert instead:

- (2) If the passenger is less than 6 months old, he or she must be restrained in a suitable and properly fastened and adjusted rearward facing approved child restraint.

**Note 1.** *Approved child restraint* is defined in subrule (7) and *rearward facing* is defined in subrule (6A).

**Note 2.** See subrule (4B) if a passenger cannot safely be restrained as required by this subrule because of his or her height or weight.

- (2A) If the passenger is 6 months old or older, but is less than 4 years old, he or she must be restrained in a suitable and properly fastened and adjusted:

- (a) rearward facing approved child restraint, or  
(b) forward facing approved child restraint that has an inbuilt harness.

**Note 1.** *Approved child restraint* is defined in subrule (7) and *forward facing* and *rearward facing* are defined in subrule (6A).

**Note 2.** See subrule (4C) if a passenger cannot safely be restrained as required by this subrule because of his or her height or weight.

- (2B) If the passenger is 4 years old or older, but is less than 7 years old, he or she must:

- (a) be restrained in a suitable and properly fastened and adjusted forward facing approved child restraint that has an inbuilt harness, or  
(b) be placed on a properly positioned approved booster seat and be restrained by a seatbelt that is properly adjusted and fastened.

**Note 1.** *Approved child restraint* and *approved booster seat* are defined in subrule (7) and *forward facing* is defined in subrule (6A).

**Note 2.** See subrule (4D) if a passenger cannot safely be restrained as required by this subrule because of his or her height or weight.

**Note 3.** In relation to paragraph (b), subrule (4E) permits an approved child safety harness to be worn instead of the sash part of a lap and sash seatbelt.

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**[3] Rule 266 (3) and (3A)**

Omit rule 266 (3). Insert instead:

- (3) A passenger who is under 4 years old must not be in the front row of a motor vehicle that has 2 or more rows of seats.
- (3A) A passenger who is 4 years old or older, but is less than 7 years old, must not be in the front row of a motor vehicle that has 2 or more rows of seats unless all of the other seats in the row or rows behind the front row are occupied by passengers who are also under 7 years old.

**[4] Rule 266 (4)**

Omit the subrule. Insert instead:

- (4) If the passenger is at least 7 years old but under 16 years old:
  - (a) he or she must be placed on a properly positioned approved booster seat and be restrained by a seatbelt that is properly adjusted and fastened, or
  - (b) he or she:
    - (i) must occupy a seating position that is fitted with a suitable seatbelt, and
    - (ii) must not occupy the same seating position as another passenger (whether or not the other passenger is exempt from wearing a seatbelt under rule 267), and
    - (iii) must wear the seatbelt properly adjusted and fastened.

**Note 1.** In relation to paragraph (b) (iii), subrule (4E) permits an approved child safety harness to be worn instead of the sash part of a lap and sash seatbelt.

**Note 2.** Subrule (4) (a) is not uniform with the corresponding paragraph in rule 266 of the *Australian Road Rules*.

**[5] Rule 266 (4A)–(4E)**

Insert after rule 266 (4):

- (4A) Subrules (2), (2A), (2B) and (4) do not apply if the passenger is exempt from wearing a seatbelt under rule 267.
- (4B) If a passenger cannot safely be restrained as required by subrule (2) because of his or her height or weight, he or she must be restrained as if subrule (2A) applied to him or her.

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- (4C) If a passenger cannot safely be restrained as required by subrule (2A) or (4B) because of his or her height or weight, he or she must be restrained as if subrule (2B) applied to him or her.
  - (4D) If a passenger cannot safely be restrained as required by subrule (2B) or (4C) because of his or her height or weight, he or she must be restrained as if subrule (4) applied to him or her.
  - (4E) In the case of a passenger sitting in a seating position that is fitted with a lap and sash type seatbelt, it is sufficient compliance with subrule (2B) (b) or (4) (b) (iii), as the case may be, if, instead of using the sash part of the seatbelt, an approved child safety harness that is properly adjusted and fastened is used to restrain the upper body of the passenger.

