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OF THE STATE OF  
NEW SOUTH WALES

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## LEGISLATION

### Proclamations



New South Wales

## Commencement Proclamation

under the

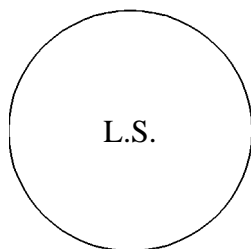
Consumer, Trader and Tenancy Tribunal Amendment Act 2008  
No 51

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Consumer, Trader and Tenancy Tribunal Amendment Act 2008*, do, by this my Proclamation, appoint 1 October 2008 as the day on which that Act (except for Schedule 1 [18] and [19]) commences.

Signed and sealed at Sydney, this 24th day of September 2008.

By Her Excellency's Command,



L.S.

DIANNE JUDGE, M.P.,  
Minister for Fair Trading

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the *Consumer, Trader and Tenancy Tribunal Amendment Act 2008*, except for Schedule 1 [18] and [19]. The uncommenced provisions relate to the determination of remuneration of part-time members of the Consumer, Trader and Tenancy Tribunal.



New South Wales

## Commencement Proclamation

under the

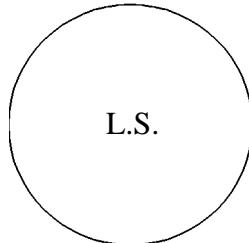
Road Transport Legislation Amendment Act 2008 No 61

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Road Transport Legislation Amendment Act 2008*, do, by this my Proclamation, appoint 29 September 2008 as the day on which Schedule 4 to that Act commences.

Signed and sealed at Sydney, this 24th day of September 2008.

By Her Excellency's Command,



MICHAEL DALEY, M.P.,  
Minister for Roads

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence Schedule 4 to the *Road Transport Legislation Amendment Act 2008*.

The Schedule amends the *Road Transport (General) Act 2005* and the *Road Transport (Safety and Traffic Management) Act 1999* to enable regulations to be made with respect to the prevention and management of driver fatigue, and speeding compliance, in relation to heavy vehicles and heavy combinations.



New South Wales

## Commencement Proclamation

under the

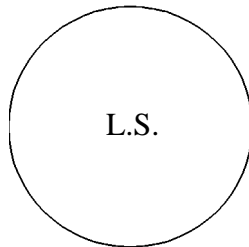
Road Transport Legislation Amendment (Car Hoons) Act 2008  
No 4

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Road Transport Legislation Amendment (Car Hoons) Act 2008*, do, by this my Proclamation, appoint 26 September 2008 as the day on which the uncommenced provisions of that Act commence.

Signed and sealed at Sydney, this 24th day of September 2008.

By Her Excellency's Command,



MICHAEL DALEY, M.P.,  
Minister for Roads

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Road Transport Legislation (Car Hoons) Act 2008*. The provisions commenced include provisions relating to wheel clamping of vehicles involved in street racing offences and aggravated burn out offences.

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# Regulations

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New South Wales

## Consumer, Trader and Tenancy Tribunal Amendment Regulation 2008

under the

Consumer, Trader and Tenancy Tribunal Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Consumer, Trader and Tenancy Tribunal Act 2001*.

DIANNE JUDGE, M.P.,  
Minister for Fair Trading

### Explanatory note

The objects of this Regulation are:

- (a) to prescribe the functions of a member of the Consumer, Trader and Tenancy Tribunal, or the Tribunal, that the Chairperson may authorise the Registrar of the Tribunal to exercise, and
- (b) to make minor amendments relating to the establishment of the Social Housing Division of the Consumer, Trader and Tenancy Tribunal by the *Consumer, Trader and Tenancy Tribunal Amendment Act 2008*, and
- (c) to prescribe the maximum amount claimed or disputed in proceedings that have been heard by the Tribunal in respect of which a person may apply for a rehearing, and to provide that such an application must be lodged within 28 days after the applicant is notified that the previous application had not been granted, and
- (d) to prescribe the period for which sound recordings of proceedings that have been heard by the Tribunal must be retained.

This Regulation is made under the *Consumer, Trader and Tenancy Tribunal Act 2001*, including sections 20, 26, 68, 80A and section 86 (the general regulation-making power).

Clause 1 Consumer, Trader and Tenancy Tribunal Amendment Regulation 2008

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## **Consumer, Trader and Tenancy Tribunal Amendment Regulation 2008**

under the

Consumer, Trader and Tenancy Tribunal Act 2001

### **1 Name of Regulation**

This Regulation is the *Consumer, Trader and Tenancy Tribunal Amendment Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 October 2008.

### **3 Amendment of Consumer, Trader and Tenancy Tribunal Regulation 2002**

The *Consumer, Trader and Tenancy Tribunal Regulation 2002* is amended as set out in Schedule 1.

Consumer, Trader and Tenancy Tribunal Amendment Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

**[1] Part 2, heading**

Omit the heading. Insert instead:

### **Part 2 Registrar, members and assessors**

**[2] Clause 7A**

Insert after clause 7:

#### **7A Functions of Registrar**

For the purposes of section 20 (1) (a1) of the Act, the functions of a member or the Tribunal conferred by the following provisions are prescribed:

- (a) section 28 (5) (f)–(h),
- (b) section 32,
- (c) section 34 (1),
- (d) section 38 (1),
- (e) section 48 (1),
- (f) section 50,
- (g) section 54 (2),
- (h) section 61 (1),
- (i) section 81.

**[3] Clause 10 Application fees**

Omit “or Tenancy Division” from clause 10 (1) (a).

Insert instead “, Tenancy Division or Social Housing Division”.

**[4] Clause 23A**

Insert after clause 23:

#### **23A Applications for further rehearing**

For the purposes of section 68 (9A) of the Act, a further application may be made under section 68 of the Act if the application is lodged within 28 days after the date on which the applicant was notified that the previous application had not been granted.

## Consumer, Trader and Tenancy Tribunal Amendment Regulation 2008

Schedule 1 Amendments

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**[5] Clause 24 Excluded applications for rehearings**

Omit clause 24 (1) and (2). Insert instead:

- (1) For the purposes of section 68 (13) (a) of the Act, a person cannot make an application under that section for a rehearing of completed proceedings if the amount claimed or disputed under the completed proceedings is more than \$30,000.

**[6] Clause 24 (3)**

Omit “or Tenancy Division”.

Insert instead “, Tenancy Division or Social Housing Division”.

**[7] Clause 25 Proceedings against 2 or more persons having joint liability**

Omit “or Tenancy Division” from clause 25.

Insert instead “, Tenancy Division or Social Housing Division”.

**[8] Clause 46A**

Insert after clause 46:

**46A Sound recording of hearings**

For the purposes of section 80A of the Act, sound recordings of all proceedings of the Tribunal must be kept for 7 years after the end of the relevant proceedings.



New South Wales

# Criminal Procedure Amendment (Briefs of Evidence) Regulation 2008

under the

Criminal Procedure Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Procedure Act 1986*.

JOHN HATZISTERGOS, M.L.C.,  
Attorney General

## Explanatory note

The object of this Regulation is to extend, until 30 June 2009, the operation of the trial scheme under clause 24 of the *Criminal Procedure Regulation 2005* (which lists the kind of proceedings for which prosecutors are not required to serve briefs of evidence) and clause 24A of that Regulation (which allows prosecutors to give short briefs of evidence to defendants in certain circumstances).

This Regulation is made under the *Criminal Procedure Act 1986*, including section 4 (the general regulation-making power) and sections 183 and 187.



Clause 1 Criminal Procedure Amendment (Briefs of Evidence) Regulation 2008

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## **Criminal Procedure Amendment (Briefs of Evidence) Regulation 2008**

under the

Criminal Procedure Act 1986

### **1 Name of Regulation**

This Regulation is the *Criminal Procedure Amendment (Briefs of Evidence) Regulation 2008*.

### **2 Amendment of Criminal Procedure Regulation 2005**

The *Criminal Procedure Regulation 2005* is amended as set out in Schedule 1.

Criminal Procedure Amendment (Briefs of Evidence) Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 2)

**[1] Clause 24 Offences for which briefs of evidence not required**

Omit “the end of the period of 12 months after the commencement of this subclause” from clause 24 (2).

Insert instead “30 June 2009”.

**[2] Clause 24A Requirements for short briefs of evidence in certain circumstances**

Omit “12 November 2008” from clause 24A (7).

Insert instead “30 June 2009”.



New South Wales

## Liquor Amendment (Special Events— Extended Trading Periods) Regulation (No 2) 2008

under the

Liquor Act 2007

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 2007*.

KEVIN GREENE, M.P.,  
Minister for Gaming and Racing

### Explanatory note

The object of this Regulation is to prescribe the 2 hour period from 10 pm to midnight on Sunday 5 October 2008 (the date on which the NRL Rugby League Grand Final will be held) as an extended trading period during which hotels and clubs are permitted to trade.

This Regulation is made under the *Liquor Act 2007*, including section 13.

Clause 1           Liquor Amendment (Special Events—Extended Trading Periods)  
                      Regulation (No 2) 2008

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## **Liquor Amendment (Special Events—Extended Trading Periods) Regulation (No 2) 2008**

under the

Liquor Act 2007

### **1 Name of Regulation**

This Regulation is the *Liquor Amendment (Special Events—Extended Trading Periods) Regulation (No 2) 2008*.

### **2 Amendment of Liquor Regulation 2008**

The *Liquor Regulation 2008* is amended by inserting after clause 38A (b) (iii) the following subparagraph:

(iv) Sunday 5 October 2008.



New South Wales

# Medical Practice Amendment (Procedure for Inquiry) Regulation 2008

under the

Medical Practice Act 1992

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Medical Practice Act 1992*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Health

## Explanatory note

The object of this Regulation is to defer the operation of section 176 of the *Medical Practice Act 1992* (as amended by the *Medical Practice Amendment Act 2008*), which makes Professional Standards Committees open to the public unless the Committee directs otherwise. The deferred provision will apply only to a Committee consisting of 4 members (one of whom is required to be a lawyer) constituted by the NSW Medical Board.

This Regulation is made under the *Medical Practice Act 1992*, including section 194 (the general regulation-making power) and clause 2 of Schedule 5.

Clause 1            Medical Practice Amendment (Procedure for Inquiry) Regulation 2008

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## **Medical Practice Amendment (Procedure for Inquiry) Regulation 2008**

under the

Medical Practice Act 1992

### **1 Name of Regulation**

This Regulation is the *Medical Practice Amendment (Procedure for Inquiry) Regulation 2008*.

### **2 Commencement**

This Regulation commences on 1 October 2008.

### **3 Amendment of Medical Practice Regulation 2003**

The *Medical Practice Regulation 2003* is amended by inserting after clause 14:

#### **14A Transitional provision: procedure for inquiry**

Section 176 of the Act, as amended by the *Medical Practice Amendment Act 2008*, applies only to a Committee constituted by the Board under section 168 of the Act as amended by the *Medical Practice Amendment Act 2008*.



New South Wales

# Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

under the

Road Transport (General) Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 2005*.

MICHAEL DALEY, M.P.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to amend the *Road Transport (General) Regulation 2005* to put in place measures with respect to the prevention and management of driver fatigue, and speeding compliance, in relation to heavy vehicles and heavy combinations.

The National Transport Commission has prepared, and the Australian Transport Council has approved, model legislation for adoption by the States and Territories of Australia relating to heavy vehicle driver fatigue and heavy vehicle speeding compliance.

This Regulation inserts two new Parts, Part 6 (Heavy vehicle driver fatigue) and Part 7 (Heavy vehicle speeding compliance) into the *Road Transport (General) Regulation 2005* to substantially give effect to that model legislation.

New Part 6 contains provisions that deal with the following matters:

- (a) the duties of certain persons to avoid and prevent heavy vehicle driver fatigue (Division 2),
- (b) the regulation of work time and rest time for drivers of heavy vehicles, whether under a standard hours, Basic Fatigue Management (BFM) or Advanced Fatigue Management (AFM) regime (Division 3),
- (c) the keeping of driving records, including written and electronic work diaries, (Division 4),
- (d) the granting of BFM and AFM accreditation and of exemptions from certain requirements of the new Part (Division 5),
- (e) decision making in relation to the heavy vehicle driver fatigue regime, including referral and interstate mutual recognition of decisions and review and reconsideration of decisions (Division 6),

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Explanatory note

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(f) other minor, consequential and ancillary matters (Divisions 1 and 7).

New Part 7 contains provisions that deal with the following matters:

- (a) specific duties of certain persons to ensure that a driver of a heavy vehicle will not exceed any speed limit relating to that vehicle (Division 2),
- (b) other minor, consequential and ancillary matters (Divisions 1 and 3).

The Regulation also makes other consequential amendments to other provisions of the *Road Transport (General) Regulation 2005*.

This Regulation is made under the *Road Transport (General) Act 2005*, including sections 10 (the general regulation-making power), 11B and 11C.



Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Clause 1

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## **Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008**

under the

Road Transport (General) Act 2005

### **1 Name of Regulation**

This Regulation is the *Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008*.

### **2 Commencement**

This Regulation commences on 29 September 2008.

### **3 Amendment of Road Transport (General) Regulation 2005**

The *Road Transport (General) Regulation 2005* is amended as set out in Schedule 1.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Schedule 1 Amendments

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## Schedule 1 Amendments

(Clause 3)

[1] **Clause 25 Appeals against revocation of interlock device approvals**

Omit clause 25 (1).

[2] **Clause 26, heading**

Omit the heading to clause 26. Insert instead:

**26 Determination of appeals concerning revocation of interlock device approvals**

[3] **Parts 6 and 7**

Insert after Part 5:

## Part 6 Heavy vehicle driver fatigue

### Division 1 General

#### 39 Definitions

**Note.** Several terms used in this Part are defined in the Act, including *authorised officer*, *Authority*, *combination*, *driver licence*, *GVM*, *motor vehicle*, *road*, *road related area* and *transport documentation*.

In this Part:

*ADR 42* means the national standard described as ADR 42 as in force from time to time under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

*AFM accreditation*—see clause 102.

*AFM standards and business rules* means the standards and business rules for AFM approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.

*approved sleeper berth* means:

- (a) for a heavy truck—a driver's sleeper berth that complies with ADR 42 or with a standard for sleeper berths that is approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette and is able to be used by the driver when taking rest, or
- (b) for a bus—a driver's sleeper berth that complies with a standard for sleeper berths that is approved by the Australian Transport Council by notice published in the

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

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Commonwealth Government Gazette and is able to be used by the driver when taking rest.

*associate* has the same meaning as in section 23 of the Act.

*Australian Transport Council* means the Australian Transport Council referred to in section 4 of the *National Transport Commission Act 2003* of the Commonwealth or its successor and, in relation to any particular matter, includes a person who, or a body that, has been authorised by the Australian Transport Council to act as its delegate in relation to that matter.

*base*, in relation to a driver—see clause 74.

*BFM accreditation*—see clause 102.

*BFM standards and business rules* means the standards and business rules for BFM approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.

*bus* means a motor vehicle built mainly to carry people that seats over 12 adults (including the driver).

*business day* means a day that is not a Saturday, Sunday or public holiday in this jurisdiction.

*consignee* of goods means:

- (a) a person who, with that person's authority, is named or otherwise identified as the intended consignee of the goods in the transport documentation relating to the transport of the goods by road, or
- (b) a person who actually receives the goods after completion of their transport by road,

but does not include a person who merely unloads the goods.

*consignor* of goods means:

- (a) a person who, with that person's authority, is named or otherwise identified as the consignor of the goods in the transport documentation relating to the transport of the goods by road, or
- (b) a person who engages an operator of a vehicle or combination, either directly or indirectly or through an agent or other intermediary, to transport the goods by road, or
- (c) a person who has possession of, or control over, the goods immediately before the goods are transported by road, or
- (d) a person who loads a vehicle with the goods, for transport by road, at a place where goods in bulk are stored or temporarily held and that is usually unattended (except by

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

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a driver of the vehicle, a trainee driver or any person necessary for the normal operation of the vehicle) during loading, or

- (e) if paragraphs (a) to (d) do not apply to the person or anyone else, and the goods are imported into Australia—a person who imports the goods.

**corresponding Authority**, in relation to a participating jurisdiction, means the Authority as defined in the relevant corresponding fatigue law.

**corresponding fatigue law**, for this Part or a provision of this Part, means a law in force in another jurisdiction corresponding to this Part or a provision of this Part.

**driver** means a driver of a regulated heavy vehicle and includes an employed driver and a self-employed driver.

**Note.** *Driver* is defined in the Act.

**duplicate daily sheet** means the duplicate of a daily sheet in a work diary or corresponding work diary.

**electronic work diary** means a system of recording information electronically:

- (a) that has attached to each device that forms part of the system a label:
- (i) that indicates that the device is, or is part of, an electronic work diary that is the subject of a current approval of the Authority under Subdivision 6 of Division 4, and
  - (ii) that states the number of the certificate of approval issued by the Authority in respect of the approval, and
  - (iii) that is in a form approved by the Authority, and
- (b) that is the subject of a current approval of the Authority under Subdivision 6 of Division 4.

**employed driver** means a driver who is employed by another person to drive a regulated heavy vehicle.

**employer** means a person who engages someone else to drive a regulated heavy vehicle under a contract of employment, apprenticeship or training.

**Note.** Example of an employer—a labour hire company.

**Fatigue Authorities Panel** means the Panel established by the Fatigue Authorities Panel Rules made by the National Transport Commission, and approved by the Australian Transport Council on 18 July 2008, as amended from time to time.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

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***fatigue management requirement*** means a requirement under this Part relating to:

- (a) a requirement that a person must not drive while impaired by fatigue, or
- (b) a driver keeping a work diary or another record, or
- (c) the minimum period a driver, or two-up driver, must rest to break up the period of time the driver, or two-up driver, drives or otherwise works, or
- (d) the maximum period a driver, or two-up driver, may drive, or otherwise work, without taking a rest.

***heavy truck*** means:

- (a) a motor vehicle (except a bus or tram) with a GVM over 12 tonnes, or
- (b) a motor vehicle (except a bus or tram) that is part of a combination, if the total of the GVMs of the vehicles in the combination is over 12 tonnes.

***IAP provisions*** means Part 6A (Intelligent access programs) of the *Road Transport (Mass, Loading and Access) Regulation 2005*.

***impaired by fatigue***—see clause 44.

***loader*** has the same meaning as in section 20 of the Act.

***loading manager*** means a person who:

- (a) manages, or is responsible for the operation of, premises at which usually on a business day at least 5 regulated heavy vehicles are loaded with goods for transport, or have goods that the vehicles have transported unloaded, or
- (b) directly or indirectly supervises, manages or controls the loading or unloading of regulated heavy vehicles at such premises.

**Note.** Examples of a loading manager—a company that runs, or a site manager for, a distribution centre.

***long and night work time*** means any work time:

- (a) in excess of 12 hours in a 24 hour period, or
- (b) between 12 midnight and 6 am (or the equivalent hours in the time zone of the base of a driver who is on a journey in a regulated heavy vehicle).

***major rest break*** means a rest break of at least 5 continuous hours.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Schedule 1 Amendments

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**malfunction**, in relation to an electronic work diary or an odometer, means:

- (a) the diary or odometer ceases to work at all, or works only intermittently, or
- (b) it does not perform one or more functions required under this Part, or
- (c) it performs those functions only intermittently, or
- (d) it performs those functions in a way that is inaccurate or unreliable (including intermittently inaccurate or unreliable).

**Note.** Examples of an electronic work diary malfunctioning:

- the data held in an electronic work diary is corrupted
- a software program fault
- physical damage that impairs the functioning of the electronic work diary
- data storage on the work diary becoming full

**Note.** Examples of an odometer malfunctioning:

- the odometer no longer keeps an accurate record of distance travelled

**motor home** means a rigid or articulated motor vehicle or combination that is built, or permanently modified, primarily for residential purposes, but does not include a motor vehicle only because it is constructed with a sleeper berth.

**night rest break** means:

- (a) 7 continuous hours stationary rest time taken between 10 pm on a day and 8 am on the next day, using the time zone of the base of the driver, or
- (b) 24 continuous hours stationary rest time.

**non-participating zone** means all jurisdictions that are not participating jurisdictions.

**operator**, in relation to a regulated heavy vehicle, means a person who is responsible for controlling or directing the operations of:

- (a) in the case of a vehicle (including a vehicle in a combination)—the vehicle, or
- (b) in the case of a combination—the towing vehicle in the combination,

but does not include a person merely because the person:

- (c) owns the vehicle or combination, or
- (d) drives the vehicle or combination, or

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

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- (e) maintains, or arranges for the maintenance of, the vehicle or combination, or  
 (f) arranges for the registration of the vehicle.

***participating jurisdiction*** means:

- (a) this State, or  
 (b) another jurisdiction, if that jurisdiction has a corresponding fatigue law that is in force.

***participating zone*** means all participating jurisdictions.

***party in the chain of responsibility***, in relation to a regulated heavy vehicle, means any of the following persons:

- (a) the employer of the driver of the vehicle,  
 (b) the prime contractor of the driver,  
 (c) the operator of the vehicle,  
 (d) the scheduler of goods or passengers for transport by the vehicle, and the scheduler of its driver,  
 (e) the consignor of goods for transport by the vehicle,  
 (f) the consignee of goods for transport by the vehicle,  
 (g) the loading manager of goods for transport by the vehicle,  
 (h) the loader of goods on to the vehicle,  
 (i) the unloader of goods from the vehicle.

**Note.** A person may be a party in the chain of responsibility in more than 1 capacity. Example—a person may be an employer, operator and consignor at the same time in relation to a driver and be subject to duties in each of the capacities.

***plant*** means a motor vehicle that:

- (a) is built, or permanently modified, primarily to operate as a machine or implement:  
     (i) off-road, or  
     (ii) on a road-related area, or  
     (iii) on an area of road that is under construction, and  
 (b) is not capable of carrying goods or passengers by road.

**Note.** Example of what is plant:

- An agricultural machine, backhoe, bulldozer, excavator, forklift, front-end loader, grader, tractor or a motor vehicle that is registered as a type P plant-based special purpose vehicle.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Schedule 1 Amendments

**Note.** Example of what is not plant:

- A truck-mounted crane or truck-mounted drilling rig.

**prescribed business** means business that falls within one or more of the following Divisions recognised in the *Australian and New Zealand Standard Industrial Classification (ANZSIC)*, 2006 edition (Australian Bureau of Statistics publication, Catalogue No 1292.0):

- (a) Agriculture, Forestry and Fishing (Division A),
- (b) Mining (Division B),
- (c) Manufacturing (Division C),
- (d) Construction (Division E),
- (e) Wholesale Trade (Division F),
- (f) Retail Trade (Division G),
- (g) Accommodation and Food Services (Division H),
- (h) Transport, Postal and Warehousing (Division I),
- (i) Information, Media and Communications (Division J),
- (j) Renting, Hiring and Real Estate Services (Division L),
- (k) Arts and Recreation Services (Division P).

**prime contractor** means a person who engages someone else to drive a regulated heavy vehicle under a contract for services.

**Note.** Example of a prime contractor—a logistics business that engages a subcontractor to transport goods.

**reasonable steps defence**—see clause 41.

**record keeper**, in relation to a driver, means:

- (a) if the driver is an employed driver working under standard hours—the employer, or
- (b) if the driver is an employed driver working under a work and rest hours exemption that was not granted in combination with an operator's BFM or AFM accreditation—the employer, or
- (c) if the driver is a self-employed driver working under standard hours—the self-employed driver, or
- (d) if the driver is a self-employed driver working under a work and rest hours exemption that was not granted in combination with an operator's BFM or AFM accreditation—the self-employed driver, or
- (e) if the driver is an employed or self-employed driver working under an operator's BFM or AFM accreditation—the operator, or



Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

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- (f) if the driver is an employed or self-employed driver working under a work and rest hours exemption that was granted in combination with an operator's BFM or AFM accreditation—the operator.

**record location**, in relation to a driver, means:

- (a) the place which the record keeper has instructed the driver is the record location, or  
 (b) if the record keeper has not instructed the driver under paragraph (a), the driver's base.

**regulated heavy vehicle** means:

- (a) a heavy truck, or  
 (b) a bus,

but does not include:

- (c) plant, or  
 (d) a motor home.

**rest time**—see clause 58.

**scheduler** means a person who:

- (a) schedules a driver's work or rest time, or  
 (b) schedules the transport of passengers or goods by road.

**Note.** Example of a person who makes a demand that affects a time in a schedule—The distribution manager for a retail chain or a loading agent or freight forwarder who sets a deadline for a delivery.

**Note.** Example of a person who does not make a demand that affects a time in a schedule—A person who has arranged for goods to be couriered by a transport company as a "part load" who has no control over the deadline for the delivery of the goods.

**self-employed driver** means a driver who is not an employed driver.

**solo driver** means a driver who is not a party to a two-up driving arrangement.

**stationary rest time** means rest time that a driver spends:

- (a) out of a regulated heavy vehicle, or  
 (b) in an approved sleeper berth of a stationary regulated heavy vehicle.

**suitable rest place** means:

- (a) a rest area designated for and able to be used by a regulated heavy vehicle, or  
 (b) a place at which a regulated heavy vehicle may be safely and lawfully parked.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Schedule 1 Amendments

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**supplementary record** means a record that:

- (a) is not made in a written or electronic work diary, but
- (b) is at least as accurate and understandable as, and is made in a similar form to, a record made in a written or electronic work diary.

**Note.** As a supplementary record becomes part of a work diary once it is made, it must be kept by the driver of a regulated heavy vehicle in the vehicle for 28 days after it is made, and it must be kept by the record keeper for 3 years after it is made.

**two-up driver** means the driver of a regulated heavy vehicle who is a party to a two-up driving arrangement.

**two-up driving arrangement** means an arrangement under which 2 drivers share the driving of a regulated heavy vehicle that has an approved sleeper berth.

**unloader** of goods means a person who:

- (a) unloads from a vehicle or combination goods that have been transported by road, or
- (b) unloads from a vehicle or combination a freight container (whether or not containing goods) that has been transported by road, or
- (c) without limiting the above, unloads from a freight container that is on a vehicle or combination goods that have been transported by road, or
- (d) supervises an activity mentioned in paragraph (a), (b) or (c), or
- (e) manages or controls an activity mentioned in paragraph (a), (b), (c) or (d).

**work and rest change**—see clause 59.

**work and rest hours exemption**—see clause 117.

**work and rest hours option**—see clause 56.

**work diary**—see clause 75.

**work diary exemption**—see clause 118.

**work time**—see clause 57.

**written work diary** means a written work diary issued to a driver under Subdivision 5 of Division 4 or under a corresponding fatigue law.

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**40 Matters court may consider for deciding whether person took all reasonable steps and other matters relating to offences**

- (1) A court may have regard to anything that it considers to be relevant when it is deciding whether things that the person did, or did not do, were reasonable steps, including:
  - (a) the nature of the risk that the person was attempting to, or should have been attempting to, address, and
  - (b) the likelihood of that risk eventuating and the degree of harm that would result if it did eventuate, and
  - (c) if a driver has driven while impaired by fatigue or in breach of the work and rest hours—the circumstances of the offence (for example, the risk category that the offence belongs to), and
  - (d) the abilities, experience, expertise, knowledge, qualifications and training that the person, or the person's agent or employee, had or ought reasonably have had, and
  - (e) the availability and suitability of ways to eliminate, prevent or reduce the risk or to minimise the likelihood of the risk eventuating, and
  - (f) the body of fatigue knowledge.
- (2) In a prosecution for an offence under clause 46 (1), 50, 51, 52, 54 or 55, it is not necessary to prove that any particular person drove, or would or may have driven, the vehicle on a road while impaired by fatigue.
- (3) It is not of itself a defence to an offence under this Part that a person complied with an accreditation granted under this Part.

**41 What is the “reasonable steps defence”**

If a provision of this Part states that a person has the benefit of the *reasonable steps defence* for an offence, it is a defence to the offence for the person to prove that:

- (a) the person did not know, and could not reasonably be expected to have known, of the contravention concerned, and
- (b) either:
  - (i) the person had taken all reasonable steps to prevent the contravention concerned, or
  - (ii) the person could not reasonably be expected to have taken any steps to prevent the contravention concerned.

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**42 Exclusion of mistake of fact defence**

- (1) This clause applies if a provision of this Part states that a person does not have the benefit of the mistake of fact defence for an offence.
- (2) It is not a defence to the offence for the person to prove that, at or before the time of the act or omission constituting the offence, the person was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the act or omission would not have constituted an offence.

**Division 2 Duties relating to fatigue**

**Subdivision 1 What is fatigue**

**43 What is “fatigue”**

- (1) *Fatigue* includes (but is not limited to):
  - (a) feeling sleepy, and
  - (b) feeling physically or mentally tired, weary or drowsy, and
  - (c) feeling exhausted or lacking energy, and
  - (d) behaving in a way that is consistent with paragraph (a), (b) or (c).
- (2) When deciding whether a driver is fatigued, a court may take into account anything it considers is relevant, including (but not limited to) the following:
  - (a) what is commonly understood as being fatigued,
  - (b) the causes of fatigue,
  - (c) the signs of fatigue,
  - (d) the body of fatigue knowledge.
- (3) A *cause of fatigue* is any factor that causes or contributes to a person’s fatigue while driving a regulated heavy vehicle on a road (whether or not the cause arises while the person is at work).

**Note.** Examples of causes of fatigue:

- physical or mental exertion
- long periods of time awake
- not enough sleep or not enough restorative sleep
- not enough rest breaks
- a person’s circadian rhythm (ie the “body clock”)
- environmental stress (eg heat, noise, vibrations)
- personal health

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- (4) A *sign of fatigue* is a sign that a person was, is, or will be fatigued while driving a regulated heavy vehicle on a road (whether the sign manifests itself before, during or after work).

**Note.** Examples of signs of fatigue:

- a lack of alertness
- an inability to concentrate
- a reduced ability to recognise or respond to external stimuli
- poor judgement or memory
- making more mistakes than usual
- drowsiness, or falling asleep, at work (including micro sleeps)
- finding it difficult to keep the eyes open
- needing more frequent naps than usual
- not feeling refreshed after sleep
- excessive head nodding or yawning
- blurred vision
- mood changes, increased irritability or other changes to the person's mental health
- changes to the person's health or fitness

- (5) The body of fatigue knowledge includes any accreditation scheme, scientific knowledge or expert opinion, guidelines, standards or other knowledge that is relevant to preventing or managing the exposure to risk of fatigue, either at a workplace or on a road.

#### 44 What is "impaired by fatigue"

- (1) A driver is *impaired by fatigue* if the driver's ability to drive a vehicle safely is affected by fatigue.
- (2) When deciding whether a driver was impaired by fatigue, a court may take into account anything it considers is relevant, including (but not limited to) the following:
- (a) any relevant cause of fatigue or sign of fatigue that was evident, and the degree to which it may indicate that the driver was impaired by fatigue,
  - (b) any behaviour of the driver that may have resulted from being impaired by fatigue,

**Note.** Examples:

- the circumstances of any incident, crash or near miss
- poor driving judgement
- inattentive driving (eg drifting into other lanes or not changing gears smoothly)

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- (c) the nature and extent of any physical or mental exertion by the driver,
  - (d) whether the driver was in breach of his or her work and rest hours.
- (3) A court may consider a driver to be impaired by fatigue even if the driver has complied with any requirements under this Part (for example, the standard hours) or under any other legislation.

## **Subdivision 2 Duties to avoid and prevent fatigue**

### **45 Driver's duty to avoid driver fatigue**

- (1) A person must not drive a regulated heavy vehicle on a road or road related area while he or she is impaired by fatigue.  
Maximum penalty: 20 penalty units.
- (2) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

### **46 Duty of parties in the chain of responsibility to prevent driver fatigue**

- (1) A party in the chain of responsibility in relation to a regulated heavy vehicle must take all reasonable steps to ensure that a person does not drive the vehicle on a road or road related area while the person is impaired by fatigue.  
Maximum penalty:
  - (a) in the case of an individual—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—125 penalty units (in the case of a first offence) or 250 penalty units (in the case of a second or subsequent offence).
- (2) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

## **Subdivision 3 Additional duties on certain parties in the chain of responsibility**

### **47 Intention irrelevant in determining causation**

For the purposes of this Subdivision, a person can cause something to happen even though the person had no intention of causing that thing to happen.

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**48 Cause includes “contribute to causing” and “encourage”**

For the purposes of this Subdivision, a reference to causing a thing includes a reference to contributing to causing the thing, and to encouraging the thing.

**49 Duties on employers, prime contractors and operators**

- (1) This clause applies to:
  - (a) the employer of an employed driver of a regulated heavy vehicle, and
  - (b) the prime contractor of a self-employed driver of a regulated heavy vehicle, and
  - (c) the operator of the regulated heavy vehicle if the driver is to make a journey for the operator.
- (2) The employer, prime contractor and operator each must take all reasonable steps to ensure that the employer’s, prime contractor’s or operator’s business practices will not cause, by act or omission, the driver:
  - (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).

**Note.** Examples of business practices that may cause a driver to drive while impaired by fatigue by omission:

- failing to provide for remuneration for time spent queuing,
- failing to provide rest breaks in a driver’s schedule,
- failing to provide for contingency plans for unexpected traffic delays,
- failing to provide for loading or unloading in schedule times.

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- (3) The employer must not cause the driver to drive the vehicle unless:
- (a) the employer has complied with subclause (2), and
  - (b) the employer, after making reasonable inquiries, is satisfied that the scheduler has complied with clause 50.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).
- (4) The prime contractor and operator each must not cause the driver to drive the vehicle, or enter into a contract or agreement with the driver to that effect, unless:
- (a) the prime contractor or operator has complied with subclause (2), and
  - (b) the prime contractor or operator, after making reasonable inquiries, is satisfied that the scheduler has complied with 50.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).
- (5) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.
- (6) In this clause, *business practices* of an employer, prime contractor or operator, means the practices of the employer, prime contractor or operator in running the business, and includes:
- (a) the operating policies and procedures of the business, and
  - (b) the human resource and contract management arrangements of the business (including the method by which driver remuneration is calculated), and
  - (c) arrangements for managing safety.



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**50 Duties of schedulers**

- (1) This clause applies to the scheduler of:
  - (a) a regulated heavy vehicle, or
  - (b) a driver of a regulated heavy vehicle.
- (2) The scheduler must take all reasonable steps to ensure that a driver's schedule for driving the vehicle will not cause, by act or omission, the driver:
  - (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (3) The scheduler must not cause the driver to drive the vehicle unless:
    - (a) the scheduler has complied with subclause (2), and
    - (b) the driver's schedule for driving the vehicle allows for:
      - (i) the driver to take rest breaks in accordance with his or her work and rest hours option, and
      - (ii) traffic conditions and other delays that could reasonably be expected.

Maximum penalty:

- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).

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- (4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

**51 Duties on consignors and consignees**

- (1) This clause applies to:
- (a) the consignor of goods for transport by a regulated heavy vehicle, and
  - (b) the consignee of goods for transport by a regulated heavy vehicle.
- (2) The consignor and consignee each must take all reasonable steps to ensure that the terms of consignment (such as delivery times) will not cause, by act or omission, the driver:
- (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (3) The consignor and consignee each must take all reasonable steps to ensure that the terms of consignment (such as delivery times) will not cause the employer of an employed driver, prime contractor of a self-employed driver or operator of the regulated heavy vehicle by act or omission to cause the driver:
- (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or

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- (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (4) The consignor and consignee each must not cause the driver to drive the vehicle, or enter into a contract or agreement to that effect, unless:
- (a) the consignor or consignee has complied with subclause (2) and (3), and
  - (b) in the case of an employed driver—the consignor or consignee, after making reasonable inquiries, is satisfied that:
    - (i) the driver's employer and the operator of the driver's vehicle have each complied with clause 49, and
    - (ii) the scheduler has complied with clause 50, and
  - (c) in the case of a self-employed driver—the consignor or consignee, after making reasonable inquiries, is satisfied that:
    - (i) if the driver has a prime contractor—the prime contractor of the driver has complied with clause 49, and
    - (ii) the scheduler has complied with clause 50.

Maximum penalty:

- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).

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- (5) The consignor or consignee must not make a demand that affects, or that may affect, a time in a schedule for the transport of the consigned goods and that may cause the driver:
- (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of the driver's work and rest hours option, or
  - (c) to drive while in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (6) Subclause (5) does not apply if the consignor or consignee, before making the demand:
- (a) complies with subclauses (2) and (3), and
  - (b) is satisfied, after making reasonable inquiries, that the making of the demand will not cause or permit a person to contravene clause 50.
- (7) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.
- (8) In this clause, *terms of consignment* includes (but is not limited to):
- (a) terms that are expressed, implied or established by custom or practice, and
  - (b) terms relating to pick-up or delivery times or driving or delivery schedules.

**52 Duties of loading managers**

- (1) A loading manager must take all reasonable steps to ensure that the arrangements for loading, unloading and waiting time of regulated heavy vehicles at the loading manager's premises will not cause, by act or omission, a driver of a regulated heavy vehicle:
- (a) to drive on a road or road related area while impaired by fatigue, or

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- (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (2) If the loading manager or a person acting under his or her supervision or control:
- (a) has advised the driver, either directly or indirectly, of when the loading, unloading or waiting time of the vehicle is to start, and the loading manager or person becomes aware that the loading, unloading or waiting time will, or is likely to, start more than 30 minutes late, or
  - (b) has advised the driver, either directly or indirectly, of when the loading, unloading or waiting time of the vehicle is to finish, and the loading manager or person becomes aware that the loading, unloading or waiting time will, or is likely to, finish more than 30 minutes late, or
  - (c) is unable to advise the driver of when the loading, unloading or waiting time of the vehicle is to start, or
  - (d) is unable to advise the driver of when the loading, unloading or waiting time of the vehicle is to finish,

the loading manager must take all reasonable steps to ensure that the driver is able to take rest while waiting for the vehicle to be loaded or unloaded.

