

Driving while fatigued or drowsy is dangerous. For drivers of fatigue-regulated heavy vehicles (heavy vehicles over 12 tonnes GVM and fatigue regulated buses), fatigue is managed by work and rest limits set in the Heavy Vehicle National Law (the HVNL).

Heavy vehicle operators can choose to use either a Written Work Diary (WWD) or an approved Electronic Work Diary (EWD) to record their work and rest to show that driver fatigue is being managed in accordance with the law.

An EWD is any electronic recording system approved by the NHVR as meeting the EWD Standards. This recording system can include portable devices like smartphones, tablets or more traditional telematics devices.

This guideline outlines:

- *how transport operators for drivers of fatigue-regulated heavy vehicles can use EWDs to meet their fatigue management obligations*
- *factors transport operators should consider when using EWDs*
- *the legal obligations for transport operators to manage EWD operations.*

The role of transport operators

The transport operator is the person responsible for controlling or directing the use of a fatigue-regulated heavy vehicle.

EWD obligations

EWD operations involve five different functions:

1. **Setting standards** – ensuring that technology approved for use as an EWD meets performance based standards set by the NHVR.
2. **Deployment** – supporting industry to prepare to use EWDs as a voluntary alternative to written work diaries.
3. **Day-to-day operations** – using EWDs to collect work and rest information.
4. **Assurance/enforcement** – using EWD information to check driver compliance with work and rest limits.
5. **EWD assurance** – checking that approved EWDs continue to function properly.

The following sections outline the obligations for transport operators for each of the five functions.

Setting standards

There are no specific obligations for transport operators in setting standards.

If transport operators have built, or are planning to build their own electronic recording system for approval and use as an EWD, they should read the *EWD Guideline for Technology Providers*.

Deployment

Transport operators who have decided to introduce EWDs into their operations have two options:

1. Design and build their own EWD.
or
2. Obtain a commercial EWD that meets the business needs.

Design and build your own EWD

The *EWD Policy Framework* allows transport operators to build an electronic recording system and apply for that system to be approved for use as an EWD.

Transport operators who do this accept a dual role as a technology provider.

The *EWD Guideline for Technology Providers* sets out the process for developing and seeking approval for a candidate electronic recording system.

Obtain a commercial EWD

Transport operators who wish to use commercially available EWDs should start by determining their business requirements.

Depending on the nature of the business, EWDs could be used to:

- reduce the time taken to manage your fatigue-management related regulatory obligations
- automate the review of driver records for compliance checking and for performance management
- analyse work and rest records to help improve scheduling, rostering and fatigue risk management
- analyse non-compliances across the fleet to inform and improve company policy and training
- enhance work and rest recording efficiency for drivers.

Once requirements are known, transport operators should consult the NHVR's EWD webpage to identify approved EWDs and their suppliers. Only approved EWDs can be used by drivers as an alternative to the written work diary for regulatory purposes.

Obtain a commercial EWD (continued)

The list of approved EWDs includes contact details of the technology providers who are the approval holders. Potential suppliers should be contacted directly to compare different EWDs and options.

The NHVR only approves systems that meet the *EWD Standards*. The NHVR does not endorse or recommend any specific EWD or approval holder.

Having determined the most suitable EWD, there are a number of considerations in negotiating the contract for provision of EWD services with the preferred technology provider. Transport operators should consider:

- purchase and installation costs and any service fees
- roll out and installation
- training of drivers, record keepers and other affected staff
- maintenance and repair/replacement of EWD units that are not working properly
- access to and storage of EWD information
- use of driver's EWD information by the technology provider for other commercial purposes
- role of the technology provider in record keeping.

A transport operator may contract a technology provider to undertake record keeping functions on their behalf. Doing this does not excuse the transport operator from legal responsibility, rather the transport operator and technology provider share legal responsibility for the record keeping functions.

Once agreement is reached on the provision of EWD services, the transport operator must make preparations for drivers to use the EWDs. This may include:

- obtaining drivers' consent to have their details shared with the technology provider
- providing driver licence details for nominated drivers to the technology provider
- delivery of secure driver authentication details to the driver, from the technology provider
- coordinating training of nominated drivers.

All drivers using EWDs are issued with a single unique identifier that will work on every approved EWD. This is set up by the technology provider based on the identification details provided for nominated drivers. Technology providers will explain their specific process and requirements for this step.

Day-to-day operations

Depending on the structure of the business, there are no specific EWD obligations for transport operators in day-to-day operations.

However, transport operators are ultimately responsible for ensuring that persons under their control (drivers, record keepers and technology providers) meet the relevant obligations for their roles. More information on these obligations is set out in the EWD guidelines for drivers and record keepers.

Transport operators are also responsible for providing resources to ensure that EWDs are maintained in, or restored to, proper working order.

Transport operators must comply with fatigue management and Chain of Responsibility obligations in the HVNL.

Assurance/enforcement

Transport operators must not hinder drivers, record keepers or technology providers from working with authorised officers who are executing their duties under the HVNL.

EWD assurance

If required, transport operators must cooperate with requests from the NHVR during operations and investigations into EWD operations.

Where do I get help?

Visit www.nhvr.gov.au/fatigue for more information on fatigue management obligations under the HVNL.

Visit www.nhvr.gov.au/ewd for more information about EWD operations, including:

- *EWD Policy Framework*
- *EWD Privacy Policy*
- *EWD Compliance Policy*
- *EWD Standards*
- EWD Guidelines for Drivers, Record Keepers and Technology Providers
- A list of approved EWDs (with contact details for their approval holders)
- Frequently asked questions.

DISCLAIMER - This guideline assists transport operators to use electronic work diaries according to the law. It is not an exhaustive list of requirements. Transport operators should ensure that they comply with all requirements in the Heavy Vehicle National Law, the Heavy Vehicle (Fatigue Management) National Regulations and other policies and standards.

This guideline is not legal advice. If necessary, you should obtain independent legal advice that takes into account your particular circumstances.