

TRUCKERS' GUIDE TO THE LAW

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Revised
June 2011

WORK TIME & LOGBOOKS

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WORK TIME RESTRICTIONS

Work time restrictions relate to any person who drives:

- (i) A motor vehicle that requires a class 2, 3, 4 or 5 licence.
- (ii) Any vehicle that is being used under a transport service licence (other than a rental service licence).
- (iii) Any vehicle that is being used in circumstances in which it ought to be operated under a transport service licence.
- (iv) A vehicle that is used to carry goods for hire or reward.

The work time restrictions do not apply to a driver of a goods service vehicle that requires a class 1 or 2 licence, is used within a 50 kilometre radius of the vehicle's normal base of operation and is not used for hire or reward.

Work Time

Work time includes:

- (i) All time spent driving.
- (ii) Loading and unloading.
- (iii) Maintenance and cleaning of vehicles, (unless the cleaning is unpaid and done outside of working hours).
- (iv) Administration or recording.
- (v) Any paid employment of any kind except paid leave or paid breaks of at least 30 minutes, whether or not related to transport activities.

Rest Time

Rest time is time that is not work time, that is at least 30 minutes in duration and is not spent in a moving vehicle associated with work.

There is a standard requirement that a minimum 30 minute break be taken after a maximum of 5 and a half hours of work time. If your journey involves a ferry crossing and the trip lasts more than 1 hour, this can be counted as a rest break.

Five and a Half Hours Work Time

A driver must take a rest break after 5 and a half hours of continuous work time.

Thirteen Hours Working Per Day

A driver must not work for a total of more than 13 hours in any work day.

Ten Consecutive Hours Rest Time

A driver must have at least 10 consecutive hours of rest time in every work day.

Work Day

A work day begins at the end of a continuous 10 hour rest break and comprises 24 hours.

70 Hours Work Time

No driver can exceed 70 hours work time in a cumulative work period. A cumulative work period is the period of work time between continuous rest periods of at least 24 hours.

Penalties

The penalties for breaching driving hours restrictions are as follows:

- Exceeding work time restrictions or rest time requirements by less than 60 minutes in a cumulative day or 120 minutes in a cumulative work period are subject to a fine of up to \$2,000 and either the driver must complete a work time and logbook course or the Court may disqualify the driver for one month or more from driving a vehicle that requires a class 2, 3, 4 or 5 licence and is used in a transport service and is used to carry goods for hire or reward.
- Exceeding work time restrictions or rest time requirements by 60 minutes or more in a work day, a fine of up to \$2,000 and a mandatory one month disqualification as above.
- Exceeding work time restrictions or failing to comply with rest time requirements by 120 minutes or more in a cumulative work period, a fine of up to \$2,000 and a mandatory one month disqualification as above.

Defences

It is a defence to an offence of breaching the work time or rest time requirements if the Court is satisfied that the failure to comply was due to unavoidable delay arising out of circumstances that could not reasonably have been foreseen by the driver, or it was an emergency.

LOGBOOKS

The logbook rules apply to drivers who drive:

- (a) vehicles that require a class 2, 3, 4, or 5 licence; or
- (b) vehicles that are used in a transport service (other than a rental service); or
- (c) vehicles that must be operated under a transport service licence; or
- (d) vehicles that are used to carry goods for hire or reward if that vehicle is a heavy motor vehicle.

Drivers must maintain a logbook which clearly and legibly records on each page:

- (a) The driver's name.
- (b) The date on which the logbook page starts.
- (c) The registration number of each vehicle driven.
- (d) For vehicles subject to road user charges, the distance recorder readings at the start and finish of each period of driving.
- (e) The start and finish time with a location for each, for all work time hours.
- (f) The start and finish time and location for all rest breaks.

Logbook entries are required for the period between the two 24 hour breaks, which is also now known as a cumulative work period. If any delay is experienced which causes or is likely to cause, the work time limits for a cumulative work day or a cumulative work period to be exceeded, the event and the length of delay should be noted in the logbook.

Driver Offences

Offences are committed where a driver:

- (a) Maintains two logbooks at the same time.
- (b) Makes or causes to be made

any false statement in a logbook.

- (c) Allows any omission to occur in the logbook.
- (d) Fails to produce without delay all logbooks on demand by an enforcement officer.
- (e) Produces a logbook that is false in a material particular, whether or not the driver knows of the falsehood.
- (f) Produces a logbook that omits a material particular, whether or not the driver knows of the omission.
- (g) Produces a logbook in which any material particular is entered illegibly or in such a manner that a matter specified in the Rules cannot be readily ascertained.

All drivers committing an offence as stated above are liable on conviction to a fine not exceeding \$2,000 and may be disqualified from holding or obtaining a licence to drive a vehicle that requires a class 2, 3, 4 or 5 licence and is used in the relevant transport service.

Employer Offences

Every employer, not being the driver of the vehicle, commits an offence under the Rules where it requires, directs, or allows a vehicle to be used when:

- (a) a logbook is not maintained in respect of the driving of that vehicle, whether or not the employer knows that a logbook is not maintained; or
- (b) the logbook maintained in respect of the driving of that vehicle is false in a material particular, whether or not the person knows of the falsehood;
- (c) the logbook maintained in respect of the driving of that vehicle omits a material particular, whether or not the person knows of the omission.