Maximum penalty:

- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).

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- (3) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

**53 Duty to assess and manage fatigue of drivers**

- (1) This clause applies to:
- (a) the employer of an employed driver of a regulated heavy vehicle, and
  - (b) the prime contractor of a self-employed driver of a regulated heavy vehicle, and
  - (c) the operator of the regulated heavy vehicle if the driver is to make a journey for the operator, and
  - (d) the scheduler of:
    - (i) a regulated heavy vehicle, or
    - (ii) a driver of a regulated heavy vehicle, and
  - (e) the consignor of goods for transport by a regulated heavy vehicle, who carries on business of which a substantial part is prescribed business, and
  - (f) the consignee of goods for transport by a regulated heavy vehicle, who carries on business of which a substantial part is prescribed business, and
  - (g) the loading manager of goods for transport by a regulated heavy vehicle, and
  - (h) the loader of goods for transport by a regulated heavy vehicle, who carries on business of which a substantial part is prescribed business, and
  - (i) the unloader for transport by a regulated heavy vehicle, who carries on business of which a substantial part is prescribed business.
- (2) A person to whom this clause applies must:
- (a) identify and assess the aspects of the activities of the person, and the driver, that may lead to a contravention of a fatigue management requirement by the driver, and
  - (b) for each aspect identified and assessed under paragraph (a), identify and assess:
    - (i) the risk of the aspect leading to a contravention of a fatigue management requirement by the driver, and

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- (ii) if there is a risk of the aspect leading to a contravention of a fatigue management requirement by the driver—the measures the person may take to eliminate the risk or, if it is not reasonably practicable to eliminate the risk, to control the risk, and
  - (c) carry out the identification and assessment referred to in paragraphs (a) and (b):
    - (i) at least annually, and
    - (ii) after each event that indicated the way the activities of the person or driver have led, or may lead, to a contravention of a fatigue management requirement by the driver, and
  - (d) take the measures identified and assessed under paragraph (b) (ii), and
  - (e) document the actions taken under paragraphs (a)–(d) and retain that documentation for at least 3 years.
- Maximum penalty:
- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (3) It is a defence to any proceedings against a person for an offence against subclause (2) if the person proves that:
- (a) it was not reasonably practicable for the person to comply with that subclause, or
  - (b) the commission of the offence was due to causes over which the person had no control and against the happening of which it was impracticable for the person to make provision.

#### **Subdivision 4 Certain requests, contracts etc prohibited**

##### **54 Certain requests etc prohibited**

A person must not ask, direct or require (directly or indirectly) a driver or a party in the chain of responsibility to do something that the person knows, or reasonably ought to know, would have the effect of causing the driver:

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- (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

**Note.** Example of a requirement that contravenes this clause—a requirement that the driver complete a journey in a time that the person knows or reasonably ought to know cannot be complied with unless the driver commits a speeding offence or does not take all the rest breaks that he or she is required to take.

Maximum penalty:

- (a) in the case of an individual—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) or 250 penalty units (in the case of a second or subsequent offence).

**55 Certain contracts etc prohibited**

- (1) A person must not enter into a contract or agreement with a driver or with a party in the chain of responsibility that the person knows, or reasonably ought to know, would have the effect of causing a driver:
  - (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) or 250 penalty units (in the case of a second or subsequent offence).



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- (2) A person must not enter into a contract or agreement with a driver or with a party in the chain of responsibility that the person knows, or reasonably ought to know, would encourage or provide an incentive for a party in the chain of responsibility to cause a driver:
- (a) to drive on a road or road related area while impaired by fatigue, or
  - (b) to drive while in breach of his or her work and rest hours option, or
  - (c) to drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of his or her work and rest hours option.

Maximum penalty:

- (a) in the case of an individual—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) or 250 penalty units (in the case of a second or subsequent offence).

### Division 3 Duties relating to work and rest times

#### Subdivision 1 Key concepts for this Division

##### 56 What is “work and rest hours option”

A driver’s *work and rest hours option* at any particular time is whichever one of the following applies to the driver at that time under this Part:

- (a) standard hours,
- (b) BFM hours,
- (c) AFM hours,
- (d) the hours specified in a work and rest hours exemption (whether or not granted in combination with an operator’s BFM or AFM accreditation).

##### 57 What is “work time”

- (1) A driver’s *work time* is:
  - (a) the time that the driver spends driving a regulated heavy vehicle, whether or not it is on a road or road related area, and

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- (b) any other time that the driver spends doing tasks that are related to the operation of a regulated heavy vehicle, including (but not limited to) the following:
- (i) loading or unloading the vehicle,
  - (ii) inspecting, servicing or repairing the vehicle,
  - (iii) inspecting or attending to the load on the vehicle,
  - (iv) attending to the passengers of a bus,
  - (v) cleaning or refuelling the vehicle,
  - (vi) performing marketing tasks in relation to the operation of the vehicle,
  - (vii) helping with, or supervising, an activity mentioned in subparagraphs (i)–(vi),
  - (viii) recording information, or completing a document, in accordance with this Part or otherwise, in relation to the operation of the vehicle.
- (2) In this clause:
- driving** includes:
- (a) being in the driver's seat of a regulated heavy vehicle while its engine is running, and
  - (b) being in a regulated heavy vehicle for the purpose of instructing or supervising the driver of the vehicle.
- marketing tasks** includes:
- (a) arranging for the transport of passengers or goods, and
  - (b) canvassing for orders for the transport of passengers or goods.

**58 What is "rest time"**

**Rest time** of a driver is time that is not work time of the driver.

**59 What is a "work and rest change"**

A **work and rest change** for a driver is:

- (a) a change from work time to rest time, or
- (b) a change from rest time to work time, or
- (c) a change from being a solo driver to being a two-up driver, or
- (d) a change from being a two-up driver to being a solo driver.

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**60 Counting time, including work and rest time**

- (1) A period of work time of less than 15 minutes counts as 15 minutes work time.

**Note.** Examples:

- A period of working for 14 minutes counts as 15 minutes work time.
- A period of working for 17 minutes counts as 30 minutes work time.
- A period of working for 53 minutes counts as 1 hour work time.

- (2) A period of rest time is counted in blocks of time of no less than 15 minutes.

**Note.** Examples:

- A period of not working for only 14 minutes does not count as rest time (because 14 minutes is less than 15 minutes).
- A period of not working for 17 minutes counts as 15 minutes rest time (because 17 minutes is more than 15 minutes, but is less than 2 lots of 15 minutes ie 30 minutes).
- A period of not working for 53 minutes counts as 45 minutes rest time (because 53 minutes is more than 3 lots of 15 minutes i.e. 45 minutes, but is less than 4 lots of 15 minutes i.e. 60 minutes).

- (3) When counting time in a period, the time must not be counted from within rest time, but instead must be counted forward:

- (a) if one or more major rest breaks are relevant to the period, from the end of a relevant major rest break, or
- (b) in any other case, from the end of a relevant period of rest time.

- (4) If a driver undertakes a journey and is in a different time zone from the time zone of his or her base at the time when a period of time is relevant for the purposes of this Part, the period must be counted by reference to the time zone of the base.

**Note.** Example: If it is necessary to determine the night hours of a driver with a base in Western Australia while the driver is in New South Wales on a journey, those night hours are the period between 12 midnight and 6 am in the Western Australian time zone in which the driver's base is situated (even though those hours equate, for instance, to 3 am to 9 am Eastern Standard Summer Savings Time).

**61 Counting time within the participating zone**

In applying this Part to a driver, any time that is spent by the driver in another jurisdiction within the participating zone is to be treated in the same way as it would have been treated if the time had been spent in this jurisdiction.

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**62 Counting time from outside the participating zone**

- (1) This clause applies to a driver if the driver drives a regulated heavy vehicle into this jurisdiction from another jurisdiction within the non-participating zone.
- (2) If, within the last 7 days, the driver has spent any work time inside the participating zone, any time spent by the driver in the other jurisdiction within the non-participating zone is to be treated in the same way as it would have been treated if the time had been spent in this jurisdiction.
- (3) If, within the last 7 days, the driver spent work time only in the non-participating zone:
  - (a) any time spent in the other jurisdiction before the start of the driver's last major rest break before entering this jurisdiction is to be disregarded, and
  - (b) any time spent in the other jurisdiction after the start of that major rest break is to be taken into account, and
  - (c) any time spent by the driver in the non-participating zone (or another jurisdiction in the participating zone) after the start of that major rest break is to be treated in the same way as it would have been treated if the time had been spent in this jurisdiction.

**Subdivision 2 Standard hours**

**63 Application of Subdivision**

- (1) This Subdivision applies to the work and rest times for the driver of a regulated heavy vehicle, if the driver is not working under a BFM or AFM accreditation (the *standard hours*).
- (2) The solo driver of a bus has the option to drive under either (but not both):
  - (a) the standard hours set out in clause 64, or
  - (b) the standard hours set out in clause 65.

**64 Standard hours—solo drivers**

- (1) The Table to this clause sets out the *standard hours for the solo driver of a regulated heavy vehicle* (including a bus).
- (2) In any period referred to in Column 1 of the Table to this clause, the solo driver:
  - (a) must not work for more than the work time mentioned in Column 2 of that Table, and

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- (b) must have the rest of that period off work, with at least the rest time mentioned in Column 3 of that Table.

Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
- (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
- (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
- (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).
- (3) A contravention of subclause (2) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.
- (4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

**Standard hours—Solo drivers of a regulated heavy vehicle**

Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has...	the following category of offence is committed ...
5½ hrs	5¼ hrs work time	15 continuous mins rest time	> 5¼ hrs work time	minor risk
8 hrs	7½ hrs work time	30 mins rest time, in blocks of 15 continuous mins	> 7½ hrs work time	minor risk

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...	
<b>11 hrs</b>	<b>10 hrs</b> work time	<b>60 mins</b> rest time, in blocks of <b>15 continuous mins</b>	$\leq 10\frac{3}{4}$ hrs work time	minor risk
			$> 10\frac{3}{4}$ hrs work time	substantial risk
<b>24 hrs</b>	<b>12 hrs</b> work time	<b>7 continuous hrs</b> stationary rest time	$\leq 12\frac{3}{4}$ hrs work time	minor risk
			$> 12\frac{3}{4}$ but not $> 13\frac{1}{4}$ hrs work time	substantial risk
			$> 13\frac{1}{4}$ but not $> 13\frac{1}{2}$ hrs work time	severe risk
			$> 13\frac{1}{2}$ hrs work time	critical risk
			$< 7$ but not $< 6\frac{1}{4}$ hrs stationary rest time	minor risk
			$< 6\frac{1}{4}$ but not $< 5\frac{3}{4}$ hrs stationary rest time	substantial risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 5¾ but not < 5½ continuous hrs stationary rest time severe risk
			< 5½ continuous hrs stationary rest time critical risk
7 days (168 hrs)	72 hrs work time		≤ 73½ hrs work time minor risk
			> 73½ but not > 74½ hrs work time substantial risk
			> 74½ but not > 75 hrs work time severe risk
			> 75 hrs work time critical risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
		24 continuous hrs stationary rest time	< 24 but not < 23 <sup>1</sup> / <sub>4</sub> continuous hrs stationary rest time
			< 23 <sup>1</sup> / <sub>4</sub> but not < 22 <sup>3</sup> / <sub>4</sub> continuous hrs stationary rest time
			< 22 <sup>3</sup> / <sub>4</sub> but not < 22 <sup>1</sup> / <sub>2</sub> continuous hrs stationary rest time
			< 22 <sup>1</sup> / <sub>2</sub> continuous hrs stationary rest time
14 days (336 hrs)	144 hrs work time		≤ 145 <sup>1</sup> / <sub>2</sub> hrs work time
			> 145 <sup>1</sup> / <sub>2</sub> but not > 146 <sup>1</sup> / <sub>2</sub> hrs work time
			> 146 <sup>1</sup> / <sub>2</sub> but not > 147 hrs work time



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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			> 147 hrs work time critical risk
		2 x night rest breaks, and	< 7 but not < 6¼ hrs stationary rest time per block minor risk
			< 6¼ but not < 5¾ hrs stationary of that rest time per block substantial risk
			< 5¾ but not < 5½ hrs stationary of that rest time per block severe risk
			< 5½ hrs stationary of that rest time per block critical risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
		2 x night rest breaks taken on consecutive days	<p>&lt; 7 but not &lt; 6<sup>1</sup>/<sub>4</sub> continuous hrs stationary of that rest time per block</p> <p>minor risk</p> <p>&lt; 6<sup>1</sup>/<sub>4</sub> but not &lt; 5<sup>3</sup>/<sub>4</sub> continuous hrs stationary of that rest time per block</p> <p>substantial risk</p> <p>&lt; 5<sup>3</sup>/<sub>4</sub> but not &lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per block</p> <p>severe risk</p> <p>&lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per block</p> <p>critical risk</p>

**65 Standard hours—solo drivers of buses**

- (1) The Table to this clause sets out the *standard hours for the solo driver of a bus*.
- (2) In any period mentioned in Column 1 of the Table to this clause, the solo driver of a bus:

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- (a) must not work for more than the work time mentioned in Column 2 of that Table, and
- (b) must have the rest of that period off work, with at least the rest time mentioned in Column 3 of that Table.

Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
  - (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
  - (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
  - (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).
- (3) A contravention of subclause (2) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.
- (4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

**Standard hours—solo drivers of buses**

Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has...	the following category of offence is committed ...
5½ hrs	5¼ hrs work time	15 mins rest time	> 5¼ hrs work time	minor risk

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has...	the following category of offence is committed ...
8 hrs	7½ hrs work time	30 mins rest time, in blocks of 15 continuous mins	> 7½ hrs work time	minor risk
11 hrs	10 hrs work time	60 mins rest time, in blocks of 15 continuous mins	≤ 10¾ hrs work time > 10¾ hrs work time	minor risk substantial risk
24 hrs	12 hrs work time		≤ 12¾ hrs work time > 12¾ but not > 13¼ hrs work time > 13¼ but not > 13½ hrs work time > 13½ hrs work time	minor risk substantial risk severe risk critical risk
		7 continuous hrs stationary rest time	< 7 but not < 6¼ continuous hrs stationary rest time < 6¼ but not < 5¾ continuous hrs stationary rest time	minor risk substantial risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 5 <sup>3</sup> / <sub>4</sub> but not < 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time severe risk
			< 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time critical risk
<b>7 days</b> (168 hrs)		<b>6 x night rest breaks</b>	< 7 but not < 6 <sup>1</sup> / <sub>4</sub> <b>continuous hrs</b> stationary of that rest time per block minor risk
			< 6 <sup>1</sup> / <sub>4</sub> but not < 5 <sup>3</sup> / <sub>4</sub> <b>continuous hrs</b> stationary of that rest time per block substantial risk
			< 5 <sup>3</sup> / <sub>4</sub> but not < 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary of that rest time per block severe risk

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has...	the following category of offence is committed ...
			< 5½ hrs continuous stationary of that rest time per block	critical risk
28 days (672 hrs)	288 hrs work time		≤ 289½ hrs work time	minor risk
			> 289½ but not > 290½ hrs work time	substantial risk
			> 290½ but not > 291 hrs work time	severe risk
			> 291 hrs work time	critical risk
		4 x 24 blocks continuous hrs stationary rest time	< 24 but not < 23¼ hrs stationary rest time per block	minor risk
			< 23¼ but not < 22¾ hrs stationary rest time per block	substantial risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 22¾ but not < 22½ continuous hrs stationary rest time per block severe risk
			< 22½ continuous hrs stationary rest time per block critical risk

**66 Standard hours—two-up drivers**

- (1) The Table to this clause sets out the *standard hours for a two-up driver of a regulated heavy vehicle*, except when the two-up driver is working under a BFM or AFM accreditation.
- (2) In any period mentioned in Column 1 of the Table to this clause, the two-up driver:
  - (a) must not work for more than the work time mentioned in Column 2 of that Table, and
  - (b) must have the rest of that period off work, with at least the rest time mentioned in Column 3 of that Table.

Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
- (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or

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- (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence),
- (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).
- (3) A contravention of subclause (2) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.
- (4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

**Standard hours—Two-up drivers of a regulated heavy vehicle**

Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
5½ hrs	5¼ hrs work time	15 continuous mins stationary rest time	> 5¼ hrs work time minor risk
8 hrs	7½ hrs work time	30 mins stationary rest time, in blocks of 15 continuous mins	> 7½ hrs work time minor risk
11 hrs	10 hrs work time	60 mins stationary rest time, in blocks of 15 continuous mins	≤ 10¾ hrs work time > 10¾ hrs work time minor risk substantial risk



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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...	
24 hrs	12 hrs work time		≤ 12¾ hrs work time	minor risk
			> 12¾ but not > 13¼ hrs work time	substantial risk
			> 13¼ but not > 13½ hrs work time	severe risk
			> 13½ hrs work time	critical risk
			< 5 but not < 4¼ hrs of that rest time	minor risk
			< 4¼ but not < 3¾ hrs of that rest time	substantial risk
			< 3¾ but not < 3½ hrs of that rest time	severe risk
		< 3½ hrs of that rest time	critical risk	

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...	
52 hrs		10 continuous hrs stationary rest time	< 10 but not < 9 <sup>1</sup> / <sub>4</sub> continuous hrs stationary rest time	minor risk
			< 9 <sup>1</sup> / <sub>4</sub> but not < 8 <sup>3</sup> / <sub>4</sub> continuous hrs stationary rest time	substantial risk
			< 8 <sup>3</sup> / <sub>4</sub> but not < 8 <sup>1</sup> / <sub>2</sub> continuous hrs stationary rest time	severe risk
			< 8 <sup>1</sup> / <sub>2</sub> continuous hrs stationary rest time	critical risk
7 days (168 hrs)	60 hrs work time		> 60 but not > 61 <sup>1</sup> / <sub>2</sub> hrs work time	minor risk
			> 61 <sup>1</sup> / <sub>2</sub> but not > 62 <sup>1</sup> / <sub>2</sub> hrs work time	substantial risk
			> 62 <sup>1</sup> / <sub>2</sub> but not > 63 hrs work time	severe risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			> 63 hrs work time critical risk
		24 continuous hrs stationary rest time, and	< 24 but not < 23 <sup>1</sup> / <sub>4</sub> hrs stationary rest time minor risk
			< 23 <sup>1</sup> / <sub>4</sub> but not < 22 <sup>3</sup> / <sub>4</sub> hrs stationary rest time substantial risk
			< 22 <sup>3</sup> / <sub>4</sub> but not < 22 <sup>1</sup> / <sub>2</sub> hrs stationary rest time severe risk
			< 22 <sup>1</sup> / <sub>2</sub> hrs stationary rest time critical risk

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...	
		<b>24 hrs</b> stationary rest time in blocks of at least <b>7 continuous hrs</b> stationary rest time	<b>&lt; 24</b> but not <b>&lt; 23<sup>1</sup>/<sub>4</sub> hrs</b> stationary rest time in total <b>&lt; 7</b> but not <b>&lt; 6<sup>1</sup>/<sub>4</sub> continuous hrs</b> stationary rest time per block <b>&lt; 23<sup>1</sup>/<sub>4</sub></b> but not <b>&lt; 22<sup>3</sup>/<sub>4</sub> hrs</b> stationary rest time in total <b>&lt; 6<sup>1</sup>/<sub>4</sub></b> but not <b>&lt; 5<sup>3</sup>/<sub>4</sub> continuous hrs</b> stationary rest time per block <b>&lt; 22<sup>3</sup>/<sub>4</sub></b> but not <b>&lt; 22<sup>1</sup>/<sub>2</sub> hrs</b> stationary rest time in total	minor risk        substantial risk       severe risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 5 <sup>3</sup> / <sub>4</sub> but not < 5 <sup>1</sup> / <sub>2</sub> continuous hrs stationary rest time per block
			< 22 <sup>1</sup> / <sub>2</sub> hrs stationary rest time in total critical risk
			< 5 <sup>1</sup> / <sub>2</sub> continuous hrs stationary rest time per block
14 days (336 hrs)	120 hrs work time		> 120 but not > 121 <sup>1</sup> / <sub>2</sub> hrs work time minor risk
			> 121 <sup>1</sup> / <sub>2</sub> but not > 122 <sup>1</sup> / <sub>2</sub> hrs work time substantial risk
			> 122 <sup>1</sup> / <sub>2</sub> but not > 123 hrs work time severe risk
			> 123 hrs work time critical risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
		2 x night rest breaks, and	<p>&lt; 7 but not &lt; 6<sup>1</sup>/<sub>4</sub> continuous hrs stationary rest time per break</p> <p>minor risk</p> <p>&lt; 6<sup>1</sup>/<sub>4</sub> but not &lt; 5<sup>3</sup>/<sub>4</sub> continuous hrs stationary of that rest time per break</p> <p>substantial risk</p> <p>&lt; 5<sup>3</sup>/<sub>4</sub> but not &lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per break</p> <p>severe risk</p> <p>&lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per break</p> <p>critical risk</p>

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
		2 x night rest breaks taken on consecutive days	<p>&lt; 7 but not &lt; 6<sup>1</sup>/<sub>4</sub> continuous hrs stationary of that rest time per break</p> <p>&lt; 6<sup>1</sup>/<sub>4</sub> but not &lt; 5<sup>3</sup>/<sub>4</sub> continuous hrs stationary of that rest time per break</p> <p>&lt; 5<sup>3</sup>/<sub>4</sub> but not &lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per break</p> <p>&lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per break</p>
			minor risk
			substantial risk
			severe risk
			critical risk

**Subdivision 3 BFM hours****67 What this Subdivision is about**

This Subdivision sets out the work and rest times that apply to the driver of a regulated heavy vehicle, if the driver is working under, and complying with, a BFM accreditation (the *BFM hours*).

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**68 BFM hours—solo drivers**

- (1) The Table to this clause sets out the *BFM hours for a solo driver of a regulated heavy vehicle*.
- (2) In any period mentioned in Column 1 of the Table to this clause, the solo driver:
  - (a) must not work for more than the work time mentioned in Column 2 of that Table, and
  - (b) must have the rest of that period off work, with at least the rest time mentioned in Column 3 of that Table.

Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
  - (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
  - (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
  - (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).
- (3) A contravention of subclause (2) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.
  - (4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.



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**BFM hours—solo drivers of a regulated heavy vehicle**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	
<b>Total period</b>	<b>Maximum work time</b>	<b>Minimum rest time</b>	<b>Offence category</b>	
<b>In any period of...</b>	<b>a driver must not work for more than...</b>	<b>and must have the rest of that period off work, with at least...</b>	<b>If in that period a driver has...</b>	<b>the following category of offence is committed</b> ...
<b>6¼ hrs</b>	<b>6 hrs</b> work time	<b>15 continuous mins</b> rest time	<b>&gt; 6 hrs</b> work time	minor risk
<b>9 hrs</b>	<b>8½ hrs</b> work time	<b>30 mins</b> rest time, in blocks of <b>15 continuous mins</b>	<b>&gt; 8½ hrs</b> work time	minor risk
<b>12 hrs</b>	<b>11 hrs</b> work time	<b>60 mins</b> rest time, in blocks of <b>15 continuous mins</b>	<b>≤ 11¾ hrs</b> work time <b>&gt; 11¾ hrs</b> work time	minor risk substantial risk
<b>24 hrs</b>	<b>14 hrs</b> work time		<b>≤ 14¾ hrs</b> work time <b>&gt; 14¾</b> but not <b>&gt; 15¼ hrs</b> work time <b>&gt; 15¼</b> but not <b>&gt; 15½ hrs</b> work time <b>&gt; 15½ hrs</b> work time	minor risk substantial risk severe risk critical risk
		<b>7 continuous hrs</b> stationary rest time	<b>&lt; 7</b> but not <b>&lt; 6¼ continuous hrs</b> stationary rest time	minor risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 6 <sup>1</sup> / <sub>4</sub> but not < 5 <sup>3</sup> / <sub>4</sub> <b>continuous hrs</b> stationary rest time
			< 5 <sup>3</sup> / <sub>4</sub> but not < 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time
			< 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time
<b>7 days</b> (168 hrs)	<b>36 hrs long and night</b> work time		≤ 36 <sup>3</sup> / <sub>4</sub> hrs <b>long and night</b> work time
			> 36 <sup>3</sup> / <sub>4</sub> but not > 37 <sup>1</sup> / <sub>4</sub> hrs <b>long and night</b> work time
			substantial risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			> 37¼ but not > 37½ hrs long and night work time severe risk
			> 37½ hrs long and night work time critical risk
14 days (336 hrs)	144 hrs work time		≤ 145½ hrs work time minor risk
			> 145½ but not > 146½ hrs work time substantial risk
			> 146½ but not > 147 hrs work time severe risk
			> 147 hrs work time critical risk
		24 continuous hrs stationary rest time taken after no more than 84 hrs work time, and	< 24 but not < 23¼ continuous hrs stationary rest time minor risk

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has...	the following category of offence is committed ...
			< 23 <sup>1</sup> / <sub>4</sub> but not < 22 <sup>3</sup> / <sub>4</sub> <b>continuous hrs</b> stationary rest time	substantial risk
			< 22 <sup>3</sup> / <sub>4</sub> but not < 22 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time	severe risk
			< 22 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time	critical risk
		24 <b>continuous hrs</b> stationary rest time, and	< 24 but not < 23 <sup>1</sup> / <sub>4</sub> <b>continuous hrs</b> stationary rest time	minor risk
			< 23 <sup>1</sup> / <sub>4</sub> but not < 22 <sup>3</sup> / <sub>4</sub> <b>continuous hrs</b> stationary rest time	substantial risk
			< 22 <sup>3</sup> / <sub>4</sub> but not < 22 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time	severe risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 22½ continuous hrs stationary rest time critical risk
		2 x night rest breaks, and	< 7 but not < 6¼ continuous hrs stationary rest time per break minor risk
			< 6¼ but not < 5¾ continuous hrs stationary of that rest time per break substantial risk
			< 5¾ but not < 5½ continuous hrs stationary of that rest time per break severe risk
			< 5½ continuous hrs stationary of that rest time per break critical risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
		2 x night rest breaks taken on consecutive days	<p>&lt; 7 but not &lt; 6<sup>1</sup>/<sub>4</sub> continuous hrs stationary of that rest time per break</p> <p>minor risk</p> <p>&lt; 6<sup>1</sup>/<sub>4</sub> but not &lt; 5<sup>3</sup>/<sub>4</sub> continuous hrs stationary of that rest time per break</p> <p>substantial risk</p> <p>&lt; 5<sup>3</sup>/<sub>4</sub> but not &lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per break</p> <p>severe risk</p> <p>&lt; 5<sup>1</sup>/<sub>2</sub> continuous hrs stationary of that rest time per break</p> <p>critical risk</p>

**69 Defence for solo drivers relating to split rest breaks**

If an offence under BFM hours could have been avoided if the driver had taken a 7 hours continuous rest break, it is a defence for the driver to prove:

- (a) that he or she was, at the relevant time, driving under BFM hours as a solo driver of a regulated heavy vehicle, and

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(b) that he or she took a 6 hour continuous rest break and a 2 hour continuous rest break within the same 24 hour period (a *split rest break*), and

(c) that he or she had not taken a split rest break in the previous 24 hour period.

**Note.** Example—a driver stops work to take a 7 hour continuous rest break, but cannot sleep, so the driver takes only 2 hours continuous rest and then drives on for a further 2 hours and takes a further 6 hours continuous rest at another place down the road.

**70 BFM hours—two-up drivers**

(1) The Table to this clause sets out the *BFM hours for a two-up driver of a regulated heavy vehicle*.

(2) In any period mentioned in Column 1 of the Table to this clause, the two-up driver:

(a) must not work for more than the work time mentioned in Column 2 of that Table, and

(b) must have the rest of that period off work, with at least the rest time mentioned in Column 3 of that Table.

Maximum penalty:

(a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or

(b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or

(c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or

(d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).

(3) A contravention of subclause (2) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.

(4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

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**BFM hours—two-up drivers of a regulated heavy vehicle**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Total period</b>	<b>Maximum work time</b>	<b>Minimum rest time</b>	<b>Offence category</b>
<b>In any period of...</b>	<b>a driver must not work for more than...</b>	<b>and must have the rest of that period off work, with at least...</b>	<b>If in that period a driver has... the following category of offence is committed ...</b>
<b>24 hrs</b>	<b>14 hrs</b> work time		$\leq 14\frac{3}{4}$ hrs work time minor risk $> 14\frac{3}{4}$ but not $> 15\frac{1}{4}$ hrs work time substantial risk $> 15\frac{1}{4}$ but not $> 15\frac{1}{2}$ hrs work time severe risk $> 15\frac{1}{2}$ hrs work time critical risk
<b>82 hrs</b>		<b>10 continuous hrs</b> stationary rest time	$< 10$ but not $< 9\frac{1}{4}$ <b>continuous hrs</b> stationary rest time minor risk $< 9\frac{1}{4}$ but not $< 8\frac{3}{4}$ <b>continuous hrs</b> stationary rest time substantial risk $< 8\frac{3}{4}$ but not $< 8\frac{1}{2}$ <b>continuous hrs</b> stationary rest time severe risk



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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 8½ hrs stationary rest time critical risk
7 days (168 hrs)	70 hrs work time		> 70 but not > 71½ hrs work time minor risk
			> 71½ but not > 72½ hrs work time substantial risk
			> 72½ but not > 73 hrs work time severe risk
			> 73 hrs work time critical risk
		24 hrs stationary rest time, and	< 24 but not < 23¼ hrs stationary rest time minor risk
			< 23¼ but not < 22¾ hrs stationary rest time substantial risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 22 <sup>3</sup> / <sub>4</sub> but not < 22 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time severe risk
			< 22 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time critical risk
		24 hrs stationary rest time in blocks of at least 7 <b>continuous hrs</b>	< 24 but not < 23 <sup>1</sup> / <sub>4</sub> <b>hrs</b> stationary rest time in total minor risk
			< 7 but not < 6 <sup>1</sup> / <sub>4</sub> <b>continuous hrs</b> stationary rest time per block substantial risk
			< 23 <sup>1</sup> / <sub>4</sub> but not < 22 <sup>3</sup> / <sub>4</sub> <b>hrs</b> stationary rest time in total substantial risk

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...
			< 6 <sup>1</sup> / <sub>4</sub> but not < 5 <sup>3</sup> / <sub>4</sub> <b>continuous hrs</b> stationary rest time per block
			< 22 <sup>3</sup> / <sub>4</sub> but not < 22 <sup>1</sup> / <sub>2</sub> hrs stationary rest time in total severe risk
			< 5 <sup>3</sup> / <sub>4</sub> but not < 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time per block
			< 22 <sup>1</sup> / <sub>2</sub> hrs stationary rest time in total critical risk
			< 5 <sup>1</sup> / <sub>2</sub> <b>continuous hrs</b> stationary rest time per block

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Column 1	Column 2	Column 3	Column 4	
Total period	Maximum work time	Minimum rest time	Offence category	
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... the following category of offence is committed ...	
14 days (336 hrs)	140 hrs work time		≤ 141½ hrs work time	minor risk
			> 141½ but not > 142½ hrs work time	substantial risk
			> 142½ but not > 143 hrs work time	severe risk
			> 143 hrs work time	critical risk
			< 7 but not < 6¼ continuous hrs stationary rest time between 10 pm on a day and 8 am on the next day, using the time zone of the base of the driver	< 6¼ but not < 5¾ continuous hrs stationary of that rest time per block
	< 5¾ but not < 5½ continuous hrs stationary of that rest time per block	substantial risk		
			severe risk	

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Column 1	Column 2	Column 3	Column 4
Total period	Maximum work time	Minimum rest time	Offence category
In any period of...	a driver must not work for more than...	and must have the rest of that period off work, with at least...	If in that period a driver has... ... < 5½ hrs stationary of that rest time per block
			critical risk

**Subdivision 4 AFM hours****71 AFM hours**

- (1) The accreditation certificate issued for an AFM accreditation sets out the work and rest times that apply to the driver of a regulated heavy vehicle, if the driver is working under, and complying with, the accreditation (the *AFM hours*).
- (2) In any period specified in the AFM accreditation, the driver:
  - (a) must not work for more than the maximum work time specified in the AFM hours, and
  - (b) must have at least the minimum rest time specified in the AFM hours.

Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
- (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
- (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
- (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).

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- (3) A contravention of subclause (2) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.
- (4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

**AFM hours—Penalties**

Column 1	Column 2	Column 3	Column 4
Total period	Maximum work	Minimum rest time	Offence category
In any period of	If a driver has exceeded the maximum work time by...	If a driver had had less than the minimum rest time by...	...the following category of offence is committed...
<b>Less than 7 days</b>	≤ 45 mins work time	≤ 45 mins rest time	minor risk
	> 45 but ≤ 75 mins work time	> 45 but ≤ 75 mins rest time	substantial risk
	> 75 but ≤ 90 mins work time	> 75 but ≤ 90 mins rest time	severe risk
	> 90 mins work time	> 90 mins rest time	critical risk
<b>7 days or more</b>	≤ 1½ hours work time		minor risk
	> 1½ but ≤ 2½ hours work time		substantial risk
	> 2½ but ≤ 3 hours work time		severe risk
	> 3 hours work time		critical risk

**72 AFM outer limits**

- (1) The Table to this subclause sets out the *AFM outer limits* for a driver of a regulated heavy vehicle.

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**AFM outer limits**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Total period</b>	<b>Maximum work time</b>	<b>Minimum rest time</b>
<b>In any period of...</b>	<b>a driver must not work for more than...</b>	<b>and must have the rest of that period off work, with at least...</b>
<b>24 hrs</b>	<b>15 hrs</b> work time	<b>6 continuous hrs</b> stationary rest time (or in the case of a two-up driver, rest in an approved sleeper berth), or <b>8 hrs</b> stationary rest time (or in the case of a two-up driver, rest in an approved sleeper berth) taken in no more than 2 blocks
<b>14 days</b> (336 hrs)	<b>154 hrs</b> work time	<b>2 x 7 continuous hrs</b> stationary rest time between 10 pm on a day and 8 am on the next day, using the time zone of the base of the driver, or <b>24 continuous hrs</b> stationary rest time taken after no more than 84 hrs work time
<b>28 days</b> (672 hrs)	<b>288 hrs</b> work time	<b>4 x 24 continuous hrs</b> stationary rest time

- (2) In any period listed in Column 1 of the Table to subclause (1), the driver:
- (a) must not work for more than the maximum work time specified in Column 2 of that Table for that period, and
  - (b) must have at least the minimum rest time specified in Column 3 of that Table for that period.

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Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
- (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
- (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
- (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).

(3) In any period mentioned in Column 1 of the Table to this clause, the two-up driver:

- (a) must not work for more than the work time mentioned in Column 2 of that Table, and
- (b) must have the rest of that period off work, with at least the rest time mentioned in Column 3 of that Table.

Maximum penalty:

- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
- (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
- (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
- (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).

(4) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

(5) A contravention of subclause (2) or (3) in relation to a period referred to in Column 1 of the Table to this subclause is an offence of the risk category determined in accordance with Column 4 of that Table.



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**AFM outer limits—penalties**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Total period</b>	<b>Maximum work</b>	<b>Minimum rest time</b>	<b>Offence category</b>
<b>In any period of</b>	<b>If a driver has exceeded the maximum work time by...</b>	<b>If a driver had had less than the minimum rest time by...</b>	<b>...the following category of offence is committed...</b>
<b>Less than 7 days</b>	$\leq 15$ mins work time	$\leq 15$ mins rest time	substantial risk
	$> 15$ but $\leq 30$ mins work time	$> 15$ but $\leq 30$ mins rest time	severe risk
	$> 30$ mins work time	$> 30$ mins rest time	critical risk
<b>7 days or more</b>	$\leq 30$ mins work time		substantial risk
	$> 30$ mins but $\leq 1$ hour work time		severe risk
	$> 3$ hours work time		critical risk

**Subdivision 5 Changing work and rest hours option****73 Changing work and rest hours option**

- (1) A driver of a regulated heavy vehicle may drive under only one work and rest hours option at any one time.
- (2) However, a driver may change from one work and rest hours option to a different work and rest hours option.
- (3) A driver must not drive a regulated heavy vehicle after changing from one work and rest hours option to a different work and rest hours option unless:
  - (a) if the change is from standard hours or BFM hours—either:
    - (i) the driver is in compliance with all the work and rest time requirements of the work and rest hours option to which he or she has changed, or

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- (ii) the driver has had a reset rest break, and
- (b) if the change is from AFM hours or the hours specified in a work and rest hours exemption—the driver has had a reset rest break, and
- (c) the driver complies with all other requirements of the work and rest hours option to which he or she has changed.

Maximum penalty:

- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).
- (4) If a driver has had a reset rest break between changing from one work and rest hours option to a different work and rest hours option, the period to which the new work and rest hours option applies must be counted forward from the end of the reset rest break.
- (5) The employer or prime contractor of a driver who changes from one work and rest hours option to a different work and rest hours option, the operator of any regulated heavy vehicle driven by the driver, and the driver's scheduler, each must:
- (a) ensure that the driver does not drive a regulated heavy vehicle after making the change unless the driver has complied with subclauses (3) and (4), and
  - (b) take whatever action is necessary to ensure that the driver can comply with his or her obligations in relation to the change.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
- (6) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.
- (7) A person accused of an offence under subclause (5) has the benefit of the reasonable steps defence.

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- (8) A *reset rest break* means a rest break of at least 48 hours continuous rest.

