

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Friday, 1 July 1983

TRANSPORT AMENDMENT BILL (NO. 4)

Proposed Amendment

Hon. Mr GAIR, in Committee, to move the following amendment:

New clause 22: To add, after *clause 21*, the following clauses:

22. New sections inserted—(1) The principal Act is hereby amended by inserting, after section 77, the following sections:

“77A. Regulations relating to seat belts and child restraints—(1) Without limiting the general power to make regulations conferred by section 199 of this Act, regulations may be made under that section regulating and requiring the fitting and use of seat belts and child restraints in motor vehicles, and, without limiting the generality of the foregoing provisions, for all or any of the following purposes:

“(a) Requiring the owners or operators of motor vehicles or specified classes or types of motor vehicles to ensure that the vehicles are fitted with approved seat belts or specified types of approved seat belts and specifying the sitting positions in vehicles where such seat belts shall be fitted:

“(b) Exempting owners or operators of specified vehicles or specified classes of vehicles or vehicles used solely for specified purposes from all or any of the requirements of regulations made under paragraph (a) of this subsection:

“(c) Requiring the drivers of motor vehicles or specified classes or types of motor vehicles to ensure that the vehicle is fitted with an approved child restraint or restraints in specified circumstances when a child or children are being carried in the vehicle:

“(d) Exempting any driver or class of driver from the requirements of any regulations made under paragraph (c) of this subsection in all circumstances or in circumstances specified in the regulations:

“(e) Requiring persons of, under, or over a specified age or of or over a specified weight in a vehicle for which a seat belt or child restraint appropriate for that person is provided and available for use to be properly restrained by that seat belt or child restraint while the vehicle is in motion; and impos-

ing duties on drivers of motor vehicles to ensure that children are restrained in accordance with regulations made under this paragraph:

“(f) Exempting” any person or class of persons from all or any of the requirements of regulations made under paragraph (e) of this subsection in all circumstances or in circumstances specified in the regulations.

“(2) Any regulations made under subsection (1) of this section shall not apply to or in respect of any owner of, or driver or other person in, any motor vehicle that was first registered before the 1st day of January 1955.

“77B. Power of Secretary to approve child restraints and seat belts—The Secretary may, by notice in the *Gazette*, approve seat belts and child restraints (including restraints to be used in conjunction with seat belts) for the purposes of regulations made under this Act, whether by reference to specified standards or otherwise, and subject to such conditions as to fitting, dates of purchase, use by persons of, under, or over specified ages or weights, periods of use, and use generally, and otherwise as are specified in the notice.”

(2) Section 77 (1) (y) of the principal Act (as substituted by section 23 (2) of the Transport Amendment Act 1974) is hereby repealed.

23. Manufacture or sale of devices, fittings, or equipment requiring approval—The principal Act is hereby amended by renumbering section 77A (as inserted by section 12 of the Transport Amendment Act 1972) as section 77C.

EXPLANATORY NOTE

Clause 22: At present section 77 (1) (y) of the Transport Act 1962 empowers the making of regulations relating to the approval, fitting, and use of seat belts, and provides for exemptions from the requirements of the regulations.

The proposed new provisions (which replace section 77 (1) (y)) empower the Secretary to approve child restraints and seat belts and authorise the making of regulations relating to the fitting and use of both seat belts and child restraints. The current notice approving seat belts is the Seat Belts Approval Notice 1974 (S.R. 1974/301).

The proposed new provisions differ from the existing provisions in that—

- (a) They apply in relation to both child restraints and seat belts:
- (b) They place on the driver of the vehicle the onus for ensuring fitting and use of child restraints:
- (c) They require exemptions from the requirements for fitting and use of seat belts and child restraints to be set out in the regulations. The present exemptions relating to seat belts are granted by the Secretary.

The proposed section 77A would confer authority to make the draft regulations attached to this Supplementary Order Paper.

Clause 23 makes a consequential numbering change.

**DRAFT REGULATIONS (RELATING TO USE OF SEAT BELTS
AND CHILD RESTRAINTS) FOR REFERRAL TO THE STATUTES
REVISION COMMITTEE**

THE TRAFFIC REGULATIONS 1976, AMENDMENT NO. 9

Governor-General

ORDER IN COUNCIL

At the Government of Wellington this _____ day
of 1983

Present:

IN COUNCIL

PURSUANT to sections 77A and 199 of the Transport Act 1976, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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| <p>1. Title and commencement</p> <p>2. New regulations substituted</p> <p style="padding-left: 20px;">30. Children under 8 years to be restrained in child restraints or seat belts if available</p> <p style="padding-left: 20px;">30A. Seat belts to be worn by persons of or over 8 years</p> | | <p>30B. Exemptions from requirements relating to use of child restraints and seat belts</p> <p>3. Exemptions from requirements to fit seat belts</p> <p>4. Consequential revocations Schedule</p> |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Traffic Regulations 1976, Amendment No. 9, and shall be read together with and deemed part of the Traffic Regulations 1976* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of November 1983.

