

## Changes to child restraint laws

### Questions and Answers

30 August 2013

#### 1. What changes are being made to child restraint laws?

From 1 November 2013 the mandatory use of approved child restraints will be extended to passengers who are aged under seven (ie until their seventh birthday).

The requirement for children aged seven to be restrained in an approved child restraint if one is available in the vehicle will remain. 'If one is available' means if a suitable child restraint is in the vehicle your child must use it.

<b>The law says you must:</b>	<b>Until 31 October 2013</b>	<b>From 1 November 2013</b>
Correctly secure your child in an approved child restraint	Until their 5 <sup>th</sup> birthday	Until their 7 <sup>th</sup> birthday
<b>The law says you must:</b>	<b>Until 31 October 2013</b>	<b>From 1 November 2013</b>
Correctly secure your child in an approved child restraint if one is available in the vehicle (and if not, in any child restraint or safety belt that is available)	From their 5th birthday until their 8th birthday	From their 7th birthday until their 8th birthday

#### 2. What is an approved child restraint?

Approved child restraints are ones that meet approved standards so you can be sure they have been designed and tested to provide an acceptable level of safety.

Approved child restraints include:

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

The most suitable type of child restraint required to keep a child safe will vary depending on the child's size. Also if families have multiple children and child restraints, it's important to find out the best combination for their children and their vehicle. So it's important to seek expert advice and ideally have the restraints fitted to the vehicle.

Look for a child restraint that shows:

- a tick mark (indicates the restraint meets the joint New Zealand/Australian Standard AS/NZ 1754)



- an 'E' mark (indicates the restraint meets the European Standard ECE 44). The number on the circle will vary depending on the country of certification.



Or, look for a restraint that complies with the United States Standard FMVSS 213. The restraint must also show the New Zealand Standard 'S' mark indicating it is certified for use here.



## Restraint attachments

Requirements for how the restraints are attached are part of the American and European standards. Restraints that comply with these standards come with connectors called LATCH (Lower Anchors and Tethers for Children) in the United States or ISOFIX in Europe. Both systems have lower anchors in the vehicle and lower attachments on child restraints. This method of installation allows a child restraint to be snapped into place instead of being held by the safety belt.

Find out more about [LATCH and ISOFIX systems](#) (external link).

### 3. If a child restraint has a top tether strap, is it required to be used?

Child restraints must be installed in accordance with manufacturer's instructions. Ensure that these are followed whenever a child restraint is installed in a vehicle.

#### **4. Why are these changes being introduced?**

These changes will help reduce preventable deaths and serious injuries to children travelling in vehicles.

Seats and safety belts 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 safety belts are vulnerable to a number of serious injuries in the event of a crash.

## **Applying the new rules to different types of vehicles**

### **5. How do the new rules apply to taxis, vans, buses or coaches, etc?**

One of the main ways to determine how the new rules apply is if your vehicle is defined as a Passenger Service Vehicle – if so certain exemptions from the new rules may apply.

Organisations running a passenger service will have applied for a transport service licence, meaning that they have to meet certain legal standards and requirements to get a licence and operate a passenger service – so if your vehicle falls into this category, you should know.

### **6. What about a parent driving children in their own vehicle or a school-owned vehicle driven by a teacher without separate payments?**

The following is not a Passenger Service Vehicle:

<b>What type of vehicle is it?</b>	<b>From 1 November what are the new requirements for children under 7 (ie, before their 7<sup>th</sup> birthday)?</b>	<b>From 1 November what are the requirements for children aged 7 (ie, between their 7<sup>th</sup> and 8<sup>th</sup> birthdays)?</b>	<b>Comments</b>	<b>What legislation applies?</b>
Light vehicle with 12 or fewer seats (including the driver's seat) <u>not used for hire or reward</u>	Approved child restraint use is mandatory until age 7.	Approved child restraint use is mandatory - if they are available in the vehicle  (and if not, a child should be restrained in any child restraint or safety belt that is available)	The type of child restraint used depends on the age and size of the child.	Land Transport (Road User) Rule clause 7.6 for children under 7.  Road User Rule clause 7.7 for child aged 7.

## 7. What is a Passenger Service Vehicle?

Passenger service vehicles (PSVs) include:

- vehicles used in a passenger service for hire or reward (no matter how many seating positions they might have)
- vehicles with more than 12 seating positions (whether they're used for hire or reward or not)
- heavy motor vehicles with more than nine seating positions – for vehicle design and standards purposes (whether they're used for hire or reward or not).