## Division 4 Duties relating to record keeping

### Subdivision 1 Interpretation

#### 74 What is a driver's base

- (1) The base of a driver of a regulated heavy vehicle, in relation to particular work, is the place from which he or she normally does the work.
- (2) Despite subclause (1), if a driver has not recorded a base in his or her work diary in relation to particular work, for the purposes of this Part the driver's base in relation to that work is the garage address of the vehicle.
- (3) The *garage address* of a vehicle is:
  - (a) if the vehicle is normally kept at a depot when not in use—the principal depot at which it is kept, or
  - (b) if the vehicle is normally kept on a particular road or at a particular place when not in use—the home address of the registered operator whose home address is nearest to that road or place, or
  - (c) in any other case—the home address of the registered operator whose name is first listed on the registration certificate for the vehicle.
- (4) If a driver is a self-employed driver and an employed driver at different times, the driver may have one base as a self-employed driver and another base as an employed driver.
- (5) If a driver has 2 or more employers, the driver may have a different base in relation to each employer.

### Subdivision 2 Work diary requirements

#### 75 Driver must carry work diary

- (1) While driving a regulated heavy vehicle, the driver must keep in the vehicle a work diary that contains, for the last 28 days, the information required by this Subdivision.  
Maximum penalty: 15 penalty units.

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- (2) A *work diary* is:
- (a) if the driver has used only a written work diary in the last 28 days—the written work diary, or
  - (b) if the driver was required to keep a supplementary record under this Subdivision in the last 28 days—the supplementary record and the written work diary, or
  - (c) if the driver has used only an electronic work diary in the last 28 days:
    - (i) the electronic work diary that the driver is currently using, and
    - (ii) printouts of the information in any other electronic work diary that the driver has used in the last 28 days that cover any periods during those 28 days that are not recorded in the electronic work diary that the driver is currently using, or
  - (d) if the driver has used a combination of a written work diary and an electronic work diary in the last 28 days:
    - (i) the written work diary, and
    - (ii) if the driver is currently using an electronic work diary—the electronic work diary, and
    - (iii) printouts of the information in any electronic work diary that the driver has used in the last 28 days that cover any periods during those 28 days that are not recorded in an electronic work diary that the driver is currently using.
- (3) If the driver has made any supplementary record in the last 28 days, as required by this Subdivision, for the purposes of subclause (2) the work diary includes the supplementary record.
- (4) For the purposes of this Part, a person is entitled to rely on a label attached to an electronic work diary unless he, she or it knows, or reasonably ought to know, that the thing is not the subject of a current approval of the Authority under Subdivision 6.
- (5) Subclause (1) applies irrespective of the number of days in the last 28 days on which the driver spent work time in relation to a regulated heavy vehicle.

**76 Information that driver must record in work diary**

- (1) This clause lists the information that a driver must record in his or her work diary on each day on which the driver drives a regulated heavy vehicle.

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- (2) The driver must continue to record the information until his or her next major rest break.
- (3) Immediately after starting work on each of those days, the driver must record:
- (a) the day of the week and date, and
  - (b) his or her name, and
  - (c) his or her current driver licence number, and the jurisdiction where the licence was issued, and
  - (d) whether he or she is working under standard hours (including whether the driver is working under standard hours for solo drivers of a bus), BFM hours, AFM hours or the hours specified in a work and rest hours exemption, and
  - (e) if the driver is working under BFM or AFM hours or the hours specified in a work and rest hours exemption that was granted in combination with an operator's BFM or AFM accreditation—the driver's operator's BFM or AFM accreditation number, and
  - (f) details of his or her base, unless he or she has previously recorded those details in relation to the work and they are still current, and
  - (g) details of the driver's record location, unless the driver has previously recorded those details and they are still current, and
  - (h) details of the time zone of the base.
- Maximum penalty: 15 penalty units.
- (4) Immediately before or after each work and rest change on each of those days, the driver must record:
- (a) the nature of the work and rest change, and
  - (b) the work time or rest time spent anywhere by the driver since the last work and rest change, and
  - (c) the time and place of the work and rest change, and
  - (d) the odometer reading at that time, and
  - (e) the registration number shown on the numberplate of each heavy motor vehicle that the driver drives, and
  - (f) if the driver is or becomes a two-up driver—the following information about the other driver in the two-up driving arrangement:
    - (i) the other driver's name,

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- (ii) the other driver's driver licence number,
- (iii) except in the case of a shared electronic work diary, the security or other identifying number of the other driver's work diary and the name of the participating jurisdiction that issued that diary.

Maximum penalty: 15 penalty units.

- (5) If the driver changes from one base or record location to another base or record location after starting work on one of those days, he or she must record the details of the other base or record location (as the case may be) immediately after the change occurs.

Maximum penalty: 15 penalty units.

- (6) Immediately before finishing work on each of those days, the driver must record the total of the work time and the total of the rest time that he or she has had that day.

Maximum penalty: 15 penalty units.

- (7) A driver in a two-up driving arrangement must, at the request of the other driver to the arrangement, provide the other driver with any details the other driver needs to be able to comply with subclause (4) (f).

Maximum penalty: 15 penalty units.

**77 How driver must record information in work diary**

- (1) A driver must record information in a written work diary in this way:
- (a) the information for each day must be written on a separate daily sheet in a work diary that has not been cancelled by the Authority, and
  - (b) if the driver changes from one work and rest option to another work and rest option during a day, he or she must record any information for that day that relates to the period after the change occurs on a separate daily sheet, and,
  - (c) information must be written on a daily sheet as required by the instructions in the work diary for recording information on daily sheets, and
  - (d) the daily sheets in the work diary must be used in turn from the front of the work diary, and
  - (e) each daily sheet must:
    - (i) be signed and dated by the driver, and

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- (ii) if the driver is driving under a two-up arrangement—signed by the other two-up driver, and
    - (f) information must be written on a daily sheet with enough pressure to ensure that a readable record of the information appears on the duplicate daily sheets, and
    - (g) other information must be written in the work diary as required by the instructions in the work diary for the recording of the information.

Maximum penalty: 15 penalty units.
  - (2) A driver must record information in an electronic work diary in the way required by:
    - (a) the Authority, or
    - (b) if the Authority does not make a requirement—the manufacturer's instructions for recording information in the work diary.

Maximum penalty: 15 penalty units.
  - (3) A driver must record time in a work diary according to the time zone in the place where the driver's base is, rather than the time zone in the place where the driver is.
 

Maximum penalty: 15 penalty units.

**78 Destroyed, lost, stolen or malfunctioning work diaries**

- (1) This clause applies if a driver is unable to use a work diary because:
  - (a) it is filled up, destroyed, lost or stolen, or
  - (b) in the case of an electronic work diary:
    - (i) it is malfunctioning, or
    - (ii) a component of it is destroyed, lost or stolen.
- (2) During any period in which subclause (1) applies, the driver must record in a supplementary record any information that the driver is required by clause 76 to record.
 

Maximum penalty: 15 penalty units.
- (3) Subclause (2) ceases to apply when the first of the following events occurs:
  - (a) the driver is issued a replacement work diary under Subdivision 5,

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- (b) in the case of an electronic work diary that is malfunctioning—the diary is brought into working order, or
  - (c) in the case of an electronic work diary for which a component has been destroyed, lost or stolen—the driver is given a replacement component and the diary is brought into working order, or
  - (d) the expiry of 7 business days after the day on which the period in which the driver is unable to use the work diary started.
- (4) As soon as practicable (but within 2 business days) after the driver becomes aware that this clause applies, the driver must give the Authority written notice, in a form approved by the Authority, of the relevant event that caused this clause to apply.  
Maximum penalty: 15 penalty units.
- (5) If a driver gives a work diary to the Authority under subclause (4), the Authority must:
- (a) cancel any unused daily sheets in the diary, and
  - (b) return the diary to the driver.
- (6) If a lost or stolen written work diary (the *old work diary*) is found by, or returned to, the driver after a replacement work diary has been issued to the driver, the driver must:
- (a) immediately cancel any unused daily sheets in the old work diary by writing “cancelled” in large letters across each unused sheet, and
  - (b) if the old work diary was found or returned:
    - (i) within 28 days after it was lost or stolen, immediately notify the Authority in writing that it has been found or returned, and must give it to the Authority as soon as is practicable after that 28 day period ends, or
    - (ii) in any other circumstances, give it to the Authority as soon as is practicable after obtaining it.
- Maximum penalty: 15 penalty units.
- (7) If the driver of a regulated heavy vehicle becomes aware or reasonably suspects that an electronic work diary fitted to the vehicle is malfunctioning, the driver must inform his or her record keeper of that as soon as practicable (but within 2 business days).  
Maximum penalty: 15 penalty units.



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- (8) If the Authority receives an application to replace the work diary of a driver from another jurisdiction in the participating zone, it must notify the corresponding Authority of that jurisdiction that it has received the application.
- (9) Also, in the case of an electronic work diary that includes or forms part of an intelligent transport system approved under the IAP provisions, if a person on whom an obligation to report a malfunction of or tampering with a system under those provisions becomes aware or reasonably suspects that the electronic work diary is malfunctioning, the person must inform the record keeper of that as soon as practicable (but within 2 business days).  
Maximum penalty:  
(a) in the case of an individual—15 penalty units, and  
(b) in the case of a corporation—75 penalty units.
- (10) As soon as is practicable after being informed under subclause (6) or (8), the record keeper must ensure that the electronic work diary is examined and brought into working order.  
Maximum penalty:  
(a) in the case of an individual—15 penalty units, and  
(b) in the case of a corporation—75 penalty units.
- (11) A person accused of an offence under subclause (2), (4), (6), (7), (9) or (10) does not have the benefit of the mistake of fact defence.
- (12) A person accused of an offence under this clause has the benefit of the reasonable steps defence.

**79 Malfunctioning odometers**

- (1) It is a defence for an offence against clause 76 (4) (d) for the driver to prove that:  
(a) at the time of the offence, the odometer was malfunctioning, and  
(b) within 2 business days after the offence, the driver had complied with subclause (3).
- (2) The owner of a regulated heavy vehicle must ensure that an odometer that is fitted to the vehicle is maintained to the standard approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.  
Maximum penalty:  
(a) in the case of an individual—15 penalty units, and

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- (b) in the case of a corporation—75 penalty units.
- (3) If the driver of a regulated heavy vehicle becomes aware or reasonably suspects that an odometer fitted to the vehicle is malfunctioning, the driver must inform the following persons of that as soon as practicable (but within 2 business days):
- (a) the owner of the vehicle, and
  - (b) if the driver is an employed driver—the driver’s employer, and
  - (c) the operator of the vehicle.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (4) As soon as is practicable after being informed under subclause (3), the owner of the regulated heavy vehicle must ensure that the odometer is examined and brought into working order.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (5) The driver’s employer and the operator of the vehicle must ensure that the owner complies with subclause (4).
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (6) A person accused of an offence under this clause has the benefit of the reasonable steps defence.

**80 Duty of employers, prime contractors, operators and schedulers to ensure driver compliance**

- (1) The following persons must ensure that a driver complies with the requirements of this Subdivision:
  - (a) the employer of an employed driver,
  - (b) the prime contractor of a self-employed driver,
  - (c) the operator of a regulated heavy vehicle that is being, or to be, driven by a driver,
  - (d) the scheduler of a driver of, or of the goods or passengers being or to be transported on, a regulated heavy vehicle that is being, or to be, driven by a driver.

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Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (2) A person accused of an offence under this clause has the benefit of the reasonable steps defence.

### **Subdivision 3 Records relating to drivers**

#### **81 Information that record keeper must record**

- (1) This clause applies to each record keeper in relation to a driver.
- (2) If the driver is working under standard hours or under a BFM or AFM accreditation or under a work and rest hours exemption (whether or not granted in combination with an operator's BFM or AFM accreditation), the record keeper:
  - (a) must record the following information as soon as possible after receiving it:
    - (i) the driver's name, driver licence number and contact details,
    - (ii) the driver's rosters and trip schedules, including details of driver changeovers, and
  - (b) must keep a copy of all duplicate pages and other copies of work diary entries given to the record keeper under subclause (7), and
  - (c) must keep a copy of payment records relating to the driver, including timesheet records if the driver is paid according to time at work.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (3) If the driver is working under a BFM or AFM accreditation, the record keeper must also record the following information:
- (a) any information required to be kept as a condition of the BFM or AFM accreditation,
  - (b) any information required to be kept under the BFM or AFM standards and business rules.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

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- (4) The record keeper must keep a record that is required to be kept under this clause for 3 years after it is created.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (5) The record keeper must keep the records at the record location so that they are reasonably accessible to an authorised officer.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (6) The record keeper must keep the records in a way that ensures:
- (a) they are readable and reasonably capable of being understood, and
  - (b) are capable of being used as evidence.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- Note.** Example—A record keeper should keep copies of records in storage facilities that will ensure the records do not degrade or could become unreadable. This could include scanning relevant hard copy records and retaining them in electronic format if they remain clearly readable.
- (7) Within 21 days after a day on which the driver drove a regulated heavy vehicle, he or she must give a copy of his or her work diary entries (including any entries made in any supplementary record) for that day to each person who was, or who was acting on behalf of, a record keeper for the driver on that day.
- Maximum penalty: 15 penalty units.
- (8) Subclause (7) does not apply with respect to any entries that are electronically transferred from an electronic work diary to the record keeper within the 21 day period referred to in that subclause.
- (9) The record keeper must ensure that the driver complies with subclause (7).
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.

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- (10) If a driver uses an electronic work diary, the record keeper must ensure:
- (a) that the information recorded in the diary on a specific day is electronically transferred to the record keeper within 21 days after that day, or
  - (b) that the driver complies with subclause (7).
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (11) If a driver changes record keepers, the driver must, before driving a regulated heavy vehicle for the new record keeper, give the new record keeper a copy of the information recorded in any work diary that the driver was required to keep in the 28 days before the change occurred that relates to that 28 day period.
- Maximum penalty: 15 penalty units.
- (12) If subclause (11) imposes a duty on a driver, the new record keeper must not require or allow the driver to drive a regulated heavy vehicle on the new record keeper's behalf unless the driver has complied with subclause (11).
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (13) If the driver's work diary is an electronic work diary, the record keeper must give the driver a printout of the information recorded in the work diary for any relevant day on which the driver was using the electronic work diary before the driver stops using the electronic work diary.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (14) A person accused of an offence under this clause has the benefit of the reasonable steps defence.

**82 Record keeper may engage other person to keep records**

- (1) A record keeper may engage the services of another person to carry out some or all of the record keeper's functions as a record keeper under this Part.

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- (2) If such an engagement occurs:
- (a) the record keeper remains liable for all obligations imposed on the record keeper under this Part, and
  - (b) the other person is also liable under this Part, in respect of any obligation imposed on the record keeper as a record keeper that is covered by the terms of the engagement, as if he, she or it was the record keeper.

#### Subdivision 4 False work records etc

##### 83 Definitions

In this Subdivision:

*entry*, in a work record, includes an annotation made in the record by an authorised officer or police officer.

*work record* means a work diary or a record required to be kept under Subdivision 3.

##### 84 False entries

A person must not record an entry in a work record or a supplementary record that the person knows, or reasonably ought to know, is false or misleading in any significant respect.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

##### 85 Keeping 2 work diaries simultaneously prohibited

- (1) A driver must not have in his or her possession more than one written work diary in which information can be recorded on a daily sheet.

Maximum penalty: 15 penalty units.

**Note.** A driver does not commit an offence against this subclause if the driver has another written work diary in his or her possession in which information can not be recorded because all the daily sheets are used up.

- (2) A driver must not record information for the same period in more than one work diary.

Maximum penalty: 15 penalty units.

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**86 Possession of purported work records etc prohibited**

A driver or record keeper must not have in his or her possession something purporting to be a work record if the driver or record keeper knows, or reasonably ought to know, that it is not a work record.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**87 Defacing or changing work records etc prohibited**

A person must not deface or change an entry in a work record that the person knows, or reasonably ought to know, is correct.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**88 False representation of work records prohibited**

A person must not falsely represent that a work record, or an entry in a work record, was made by the person.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**89 Making entries in someone else's work records prohibited**

- (1) A person must not make an entry in someone else's work record.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (2) Subclause (1) does not apply to:

- (a) a person who is the nominee of a driver and makes the entry in the driver's work diary as required by a work diary exemption applying to the driver, or
- (b) an authorised officer, or
- (c) a two-up driver who enters any of the information required by clause 76 (4) (f) in her or his fellow two-up driver's work record, or who signs that work record.

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**90 Destruction of certain work records prohibited**

If a work record is required under this Part to be kept for a particular period by a person, the person or someone else must not destroy the record before the end of the period.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**91 Tampering with electronic work diaries prohibited**

- (1) A person must not tamper with the operation of an electronic work diary.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (2) A record keeper and a driver must ensure that a person does not tamper with the operation of an electronic work diary.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (3) If an electronic work diary being used by a driver includes or forms part of an intelligent transport system approved under the IAP provisions, a person on whom an obligation to report a malfunction of or tampering with the system under those provisions must ensure that a person does not tamper with the operation of an electronic work diary under this Part.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (4) A person *tampers* with an electronic work diary if the person engages in conduct that:

- (a) results in the diary malfunctioning, or
- (b) may result in the diary malfunctioning, or
- (c) alters any of the data recorded by the diary, or
- (d) may alter any of the data recorded by the diary, or
- (e) results in inaccurate data being recorded by the diary, or
- (f) may result in inaccurate data being recorded by the diary.



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- (5) A person also *tampers* with an electronic work diary if the person tampers or otherwise interferes with any electronic signal that is sent to, or from, the diary, and that conduct has any of the effects listed in subclause (4).
  - (6) Subclause (1) does not apply to:
    - (a) a person who is repairing a malfunctioning electronic work diary in accordance with Subdivision 2, or
    - (b) a person who is authorised by the Authority, or
    - (c) an authorised officer.
  - (7) A person accused of an offence under subclause (1), (2) or (3) does not have the benefit of the mistake of fact defence.
  - (8) A person accused of an offence under subclause (2) or (3) has the benefit of the reasonable steps defence.
  - (9) If a person is accused of an offence under subclause (1) and the alleged offence involves tampering or otherwise interfering with any electronic signal that is sent to, or from, an electronic work diary, it is a defence if the person proves that he or she was not aware, and could not reasonably be expected to have been aware, that the activity that constituted the alleged tampering or interfering would interfere with the electronic signal.
  - (10) Subclause (9) does not apply to a driver who was using the electronic work diary or to the driver's record keeper.

## Subdivision 5 Written work diaries

### 92 Form of written work diaries

- (1) A written diary must be in a format that allows information to be recorded in the format approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.
- (2) A written work diary must contain:
  - (a) a unique identifying number for the work diary, and
  - (b) sequentially numbered sheets for making daily records, and
  - (c) provision for recording information on the daily sheets, and
  - (d) a duplicate of any application form in the work diary, and
  - (e) 2 duplicates of each daily sheet, and
  - (f) instructions for use of the work diary.

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- (3) A written work diary may contain an application form for the issue of another work diary.
- (4) If a written work diary is used as required by the instructions in the work diary, information written on a daily sheet or application form must be automatically copied on to any duplicates of the sheet or form in the diary.

**93 Issue of written work diaries**

- (1) A driver who wants to be issued with a written work diary (including a replacement work diary) must apply in person to the Authority.
- (2) The application must be in the form that is approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.
- (3) If the application form is for a written work diary to replace a written work diary that has been previously issued to the driver (the *existing written work diary*), the driver must give the existing written work diary to the Authority with the application, unless the existing written work diary has been destroyed, lost or stolen.
- (4) If the driver gives the existing written work diary to the Authority, the Authority must:
  - (a) cancel any unused daily sheets in the written work diary, and
  - (b) return the written work diary to the driver when the Authority issues the replacement written work diary to the driver.
- (5) If the application is for a written work diary to replace an existing written work diary that has been destroyed, lost or stolen, the application must:
  - (a) state the work diary's number and that it has been destroyed, lost or stolen, and
  - (b) briefly outline the circumstances of the destruction, loss or theft.
- (6) The Authority must issue a written work diary to a driver if the driver:
  - (a) identifies himself or herself by showing the driver's current driver licence to the Authority, and
  - (b) pays an application fee approved by the Authority.

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- (7) If the Authority issues a written work diary to a driver, it must note the date, time and place of issue on the written work diary.
  - (8) The Authority may make other notes on the written work diary.
  - (9) If the Authority issues a written work diary to a driver from another jurisdiction in the participating zone:
    - (a) it must notify the corresponding Authority of that jurisdiction of:
      - (i) the identifying number for the work diary, and
      - (ii) the driver's name and licence number, and
      - (iii) the time, date and place of issue, and
    - (b) it must include with that notification either:
      - (i) a statement of the reason why it issued the work diary, or
      - (ii) a copy of the application it received for the issue of the work diary.

## **Subdivision 6 Electronic work diaries**

### **94 Approval of electronic work diaries**

- (1) A person may apply to the Authority to have a particular type of electronic work diary approved by the Authority.
- (2) The application must be in the form that is approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.
- (3) The Authority may approve a system of recording information electronically for use as an electronic work diary for the purposes of this Part if it is satisfied that the system:
  - (a) is suitable for fitting to, or for use in, a regulated heavy vehicle, and
  - (b) has a mechanism that readily indicates to the driver of the vehicle that the system is, or is not, properly functioning, and
  - (c) is capable of accurately monitoring and recording the work and rest times of the driver of the vehicle, and of recording any other information that a driver is required, under this Part, to record in a work diary, and
  - (d) if the system is to be fitted to the vehicle and is to be used by more than one driver, is capable of ensuring:

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- (i) that all of the information referred to in paragraph (c) can be accurately monitored or recorded (as the case may be) for each driver, and
  - (ii) that the details recorded by, or in respect of, a driver are readily distinguishable from the details recorded by, or in respect of, any other driver, and
  - (iii) that the name of each driver in respect of which details are recorded is shown whenever the details are accessed, and
  - (iv) that a driver cannot record any information that a driver is required, under this Part, to record in a work diary in the system for, or on behalf of, another driver, and
  - (e) has a mechanism to ensure that the driver cannot alter any information that the driver records in the system once the driver has had an opportunity to confirm the accuracy of that information, and
  - (f) if the system is designed to enable the driver to send information to the driver's record keeper, has a mechanism that readily indicates to the driver that the information has, or has not, been sent to the record keeper, and
  - (g) is capable of readily reproducing, on being accessed by the record keeper, the information it contains, and
  - (h) is capable of readily reproducing, on being accessed by an authorised officer while the vehicle to which it is fitted is on the road, the information it contains in a form:
    - (i) that is readily accessible by the officer, and
    - (ii) that is reasonably capable of being understood by the officer, and
    - (iii) that can be used as evidence.
  - (4) In approving a type of electronic work diary, the Authority must have regard to any guidelines in relation to electronic diaries approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.
  - (5) If the Authority grants an application under this clause, it must issue a numbered certificate of approval to the applicant.
  - (6) In granting an application, the Authority may impose conditions in relation to the operation and maintenance of the diary.
  - (7) An approval under this clause covers any system that is identical to the system that was submitted to the Authority for approval.

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- (8) Any identical system that is covered by an approval is also subject to any conditions that were imposed in relation to the approval.
  - (9) A document that purports to be a certificate of approval issued by the Authority under this clause is evidence that any system referred to in the document has been approved by the Authority as an electronic work diary under this clause.
  - (10) If the Authority does not make the decision sought by an applicant, the Authority must also give the applicant a written notice that states:
    - (a) the Authority's decision, and
    - (b) the reasons for the decision, and
    - (c) that the applicant may apply to have the decision reconsidered.

**95 Labelling of electronic work diary devices**

- (1) In this clause, approved electronic work diary means a system of recording information electronically that is the subject of a current approval of the Authority under this Subdivision for use as an electronic work diary for the purposes of this Part, or that is identical to such a system.
- (2) A person may place on any device that is, or that forms part of, an approved electronic work diary a label that indicates that the device is, or is part of, an approved electronic work diary.
- (3) A person must not place on any device a label that indicates that the device is, or is part of, an approved electronic work diary if the device is not, or does not form part of, an approved electronic work diary.

Maximum penalty:

  - (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (4) A person must not use as an electronic work diary for the purposes of this Part any device that has a label that indicates that the device is, or is part of, an approved electronic work diary if the person knows, or reasonably ought to know, that the device is not, or does not form part of, an approved electronic work diary.

Maximum penalty:

  - (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.

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- (5) The existence of a label on a thing that indicates that the thing is, or forms part of, an approved electronic work diary, and that purports to show the number of a certificate of approval, is evidence that the thing is an approved electronic work diary.

**96 Variation or cancellation of approval—on application**

- (1) An application for variation or cancellation of the approval of an electronic work diary must be made to the Authority in writing.
- (2) An application for a variation must state clearly what variation is sought and outline the reasons for the application.
- (3) The Authority, by written notice given to the applicant, may require the applicant to give the Authority any necessary additional information.
- (4) The Authority must decide the application as soon as practicable after the Authority receives it.
- (5) If the Authority decides to grant the application, the Authority must give the applicant written notice of that decision.
- (6) The variation or cancellation takes effect:
- (a) when written notice of the decision is given to the applicant, or
  - (b) at a later time stated in that written notice.
- (7) If the Authority does not make the decision sought by the applicant, the Authority must also give the applicant a written notice that states:
- (a) the Authority's decision, and
  - (b) the reasons for the decision, and
  - (c) that the applicant may apply to have the decision reconsidered.

**97 Removal of electronic work diary approval label**

- (1) This clause applies if the Authority cancels the approval of an electronic work diary.
- (2) The person who held the approval immediately before the cancellation took effect must remove from any diaries in the person's possession any label that relates to the former approval.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.

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- (3) The Authority may direct the person who held the approval immediately before the cancellation took effect to notify in writing each person to whom the person has supplied any diary under the approval that the approval has been cancelled and that any label on any such diary still in the other person's possession should be removed.
- (4) If the Authority gives a direction to a person under subclause (3), the person must comply with the direction.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.
- (5) With the consent of the Authority, a person may comply with subclause (3) by publishing details of the cancellation, and any further details specified by the Authority, using at least 2 of the following methods:
- (a) by notice published in a newspaper specified by the Authority,
- (b) by notice published in a journal or newsletter specified by the Authority,
- (c) on a website specified by the Authority.
- (6) Nothing in this clause prevents the Authority from publishing details of the cancellation by whatever means it thinks appropriate.
- Note.** For example, the Authority may publish the cancellation by gazettal or on a website.
- (7) Any person who is aware that the approval of a diary in the person's possession has been cancelled must remove from the diary any label that relates to the former approval.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.
- (8) A person (other than a person referred to in subclause (9)) accused of an offence under this clause does not have the benefit of the mistake of fact defence.
- (9) A party in the chain of responsibility accused of an offence under this clause has the benefit of the reasonable steps defence.

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**98 Authority may permit the use of diaries whose approval has been cancelled**

- (1) The Authority may, by notice published in the Gazette, permit the use of diaries whose approval has been cancelled:
  - (a) for a specified period not exceeding 1 year, and
  - (b) on specified conditions.
- (2) Despite anything to the contrary in this Part, a diary that is the subject of a notice under this clause is to be treated as if it were an electronic work diary, unless it is being used contrary to any condition specified in the notice.
- (3) The Authority may, by notice published in the Gazette, vary or revoke a notice under this clause.

**99 Variation or cancellation of approval—without application**

- (1) The Authority may vary an approval of an electronic work diary, without receiving an application, if the Authority is reasonably satisfied that any of the following grounds exists:
  - (a) that the application for the approval was false or misleading in a material respect, but the circumstances do not require its cancellation,
  - (b) that:
    - (i) since the approval was given, a change has happened in relation to something that the Authority must consider in deciding whether to give an approval of that kind, and
    - (ii) the approval would have been given as it is proposed to be varied if the change had happened before the approval was given.
- (2) The Authority may cancel an approval of an electronic work diary, without receiving an application, if the Authority is reasonably satisfied that any of the following grounds exists:
  - (a) that the application for the approval was false or misleading in a material respect,
  - (b) that:
    - (i) since the approval was given, a change has happened in relation to something that the Authority must consider in deciding whether to give an approval of that kind, and



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- (ii) the approval would not have been given if the change had happened before the approval was given.
- (3) If the Authority is satisfied that a ground exists to vary or cancel an approval, the Authority must give the person who holds the approval a written notice that:
- (a) states the proposed variation or cancellation, and
  - (b) states the ground for the proposed variation or cancellation, and
  - (c) outlines the facts and other circumstances forming the basis for the ground, and
  - (d) invites the person to state in writing, within a specified time of at least 14 days after the notice is given to the person, why the approval should not be varied or cancelled.
- (4) If, after considering any written statement made within the specified time, the Authority is reasonably satisfied that a ground exists to take the proposed action, the Authority may:
- (a) if the proposed action is to vary the approval in a stated way—vary the approval in that way, and
  - (b) if the proposed action is to cancel the approval—cancel the approval, or vary the approval in any way.
- (5) The Authority must give the person written notice of the Authority's decision.
- (6) If the Authority decides to vary or cancel the approval, the Authority must also give the person a written notice that states:
- (a) the reasons for the decision, and
  - (b) that the person may apply to have the decision reconsidered.
- (7) The variation or cancellation takes effect:
- (a) when written notice of the decision, and the reasons for the decision, is given to the person, or
  - (b) at a later time stated in that written notice.
- (8) Subclauses (9)–(14) apply if:
- (a) the Authority varies the approval of an electronic work diary, and
  - (b) in the Authority's opinion, the variation will, or is likely to, significantly affect the way the diary is to be used.

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- (9) The Authority may direct the person who, immediately before the variation took effect, held the approval to notify in writing each person to whom the person has supplied any diary under the approval that the approval has been varied.
- (10) If the Authority gives a direction to a person under subclause (9), the person must comply with the direction.  
Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (11) With the consent of the Authority, a person may comply with subclause (10) by publishing details of the variation, and any further details specified by the Authority, using at least 2 of the following methods:
- (a) by notice published in a newspaper specified by the Authority,
  - (b) by notice published in a journal or newsletter specified by the Authority,
  - (c) on a website specified by the Authority.
- (12) Nothing in this section prevents the Authority from publishing details of the cancellation by whatever means it thinks appropriate.  
**Note.** For example, the Authority may publish the cancellation by gazettal or on a website.
- (13) A person (other than a person referred to in subclause (14)) accused of an offence under this clause does not have the benefit of the mistake of fact defence.
- (14) A party in the chain of responsibility accused of an offence under this clause has the benefit of the reasonable steps defence.

**100 How electronic work diary to be operated**

- (1) A driver using an electronic work diary must ensure that he or she operates and maintains the diary:
- (a) in accordance with the manufacturer's specifications, as varied by any conditions imposed by the Authority, and
  - (b) in compliance with any conditions imposed by the Authority that apply to the operation of the diary.
- Maximum penalty: 15 penalty units.

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- (2) The record keeper of a driver using an electronic work diary must ensure that the driver complies with the requirements of subclause (1).

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and  
 (b) in the case of a corporation—75 penalty units.
- (3) It is a defence to an offence of failing to comply with a particular specification of the manufacturer for the accused person to prove either:
- (a) that the specification was not integral to the effective operation of the diary, or  
 (b) that what was done or not done with respect to the specification was in accordance with industry practice in relation to the handling or maintenance of a diary of that type from that manufacturer.

**101 Admissibility of documents produced by an electronic work diary**

- (1) A document produced by an electronic work diary is evidence of the matters contained in the document.
- (2) A statement as to the operation of an electronic work diary made in a document purporting to be signed by a person purporting to be involved with the operation of the diary is evidence of any fact contained in the statement.

**Note.** Examples:

- A statement by a driver describing how the driver operated the electronic work diary
- A statement by the owner of an electronic work diary describing how the electronic work diary has been maintained
- A statement by the record keeper that certain data was transmitted to the record keeper by the electronic work diary

**Division 5 Accreditation and exemptions**

**Subdivision 1 Accreditation**

**102 What is an accreditation**

- (1) An *accreditation* is a BFM or AFM accreditation.
- (2) A reference to:
- (a) an *accreditation* includes a reference to the accreditation as varied, and

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- (b) a *variation* of an accreditation includes a reference to a variation of a condition of the accreditation by addition, omission or substitution.

**103 Applying for BFM accreditation**

- (1) The operator of a regulated heavy vehicle may apply to the Authority for BFM accreditation.
- (2) The application must be made in the form approved by the Authority and include:
  - (a) the operator's name and contact details, and
  - (b) a statement by the operator that the operator has a BFM fatigue management system to ensure compliance with the BFM standards and business rules, and
  - (c) a statement from an auditor of a class approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette that the auditor considers that the operator's BFM fatigue management system will ensure compliance with the BFM standards and business rules, and
  - (d) any other information required by the Authority in accordance with the BFM standards and business rules.
- (3) A *BFM fatigue management system* is an operator's management system for ensuring compliance with the BFM standards and business rules, including by:
  - (a) recording the name, driver licence number and contact details of each driver who is currently under the operator's BFM accreditation, and
  - (b) ensuring that each of those drivers is in a fit state:
    - (i) to safely perform required duties, and
    - (ii) to meet any specified medical requirements, and
  - (c) ensuring that each of those drivers:
    - (i) has been inducted into the operator's BFM fatigue management system, and
    - (ii) has been informed of the BFM hours, and
  - (d) ensuring that anyone employed in the operator's business, who has responsibilities relating to scheduling or managing the fatigue of those drivers:
    - (i) has been inducted into the operator's BFM fatigue management system, and
    - (ii) has been informed of the BFM hours.

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- (4) The application must also be accompanied by a declaration, declared to be made by the operator after taking all reasonable steps to ascertain the following information, of the operator's knowledge of whether:
- (a) in the 5 years immediately before the application was made, any of the following persons has contravened this Part, a corresponding fatigue law, or an Australian applicable road law and, if so, details of the contravention:
    - (i) the operator,
    - (ii) an associate of the operator,
  - (b) any of the following persons has had their BFM or AFM accreditation varied or cancelled and, if so, details of the variation or cancellation:
    - (i) the operator,
    - (ii) an associate of the operator.
- (5) The application must also be accompanied by an application fee approved by the Authority.
- (6) The Authority, by written notice to the operator, may require the operator to give the Authority any necessary additional information.

**104 Granting BFM accreditation**

- (1) The Authority must decide an application for BFM accreditation as soon as practicable after the Authority receives the application.
- (2) The Authority may grant BFM accreditation to the operator of a regulated heavy vehicle if it is satisfied:
  - (a) the operator is able to comply with this Part, and
  - (b) the operator is a suitable person to be granted BFM accreditation.
- (3) For this purpose, the Authority may take into account anything it considers is relevant, including (but not limited to) the following:
  - (a) any details provided under this Subdivision,
  - (b) the results of any audits carried out on the operator's BFM fatigue management system, or proposed BFM fatigue management system.
- (4) In granting BFM accreditation to the operator of a regulated heavy vehicle, the Authority must have regard:
  - (a) to any relevant advice given to it by the Fatigue Authorities Panel, and

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- (b) to any guidelines in relation to BFM accreditation issued by the Fatigue Authorities Panel by notice published in the Commonwealth Government Gazette.
  - (5) If the Authority grants the BFM accreditation, it must give the operator an accreditation certificate in the form approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette that certifies the operator has been granted BFM accreditation and sets out the details of that accreditation.
  - (6) The accreditation takes effect:
    - (a) when the accreditation certificate is given to the applicant, or
    - (b) at a later time stated in the certificate.
  - (7) The BFM accreditation applies for the period (not longer than 3 years) stated in the BFM accreditation certificate.
  - (8) If the Authority refuses to grant a BFM accreditation, it must give the applicant a written notice that:
    - (a) states the reasons for the refusal, and
    - (b) tells the operator that the operator may apply to have the decision reconsidered.

**105 Conditions of BFM accreditation**

- (1) Every BFM accreditation is subject to the condition that the operator must comply with the BFM standards and business rules.
- (2) A BFM accreditation is also subject to any other conditions stated in the accreditation certificate.
- (3) A person who is granted a BFM accreditation must not contravene a condition of the BFM accreditation.  
Maximum penalty:
  - (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.

**106 Driver must carry BFM accreditation documents**

- (1) At all times while working under an operator's BFM accreditation, a driver must have in his or her possession:
  - (a) a copy of the operator's accreditation certificate, and
  - (b) a document signed by the operator stating that the driver is working under the operator's accreditation, has been

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inducted into the operator's BFM fatigue management system and meets the requirements relating to drivers under the accreditation.

Maximum penalty: 15 penalty units.

- (2) The operator must ensure that each of the drivers driving under the operator's BFM accreditation does not contravene subclause (1).

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and  
 (b) in the case of a corporation—75 penalty units.

- (3) A driver must immediately return to an operator any document given to him or her by the operator for the purposes of subclause (1) if the driver:

- (a) ceases to work under an operator's BFM accreditation, or  
 (b) ceases to meet the requirements relating to drivers under that accreditation.

Maximum penalty: 15 penalty units.

**107 Information that operator must record**

- (1) An operator must ensure that each driver who is to work under the operator's BFM accreditation is:

- (a) inducted into the operator's BFM fatigue management system, and  
 (b) meets the requirements relating to drivers under the operator's BFM accreditation.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and  
 (b) in the case of a corporation—75 penalty units.

- (2) An operator must keep:

- (a) a current list of the drivers under the operator's BFM accreditation, and  
 (b) records demonstrating that any such driver:  
 (i) has been inducted into the operator's BFM fatigue management system, and  
 (ii) meets requirements relating to drivers under the operator's BFM accreditation.

