

## Primary production work diary requirements and exemption

### Recording work and rest requirements

All drivers of a fatigue-regulated heavy vehicle are required to ensure their work and rest hours are compliant with the Heavy Vehicle National Law (HVNL).

Drivers are not allowed to drive or work more than the maximum work hours, or rest less than the minimum rest hours, in certain periods set out by law.

Most drivers of a fatigue-regulated heavy vehicle<sup>1</sup>, who drive 100km or more, are required by law to record the time spent working and resting in a *National Driver Work Diary*. However, under certain circumstances, **primary producers** are exempt from purchasing and maintaining a work diary.

### When does the work diary exemption apply?

Depending on the distance travelled, the recording of work and rest hours is either done using your own recording mechanism (e.g. note book, NHVR template) or by using the *National Driver Work Diary*. Figure 1 show the different exemptions for deciding on the correct recording method.

#### 0 – 100km statutory exemption

Record keepers for drivers adhering to standard hours must keep a detailed written record of work and rest times in their own local area driving record. Drivers can choose to use their *National Driver Work Diary*.

#### 100 – 160km National Primary Production Work Diary Exemption Notice

The [National Primary Production Work Diary Exemption \(Notice\) 2021 \(No.1\)](#) extends the statutory exemption to work diary requirements for drivers of fatigue-regulated heavy vehicles who are carrying primary produce work within a 160km radius of their base.

If you're driving a fatigue-regulated heavy vehicle, transporting primary produce between a primary production facility<sup>2</sup> and a point of sale, processing or

distribution and are **working within a 160km radius** of your base, you are **NOT** required to keep and record information in a *National Driver Work Diary* under the work diary exemption, but are still required to keep your own records.

This exemption also covers the direct return journey after the primary produce has been offloaded.

#### More than 160km

If you're driving a fatigue-regulated heavy vehicle, transporting primary produce between a primary production facility and a point of sale, processing or distribution and **are outside the 160km radius** of your base, you are required to keep and record information in a *National Driver Work Diary*.

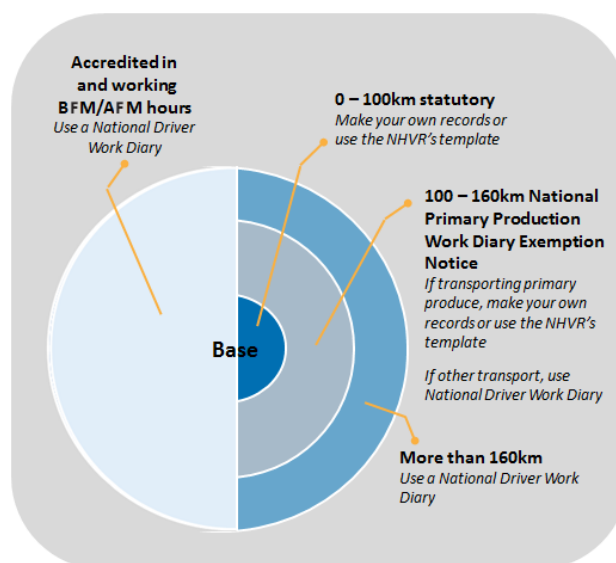


Figure 1: Primary producers work diary exemption

#### More than 100km statutory exemption

All other drivers of fatigue-regulated heavy vehicles must use the *National Driver Work Diary* for work outside the 100km radius, as required in the HVNL (unless they have a work diary exemption for another reason).

For more information about the work diary and other possible exemptions see [www.nhvr.gov.au/workdiary](http://www.nhvr.gov.au/workdiary)

<sup>1</sup> A fatigue-regulated heavy vehicle is a vehicle or combination with a gross vehicle mass (GVM) of more than 12 tonnes and fatigue regulated buses (i.e. carry more than 12 adults).

<sup>2</sup> A primary production facility is a place of production or accumulation of primary produce, such as a farm, paddock, silo, feedlot, or apiary.

## What is primary produce?

### Primary produce means:

- foodstuff intended for human consumption, including:
  - grain, fruit, fungi and vegetables
  - live animals grown or bred for food
  - apiary products
  - eggs, including fish roe
  - dairy products
- feed intended for animal consumption
- feathers and hides for the production of goods
- derivatives from animals or plants used for use in medicines or cosmetics
- fibrous by-products of plants and animals used for production of textiles.

## Questions and answers

### Do the fatigue management rules still apply when not using a National Driver Work Diary?

Although exempt drivers do not need to carry and record information in an official work diary, all other requirements of fatigue regulations still apply. Drivers must not drive while impaired by fatigue and must continue to comply with work and rest requirements.

**Record keepers must continue to record driver details, including work and rest times.**

The NHVR has a [Heavy vehicle fatigue management - primary producers](#) fact sheet which outlines which activities are deemed 'rest' and 'work'.

### I'm exempt from keeping a National Driver Work Diary—what other records do I need to keep?

Drivers who are exempt from carrying and completing a *National Driver Work Diary* must still record, and provide details of their work and rest times to their record keeper.