### Types of Passenger Service Vehicles and how the rules apply:

What type of vehicle is it?	From 1 November what are the new requirements for children under 7 (ie, before their 7 <sup>th</sup> birthday)?	From 1 November what are the requirements for children aged 7 (ie, between their 7 <sup>th</sup> and 8 <sup>th</sup> birthdays)?	Comments	What legislation applies?
Taxis with 9 or fewer seats (including the driver's seat)	Approved child restraint use is mandatory - if they are available in the vehicle.	Approved child restraint use is mandatory - if they are available in the vehicle	<p>While child restraint use is mandatory only if an appropriate restraint is available, it is not recommended to transport a child under seven years old in such a vehicle without a child restraint.</p> <p>Advice is to wait until a suitably equipped vehicle is available or provide your own restraint.</p> <p>In practice, this may not always be an option and a child under 7 may have to travel in the vehicle (emergency, etc). In such a case, the driver should seat the child in the back seat and restrain him/her as securely as practicable in the circumstances using any restraint that is available.</p>	<p>Land Transport (Road User) Rule:</p> <p>For children under 7:</p> <p>Clause 7.6 of the Road User Rule would otherwise apply but: clause 7.11(5) provides an exception if no child restraints are available.</p> <p>and</p> <p>clause 7.7 for 7 year old child.</p>

What type of vehicle is it?	From 1 November what are the new requirements for children under 7 (ie, before their 7 <sup>th</sup> birthday)?	From 1 November what are the requirements for children aged 7 (ie, between their 7 <sup>th</sup> and 8 <sup>th</sup> birthdays)?	Comments	What part of legislation is this related to?
Light vehicle with 9 or fewer seats (including the driver's seat) used for hire or reward	Approved child restraint use is mandatory - if they are available in the vehicle.	Approved child restraint use is mandatory - if they are available in the vehicle.	<p>If a school wants child restraints to be used by the under 8 year olds in this type of vehicle they could:</p> <ul style="list-style-type: none"> <li>• check that the vehicle has them</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• provide them and check in advance that there are no compatibility problems with fitting them into the vehicle, such as provision for top tether strap securement.</li> </ul> <p>In this type of vehicle the driver would be responsible for ensuring they are used.</p>	<p>Land Transport (Road User) Rule:</p> <p>For children under 7: Clause 7.6 of the Road User Rule would otherwise apply but: clause 7.11(5) provides an exception if restraints are not available.</p> <p>and</p> <p>clause 7.7 for 7 year old children does apply.</p>

What type of vehicle is it?	From 1 November what are the new requirements for children under 7 (ie, before their 7th birthday)?	From 1 November what are the requirements for children aged 7 (ie, between their 7th and 8th birthdays)?	Comments	What part of legislation is this related to?
Light vehicle with 10,11, or 12 seats (including the driver's seat) used for hire or reward	Approved child restraint use is discretionary - whether they are available in the vehicle or not.	Approved child restraint use is discretionary - whether they are available in the vehicle or not.	<p>Even though child restraint use is discretionary, if a school wants child restraints to be used by the under 8 year olds in this type of vehicle they could:</p> <ul style="list-style-type: none"> <li>• check that the vehicle has them</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• provide them and check in advance that there are no compatibility problems with fitting them into the vehicle, such as provision for top tether strap securement.</li> </ul> <p>In this size vehicle, if child restraints are used an adult (other than the driver) would need to travel with the children to ensure they're used.</p>	<p>If the vehicle has more than 9 and up to and including 12 seats (including the driver's seat) and is a light vehicle, used in a passenger service, then it is classed as a bus under the Road User Rule.</p> <p>For children under 7:</p> <p>Clause 7.6 of the Road User Rule would otherwise apply but:</p> <p>clause 7.11(4) provides an exception for buses.</p> <p>and</p> <p>clause 7.7 for 7 year old children would otherwise apply but clause 7.11(4) provides an exception for buses.</p>