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Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (3) The records must be kept in accordance with the requirements of Subdivision 3 of Division 4.
- (4) If required to do so by the Authority, the operator must give to the Authority, in the form and within the time specified by the Authority:
- (a) a copy of the list of drivers kept by the operator under subclause (2) (b), and
  - (b) details of any changes to that list.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**108 Operator must advise of change or end of accreditation**

- (1) If an operator who has a BFM accreditation changes or ceases to hold that accreditation, the operator must inform any driver or scheduler who may be affected by that change or cessation of the fact that the change or cessation has happened, as soon as practicable after the change or cessation happens.

Maximum penalty:

- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
  - (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).
- (2) If a driver is informed that an operator's BFM accreditation has changed or ceased, he or she must immediately return to the operator any document given to him or her by the operator for the purposes of clause 106.

Maximum penalty: 15 penalty units.

**109 Applying for AFM accreditation**

- (1) The operator of a regulated heavy vehicle may apply to the Authority for AFM accreditation.



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- (2) The application must be made in the form approved by the Authority and include:
- (a) the operator's name and contact details, and
  - (b) the operator's AFM fatigue management proposal (which is explained in the next subclause), and
  - (c) a statement by the operator that the operator has an AFM fatigue management system to ensure compliance with the AFM standards and business rules, and
  - (d) a statement from an auditor of a class approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette that the auditor considers that the operator's AFM fatigue management system will ensure compliance with the AFM standards and business rules, and
  - (e) any other information required by the Authority in accordance with the AFM standards and business rules.
- (3) An *AFM fatigue management proposal* must set out:
- (a) the proposed work and rest hours limits for drivers of those vehicles, and
  - (b) the risks involved with working under the proposed work and rest hours limits, and the proposed countermeasures that are designed to manage those risks, and
  - (c) the other details required under the AFM standards and business rules.
- (4) An *AFM fatigue management system* is an operator's management system for ensuring compliance with the AFM standards and business rules, including by:
- (a) recording the name, driver licence number and contact details of each driver who is currently under the operator's AFM accreditation, and
  - (b) ensuring that each of those drivers is in a fit state:
    - (i) to safely perform required duties, and
    - (ii) to meet any specified medical requirements, and
  - (c) ensuring that each of those drivers:
    - (i) has been inducted into the operator's AFM fatigue management system, and
    - (ii) has been informed of the AFM hours under the operator's AFM accreditation, and

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- (d) ensuring that anyone employed in the operator's business, who has responsibilities relating to scheduling or managing the fatigue of those drivers:
  - (i) has been inducted into the operator's AFM fatigue management system, and
  - (ii) has been informed of the AFM hours under the operator's AFM accreditation.
- (5) The application must also be accompanied by a declaration, declared to be made by the operator after taking all reasonable steps to ascertain the following information, of the operator's knowledge of whether:
  - (a) in the 5 years immediately before the application was made, any of the following persons has contravened this Part, a corresponding fatigue law, or an Australian applicable road law and, if so, details of the contravention:
    - (i) the operator,
    - (ii) an associate of the operator, and
  - (b) any of the following persons has had their BFM or AFM accreditation varied or cancelled and, if so, details of the variation or cancellation:
    - (i) the operator,
    - (ii) an associate of the operator.
- (6) The application must also be accompanied by an application fee approved by the Authority.
- (7) The Authority, by written notice to the operator, may require the operator to give the Authority any necessary additional information.

**110 Granting AFM accreditation**

- (1) The Authority must decide an application for AFM accreditation as soon as practicable after the Authority receives the application.
- (2) The Authority may grant AFM accreditation to the operator of a regulated heavy vehicle if it is satisfied that:
  - (a) the operator is able to comply with this Part, and
  - (b) the operator is a suitable person to be granted AFM accreditation, and
  - (c) the driver fatigue management practices (including proposed work and rest hours) stated in the operator's AFM fatigue management proposal would, if followed, safely manage the risk of driver fatigue, and

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- (d) the operator and drivers are likely to follow those practices consistently and effectively.
- (3) For this purpose, the Authority may take into account anything it considers is relevant, including (but not limited to) the following:
- (a) any details provided under clause 109 (5),
  - (b) the results of any audits carried out on the operator's AFM fatigue management system, or proposed AFM fatigue management system,
  - (c) for the purposes of assessing the operator's AFM fatigue management proposal—any relevant body of fatigue knowledge.
- (4) In granting AFM accreditation to the operator of a regulated heavy vehicle, the Authority must have regard:
- (a) to any relevant advice given to it by the Fatigue Authorities Panel, and
  - (b) to any guidelines in relation to AFM accreditation issued by the Fatigue Authorities Panel by notice published in the Commonwealth Government Gazette.
- (5) In approving the work and rest hours limits that are applicable to a particular AFM accreditation, the Authority:
- (a) must be satisfied that the limits appear to provide a safe balance between work, rest, risk management and fatigue countermeasures, and
  - (b) must not set limits that:
    - (i) allow a driver to work more than the work time allowed, or to have less than the rest time required, in the AFM outer limits, or
    - (ii) the Authority considers would be unsafe, having regard to the operator's AFM fatigue management proposal and any relevant body of fatigue knowledge.
- (6) If the Authority grants the AFM accreditation, it must give the operator an accreditation certificate in the form approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette that:
- (a) certifies that the operator has been granted AFM accreditation, and
  - (b) sets out the details of that accreditation, including the work and rest hours limits that apply to the accreditation.

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- (7) The accreditation takes effect:
    - (a) when the accreditation certificate is given to the applicant, or
    - (b) at a later time stated in the certificate.
  - (8) The AFM accreditation applies for the period (not longer than 3 years) stated in the AFM accreditation certificate.
  - (9) If the Authority refuses to grant an AFM accreditation, it must give the applicant a written notice that:
    - (a) states the reasons for the refusal, and
    - (b) tells the operator that the operator may apply to have the decision reconsidered.

**111 Conditions of AFM accreditation**

- (1) Every AFM accreditation is subject to the condition that the operator must comply with the AFM standards and business rules.
- (2) An AFM accreditation is also subject to any other conditions stated in the accreditation certificate.
- (3) A person who is granted an AFM accreditation must not contravene a condition of the AFM accreditation.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**112 Driver must carry AFM accreditation details**

- (1) At all times while working under an operator's AFM accreditation, a driver must have in his or her possession:
  - (a) a copy of the operator's accreditation certificate, and
  - (b) a document signed by the operator stating that the driver is working under the operator's accreditation, has been inducted into the operator's AFM fatigue management system and meets the requirements relating to drivers under the accreditation, and
  - (c) a document that sets out the AFM hours allowed under the accreditation.

Maximum penalty: 15 penalty units.

- (2) The operator must ensure each of the drivers driving under the operator's AFM accreditation do not contravene subclause (1).

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Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (3) A driver must immediately return to an operator any document given to him or her by the operator for the purposes of subclause (1) (a) or (b) if the driver:
- (a) ceases to work under an operator's AFM accreditation, or
  - (b) ceases to meet the requirements relating to drivers under that accreditation.

Maximum penalty: 15 penalty units.

**113 Information that operator must record**

- (1) An operator must ensure that each driver who is currently under the operator's AFM accreditation:
- (a) is inducted into the operator's AFM fatigue management system and informed of the AFM hours under the operator's AFM accreditation, and
  - (b) meets the requirements relating to drivers under the operator's AFM accreditation.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (2) An operator must keep:
- (a) a current list of the drivers under the operator's AFM accreditation, and
  - (b) records that demonstrate that any such driver:
    - (i) has been inducted into the operator's AFM fatigue management system and informed of the AFM hours under the operator's AFM accreditation, and
    - (ii) meets requirements relating to drivers under the particular accreditation.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (3) The records must be kept in accordance with the requirements of Subdivision 3 of Division 4.

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- (4) If required to do so by the Authority, the operator must give to the Authority, in the form and within the time specified by the Authority:
- (a) a copy of the list of drivers kept by the operator under subclause (2) (b), and
  - (b) details of any changes to that list.
- Maximum penalty:
- (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.

**114 Operator must advise of change or end of accreditation**

If an operator who has an AFM accreditation changes or ceases to hold that accreditation, the operator must inform any driver or scheduler who may be affected by that change or cessation of the fact that the change or cessation has happened, as soon as practicable after the change or cessation happens.

Maximum penalty:

- (a) in the case of an individual—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), and
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) or 150 penalty units (in the case of a second or subsequent offence).

**Subdivision 2 Exemptions**

**115 Exemptions for emergency services**

- (1) This clause applies in an emergency.
- (2) An *emergency* is an event (or an anticipated event) that:
  - (a) endangers, or may endanger, life, property or the environment, or
  - (b) has disrupted, or may disrupt, communications, energy, water supply or sewerage services, or
  - (c) is declared to be an emergency or disaster by:
    - (i) the Commonwealth or a State or Territory, or
    - (ii) a Commonwealth, State or Territory authority responsible for managing responses to emergencies or disasters.

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- (3) A person who is acting for an emergency service and who has any time-critical duties on the way to, or during, an emergency is exempted from the following provisions:
    - (a) Division 3 (Duties relating to work and rest times),
    - (b) Division 4 (Duties relating to record keeping), except Subdivision 4 (False work records etc).
  - (4) A person who is returning from attending an emergency is not exempted from the provisions listed in subclause (3).
  - (5) An *emergency service* is any organisation that has a statutory responsibility to respond to an emergency and includes:
    - (a) an ambulance service, and
    - (b) an emergency auxiliary, and
    - (c) a fire brigade, including a volunteer fire brigade, and
    - (d) a police service or force, and
    - (e) a disaster or emergency organisation of the Commonwealth or a State or Territory.

**116 What is an exemption**

- (1) An *exemption* is a work and rest hours exemption or a work diary exemption.
- (2) A reference to:
  - (a) an *exemption* includes a reference to the exemption as varied, and
  - (b) a *variation* of an exemption includes a reference to a variation of a condition of the exemption by addition, omission or substitution.

**117 Work and rest hours exemptions**

- (1) A *work and rest hours exemption* is an exemption from complying with any restrictions imposed under this Part in relation to work time or rest time.
- (2) In granting a work and rest hours exemption, the Authority must specify the work and rest times that are to apply to a person to whom the exemption applies.
- (3) The Authority may grant a work and rest hours exemption to:
  - (a) an employer, prime contractor, operator or a self-employed driver who applies for the exemption, or

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- (b) a class of persons, without the need for anyone to apply for the exemption.
- (4) An employer, prime contractor, operator or self-employed driver may apply to the Authority in accordance with clause 119 for a work and rest hours exemption.
- (5) The application must also:
  - (a) name any drivers, or describe any class of drivers, to be covered by the exemption, and
  - (b) state the proposed work and rest times that would be followed by the applicant and the drivers working under the exemption, and
  - (c) if the proposed work and rest times could be accommodated within a BFM or AFM accreditation:
    - (i) state the driver fatigue management practices that would be followed by the applicant and the drivers working under the exemption if it were given, and
    - (ii) show that the practices would safely manage fatigue risks, and
    - (iii) show that a BFM or AFM accreditation would be unreasonable for the proposed operation in safely managing fatigue risks, and
  - (d) if the proposed work and rest times exceed the maximum work time or are less than the minimum rest time in the AFM outer limits:
    - (i) state the driver fatigue management practices that would be followed by the applicant and the drivers working under the exemption if it were given, and
    - (ii) show that the practices would safely manage the fatigue risks.
- (6) The Authority may grant a work and rest hours exemption in relation to a person or class of persons if the Authority considers that:
  - (a) compliance with the provision would be an unreasonable restriction on operations conducted by the person or class of persons, and
  - (b) the driver fatigue management practices that are to apply to the person or class of person under the exemption would, if followed, safely manage fatigue risks, and
  - (c) the person or class of persons, and drivers, are likely to follow those practices consistently and effectively, and



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- (d) if the proposed work and rest times could be accommodated within BFM or AFM hours—BFM or AFM accreditation would be unreasonable for the proposed operation in safely managing fatigue risks.
- (7) The Authority may grant a work and rest hours exemption in combination with an operator's BFM or AFM accreditation.
- (8) If the Authority grants a work and rest hours exemption in combination with an operator's BFM or AFM accreditation, it is a condition of the exemption that a driver must not work under the exemption unless the driver and the operator comply with all the requirements imposed on them under that accreditation.
- (9) In any period specified in a work and rest hours exemption, the driver to whom the exemption applies:
- (a) must not work for more than the maximum work time specified in the exemption, and
  - (b) must have at least the minimum rest time specified in the exemption.
- Maximum penalty:
- (a) in relation to a minor risk offence—10 penalty units (in the case of a first offence) or 20 penalty units (in the case of a second or subsequent offence), or
  - (b) in relation to a substantial risk offence—15 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence), or
  - (c) in relation to a severe risk offence—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), or
  - (d) in relation to a critical risk offence—25 penalty units (in the case of a first offence) or 50 penalty units (in the case of a second or subsequent offence).
- (10) A contravention of subclause (9) in relation to a period referred to in Column 1 of the Table to this clause is an offence of the risk category determined in accordance with Column 4 of the Table.
- (11) A person accused of an offence under this clause does not have the benefit of the mistake of fact defence.

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**Work and rest hours exemption—Penalties**

Column 1	Column 2	Column 3	Column 4
Total period	Maximum work	Minimum rest time	Offence category
In any period of	If a driver has exceeded the maximum work time by...	If a driver had had less than the minimum rest time by...	...the following category of offence is committed...
<b>Less than 7 days</b>	≤ 45 mins work time	≤ 45 mins rest time	minor risk
	> 45 but ≤ 75 mins work time	> 45 but ≤ 75 mins rest time	substantial risk
	> 75 but ≤ 90 mins work time	> 75 but ≤ 90 mins rest time	severe risk
	> 90 mins work time	> 90 mins rest time	critical risk
<b>7 days or more</b>	≤ 1½ hours work time		minor risk
	> 1½ but ≤ 2½ hours work time		substantial risk
	> 2½ but ≤ 3 hours work time		severe risk
	> 3 hours work time		critical risk

**118 Work diary exemptions**

- (1) The Authority may grant a *work diary exemption* to exempt a driver from complying with Subdivision 2 (Work diary requirements) of Division 4.
- (2) The Authority may grant a work diary exemption to:
  - (a) a class of persons, without the need for anyone to apply for the exemption, or
  - (b) the following persons who apply for the exemption:
    - (i) a driver who is driving under standard hours,

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- (ii) the employer of an employed driver who is driving under standard hours.
  - (3) The application must be made to the Authority in accordance with this Subdivision.
  - (4) The application must also:
    - (a) nominate a person (the *nominee*) to make written work records for the driver, and
    - (b) must be accompanied by the nominee's written agreement to the nomination.
  - (5) The Authority may grant a work diary exemption on application if the Authority is satisfied:
    - (a) the driver cannot make records in the driver's work diary because of inadequate English literacy, and
    - (b) the nominee will be able to make records that are no less complete or accurate than records made in accordance with Subdivision 2 of Division 4.

**119 Applying for an exemption**

- (1) An application for an exemption must be made to the Authority in writing.
- (2) The application must state:
  - (a) the applicant's full name, and
  - (b) the type of exemption being sought, and
  - (c) if the applicant is a driver—the address of the driver's base and record location, and
  - (d) if the applicant is an employer—the address of the record location for the drivers to be covered by the application, and
  - (e) the period for which the exemption is sought, and
  - (f) any conditions to which the exemption is sought to be subject.
- (3) The Authority, by written notice to the applicant, may require the applicant to give the Authority any necessary additional information.

**120 Granting an exemption**

- (1) The Authority must decide an application for an exemption as soon as practicable after the Authority receives the application.

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- (2) If the Authority decides to grant an exemption, the Authority must:
    - (a) give the applicant a written exemption, or
    - (b) if the Authority grants the exemption to a class of persons—publish the exemption in the Gazette.
  - (3) An exemption takes effect:
    - (a) when the exemption is given to the applicant, or
    - (b) at a later time stated in the exemption, or
    - (c) in the case of an exemption granted to a class of persons—on the date that the exemption is published in the Gazette.
  - (4) The exemption applies for the period (not longer than 3 years) stated in the exemption.
  - (5) If the Authority decides not to grant the exemption, the Authority must give the applicant a written notice that states:
    - (a) the Authority's decision, and
    - (b) the reasons for the decision, and
    - (c) that the applicant may apply to have the decision reconsidered.

**121 Driver must carry exemption**

- (1) At all times while working under an exemption, a driver must have in his or her possession a copy of the exemption.
 

**Note.** An authorised officer or police officer may direct a driver to produce a record required to be kept by the driver—see section 150 of the Act.
- (2) The employer of an employed driver, the prime contractor of a self-employed driver and the operator of a regulated heavy vehicle that is being, or is to be, driven by a driver must ensure the driver does not contravene subclause (1).
- (3) If the exemption has been granted to an employer, an employed driver working under the exemption must return the copy of the exemption to the employer if the driver:
  - (a) ceases to work for the employer or under the exemption, or
  - (b) ceases to meet the requirements relating to drivers under the exemption.

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- (4) If the exemption has been granted to a prime contractor, a self-employed driver working under the exemption must return the copy of the exemption to the prime contractor if the driver:
- (a) ceases to work for the prime contractor or under the exemption, or
  - (b) ceases to meet the requirements relating to drivers under the exemption.
- (5) If the exemption has been granted to an operator, a driver working under the exemption must return the copy of the exemption to the operator if the driver:
- (a) ceases to work under the exemption, or
  - (b) ceases to meet the requirements relating to drivers under the exemption.

**Note.** Clause 117 (7) provides that a work and rest hours exemption may be granted in combination with BFM or AFM accreditation.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**122 Conditions of exemptions**

- (1) An exemption is subject to any conditions stated in the exemption or specified in this Part.
- (2) A person who is granted an exemption must not contravene a condition of the exemption.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**Subdivision 3 Variation, suspension or cancellation of accreditation or exemptions**

**123 Variation or cancellation of accreditation or exemption—on application**

- (1) An application for variation or cancellation of an accreditation or exemption granted to an individual must be made to the Authority in writing.
- (2) The application must:
  - (a) if the application is for a variation—state clearly what variation is sought and outline the reasons for the application, and

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- (b) be accompanied by the accreditation certificate or exemption.
- (3) The Authority, by written notice given to the applicant, may require the applicant to give the Authority any necessary additional information.
- (4) The Authority must decide the application as soon as practicable after the Authority receives it.
- (5) If the Authority decides to grant the application, the Authority must give the applicant written notice of that decision.
- (6) The variation or cancellation takes effect:
  - (a) when written notice of the decision is given to the applicant, or
  - (b) at a later time stated in that written notice.
- (7) If the Authority does not make the decision sought by the applicant, the Authority must also give the applicant a written notice that states:
  - (a) the Authority's decision, and
  - (b) the reasons for the decision, and
  - (c) that the applicant may apply to have the decision reconsidered.

**124 Grounds for variation—without application**

- (1) The Authority may vary an accreditation or exemption granted to an individual, without receiving an application, if the Authority is reasonably satisfied that one of the following grounds exists:
  - (a) that the application for the accreditation or exemption was false or misleading in a material respect, but the circumstances do not require its cancellation,
  - (b) that a person to whom the accreditation or exemption applies is not suitable to be a person to whom the accreditation applies without variation,
  - (c) that the person has contravened this Part, a corresponding fatigue law or any regulations made under a corresponding fatigue law,
  - (d) in the case of an exemption, that:
    - (i) since the exemption was given, a change has happened in relation to something the Authority must consider in deciding whether to give an exemption of that kind, and

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- (ii) the exemption would have been given as it is proposed to be varied if the change had happened before the exemption was given.

- (2) This clause does not apply to:
  - (a) an application for variation of an accreditation or exemption, or
  - (b) a work and rest hours exemption granted to a class of persons.

**125 Grounds for cancellation—without application**

- (1) The Authority may cancel an accreditation or exemption granted to an individual, without receiving an application, if the Authority is reasonably satisfied that 1 of the following grounds exists:
  - (a) that the application for the accreditation or exemption was false or misleading in a material respect,
  - (b) that a person to whom the accreditation or exemption applies is not suitable to be a person to whom the accreditation or exemption applies,
  - (c) that the person has contravened this Part, a corresponding fatigue law or any regulations made under a corresponding fatigue law,
  - (d) in the case of an exemption, that:
    - (i) since the exemption was given, a change has happened in relation to something the Authority must consider in deciding whether to give an exemption of that kind, and
    - (ii) the exemption would not have been given if the change had happened before the exemption was given.
- (2) This clause does not apply to:
  - (a) an application for variation of an accreditation or exemption, or
  - (b) a work and rest hours exemption granted to a class of persons.

**126 Variation or cancellation of accreditation or individual exemption—without application**

- (1) This clause applies if the Authority is satisfied that a ground exists to vary or cancel an accreditation or exemption under this Subdivision.

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- (2) The Authority must give the person who holds the accreditation or exemption a written notice that:
  - (a) states the proposed variation or cancellation, and
  - (b) states the ground for the proposed variation or cancellation, and
  - (c) outlines the facts and other circumstances forming the basis for the ground, and
  - (d) invites the person to state in writing, within a specified time of at least 14 days after the notice is given to the person, why the accreditation or exemption should not be varied or cancelled.
- (3) If, after considering any written statement made within the specified time, the Authority is reasonably satisfied that a ground exists to take the proposed action, the Authority may:
  - (a) if the proposed action is to vary the accreditation or exemption in a stated way—vary the accreditation or exemption in that way, and
  - (b) if the proposed action is to cancel the accreditation or exemption—cancel the accreditation or exemption or vary the accreditation or exemption in any way.
- (4) The Authority must give the person written notice of the Authority's decision.
- (5) If the Authority decides to vary or cancel the accreditation or exemption, the Authority must also give the person a written notice that states:
  - (a) the reasons for the decision, and
  - (b) that the person may apply to have the decision reconsidered.
- (6) The variation or cancellation takes effect:
  - (a) when written notice of the decision, and the reasons for the decision, is given to the person, or
  - (b) at a later time stated in that written notice.

**127 Immediate suspension of accreditation or an individual exemption in public interest**

- (1) The Authority may immediately suspend an accreditation or exemption granted to an individual, by giving a written notice to the holder of the accreditation or exemption, if the Authority considers it necessary in the interest of public safety.



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- (2) The accreditation or exemption may be suspended until the earlier of the following:
    - (a) the end of 56 days after written notice is given under subclause (1),
    - (b) the Authority gives the operator a written notice under clause 126 (2).
  - (3) This clause applies despite clause 126.
  - (4) This clause does not apply to a work and rest hours exemption granted to a class of persons.

**128 Variation or cancellation of an exemption granted to a class of persons**

- (1) This clause applies to a work and rest hours exemption granted to a class of persons.
- (2) The Authority may vary or cancel the exemption by publishing a notice in the Gazette if the Authority considers that the exemption is no longer necessary or justified.

**129 Return of accreditation certificate or exemption**

- (1) If an accreditation certificate or exemption granted to an individual is varied or cancelled, the Authority may, by written notice, require the person to return the accreditation certificate or exemption to the Authority.
- (2) The person must comply with the notice within 7 days after the notice is given to the person or, if a longer period is stated in the notice, within the longer period.  
Maximum penalty:
  - (a) in the case of an individual—15 penalty units, and
  - (b) in the case of a corporation—75 penalty units.
- (3) If the accreditation or exemption has been varied, the Authority must give the person a replacement accreditation certificate or exemption.

**Subdivision 4 Replacement of lost etc accreditation certificates or exemptions**

**130 Replacement of lost etc accreditation certificates or exemptions**

- (1) If an accreditation certificate or exemption is defaced, destroyed, lost or stolen, the person who is the holder of the certificate or

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exemption must apply to the Authority for a replacement accreditation certificate or exemption.

- (2) If the Authority is satisfied that the accreditation certificate or exemption given to the person has been defaced, destroyed, lost or stolen, the Authority must give the person a replacement accreditation certificate or exemption as soon as practicable.
- (3) If the Authority decides not to give a replacement accreditation certificate or exemption to the person, the Authority must give the person a written notice that states:
  - (a) the reasons for the decision, and
  - (b) that the person may apply to have the decision reconsidered.

### **Subdivision 5 Offences relating to accreditation etc**

#### **131 Offence to falsely represent that accreditation etc held**

- (1) A person must not falsely represent:
  - (a) that he or she holds an accreditation or exemption that he or she does not hold, or
  - (b) that he or she is working under an accreditation or exemption that he or she is not entitled to work under.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (2) A person must not represent that he or she is working under an accreditation or exemption if that accreditation or exemption is no longer in force.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (3) A person must not possess a document that falsely purports to be:
  - (a) an accreditation or exemption under this Part, or
  - (b) a copy of an accreditation or exemption under this Part, or
  - (c) a document of the sort required by clause 106 (1) (b) (Driver must carry BFM accreditation documents) or 112 (1) (b) (Driver must carry AFM accreditation details).

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Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**132 Offences relating to auditors**

- (1) A person must not falsely represent that he or she is an auditor of a class approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (2) A person must not falsely represent that he or she has audited an operator's BFM or AFM fatigue management system.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

- (3) A person must not falsely represent the opinion of an auditor in relation to an operator's BFM or AFM fatigue management system.

Maximum penalty:

- (a) in the case of an individual—15 penalty units, and
- (b) in the case of a corporation—75 penalty units.

**Division 6 Decision-making provisions**

**Subdivision 1 Referral and mutual recognition of decisions**

**133 Referral of matters to Fatigue Authorities Panel**

- (1) This clause applies if:
  - (a) the Authority proposes to make a decision that may, or is intended to, have application in:
    - (i) another participating jurisdiction, or
    - (ii) more than one other participating jurisdiction, and
  - (b) the decision relates to:
    - (i) the grant of an AFM accreditation or an exemption, or

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- (ii) the variation, suspension or cancellation of a BFM accreditation, AFM accreditation or an exemption, if the original grant of the accreditation or exemption was made by a corresponding Authority.
- (2) The Authority must inform the Fatigue Authorities Panel of the proposed decision.
- (3) The Panel may make a recommendation to the Authority about the proposed decision.
- (4) If the Panel gives the Authority written notice of the recommendation and the reasons for the recommendation, the Authority must take note of the recommendations of the Panel when making the decision.
- (5) The Authority may refer any other matter under this Part to the Panel for consideration.

**134 Mutual recognition of certain decisions**

- (1) This clause applies to a decision of a corresponding Authority that is in force, and was made:
  - (a) under a provision of a corresponding fatigue law that corresponds to a provision of the following clauses:
    - (i) clause 93 (Issue of written work diaries),
    - (ii) clause 94 (Approval of electronic work diaries),
    - (iii) clause 104 (Granting BFM accreditation), or
  - (b) about the variation or cancellation of the approval of an electronic work diary, or
  - (c) about the variation, suspension or cancellation of a BFM accreditation, AFM accreditation or exemption that was originally granted by the corresponding Authority.
- (2) Except for circumstances that do not exist in this jurisdiction, the decision has effect in this jurisdiction as if it were a decision made by the Authority.

**135 Mutual recognition of other decisions**

- (1) This clause applies to:
  - (a) a decision of a corresponding Authority to which clause 134 does not apply that is in force in the other jurisdiction, or
  - (b) a recommendation of the Panel in accordance with clause 133.

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- (2) Except for circumstances that do not exist in this jurisdiction, the Authority may decide whether the decision or recommendation is to have effect in this jurisdiction as if it were a decision made by the Authority.
  - (3) A decision by the Authority under subclause (2) must be made in writing and is subject to any variations or conditions specified by the Authority.

## **Subdivision 2 Notification and recording of decisions**

### **136 Notifying other Authorities of decisions**

- (1) This clause applies if the Authority makes a decision about:
  - (a) the grant, variation, suspension or cancellation of a BFM accreditation, AFM accreditation or exemption, or
  - (b) the approval, variation of an approval, or cancellation of an approval, of an electronic work diary.
- (2) The Authority must give written notice of the decision to every corresponding Authority in the participating zone.
- (3) If the Authority decides not to follow a recommendation of the Panel, or decides to apply a recommendation of the Panel subject to variations or conditions, the Authority must give written notice of the reasons for its decision to every corresponding Authority in the participating zone.

### **137 Register of decisions**

- (1) The Authority must keep a register of decisions currently in force in this jurisdiction if the decision:
  - (a) was made by the Authority under this Part, or
  - (b) has effect in this jurisdiction under clause 134 and the Authority has received written notice of that decision under clause 136, or
  - (c) has effect in this jurisdiction under clause 135.
- (2) The Authority must record the cancellation or variation of any recorded decision in the register.

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### Subdivision 3 Reconsideration and review of decisions

#### 138 Decisions that may be reconsidered and reviewed

The following decisions of the Authority are decisions to which this Subdivision applies:

Item	Clause under which decision made	Brief description of decision
1	104	decision not to grant BFM accreditation
2	104, 110 or 120	decision to give an accreditation or exemption for less than 3 years or the period sought by the applicant
3	105	decision to give a BFM accreditation subject to a condition (other than a statutory condition) not sought by the applicant
4	110	decision not to grant AFM accreditation
5	111	decision to give AFM accreditation subject to a condition (other than a statutory condition) not sought by the applicant
6	120	decision not to give a work diary exemption
7	120	decision not to give a work and rest hours exemption (or not to give the exemption for an employed driver sought to be covered by the exemption)
8	120	decision to give an exemption subject to a condition not sought by the applicant
9	121	decision not to vary or cancel an accreditation or exemption on application
10	126	decision to vary or cancel an accreditation or exemption except on application
11	130	decision not to give a replacement accreditation certificate or exemption

#### 139 Reconsideration of decisions

- (1) A person affected by a decision to which this Subdivision applies (an *initial decision*) may ask the Authority in writing to reconsider the decision.

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- (2) The request must be made within:
    - (a) 28 days after the person, or someone else affected by the decision, was told of the initial decision, and given reasons for the decision, by the Authority, or
    - (b) any longer period allowed by the Authority.
  - (3) The request must state the decision sought by the person and outline why the decision should be made.
  - (4) The Authority must reconsider the initial decision and:
    - (a) confirm the decision, or
    - (b) vary the decision, or
    - (c) set the decision aside and substitute a new decision.
  - (5) If the decision was made in accordance with a recommendation of the Fatigue Authorities Panel or another Authority, the Authority must inform the Panel or other Authority of the decision that the Authority proposes to make.
  - (6) The Panel or other Authority may make a recommendation to the Authority about the proposed decision.
  - (7) The Panel or other Authority must give the Authority written notice of the recommendation and the reasons for the recommendation within 21 days after being informed of the proposed decision.
  - (8) The Authority must take note of the recommendations of the Panel or other Authority when making the decision.
  - (9) Within 28 days after receiving the request, the Authority must give the person a written notice that states:
    - (a) the result of the reconsideration, and
    - (b) if the Authority does not make the decision sought by the person—the reasons for the reconsidered decision.

**140 Appeal against decisions to Local Court**

- (1) A person dissatisfied with a decision to which this Subdivision applies may appeal against the decision to the Local Court by lodging a notice of appeal with a registrar of the Court not later than 28 days after being notified of the decision.
- (2) A notice of appeal under this clause is to specify the grounds of the appeal.

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- (3) The registrar must give notice of the time and place of the hearing of any appeal under this clause to the Authority and to the appellant, and in the notice to the Authority is to inform the Authority of the grounds of the appeal.
- (4) The time of the hearing of an appeal under this clause must be not earlier than 21 days after the date on which the notice under subclause (3) is given to the Authority.
- (5) The hearing of an appeal under this clause may proceed despite any omission or error in a notice under subclause (4), or the failure to give any such notice, if the Court is satisfied that the appellant and the Authority had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.
- (6) The Local Court is to hear and determine an appeal made to it under this clause and may confirm (with or without variation) or disallow the decision appealed against, or make such other order in the circumstances as to the Court seems just.
- (7) The decision of the Local Court in respect of an appeal made under this clause is final and is binding on the appellant and on the Authority.

## **Division 7      Miscellaneous**

### **Subdivision 1    General**

#### **141    Duty of officers to annotate driver's work diary**

- (1) This clause applies if an authorised officer stops a driver for compliance purposes using a power conferred on the officer by the Act.
- (2) If the officer detains the driver for a period of 5 minutes or longer, the driver may ask the officer to record the following details in the driver's work diary:
  - (a) if the officer is not a police officer—the officer's identification details as specified on the officer's identification card,
  - (b) if the officer is a police officer—either of the following (at the officer's choice):
    - (i) the officer's identification details as specified in the officer's police identification,
    - (ii) the police officer's name and place of duty,



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- (c) the time, date and place at which the officer stopped the driver,
  - (d) the length of time that the driver was stopped while the officer exercised his or her enforcement powers.
- (3) An officer must comply with a request made under subclause (2).
  - (4) If more than one driver has been stopped at a place, and the drivers are spoken to by an officer in the order in which they were stopped, the counting of time for the purposes of subclause (2) only starts once the officer begins to speak to the driver for the purpose of pursuing any matter in respect of which the driver was stopped.
  - (5) In this clause, *compliance purposes* has the same meaning as it has in the Act.
 

**Note.** Essentially a power is exercised for compliance purposes if it is used to find out whether laws are being complied with or to investigate breaches or suspected breaches of laws. Thus this clause does not apply if an officer stops a vehicle, for instance, when there is a road block, an accident or a detour.

**142 Provisions relating to first offences and second or subsequent offences**

- (1) This clause determines whether, for the purposes of this Part, an offence is:
  - (a) a first offence, or
  - (b) a second or subsequent offence.
- (2) A person is found guilty of a second or subsequent offence if, and only if, the occasion when the second or subsequent offence occurred:
  - (a) was different from the occasion when the first offence for which the person was found guilty occurred, and
  - (b) was within 3 years of the occasion of the first offence.
- (3) The order in which the offences were committed is immaterial.
- (4) It is also immaterial whether or not the offences were subject to the same penalties.
- (5) If the court is satisfied that a person is guilty of an offence but cannot determine (from the information available to the court) whether the offence is a first offence for which the person was found guilty, the court may only impose a penalty for the offence as if it were a first offence.

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- (6) When determining whether a person has previously been found guilty of an offence under this Part, the court must have regard to a finding of guilt for an offence committed under corresponding provisions of a corresponding law.

## Subdivision 2 Savings and transitional provisions

### 143 Definitions

In this Subdivision:

*corresponding TFMS* has the same meaning as it had in the repealed Regulation.

*Fatigue Management Scheme exemption* means a FMS exemption under the repealed Regulation.

*repealed Regulation* means the *Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999*.

*TFMS* means the Transitional Fatigue Management Scheme established under the repealed Regulation.

### 144 TFMS applications

- (1) This clause applies if, immediately before the commencement of this clause:
- (a) the Authority had an application for TFMS registration from a driver or employer, and
  - (b) the Authority had not yet decided the application.
- (2) The application is taken to have been withdrawn.

### 145 Period of grace for certain drivers

- (1) Despite anything to the contrary in this Part, until the expiry of the period ending 12 months after the commencement of this clause:
- (a) a driver who was registered as a participant in TFMS or a corresponding TFMS may drive at BFM hours, and
  - (b) a driver who was subject to a Fatigue Management Scheme exemption under the repealed Regulation may drive at the hours approved in the exemption.
- (2) Subclause (1) (a) does not apply at any time that the driver is in breach of any condition or requirement of the TFMS or a corresponding TFMS, as the case may be.

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- (3) Subclause (1) (b) does not apply at any time that the driver is in breach of any condition or requirement of the Fatigue Management Scheme exemption, or if the exemption is cancelled.
  - (4) For the purposes of this clause, a driver is not in breach of any condition or requirement referred to in subclause (2) or (3) if, instead of recording any entry the driver was required to record in a logbook, the driver records the entry in a work diary issued under this Part.
  - (5) For the purposes of this clause, if a driver's employer has yet to obtain BFM accreditation, it is sufficient compliance with any requirement of this Part to record a BFM accreditation number if the employer's TFMS or Fatigue Management Scheme exemption (as the case may be) registration number is recorded instead.

**146 Applications for reconsideration by Authority**

- (1) This clause applies if, immediately before the commencement of this clause:
  - (a) the Authority had an application for reconsideration of a decision, and
  - (b) the Authority had not yet decided the application.
- (2) The Authority may decide the application as if this Part had not commenced.

**147 Exemption applications**

- (1) This clause applies if, immediately before the commencement of this clause:
  - (a) the Authority had:
    - (i) an application for a limited driving hours exemption or logbook exemption, or
    - (ii) an application for variation or cancellation of a limited driving hours exemption or logbook exemption, and
  - (b) the Authority had not yet decided the application.
- (2) The application is taken to have been made, and may be decided, under this Part.

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**148 Existing exemptions continue**

- (1) This clause applies if, immediately before the commencement of this clause, a limited driving hours exemption or logbook exemption applied to a person under the repealed Regulation.
- (2) The exemption is taken to have been made under this Part, if it could have been made under this Part.
- (3) Unless cancelled sooner under subclause (4), the exemption continues to apply:
  - (a) for the period stated in the exemption, or
  - (b) if the exemption does not state a period, for 3 years after the exemption took effect.
- (4) The Authority may cancel an exemption to which this clause applies:
  - (a) in the case of an exemption granted to an individual, by giving the person holding the exemption a written notice stating that it has cancelled the exemption, or
  - (b) in any other case, by publishing a notice in the Gazette stating that the exemption is cancelled.

**149 Existing logbooks**

- (1) A driver may continue to use a logbook issued under the repealed Regulation as if it was a work diary for the purposes of this Part:
  - (a) if the driver is working under standard hours—for 90 days after the commencement of this clause or until the driver has obtained a work diary, whichever occurs first, or
  - (b) if the driver is working under BFM hours (as permitted by clause 145 (Period of grace for certain drivers))—for 90 days after the commencement of this clause or until the driver has obtained a work diary, whichever occurs first, or
  - (c) if the driver is working under BFM hours in any other circumstance or under AFM hours—for 14 days after the commencement of this clause or until the driver has obtained a work diary, whichever occurs first.
- (2) A driver who is using a logbook under subclause (1) must comply with Part 4 of the repealed Regulation as if that Part continued to apply.
- (3) If a driver is working under the hours specified in a Fatigue Management Scheme exemption under the repealed Regulation (as permitted by clause 145 (Period of grace for certain drivers)), the driver may continue to use a document specified in that

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exemption as if it was a work diary for the purposes of this Part for the period specified in that clause or until the exemption is cancelled.