2. New regulations substituted—The principal regulations are hereby amended by revoking regulation 30 (as substituted by regulation 2 of the Traffic Regulations 1976, Amendment No. 2), and substituting the following regulations:

“30. Children under 8 years to be restrained in child restraints or seat belts if available—(1) Every driver of a motor vehicle in which there is a child under the age of 8 years shall ensure that, while the vehicle is in motion on a road,—

“(a) That child is properly restrained by an approved child restraint appropriate for that child, if such a restraint is available in the vehicle; or

“(b) If such a restraint is not available in that vehicle, that child is restrained as securely as practicable in the circumstances using any child restraint or seat belt that is available (whether that restraint or seat belt is approved or not).

*S.R. 1976/227

Amendment No. 1: S.R. 1978/72
Amendment No. 2: S.R. 1978/301
Amendment No. 3: S.R. 1979/128
Amendment No. 4: S.R. 1980/31
Amendment No. 5: S.R. 1980/135
Amendment No. 6: S.R. 1981/158
Amendment No. 7: S.R. 1981/311
Amendment No. 8: S.R. 1982/93

"(2) No driver of a motor vehicle shall, while the vehicle is in motion on a road, permit any child under the age of 8 years to be alongside the driver unless—

- "(a) That child is properly restrained by an approved child restraint appropriate for that child; or
- "(b) The vehicle is not provided with sitting positions behind the driver's seat; or
- "(c) All the sitting positions behind the driver's seat are occupied by children under the age of 8 years.

"30A. Seat belts to be worn by persons of or over 8 years—(1) Every driver of a motor vehicle shall ensure that, while the vehicle is in motion on a road, every person in the motor vehicle who—

- "(a) Is of or over the age of 8 years but under the age of 15 years; and
- "(b) Is occupying a seat that is fitted with a seat belt (whether that seat belt is an approved seat belt or not)—

wears the belt and that the belt is securely fastened.

"(2) Every person of or over the age of 15 years who is in a motor vehicle in motion on a road and who is occupying a seat that is fitted with a seat belt (whether that seat belt is an approved seat belt or not) shall wear the belt and shall ensure that it is securely fastened.

"30B. Exemptions from requirements relating to use of child restraints and seat belts—(1) The requirements of regulations 30 and 30A of these regulations shall not apply to any driver of any vehicle in respect of himself or any child, or to any passenger in any vehicle, if the driver or passenger produces to a constable or traffic officer, whenever required to do so by that constable or traffic officer, a certificate from a registered medical practitioner certifying that the restraining of the person who would otherwise be required by those regulations to be restrained by a child restraint or seat belt is impracticable or undesirable for medical reasons.

"(2) The driver of or any passenger in any vehicle shall be deemed to have complied with any requirement under subclause (1) of this regulation if, within 7 days after having been so required to produce a certificate, he produces it at a place specified by the constable or traffic officer.

"(3) The requirements of regulations 30 and 30A of these regulations shall not apply to any driver in respect of himself or any child in a vehicle, or to any passenger in a vehicle, where the person who would otherwise be required by those regulations to be restrained by a child restraint or seat belt—

"(a) Is the driver of the vehicle and, while complying with the requirements of those regulations, could not reasonably operate effectively any of the following items of equipment:

- "(i) Foot brake or hand brake;
- "(ii) Headlight dipping switch;
- "(iii) Direction-indicator control;
- "(iv) Horn;
- "(v) Windscreen-wiper control;
- "(vi) Choke;
- "(vii) Driver's sun visor;

"(b) Is the driver of the vehicle that is travelling in reverse, and if the driver were to comply with the requirements of those regulations he would not be able to reverse the vehicle in a safe manner;

"(c) Is the driver of a taxicab plying for hire;

"(d) Is engaged for the time being in street posting-box clearances or postman's deliveries by motor vehicle and the vehicle—

- "(i) Is in an area that is subject to a 50 kilometres per hour speed limit; and
- "(ii) Is travelling at a speed that is not in excess of 30 kilometres per hour;

"(e) Is engaged for the time being in newspaper deliveries to individual subscribers in rural areas, and the motor vehicle is travelling at a speed that is not in excess of 70 kilometres per hour;

"(f) Is engaged for the time being in and employed for the purpose of parcel deliveries, courier services, or household deliveries or collections, and the motor vehicle is travelling at a speed that is not in excess of 30 kilometres per hour;

- “(g) Is the driver of the motor vehicle and—
- “(i) Is engaged in the servicing or repair of the vehicle in the course of his employment; and
 - “(ii) Is driving the vehicle in an area within 30 kilometres of the garage, workshop, or other premises where the vehicle is being serviced or repaired; and
 - “(iii) Is driving the vehicle only for the purpose of road testing the vehicle or delivering it to another garage, workshop, or other premises for further servicing or repair;
- “(h) Is engaged in the chemical spraying of footpaths, banks, road shoulders, or verges and the motor vehicle is travelling at a speed that is not in excess of 30 kilometres per hour;
- “(i) Is employed as a meter reader and travelling in the course of his duties as a meter reader in a vehicle that is travelling at a speed—
- “(i) That is not in excess of 30 kilometres per hour in an area that is subject to a 50 kilometres per hour speed limit; or
 - “(ii) That is not in excess of 70 kilometres per hour in any other area.”