Specifically, record keepers for primary producers and their transport providers must still record the:

- driver's name and contact details
- driver's current driver licence number and the jurisdiction in which the licence was issued
- dates on which the driver drives a fatigue-regulated heavy vehicle on a road
- registration number for each fatigue-regulated heavy vehicle the driver drives
- total of the driver's work times and rest times on each day on which the driver drives a fatigue-regulated heavy vehicle

- total of the driver's work times and rest times for each week during which the driver drives a fatigue-regulated heavy vehicle
- driver's rosters and trip schedules, including details of driver changeovers.

Record keepers must also keep a copy of payment records relating to the driver, including time sheet records if the driver is paid according to time at work. These records must be kept at the record location for three years.

### Is there an easy-to-use document I can use to keep records?

Yes. The NHVR has developed a [Local Area Record Template](#).

### If I'm not exempt, do I need to keep a National Driver Work Diary all the time?

The statutory exemption for standard hours work **removes the requirement** to keep and complete a *National Driver Work Diary* whenever you are working within 100km, regardless of the type of load. Record keepers still have to make their own records for their drivers as per the guidelines above.

### What's the difference between a National Driver Work Diary and my own local area driving record?

The *National Driver Work Diary* is the approved form for drivers to make work and rest declaration. All required recordings must be completed on the document. If the *National Driver Work Diary* is not completed correctly or in full, it may be considered a breach of the law.

### To be eligible for the exemption, do I have to be a primary producer?

No. The exemption applies to all drivers undertaking a journey transporting primary produce as defined in the exemption notice.

### Do I have to be driving a vehicle with primary producer registration?

No.

### Do drivers have to carry a copy of the exemption?

No. Drivers working under the exemption do not have to carry a copy of the exemption notice.

For a list of other documents that must still be carried in the cab, visit [www.nhvr.gov.au/ce-bulletins](http://www.nhvr.gov.au/ce-bulletins)

### Does the work diary exemption apply to BFM or AFM?

No.

### Does the work diary exemption apply if my base is in the Northern Territory or Western Australia?

Yes. Drivers based in the Northern Territory or Western Australia who perform classes of work covered by this exemption in a participating jurisdiction are exempt from having to keep and record information in their work diary.

### Does the work diary exemption apply if I drive through the Australian Capital Territory (ACT)?

The ACT has not commenced the provisions of the national law dealing with fatigue. However, drivers operating under this work diary exemption will be compliant with current ACT laws.

### What happens if I work outside the 160km radius?

Drivers carrying out primary production work outside their 160km radius must record relevant information in a *National Driver Work Diary* or supplementary records for the entire day. This applies even if drivers have stopped work and had a major rest break during the day.

### If I do more than 160km work in 28 days, do I need to continue recording in my National Driver Work Diary or carry it with me?

There are two separate requirements in the law. The first relates to when a driver has to carry a *National Driver Work Diary*. The second relates to when a driver has to make entries in (keep) their work diary. While the two are linked, they operate independently of each other and it's possible for a driver to be required to carry a work diary without having to keep it.

A driver who has worked 160+km work in the last 28 days is required to carry their *National Driver Work Diary* with them when they work. They may not need to make records in the work diary if they are able to operate under an exemption (statutory or primary producer).

### Does the work diary exemption apply to two-up driving?

Yes. Drivers carrying out primary production work who are operating in a two-up arrangement are exempted from having to keep and record information in the *National Driver Work Diary* provided they remain within their 160km radius.

### Does this exemption apply to transport related to agricultural shows?

No.

### I drive fruit and vegetables to supermarket chains. Does this exemption apply?

No. The *National Primary Production Work Diary Exemption* does not apply to primary production transport activities after the produce is delivered to the first wholesale or processing point (e.g. a distribution centre).

### Does the work diary exemption cover me if I carry fertiliser on my return journey?

Only if your return journey is **direct** to your base, so it's unlikely grain and fertiliser logistics would allow for this circumstance. If you deliver grain to a silo, then travel to a fertiliser depot, load fertiliser and make the return journey to your base, this is no longer deemed a 'direct' return trip and as you are not carrying primary produce, you are no longer covered by the *National Primary Production Work Diary Exemption*.

### Does the return journey need to be unloaded?

No. For the direct return journey a driver can carry any load. However, if the return journey is indirect (e.g. making two or three stops on the way home) the exemption does not apply.

### What records do I need to keep if only part of my journey is exempt?

If you undertake a journey which is only partly covered by the *National Primary Production Work Diary Exemption*, you are required to keep a *National Driver Work Diary* entry for that entire day.

### Am I covered for the trip from my depot?

Yes. If you are undertaking a class of work as defined in the exemption notice, the trip from a driver's base is included.

### Does the work diary exemption apply to non-primary production transport?

No. The notice applies to transportation of primary produce on the outbound journey and direct return journeys only. Other transport tasks are not covered.

### What support is available for drivers with literacy issues?

Drivers who have problems with English literacy can contact the NHVR to apply for an individual *National Driver Work Diary* exemption permit.

### Where do I get help?

Visit [www.nhvr.gov.au/fatigue](http://www.nhvr.gov.au/fatigue) for more information on fatigue management obligations under the HVNL