- (4) For the purposes of this section:
- (a) a reference in clause 81 (Information that record keeper must record) to a work diary is to be read as if it was a reference to the logbook, and
  - (b) if the driver is working under BFM hours (as permitted by clause 145 (Period of grace for certain drivers))—the driver's employer is the record keeper for the purposes of clause 81, and
  - (c) reference in clause 93 (Issue of written work diaries) to an existing written work diary is to be read as if it was a reference to the logbook.

**150 Record keeping obligations continue**

An obligation on an employer or a self-employed driver to keep copies of a driver's driving records made under the repealed Regulation continues for 12 months after the commencement of this clause as if clause 61 or 62 of the repealed Regulation continued to apply.

**Part 7 Heavy vehicle speeding compliance**

**Division 1 Object**

**151 Object**

- (1) The object of this Part is to improve road safety and compliance with road safety laws by imposing responsibility in relation to speeding by heavy vehicles on those whose business activities influence the conduct of the drivers of those vehicles.
- (2) For the purposes of that object, this Part:
  - (a) requires those who are most directly responsible for the operation of a heavy vehicle to take reasonable steps to ensure that their activities do not cause the driver to exceed speed limits, and
  - (b) requires anyone who schedules the activities of a heavy vehicle, or its driver, to take reasonable steps to ensure that the schedule of the vehicle and the driver does not cause the driver to exceed speed limits, and

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- (c) requires heavy vehicle loading managers to take reasonable steps to ensure that the loading or unloading arrangements for a vehicle do not cause the driver of the vehicle to exceed speed limits, and
  - (d) requires certain persons who consign goods for transport by heavy vehicle, or who receive such goods, to take reasonable steps to ensure that the terms of consignment of those goods do not cause heavy vehicle drivers to exceed speed limits, and
  - (e) forbids anyone from asking a heavy vehicle driver to exceed speed limits and from entering into any agreement that causes a heavy vehicle driver to exceed speed limits.

**Note.** This Part does not impose any obligations on employed drivers. Drivers of heavy vehicles are required to obey speed limits imposed under the Australian Road Rules, or as a condition of a permit or exemption that applies to a vehicle. Penalties on drivers for failing to comply with speed limits include demerit points, licence suspension, cancellation or disqualification, and fines.

## 152 Definitions

In this Part:

**consignee** has the same meaning as it has in section 20 of the Act.

**consignor** has the same meaning as it has in section 20 of the Act.

**driver** means the driver of a heavy vehicle and includes an employed driver and a self-employed driver.

**Note.** **Driver** is defined in the Act.

**employed driver** means a driver who is employed by someone else to drive a heavy vehicle.

**employer** means a person who engages someone else to drive a heavy vehicle under a contract of employment, apprenticeship or training.

**Note.** Example of an employer—A labour hire company.

**Note.** **Heavy vehicle** is defined in the Act.

**loading manager** means a person who:

- (a) manages, or who is responsible for the operation of, a premises at which usually on a business day at least 5 heavy vehicles are loaded with goods for transport, or have goods that the vehicles have transported unloaded, or
- (b) directly or indirectly supervises, manages or controls the loading or unloading of heavy vehicles at such a premises.

**Note.** Examples of a loading manager—A company that runs, or a site manager for, a distribution centre.

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**Note.** Example of calculation of vehicle numbers—At a premises on a usual business day, 3 heavy vehicles are loaded with goods, and 3 other heavy vehicles have goods that have been transported to the premises unloaded. The manager of the premises is a loading manager because at least 5 vehicles are usually loaded or unloaded at the premises on a business day.

**operator**, in relation to a regulated heavy vehicle, means a person who is responsible for controlling or directing the operations of:

- (a) in the case of a vehicle (including a vehicle in a combination)—the vehicle, or
- (b) in the case of a combination—the towing vehicle in the combination,

but does not include a person merely because the person:

- (c) owns the vehicle or combination, or
- (d) drives the vehicle or combination, or
- (e) maintains, or arranges for the maintenance of, the vehicle or combination, or
- (f) arranges for the registration of the vehicle.

**party in the chain of responsibility** in relation to a heavy vehicle, means any of the following persons:

- (a) the employer of the driver of the vehicle,
- (b) the prime contractor of the driver,
- (c) the operator of the vehicle,
- (d) each scheduler of goods or passengers for transport by the vehicle, and each scheduler of its driver,
- (e) each loading manager of goods for transport by the vehicle,
- (f) each consignor of goods for transport by the vehicle to whom Subdivision 4 of Division 2 applies,
- (g) each consignee of goods for transport by the vehicle to whom Subdivision 4 of Division 2 applies.

**prescribed business** means business that falls within one or more of the following Divisions recognised in the *Australian and New Zealand Standard Industrial Classification* (ANZSIC), 2006 edition (Australian Bureau of Statistics publication, Catalogue No 1292.0):

- (a) Agriculture, Forestry and Fishing (Division A),
- (b) Mining (Division B),
- (c) Manufacturing (Division C),
- (d) Construction (Division E),

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- (e) Wholesale Trade (Division F),
- (f) Retail Trade (Division G),
- (g) Accommodation and Food Services (Division H),
- (h) Transport, Postal and Warehousing (Division I),
- (i) Information, Media and Communications (Division J),
- (j) Renting, Hiring and Real Estate Services (Division L),
- (k) Arts and Recreation Services (Division P).

**prime contractor** means a person who engages someone else to drive a regulated heavy vehicle under a contract for services.

**Note.** Example of a prime contractor—A logistics business that engages a subcontractor to transport goods.

**scheduler** means a person who:

- (a) schedules a driver's work or rest time, or
- (b) schedules the transport of passengers or goods by road.

**self-employed driver** means a driver who is not an employed driver.

**speed limit** includes the following:

- (a) a sign-posted speed limit,
- (b) a speed limit specified by legislation,
- (c) a speed limit that applies to a particular vehicle,
- (d) a prohibition on travelling between 2 places in less than a specified time.

**153 Intention irrelevant in determining causation**

For the purposes of this Part, a person can cause something to happen even though the person had no intention of causing that thing to happen.

**154 Cause includes “contribute to causing” and “encourage”**

For the purposes of this Part, a reference to causing a thing includes a reference to contributing to causing the thing, and to encouraging the thing.



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**Division 2 Specific duties and offences****Subdivision 1 Duties on employers, prime contractors and operators****155 Duty concerning business practices**

- (1) This clause applies to:
  - (a) the employer of an employed driver of a vehicle, and
  - (b) the prime contractor of a self-employed driver of a vehicle, and
  - (c) the operator of a heavy vehicle if the driver of the vehicle is to make a journey in the vehicle for the operator.
- (2) The employer, prime contractor and operator each must take all reasonable steps to ensure that their business practices will not cause, by act or omission, the driver to exceed any speed limit that applies to the vehicle.

Maximum penalty:

- (a) in the case of an individual—50 penalty units (in the case of a first offence) and 100 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) and 250 penalty units (in the case of a second or subsequent offence).

**Note.** Examples of some reasonable steps that can be taken:

- regular consultation with other parties in the chain of responsibility, unions and industry associations to address compliance issues
  - reviewing driving, work and trip records
  - a program to report and monitor (for instance, by GPS tracking) incidents of speeding, and related risks and hazards
  - training and information for drivers, staff and parties in the chain of responsibility about speeding
  - regular maintenance of vehicle components that relate to complying with speed limits (for instance, speedometer, engine management system and speed limiters).
- (3) In this clause, *business practices* means the practices of the employer, prime contractor or operator in running their businesses, and includes the following:
    - (a) the operating policies and procedures of the business,

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- (b) the human resource and contract management arrangements of the business (including the method that driver remuneration is calculated),
  - (c) arrangements for managing safety.
- (4) The employer must not cause the driver to drive the vehicle unless:
- (a) the employer has complied with subclause (2), and
  - (b) the employer, after making reasonable inquiries, is satisfied that the scheduler has complied with Subdivision 2.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) and 50 penalty units (in the case of a second or subsequent offence), or
  - (b) in the case of a corporation—75 penalty units (in the case of a first offence) and 125 penalty units (in the case of a second or subsequent offence).
- (5) The prime contractor and operator each must not cause the driver to drive the vehicle unless:
- (a) the prime contractor or operator, as the case may be, has complied with subclause (2), and
  - (b) the prime contractor or operator, after making reasonable inquiries, is satisfied that the scheduler has complied with Subdivision 2.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) and 50 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) and 125 penalty units (in the case of a second or subsequent offence).

**156 Duty to ensure offences are not committed**

- (1) In this clause:  
*speeding offence* means an occurrence in which the driver of a vehicle drives the vehicle in excess of any speed limit that applies to the vehicle.
- (2) This clause applies to:
  - (a) the employer of an employed driver of a vehicle, and

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- (b) the prime contractor of a self-employed driver of a vehicle, and
- (c) the operator of a heavy vehicle if the driver of the vehicle is to make a journey in the vehicle for the operator.
- (3) A person to whom this clause applies commits an offence if, at any time that a driver of a vehicle, or a vehicle, is subject to the person's control, the driver commits a speeding offence while driving the vehicle.
- Maximum penalty:
- (a) in relation to a level 1 offence:
- (i) in the case of an individual—10 penalty units, or
- (ii) in the case of a corporation—50 penalty units, or
- (b) in relation to a level 2 offence:
- (i) in the case of an individual—20 penalty units (in the case of a first offence) and 50 penalty units (in the case of a second or subsequent offence), or
- (ii) in the case of a corporation—75 penalty units (in the case of a first offence) and 125 penalty units (in the case of a second or subsequent offence), or
- (c) in relation to a level 3 offence:
- (i) in the case of an individual—50 penalty units (in the case of a first offence) and 100 penalty units (in the case of a second or subsequent offence), or
- (ii) in the case of a corporation—125 penalty units (in the case of a first offence) and 250 penalty units (in the case of a second or subsequent offence).
- (4) Despite subclause (3), a person is not liable under that subclause if the vehicle was a combination, and neither the driver nor the towing vehicle was subject to the person's control.
- (5) The levels of offence referred to in subclause (3) are to be determined using the following table:

Speed limit at the place where the speeding offence occurred	Type of heavy vehicle	Penalty level	
		Recorded speed of <15 km/h above speed limit	Recorded speed of ≥ 15 km/h above speed limit
50–60 km/h	All	Level 1	Level 1

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Speed limit at the place where the speeding offence occurred	Type of heavy vehicle	Penalty level	
		Recorded speed of <15 km/h above speed limit	Recorded speed of $\geq 15$ km/h above speed limit
70–80 km/h	All	Level 1	Level 2
90 km/h	Road trains (where speed limited to 90 km/h)	Level 2	Level 3
90 km/h	Non-road trains	Level 1	Level 2
100 km/h	Non-road train heavy combinations	Level 2	Level 3
>100 km/h	Non-combination heavy vehicles	Level 2	Level 3

- (6) It is a defence to an offence under this clause if the accused person establishes that:
- (a) the person did not know, and could not reasonably be expected to have known, of the conduct that constituted the offence, and
  - (b) either:
    - (i) the person took all reasonable steps to prevent that conduct from occurring, or
    - (ii) there were no steps that the person could reasonably have been expected to have taken to prevent that conduct from occurring.
- (7) For the purposes of this clause:
- (a) it is irrelevant whether the driver has been, or will be, charged with the speeding offence, or has been, or will be, convicted of the speeding offence, and
  - (b) evidence that the driver has been convicted of the speeding offence is evidence that the offence occurred at the time and place, and in the circumstances, specified in the charge that resulted in the conviction, and

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- (c) evidence that the driver has paid the infringement penalty sought by an infringement notice for a speeding offence is evidence that the offence occurred at the time and place, and in the circumstances, specified in the infringement notice.

## Subdivision 2 Duties on schedulers

### 157 Duty concerning driver's schedule

- (1) This clause applies to the scheduler of transport by a heavy vehicle, or of a driver of a heavy vehicle.
- (2) The scheduler must take all reasonable steps to ensure that a driver's schedule for driving the vehicle will not cause, by act or omission, the driver to exceed any speed limit that applies to the vehicle.

Maximum penalty:

- (a) in the case of an individual—50 penalty units (in the case of a first offence) and 100 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) and 250 penalty units (in the case of a second or subsequent offence).

**Note.** Examples of some reasonable steps that can be taken:

- consulting drivers about their schedules and work requirements
- taking account of the average speed that can be lawfully travelled on scheduled routes
- allowing for traffic conditions or other delays in schedules
- contingency planning in relation to schedules.

- (3) The scheduler must not cause the driver to drive the vehicle unless:
- (a) the scheduler has complied with subclause (2), and
- (b) the driver's schedule for driving the vehicle allows:
- (i) for compliance with all speed limits applying to the vehicle, and
  - (ii) for the driver to take all required rest breaks (in accordance with all laws regulating the work and rest hours of the driver), and
  - (iii) for traffic conditions and other delays that could reasonably be expected.

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**Note.** Examples of traffic conditions and other delays that could reasonably be expected:

- the actual average speed able to be travelled lawfully and safely by the driver on the route in question
- known traffic conditions such as road works or traffic congestion on the route in question
- delays caused by loading, unloading or queuing.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) and 50 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) and 125 penalty units (in the case of a second or subsequent offence).

### Subdivision 3 Duties on loading managers

#### 158 Duty on loading managers

A loading manager must take all reasonable steps to ensure that the arrangements for loading and unloading heavy vehicles at the premises in respect of which the loading manager is the loading manager will not cause, by act or omission, the driver of a vehicle to exceed any speed limit that applies to the vehicle.

Maximum penalty:

- (a) in the case of an individual—50 penalty units (in the case of a first offence) and 100 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) and 250 penalty units (in the case of a second or subsequent offence).

**Note.** Examples of some reasonable steps that can be taken:

- reviewing loading and unloading times and delays at loading and unloading places
- identifying potential loading and unloading bottlenecks in consultation with drivers and other parties in the chain of responsibility
- ensuring that timeslots for loading or unloading can be relied upon.

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#### **Subdivision 4 Duties on certain consignors and consignees**

##### **159 Consignors to whom this Subdivision applies**

This Subdivision applies only to a consignor who engages a particular operator of a vehicle or combination, either directly or indirectly or through an agent or other intermediary, to transport goods on the consignor's behalf by road for commercial purposes.

##### **160 Consignees to whom this Subdivision applies**

This Subdivision applies only to a consignee:

- (a) who, with the consignee's authority, has been named or otherwise identified in the relevant transport documentation as the intended consignee of goods that are transported by road by a particular operator of a heavy vehicle or combination, and
- (b) who knows, or who ought reasonably to have known, that the goods were to be transported by road.

##### **161 Duties on consignors and consignees**

- (1) A consignor or consignee to whom this Subdivision applies each must take all reasonable steps to ensure that the terms of consignment (such as delivery times) will not cause, by act or omission, the driver of the vehicle that is to transport the goods to exceed any speed limit that applies to the vehicle.

Maximum penalty:

- (a) in the case of an individual—50 penalty units (in the case of a first offence) and 100 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) and 250 penalty units (in the case of a second or subsequent offence).

**Note.** Examples of some reasonable steps that can be taken:

- ensuring contractual arrangements and documentation relating to the consignment and delivery of goods enable speeding compliance
- contingency planning in relation to consignments and delivery times
- regular consultation with other parties in the chain of responsibility, unions and industry associations to address compliance issues.

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- (2) The consignor and consignee each must also take all reasonable steps to ensure that the terms of consignment (such as delivery times) will not cause, by act or omission, the employer of an employed driver, the prime contractor of a self-employed driver or the operator of the heavy vehicle to cause the driver to exceed any speed limit that applies to the vehicle.

Maximum penalty:

- (a) in the case of an individual—50 penalty units (in the case of a first offence) and 100 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—125 penalty units (in the case of a first offence) and 250 penalty units (in the case of a second or subsequent offence).
- (3) A consignor or consignee to whom this Subdivision applies each must not make a demand that affects, or that may affect, a time in a schedule for the transport of the consigned goods unless the consignor or consignee:
- (a) has complied with subclauses (1) and (2), and
- (b) is satisfied, after making reasonable inquiries, that the making of the demand will not cause a person to fail to comply with Subdivision 2.

Maximum penalty:

- (a) in the case of an individual—20 penalty units (in the case of a first offence) and 50 penalty units (in the case of a second or subsequent offence), or
- (b) in the case of a corporation—75 penalty units (in the case of a first offence) and 125 penalty units (in the case of a second or subsequent offence).

### **Subdivision 5 Duty to assess and manage risk of speeding**

#### **162 Duty to assess and manage risk of speeding**

- (1) This clause applies to:
- (a) the employer of an employed driver of a heavy vehicle, and
- (b) the prime contractor of a self-employed driver of a heavy vehicle, and
- (c) the operator of the heavy vehicle if the driver is to make a journey for the operator, and



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- (d) the scheduler of:
    - (i) transport by a heavy vehicle, or
    - (ii) a driver of a heavy vehicle, and
  - (e) the loading manager of goods for transport by a heavy vehicle, and
  - (f) the consignor of goods for transport by a regulated heavy vehicle, who carries on business of which a substantial part is prescribed business, and
  - (g) the consignee of goods for transport by a regulated heavy vehicle, who carries on business of which a substantial part is prescribed business.
- (2) A person to whom this clause applies must:
- (a) identify and assess the aspects of the activities of the person, and the driver, that may cause the driver to exceed a speed limit, and
  - (b) for each aspect identified and assessed under paragraph (a), identify and assess:
    - (i) the risk of the aspect causing the driver to exceed a speed limit, and
    - (ii) if there is a risk of the aspect causing the driver to exceed a speed limit,—the measures the person may take to eliminate the risk or, if it is not reasonably practicable to eliminate the risk, to control the risk, and
  - (c) carry out the identification and assessment referred to in paragraphs (a) and (b):
    - (i) at least annually, and
    - (ii) after each event that indicated the way the activities of the person or driver were being carried out have caused, or may cause, the driver to exceed a speed limit, and
  - (d) take the measures identified and assessed under paragraph (b) (ii), and
  - (e) document the actions taken under paragraphs (a)–(d) and retain that documentation for at least 3 years.
- Maximum penalty:
- (a) in the case of an individual—20 penalty units (in the case of a first offence) or 40 penalty units (in the case of a second or subsequent offence), and

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Schedule 1 Amendments

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- (b) in the case of a corporation—100 penalty units (in the case of a first offence) or 200 penalty units (in the case of a second or subsequent offence).
  - (3) It is a defence to any proceedings against a person for an offence against subclause (2) if the person proves that:
    - (a) it was not reasonably practicable for the person to comply with that subclause, or
    - (b) the commission of the offence was due to causes over which the person had no control and against the happening of which it was impracticable for the person to make provision.

### Subdivision 6 Certain requests, contracts etc prohibited

#### 163 Certain requests etc prohibited

A person must not ask, direct or require (directly or indirectly) a driver or a party in the chain of responsibility to do something that the person knows, or reasonably ought to know, would have the effect of causing the driver to exceed any speed limit while driving a heavy vehicle.

Maximum penalty:

- (a) in the case of an individual—100 penalty units, or
- (b) in the case of a corporation—250 penalty units.

**Note.** Example of a requirement that contravenes this clause—A requirement that the driver complete a journey in a time that the person knows or reasonably ought to know cannot be complied with unless the driver commits a speeding offence or does not take all the rest breaks that the driver is required to take.

#### 164 Certain contracts etc prohibited

- (1) A person must not enter into a contract or agreement with a driver or with a party in the chain of responsibility that the person knows, or reasonably ought to know, would have the effect of causing the driver or any other driver to exceed any speed limit while driving a heavy vehicle.

Maximum penalty:

- (a) in the case of an individual—100 penalty units, or
- (b) in the case of a corporation—250 penalty units.

- (2) A person must not enter into a contract or agreement with a driver or with a party in the chain of responsibility that the person knows, or reasonably ought to know, would encourage or provide

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

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Schedule 1

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an incentive for a party in the chain of responsibility to cause a driver to exceed any speed limit while driving a heavy vehicle.

Maximum penalty:

- (a) in the case of an individual—100 penalty units, or
- (b) in the case of a corporation—250 penalty units.

### **Division 3 Compliance and enforcement provisions**

#### **Subdivision 1 Reasonable steps**

##### **165 Matters court may consider for deciding whether person took all reasonable steps**

A court may have regard to anything that it considers to be relevant when it is deciding whether things that the person did, or did not do, were reasonable steps, including:

- (a) the nature of the aspect or risk that the person was attempting to, or should have been attempting to, address, and
- (b) the likelihood of a risk eventuating, and
- (c) the degree of harm that would result if a risk did eventuate, and
- (d) if a driver has been speeding—the circumstances of the offence (for example, the risk category that the offence belongs to), and
- (e) the abilities, experience, expertise, knowledge, qualifications and training that the person, or the person's agent or employee, had or ought reasonably to have had, and
- (f) the availability and suitability of ways to eliminate, prevent or reduce an aspect, or to eliminate a risk or to minimise the likelihood of a risk eventuating, and
- (g) the cost of eliminating a risk or minimising the likelihood of a risk eventuating.

#### **Subdivision 2 Evidential matters**

##### **166 Commission of speeding offence is irrelevant to Division 2 prosecutions**

In a prosecution under Division 2, it is not necessary to prove that a driver exceeded a speed limit.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Schedule 1 Amendments

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**167 Provisions relating to first offences and second or subsequent offences**

- (1) This clause determines whether, for the purposes of this Part, an offence is:
  - (a) a first offence, or
  - (b) a second or subsequent offence.
- (2) A person is found guilty of a second or subsequent offence if, and only if, the occasion when the second or subsequent offence occurred:
  - (a) was different from the occasion when the first offence for which the person was found guilty occurred, and
  - (b) was within 3 years of the occasion of the first offence.
- (3) The order in which the offences were committed is irrelevant.
- (4) It is also irrelevant whether or not the offences were subject to the same penalties.
- (5) If the court is satisfied that a person is guilty of an offence but cannot determine (from the information available to the court) whether the offence is a first offence for which the person was found guilty, the court may only impose a penalty for the offence as if it were a first offence.
- (6) When determining whether a person has previously been found guilty of an offence under this Part, the court must have regard to a finding of guilt for an offence committed under corresponding provisions of a corresponding law.

**[4] Existing Parts 6 and 7**

Renumber existing Parts 6 and 7 as Parts 8 and 9, respectively, and existing clauses 39–42 as clauses 168–171, respectively, and clauses 44–52 as clauses 172–181, respectively.

**[5] Schedule 1 Fees**

Omit “and 47” and “clause 47”.

Insert instead “and 175” and “clause 175”, respectively.

**[6] Schedule 2 Authorised officers**

Omit “(clause 39)”. Insert instead “(clause 168)”.

**[7] Schedule 3 Penalty notice offences**

Omit “(clause 40)”. Insert instead “(clause 171)”.

Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008

Amendments

Schedule 1

**[8] Schedule 3**

Omit the matter relating to the *Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999*.

**[9] Schedule 3**

Insert in appropriate order:

**Road Transport (General) Regulation 2005**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Authorised officer</b>	<b>Penalty</b>
Clauses 49 (3) and (4), 50 (3), 51 (4), 52 (2), 73 (3), 76–79, 81 (2), (3), (5)–(7) and (9)–(13), 106, 107 (4), 108, 112, 113 (4), 114 and 121:		
(a) in relation to an individual:	Class 1, 2, 4	Level 5
(b) in relation to a corporation:	Class 1, 2, 4	Level 13
Clauses 64–66, 68, 70–72 and 117:		
(a) in relation to a minor risk offence:	Class 1, 2, 4	Level 4
(b) in relation to a substantial risk offence:	Class 1, 2, 4	Level 7
Clauses 155 (4) and (5), 157 (3) and 161 (3):		
(a) in relation to an individual:	Class 1, 2, 4	Level 9
(b) in relation to a corporation:	Class 1, 2, 4	Level 17
Clause 156 (3):		
(a) in relation to an individual:		
(i) in relation to a Level 1 offence:	Class 1, 2, 4	Level 6
(ii) in relation to a Level 2 offence:	Class 1, 2, 4	Level 9
(b) in relation to a corporation:		
(i) in relation to a Level 1 offence:	Class 1, 2, 4	Level 13
(ii) in relation to a Level 2 offence:	Class 1, 2, 4	Level 17



New South Wales

# Road Transport (Driver Licensing) Amendment (Fatigue and Speeding) Regulation 2008

under the

Road Transport (Driver Licensing) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Driver Licensing) Act 1998*.

MICHAEL DALEY, M.P.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to amend Schedule 2 (Additional demerit point offences) to the *Road Transport (Driver Licensing) Regulation 2008* to provide that where a person is convicted by a court of certain new offences in proposed Part 6 (Heavy vehicle driver fatigue) of the *Road Transport (General) Regulation 2005* (to be inserted by the *Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008*) the person will incur the specified demerit points.

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including sections 19 (the general regulation-making power) and 20 (2) (o) (in relation to the demerit points register).

Clause 1            Road Transport (Driver Licensing) Amendment (Fatigue and Speeding)  
                         Regulation 2008

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## **Road Transport (Driver Licensing) Amendment (Fatigue and Speeding) Regulation 2008**

under the

Road Transport (Driver Licensing) Act 1998

### **1 Name of Regulation**

This Regulation is the *Road Transport (Driver Licensing) Amendment (Fatigue and Speeding) Regulation 2008*.

### **2 Commencement**

This Regulation commences on 29 September 2008.

### **3 Amendment of Road Transport (Driver Licensing) Regulation 2008**

The *Road Transport (Driver Licensing) Regulation 2008* is amended as set out in Schedule 1.

Road Transport (Driver Licensing) Amendment (Fatigue and Speeding)  
Regulation 2008

Amendment

Schedule 1

## Schedule 1 Amendment

(Clause 3)

### Schedule 2 Additional demerit point offences

Insert in appropriate order:

Road Transport (General) Regulation 2005			
Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Clause 64, but only where a court finds the person guilty of the offence:	Contravening standard hours for solo driver of a regulated heavy vehicle		
(a) in relation to a severe risk offence		3	3
(b) in relation to a critical risk offence		4	4
Clause 65, but only where a court finds the person guilty of the offence:	Contravening standard hours for solo driver of a bus		
(a) in relation to a severe risk offence		3	3
(b) in relation to a critical risk offence		4	4
Clause 66, but only where a court finds the person guilty of the offence:	Contravening standard hours for two-up driver of a regulated heavy vehicle		
(a) in relation to a severe risk offence		3	3



Road Transport (Driver Licensing) Amendment (Fatigue and Speeding)  
Regulation 2008

Schedule 1 Amendment

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**Road Transport (General) Regulation 2005**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
(b)	in relation to a critical risk offence	4	4
Clause 68, but only where a court finds the person guilty of the offence:	Contravening BFM hours for solo driver of a regulated heavy vehicle		
(a)	in relation to a severe risk offence	3	3
(b)	in relation to a critical risk offence	4	4
Clause 70, but only where a court finds the person guilty of the offence:	Contravening BFM hours for two-up driver of a regulated heavy vehicle		
(a)	in relation to a severe risk offence	3	3
(b)	in relation to a critical risk offence	4	4
Clause 71, but only where a court finds the person guilty of the offence:	Contravening AFM hours for driver of a regulated heavy vehicle		
(a)	in relation to a severe risk offence	3	3
(b)	in relation to a critical risk offence	4	4

Road Transport (Driver Licensing) Amendment (Fatigue and Speeding)  
Regulation 2008

Amendment

Schedule 1

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**Road Transport (General) Regulation 2005**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 72, but only where a court finds the person guilty of the offence:	Contravening AFM outer limits for driver of a regulated heavy vehicle		
(a) in relation to a severe risk offence		3	3
(b) in relation to a critical risk offence		4	4
Clause 117 (9), but only where a court finds the person guilty of the offence:	Contravening work and rest hours exemption hours		
(a) in relation to a severe risk offence		3	3
(b) in relation to a critical risk offence		4	4

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New South Wales

# Road Transport (Safety and Traffic Management) (Driver Fatigue) Repeal Regulation 2008

under the

Road Transport (Safety and Traffic Management) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Safety and Traffic Management) Act 1999*.

MICHAEL DALEY, M.P.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to repeal the *Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999*. The provisions of that Regulation are to be replaced by proposed Part 6 (Heavy vehicle driver fatigue) that is to be inserted into the *Road Transport (General) Regulation 2005* by the *Road Transport (General) Amendment (Heavy Vehicle Driver Fatigue and Speeding Compliance) Regulation 2008*.

This Regulation is made under the *Road Transport (Safety and Traffic Management) Act 1999*, including section 71 (the general regulation-making power).

Clause 1            Road Transport (Safety and Traffic Management) (Driver Fatigue) Repeal  
                         Regulation 2008

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## **Road Transport (Safety and Traffic Management) (Driver Fatigue) Repeal Regulation 2008**

under the

Road Transport (Safety and Traffic Management) Act 1999

### **1 Name of Regulation**

This Regulation is the *Road Transport (Safety and Traffic Management) (Driver Fatigue) Repeal Regulation 2008*.

### **2 Commencement**

This Regulation commences on 29 September 2008.

### **3 Repeal of Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999**

The *Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999* is repealed.



New South Wales

# Road Transport (General) Amendment Regulation 2008

under the

Road Transport (General) Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 2005*.

MICHAEL DALEY, M.P.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to amend the *Road Transport (General) Regulation 2005* to provide for the charging of fees with respect to the clamping of vehicles and to make certain amendments that are necessary as a consequence of the commencement of certain amendments made to the *Road Transport (General) Act 2005* by the *Road Transport Legislation Amendment (Car Hoons) Act 2008*.

This Regulation is made under the *Road Transport (General) Act 2005*, including sections 219F (1) and (2) and 223 and section 10 (the general regulation-making power).

Clause 1 Road Transport (General) Amendment Regulation 2008

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## **Road Transport (General) Amendment Regulation 2008**

under the

Road Transport (General) Act 2005

### **1 Name of Regulation**

This Regulation is the *Road Transport (General) Amendment Regulation 2008*.

### **2 Commencement**

This Regulation commences on 26 September 2008.

### **3 Amendment of Road Transport (General) Regulation 2005**

The *Road Transport (General) Regulation 2005* is amended as set out in Schedule 1.

Road Transport (General) Amendment Regulation 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(clause 3)

**[1] Part 5, heading**

Omit the heading. Insert instead:

**Part 5 Impounded and clamped vehicles****[2] Clause 36 Impounding fee**

Omit “section 223 (2) (a)”. Insert instead “section 223 (2)”.

**[3] Clause 38A**

Insert after clause 38:

**38A Fees with respect to clamping of vehicles**

For the purposes of section 219F (1) and (2) of the Act, the fee payable with respect to the clamping of a vehicle under section 219 or 219A, respectively, of the Act is to be determined by adding together the various components (as applicable) set out in items 4–7 of Schedule 1 in relation to that fee.

**[4] Schedule 1 Fees**

Omit “36 and 47”. Insert instead “36, 38A and 47”.

**[5] Schedule 1 Fees**

Omit “section 223 (2) (a)” from item 2. Insert instead “section 223 (2)”.

**[6] Schedule 1**

Insert after item 3:

4	For travelling to a place (the <i>call out place</i> ) to collect a vehicle and transport it to the place where it is to be clamped (the <i>clamping place</i> ):	clause 38A	
	(a) for transportation to a clamping place within 10 kilometres of the call out place, and		234
	(b) in addition for each kilometre in excess of 10 kilometres that the vehicle is transported		5.68
5	For clamping the vehicle	clause 38A	264

## Road Transport (General) Amendment Regulation 2008

## Schedule 1 Amendments

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- 6 For removing clamps from a vehicle clamped at the home address of a driver or registered operator clause 38A 132

In addition to any amount specified in item 4 or 5, the fee is to include a surcharge of 20% for action taken by a clamping agent outside the usual business operating hours of the clamping agent

- 7 For each day that a clamped vehicle is stored at a place under the control of or used for the purposes of clamping vehicles by a clamping agent clause 38A 17.60



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# Orders

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New South Wales

## Fisheries Management Amendment (Threatened Species Conservation) Order (No 1) 2008

under the

Fisheries Management Act 1994

The Fisheries Scientific Committee established under the *Fisheries Management Act 1994*, in pursuance of section 220D of that Act, makes the following Order.  
Dated, this 23rd day of September 2008.

R. WEST,

Chairperson of the Fisheries Scientific Committee

### Explanatory note

Part 7A of the *Fisheries Management Act 1994* deals with the conservation of threatened species, populations and ecological communities of fish and marine vegetation. For the purposes of identification and classification, provision is made for the listing of species, populations and ecological communities.

The object of this Order is to give effect to final determinations of the Fisheries Scientific Committee that change the status of the following species:

- (a) *Carcharias taurus* (commonly known as the grey nurse shark),
- (b) *Craterocephalus fluviatilis* (commonly known as the Murray hardyhead),
- (c) *Pristis zijsron* (commonly known as the green sawfish),
- (d) *Mogurnda adspersa* (commonly known as the purple spotted gudgeon),
- (e) *Archaeophya adamsi* (commonly known as the Adam's emerald dragonfly),
- (f) *Macquaria australasica* (commonly known as Macquarie perch),
- (g) *Nereia lophocladia* (commonly known as marine brown alga),
- (h) *Nannoperca australis* (commonly known as southern pygmy perch).

This Order is made under section 220D of the *Fisheries Management Act 1994*.

Clause 1 Fisheries Management Amendment (Threatened Species Conservation)  
Order (No 1) 2008

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## **Fisheries Management Amendment (Threatened Species Conservation) Order (No 1) 2008**

under the

Fisheries Management Act 1994

### **1 Name of Order**

This Order is the *Fisheries Management Amendment (Threatened Species Conservation) Order (No 1) 2008*.

### **2 Commencement**

This Order takes effect on the date that it is published in the Gazette.

### **3 Amendment of Fisheries Management Act 1994 No 38**

The *Fisheries Management Act 1994* is amended as set out in Schedule 1.

Fisheries Management Amendment (Threatened Species Conservation)  
Order (No 1) 2008

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

**[1] Schedule 4 Endangered species, populations and ecological communities**

Omit the following from Part 1:

<i>*Carcharias taurus</i> Rafinesque, 1810	grey nurse shark
<i>Craterocephalus fluviatilis</i> (McCulloch, 1913)	Murray hardyhead
<i>Pristis zijsron</i> Bleeker, 1851	Green sawfish

**[2] Schedule 4, Part 1**

Insert the following in alphabetical order:

<i>Archaeophya adamsi</i> Fraser, 1959	Adam's emerald dragonfly
<i>Macquaria australasica</i> (Cuvier, 1830)	Macquarie perch
<i>Nannoperca australis</i> Günther, 1861	southern pygmy perch
<i>Mogurnda adpersa</i> (Castelnau, 1878)	purple spotted gudgeon

**[3] Schedule 4, Part 2**

Omit the following:

<i>Mogurnda adpersa</i> (Castelnau, 1878)	purple spotted gudgeon, western New South Wales population
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**[4] Schedule 4, Part 4**

Insert under the heading "Fish":

<i>Pristis zijsron</i> Bleeker, 1851	green sawfish
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**[5] Schedule 4A Critically endangered species and ecological communities**

Insert in Part 1:

**Fish**

<i>*Carcharias taurus</i> Rafinesque, 1810	grey nurse shark
<i>Craterocephalus fluviatilis</i> (McCulloch, 1913)	Murray hardyhead

Fisheries Management Amendment (Threatened Species Conservation)  
Order (No 1) 2008

Schedule 1 Amendments

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**Marine vegetation**

*Nereia lophocladia* J. Agardh (1897) marine brown alga

**[6] Schedule 5 Vulnerable species and ecological communities**

Omit the following from Part 1:

*Archaeophya adamsi* Fraser, 1959 Adams emerald dragonfly

*Macquaria australasica* (Cuvier, 1830) Macquarie perch

*Nannoperca australis* Günther, 1861 southern pygmy perch

*Nereia lophocladia* J. Agardh (1897) marine brown alga



New South Wales

## Motor Accidents (Determination of Non-Economic Loss) Order No 19

under the

Motor Accidents Act 1988

I, Joseph Tripodi, the Minister for Finance, in pursuance of section 80 of the *Motor Accidents Act 1988*, make the following Order.

Dated, this 24th day of September 2008.

JOSEPH TRIPODI, M.P.,  
Minister for Finance

### Explanatory note

The object of this Order is to adjust the amounts that may be awarded for damages for non-economic loss to persons who have been injured as a consequence of a motor accident.

Section 80 of the *Motor Accidents Act 1988* requires the Minister to declare the amounts on or before 1 October in each year. The amounts are indexed by reference to movements in average weekly earnings.

An amount specified in this Order applies to the exclusion of the corresponding amount specified in section 79 or 79A of the *Motor Accidents Act 1988*.

Clause 1 Motor Accidents (Determination of Non-Economic Loss) Order No 19

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## Motor Accidents (Determination of Non-Economic Loss) Order No 19

under the

Motor Accidents Act 1988

### 1 Name of Order

This Order is the *Motor Accidents (Determination of Non-Economic Loss) Order No 19*.

### 2 Commencement

This Order commences on 1 October 2008.

### 3 Section 79: Determination of non-economic loss—accidents occurring before midnight on 26.9.95

#### (1) Section 79 (3)

It is declared that the maximum amount that may be awarded for the non-economic loss of an injured person as a consequence of a motor accident that occurred before midnight on 26 September 1995 is \$390,000.