3. Exemptions from requirements to fit seat belts—The principal regulations are hereby amended by inserting, after regulation 78, the following regulation:

“78A. Nothing in regulation 78 of these regulations shall apply in respect of any vehicle of any of the following classes:

- “(a) New motor vehicles being operated—
 - “(i) With trade plates; and
 - “(ii) Over a distance that does not exceed 30 kilometres;
- “(b) Motor vehicles of the type known as Benford 1200 Dumpers;
- “(c) Wessex lightweight motor trucks model numbers 252s, 255, 259, 332, and 333;
- “(d) Motor vehicles of a tare weight of more than 2,000 kg, first registered on or after the 1st day of January 1965 and before the 1st day of July 1972;
- “(e) Motor vehicles of the types known as Aveling-Barford 100 Dumper and Wrigley Dumper.”

4. Consequential revocations—The regulations and notices specified in the Schedule to these regulations are hereby consequentially revoked.

SCHEDULE

Reg. 4

REGULATIONS AND NOTICES REVOKED

Enactment	Statutory Regulations Serial Number
The Seat Belts Exemption Notice 1974	1974/302
The Seat Belts Exemption Notice 1974, Amendment No. 1	1975/235
The Traffic Regulations 1976: Regulation 78 (3)	1976/227
The Traffic Regulations 1976, Amendment No. 2: Regulations 2 and 3 (2) (c)	1978/301

Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 November 1983, impose requirements relating to the fitting and use of child restraints in motor vehicles. They also set out the requirements relating to the wearing of seat belts, and the exemptions from the fitting and use of seat belts and child restraints.

Regulation 2: Where a child under the age of 8 years is in a motor vehicle, an obligation to restrain the child is imposed, by the new *regulation 30*, on the driver of that motor vehicle. The obligation exists while the vehicle is in motion on a road. At present there is no such obligation.

Subclause (1) imposes on the driver a general obligation to use the restraints available. (In the case of motorcars and goods service vehicles with a tare weight of less than 2,000 kg there should usually be an approved seat belt available—see regulation 78 of the Traffic Regulations 1976).

Subclause (2) provides that, while a motor vehicle is in motion, a driver may not permit a child under the age of 8 years to be alongside him unless—

(a) The child is properly restrained by an approved child restraint appropriate to that child;

or

(b) The vehicle has no back seat (e.g., utilities, vans, trucks); or

(c) All rear seat positions are occupied by children under the age of 8 years (Note: the fact that the rear seats are folded down or covered by goods will not confer an exemption).

The new *regulation 30A* is similar to the present regulation 30 (as substituted in 1978). The only material changes are—

(a) It applies whenever the vehicle is in motion, not just forward motion as at present; and

(b) The power for the Secretary to grant exemptions is omitted. The exemptions are set out in *regulation 30B*.

Subclause (1) requires the driver of any vehicle in motion on a road to ensure that every person in the vehicle who is over the age of 8 years but under the age of 15 years and who occupies a seat for which a seat belt is fitted wears the belt and that the belt is securely fastened.

Subclause (2) requires every person of or over the age of 15 years who is in a vehicle in motion on a road and occupying a seat for which a seat belt is provided to wear that seat belt and ensure that it is securely fastened.

As is the case with the present regulation 30, the obligations imposed by *regulation 30A* relating to the wearing of seat belts apply whether or not the seat belt is an approved seat belt, and irrespective of the position of the seat for which it is fitted.

(The fitting of approved seat belts for all front and rear seat positions has been compulsory since 1 November 1979 for all motorcars and goods service vehicles with a tare weight of less than 2,000 kg first registered on or after that date.)

Regulation 30B sets out the exemptions from the requirements to wear child restraints and seat belts, or the requirements to ensure that they are worn.

These exemptions are similar to those that are currently in force in relation to seat belts under clause 3 of the Seat Belts Exemption Notice 1974 (S.R. 1974/302).

However, the exemptions are now expressed in terms of the activity in which the person to whom the exemption applies is engaged, rather than the activity for which the vehicle is being used.

The one new exemption relates to a driver whose visibility while reversing would be impaired by the wearing of a seat belt.

In other respects the detailed provisions relating to the particular special speed restrictions have been left unaltered pending consideration of them by the Statutes Revision Committee.

Regulation 3 exempts certain types of vehicles from the requirements to be fitted with seat belts. These exemptions are similar to those currently in force under clause 2 of the Seat Belts Exemption Notice 1974, but the power for officers of the Ministry to grant further exemptions has been omitted.

Regulation 4 makes consequential revocations.