

Heavy vehicle driver fatigue requirements

Compliance and Enforcement bulletin 7

This bulletin provides practical advice to help heavy vehicle drivers and other parties to comply with the requirements of the Heavy Vehicle National Law (HVNL) as they relate to heavy vehicle driver fatigue.

What are my obligations under the HVNL?

Amendments to the HVNL in 2018 will introduce ‘safety duties’ that must be met by all parties in the Chain of Responsibility (CoR). This requirement means that all parties have a duty to ensure the safety of their transport activities, so far as is reasonably practicable.

Responsible parties in the chain include: employers, prime contractors, operators, schedulers, consignors, consignees, packers, loading managers, loaders, and unloaders.

In addition, the executive officers of each party in the chain must exercise ‘due diligence’ to ensure the safety of their business’s transport activities. The law will require executive officers to:

- keep up-to-date with the safe conduct of transport activities in their business
- fully understand the hazards and risks associated with their transport activities and how these are being managed
- provide appropriate resources—including people, systems and equipment—to manage their safety hazards and risks effectively.

In terms of heavy vehicle driver fatigue, the safety duties provision of the HVNL places a requirement on responsible parties to prevent a driver from driving any heavy vehicle whilst fatigued, not just fatigue-regulated heavy vehicles.

These safety duties extend to identifying any fatigue risks to prevent or reduce potential harm or loss, to yourself and others.

What are the HVNL fatigue requirements?

Driver fatigue is a leading contributor to heavy vehicle crashes in Australia, with some studies showing fatigue involved in one eighth of Australian heavy vehicle crashes.

To assist drivers and operators of heavy vehicles to avoid driver fatigue, the HVNL sets four key requirements.



Four key HVNL requirements to avoid driver fatigue

Requirement	Description
1. Don't drive a heavy vehicle while fatigued	Drivers must not drive a fatigue-regulated heavy vehicle on a road while impaired by fatigue. Other parties in the CoR must ensure they prevent a driver from doing this.
2. Work within set limits	Drivers must work within set limits and have minimum rest requirements. Other parties must not ask or allow drivers to exceed these limits.
3. Keep work and rest records	Drivers (or in some cases a driver's record keeper) must make an accurate and complete record of their work and rest time in either a National Driver Work Diary or, if driving within an area with a radius of 100 km of the driver's base, alternative work records.
4. Provide records to record keeper	Drivers must provide their work and rest records to their record keeper within set time frames. A record keeper must retain these records for three years.

Understanding the HVNL fatigue requirements

1. Don't drive a heavy vehicle while fatigued

Under the HVNL, the safety duty for all heavy vehicle drivers is to not drive a fatigue-related heavy vehicle on a road while impaired by fatigue. A driver is impaired by fatigue when their ability to drive a heavy vehicle safely is affected by fatigue.

The HVNL defines fatigue as including (but not limited to) the following feelings and behaviours:

- feeling sleepy
- feeling physically or mentally tired, weary or drowsy
- feeling exhausted or lacking energy
- behaving in a way consistent with the above.

If a heavy vehicle driver is driving and experiences any of these symptoms, they must stop work immediately (as soon as it is safe to do so). The driver must not work again until they are no longer affected by fatigue.

Tip: Getting plenty of good quality rest and/or sleep are the most effective ways to prevent and recover from fatigue.

A driver can be impaired by fatigue at any time, even when they comply with work and rest hour limits. Regardless of how many hours they may have worked or rested, they must never drive if they are impaired by fatigue.

2. Work within set limits

The scientific evidence shows that fatigue increases the longer a person is awake and or the less sleep they have. To assist heavy vehicle drivers get enough time to sleep and to not work too long, the HVNL requires all heavy vehicle drivers to comply with set work and rest limits.

What is work and rest?