#### (2) Section 79 (4)

It is declared that if the amount of non-economic loss of any such injured person is assessed to be \$31,000 or less, no damages for non-economic loss shall be awarded.

#### (3) Section 79 (5)

It is declared that if the amount of damages that may be awarded for non-economic loss in accordance with section 79 of the *Motor Accidents Act 1988* is more than \$31,000 but less than \$119,000, the following deductions shall be made from that amount:

- (a) if the amount of damages is less than \$86,000—the amount to be deducted is \$31,000,
- (b) if the amount of damages is not less than \$86,000—the amount to be deducted is \$31,000 or \$31,000 reduced by \$1,000 for every \$1,000 by which the amount of damages exceeds \$86,000.

Motor Accidents (Determination of Non-Economic Loss) Order No 19

Clause 4

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**4 Section 79A (5): Determination of non-economic loss—accidents occurring after midnight on 26.9.95**

It is declared that the maximum amount that may be awarded for non-economic loss of an injured person as a consequence of a motor accident that occurred after midnight on 26 September 1995 is \$390,000.



New South Wales

## Motor Accidents Compensation (Determination of Loss) Order No 9

under the

Motor Accidents Compensation Act 1999

I, Joseph Tripodi, the Minister for Finance, in pursuance of section 146 of the *Motor Accidents Compensation Act 1999*, make the following Order.

Dated, this 24th day of September 2008.

JOSEPH TRIPODI, M.P.,  
Minister for Finance

### Explanatory note

The object of this Order is to adjust the amount that may be awarded for damages:

- (a) for past or future economic loss in relation to persons who have been injured or killed as a consequence of a motor accident, and
- (b) for non-economic loss to persons who have been injured as a consequence of a motor accident.

Section 146 of the *Motor Accidents Compensation Act 1999* requires the Minister to declare the amounts on or before 1 October in each year. The amounts are indexed by reference to movements in average weekly earnings.

An amount specified in this Order applies to the exclusion of the corresponding amount specified in section 125 or 134 of the *Motor Accidents Compensation Act 1999*.



Clause 1 Motor Accidents Compensation (Determination of Loss) Order No 9

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## **Motor Accidents Compensation (Determination of Loss) Order No 9**

under the

Motor Accidents Compensation Act 1999

### **1 Name of Order**

This Order is the *Motor Accidents Compensation (Determination of Loss) Order No 9*.

### **2 Commencement**

This Order commences on 1 October 2008.

### **3 Section 125: Damages for past or future economic loss—maximum for loss of earnings etc**

It is declared that, in the case of an award under section 125 (1) of the *Motor Accidents Compensation Act 1999*, the court is to disregard the amount (if any) by which an injured or deceased person's net weekly earning would (but for the injury or death) have exceeded \$3,584.

### **4 Section 134: Maximum amount of damages for non-economic loss**

It is declared that the maximum amount that may be awarded for non-economic loss of an injured person as a consequence of a motor accident is \$390,000.

# OFFICIAL NOTICES

## Appointments

### ABORIGINAL LAND RIGHTS ACT 1983

#### Notice

I, the Honourable Paul Lynch MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222(1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Andrew Bowcher as Administrator to the Quambone Local Aboriginal Land Council for a maximum period of three (3) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in sections 52 and 52G of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration and expenses are not to exceed \$30 000 excluding GST without the prior approval of NSWALC. The Administrator's remuneration may include fees payable for the services of other personnel within the Administrator's firm who provide services as agents of the Administrator.

Signed and sealed this 16th day of September 2008.

PAUL LYNCH, M.P.,  
Minister for Aboriginal Affairs

GOD SAVE THE QUEEN

### ABORIGINAL LAND RIGHTS ACT 1983

#### Notice

I, the Honourable Paul Lynch MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222(1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Andrew Bowcher as Administrator to the Wellington Local Aboriginal Land Council for a maximum period of six (6) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in sections 52 and 52G of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration and expenses are not to exceed \$60 000 excluding GST without the prior approval of NSWALC. The Administrator's remuneration may include fees payable for the services of other personnel within the Administrator's firm who provide services as agents of the Administrator.

Signed and sealed this 15th day of September 2008.

PAUL LYNCH, M.P.,  
Minister for Aboriginal Affairs

GOD SAVE THE QUEEN

### ABORIGINAL LAND RIGHTS ACT 1983

#### Notice

I, the Honourable Paul Lynch MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222(1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Terry Lawler as Administrator to the Tharawal Local Aboriginal Land Council for a maximum period of six (6) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in sections 52 and 52G of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration and expenses are not to exceed \$60 000 excluding GST without the prior approval of NSWALC. The Administrator's remuneration may include fees payable for the services of other personnel within the Administrator's firm who provide services as agents of the Administrator.

Signed and sealed this 16th day of September 2008.

PAUL LYNCH, M.P.,  
Minister for Aboriginal Affairs

GOD SAVE THE QUEEN

### CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

PURSUANT to the Crimes (Administration of Sentences) Act 1999, the Minister for Justice, the Hon. John Hatzistergos MLC, has approved the appointment of Gary Cormick as an Official Visitor assigned to Long Bay Hospital on and from 26 August 2008 up to and including 30 September 2009.

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## Department of Lands

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### DUBBO OFFICE

**142 Brisbane Street (PO Box 865), Dubbo NSW 2830**

**Phone: (02) 6883 3300      Fax: (02) 6882 6920**

#### APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

#### SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Peter Leonard DUNN (re-appointment)	Tomingley Racecourse and Recreation Reserve Trust	Reserve No. 49470 Public Purpose: Showground, Racecourse Public Recreation Notified: 26 November 1913 File Reference: 08/7063
Barbara Amanda DUNN (re-appointment)		
Colin George MILLGATE (re-appointment)		
Glenn Edward PUGH (re-appointment)		
Robert Richard STRAHORN (re-appointment)		
For a term commencing this day and expiring 17 February 2010.		

**GOULBURN OFFICE**  
**159 Auburn Street (PO Box 748), Goulburn NSW 2580**  
**Phone: (02) 4824 3700 Fax: (02) 4822 4287**

**ROADS ACT 1993**

**ORDER**

Transfer of Crown Road to a Council

IN pursuance of the provisions of section 151 of the Act, the Crown Road specified in Schedule 1 is transferred to the roads authority specified in Schedule 2 hereunder as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

TONY KELLY, M.L.C.,  
Minister for Lands

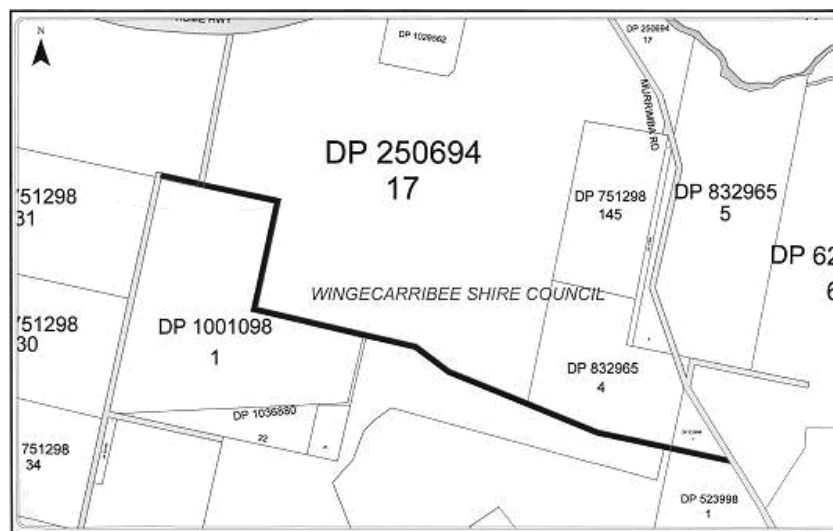
SCHEDULE 1

*Parish – Wingello; County – Camden;  
Land District – Moss Vale; Shire – Wingecarribee*

DESCRIPTION: Crown road coloured black as per diagram below.

SCHEDULE 2

Roads Authority: Wingecarribee Shire Council. (Council's Ref: 7810/12). Reference: 08/4878.



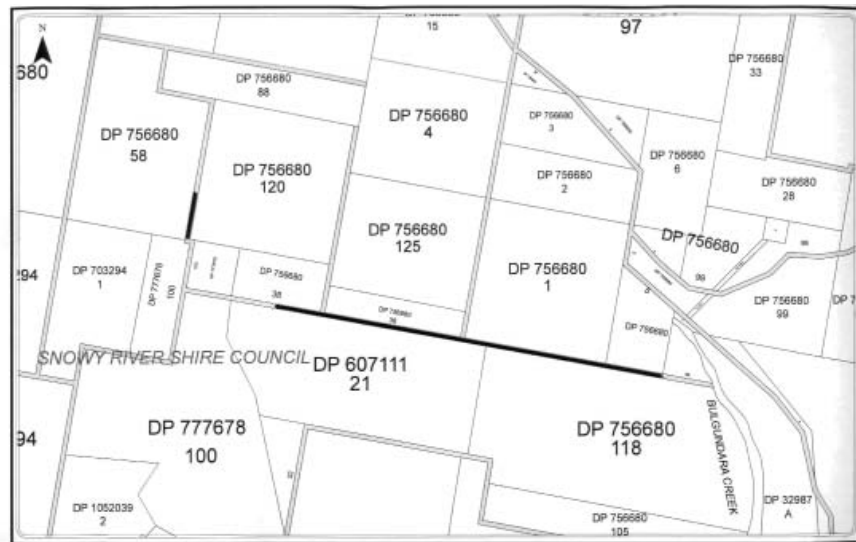
SCHEDULE 1

Parish – Bulgundara; County – Wallace;  
Land District – Cooma; Shire – Snowy River

DESCRIPTION: Crown road coloured black as per diagram below.

SCHEDULE 2

Roads Authority: Snowy River Shire Council. (Council’s Ref: ED/08/15078). Reference: 08/5190.



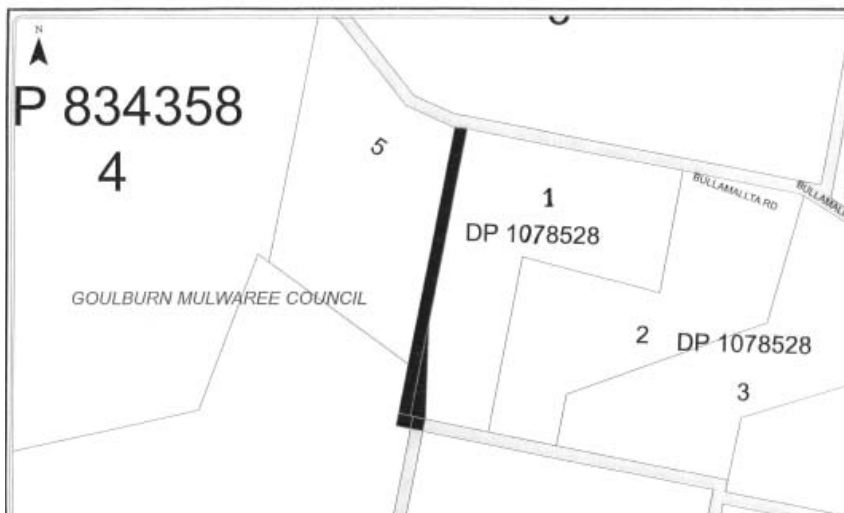
SCHEDULE 1

Parish – Quialigo; County – Argyle;  
Land District – Goulburn; Shire – Goulburn Mulwaree

DESCRIPTION: Crown road coloured black as per diagram below.

SCHEDULE 2

Roads Authority: Goulburn Mulwaree Council. (Council’s Ref: DA/0423/0607). Reference: 08/8323.



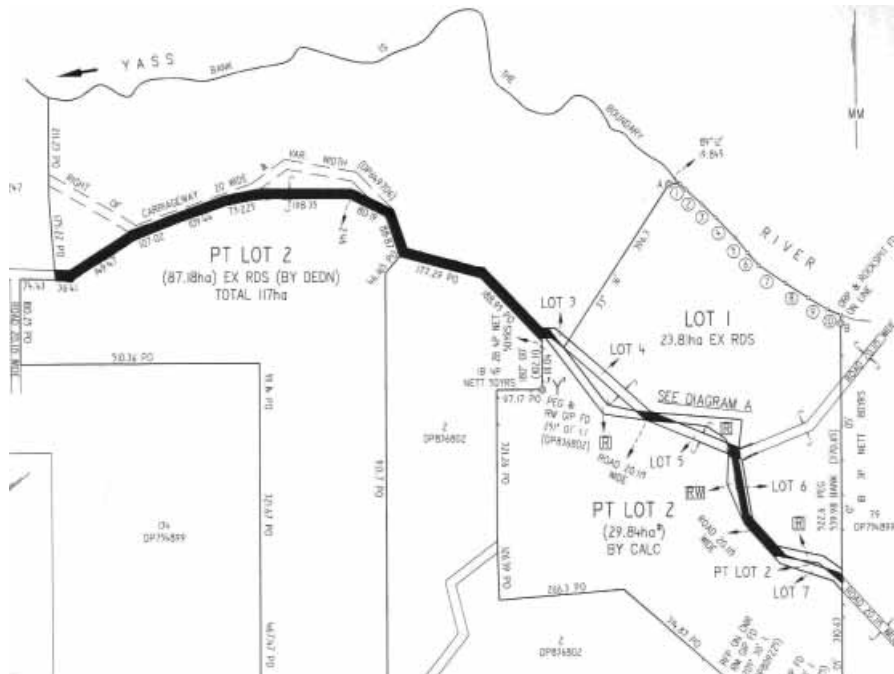
SCHEDULE 1

Parish – Murrumbateman; County – Murray;  
Land District – Yass; Shire – Yass Valley

DESCRIPTION: Crown road coloured black as per diagram below within DP 1128158.

SCHEDULE 2

Roads Authority: Yass Valley Council. (Council's Ref: FL.R.05.14.00). Reference: 08/6619.



**GRAFTON OFFICE**  
**76 Victoria Street (Locked Bag 10), Grafton NSW 2460**  
**Phone: (02) 6640 3400 Fax: (02) 6642 5375**

**ASSIGNMENT OF CORPORATE NAME OF  
RESERVE TRUST**

PURSUANT to Clause 4 (3), of Schedule 8 of the Crown Lands Act 1989, the name specified in Column 1 of the Schedule hereunder, is assigned to the reserve trust constituted as trustee for the reserve specified in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Fry Street Reserve Trust.	Reserve No.: 90056. For: Boys Scouts. Notified: 11 February 1972. File No.: GF06 R 39.

**APPOINTMENT OF TRUST BOARD MEMBERS**

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Francis Raymond MORTON (new member) Warren Leslie BARNES (re-appointment) Linda Grace HOULT (new member) Nigel Owen PERRY (new member) Peter Wayne MOORE (new member) Lucy Jill BENNETT (new member) David Edward JUDGE (new member) For a term commencing the date of this notice and expiring 25 September 2013.	Wardell Recreation Ground Trust	Reserve No. 627 Public Purpose: Public Recreation Notified: 14 June 1880  Reserve No. 1002921 Public Purpose: Community and Sporting Club Facilities Notified: 31 March 2000 File Ref.: GF81 R 261/2

**DECLARATION OF LAND TO BE CROWN LAND**

PURSUANT to section 138 of the Crown Lands Act 1989, the land described in the Schedule hereunder, is declared to be Crown land.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

*Land District – Murwillumbah;*  
*Local Government Area – Tweed Shire Council;*  
*Parish – Terranora;*  
*County – Rous*

Lot 8 in Deposited Plan 804521, at Terranora, being land within Certificate of Title 8/804521 and said to be in the possession of the Her Most Gracious Majesty Queen Elizabeth II (NSW Agriculture). File Reference: GF05 H 600.

**NOTIFICATION OF CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

TONY KELLY, M.L.C.,  
Minister for Lands

Description

*Land District – Grafton;*  
*LGA – Clarence Valley*

Road Closed: Lots 1 and 2, DP 1129097 at Coutts Crossing, Parish Bardsley, County Fitzroy. Lot 1, DP 1129097 is subject to an easement for transmission line 60 wide. File Reference: GF05 H 166

SCHEDULE

On closing, the land within Lots 1 and 2, DP 1129097 remains vested in the State of New South Wales as Crown Land.

Description

*Land District – Lismore;*  
*LGA – Ballina*

Road Closed: Lots 1 and 3, DP 1128207 at Wollongbar, Parish Tuckombil, County Rous. File Reference: GF05 H 762, GF04 H 116

SCHEDULE

On closing, the land within Lots 1 and 3, DP 1128207 remains vested in the State of New South Wales as Crown Land.

**MAITLAND OFFICE**  
**Corner Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323**  
**Phone: (02) 4937 9300 Fax: (02) 4934 2252**

**ROADS ACT 1993****ORDER**

Transfer of a Crown Road to a Council

IN pursuance of the provisions of Section 151, Roads Act 1993, the Crown road specified in Schedule 1 is transferred to the Roads Authority specified in Schedule 2, hereunder, as from the date of publication of this notice and as from that date, the road specified in Schedule 1 ceases to be a Crown road.

TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE 1**

*Parish – Teralba;*  
*County – Northumberland;*  
*Land District – Newcastle;*

*Local Government Area – Lake Macquarie City Council*

Crown public roads through the eastern end of Lot 2, DP 877349 (from Newcastle Link Road to the southern boundary of Lot 51, DP 1112867 and the western boundary of Lot 305, DP 1107690 (shown by grey on the diagram hereunder).

**SCHEDULE 2**

Roads Authority: Lake Macquarie City Council. Council's Reference: F2004/07418. Lands File Ref.: MD04 H 673.

**REMOVAL FROM OFFICE OF CORPORATION  
MANAGER OF RESERVE TRUST**

PURSUANT to section 96 (2) of the Crown Lands Act 1989, the corporation specified in Schedule 1 hereunder is removed from the office of manager of the reserve trust specified in Schedule 2, which is trustee of the reserve referred to in Schedule 3.

TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE 1**

Federation of NSW Police Citizens Youth Clubs.

**SCHEDULE 2**

Cessnock Police-Citizens Youth Club (R89304) Reserve Trust.

**SCHEDULE 3**

Reserve No.: 89304.  
Public Purpose: Police Boys' Club.  
Notified: 25 October 1974.  
File Reference: MD80R34/1.

**APPOINTMENT OF TRUST BOARD MEMBERS**

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Elizabeth HEATH (new member)	Mangrove	Reserve No. 170143
Nicole SCHLEICHER (new member)	Mountain	Public Purpose:
Trina Louise MOYES (re-appointment)	Homeless or needy young persons (R170143)	Accommodation, Guidance, Education and Welfare of Homeless or Needy Young Persons
Gordon Keith Mackenzie MOYES (re-appointment)	Reserve Trust	Notified: 22 May 1992 File Reference: MD83 R 19/4
Rodney David BLACKMORE (re-appointment)		
Grantley Leroy Edward MORRIS (re-appointment)		
Jill Meryl MANTON (re-appointment)		

For a term commencing  
the date of this notice and  
expiring 25 September 2013.



**APPOINTMENT OF CORPORATION TO MANAGE  
RESERVE TRUST**

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Land Administration Ministerial Corporation	Cessnock Police-Citizens Youth Club (R89304) Reserve Trust	Reserve No. 89304 Public Purpose: Police Boys' Club Notified: 25 October 1974 File Ref.: MD80 R 34/1

For a term commencing the date of this notice

**MOREE OFFICE**

**Frome Street (PO Box 388), Moree NSW 2400  
Phone: (02) 6752 5055 Fax: (02) 6752 1707**

**REVOCATION OF RESERVATION OF  
CROWN LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservations of Crown land specified in Column 1 of the Schedule hereunder are revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Bingara Local Government: Gwydir Shire Reserve No.: 76136 Purpose: From Sale Generally Notified: 31 July 1953 File: ME04 H 539	The whole being Lot 67, DP 754818, Parish Bangheet, County Murchison, of 237 hectares

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Narrabri Local Government: Narrabri Shire Reserve No.: 93723 Purpose: Future Public Requirements Notified: 3 October 1980 File No.: ME06 H 236	That part of Reserve 93723 comprising Lot 69 in DP 753953, Parish Oreel, County Jamison, of 139.4 hectares.

## NEWCASTLE OFFICE

437 Hunter Street, Newcastle NSW 2300 (PO Box 2185, Dangar NSW 2309)

Phone: (02) 4920 5000 Fax: (02) 4925 3489

**NOTICE OF PUBLIC PURPOSE PURSUANT  
TO SECTION 34A (2) (B) OF THE  
CROWN LANDS ACT 1989**

PURSUANT to section 34A (2) (b) of the Crown Lands Act 1989, the Crown reserve specified in Column 1 of the Schedule is to be occupied for the additional purpose specified in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Reserve No. 24906 Public Purpose: Travelling Stock, Camping Notified: 17/10/1896 Locality: Hill Plain	Communication Facilities
Reserve No. 41599 Public Purpose: Trigonometrical Station Notified: 01/05/1907 Locality: Nymagee Trig	Communication Facilities
Reserve No. 44124 Public Purpose: Trigonometrical Purposes Notified: 14/07/1909 Locality: Nardoo	Communication Facilities
Reserve No. 1369 Public Purpose: Trigonometrical Purposes Notified: 13/11/1882 Locality: Round Mountain	Communication Facilities
Reserve No. 39096 Public Purpose: Trigonometrical Purposes Notified: 29/04/1905 Locality: Mount Spring	Communication Facilities
Reserve No. 751675 Public Purpose: Future Public Requirements Notified: 29/06/2007 Parish: Bingar County: Cooper	Communication Facilities
Reserve No. 2579 Public Purpose: Trigonometrical Purposes Notified: 24/07/1882 Locality: Square Nob	Communication Facilities

Reserve No. 1440 Public Purpose: Public Recreation Notified: 05/10/1875 Locality: South Wagga Wagga	Communication Facilities
Reserve No. 620074 Public Purpose: Public Recreation Notified: 17/03/1876 Locality: Wagga Wagga	Communication Facilities
Reserve No. 754418 Public Purpose: Future Public Requirements Notified: 29/06/2007 Parish: Johns River County: Macquarie	Communication Facilities
Reserve No. 3096 Public Purpose: Travelling Stock Notified: 26/02/1887 Locality: Balladoran	Communication Facilities
Reserve No. 55 Public Purpose: Public Purposes Notified: 29/04/1878 Locality: Blackheath	Communication Facilities
Reserve No. 30 Public Purpose: Water Supply Notified: 07/12/1875 Locality: Mount Victoria File Reference: 08/6163	Communication Facilities

**ERRATUM**

IN the notifications appearing in the *New South Wales Government Gazette* of the 29 August 2008, Folio 8875, under the heading 'NOTICE OF PUBLIC PURPOSE PURSUANT TO SECTION 34a (2) (b) OF THE CROWN LANDS ACT 1989' the locality under Reserve No. 84154 was incorrect. The correct locality is 'Cowra'. File No.: 08/6163

**NOWRA OFFICE**  
**5 O'Keefe Avenue (PO Box 309), Nowra NSW 2541**  
**Phone: (02) 4428 9100 Fax: (02) 4421 2172**

**NOTIFICATION OF CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,  
 Minister for Lands.

*Land District – Bega;*  
*LGA – Bega Valley Shire*

Lot 1, DP 1129167 at Kiah, Parish Kiah and County Auckland. Ref. NA05 H 161.

Note: On closing, the land remains vested in the Crown as "Crown land".

**ORANGE OFFICE**  
**92 Kite Street (PO Box 2146), Orange NSW 2800**  
**Phone: (02) 6391 4300 Fax: (02) 6362 3896**

**REVOCATION OF RESERVATION OF  
 CROWN LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
 Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Forbes	The whole being
Local Government Area: Forbes Shire Council	Lot 1626, DP 750158, Parish Forbes, County Ashburnham,
Locality: Forbes	of an area of 1884m <sup>2</sup>
Reserve No. 78722	
Public Purpose: Reservoir	
Notified: 13 July 1956	
File Reference: 08/7534	

Note: Conversion of crown leasehold land to freehold.

**NOTIFICATION OF CLOSING OF PUBLIC ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedules hereunder.

TONY KELLY, M.L.C.,  
 Minister for Lands

SCHEDULE 1

Description

*Parish – Eugowra;*  
*County – Ashburnham;*  
*Land District – Forbes;*  
*Shire – Forbes*

Road Closed: Lot 1 in Deposited Plan 1128087.  
 File No.: OE05 H 272.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

SCHEDULE 2

Description

*Parish – Ganbenang;*  
*County – Westmoreland;*  
*Land District – Lithgow;*  
*Shire – Lithgow*

Road Closed: Lots 1 to 3 in Deposited Plan 1129171.  
 File No.: CL/00083.

Note: On closing Title to the land comprised in Lots 1 to 3 remains vest in the Crown as Crown Land.

SCHEDULE 3

Description

*Parish – Larras Lake;*  
*County – Wellington;*  
*Land District – Orange;*  
*Shire – Cabonne*

Road Closed: Lot 1 in Deposited Plan 1127921.  
 File No.: OE06 H 81.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 4

## Description

*Parish – Kamandra;  
County – Ashburnham;  
Land District – Parkes;  
Shire – Parkes*

Road Closed: Lot 1 in Deposited Plan 1129433.  
File No.: CL/00082.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 5

## Description

*Parish – Waldegrave;  
County – Bathurst;  
Land District – Orange;  
Shire – Cabonne*

Road Closed: Lot 1 in Deposited Plan 1128079.  
File No.: OE05 H 157.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 6

## Description

*Parish – Lyndhurst;  
County – Bathurst;  
Land District – Blayney;  
Shire – Blayney*

Road Closed: Lot 1 in Deposited Plan 1126655.  
File No.: OE05 H 202.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 7

## Description

*Parish – Warraberry;  
County – Gordon;  
Land District – Molong;  
Shire – Cabonne*

Road Closed: Lot 1 in Deposited Plan 1128070.  
File No.: OE05 H 163.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 8

## Description

*Parish – Beargamil;  
County – Ashburnham;  
Land District – Parkes;  
Shire – Parkes*

Road Closed: Lot 1 in Deposited Plan 1128073.  
File No.: OE05 H 187.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 9

## Description

*Parish – Dunleary;  
County – Bathurst;  
Land District – Blayney;  
Shire – Cowra*

Road Closed: Lot 1 in Deposited Plan 1128068.  
File No.: OE83 H 1311.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 10

## Description

*Parish – Eusdale;  
County – Roxburgh;  
Land District – Bathurst;  
Shire – Bathurst Regional*

Road Closed: Lot 1 in Deposited Plan 1128080.  
File No.: OE05 H 240.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 11

## Description

*Parish – Beneree;  
County – Bathurst;  
Land District – Orange;  
Shire – Orange*

Road Closed: Lot 1 in Deposited Plan 1127920.  
File No.: OE05 H 294.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

## SCHEDULE 12

## Description

*Parish – Norway;  
County – Westmoreland;  
Land District – Lithgow;  
Shire – Oberon*

Road Closed: Lot 1 in Deposited Plan 1128069.  
File No.: OE99 H 129.

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land.

**SYDNEY METROPOLITAN OFFICE**  
**Level 12, Macquarie Tower, 10 Valentine Avenue, Parramatta 2150**  
**(PO Box 3935, Parramatta NSW 2124)**  
**Phone: (02) 8836 5300 Fax: (02) 8836 5365**

**NOTIFICATION OF CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, MLC.,  
Minister for Lands

\_\_\_\_\_  
 Descriptions

*Land District – Penrith;  
 L.G.A. – Blacktown*

Lot 1, DP 1126078 at Blackett, Parish Rooty Hill, County Cumberland. MN05 H 67

Notes: (1) On closing, title for the land in lot 1 remains vested in Blacktown City Council as operational land.

(2) The road is closed subject to the easement for telecommunication services 2.745 wide, as shown in DP 1126078.

**AUTHORISATION OF ADDITIONAL PURPOSE**

IT is hereby notified pursuant to section 121A of the Crown Lands Act 1989, that the additional purpose specified in Column 1 of the Schedule hereunder is applied to the whole of the reserve specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, MLC.,  
Minister for Lands

\_\_\_\_\_  
 SCHEDULE

*Column 1*

Community Purposes

*Column 2*

Reserve No. D500486

Public Purpose:

Public Recreation

Notified: 1 November 1940

File No. MN79 R 52

**TAREE OFFICE**

**98 Victoria Street (PO Box 440), Taree NSW 2430**  
**Phone: (02) 6591 3500 Fax: (02) 6552 2816**

**APPOINTMENT OF TRUST BOARD MEMBERS**

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder, are appointed for the terms of office specified, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, MLC.,  
Minister for Lands

**SCHEDULE***Column 1*Thomas Arthur  
FREEMAN

(re-appointment)

Michelle

HOGAN

(new member)

Maree Susanne

McKIBBIN

(new member)

Beth McMILLAN

(new member)

Jennifer

WISEMAN

(new member)

For a term commencing

21 September 2008 and

expiring 20 September 2013.

File No.: TE80 R 184

*Column 2*

Kundabung

Public

Recreation

Reserve Trust

*Column 3*

Reserve No: 63576

Public Purpose: Public

Recreation

Notified: 21 October 1932

**WESTERN REGION OFFICE**  
**45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830**  
**Phone: (02) 6883 3000 Fax: (02) 6883 3099**

**WITHDRAWAL OF LANDS FROM WESTERN LANDS LEASES**

PURSUANT to section 35Q of the Western Lands Act, 1901, the lands described in Column 1 of the Schedule hereunder are withdrawn from the leases described in Column 2 of the Schedule for the purpose of being dedicated as public roads.

TONY KELLY, M.L.C.,  
Minister for Lands

SCHEDULE  
Descriptions

*Counties – Evelyn, Tongowoko and Poole;*  
*Administrative District – Milparinka; Unincorporated Area*

<i>Column 1 Lot/DP</i>	<i>Column 2 Lease Affected</i>	<i>Column 3 Title Affected</i>	<i>Column 4 Withdrawn Area (Ha)</i>	<i>Column 5 New Lease Area (Ha)</i>
1/1129946	5844	3453/765742	29.33	60794
2/1129946 4/1129946	5635	3451/765778	26.92	28362
3/1129946 15/1129946	3094	1112/762404	198.5	29158
5/1129946	3646	1110/762403	168.9	67955
6/1129946 16/1129946 23/1129946	3114	1111/762408	153.0	52173
7/1129946 8/1129946 10/1129946	10955	5568/768477 5569/768477 5573/768477	202.5	40491
11/1129946 12/1129946	2937	839/762120	1.731	12948
22/1129946	3106	841/762122	97.84	13115
13/1129946	9659	6760/822084	30.51	3201
17/1129946 20/1129946	666	4798/769018	101.4	51642
19/1129946	985	5575/768478	49.37	8045
21/1129946	2781	842/762123	54.70	12992
34/1129946	1037	4800/769097	163.1	50444

File Reference: 08/2515

**GRANTING OF A WESTERN LANDS LEASE**

IT is hereby notified that under the provisions of section 28A of the Western Lands Act 1901, the Western Lands Leases of the lands specified in the following Schedule have been granted to the undermentioned persons.

The leases are subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder.

The land is to be used only for the purpose of Residence.

Initial rent will be \$100.00 per annum and re-assessed thereafter annually on 1 April of each year.

The Conditions and Reservations annexed to such leases are those Conditions published in the *Government Gazette* of 25 May 2007, Folios 2974-2975.

All amounts due and payable to the Crown must be paid to the Department of Lands by the due date.

TONY KELLY, M.L.C.,  
Minister for Lands

*Administrative District – Walgett North; Shire – Walgett;  
Parish – Wallangulla/Mebea; County – Finch*

WLL No.	Name of Lessee	File No.	Folio identifier	Area m2	Term of Lease	
					From	To
WLL 16078	Leslie MCLENNAN	08/4658	88/1120765	2094	15-Sep-2008	14-Sep-2028
WLL 14760	Rade BARIC	WLL 14760	417/1076808	2483	15-Sep-2008	14-Sep-2028
WLL 14980	Tony BROWN	07/4681	431/1076808	2541	15-Sep-2008	14-Sep-2028
WLL 16065	Edward Lawrence LUNNEY	08/4590	273/1076808	2390	16-Sep-2008	15-Sep-2028
WLL 16033	Gerardus Henricus VAN BAAST	08/3828	51/1120765	2473	16-Sep-2008	15-Sep-2028
WLL 16038	Nelson ALLEN	08/3936	81/1120765	2527	16-Sep-2008	15-Sep-2028
WLL 16224	George TRIANTAFYLLOU	08/8769	24/1076808	2395	24-Sep-2008	23-Sep-2028

PURSUANT to section 48, Commons Management Act 1989, the person specified in Column 1 of the schedule hereunder, is appointed as administrator for the term also specified in Column 1, of the trust specified opposite hereto in Column 2, which is trustee of the common referred to in Column 3 of the Schedule

TONY KELLY, M.L.C.,  
Minister for Lands

Column 1	Column 2	Column 3
Sharon HAWKE	Hillston Common Trust	Reserve No. 4 Public Purpose: Temporary Common Notified: 16 January 1886
For a six month period commencing 6 October 2008		File Ref: WL87 R 10/2

#### APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

#### SCHEDULE

Column 1	Column 2	Column 3
Katrina SHOOBRIDGE (new member)	Silverton War Memorial Youth Camp Trust	Reserve No. 88980 Public Purpose: War Memorial Youth Centre Notified: 3 August 1973 File Ref.: WL90 R 41/2

For a term commencing the date of this notice and expiring 10 February 2010.

#### DEDICATION OF CROWN LAND AS PUBLIC ROAD

PURSUANT to section 12 of the Roads Act, 1993, the Crown land described hereunder is, from the date of publication of this notice, dedicated as public road. The public road hereby dedicated is declared not to be Crown road within the meaning of the Roads Act 1993.

TONY KELLY, M.L.C.,  
Minister for Lands

#### Descriptions

*County – Evelyn;  
Administrative Districts – Broken Hill and Milparinka;  
Unincorporated Area*

1/1129946, 2/1129946, 3/1129946, 4/1129946, 5/1129946, 6/1129946, 7/1129946, 8/1129946, 10/1129946, 11/1129946, 12/1129946, 13/1129946, 15/1129946, 16/1129946, 17/1129946, 19/1129946, 20/1129946, 21/1129946, 22/1129946, 23/1129946, 34/1129946

Note: Affected parts of Crown Reserves are hereby revoked.

File Reference: 08/2515

#### ERRATUM

IN the notification appearing in the *New South Wales Government Gazette* of 19 September 2008, Folio's 9301-9304, appearing under the heading Alteration of Purpose/ Conditions of a Western Lands Lease (being Western Lands Lease 14391) the lease number should have read Western Lands Lease 14979 being the land contained with Folio Identifier 31/1127834.

#### ERRATUM

IN the notification appearing in the *New South Wales Government Gazette* of 26 May 2006, Folio 3181, appearing under the heading "Granting of a Western Lands Lease", the holders of Western Lands Lease 14546, Brian Godfrey DECAUX & Dudley Ross TURNER as Tenants in Common in Equal Shares should read Brian Godfrey DECAUX & Dudley Ross TURNER as Joint Tenants.

## Department of Primary Industries

### ANIMAL RESEARCH ACT 1985

#### Section 59A

Instrument of delegation by the Director-General

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries, pursuant to section 59A of the Animal Research Act 1985 ("the Act"):

1. revoke the delegation by the Director-General made on 13 January 2006 and published in the Government Gazette No. 9 of 20 January 2006 at page 450 and any delegation revived as a result of this revocation; and
2. delegate the functions conferred on the Director-General under sections 20 and 39 of the Act to the persons who from time to time hold, occupy or perform the duties of the NSW Department of Primary Industries positions listed in the Schedule below.

#### Schedule

Deputy Director-General, Agriculture, Biosecurity and Mine Safety  
Director, Animal Welfare  
Leader, Animal Research

Dated this 4th day of September 2008.

R. F. SHELDRAKE,  
Director-General  
NSW Department of Primary Industries

NSW DPI is calling for written submissions from any person supporting or objecting to the oyster lease proposal, citing reasons for the support/objection. NSW DPI is also calling for expressions of interest from persons or corporations interested in leasing the area specified above, for the purpose of aquaculture. An expression of interest must be in the form of a written response referring to lease number OL64/200 to be signed and dated with a return address. If additional expressions of interest are received, NSW DPI may offer the area for leasing through a competitive public tender process, auction or ballot.

If granted the lease will be subject to standard covenants and conditions of an aquaculture lease and aquaculture permit, under the Fisheries Management Act, 1994. Specific details of the proposed lease can be obtained, or enquiries made with NSW DPI, Aquaculture Administration Section, Port Stephens on (02) 4982 1232. Objections or expressions of interest for consideration in the determination of the application must be received at the address below, within 30 days from the date of publication of this notification.

Director,  
Fisheries Conservation and Aquaculture Branch,  
Aquaculture Administration Section,  
Port Stephens Fisheries Centre,  
Locked Bag 1, Nelson Bay NSW 2315.

BILL TALBOT,  
Director,  
Fisheries Conservation and Aquaculture,  
Fisheries, Compliance and Regional Relations,  
NSW Department of Primary Industries

### EXHIBITED ANIMALS PROTECTION ACT 1986

#### Appointment of Member

#### Exhibited Animals Advisory Committee

I, IAN MACDONALD MLC, Minister for Primary Industries, pursuant to sections 6(3) and 6(4)(e) of the Exhibited Animals Protection Act 1986, hereby appoint Andrew Kelly as a member of the Exhibited Animals Advisory Committee, for a three (3) year term of office commencing on 1 August 2008.

