

Work and rest hours exemption (Permit)

NHVR and fatigue management

Heavy vehicle driver fatigue is a significant safety hazard for the road transport industry and other road users.

The Heavy Vehicle National Law (HVNL) requires each person in the Chain of Responsibility to take all reasonable steps to ensure that a driver of a fatigue regulated heavy vehicle does not drive on a road while impaired by fatigue or breach road transport laws relating to fatigue.

HVNL and fatigue management

The HVNL sets out maximum work limits and minimum rest limits which are designed to prevent drivers from becoming impaired by fatigue.

In some circumstances, operators may have genuine operational demands that are beyond a specific limit in the HVNL. In these cases, the HVNL allows the National Heavy Vehicle Regulator (NHVR) to grant a work and rest hours exemption (Permit) to the operator.

The granting of a work and rest hours exemption (Permit) is strictly controlled and you cannot apply for an exemption if you can reasonably work under another work and rest option.

Preparing your application

The NHVR must be fully satisfied that the application meets the requests of the HVNL.

The first step is to compare your business needs against the work and rest options and to assess the fatigue risks associated with your own proposed set of work and rest hours.

The NHVR has developed an online Risk Classification System (RCS) tool to help you assess the fatigue risks associated with your proposed work and rest hours. You can also speak about this directly with NHVR staff.

Once you have identified the fatigue risks associated with your proposed hours, you must design countermeasures that prevent the fatigue risks from affecting the safety of your operations.

After you identify your proposed countermeasures, you should implement any changes to your business practices necessary to make your proposed hours safe.

This includes notifying your staff of proposed changes to schedules and rosters. These countermeasures should be outlined in a Safety Case that must be attached to your application.

What is a Safety Case?

A Safety Case should carefully explain how you will assess your fatigue risks and manage them to avoid fatigue impairment in your drivers.

It is important to explain how your business practices will reduce the fatigue risks created by your proposed work and rest hours.

Your Safety Case should be for the duration of the work and rest hours exemption (Permit).

What do I need to include in my Safety Case?

Risk assessment

A statement of the fatigue risks associated with your proposed hours, including the likelihood of the fatigue risk and its consequence in terms of driver impairment.

You can use the online RCS tool contained in the Fatigue Management section of the NHVR website to assist you in identifying your fatigue risk levels.

You can also use other fatigue risk assessment tools and fatigue experts to help you identify your fatigue risk levels.



Risk offsets

As well as identifying your fatigue risks, you must identify countermeasures to help offset these risks. These countermeasures generally fall into two broad categories:

1. schedule based practices
2. other business practices.

Examples of schedule based practices include:

- › larger sleep opportunities before and/or after long shifts
- › changing the time of day of work
- › allowing extra discretionary rest during work
- › scheduling more frequent reset rest breaks.

Other business practices include:

- › the use of fatigue-monitoring devices and supporting management systems
- › the use of telematics
- › regularly maintained, good-quality sleeper berths and driver cabs
- › scheduling of non-driving work activities during a shift.

Inspection/observation

Procedures for checking in with drivers prior to starting work should be in place, along with a comprehensive alcohol and drugs policy.

Drivers and their supervisors should also understand the consequences that may arise from being unfit for duty.

Alternative plans should be in place for these situations. They should also be clearly documented and communicated to all employees.

Reporting

As drivers are exposed to the hazards associated with fatigue, their input is crucial for identifying safety risks that arise from their work.

It is important that all drivers know how to report a hazard. The reporting process provides information for trend and causal analysis and allows for continuous improvement.

An applicant for a work and rest hours exemption (Permit) should be able to describe how schedulers and managers use the information reported by drivers.

Monitoring

Health and fitness directly affects a driver’s ability to deal with stress, work demands and environmental and fatigue risks.

Driver health and fitness is an important issue when considering how to manage the risk of fatigue and should be factored into the Safety Case.

Internal review

The purpose of an internal review is to ensure:

- › There is sufficient information gathered for action to be taken to prevent any future occurrence of the fatigue impairment in drivers.
- › That the fatigue management system is refined or modified to prevent any reoccurrences.

Your Safety Case should explain your policies that promote and encourage all employees, sub-contractors and relief staff to report all unsafe incidents including those where there has been no injury or damage.