While driving is the most common type of work, it is important to note that any other task relating to the operation of a fatigue-regulated heavy vehicle is regarded as work, including for example:

- instructing/supervising another person driving a fatigue-regulated heavy vehicle
- loading or unloading a fatigue-regulated heavy vehicle
- inspecting, repairing or servicing a fatigue-regulated heavy vehicle
- inspecting or attending to a load (adjusting/securing load) of a fatigue-regulated heavy vehicle (a load includes passengers)
- cleaning and refuelling a fatigue-regulated heavy vehicle
- completing paperwork in relation to a fatigue-regulated heavy vehicle (organising loads/work)
- recording information or completing a document that is required under the HVNL
- helping another person or supervising any of the above
- occupying the driver seat of a fatigue-regulated heavy vehicle while its engine is running

Note: Exemptions may apply.

These tasks have been limited because they extend the time a person is awake, increasing the risk of being fatigued.

Rest in relation to the operation of a fatigue-regulated heavy vehicle is not doing any of the above.

What work and rest options are available?

The HVNL provides heavy vehicle drivers and operators with various work and rest hours options, each with their own work and rest limits. There are four options available:

1. Standard hours

2. Basic Fatigue Management (BFM) hours
3. Advanced Fatigue Management (AFM) hours
4. Exemption hours.

Note: The following link to the NHVR website provides the work and rest requirements for each of the work and rest hours options.

www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/work-and-rest-requirements

BFM and AFM provide increased levels of flexibility by managing fatigue risks through the National Heavy Vehicle Accreditation Scheme (NHVAS). Heavy vehicle drivers can only work under these hours if they have been inducted into an accredited operators system.

Exemptions enable operators and drivers to apply for work and rest hours not possible under any of the other work and rest options. Strict constraints apply.

3. Keep work and rest records

When does a driver need to carry a Work Diary?

A driver of a fatigue-regulated heavy vehicle is required to carry a Work Diary when they are, or if they have in the last 28 days, been:

- driving outside a radius of 100km from their driver base (100+km work)
- working under BFM or AFM
- working under an exemption.

At the request of an Authorised Officer, drivers must produce their Work Diary records for the previous 28 days. An Authorised Officer is a police officer, state or territory road agency officer or an NHVR officer.

Note: Some specific state and territory exemptions exist.

Completing a Work Diary (100+km work)

Drivers of a fatigue-regulated vehicle undertaking or planning to undertake a 100+km journey in a day must complete their Work Diary (including all work and rest) for that day. Detailed instructions on how to complete your Work Diary, including examples, are located at the beginning of your Work Diary.

Counting time

There are detailed instructions on pages 21-25 of the Work Diary explaining how to count time. It is important to remember when counting time that:

- each 24-hour period starts at the end of a major rest break relevant to the work/rest hours arrangement under which the driver is working (e.g. standard hours solo (at least) seven hours continuous rest).
- each 24-hour period ends exactly 24 hours after commencement.
- it is possible that you could have more than one 24-hour period running at the same time. This can occur when there are two major rest breaks within a 24-hour period.

Tip: A major rest break does not reset your 24-hour period; it commences another 24-hour period.

Recording work/rest in non-participating jurisdictions

If you are the driver of a fatigue-regulated heavy vehicle travelling into WA or NT for a period of seven days or less, you are required to comply with both the HVNL fatigue requirements and any relevant local laws. To demonstrate your compliance, you should complete your Work Diary as you would if you were working in a participating jurisdiction.

For periods of work longer than seven days carried out in a non-participating jurisdiction, the driver will need to comply with the local heavy vehicle driver fatigue, work rest and record keeping requirements. When driving a fatigue-regulated heavy vehicle and returning from a non-participating jurisdiction to a participating jurisdiction, the driver must complete their Work Diary from the beginning of the last major rest break taken prior to re-entering the participating jurisdiction.

Further information can be found on page 9 of the Work Diary instructions.

4. Provide records to record keeper within set time frames

Record keepers must keep a record of specific information for drivers of fatigue regulated heavy vehicles. A record keeper may be the:

- employer, if the driver is employed
- accredited operator, if the driver is working under BFM or AFM accreditation
- driver (as a self-employed or owner driver).