**Note.** *Approved child safety harness* is defined in subrule (7).

**[6] Rule 266 (5–1)**

Insert before rule 266 (6):

- (5–1) The provisions of this rule have effect in relation to passengers in or on taxis who are under 16 years old, subject to the following modifications:
  - (a) subrule (2A) applies only in relation to passengers who are 6 months old or older, but less than 12 months old,
  - (b) subrule (2B) does not apply to any passengers who are 4 years old or older, but less than 7 years old,
  - (c) subrule (4) extends to passengers who are 12 months old or older, but less than 7 years old, in addition to passengers who are 7 years old or older, but under 16 years old.

**Note 1.** *Taxi* is defined in the Dictionary.

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

**[7] Rule 266 (6) (b)**

Renumber rule 266 (6) (c) as rule 266 (6) (b).

**[8] Rule 266 (6A)**

Insert after rule 266 (6):

- (6A) For this rule, a child restraint that is properly fastened and adjusted:
  - (a) is forward facing if, once it restrains a passenger, his or her head is closer to the rear of the vehicle than his or her feet, and

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- (b) is rearward facing if, once it restrains a passenger, his or her feet are closer to the rear of the vehicle than his or her head.

**[9] Rule 266 (7)**

Omit the definition of *approved child restraint*. Insert instead:

*approved booster seat* means any of the following:

- (a) a booster seat or booster cushion that:
  - (i) is or was designated as a Type E child restraint under the relevant Australian Standard, and
  - (ii) complies with the edition of the relevant Australian Standard that was in force at the time of its manufacture in Australia or importation into Australia (as the case may be) or with any later edition of the Standard in force at the time the seat or cushion is being used, and
  - (iii) has an identifying mark from a body accredited or approved by the Joint Accreditation System of Australia and New Zealand that certifies compliance with the edition concerned of the Standard,
- (b) a booster seat or cushion that:
  - (i) is an integrated part of a motor vehicle, and
  - (ii) was installed by the manufacturer of the motor vehicle to enable an existing adult lap-sash seatbelt to become suitable for use by a child, and
  - (iii) complies with the relevant Australian Design Rules under the *Motor Vehicle Standards Act 1989* of the Commonwealth for child restraints of the type concerned that was in force at the time the vehicle was manufactured or imported into Australia (as the case may be) or with any later edition of those Rules in force at the time the seat or cushion is being used.

**Note.** This definition is not uniform with the definition in rule 266 (7) of the *Australian Road Rules*. However, the definition in the *Australian Road Rules* allows another law of this jurisdiction to make provision for the approval of booster seats. Different definitions may apply in other Australian jurisdictions.

*approved child restraint* means a child restraint that:

- (a) is or was designated as a Type A1, A2, A3, B or D child restraint under the relevant Australian Standard, and
- (b) complies with the edition of the relevant Australian Standard that was in force at the time of its manufacture in

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Australia or importation into Australia (as the case may be) or with any later edition of the Standard in force at the time the restraint is being used, and

- (c) has an identifying mark from a body accredited or approved by the Joint Accreditation System of Australia and New Zealand that certifies compliance with the edition concerned of the Standard.

**Note.** This definition is not uniform with the definition in rule 266 (7) of the *Australian Road Rules*. However, the definition in the *Australian Road Rules* allows another law of this jurisdiction to make provision for the approval of child restraints. Different definitions may apply in other Australian jurisdictions.

**approved child safety harness** means a harness that:

- (a) is or was designated as a Type C child restraint under the relevant Australian Standard, and
- (b) complies with the edition of the relevant Australian Standard that was in force at the time of its manufacture in Australia or importation into Australia (as the case may be) or with any later edition of the Standard in force at the time the harness is being used, and
- (c) has an identifying mark from a body accredited or approved by the Joint Accreditation System of Australia and New Zealand that certifies compliance with the edition concerned of the Standard.

**Note.** This definition is not uniform with the definition in rule 266 (7) of the *Australian Road Rules*. However, the definition in the *Australian Road Rules* allows another law of this jurisdiction to make provision for the approval of child safety harnesses. Different definitions may apply in other Australian jurisdictions.