What type of vehicle is it?	From 1 November what are the new requirements for children under 7 (ie, before their 7 <sup>th</sup> birthday)?	From 1 November what are the requirements for children aged 7 (ie, between their 7 <sup>th</sup> and 8 <sup>th</sup> birthdays)?	Comments	What part of legislation is this related to?
Light or heavy vehicle with more than 12 seats (including the driver's seat)	Approved child restraint use is discretionary - whether they are available in the vehicle or not.	Approved child restraint use is discretionary - whether they are available in the vehicle or not.	<p>Even though child restraint use is discretionary, if a school wants child restraints to be used by the under 8 year olds in this type of vehicle they could:</p> <ul style="list-style-type: none"> <li>• check that the vehicle has them</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• provide them and check in advance that there are no compatibility problems with fitting them into the vehicle, such as provision for top tether strap securement.</li> </ul> <p>In this size vehicle, if child restraints are used an adult (other than the driver) would need to travel with the children to ensure they're used.</p>	<p>This vehicle meets the definition of 'bus' for the purposes of the Road User Rule.</p> <p>Land Transport (Road User) Rule: Clause 7.11(4) provides an exception for buses. Clause 7.6 for under 7 year olds and clause 7.7 if the child is aged 7 would otherwise apply.</p>



**8. If a school asks parents or other persons to help with transport to school events in private cars will they need child restraints for each child they carry aged under 7?**

Yes. From 1 November the law will be extended to include the use of mandatory child restraints for all children under seven (until their 7<sup>th</sup> birthday). The type of child restraint they should use will depend on the age and size of the child.

The law will continue to require all children aged seven to be secured in an approved child restraint if one is available in the vehicle, and if not in any child restraint or safety belt that is available.

**9. If restraints are not used in a vehicle hired or used by a school, would a school bear legal responsibility for breaking the law, or only the person with their hands on the wheel?**

The Road User Rule places some legal responsibilities on drivers regarding the use of child restraints. As explained above if the vehicle is a passenger service vehicle then some exceptions to their usage may apply. It is not appropriate for us to comment on the legal duties and obligations of schools. We suggest concerned schools contact the Ministry of Education.

## **Exemptions**

**10. Will there be any changes to the existing exemptions for using a child restraint?**

### **Medical**

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

From 1 November, the provision that allows an older child not to use a child restraint, for medical reasons (by obtaining a certificate from a medical practitioner), will be extended to include children of any age. This provision currently applies only to children aged five years and older.

Examples of the types of situations in which this could apply are when a child has recently had hip or other surgery and the child may be prevented from fitting into a standard child restraint by a cast that is fitted to immobilise the hip joint. Or there may be concerns about the safety belt or the straps from a child restraint pressing against surgical wounds that are still healing.

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

### **Goods vehicle (with unladen weight exceeding 2,000kg with no safety belts**

From 1 November the provision will be removed that currently allows the driver of a goods vehicle that has an unladen weight exceeding 2,000 kg, in which safety belts are not available, to carry a passenger under five years without the passenger being properly restrained by an approved child restraint that is appropriate for the child's age and size.

This will help prevent deaths and injuries associated with children travelling in this type of vehicle that is not fitted with safety belts. Modern goods vehicles are fitted with safety belts and there is no longer any justification for keeping this provision in the Rule.

Removing this provision also aligns 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 are now 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 safety belt.

Requirement	Under current Rule	From 1 November 2013
Exception from using a child restraint	<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 child does not have to be restrained in a child restraint or safety belt. Applies to any person from age five and over</li> <li>If the vehicle is a goods vehicle (with an unladen weight exceeding 2000 kg) in which safety belts are not available, then a child under five years of age is not required to be restrained</li> </ul>	<ul style="list-style-type: none"> <li>Exemption extended to include children under the age of five (previous medical certificate exemptions only available to children aged five or over).</li> <li>This exception has been removed and so children must now be appropriately restrained if travelling in these vehicles.</li> </ul>

#### **11. How will the changes affect children who travel in wheelchairs (manual or powered) in taxi vans?**

Any exemption on medical grounds that currently applies will be carried forward and apply to the new requirements from 1 November 2013.

### **Background information**

#### **12. 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 safety belt 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 safety belt 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 safety belt under their arm or behind their back rather than off their shoulder as it is intended to be worn.

Because adult safety belts do not fit children well and are uncomfortable, children in this group are liable to prefer riding 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 safety belt can also slide out from under the safety belt (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 safety belt, which in turn reduces the potential trauma suffered by a child in the event of a crash.

### **13. Will there be additional costs for parents and caregivers as a result of the 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. Families who do not currently have a child restraint for any children aged five and six may also be affected by the change.

The change 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 lead-in time 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.

### **14. 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.

## **Ends**

Last updated 30 August 2013