

New Fatigue Laws Have Arrived

See inside for how they affect you



SEPTEMBER 2008

CONTENTS

TURN TO PAGE

Overview	2
Why new laws?	3
The chain of responsibility	3
Three work and rest options	
• Standard Hours	5
• Basic Fatigue Management	6
• Advanced Fatigue Management	8
Other options	
• Hours for two-up drivers	8
Work time	9
Record keeping	9
Enforcement	9

OVERVIEW

Are you one of the following?

- Driver
- Employer of a heavy vehicle driver
- Prime contractor of a driver
- Operator of a heavy vehicle
- Scheduler of a driver's work and rest time, or of goods or passengers
- Consignor or consignee of goods
- Loading manager who supervises loading or unloading, or manages premises where regular loading or unloading occurs
- Loader of goods
- Unloader of goods.

If so, the new heavy vehicle driver fatigue laws may affect you.

From 29 September 2008, the Road Transport (General) Regulation 2005 will contain new provisions relating to driver fatigue.

The new laws deal with:

- Definition and management of heavy vehicle driver fatigue.
- Duties of drivers, employers, operators, schedulers, consignors and others in relation to management of heavy vehicle driver fatigue.
- The three work and rest options – Standard Hours, Basic Fatigue Management and Advanced Fatigue Management.
- Recording work and rest hours in a new work diary.
- Compliance and enforcement provisions and penalties.

The new laws apply to:

- Heavy trucks – with a Gross Vehicle Mass (GVM) of more than 12 tonnes or a combination if the total GVM is more than 12 tonnes.
- Buses – that seat more than 12 adults (including the driver).

WHY NEW LAWS?

Fatigue is one of the biggest causes of crashes for heavy vehicle drivers. Working long hours and fighting the body clock at night is widely recognised as high risk. The new laws change the focus from regulating hours, to managing fatigue. These important changes will bring the approaches successfully used to improve workplace safety, into the road safety environment.

THE CHAIN OF RESPONSIBILITY

A number of parties in the transport chain, not just the driver, have a duty to prevent driver fatigue. These include:

- Employer
- Prime contractor
- Operator
- Scheduler
- Consignor or consignee
- Loading manager
- Loader or unloader of goods.

Even if your title does not exactly match any of those above, you may have a duty to prevent driver fatigue, as the responsibilities relate to the work undertaken, not simply your title.

What can you do?

Drivers have a duty not to drive if they are feeling fatigued – but responsibility does not end with them.

Under the new laws, you can be held legally accountable if, by your actions, inactions or demands, you cause or contribute to a driver driving a heavy vehicle while fatigued or driving while in breach of his/her work and rest hours. The table overleaf shows where risks can exist, and examples of what people in the supply chain can do about them.

Examples of how to identify and assess risk

- Review work schedules (including driving schedules) and records and opportunities for rest breaks.
- Analyse injury and accident reports.
- Review loading and unloading times and delays during loading and unloading.
- Review contractual arrangements and documents relating to the consignment and delivery of goods.
- Regularly assess driver fitness for duty.
- Consult with drivers, unions and industry associations.

Examples of how to manage risks

- Contingency planning in relation to fatigue and work and rest hours.
- Allowing for traffic or other delays in scheduling.
- Avoiding incentives or demands that might cause or encourage breaches of work and rest hours.
- Introducing workplace procedures and policies relating to fatigue and compliance with work and rest hours.
- A system for giving drivers sufficient notice of schedule changes.
- Developing a system to manage queuing.

THREE WORK AND REST OPTIONS

Under the new laws, industry will have a choice of operating under three fatigue management schemes. Each option allows increasing levels of flexibility, offset by managing risks through accreditation schemes.

1. Standard Hours

The Standard Hours option is aimed at regular scheduled operations with a lower fatigue risk requiring up to 12 hours work in any 24-hour period. Operators do not need to be accredited for their drivers to work under the Standard Hours option.

The Standard Hours option sets out maximum work time and minimum rest times as in the table below.

Total period	Maximum work time	Minimum rest time
In any period of	a driver must not work for more than a total of ...	and must have at least ...
5½ hrs	5¼ hrs	15 mins continuous rest
8 hrs	7½ hrs	30 mins rest in blocks of 15 continuous mins
11 hrs	10 hrs	60 mins rest in blocks of 15 continuous mins
24 hrs	12 hrs	12 hrs rest, including 7 continuous hrs stationary ¹ rest
7 days (168 hrs)	72 hrs	96 hrs rest, including 24 continuous hrs stationary ¹ rest
14 days (336 hrs)	144 hrs	192 hrs rest, including 4 night rests ² (includes 2 consecutive night rests)

1. Stationary rest is rest time that a driver spends out of a heavy vehicle or in an approved sleeper berth of a stationary heavy vehicle.

