



Fatigue Management and the Chain of Responsibility

Drivers of fatigue-regulated heavy vehicles, with some exceptions, are subject to prescribed work and rest times. The Heavy Vehicle National Law (NSW) (HVNL), Chapter 6, provides for three fatigue management options: Standard Hours; Basic Fatigue Management (BFM); and Advanced Fatigue Management (AFM).

While adherence to prescribed work and rest times is important, the overarching obligation on the driver and all CoR parties is to ensure that **the driver does not drive if she or he is impaired by fatigue**.

Parties in the chain of responsibility (CoR) are under an obligation to take all reasonable steps to avoid a fatigue

breach by a driver of a fatigue-regulated heavy vehicle. The information contained in this guide is aimed at assisting you to identify relevant CoR obligations and to develop measures to meet those obligations.

Who are the parties in the supply chain?

The CoR provisions are aimed at persons who can influence and/or control driver behaviour. Parties in the chain of responsibility include:

- the prime contractor of a driver
- the operator of a vehicle
- the scheduler of goods or passengers for transport in or on a vehicle, and the scheduler of its driver
- consignors/consignees of goods for transport
- loaders of goods



Promoting road safety and protecting yourself, your business and your reputation

The law imposes strict obligations on CoR parties but it also gives clear guidance on how to meet those obligations. When considering whether you have met your fatigue management obligations asking yourself the following sorts of questions may be of assistance:

- How do my activities (or the firm's business model) impact on the time available to drivers to do an appropriate pre-trip check of the vehicle; travel to a pick-up or delivery point; ensure correct loading; take all prescribed fatigue breaks; cope with likely traffic contingencies; and meet the customer deadline within the requirements of the relevant fatigue management option?
- How have we identified appropriate travel times from depot to pick-up to delivery?
- What contingency plans do we have in place to respond to a driver being delayed (by traffic or breakdown or queuing or loading time or other foreseeable cause)?
- What arrangements do we have with our customers in relation to scheduling of pick-up and/or delivery? How likely is it that drivers will be held up in queues or will be subject to delays caused by the loading or unloading process? What is our response to loading or unloading delays that leave our driver with insufficient time for the onward journey?
- How much consultation have we held with drivers about driving times, causes of delay and contingency planning?
- How much training and support do we provide to drivers (and to schedulers, packers, loaders and supervisors) about, specifically, fatigue management and, more broadly, about safe and compliant heavy vehicle operations?
- Have we considered the need for vehicle monitoring to determine work and rest times? What technology is available for this purpose? How much would it cost to implement in our fleet? What is considered good practice in our industry sector?
- In respect of consultation, training and support, and vehicle monitoring – how do we respond to what we are hearing from our drivers and other staff? Are the training and support we provide effective? If we have monitoring systems what do we do when we detect non-compliance?
- What form of record keeping do we maintain in respect of each of these factors? Do we retain those records for at least 3 years? Who has responsibility for the ongoing review of our practices and the measures we use to ensure good fatigue management practice? How do we establish that we responded appropriately and effectively to gaps in our compliance systems?

Taking reasonable steps to prevent fatigue offences

The HVNL provides a way for parties in the chain of responsibility to establish that they have taken all reasonable steps in relation to **fatigue management offences**. A CoR party for a fatigue management offence is to be regarded as having taken all reasonable steps if the party did all of the following things:

- identified and assessed those aspects of CoR party's activities, and the activities of relevant drivers, that may lead to a commission of a fatigue offence; and
- for each such activity, the CoR party identified and assessed:
 - (i) the risk of an offence occurring; and
 - (ii) if there is a substantial risk of an offence occurring, the measures available to eliminate the risk or, if it is not reasonably possible to eliminate the risk, to minimise the risk; and
- carried out the risk identification and risk assessment mentioned above:
 - (i) at least once each year; and
 - (ii) where the CoR party's activities may have led to an offence occurring or the risk of an offence occurring took the measures identified and assessed above; and
- kept for at least 3 years a record of the risk identification and the risk assessment and of the action taken to eliminate or minimise those risks.

For a party in the chain of responsibility collaboration with your drivers, staff and service providers and with other (external) parties in the supply chain is essential. You must understand your obligations under the law and ensure that the arrangements you have in place and the arrangements other parties have in place are comprehensive and reasonably capable of avoiding breaches.

More information about the chain of responsibility is available from:

rms.nsw.gov.au/business-industry/heavy-vehicles/safety-compliance/chain-of-responsibility