

FACT SHEET FOR CONSIGNORS

Managing long distance truck driver fatigue in NSW

This fact sheet outlines the responsibilities of consignors with regard to the *Occupational Health and Safety Amendment (Long Distance Truck Driver Fatigue) Regulation 2005* (the Regulation). A glossary of terms is provided at the back of the fact sheet. This fact sheet should be used in conjunction with *Driver fatigue management: A guide to managing driver fatigue in the long haul trucking industry*, and the *Driver fatigue verification tool*.

1. WHAT DOES OCCUPATIONAL HEALTH AND SAFETY LAW REQUIRE IN NSW?

The *Occupational Health and Safety Amendment (Long Distance Truck Driver Fatigue) Regulation 2005* is intended to reduce the risk of harm from fatigue to drivers of heavy trucks. The Regulation places legal duties on certain consignors involved in the transport of freight long distance by means of a heavy truck.

The Regulation requires:

- the risk of harm from fatigue to the driver's health and safety be identified, assessed and eliminated or controlled
- that driver fatigue management plans must be in place where they are required under the Regulation.

2. WHAT ARE MY RESPONSIBILITIES AS A CONSIGNOR?

Consignors who employ more than 200 persons and have a substantial part of their business in a prescribed business (see glossary) will need to identify, assess and eliminate or control the risk of harm from fatigue. This applies to any self-employed drivers contracted to them who transport freight long distance. Consignors who enter into a contract with a self-employed driver also need to prepare a Driver Fatigue Management Plan (DFMP) and make those plans available to affected drivers.

The responsibilities of consignors differ depending on whether they contract with a head carrier or contract with a self-employed carrier directly.

Consignors who **contract with head carriers** are not required to prepare a DFMP, however they:

- must be satisfied of the reasonableness of delivery timetables
- must be satisfied that drivers are covered by a DFMP
- must keep for at least five years all documents they relied upon to be satisfied that delivery timetables were reasonable, including relevant trip schedules, delivery timetables and driver rosters to which they have access.

Consignors who **enter into a contract with a head carrier** will be required to ensure that drivers who transport freight long distance under that contract are covered by a DFMP. They will also be required to satisfy themselves (taking industry knowledge into account) that delivery times are reasonable for the trip including loading, unloading and queuing times.

Consignors who **enter into a contract with a self-employed carrier** to transport freight long distance must identify and assess the risk of harm from fatigue to any driver under that contract. They must eliminate the risk, or if not reasonably practicable, control the risk. Consignors must also prepare, in consultation with drivers, DFMPs and make those plans available to each driver covered by that plan.

3. WHAT CAN I DO TO REDUCE THE RISK OF FATIGUE?

Problems can arise if consignors are inflexible with pick-up and delivery times, placing pressure on drivers to make scheduled arrival times. Delays and disruptions can make it hard for drivers to meet these timeframes. Drivers who do not meet schedules can sometimes be pushed to the end of the queue.

Consignors must ensure that delivery times are reasonable so that fatigue can be managed. This includes loading, unloading, queuing times and practices. This may be achieved by:

- adding more flexibility to pickup and delivery times
- minimising unloading/loading done by the truck driver
- scheduling pickup and delivery times that take into account potential delays and disruptions
- ensuring that loading and unloading delays are minimised
- providing adequate amenities for waiting drivers
- advising drivers of any expected delays or disruptions at the loading/unloading point.

4. WHAT RECORDS DO I HAVE TO KEEP?

Consignors who are required to prepare a DFMP **for self-employed carriers** must keep the following documents for at least five years:

- All DFMPs prepared for the carrier.
- All contracts entered into with that person that relate to the transport of freight long distance.
- All trip schedules, delivery timetables and driver rosters required to prepare the DFMP.
- Any risk assessments made by or on behalf of them that relate to the fatigue of drivers of heavy trucks.

GLOSSARY

consignor means a person from whom a consignment of freight is to be delivered, being a person who carries on business of which a substantial part is prescribed business.

driver fatigue management plan means a plan that sets out how the person required to prepare the plan will meet its obligations under the Act and this Regulation in relation to any risk associated with the fatigue of drivers that transport freight long distance.

freight includes goods, materials, livestock or any other things, but does not include persons.

head carrier means a carrier other than a self employed carrier.

heavy truck means:

- a. a motor vehicle with a GVM over 4.5 tonnes, or
- b. a motor vehicle forming part of a combination if the total of the GVMs of the vehicles in the combination is over 4.5 tonnes.

prescribed business means business that falls within one or more of the following Divisions recognised in the *Australian and New Zealand Standard Industrial Classification (ANZSIC)*, 1993 edition (Australian Bureau of Statistics publication, Catalogue No WC01292.0):

- a. Agriculture, Forestry and Fishing
- b. Mining
- c. Manufacturing
- d. Construction
- e. Wholesale Trade
- f. Retail Trade
- g. Accommodation, Cafes and Restaurants
- h. Transport and Storage
- i. Communication Services
- j. Property and Business Services
- k. Cultural and Recreational Services

Self-employed carrier means:

- a. a partnership that carries on business as a carrier, being a business in which any heavy truck used for the transport of freight is driven only by a partner of the business, or
- b. a body corporate that carries on business as a carrier, being a business in which any heavy truck used for the transport of freight is driven only by:
 - i. a director of the body corporate or a member of the family of a director of the body corporate, or
 - ii. a person who, together with the members of his or her family, has a controlling interest in the body corporate, or
 - iii. a member of the family of a person who, together with the members of his or her family, has a controlling interest in the body corporate, or
- c. an individual who carries on business as a carrier, being a business in which any heavy truck used for the transport of freight is driven only by the individual.

transport freight long distance means transport freight by means of a heavy truck (whether by means of a single journey or a series of journeys) more than 500 kilometres, including any part of the journey or journeys where no freight is transported because the heavy truck is being driven to collect freight or to return to base after transporting freight.

WHERE CAN I GET MORE HELP?

- WorkCover Assistance Service
13 10 50
www.workcover.nsw.gov.au
- Transport Workers Union of Australia and NSW Branch
Phone: 02 9912 0700
- Natroad LTD
Phone: 02 6295 3000
Email: natroad@natroad.com.au

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This publication may contain occupational health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au).

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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