

Heavy Vehicle Fatigue Update 2008

By now you should be aware of your obligations under the new Heavy Vehicle Driver Fatigue laws which commence on the 29th September 2008.

Are you ready?

The Heavy Vehicle Driver Fatigue Reform was developed by the National Transport Commission (NTC) and approved by Ministers from all States and Territories in February 2007. Have you taken the time to prepare for the new Heavy Vehicle Driver Fatigue laws due to commence on 29 September 2008? Have you identified and analysed your risk exposure, defined the controls your organisation needs to implement and the methodology by which you will monitor your performance? If not; time is running out!

The new Heavy Vehicle Driver Fatigue laws, which apply to trucks greater than 12 tonnes gross vehicle mass and buses with 12 or more seats (9 or more seats in NSW), have a number of requirements which may significantly impact on how you run your business. Some of the requirements include:

[Supply Chain Responsibility for Managing Driver Fatigue](#)

Under existing occupational health and safety laws employers and employees have an obligation to take all reasonable step to ensure workplace safety, including managing driver fatigue for employees and contractors.

The Heavy Vehicle Driver Fatigue laws, based around a 'chain of responsibility' model, extend and clarify those obligations to parties whose action, inactions or demands influence conduct on the road. Under the 'chain of responsibility' all parties associated with the supply chain must take all reasonable steps to check: the fatigue-management option under which the driver is operating; the accreditation details of the operator; the driver is complying with relevant work, rest and speed limit requirements; and the driver is not impaired, or likely to become impaired by fatigue.

[The Consignor and Consignee](#)

The new laws place an obligation on the consignor (sender) and the consignee (receiver) to minimise the risk of driver fatigue.

The Heavy Vehicle Driver Fatigue laws consider a consignor to be anyone who commissions the transportation of a load by road and a consignee to be anyone that pays for the goods or takes possession of the load.

An obligation is placed on all parties to take all reasonable steps to make sure the 'terms of consignment' will not result in, encourage or provide an incentive for the driver or a relevant party

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of the driver (eg. scheduler) to make the driver drive while impaired by fatigue; while in breach of the their work and rest hours option; or in breach of another law.

The consignor or consignee also has a duty to make sure they do not make a demand that affects or may affect, a time in a schedule which may cause the driver to drive while impaired by fatigue; while in breach of the their work and rest hours option; or in breach of another law.

The Loading (or unloading) Managers and Personnel

The new Heavy Vehicle Driver Fatigue laws place an obligation on the loaders or unloaders and the associated managers to take all reasonable steps to prevent driver fatigue.

The law considers the loading (or unloading) manager to be the person supervising the loading or unloading or the person in charge of a premises where 5 or more heavy trucks are loaded or unloaded each day.

A loading manager must make sure that the loading and unloading of fatigue regulated heavy vehicles will not cause the driver to drive fatigued, or drive while in breach of their work or rest hours requirements or of another law.

The loading manager(s) have a duty to ensure drivers can take rest. A rest is defined as a period without any work. Assisting or supervising loading is considered work.

Where a designated timeslot can not be nominated or you become aware that the loading or unloading may, or will, start or finish more than 30 minutes late then you must take all reasonable steps to ensure the driver can take a rest while waiting. If you are unable to advise the driver when the loading or unloading of the vehicle is to start or finish you must take all reasonable steps to make sure the driver is able to take rest while waiting.

The Scheduler

The fatigue laws place an obligation on the scheduler to minimise the risk of driver fatigue.

The scheduler must take all reasonable steps to make sure a driver schedule will not cause the driver to drive while impaired by fatigue; breach their work and rest hours option; or drive in breach of another law. You have to make sure the schedule for the driver of the vehicle allows for the driver to take rest breaks under their work and rest hour options and also allows for traffic conditions and other unexpected delays.

Three Fatigue Management Schemes

The Heavy Vehicle Driver Fatigue laws provide a choice of operating under three fatigue management schemes each of which allows increasing levels of flexibility which is offset by more comprehensive compliance standards and requirements.

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The three schemes are:

- **Standard Hours (SH):** maximum driving hours of 12 hours in any period of 24 hours under a prescriptive structure; or
- **A Basic Fatigue Management (BFM):** flexibility within defined minimum rest and maximum work hours (14 hours in any period of 24 hours); or
- **An Advanced Fatigue Management (AFM):** a risk management approach with operating and outer limits ("outer limits" of 15 hours work in any 24 period in NSW and Victoria and 16 hours outer limits in other jurisdictions).

Record Keeping

The new laws strengthened the record-keeping provisions by replacing the National Driver Log Book with the National Driver Work Diary daily sheet.

Depending on the situation record keepers may be defined as the person who engages the driver under a contract of employment, apprenticeship or training (includes labour hire companies); self-employed drivers; or a BFM or AFM accredited operator. Record keeping requirements vary for drivers operating within a 100km radius; beyond a 100km radius; or under a BFM or AFM. The record keeper has the obligation to ensure the driver submits a copy of the National Driver Work Diary daily sheet and any supplementary records within 21 days.

Before driving a heavy vehicle for another record keeper the driver provide a copy of any work diary for the previous 28 days. A record keeper has an obligation to check the work diary for the last 28 days before commencing a new driver. All work records, including the work diary records, must be kept for 3 years.

Liability

Under the new Heavy Vehicle Driver Fatigue laws a party (corporation, partnership, unincorporated association or other body corporate) is liable for any offences committed by its employees, directors or officers. Where a corporation, partnership or other body corporate commits an offence, anyone who is involved in the management of the organisation (including directors and partners) may also be personally responsible.

Where a driver is found to have breached their work and rest requirements all other parties in the supply chain may also be held liable unless they can show evidence they have taken all reasonable steps to prevent the offence. It is irrelevant whether or not they knew about the offence or intended that it occur. Drivers will continue to be held liable even if another party in the supply chain is found guilty.

If you are involved with heavy vehicle Karza Pty. Ltd strongly recommends you contact your local road transport agency; where a number of fact sheet can be downloaded.

National Transport Commission	Phone	Website
NTC - National Transport Commission	03 9236 5000	www.ntc.gov.au
Road Transport Agency	Phone	Website
QLD - Queensland Transport	07 3253 4037	www.transport.qld.gov.au
NSW - Roads and Traffic Authority	132 213	www.rta.nsw.gov.au
VIC – Vic Roads	1300 360 745	www.vicroads.vic.gov.au
SA - Department of Transport, Energy and Infrastructure	1300 784 344	www.dtei.sa.gov.au
TAS - Department of Infrastructure, Energy and Resources	1300 135 513	www.transport.tas.gov.au
WA - Main Roads WA	08 9311 8450	www.mainroads.wa.gov.au
NT - Transport Safety Group	08 8999 3147	www.nt.gov.au

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