**relevant Australian Standard** means any of the following editions of the Australian/New Zealand Standard for child restraint systems for use in motor vehicles (as in force from time to time):

- (a) AS/NZS 1754:1995,
- (b) AS/NZS 1754:2000,
- (c) AS/NZS 1754:2004,
- (d) any subsequent edition of the Standard.

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

**[10] Rule 267 Exemptions from wearing seatbelts**

Omit “1 year old” from rule 267 (1B). Insert instead “7 years old”.

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### [11] Rule 267 (1C)

Insert “or (3A)” after “subrule 266 (3)”.

### [12] Rule 267 (4–1)

Insert after rule 267 (4):

(4–1) A person who is under 7 years old is exempt from being restrained in an approved child restraint or placed on an approved booster seat if:

- (a) the vehicle’s driver is carrying a certificate:
  - (i) that is signed by a medical practitioner, and
  - (ii) that states that, in the opinion of the medical practitioner, the person should not be restrained in the appropriate approved child restraint or placed on an approved booster seat for the person due to the person’s medical condition or disability, and
- (b) the person is being properly restrained in a child restraint that has been designed for, and is suitable for use by, that person or persons with the same medical condition or disability.

**Note 1.** *Approved booster seat* and *approved child restraint* are defined in rule 266. *Medical practitioner* is defined in subrule (9).

**Note 2.** This subrule is an additional NSW subrule. There is no corresponding subrule in rule 267 of the *Australian Road Rules*.

### [13] Rule 267 (8–1)

Omit rule 267 (8–1) (including the notes to the subrule). Insert instead:

(8–1) A reference in subrule (8) to an approved child restraint includes a reference to an approved booster seat.

**Note 1.** *Approved booster seat* and *approved child restraint* are defined in rule 266.

**Note 2.** This subrule is an additional NSW subrule. There is no corresponding subrule in rule 267 of the *Australian Road Rules*.

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

Omit rule 267–1 (2) (b) and (c). Insert instead:

- (b) the driver ensures that each passenger who is under 16 years old is restrained in the appropriate child restraint for a person of the passenger’s age.



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[15] **Rule 267–1 (2)**

Omit the note to the subrule. Insert instead:

**Note.** See subrule (2A) for the appropriate child restraint for a passenger who is under 16 years old.

[16] **Rule 267–1 (2A)**

Insert after rule 267–1 (2):

- (2A) For the purposes of subrule (2) (b), a passenger who is under 16 years old is restrained in the **appropriate child restraint** for a person of the passenger's age if the passenger is restrained in an approved child restraint, or is using a seat belt, approved booster seat or approved child safety harness, in a manner (including positioning) that is required or permitted under rule 266 for a person of the passenger's age.

**Note 1.** **Approved booster seat, approved child safety harness** and **approved child restraint** are defined in rule 266.

**Note 2.** The exemptions in rule 267 (except for those in rule 267 (3A) and (4–1)) do not apply in relation to the use of appropriate child restraints. See subrules (4) (a) and (5).

**Note 3.** Rule 266 does not directly apply to drivers to whom this rule applies. See rule 266 (6–1).

[17] **Rule 267–1 (3)**

Omit the subrule. Insert instead:

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

Maximum penalty: 20 penalty units.

[18] **Rule 267–1 (4) and (5)**

Omit rule 267–1 (4) (including the notes at the end of the subrule).

Insert instead:

- (4) Subrules (2) and (3) do not apply to a driver or passenger if:
- (a) the driver or passenger is exempt from wearing a seat belt, or from being restrained in an approved child restraint or placed on an approved booster seat, under rule 267 (3A) or (4–1), or

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- (b) the driver or passenger belongs to a class of persons exempted from the application of the subrule by an order of the Authority.

**Note.** *Approved booster seat* and *approved child restraint* are defined in rule 266. *Authority* is defined in the Act.

- (5) Except as provided by subrule (4) (a), the exemptions in rule 267 do not apply in relation to the use of seat belts or appropriate child restraints as required by subrule (2) or (3).

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

[19] **Rule 267–2 NSW rule: child restraints prohibited on front seats fitted with airbags**

Omit the rule.

[20] **Dictionary**

Insert in alphabetical order:

*approved booster seat*—see rule 266.

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

*approved child safety harness*—see rule 266.

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