

Heavy Vehicle Driver Fatigue Changes to NSW Regulations



Transport
Roads & Traffic
Authority

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National heavy vehicle driver fatigue laws are included in Part 6 of the NSW Road Transport (General) Regulation 2005.

A range of minor amendments to the NSW Regulation commence on 4 March 2011.

They will replace five existing NSW exemption orders and provide a range of new exemptions for specific industry sectors.

Local Area Work Diary Exemption

The Ministerial Exemption (Local Area Work Diary) Order is now incorporated in the Regulation (see new clause 73A, amended clauses 75 and 76).

The local area (within 100km) work diary exemption applies to drivers working under any work/rest hours options.

The driver's record keeper must maintain records of driver work and rest time for work which is not recorded in a work diary (see amended clause 81).

Primary production work diary and record keeping exemption

The Ministerial Exemption (Primary Production Work Diary and Record Keeping) Order is now incorporated in the Regulation (see new clause 115D).

Heavy vehicles used for the purpose of 'primary production' within a 160km radius are exempt from work diary and record keeping requirements.

This exemption applies to trips for the purpose of cultivating crops, raising livestock, poultry and bees, and transporting produce and animals.

Emergency services exemption

The Ministerial Exemption (Emergency Services Fatigue Management and Speeding Compliance) Order is now incorporated in the Regulation (see amended clause 115 and new clause 167A).

Emergency services are exempt from all heavy vehicle driver fatigue and speeding compliance provisions.

Emergency event exemption

The Regulation has been amended to provide a limited exemption for emergency events for drivers other than emergency services personnel (see new clause 115A).

Drivers responding to an emergency in the course of their duties may:

- Exceed work and rest time limits while attending an emergency and the return journey.
- Complete their work diary (if applicable) after returning from the emergency.

This exemption applies to events such as disruption of essential services, major chemical spills and natural disasters.

Drivers must record details of the location and nature of the emergency, so that enforcement officers can verify their eligibility for the exemption.

Personal use of heavy vehicles on rest days

The Regulation has been amended to permit limited personal use of heavy vehicles during periods of 24 continuous hours rest (see new clause 58B).

Drivers are permitted to use heavy vehicles for non-business purposes for up to one continuous hour during a rest day, including driving, cleaning and refuelling.

A period of personal use may not be taken within three hours of beginning or the end of the 24 continuous rest period. For work diary purposes, the one hour of personal use is treated as rest time.

Short rest breaks in the vehicle

The Regulation has been amended to permit drivers to take short rest breaks in the driver's seat of a heavy vehicle while the engine is running (see new clause 58A).

Drivers may take short rest breaks in the driver's seat while the engine is running, as long as:

- The rest break is at least 15 minutes.
- The vehicle is stationary during the rest break.
- The driver is not subject to any work demands.

This will allow drivers to take short rest breaks in the air-conditioned cabin of their vehicle if there is no suitable alternative place to take a rest break.

Fortnightly cycles in the AFM option

The Regulation has been amended to remove the '84 hour rule' from the AFM Hours option 'outer limits' (see amended table in clause 72).

Under this rule, AFM drivers in NSW could be required to take a 24 continuous hours rest break after accumulating 84 hours work time, if they exceeded their approved AFM normal operating limits.

Its removal clarifies that fortnightly schedules are permitted under the AFM option in NSW.

Community & private bus transport exemption

Community transport buses, private hire vehicles and private use of buses are exempt from driver work and rest time limits, work diary and record keeping requirements (see new clause 115B).

The general duties of drivers and operators to prevent and manage driver fatigue still apply to community and private bus transport.

Buses seating 12 or more adults used for public passenger services must still comply with heavy vehicle driver fatigue and speeding compliance provisions. This includes all services subject to the NSW Bus Operator Accreditation Scheme.

Public transport bus services

The Bus and Coach Industry Exemption Order is now incorporated in the Regulation (see new clause 115C).

Public transport services provided under a NSW Government bus service contract are exempt from work diary requirements, regardless of distance travelled.

This will reduce costs for a small number of services which exceed 100km radius.

Operators of NSW Government contract bus services must maintain records of timetables and driver work and rest time under road transport and public passenger laws.

As a result, these services are also exempt from provisions requiring rounding of work and rest time in 15 minute blocks (see new clause 60(5)).

Council employees work diary exemption

Local government employees are exempt from work diary requirements for all work within their council's boundaries (see new clause 115C).

This exemption applies in addition to the generally applicable local area (100km) work diary exemption. This will reduce costs for a small number of large councils in regional NSW.

All councils must maintain records of driver work and rest time not recorded in a work diary.

Motor industry record keeping exemption

Local area work (within 100km) undertaken by motor industry businesses are exempt from record keeping requirements (see new clause 115E).

This exemption covers motor dealers, repairers, manufacturers, inspection and maintenance services, and hire and rental agencies.

Work diary and record keeping requirements apply to these motor industry businesses for all work exceeding 100km from the driver's base.

Further information

Guidance material on the NSW heavy vehicle driver fatigue laws is available from:

- www.rta.nsw.gov.au/heavyvehicles/
- RTA Customer Service Centre Tel: 13 22 13

Disclaimer: This fact sheet does not constitute legal advice. Details are subject to amendment. Check the legislation or contact the RTA for more information.