

Primary production work diary exemption

Drivers of fatigue-regulated heavy vehicles who are carrying out primary production work in New South Wales, Queensland and South Australia are not required to keep and record information in a National Driver Work Diary if working within a 160km radius of their base.

Although exempt drivers do not need to carry and record information in a National Driver 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.

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

For more information about the National Driver Work Diary and other possible exemptions, visit the NHVR website at www.nhvr.gov.au.

Primary production

For the purposes of the *National Primary Production Work Diary Exemption (Notice) 2015*, primary production means the:

- cultivation of land to sell its produce
- maintenance of animals (including birds) to sell them or their produce
- keeping of bees to sell their honey or other apiary products
- transporting animals or produce in connection with their sale.

For the purpose of the notice, the definition of primary production does not include forestry or plantation activities for timber production. This includes, but is not limited to:

- planting or tending trees in a plantation or forest that are intended to be felled
- felling trees in a plantation or forest
- transporting trees, or parts of trees, that are felled in a plantation or forest to the place where they are first to be milled.

Record-keeping requirements

Record keepers for primary producers and their transport providers who are exempt from carrying and completing a National Driver Work Diary must keep records of work and rest time. Specifically, record keepers must record:

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

Frequently asked questions

Where can I get a copy of the work diary exemption?

The *National Primary Production Work Diary Exemption (Notice) 2015* is available on the NHVR website at www.nhvr.gov.au/workdiary#exemptions.

Do drivers have to carry the work diary exemption notice?

No. Drivers carrying out primary production work do not have to carry a copy of the notice to operate under it. Authorised officers have been advised of the notice and its application.

For a list of other documents that must be carried in the cab, visit www.nhvr.gov.au/ce-bulletins.

Do I have to be a primary producer?

No. Drivers only need to be performing a transport service that is involved in primary production as defined in the notice.

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 a major rest break during the day.

Does the work diary exemption apply to BFM or AFM?

Yes. Drivers carrying out primary production work are exempted from having to carry and complete the National Driver Work Diary even when they are operating under Basic Fatigue Management or Advanced Fatigue Management.

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 the work diary exemption apply if I drive in or into Victoria?

No. If you are driving a fatigue-regulated heavy vehicle in Victoria more than 100km from your base you must carry and complete a National Driver Work Diary unless you have a literacy permit.

This applies even when your base is in a participating state or territory and you drive into Victoria.

If you are intercepted in Victoria, you must be able to provide completed pages in a National Driver Work Diary for the last 28 days.

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

Drivers carrying out primary production work within a 160km radius of their base, who are working in participating states and territories to which the notice applies, are exempted from having to keep and record information in their work diary even if their base is in the Northern Territory or Western Australia.

For drivers who are based in Victoria, the exemption only applies when the driver's work is entirely within the jurisdiction and the driver does not return to Victoria.

Does the work diary exemption apply if I drive in Tasmania?

No. Tasmania will commence the provisions of the national law dealing with fatigue on 30 March 2015. Until then, current Tasmanian rules for driving hours record and work diaries will remain in place.

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.

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

No.

Does this exemption apply to transport that is related to agricultural shows?

No.

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

No. The primary production exemption does not apply to primary production transport activities after the produce is delivered to the first wholesale or manufacturing point (e.g. a distribution centre).

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 work diary exemption permit.

About the NHVR

The National Heavy Vehicle Regulator (NHVR) is Australia's dedicated independent regulator for heavy vehicles over 4.5 tonnes gross vehicle mass.

The NHVR was created to administer one set of rules for heavy vehicles under the Heavy Vehicle National Law, improve safety and productivity, minimise the compliance burden on the heavy vehicle transport industry and reduce duplication and inconsistencies across state and territory borders.

For more information:

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*Standard 1300 call charges apply.
Please check with your phone provider

Please note: While every attempt has been made to ensure the accuracy of the content of this fact sheet, it should not be relied upon as legal advice.



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