Drivers must provide their record keeper with their relevant work and rest hours totals and any other relevant vehicle information the record keeper may not reasonably have access to (registration numbers, dates the driver worked, etc.).

The record keeper determines the record location and notifies the driver. The record location is usually the driver's base.

All records must be:

- kept for three years after they are created
- kept at a location accessible to an Authorised Officer for audit or investigation purposes
- in a format that is readable and reasonably assumed it will be readable in at least three years from the date of its creation.

When do HVNL fatigue requirements apply?

The heavy vehicle driver fatigue requirements found in chapter 6 of the HVNL apply to drivers and other parties operating a fatigue-regulated heavy vehicle.

A fatigue-regulated heavy vehicle is defined as a:

- motor vehicle with a Gross Vehicle Mass (GVM) of more than 12t
- combination with a GVM of more than 12t
- fatigue-regulated bus (GVM greater than 4.5t and built or fitted to carry more than 12 adults including the driver).

Some vehicles have been specifically excluded from this definition, these include motor vehicles that are:

- built to operate primarily as a machine or implement off-road and are not capable of carrying goods or passengers by road
- or
- motorhomes.

For example, a truck with a GVM of 8.7t towing a trailer with a GVM of 3.4t (8.7t + 3.4t = 12.1t) would be classed as a fatigue-regulated heavy vehicle.

Tip: The manufacturer specifies the GVM and it can be located on the vehicle identification plate, registration label or papers.

What can I do to manage fatigue?

The implementation of a safety management system (SMS) that addresses the risks associated with fatigue will assist in satisfying the requirements of the HVNL as they relate to heavy vehicle driver fatigue.

While this bulletin is not intended to provide an exhaustive list, here are some examples of systems that can be established as part of an effective SMS:

- Reviewing driving or work schedules and work records of relevant drivers
- Regularly assessing fitness for duty of relevant drivers
- Reviewing contractual arrangements and documentation relating to the consignment and delivery of goods
- Reviewing loading and unloading times and delays at loading and unloading places
- Developing and adhering to trip plans
- Implementing formalised processes to engage and consult with other parties in the chain.

What actions can Authorised Officer's take?

Authorised Officers have powers relating to heavy vehicle driver fatigue requirements, including inspecting heavy vehicle driver's work and rest records.

Enforcement action for any breach of fatigue, work/rest hours or Work Diary requirements will depend on the nature and severity of the breach. Options available to Authorised Officers include (but are not limited to) formal warnings, infringement notices and court imposed penalties.

Drivers of fatigue-regulated heavy vehicles that are deemed to be driving while impaired by fatigue may face penalties and be prevented from working, even if they are complying with work and rest requirements.

Drivers of fatigue-regulated heavy vehicles may be directed to immediately stop work and not work again for a stated period if:

- the driver is impaired by fatigue
- the driver has committed a severe or critical work/rest hours breach
- the driver is unable to produce a Work Diary without a reasonable excuse
- the Work Diary produced cannot be relied on as an accurate record of the time the driver recently spent working or resting.

Where can I get more information?

Heavy vehicle driver fatigue or Work Diary requirements

This bulletin summarises the key obligations set out in the HVNL and is not exhaustive. Visit our website for more information about heavy vehicle driver fatigue or Work Diary requirements or contact us on 1300 MYNHVR (1300 696 487). www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management

Chain of Responsibility (CoR)

More information is available on the NHVR website at: www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility

NHVAS

More information is available on the NHVR website at: www.nhvr.gov.au/safety-accreditation-compliance/national-heavy-vehicle-accreditation-scheme

Fatigue management exemptions

More information is available on the NHVR website at: www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/fatigue-management-exemptions

Safety Management Systems (SMS)

More information is available on the NHVR website at: www.nhvr.gov.au/safety-accreditation-compliance/safety-management-systems

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