Dated this 26th day of August 2008.

IAN MACDONALD, M.L.C.,  
Minister for Primary Industries

### MINERAL RESOURCES

#### Mining Act 1992

#### Order Under Section 224

I, John Leeks, Manager, Mineral Titles and Lightning Ridge by delegation from the Minister for Mineral Resources, pursuant to the provisions of section 224 of the Mining Act 1992, do by this Order constitute lands within Opal Prospecting Area No. 4 and depicted on plan catalogued M27136 in the Department of Primary Industries-Minerals Division, Maitland as Opal Prospecting Block Nos 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216 and 217 inclusive.

Dated this 26th day of September 2008.

JOHN LEEKS,  
Manager,  
Mineral Titles and Lightning Ridge,  
NSW Department of Primary Industries

### FISHERIES MANAGEMENT ACT 1994

#### FISHERIES MANAGEMENT (AQUACULTURE) REGULATION 2007

Notice of Receipt of Application for Aquaculture Lease

Notification under s.163 (7) of the Fisheries Management Act 1994 and cl.33 of the Fisheries Management (Aquaculture) Regulation 2007

NSW Department of Primary Industries (NSW DPI) advises an application has been received for a new aquaculture lease over public water land for the purpose of cultivating Sydney rock oysters. Location is Brisbane Water, described as follows:

- 2.7301 hectares over former oyster lease OL64/200.

NOTICE is given that the following application has been received:

#### EXPLORATION LICENCE APPLICATION

(T08-0224)

No. 3598, NEWMONT EXPLORATION PTY LTD (ACN 006 306 690), area of 50 units, for Group 1, dated 19 September 2008. (Orange Mining Division).

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources



NOTICE is given that the following applications have been granted:

#### EXPLORATION LICENCE APPLICATIONS

(T08-0029)

No. 3429, now Exploration Licence No. 7192, QUIDONG MINERALS PTY LTD (ACN 121 671 323), County of Wellesley, Map Sheets (8623, 8624, 8723, 8724), area of 66 units, for Group 1, dated 26 August 2008, for a term until 26 August 2010.

(T08-0035)

No. 3435, now Exploration Licence No. 7193, SILVER MINES LIMITED (ACN 107 452 942), Counties of Clarke and Sandon, Map Sheet (9336), area of 18 units, for Group 1, dated 26 August 2008, for a term until 26 August 2010.

(T08-0076)

No. 3478, now Exploration Licence No. 7201, NSW TIN PTY LIMITED (ACN 126 083 967), Counties of Bourke and Cooper, Map Sheet (8229), area of 19 units, for Group 1, dated 8 September 2008, for a term until 8 September 2010. As a result of the grant of this title, Exploration Licence No. 6986 has partly ceased to have effect.

(T08-0119)

No. 3513, now Exploration Licence No. 7203, PLATSEARCH NL (ACN 003 254 395), County of Yancowinna, Map Sheet (7234), area of 36 units, for Group 1, dated 9 September 2008, for a term until 9 September 2010.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following application has been refused:

#### EXPLORATION LICENCE APPLICATION

(T07-0461)

No. 3320, STUART MILLER, County of Buccleuch, County of Selwyn and County of Wallace, Map Sheet (8526). Refusal took effect on 18 September 2008.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(T98-1062)

Exploration Licence No. 5534, RIMFIRE PACIFIC MINING NL (ACN 006 911 744), area of 40 units. Application for renewal received 18 September 2008.

(T02-0048)

Exploration Licence No. 6010, BIG ISLAND MINING PTY LTD (ACN 112 787 470), area of 9 units. Application for renewal received 18 September 2008.

(T02-0050)

Exploration Licence No. 6012, BIG ISLAND MINING PTY LTD (ACN 112 787 470), area of 13 units. Application for renewal received 18 September 2008.

(T02-0010)

Exploration Licence No. 6016, CENTRAL WEST GOLD NL (ACN 003 078 591), area of 1 units. Application for renewal received 23 September 2008.

(T04-0051)

Exploration Licence No. 6321, COMET RESOURCES LIMITED (ACN 060 628 202), area of 20 units. Application for renewal received 17 September 2008.

(T04-0063)

Exploration Licence No. 6323, BOUNTY RESOURCES PTY LIMITED (ACN 108 458 420), area of 10 units. Application for renewal received 18 September 2008.

(T03-0901)

Exploration Licence No. 6336, AUGUR RESOURCES LTD (ACN 106 879 690), area of 100 units. Application for renewal received 17 September 2008.

(06-4071)

Exploration Licence No. 6647, KINGSREEF PTY LTD (ACN 083 553 968), area of 40 units. Application for renewal received 17 September 2008.

(06-4081)

Exploration Licence No. 6648, ICON RESOURCES LTD (ACN 115 009 106), area of 19 units. Application for renewal received 19 September 2008.

(06-246)

Exploration Licence No. 6654, COMPASS RESOURCES N.L. (ACN 010 536 820), area of 23 units. Application for renewal received 19 September 2008.

(08-7419)

Consolidated Coal Lease No. 719 (Act 1973), CENTENNIAL MANNERING PTY LTD (ACN 101 509 120), area of 1806.5 hectares. Application for renewal received 19 September 2008.

(T81-1328)

Mining Purposes Lease No. 216 (Act 1973), LOUIS TRIFUNOVIC, area of 2.03 hectares. Application for renewal received 17 September 2008.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

#### RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T97-1003)

Exploration Licence No. 5420, ILUKA MIDWEST LIMITED (ACN 008 763 666), County of Taila, Map Sheets (7428, 7429), area of 129 units, for a further term until 7 January 2010. Renewal effective on and from 15 September 2008.

(04-544)

Exploration Licence No. 6372, CHALLENGER MINES LTD (ACN 090 166 528), Counties of Clarendon and Wynyard, Map Sheets (8427, 8428, 8527), area of 41 units, for a further term until 1 February 2010. Renewal effective on and from 3 September 2008.

(05-922)

Exploration (Prospecting) Licence No. 2379, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), County of Yancowinna, Map Sheets (7133, 7233), area of 22 units, for a further term until 7 March 2009. Renewal effective on and from 18 June 2008.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

(06-7055)

Exploration Licence No. 6767, formerly held by IRONBARK ZINC PTY LTD (ACN 121 040 408) has been transferred to SULTAN CORPORATION LIMITED (ACN 061 219 985). The transfer was registered on 22 September 2008.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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### WITHDRAWAL OF APPLICATION FOR RENEWAL

NOTICE is given that the application for renewal in respect of the following authority has been withdrawn:

(05-189)

Exploration Licence No. 6446, THE COLONIAL COPPER COMPANY PTY. LTD. (ACN 007 930 243), County of Farnell, Map Sheets (7134, 7135), area of 8 units. The authority ceased to have effect on 15 September 2008.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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### NOXIOUS WEEDS ACT 1993

Appointment of Member

to Noxious Weeds Advisory Committee

I, IAN MACDONALD MLC, Minister for Primary Industries, pursuant to section 58 of the Noxious Weeds Act 1993, have determined that Mr Robert GLEDHILL be appointed to the Noxious Weeds Advisory Committee as a community representative, for a term expiring on 1 August 2012.

Dated this 26th day of August 2008.

IAN MACDONALD, M.L.C.,  
Minister for Primary Industries

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### PART CANCELLATIONS

NOTICE is given that the following authorities have been cancelled in part:

(06-7096)

Exploration Licence No. 6770, TRIAKO RESOURCES LIMITED (ACN 008 498 119).

Description of area cancelled:

An area of 57 units has been cancelled. For further information contact Titles Branch.

Part cancellation took effect on 21 September 2008.

The authority now embraces an area of 33 units.

(07-93)

Exploration Licence No. 6808, COBAR OPERATIONS PTY LTD (ACN 103 555 853).

Description of area cancelled:

An area of 6 units has been cancelled. For further information contact Titles Branch.

Part cancellation took effect on 21 September 2008.

The authority now embraces an area of 9 units.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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### TRANSFERS

(08-4607)

Authorisation No. 385, formerly held by CUMNOCK NO.1 COLLIERY PTY LIMITED (ACN 051 932 122) has been transferred to CUMNOCK NO.1 COLLIERY PTY LIMITED (ACN 051 932 122) AND ICRA CUMNOCK PTY LTD (ACN 129 006 819). The transfer was registered on 15 September 2008.

Sydney, 26 September, 2008

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### REVOCATION OF A TIMBER RESERVE

HER Excellency the Governor, with the advice of the Executive Council, on the recommendation of the Minister and with the concurrence of the Minister for Lands, directs it to be notified that, in pursuance of the provisions of Section 22 of the Forestry Act, 1916, the reserve from sale described hereunder shall be revoked and it is revoked accordingly.

IAN MACDONALD, M.L.C.,  
Minister for Primary Industries

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### SCHEDULE

#### EASTERN DIVISION

*Land District Of Tumut;  
Tumut Shire Council Area;  
Southern Forestry Region*

Reserve No 57242 from Sale for Timber, notified 23 October 1925, Parish of Adelong, County of Wynyard, – the whole, having an area of about 32.4 hectares. (47721)

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### STOCK DISEASES ACT 1923

Appointment of Inspector

Notification No: 500

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries, pursuant to section 6(1) of the Stock Diseases Act 1923 ("the Act"), hereby appoint Luke Gregory BOOTH as an inspector for the purposes of the Act.

Dated this 9th day of September 2008.

R. F. SHELDRAKE,  
Director-General  
NSW Department of Primary Industries

**STOCK MEDICINES ACT 1989**

## Revocation of Authorisations

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries pursuant to section 48 of the Stock Medicines Act 1989 and Section 47(1)(b)(i) of the Interpretation Act 1987, hereby revoke the authorisation of each person specified in Column 1 of the Schedule below as an inspector under the Stock Medicines Act 1989, including any published in the New South Wales Government Gazette specified opposite in Column 2 of the Schedule below at the page specified opposite in Column 3 of the Schedule below, and any authorisation revived as a result of this revocation.

## SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Terry David RAFFERTY	No.140 of 18 November 2005	9572
Melanie Gai SCANES	No.189 of 22 December 2006	11838
David Vaughan McIVER	N/A	N/A
Gregory John WASSELL	N/A	N/A

Dated this 9th day of September 2008.

R. F. SHELDRAKE,  
Director-General  
NSW Department of Primary Industries

## Roads and Traffic Authority

### ROAD TRANSPORT (GENERAL) ACT 2005

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

NEWCASTLE CITY COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which 25metre B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

LINDY HYAM,  
General Manager,  
Newcastle City Council  
(by delegation from the Minister for Roads)  
23 September 2008

#### SCHEDULE

**1. Citation**

This Notice may be cited as Newcastle City Council 25 Metre B-Double route Notice No. 3/2008.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 25 metre B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 2 of the Road Transport (Vehicle Registration) Regulation 2007.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Raven Street, Kooragang	Teal Street	Curlew Street	

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land  
at Conjola Mountain in the Shoalhaven City Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL those pieces or parcels of Crown land situated in the Shoalhaven City Council area, Parishes of Cudmirrah and Conjola and County of St Vincent, shown as:

Lots 14 and 19 Deposited Plan 1125483, being parts of the land in Reserve No 52246 from Sale or Lease other than Special Lease notified in Government Gazette No 81 of 1 June 1917 on page 2837; and

Lot 20 Deposited Plan 1125483, being part of the land in Reserve No 1011528 for Access and Public Requirements, Tourism Purposes and Environmental and Heritage Conservation, notified in Government Gazettes No 75 of 9 June 2006 on page 4010 and No 77 of 16 June 2006 on page 4364.

(RTA Papers: FPP 8M1843; RO 1/404.11127)

**ROADS ACT 1993**

## Section 31

Fixing or Varying of Levels  
of part of HW1 Princes Highway  
in the Local Government Area of Shoalhaven

The Roads and Traffic Authority of New South Wales by this Order under Section 31 of the Roads Act 1993, fixes or varies the levels of a part of Highway No 1 - Princes Highway from Bendalong Road to Conjola Creek, as shown on Roads and Traffic Authority plans No. 0001 404 RC 6180 and 0001 404 BA 0022.

R Watson  
Project Services Manager  
Roads and Traffic Authority of New South Wales  
Level 4, 90 Crown Street  
Wollongong, NSW 2500

(RTA Papers: FPP 7M4032; RO 11/ 404.1944)

**ROADS ACT 1993**

Notice of Dedication of Land as Public Road at  
Southern Highlands in the Wollondilly Shire Council area

The Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL that piece or parcel of land situated in the Wollondilly Shire Council area, Parish of Wallandoola and County of Camden, shown as Lot 23 Deposited Plan 1110789.

(RTA Papers: 496.1170)

**ROADS ACT 1993**

Notice of Dedication of Land as Public Road  
at Wamberal in the Gosford City Council area

THE Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

T D Craig  
Manager, Compulsory Acquisition & Road Dedication,  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL those pieces or parcels of land situated in the Gosford City Council area, Parish of Kincumber and County of Northumberland, shown as Lots 45 to 79 inclusive Deposited Plan 1097150.

(RTA Papers: 184.1315)

**ROAD TRANSPORT (GENERAL) ACT 2005****Road Transport (General) Regulation 2005  
Part 6 – Heavy Vehicle Driver Fatigue****EXEMPTION ORDER****Work diary exemption  
for specified classes of drivers of regulated heavy vehicles**

I, Michael Daley, Minister for Roads, pursuant to section 16 of the *Road Transport (General) Act 2005*, make the following Order.

Michael Daley MLA  
Minister for Roads

**1 Citation**

This Order may be cited as the Regulated Heavy Vehicle Work Diary Exemption Order 2008.

**2 Commencement**

This Order takes effect on 29 September 2008.

**3 Effect**

This Order remains in force until it is amended or repealed.

**4 Interpretation**

Unless stated otherwise, words and expressions used in this Order have the same meaning as those defined in the *Road Transport (General) Regulation 2005*.

**5 Exemption from requirements of the Road Transport (General) Regulation 2005**

Subdivision 2 (Work diary requirements) of Division 4 of Part 6 of *Road Transport (General) Regulation 2005* is declared not to apply to a driver of a regulated heavy vehicle if:

5.1 the driver is:

- (a) employed by a licensed motor dealer or licensed motor vehicle repairer and engaged in a journey less than 100km from the driver's base for purposes incidental to the sale, manufacture, registration and repair of the regulated heavy vehicle; or
- (b) a driver of a regulated heavy vehicle acting for an emergency service engaged in a journey less than 100km from the driver's base; and

- 5.2 the record keeper for the driver:
- (a) records the following information as soon as possible after receiving it;
    - (i) the driver's name, driver licence number and contact details; and
    - (ii) the dates on which the driver drives a regulated heavy vehicle on a road; and
    - (iii) the registration number shown on the numberplate of each heavy motor vehicle that the driver drives; and
    - (iv) the total of the driver's work and rest times on each day when the driver drives a regulated heavy vehicle; and
    - (v) the total of the driver's work and rest times for each week when the driver drives a regulated heavy vehicle; and
    - (vi) the driver's rosters and trip schedules, including details of driver changeovers; and
    - (vii) the driver's base for each journey; and
  - (b) keeps a copy of payment records relating to the driver, including timesheet records if the driver is paid according to time at work.
  - (c) keeps a record that is required to be kept under this clause for 3 years after it is created.
  - (d) keeps the records at the record location so that they are reasonably accessible to an authorised officer or police officer.
  - (e) keeps the records in way that ensures:
    - (i) they are readable and reasonably capable of being understood; and
    - (ii) are capable of being used as evidence.

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### Explanatory Notes:

**licensed motor dealer** means a motor dealer licensed under the *Motor Dealers Act 1974*.

**licensed motor vehicle repairer** means a motor vehicle repair business licensed under the *Motor Vehicle Repairs Act 1980*.

The following words and expressions used in this Exemption Order are defined in the *Road Transport (General) Regulation 2005*, as follows;

**base** of a driver of a regulated heavy vehicle, in relation to particular work, is the vehicle's garage address. However:

- (a) if the driver operates and receives instructions from another place that is recorded in the record keeper's record as the driver's base, the other place is the driver's **base**.
- (b) if a driver is a self-employed driver and an employed driver at different times, the driver may have one base as a self-employed driver and another base as an employed driver.
- (c) if a driver has 2 or more employers, the driver may have a different base in relation to each employer.

**bus** is a motor vehicle built mainly to carry people that seats over 12 adults (including the driver).

**driver** of a regulated heavy vehicle includes an employed driver and a self-employed driver.

**emergency service** is any organisation that has a statutory responsibility to respond to an emergency and includes:

- (a) an ambulance service; and
- (b) an emergency auxiliary; and
- (c) a fire brigade, including a volunteer fire brigade; and
- (d) a police service or force; and
- (e) a disaster or emergency organisation of the Commonwealth or a State or Territory; and
- (f) an organisation prescribed as an emergency service by the regulations.

**employed driver** is a driver who is employed by someone else to drive a regulated heavy vehicle.

**employer** is a person who engages someone else to drive a regulated heavy vehicle under a contract of employment, apprenticeship or training.

**garage address** of a vehicle is the principal depot or base of operations of the vehicle.

**regulated heavy vehicle** is:

- (a) a motor vehicle (except a bus or tram) with a GVM over 12 tonnes; or
- (b) a motor vehicle (except a bus or tram) that is part of a combination, if the total of the GVMs of the vehicles in the combination is over 12 tonnes.

**record keeper** for the driver is:

- (a) for an employed driver — the employer; or
- (b) for a self-employed driver — the self-employed driver; or

**record location** of a driver is:

- (a) a place which the record keeper has instructed the driver is the record location; or
- (b) if the record keeper has not instructed the driver as specified in paragraph (a), the driver's base.

**regulated heavy vehicle** is :

- (a) a heavy truck; or
- (b) a bus.

**self-employed driver** is a driver who is not an employed driver but is driving a regulated heavy vehicle is.



**ROAD TRANSPORT (GENERAL) ACT 2005****Road Transport (General) Regulation 2005  
Part 6 – Heavy Vehicle Driver Fatigue****EXEMPTION ORDER****Bus and coach industry**

I, Michael Daley, Minister for Roads, pursuant to section 16 of the *Road Transport (General) Act 2005*, make the following Order.

Michael Daley MLA  
Minister for Roads

- 1 Citation**  
This Order may be cited as the Bus and Coach Industry Exemption Order 2008.
- 2 Commencement**  
This Order takes effect on 29 September 2008.
- 3 Effect**  
This Order remains in force until it is amended or repealed.
- 4 Interpretation**  
Unless stated otherwise, words and expressions used in this Order have the same meaning as those defined in the *Road Transport (General) Regulation 2005*.
- 5 Exemption from requirements of Road Transport (General) Regulation 2005**  
Subdivision 2 (Work diary requirements) of Division 4 of Part 6 of *Road Transport (General) Regulation 2005* is declared not to apply to the driver of a bus if:
  - 5.1 The driver is:
    - (a) engaged in a journey of less than 100km from the driver's base; or
    - (b) the driver of a bus engaged in a journey undertaken under a bus service contract entered into under Part 3 of the *Passenger Transport Act 1990*, regardless of the distance travelled; and
  - 5.2 the record keeper for the driver:
    - (a) records the following information as soon as possible after receiving it;
      - (i) the driver's name, driver licence number and contact details; and
      - (ii) the dates on which the driver drives a bus on a road; and

- (iii) the registration number shown on the numberplate of each bus the driver drives; and
  - (iv) the total of the driver's work and rest times on each day when the driver drives a bus; and
  - (v) the total of the driver's work and rest times for each week when the driver drives a bus; and
  - (vi) the driver's rosters and trip schedules, including details of driver changeovers; and
  - (vii) the driver's base for each journey; and
- (b) keeps a copy of payment records relating to the driver, including timesheet records if the driver is paid according to time at work.
  - (c) keeps a record that is required to be kept under this clause for 3 years after it is created.
  - (d) keeps the records at the record location so that they are reasonably accessible to an authorised officer or police officer.
  - (e) keeps the records in way that ensures:
    - (i) they are readable and reasonably capable of being understood; and
    - (ii) are capable of being used as evidence.

**6 12 month transitional exemption from the requirements of the Road Transport (General) Act 2005 - work diary and work and rest hours**

From the commencement of this Order until 28 September 2009:

- 6.1 requirements relating to work and rest hours imposed under Part 6 of the *Road Transport (General) Regulation 2005* are declared not to apply to a bus driver if the bus driver complies with the maximum driving times, maximum work times and minimum rest times imposed by Part 2 of the *Road Transport (Safety and Traffic Management)(Driver Fatigue) Regulation 1999*; and
- 6.2 requirements relating to work diaries imposed under Part 6 of the *Road Transport (General) Regulation 2005* are declared not to apply to a bus driver, other than a bus driver specified in clause 5 of this Order if the bus driver complies with the requirements relating to logbooks imposed by Part 4 the *Road Transport (Safety and Traffic Management)(Driver Fatigue) Regulation 1999*; and
- 6.3 requirements relating to record keeping under Part 6 of the *Road Transport (General) Regulation 2005* are declared not to apply to the record keeper of a bus driver specified in paragraph 6.2 if the record keeper complies with the requirements in relation to record keeping imposed on the employer of a bus driver or a self employed bus driver under Part 4 of the *Road Transport (Safety and Traffic Management)(Driver Fatigue) Regulation 1999*;

**Explanatory Notes:**

The following words and expressions used in this Exemption Order are defined in the *Road Transport (General) Regulation 2005*, as follows;

**base** of a driver of a regulated heavy vehicle, in relation to particular work, is the vehicle's garage address. However:

- (a) if the driver operates and receives instructions from another place that is recorded in the record keeper's record as the driver's base, the other place is the driver's **base**.
- (b) if a driver has 2 or more employers, the driver may have a different base in relation to each employer.

**bus** is a motor vehicle built mainly to carry people that seats over 12 adults (including the driver).

**driver** of a regulated heavy vehicle includes an employed driver and a self-employed driver.

**garage address** of a vehicle is the principal depot or base of operations of the vehicle.

**record keeper** for the driver is:

- (a) for an employed driver — the employer; or
- (b) for a self-employed driver — the self-employed driver; or

**record location** of a driver is:

- (a) a place which the record keeper has instructed the driver is the record location; or
- (b) if the record keeper has not instructed the driver as specified in paragraph (a), the driver's base.

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## Department of Water and Energy

### WATER ACT 1912

AN application for a licence under section 10 of Part 2 of the Water Act, 1912 has been received as follows:

#### *North Coast*

Peter Henry & Glenda Jean Ballard for 1 pump on Clarence River on Lots 1 & 2 DP 986466 & Lot 6 DP 111766, Parish Copmanhurst, County Clarence for irrigation of 4 ha (Pasture) 22 ML. New licence by way of permanent transfer. Ref:30SL067028

Written objections to the application specifying the grounds thereof must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484 within 28 days of the date of publication.

APPLICATIONS for licences under Part 2 Section 10 of the Water Act 1912 within a Proclaimed (declared) Local Area under section 5(4) has been received as follows:

#### *Namoi River Valley*

Errol Edwin ENGLER and Susan Christine MURFIT for two pumps on Halls Creek on Lot 126 DP 752176 Parish Cuerindi, County Darling and Lots 94, 117 & 131 DP 752182 Parish Fleming, County Darling for irrigation of 20.5 ha (improved pastures & lucerne), (replaces existing licence, increase pump size and additional pump). Ref:90SL100981

#### *Barwon Darling River Valley*

C & L PASTORAL COMPANY for a pump on the Barwon River Lot 2 DP1018481, Parish Welman, County Clyde for water supply for irrigation purposes (wheat). Permanent transfer of existing entitlement. Ref:85SL105044.

Written objections to the application specifying grounds thereof may be made by any statutory authority or local occupier within the proclaimed area whose interests may be affected and must be lodged with the Department of Water and Energy, PO Box 796, Murwillumbah NSW 2484 within 28 days of the date of publication.

DENNIS MILLING,  
Manager Licensing

### WATER ACT, 1912

APPLICATIONS for Licences, under the Section 10 of Part 2 of the Water Act, 1912, as amended, have been received as follows:

Basil Vuy HADLOW for a pump on Bemboka River being Lot 198 DP1113758, Parish Bemboka, County Auckland for the irrigation of 2.5 hectares (improved pasture). (New licence - permanent transfer of 3.0 megalitres from 10SL43759) (Exempt from the Bega River catchment embargo). (Ref:10SL56818).

Donald Raymond SPENCE and Wendy BARON for a pump on Bemboka River being Lot 1 DP1037322, Parish Bemboka, County Auckland for the irrigation of 26.5 hectares (improved pasture). (Replacement licence – replacing 10SL55682 due to the permanent transfer of 29.0 megalitres from 10SL43759) (Exempt from the Bega River catchment embargo). (Ref:10SL56819).

Anthony David HARRIS and Marlene Maree MOON for a pump on Bemboka River being Lot 103 DP750203, Parish Colombo, County Auckland for water supply for domestic purposes. (New licence – permanent transfer of 3.0 megalitres from 10SL043759) (exempt from the Bega River catchment embargo). (Ref:10SL056816).

Strong Residential Pty Ltd for an earthen bywash dam on a 1st order unnamed watercourse being Lot 4 DP1083184, Parish Broughton, County Camden for stock watering purposes. (New licence – dam in excess of harvestable right). (Ref: 10SL56817).

AN application for an Authority, under the Section 20 of Part 2 of the Water Act, 1912, as amended, has been received as follows:

Nicola COLLINS and others for a pump on the Bega River being Crown Land fronting Lot 42 DP1004119, Parish Meringo, County Auckland for stock and domestic purposes and irrigation (grape vines). (Replacement Authority – replacing 10SL56570 due to a split of entitlement) (No increase in entitlement) (exempt from the 2007 South Coast Rivers embargo). (Ref:10SA002543).

Any inquiries regarding the above should be directed to the undersigned on (02) 4429 4442. Written objections, from any local occupier or statutory authority, specifying grounds and how their interests are affected, must be lodged with the Department of Water and Energy, PO Box 309, Nowra NSW 2541, within 28 days of the date of this publication.

WAYNE RYAN,  
Licensing Officer

## Other Notices

### ASSOCIATIONS INCORPORATION ACT 1984

#### Cancellation of Incorporation Pursuant to Section 54

TAKE notice that the incorporation of the following associations is cancelled by this notice pursuant to section 54 of the Associations Incorporation Act 1984.

Cancellation is effective as at the date of gazettal.

The Aromatic Sciences Guild of Australia Inc – INC9879405  
 Australia-China Trade Promotion Association Incorporated – INC9879527  
 Australian Association of Recyclers Inc – Y0897734  
 Australian Sponsorship Association Inc – Y0948207  
 Australia-New Zealand Business Council Inc – Y0766509  
 Australian Hap Ki Do Association Inc – Y1141115  
 The Aikido Institute, New England Incorporated – INC9877301  
 Australian Palomino Horse Association Incorporated – Y0184733  
 Australian Raw Cotton Exporters Incorporated – Y1952411  
 Aunties & Uncles (Illawarra) Inc – Y1564127  
 Ace Boating Club Inc – Y1684310  
 Bendalong and Districts Conservation Association Inc – Y0989727  
 Booma Fishing Club Inc – Y0612840  
 Brunswick Byron Community Advisory Council Inc – Y0958301  
 Baby Products Association Inc – Y1014515  
 Bobbin Theatre Inc – Y0913822  
 Barefoot Theatrical Productions Inc – Y1213606  
 Bilgola Preservation Society Inc – Y1038642  
 Bathurst Community Training Incorporated – Y0124610  
 Batemans Bay Heartbeat Club Inc – Y1041218  
 Buddha's Light International Association of Australia Incorporated – Y1400217  
 Black Jack Mountain Landcare Group Incorporated – Y1373136  
 Batlow Senior Citizens Village Association Inc – Y0758017  
 Bega District Jockey Club Inc – Y1389016  
 Blue Mountains Classic Car Club Incorporated – Y1967637  
 Barraba Junior Cricket Association Incorporated – Y1854018  
 Botany & Eastern Region Environmental Protection Agency Incorporated – Y0911534  
 Belmont North Rugby League Club Inc – Y1324545  
 Council for the Advancement of Recovery from Alcohol and Drug Dependency in Australia Incorporated – Y1336437  
 Clash! Association Macarthur Inc – INC9880252  
 The City of Newcastle Concert Band Inc – Y0706239

Cold Storage Association of Australia Incorporated – Y1306645  
 Clarence Valley Angus Breeders' Group Incorporated – Y1621931  
 Caduceus Club of NSW Incorporated – Y1038446  
 Croatian Society Korcula Inc – Y1065541  
 Coolah District Tennis Club Inc – Y0526339  
 Corowa Fire Brigade Social Club Incorporated – Y1937012  
 Doner Kebab Traders Association Inc – Y1238240  
 Dubbo Revival Centre Inc – Y1259817  
 Dapto Australian Football Club Inc – Y0061020  
 Dun Horse Society of NSW Incorporated – Y1753712  
 Ettamogah Social Club Inc – Y1079035  
 Ekalesia Metotisi Samoa I Parramatta Inc – INC9876973  
 Eastern Region Aboriginal Resource Centre Inc – Y0237935  
 Faith Independent Baptist Church Cooma Inc – Y1466714  
 Former Yugoslav Communities (in Australia) Welfare Association Incorporated – Y0264442  
 Fergie Force Boating Club Incorporated – Y1512447  
 The Gospel Church of Jesus Inc – Y1218003  
 Greystanes Junior Rugby League Football Club Incorporated – INC9876248  
 Greenhouse Skills Enterprises Incorporated – Y1199904  
 Gunning Community Association Inc – Y1317932  
 Greystanes Junior Australian Football Club Inc – Y0250703  
 The Goulburn Polo and Picnic Race Club Inc – Y0912531  
 Group 20 Rugby League Incorporated – Y1976146  
 Gwydir Mobile Children's Services Incorporated – Y0319638  
 Grafton International Easter Jazz & Blues Festival Incorporated – Y1725326  
 Great Lakes Hang Gliding Club Inc – Y1744909  
 Holbrook Advancement Group Incorporated – Y1867838  
 Hunter Regional Show Horse Association Inc – Y1015120  
 Hamilton Chamber of Commerce Incorporated – Y2058432  
 Italo Australian Deep Sea Fishing Club Inc – Y0729908  
 The Joseph and Joyce George Foundation Inc – Y1180543  
 Kiama Rugby League Football Club Inc – Y1566905  
 Koraleigh District Land and Water Improvement Group Incorporated – Y1899232  
 The Kenyan Association of Australia Incorporated – INC9883819  
 Lions Club of Wamberal Inc – Y0975302

- Lawrence Hargrave 1994 Commemorative Association Inc – Y1713238
- Lakeside A.S.A. Inc – Y1170547
- Lakeside Radio Control Racing Car Club Incorporated – Y1011622
- Lions Club of Harden-Murrumburrah Inc – Y0767702
- Leht Incorporated – Y1809611
- Lake Macquarie Hockey Club Incorporated – Y1626328
- Mid Richmond Roos Rugby League Football Club Incorporated – INC9878364
- Maraby Association of New South Wales Inc – Y0795206
- Mosman Rugby Inc – Y0961514
- Maitraya Foundation Inc – Y1085631
- Mamma Lena Community Centre Inc – Y0987733
- Mid Districts Table Tennis Association Inc – Y0227302
- Muswellbrook & District Trail Horse Riders Club Incorporated – Y1730631
- Myall Pony Club Incorporated – Y1119201
- Murrumbidgee College Association Inc – Y1740039
- Mungindi Bushmans Carnival Inc – Y1277325
- North Coast Jet Ski Boating Association Inc – Y0977639
- Northern Beaches Volleyball Association Inc – Y1086138
- National Association of Community Based Children's Services NSW (NACBCS/NSW) Inc – Y1264534
- Newcastle Rugby Football League Junior Referees Association Inc – Y1220709
- New England Roller Skating Club Inc – Y1619029
- Narrabri Associated Agents Inc – Y1648216
- Nambucca Valley Volleyball Association Incorporated – Y1897826
- North West Junior Cricket Association Incorporated – Y1979137
- Ngambra Aboriginal Health Service Incorporated – INC9884281
- Organic Producers East Coast Inc – Y1003424
- Oak Flats Cricket Club Inc – Y1119348
- Philanthropic Association Kastritsi Patron Inc – Y1159528
- The Power of Two Incorporated – Y1074148
- Peace – People Environmental and Community Efforts Incorporated – Y1035602
- Paddington Out of School Care Inc – Y0971118
- Pittwater L. E. T. S. Incorporated – Y1985537
- The Probus Club of Cowra Incorporated – Y0568709
- Pangasinan Province Association of Australia Inc – Y0918415
- Port Stephens Soccer Club Incorporated – Y1857548
- Qantas Motorcycle Club Incorporated – INC9879206
- Rotary Club of Fairfield Inc – Y1233010
- Rainbow Club Sutherland Incorporated – Y1639805
- Sport Peruvian Association Inc – Y1359224
- Soundsight Moree Incorporated – INC9881713
- Sydney Improvised Music Association Inc – Y1201518
- Sacbe Hispano American Support Group for People with HIV Inc – Y1134306
- Sydney Multicultural Media Association Radio Transmissions Inc – Y0871613
- Sudanese Australian Association Incorporated – INC9886329
- St George District Pony Club Inc – Y1224109
- SBP-Manly Warringah Inc – Y0018509
- Sydney Cricket Association Inc – Y0224311
- The Skin Bank Project Incorporated – Y1474912
- Scone Squash Club Incorporated – Y1617329
- Sydney Then India Valibar Sangam (S.T.I.V.S) Inc – Y1324006
- Samoan Community Support Service (West Sydney) Incorporated – INC9877061
- 2WG Summer School of Dance Inc – Y1173734
- Telegraph Point & District Pony Club Incorporated – Y2026744
- Turvey Park Before & After School Care Association Incorporated – Y1885101
- The Tarago Fishing Club Incorporated – Y1953604
- Tamworth Pistol Club Inc – Y0922527
- Tamvue Soccer Club Inc – Y0130814
- Tolland Glenfield Neighbourhood Centre Pre-School Incorporated – Y0001436
- Toronto Junior Baseball Club Inc – Y0999919
- The Unit Committee-T.S.Armidale Inc – Y1661425
- Ukrainian-Australian Lawyers Association Incorporated – Y1765506
- The Vietnamese Catholic Social Welfare Refuge Assistance Association (VICASRA) Incorporated – Y1345044
- World Arts & Culture Association Incorporated – INC9879293
- Wyang Youth Accommodation Service Inc – Y0046601
- Wollondilly Sports Association Incorporated – Y1318537
- Wingello Pony Club Incorporated – Y1744517
- Wingecarribee Action Group for Citizens With Disabilities Incorporated – Y1648902
- Wollongbar Progress Association Incorporated – Y0546527
- Warilla Central Chamber of Commerce Inc – Y0793800
- West Wyalong Agricultural Bureau Incorporated – INC9879089
- Apex Club of Deepwater Inc – Y0453145
- B.A.A.F.C. Social Club Incorporated – Y1861219
- Darlington Point Softball Club Incorporated – Y1884545
- Erina Progress Association Inc – Y1429525
- Emmanuel Life Ministries Incorporated – Y1729510
- Gosford Dodgers Baseball Club Inc – Y0455237
- Gwydir Valley Archers Inc – Y1035504
- The Highlands Youth Theatre Company Inc – Y1487017
- Human Life Cycle Research Foundation Incorporated – Y2075433

Health Services Supply Association of NSW Inc – Y1499938  
 Illawarra Youth and Family Services Incorporated – Y1897238  
 Junee & District Bird Fanciers Society Inc – Y1127007  
 Mike Kilo Social Radio Club Incorporated – Y2089417  
 Mudgee Youth Services Incorporated – Y2073733  
 Parkes Diggers Fishing Club Inc – Y1504347  
 Queanbeyan Touch Association Incorporated – Y2118541  
 Singleton District Riding & Showjumping Club Incorporated – Y2038048

CHRISTINE GOWLAND,  
 Manager,  
 Financial Analysis,  
 Registry of Co-operatives and Associations,  
 Office of Fair Trading,  
 Department of Commerce  
 22 September 2008

### CO-OPERATIVES ACT 1992

Notice under Section 601AC of the Corporations Act 2001 as applied by Section 325 of the Co-Operatives Act 1992

NOTICE is hereby given that the Co-operative mentioned below will be deregistered when three months have passed since the publication of this notice.

Weston Bowling Club Co-operative Limited.

Dated this 19th day of September 2008.

C. GOWLAND,  
 Delegate of the Registrar of Co-operatives

### COMMERCIAL VESSELS ACT 1979

Notice Exempting Certain Vessels from Certain Requirements of the Commercial Vessels (Equipment) Regulation 1986 and Imposing Alternate Requirements Consistent with the Uniform Shipping Laws Code 2008

#### Explanatory Note

The purpose of this Exemption is to adopt completed Sections of the National Standard for Commercial Vessels (NSCV) relating to the carriage of safety equipment and fixed and portable fire fighting systems.

These new standards have been incorporated into the latest version of the Uniform Shipping Laws Code (known as the Uniform Shipping Laws (USL) Code 2008). Adoption of this edition of the Code from 1 October 2008 is the first step in a transition from the USL Code to the NSCV.

#### Exemption

The Maritime Authority of NSW (trading as NSW Maritime), a Delegate of the Minister for Ports and Waterways, does pursuant to Section 48 of the Commercial Vessels Act 1979 (“the Act”), declare by this Notice that on and from 1 October 2008:

1. The provisions of Clause 5 (1) of the Commercial Vessels (Equipment) Regulation 1986 in so far as they adopt the sections of the Code specified in Schedule 1 DO NOT APPLY to those vessels described in Schedule 2 and THERE MUST INSTEAD be full

compliance with the Sections of the Uniform Shipping Laws Code 2008 specified in Schedule 3 with the modifications set out in Schedule 4.