2. A night rest means 7 hours taken between 10pm and 8am or 24 continuous hours stationary rest.

2. Basic Fatigue Management (BFM)

- BFM gives operators a greater say in when their drivers can work and rest, providing the risks of working long and night hours are properly managed. BFM replaces the current Transitional Fatigue Management Scheme.
- BFM hours are available to an operator who meets accreditation under the National Heavy Vehicle Accreditation Scheme (NHVAS) and complies with six BFM standards.
- Operators must develop a fatigue management system and apply to the Roads and Traffic Authority (RTA) for accreditation.
- The 36-hour rule restricts the amount of night work and long shifts that a driver can work in any 7-day period. A driver can only work 36 hours of long and night hours in that time. Once the 36-hour limit of long and night hours is reached, a driver can no longer do night work (12 midnight–6am) or long hours (more than 12 hours work in a 24-hour period).

A night rest, or even a day off, does not clear the accumulated long and night hours. Instead, the driver must always count back 7 days to calculate the total accumulated long and night hours.

- A split rest break is available to drivers working in BFM. A split rest break of 6 hours continuous rest plus 2 hours continuous rest within the same 24-hour period may be taken where a 7-hour continuous break is not possible. A split rest break can only be used if a split rest break has not been used in the previous 24 hours.

Total period	Maximum work time	Minimum rest time
In any period of	a driver must not work for more than a total of ...	and must have at least ...
6¼ hrs	6 hrs	15 continuous mins rest
9 hrs	8½ hrs	30 mins rest in blocks of 15 continuous mins
12 hrs	11 hrs	60 mins rest in blocks of 15 continuous mins
24 hrs	14 hrs	10 hrs rest, including 7 continuous hrs stationary ¹ rest
7 days (168 hrs)	36 hrs long/night ¹ in combination	–
14 days (336 hrs)	144 hrs	192 hrs rest, including 2 × 24 continuous hrs rest. First 24 hrs rest must be taken after maximum of 84 hrs work. 4 nights off (including 2 consecutive)

¹. Long/night hours means any work time in excess of 12 hours in any 24-hour period or between 12 midnight and 6am.

3. Advanced Fatigue Management (AFM)

AFM gives accredited operators even more flexibility than that provided under other options when they can demonstrate greater accountability for managing risk. Work and rest hours are proposed by the operator, and limits are approved by the RTA on a case-by-case basis. The operator must comply with ten standards under the NHVAS.

The outer limit for NSW and Victoria is 15 hours in any 24-hour period (16 hours in other states).

Total period	Maximum work time	Minimum rest time
In any period of	a driver must not work for more than a total of ...	and must have at least ...
24 hrs	15 hrs	6 hrs continuous stationary rest or 8 hrs stationary rest in 2 parts.
14 days (336 hrs)	154 hrs	2 x 7 continuous hrs stationary rest between 10pm and 8am ¹ .
28 days (672 hrs)	288 hrs	24 continuous hrs stationary rest after 84 hrs and 4 x 24 continuous hrs stationary rest.

1. 24 hrs continuous, stationary rest must be taken after 84 hrs work.

OTHER OPTIONS

Hours for two-up drivers

Two-up drivers also have the option of working under Standard Hours, BFM hours or AFM hours. The maximum hours specified for Standard Hours and for BFM hours are, in some cases, less than for solo drivers.

WORK TIME

Work time is not just driving time. Work time is the time that the driver spends driving a heavy vehicle, whether or not it is on a road, and any time spent on other tasks related to the operation of a vehicle. Driving includes being in the driver's seat while the engine is running and instructing or supervising the driver of the vehicle. Work time includes:

- loading and unloading;
- inspecting, servicing or repair;
- inspecting or attending to the load;
- attending to passengers of a bus;
- cleaning or refuelling;
- performing marketing tasks including arranging for the transport of passengers or goods; and
- recording information.

RECORD KEEPING

The existing log book will be replaced by a work diary.

Drivers must record all work and rest time in the work diary. These records must be completed for the whole trip.

Work diary exemptions have been granted to certain classes of drivers – check the RTA website for details of the conditions and duration of the exemptions.

The new work diaries are available from motor registries now – for an example, visit www.rta.nsw.gov.au

ENFORCEMENT

The new heavy vehicle driver fatigue laws categorise offences as a minor risk, a substantial risk, a severe risk or a critical risk. Penalties will increase as risk increases. Penalties will generally be greater than penalties under the present laws.