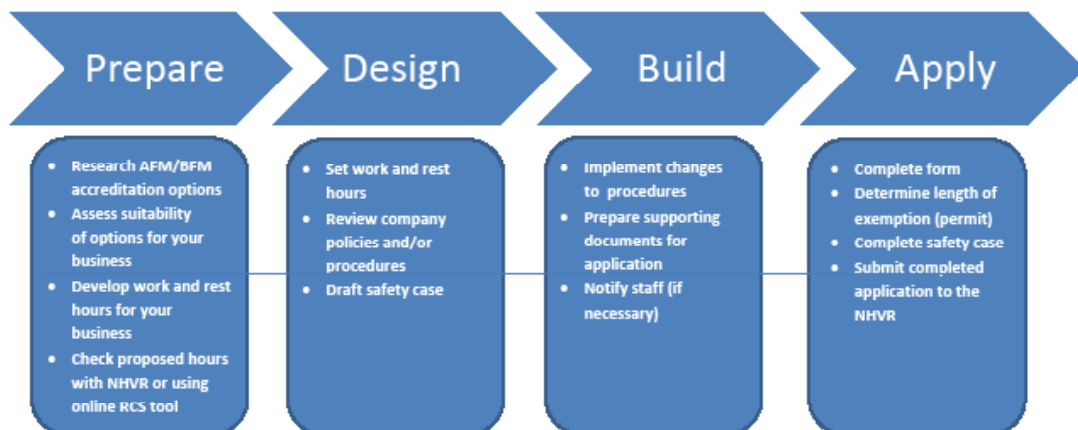
It should also include your policies for reviewing this information and making modifications if necessary.

Why do I need a Safety Case?

The NHVR cannot grant an exemption unless it is satisfied that the proposed alternative fatigue management practices will not affect public safety.

To assess this, the NHVR must have detailed information on your plan for safely managing the risks associated with your proposed work and rest hours.

Work and rest hours exemption (Permit) application process



By developing a Safety Case when applying for a work and rest hours exemption (Permit) you will provide information on:

- › how you will comply with HVNL requirements
- › elements of business operations that are relevant to ensuring safe operation of heavy vehicles
- › the link between the fatigue element and the safety outcome
- › ensuring fatigue management practices are in use (such as examples of reports and corrective actions taken after incidents or investigations) and that the practices are working reliably.

Operators should use the development of their Safety Case to assess how comprehensive their alternative fatigue management practices are.

The NHVR may refer applications with a higher risk profile to the Fatigue Expert Reference Group for further review and advice.

What happens if I am granted a work and rest hours exemption (Permit)?

Your work and rest hours exemption (Permit) will outline your approved alternative fatigue management practices and any other conditions that must be met when working under the exemption.

It is important to explain your alternative fatigue management practices to your drivers and make sure they carry a copy of their exemption whenever they are scheduled to work under those practices.

If they fail to carry the Permit or exceed limits set in the exemption, they may be seen as committing a work and rest hours offence under the HVNL.

If it is clear that your alternative fatigue management practices and any conditions on your work and rest hours exemption (Permit) are not working effectively, or are not being complied with, the NHVR can cancel the exemption permanently.

Changing or replacing a work and rest hours exemption (Permit)?

Visit the Fatigue Management section of the NHVR website and complete an *amended work and rest hour exemption (Permit)* form.

The process for making amendments to your alternative fatigue management practices in your work and rest hours exemption (Permit) is essentially the same as for a new application.

If you have lost the original exemption, or it has been destroyed you can request a replacement.

Visit the NHVR website and complete the *replace fatigue management exemption (Permit)* form.

Penalties apply if you fail to notify the NHVR as soon as you can that your exemption has been lost or stolen or defaced.

Cancelling a work and rest hours exemption (Permit)

If you no longer require a work and rest hours exemption (Permit) you can submit a *cancel work and rest hours exemption (Permit)* form to the NHVR through the website.

Your original exemption will need to be attached before you submit your cancellation request. Once you have cancelled the exemption, all copies must be destroyed.

What happens when my work and rest hours exemption (Permit) expires?

All work and rest hours exemption (Permits) will expire after three years or earlier if nominated.

You must apply for a new exemption before the expiry date to allow you to continue to use your alternative fatigue management practices.

About the NHVR

The National Heavy Vehicle Regulator (NHVR) is Australia's dedicated independent regulator for heavy vehicles over 4.5 tonnes gross vehicle mass.

The NHVR was created to administer one set of rules for heavy vehicles under the Heavy Vehicle National Law (HVNL), improve safety and productivity, minimise the compliance burden on the heavy vehicle transport industry and reduce duplication and inconsistencies across state and territory borders.

For more information

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