

## Insurance

October, 08

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### **Exemption for two-up drivers from wearing seat belts in sleeping compartments.**

Pursuant to Rule 265 of the *Australian Road Rules* a passenger who is 16 years old or older must occupy a seating position fitted with a seatbelt if one is available and must wear the seatbelt properly adjusted and fastened.

Exemptions to this rule have been gazetted and have extended to persons deemed exempt from wearing seatbelts for medical and other reasons and exemptions have also applied in relation to specified vehicles, such as vintage cars and buses.

In the past there have been personal injury claims made by individuals who were travelling in the sleeping berths of heavy vehicles. The obligation of such individual in relation to wearing a seatbelt has not been clear but there has previously been no legislation specifically exempting such persons from wearing a seatbelt or providing for some form of mandatory restraint.

However, on 29 September 2008 the following amendment to the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999* (SA) regulation 28 came into operation and reads as follows:

*(1) For the purposes of rule 267(1) (Exemption from wearing seatbelts), a person is exempt from wearing a seat belt if-*

*(a) the vehicle is a historic vehicle (as defined in schedule 1 of the Motor Vehicles Regulations 1996 that is registered under section 25 of the Motor Vehicles Act 1959 and being driven in accordance with the conditions of that registration as prescribed in that schedule; or*

*(b) the vehicle is being used on behalf of the Crown for transporting prisoners or other persons in lawful custody; or*

***(c) the vehicle is a truck or bus that has a sleeper compartment and the person is a two-up driver of the truck or bus who is occupying the sleeper compartment for rest purposes.***

This Alert is intended as an alert only. It does not purport to be a comprehensive advice. Readers should seek professional advice before acting in relation to these matters.

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*(2) For the purposes of rule 267(3), a certificate stating that a specified person is not required to wear a seatbelt, indefinitely or for a specified period may be issued-*

*(a) by the Minister on any ground the Minister considers appropriate; or*

*(b) by a medical practitioner on the ground of physical disability or medical grounds.*

*(3) In this regulation –*

*“two up driver” means a person accompanying a driver of a truck or bus on a journey, or part of a journey, who has been, is or will be, sharing the task of driving the truck or bus during the journey.*

**In summary, while the situation was previously unclear, there is now a specific seat belt exemption applicable to two up drivers of trucks or buses that have a sleeper compartment and who occupy the sleeper berth while the vehicle is in motion.**

### **Contacts:**

For further information or advice, please contact:

**Nicola Brice** on telephone +61 8 8235 7608

Email [nicola.brice@finlaysons.com.au](mailto:nicola.brice@finlaysons.com.au)