The new Rules also create an offence relating to "chain of responsibility". The Rules create an offence for causing or requiring a driver to breach speed limits, maximum work time or rest time requirements. An employer

commits an offence if they, by act or omission, directly or indirectly cause or require a driver to:

- (a) Exceed any applicable speed limit if the employer knew, or should have known, that the speed limit would be or would likely be exceeded.
- (b) Exceed the maximum work time prescribed in the Act or the Rules if the employer knew, or should have known, that the maximum work time would be, or would be likely to be exceeded.
- (c) Fail to comply with the rest time requirements prescribed in the Act or the Rules if the employer knew, or should have known, that the rest time requirements would not be, or would likely not be, complied with.
- (d) Fail to maintain a logbook in the prescribed manner if the employer knew, or should have known, that the failure to maintain the logbook would contravene the Rules.

An employer commits an offence as stated above and is liable on conviction to a fine not exceeding \$25,000.

Period in which a logbook must be maintained

Logbook entries must:

- (a) Show the extent of the cumulative work day and cumulative work period.
- (b) Record when the most recent 10 hour break was taken.
- (c) Record the period back to (and including) the last 24 hour break.
- (d) Be maintained until the next 24 hour break is taken at the end of that cumulative work period.

Every driver is required to keep their logbook for 12 months from the date of the last entry, and if that driver is an employee, they must deliver a copy of the logbook to their employer within 14 days after completing that record and the employer must retain a copy of each logbook for a period of 12 months.

Exemptions

The Act now empowers New Zealand Transport Agency to grant partial or total written exemption from some or all of the requirements to maintain logbooks. In addition, the Rules provide exemptions for certain types of drivers from the logbook requirements.

These include:

- (a) If a person drives for the New Zealand Defence Force, the New Zealand Police, an ambulance service or the New Zealand Fire Service;
- (b) Drivers of certain services or types of vehicles are also exempt from filling in logbooks.

Examples:

- (i) Farm vehicles - provided that the vehicle is only driven within a 50 kilometre radius of the farm and is used for work that is directly related to the management of the farm, or used to transport farming equipment or stock.
 - (ii) Motor homes - provided that the vehicle has sleeping and cooking facilities that take up more than half of the floor area of the vehicle.
 - (iii) Recreational vehicles (e.g. heavy Vintage vehicles).
 - (iv) Special type vehicles (e.g. forklifts and rollers).
- (c) A driver doesn't need to keep a logbook record if operating the vehicle under a Goods Service Licence within a 50 kilometre radius of the business, and the vehicle requires a class 1 or 2 licence. The legislation also covers drivers who are working within a 50 kilometre radius from a temporary operations base.
- (d) Vehicle Recovery Service vehicles are not required to complete logbook entries provided they keep tow-authorities as a record for their work hours.

If a driver does not fall under the above-mentioned exemptions, that driver can still apply to the New Zealand Transport Agency ("the Agency") for exemptions from some or all the requirements to maintain logbooks. The main consideration in any application for exemption is road safety.

The sectors to whom the logbook exemptions apply must still meet work time requirements.

Production of Logbook, Time and Wage Records

Drivers are required to produce, on demand by any enforcement officer and without delay, any logbook that the driver is required to maintain that relates to the day of the driver's last rest time of at least 24 hours and all the days since that rest time.

Both the driver and the employer are required to make the logbook and any relevant time records, wage records and related employment records available for immediate inspection on demand by any enforcement officer at any reasonable time during the period for which the logbook is required to be retained.

Evidence

The evidence given by an enforcement officer as to the contents of any logbook as seen and recorded by that person at the time it was produced, is sufficient evidence of the contents of the logbook, until the contrary is proven by the production in Court of the logbook or a duplicate copy of the logbook. The Court shall presume until the contrary is proven that the contents of any logbook produced to an enforcement officer accurately record the matters required to be recorded in the logbook.

Alternative Record

The Agency may approve the use of an alternative means of recording the particulars required to be recorded in the logbook. The use of an approved alternative record is then sufficient compliance with the logbook requirements.

Statements by the Driver

The legislation also provides that any statement made to an enforcement officer by a driver about the driver's employer's name, or any matter that is or should be in the logbook, can be given in evidence by the officer and shall be admissible as evidence. This means that drivers should be very careful about what is said to police officers, particularly concerning driving hours and logbooks. They must give their name, address and the name and address of the owner of the vehicle. They should be very careful about saying anything else whatsoever to a police constable or traffic officer because it will invariably be mentioned in Court.

This summary is intended as a guide only and not a full summary of the law relating to work time and logbooks.

If you have any questions or if you need any specific legal advice, you should contact Catherine Fisher or Shafraz Khan at Fortune Manning Lawyers. Cathy and Shafraz have extensive experience in all areas of the law relating to the transport industry.

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We are able to provide a full range of legal services for both your personal and business needs.