2. For the purposes of applying this Exemption the modifications to the Commercial Vessels (Equipment) Regulation 1986 specified in Schedule 5 shall apply.

#### Interpretation

In this Exemption order:

- (a) Code means the Uniform Shipping Laws Code adopted by the Australian Transport Advisory Council as published in the *Commonwealth of Australia Gazette* No. P17 of 13/8/84;
- (b) Uniform Shipping Laws Code 2008 means the Uniform Shipping Laws Code as referred to in the Order Declaring Amendments to the Uniform Shipping Laws Code published in the *Commonwealth of Australia Gazette* No. GN 23 of 11 June 2008 at page 1357 as amended by Amendment List 5 and Amendment List 6 to the Uniform Shipping Laws Code referred to in that Order.
- (c) Class has the same meaning as in Clause 5 of the Commercial Vessels (Permits) Regulation 1986.

#### Provision for Revocation

This Exemption may be revoked at any time by the Chief Executive of NSW Maritime or the General Manager Commercial Vessels.

Dated this 22nd day of September 2008.

HOWARD GLENN,  
 General Manager,  
 Commercial Vessels

### SCHEDULE 1

Sections of the Code That No-Longer Apply

Section 10 (life-saving appliances)

Section 11 (fire appliances)

### SCHEDULE 2

Vessels Affected

All vessels to which the Commercial Vessels (Equipment) Regulation 1986 applies that are either—

- (a) the subject of an application for initial survey or prototype approval, including plan approval, which was lodged with NSW Maritime on or after 1 October 2008; or
- (b) the subject of an application for an upgrade in Class for an existing vessel already subject to a Certificate of Survey (including a change to the service category or operational area), where the application for the upgrade was lodged with NSW Maritime on or after 1 October 2008.

### SCHEDULE 3

Sections of the Uniform Shipping Laws Code 2008 which Now Apply

Section 10 (life-saving appliances)

Section 11 (fire appliances)

## SCHEDULE 4

Modifications to Sections of the Uniform Shipping Laws  
Code 2008

## Modification to Section 10 (life-saving appliances)

Add Clause 2.13, as produced below, after Clause 2.12.2.

## 2.13 EPIRBS

## 2.13.1 Application

All Class A, B and C vessels shall be equipped with an EPIRB that meets the requirements detailed in Clause 2.13.2.

## 2.13.2 Type of EPIRB

The EPIRB carried in accordance with 2.13.1 shall—

- (a) be suitable for marine use, and
- (b) comply with Australian/New Zealand Standard AS/4280.1:2003, and
- (c) have an operational frequency of 406 MHz, and
- (d) be registered with the Australian Maritime Safety Authority and have affixed to it a registration sticker from that Authority, and
- (e) be maintained and serviced in accordance with the manufacturer's instructions.]

## SCHEDULE 5

Modifications to Commercial Vessels (Equipment)  
Regulation 1986

- (a) Wherever the term "the Code" is used in Clause 1 of Schedule 1 of the Commercial Vessels (Equipment) Regulation 1984 it shall be taken to be a reference to the Uniform Shipping Laws Code 2008.
- (b) The definition of the term "measured length" in Clause 1 of Schedule 2 of the Commercial Vessels (Equipment) Regulation, 1986 shall be deleted and replaced by the definition of "measured length" in Section 1 of the Uniform Shipping Laws Code 2008.
- (c) Clause 2(b) in Schedule 1 of the Commercial Vessels (Equipment) Regulation 1986 shall be deleted and replaced by the following:
 

"2(b) an item which has been listed on the National Marine Safety Committee's National Register of Compliant Equipment as being approved as compliant with the requirements of the relevant section of the Uniform Shipping Laws Code 2008."
- (d) The definition of the term "length" in Part 3 of the Commercial Vessels (Equipment) Regulation 1986, shall be replaced by the definition of "measured length" in the Uniform Shipping Laws Code 2008.

## DISTRICT COURT ACT 1973

## District Court of New South Wales

## Direction

PURSUANT to section 32 of the District Court Act 1973, I direct that the District Court shall sit in its civil jurisdiction at the place and time shown as follows:

Bega, 10:00 a.m., 10 November 2008 (1 week), special fixture.

Dated this 22nd day of September 2008.

R. O. BLANCH,  
Chief Judge

## EDUCATION ACT 1990

## ORDER

Fees for Overseas Students or Classes of Overseas  
Students

PURSUANT to section 31A (1) and (2) of the Education Act 1990, I, MICHAEL COUTTS-TROTTER, Director-General of Education and Training, hereby order that overseas students including classes of overseas students are subject to the payment of fees prior to initial or continuing enrolment in government schools each year. Fixed fees for 2008 are detailed below.

Some classes of overseas students are exempt from payment of fees and some individual overseas students are able to seek an exemption from payment of the fees.

## Fees

STUDENT VISA HOLDERS – VISA SUBCLASS 571P (INTERNATIONAL STUDENT)	
<i>Tuition Fee</i>	<i>\$ Aus (GST Inclusive)</i>
Primary (Kindergarten to Year 6)	\$ 9,160 for 12 months tuition
Junior high school (Years 7 – 10)	\$ 10,820 for 12 months tuition
Senior high school (Years 11 – 12)	\$ 12,820 for 12 months tuition
Intensive English	\$ 14,000 for 12 months tuition or \$ 350 per week
APPLICATION FEE	\$ 110 (non refundable)

TEMPORARY RESIDENT VISA HOLDERS  
(EXCLUDING VISITOR VISA HOLDERS)

<i>Education Fee</i>	<i>\$ Aus (GST Inclusive)</i>
Primary (Kindergarten to Year 6)	\$ 4, 500 for 12 months tuition from the date of enrolment
Junior high school (Years 7 – 10)	\$ 4, 500 for 12 months tuition from the date of enrolment
Senior high school (Years 11 – 12)	\$ 5, 500 for 12 months tuition from the date of enrolment
ADMINISTRATION FEE	\$ 110 (non refundable)



VISITOR VISA HOLDERS	
<i>Education Fee</i>	<i>\$ Aus (GST Inclusive)</i>
Primary (Kindergarten to Year 6)	\$ 229 per week
Junior high school (Years 7 – 10)	\$ 270.50 per week
Senior high school (Years 11 – 12)	\$ 320.50 per week
ADMINISTRATION FEE	\$ 110 (non refundable)

Dated: 25 August 2008.

MICHAEL COUTTS-TROTTER,  
Director-General of Education and Training,  
Managing Director of TAFE NSW

### GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board has this day assigned the names listed hereunder as geographical names.

Assigned Name: Ashwood Park.  
Designation: Reserve.  
L.G.A.: Bathurst Regional Council.  
Parish: Kelso.  
County: Roxburgh.  
L.P.I. Map: Bathurst.  
1:100,000 Map: Bathurst 8831.  
Reference: GNB 5259.

Assigned Name: Samuel Hoskins Park.  
Designation: Reserve.  
L.G.A.: Kempsey Shire Council.  
Parish: Yarravel.  
County: Dudley.  
L.P.I. Map: Kempsey.  
1:100,000 Map: Kempsey 9435.  
Reference: GNB 5256.

Assigned Name: Kellyville Memorial Park.  
Discontinued Name: Kellyville Park.  
Designation: Reserve.  
L.G.A.: Baulkham Hills Shire Council.  
Parish: Castle Hill.  
County: Cumberland.  
L.P.I. Map: Riverstone.  
1:100,000 Map: Penrith 9030.  
Reference: GNB 5253.

Assigned Name: Bundeena Memorial Reserve.  
Discontinued Name: Bundeena Reserve.  
Designation: Reserve.  
L.G.A.: Sutherland Shire Council.  
Parish: Wattamolla.  
County: Cumberland.  
L.P.I. Map: Port Hacking.  
1:100,000 Map: Port Hacking 9129.  
Reference: GNB 5254.

Assigned Name: Lake Yandel'ora.  
Designation: Lake.  
L.G.A.: Camden Council.  
Parish: Narellan.  
County: Cumberland.  
L.P.I. Map: Campbelltown.  
1:100,000 Map: Wollongong 9020.  
Reference: GNB 5251.

Assigned Name: Yandel'ora Reserve.  
Designation: Reserve.  
L.G.A.: Camden Council.  
Parish: Narellan.  
County: Cumberland.  
L.P.I. Map: Campbelltown.  
1:100,000 Map: Wollongong 9020.  
Reference: GNB 5251.

Assigned Name: Shellharbour Village.  
Designation: Urban Village.  
L.G.A.: Shellharbour City Council.  
Parish: Terragong.  
County: Camden.  
L.P.I. Map: Albion Park.  
1:100,000 Map: Kiama 9028.  
Reference: GNB 5265.

Assigned Name: Pacific City Park.  
Designation: Reserve.  
L.G.A.: Shoalhaven City Council.  
Parish: Bherwerre.  
County: St Vincent.  
L.P.I. Map: Huskisson.  
1:100,000 Map: Jervis Bay 9027.  
Reference: GNB 5268.

Assigned Name: Peter Clifford Reserve.  
Designation: Reserve.  
L.G.A.: Wyong Shire Council.  
Parish: Tuggerah.  
County: Northumberland.  
L.P.I. Map: Wyong.  
1:100,000 Map: Gosford 9131.  
Reference: GNB 5267.

The position and the extent for these features are recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's Web Site at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au).

WARWICK WATKINS,  
Chairperson

Geographical Names Board,  
PO Box 143, Bathurst NSW 2795

### GEOGRAPHICAL NAMES ACT 1966

#### Notice to Discontinue a Geographical Name

PURSUANT to the provisions of section 14 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day discontinued the names below:

Discontinued Name: Kellyville Park.  
Assigned Name: Kellyville Memorial Park.  
Designation: Reserve.  
L.G.A.: Baulkham Hills Shire Council.  
Parish: Castle Hill.  
County: Cumberland.  
L.P.I. Map: Riverstone.  
1:100,000 Map: Penrith 9030.  
Reference: GNB 5253.

Discontinued Name: Bundeena Reserve.  
 Assigned Name: Bundeena Memorial Reserve.  
 Designation: Reserve.  
 L.G.A.: Sutherland Shire Council.  
 Parish: Wattamolla.  
 County: Cumberland.  
 L.P.I. Map: Port Hacking.  
 1:100,000 Map: Port Hacking 9129.  
 Reference: GNB 5254.

WARWICK WATKINS,  
 Chairperson

Geographical Names Board,  
 PO Box 143, Bathurst NSW 2795.

### GEOGRAPHICAL NAMES ACT 1966

Notice of Determination of Address Locality Names and Boundaries within the Lockhart Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day determined address locality names and boundaries in the Lockhart Local Government Area as shown on map GNB3780.

The following twenty two names are assigned as address localities and shown on map GNB3780: Alma Park, Bidgeemia, Boree Creek, Brookong, Cullivel, Fargunyah, French Park, Henty, Lockhart, Milbrulong, Munyabla, Osborne, Pleasant Hills, Rand, Ryan, The Rock, Tootool, Urana, Urangeline East, Urangeline, Wrathall, Yerong Creek.

The position and extent of these features is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's web site at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au).

WARWICK WATKINS,  
 Chairperson

Geographical Names Board,  
 PO Box 143, Bathurst NSW 2795.

### GEOGRAPHICAL NAMES ACT 1966

Notice of Amendment of Address Locality Boundaries within the Gwydir Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day amended several address locality boundaries in the Gwydir Local Government Area as shown on map GNB5030-1-A and map GNB5030-1-B.

The position and extent of these features is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's web site at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au).

WARWICK WATKINS,  
 Chairperson

Geographical Names Board,  
 PO Box 143, Bathurst NSW 2795.

### GEOGRAPHICAL NAMES ACT 1966

Notice of Amendment of Address Locality Boundary within the Rockdale Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day amended the address locality boundary between Rockdale and Brighton-Le-Sands in the Rockdale Local Government Area as shown on map GNB3584-1.

The position and extent for these features are shown in the Geographical Names Register of New South Wales which can be viewed on the Geographical Names Board web site at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au).

WARWICK WATKINS,  
 Chairperson

Geographical Names Board,  
 PO Box 143, Bathurst NSW 2795.

### NSW SERVICE MEDALLION RECIPIENTS

#### ERRATUM

IN *New South Wales Government Gazette* No. 118, dated 19 September 2008, Folio 9371, the notice NSW Service Medallion Recipients was published with some publishing errors. The following notice replaces that in full and the gazettal date stays the same.

### NSW SERVICE MEDALLION RECIPIENTS

Awarded 4 September 2008

	<i>First Name, Surname, Post Nominal</i>	<i>Nominating Department</i>
1.	Annette JORDAN	Department of Arts, Sport & Recreation - State Library of NSW
2.	Stephen HENDERSON	Department of Education & Training - TAFE
3.	Kevin SANDALL	Department of Housing
4.	Jeff DORAHY	NSW Police
5.	Paul JONES	Public Trustee New South Wales
6.	Anthony ARTS	Roads and Traffic Authority
7.	Bryce JEFFRESS	Roads and Traffic Authority
8.	Christopher HARVEY	Roads and Traffic Authority
9.	The late Charles McINNES	Roads and Traffic Authority
10.	Norman BURKE	Roads and Traffic Authority
11.	Traianos TZAVELLA	Roads and Traffic Authority
12.	Michael YOUNG	Roads and Traffic Authority
13.	William TUCK	Roads and Traffic Authority
14.	John CRETHAR	Roads and Traffic Authority
15.	Anthony STURT	Roads and Traffic Authority
16.	Alfred WRIGHT	Roads and Traffic Authority
17.	Geoff COX	Roads and Traffic Authority
18.	Barry ST CLAIR	Roads and Traffic Authority
19.	Christopher OSMAN	Roads and Traffic Authority

20.	Petar SUTEVSKI	Roads and Traffic Authority
21.	Phillip McCABE	Roads and Traffic Authority
22.	John SCHUMACHER, PSM	Roads and Traffic Authority
23.	Spyros DRAGONAS	Roads and Traffic Authority
24.	Malcolm SOUTHWELL	Roads and Traffic Authority
25.	Geoffrey OLSSON	Roads and Traffic Authority
26.	David GIBBS	Roads and Traffic Authority
27.	Christopher WOODHAM	Roads and Traffic Authority
28.	Stephen GREENING	Roads and Traffic Authority
29.	James CASTLES	Roads and Traffic Authority
30.	Victor OSBORNE	Roads and Traffic Authority
31.	Robert WAGG	Roads and Traffic Authority
32.	Colin CONDON	Roads and Traffic Authority
33.	David CRAIN	Roads and Traffic Authority
34.	John BOWMAN	Roads and Traffic Authority
35.	Ken McWHIRTER	Roads and Traffic Authority
36.	Wayne DONALDSON	Roads and Traffic Authority
37.	Joseph SULICICH	Roads and Traffic Authority
38.	John TILLMAN	Roads and Traffic Authority
39.	Stuart MORRISON	Roads and Traffic Authority
40.	Geoff LAVERACK	Roads and Traffic Authority
41.	Philip VINE	Roads and Traffic Authority
42.	Doug DARLINGTON	Roads and Traffic Authority
43.	Laurence COOPER	Roads and Traffic Authority
44.	Greg MEEK	Roads and Traffic Authority
45.	Kenneth ROBERTS	Roads and Traffic Authority
46.	David KENNEDY	Roads and Traffic Authority

### OCCUPATIONAL HEALTH AND SAFETY REGULATION 2001

(Clauses 348 and 301)

Exemption Order No. 004/08

I, JOHN WATSON, General Manager, Occupational Health and Safety Division of the WorkCover Authority of New South Wales, pursuant to Clause 348 of the Occupational Health and Safety Regulation 2001, make the following Order.

Dated this 30th day of July 2008.

JOHN WATSON,  
General Manager,  
Occupational Health and Safety Division,  
WorkCover Authority of New South Wales

Occupational Health and Safety Regulation 2001  
Exemption Order No. 004/ 08

#### 1. Name of Order

This Order is the Occupational Health and Safety Regulation 2001 Exemption Order No. 004/08.

#### 2. Commencement

This Order commences on the 24<sup>th</sup> July 2008, and has effect for a period of five years from that date.

#### 3. Exemption

Operators (or persons employing, directing or allowing an operator) of AMPACT EZ Load Tools undertaking the work specified in Schedule 1 are exempt from clause 301 of the Occupational Health and Safety Regulation 2001 (requirement to hold a certificate of competency in relation to explosive-powered tools), but only if the conditions specified in Schedule 2 are complied with.

#### SCHEDULE 1

This Exemption applies to persons undertaking connection of electrical cables with a combination of a "wedge" and a "spring C" in electricity distribution systems using AMPACT EZ Load Tools Type Nos. 1443413-1 or 1443414-1.

#### SCHEDULE 2

1. An operator of the Load Tool must be over 18 years of age.
2. An operator must not be subject to any infirmity, including colour blindness, that might render the operator unable to safely use the Load Tool.
3. An operator must not be a person who has had any relevant certificate, qualification or exemption in relation to explosive-powered tools suspended or cancelled within the previous 5 years.
4. Prior to undertaking use of the Load Tool under this Exemption, an operator must have been trained and assessed to be competent in the safe use of the Load Tool and in the selection, handling and storage of the related explosive cartridges in a safe manner, as a minimum, to the standard of safety stipulated in the manufacturer's instructions for the Load Tool. For the purposes of this clause 4, self training and assessing is not acceptable.
5. The operator must obtain a written record of the training received and assessment undertaken in relation to the Load Tool, signed by the trainer and assessor, and must produce that record for inspection when required by:
  - an employer;
  - a principal contractor;
  - the person in control of premises where the Load Tool is to be used; or
  - a WorkCover inspector.

### RURAL FIRES ACT 1997

#### Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

#### Area of Variation:

Griffith City Council  
Leeton Shire Council  
Murrumbidgee Shire Council  
Narrandera Shire Council

The Local Bush Fire Danger period has been revoked for the period 1 October until 1 November each year.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as amended, will not be required for the lighting of fire for the purposes of land clearance or fire breaks.

Dated: 24 September 2008

SHANE FITZSIMMONS, AFSM,  
Commissioner

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**RURAL FIRES ACT 1997**

Local Bush Fire Danger Period Variation

PURSUANT to section 82 of the Rural Fires Act 1997, as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation:

Yass Valley Council.

The Local Bush Fire Danger period has been revoked for the period 1 October until 1 November 2008.

During this period permits pursuant to section 87 of the Rural Fires Act 1997, as amended, will not be required for the lighting of fire for the purposes of land clearance or fire breaks.

Dated: 23 September 2008.

SHANE FITZSIMMONS, AFSM,  
Commissioner

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**SYDNEY WATER ACT 1994**

**LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Easements at Hunters Hill in the Local Government Area of Hunters Hill SYDNEY WATER CORPORATION declares, with the approval of Her Excellency, the Governor, that easements described in the First, Second and Third Schedules hereto are acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purpose of the Sydney Water Act 1994.

Dated at Sydney this 24th day of September 2008.

Signed for Sydney Water Corporation by its Attorneys, MARK ROWLEY and PETER VINCENT BYRNE, who hereby state at the time of executing this instrument have no notice of the revocation of the Power of Attorney Registered No. 606, Book 4541, under the Authority of which this instrument has been executed.

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**SCHEDULE 1**

An Easement for Access, Electricity Purposes, Sewer Purposes, Telecommunication Purposes and Water Supply more fully described in Memorandum 7158335G lodged at the Department of Lands (Division of Land and Property Information NSW), Sydney as amended below, over all that piece or parcel of land having an area of 110m<sup>2</sup> in the Local Government Area of Hunters Hill, Parish Hunters Hill, County of Cumberland, and State of New South Wales, being part of Lot 1, DP 122557 and being the land shown on Deposited Plan 1100664 as “(A) PROPOSED EASEMENT FOR ACCESS, ELECTRICITY PURPOSES, SEWER PURPOSES, TELECOMMUNICATIONS PURPOSES AND WATER SUPPLY PURPOSES VAR. WIDTH 110m<sup>2</sup>”.

Memorandum 7158335G is amended for the purposes of this notice as follows:

The words “but not” occurring in the second line of the interpretation of “Sewerage Works” and the second line of the interpretation of: “Water Supply Works” in Clause 1.1 of the Memorandum 7158335G are to be deleted and the word “or” shall be inserted in their place.

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**SCHEDULE 2**

An Easement for Access Purposes more fully described in Memorandum 7158333L lodged at the Department of Lands (Division of Land and Property Information NSW), Sydney over all that piece or parcel of land having an area of 900m<sup>2</sup> in the Local Government Area of Hunters Hill, Parish Hunters Hill, County of Cumberland, and State of New South Wales, being part of Lot 1, DP 122557 and being the land shown on Deposited Plan 1100664 as “(B) PROPOSED EASEMENT FOR ACCESS PURPOSES 3 WIDE & VAR. WIDTH 900m<sup>2</sup>”.

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**SCHEDULE 3**

An Easement for Access, Electricity Purposes, Sewer Purposes, Telecommunication Purposes and Water Supply more fully described in Memorandum 7158335G lodged at the Department of Lands (Division of Land and Property Information NSW), Sydney over all that piece or parcel of land having an area of 455.3m<sup>2</sup> in the Local Government Area of Hunters Hill, Parish Hunters Hill, County of Cumberland, and State of New South Wales, being part of Lot 1, DP 122557 and being the land shown on Deposited Plan 1100664 as “(C) PROPOSED EASEMENT FOR ACCESS, ELECTRICITY AND SERVICES VAR. WIDTH 455.3m<sup>2</sup>”.

Sydney Water Reference: 2007/24889F.

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**THREATENED SPECIES CONSERVATION ACT  
1995**

Notice of Preliminary Determination

THE Scientific Committee, established by the Threatened Species Conservation Act, has made a Preliminary Determination NOT to support a proposal to remove the Coolibah - Black Box Woodland of the northern riverine plains in the Darling Riverine Plains and Brigalow Belt South bioregions from the list of endangered ecological communities in Part 3 of Schedule 1 of the Act.

A copy of the Determination, which contains the reasons for the determination, may be obtained free of charge on the Internet [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au), by contacting the Scientific Committee Unit, PO Box 1967, Hurstville NSW 1481, Tel: (02) 9585 6940 or Fax (02) 9585 6606, or in person at the Department of Environment and Climate Change Information Centre, Level 14, 59-61 Goulburn Street, Sydney. Copies of the determination may also be obtained from National Parks and Wildlife Service Area Offices and Visitor Centres, subject to availability.

Any person may make a written submission regarding the Preliminary Determination. Send submissions to: Scientific Committee, PO Box 1967, Hurstville NSW 1481. Attention Suzanne Chate. Submissions must be received by 21st November, 2008.

Professor LESLEY HUGHES,  
Chairperson

## Electricity (Consumer Safety) Act 2004

Order under Section 5

I, Lyn Baker, Commissioner for Fair Trading, Department of Commerce:

- (1) revoke, on and from the date on which this Order is published in the *New South Wales Government Gazette*, the Order dated 26 February 2008 published in the *New South Wales Government Gazette* of 7 March 2008, No. 30 at page 2222; and
- (2) pursuant to sections 5(2) and 5(3) of the *Electricity (Consumer Safety) Act 2004* by this Order, declare the electrical articles of a class described in Schedule 1 to be, on and from the date on which this Order is published in the *New South Wales Government Gazette*, declared electrical articles for the purposes of Part 2 of the *Electricity (Consumer Safety) Act 2004* and the specifications, including modifications, specified in Schedule 1 to be those applicable to electrical articles of that class.

Signed this 3<sup>rd</sup> day of September 2008

LYN BAKER  
COMMISSIONER FOR FAIR TRADING  
DEPARTMENT OF COMMERCE

**SCHEDULE 1****DECLARED ELECTRICAL ARTICLES****Interpretation:**

In this schedule a reference to-

AS/NZS 3350.1 means AS/NZS 3350.1:2002 with amendments 1 to 4;  
AS/NZS 60335.1 means AS/NZS 60335.1:2002 with amendments 1 to 3;  
AS/NZS 3100 means AS/NZS 3100:2002 with amendments 1 to 3;  
AS/NZS 60745.1 means AS/NZS 60745.1:2003 with amendments 1 to 3;  
AS/NZS 60598.1 means AS/NZS 60598.1:2003;  
AS/NZS 61558.1 means AS/NZS 61558.1:2000 with amendments 1 to 6 (until 30 May 2011) or AS/NZS 61558.1:2008;  
AS/NZS 3160 means AS/NZS 3160:2001 with amendments 1 and 2; and  
AS/NZS 60065 means AS/NZS 60065:2003 with amendment 1  
AS/NZS 61347.1 means AS/NZS 61347.1:2002

- 1. APPLIANCE CONNECTOR** - an electrical device which -
- (a) is for attachment to a flexible cord; and
  - (b) makes a detachable connection between the conductors of the cord and the pins or contacts of any low voltage appliance or equipment of a type intended or generally used for household applications;

but does not include -

- (c) a connector within the scope of AS/NZS 3123; or
- (d) a plug or socket-outlet within the scope of AS/NZS 3131.

Class specification:

Appliance plug –  
AS/NZS 60320.1:2004.

Plug connector –  
AS/NZS 60320.1:2004 and AS/NZS 60320.2.2:2004.

- 2. ARC WELDING MACHINE** - an electrical appliance which -
- (a) is for use in the electric arc welding process;
  - (b) is for connection to single phase low voltage supply;
  - (c) is fitted with a flexible cord and plug rated at not more than 16 A;
  - (d) can easily be moved from one place to another while it is connected to supply; and
  - (e) has, for GMAW (gas metal arc welding), GTAW (gas tungsten arc welding), and FCAW (flux cored arc welding) machines, a 100% output rating not exceeding 65 A. The 100% rating is calculated from the square root of the marked duty cycle expressed in decimal form multiplied by the marked output current associated with the duty cycle in amperes;

but does not include -

- (f) an arc welding machine promoted exclusively to industry.

Class specification:

AS/NZS 60974.6:2006

- 3. BAYONET LAMPHOLDER** - an electrical device which -
- (a) accommodates a lamp with a bayonet cap of 15 mm or 22 mm nominal diameter;

but does not include -

- (b) a lampholder which by design is restricted to specific appliances; or
- (c) a lampholder which is for incorporation in industrial equipment only.

Class specification:

AS/NZS 3100 and AS/NZS 3117: 2007 (until 30 December 2016); or  
AS/NZS 61184:2007

**4. BAYONET LAMPHOLDER ADAPTOR** - an electrical device which -

- (a) is for insertion into a B22 bayonet lampholder; and
- (b) is for connection to a flexible cord; or
- (c) has one or more lampholders.

Class specification:

AS/NZS 3100 and AS 3119:1994.

**5. BLANKET** - an electrical appliance which -

- (a) is for the application of heat to a bed;
- (b) is flexible;
- (c) has a fabric enclosure; and
- (d) has a projected surface area exceeding 0.6 square metres;

and includes -

- (e) any associated power supply or controller.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.17:2000 with amendments 1 to 3 (until 31 May 2011); or  
AS/NZS 60335.1 and AS/NZS 60335.2.17:2004 with amendment 1.

**6. BREAD TOASTER** - an electrical appliance which -

- (a) is a household type; and
- (b) is for toasting bread or similar foods.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.9:1999 with amendments 1 to 4 (until 22 November 2009); or  
AS/NZS 60335.1 and AS/NZS 60335.2.9:2002 with amendments 1 to 4.

**7. CLOTHES DRYER** - an electrical appliance which -

- (a) is a household type; and
- (b) is for drying textile material.

but does not include -

- (c) a heated towel rail

Class specification:

Rotary type -

AS/NZS 3350.1 and AS/NZS 3350.2.11:2001 with amendment 1 (until 22 November 2009) or  
AS/NZS 60335.1 and AS/NZS 60335.2.11:2002 with amendments 1 and 2.

Cabinet type-

AS/NZS 3350.1 and AS/NZS 3350.2.43:2001 with amendments 1 and 2 (until 17 June 2012)  
or AS/NZS 60335.1 and AS/NZS 60335.2.43:2005 with amendment 1.

- 8. CONTROL OR CONDITIONING DEVICE** - an electrical device which -
- (a) is a household type;
  - (b) is for controlling or conditioning the electrical input to electrical apparatus;
  - (c) is self contained; and
  - (d) connects to supply by means of a flexible cord and plug, appliance inlet or pins for engagement with a socket-outlet.

Class specification:

AS/NZS 3100 and AS/NZS 3197:2005 with amendment 1.

- 9. COOKING APPLIANCE - PORTABLE TYPE** - an electrical appliance which -
- (a) is a household type;
  - (b) is for cooking or warming food by electrical energy; and
  - (c) is portable.

Class specification:

Griller, roaster, or oven (including breadmaker)-

AS/NZS 3350.1 and AS/NZS 3350.2.9:1999 with amendments 1 to 4 (until 22 November 2009) or

AS/NZS 60335.1 and AS/NZS 60335.2.9:2002 with amendments 1 to 4.

Warming plate and similar-

AS/NZS 3350.1 and AS/NZS 3350.2.12:1997 with amendments 1 to 3 (until 31 May 2011); or  
AS/NZS 60335.1 and AS/NZS 60335.2.12:2004.

Frying pan, deep fryer or wok-

AS/NZS 3350.1 and AS/NZS 3350.2.13:2001 with amendment 1 (until 31 May 2011) or  
AS/NZS 60335.1 and AS/NZS 60335.2.13:2004 with amendment 1.

Outdoor barbecue-

AS/NZS 3350.1 and AS/NZS 3350.2.78:1996 with amendments 1 to 3 (until 17 June 2012) or  
AS/NZS 60335.1 and AS/NZS 60335.2.78:2005 with amendment 1.

- 10. CORD EXTENSION SOCKET** - an electrical device which -
- (a) is for attachment to a flexible cord;
  - (b) has a maximum rating of 20 A at low voltage; and
  - (c) has contacts whereby a detachable connection may be made with the corresponding pins of a plug or an inlet;
- but does not include -
- (d) a connector or appliance connector designated in AS/NZS 3123; or
  - (e) a socket outlet designated in AS/NZS 3131.

Class specification:

AS/NZS 3100 and AS/NZS 3120:1999.

- 11. CORD-LINE SWITCH** - an electrical device which -
- (a) is for attachment in a flexible cord;
  - (b) manually opens and closes an electrical circuit; and
  - (c) has a rating not exceeding 16 A at low voltage;
- but does not include -
- (d) bell push and pendant switches.

Class specification:

AS/NZS 3100 and AS/NZS 3127:2005.



**12. DECORATIVE LIGHTING OUTFIT** - an electrical appliance which -

- (a) is for decorative, display or illumination purposes;
  - (b) is portable;
  - (c) consists of -
    - (i) lamps or lampholders interconnected by flexible cord of less than 2.5 square millimetres cross-sectional area; or
    - (ii) lamps within a flexible enclosure; and
  - (d) may be integral with a frame or similar support;
- and includes -
- (e) any integral power supply or control device.

Class specification:

AS/NZS 60598.1 and AS/NZS 60598.2.20:2002.

**13. DISHWASHING MACHINE** - an electrical appliance which -

- (a) is a household type; and
- (b) is for washing of eating or cooking utensils.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.5:1995 with amendments 1 to 3 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.5:2002 with amendment 1.

**14. EDISON SCREW LAMPHOLDER** - an electrical device which -

- (a) accommodates a lamp with an Edison screw cap of 14 mm or 27 mm nominal outside diameter;
- but does not include -
- (b) a lampholder which by design is restricted to specific appliances; or
  - (c) a lampholder which is for incorporation in industrial equipment only.

Class specification:

AS/NZS 3100 and AS/NZS 3140:2007 (until 30 December 2016) or AS/NZS 60238:2007.

**15. FAN** - an electrical appliance which -

- (a) is a household type;
- (b) has a primary function of moving air in its vicinity; and
- (c) is self-contained;

and includes -

- (d) any associated ancillary equipment.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.80:1998 with amendments 1 to 4 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.80:2004.

**16. FENCE ENERGISER** – an electrical appliance which regulates and controls the supply of electrical energy to an electric fence.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.76:1998 with amendments 1 to 3 (until 30 May 2010) or AS/NZS 60335.1 and AS/NZS 60335.2.76:2003 with amendment 1.

**17. FLEXIBLE HEATING PAD** - an electrical appliance which -

- (a) is for application of heat to parts of the human body;
- (b) is in the form of a flexible pad; and
- (c) has a projected area not exceeding 0.6 square metres.

Class specification:

Foot warmer and foot mat-

AS/NZS 3350.1 and AS/NZS 3350.2.81:1998 with amendments 1 and 2 (until 20 October 2013) or AS/NZS 60335.1 and AS/NZS 60335.2.81:2006 with amendment 1

Other-

AS/NZS 3350.1 and AS/NZS 3350.2.17:2000 with amendments 1 to 3 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.17:2004 with amendment 1.

**18. FLOOR POLISHER/SCRUBBER** – an electrical appliance which -

- (a) is a household type; and
- (b) is used to polish or scrub floors.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.10:1996 with amendments 1 to 3 (until 24 March 2013) or AS/NZS 60335.1 and AS/NZS 60335.2.10:2006.

**19. FLUORESCENT LAMP BALLAST** - an electrical device which -

- (a) is for controlling the magnitude of current flowing through the discharge path of a fluorescent lamp;
- (b) is of the independent or built-in type intended for use with luminaires (portable or fixed); or
- (c) is of the integral type, rated at 60 watts or less, such that it forms a non-replaceable part of a fluorescent lamp/ballast combination; or
- (d) is of the adaptor type such that it allows the insertion of a fluorescent lamp into the ballast by the user;

and includes -

- (e) any capacitor incorporated in or supplied with the ballast;

but does not include -

- (f) a ballast which is incorporated in luminaires certified for compliance with the requirements for electrical equipment with increased safety type protection (Ex e) for use in hazardous locations.

Class specification:

Integral (self ballasted lamp) magnetic and electronic types

AS/NZS 60968:2001.

Other magnetic type-

AS/NZS 61347.1 and AS/NZS 61347.2.8:2003.

Other electronic type-

AS/NZS 6137.1 and AS/NZS 61347.2.3:2004.

**20. FLUORESCENT LAMP STARTER** - an electrical device which -

- (a) is for starting preheat type fluorescent lamps;
- (b) is a glow-start type; and
- (c) has an enclosure of insulating material.

Class specification:

AS/NZS 60155:2000 (Section 1) with amendments 1 and 2.

**21. HAIR CARE APPLIANCE** - an electrical appliance which -

- (a) is a household type or a commercial hand-held type; and
- (b) is for drying, styling or the caring of human hair.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.23:2001 with amendments 1 to 4 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.23:2004 with amendment 1.

**22. HEDGE CLIPPER** – an electrical appliance which –

- (a) is for trimming hedges; and
- (b) is hand held.

Class specification:

AS/NZS 3100 and AS/NZS 3160 (until 20 October 2009) or AS/NZS 60745.1 and AS/NZS 60745.2.15:2006.

**23. IMMERSION HEATER** - an electrical appliance which -

- (a) is a household type;
- (b) is for heating liquid in which it may be immersed; and
- (c) is self contained;

and includes -

- (d) aquarium type immersion heaters.

Class specification:

Aquarium type-

AS/NZS 3350.1 and AS/NZS 3350.2.55:1998 with amendments 1 to 3 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.55:2004 with amendment 1.

Portable (other than aquarium) type-

AS/NZS 3350.1 and AS/NZS 3350.2.74:2001 with amendment 1 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.74:2005 with amendment 1.

Fixed type-

AS/NZS 3350.1 and AS/NZS 3350.2.73:1996 with amendments 1 to 3 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.73:2005 with amendment 1.

**24. INSECT ELECTROCUTOR** - an electrical appliance which -

- (a) is a household type; and
- (b) kills insects by the application of electrical energy.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.59:1999 with amendments 1 to 3 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.59:2005 with amendment 1 and 2.

**25. INSPECTION HANDLAMP** - an electrical appliance which -

- (a) is for inspection purposes using illumination;
- (b) holds an incandescent or discharge lamp; and
- (c) is hand held;

but does not include -

- (d) handlamps with a magnification facility.

Class specification:

AS/NZS 60598.1 and AS/NZS 60598.2.8:2002.

**26. IRON** - an electrical appliance which -

- (a) is a household type;
- (b) is for smoothing or pressing fabric by the application of heat or steam; and
- (c) is hand held except for any separate steam generator;

and includes -

- (d) any associated equipment.

Class specification:

Fabric steamer -

AS/NZS 3350.1 and AS/NZS 3350.2.85:1998 with amendments 1 and 2 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.85:2005.

Other -

AS/NZS 3350.1 and AS/NZS 3350.2.3:1995 with amendments 1 to 3 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.3:2002 with amendment 1.

**27. KITCHEN MACHINE** - an electrical appliance which -

- (a) is a household type;
- (b) is for the preparation of food by mechanical means; or
- (c) is for opening cans; or
- (d) is for sharpening of knives.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.14:1995 with amendments 1 to 3 (until 25 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.14:2007.

**28. LAWN CARE APPLIANCE** - an electrical appliance which -

- (a) is a household type; and
- (b) is for cutting grass or lawn.

Class specification:

Mower-

AS/NZS 60335.1 and AS/NZS 60335.2.77:2002 with amendment 1.

Trimmer (with non-metallic filament line or cutter/s)-

AS/NZS 60335.1 and AS/NZS 60335.2.91:2002 with amendments 1 and 2.

Trimmer (other)-

AS/NZS 3100 and AS/NZS 3156: 1995 with amendments 1 and 2 (withdrawn from publication) (until 20 October 2008) or AS/NZS 60335.2.91:2002 with amendments 1 and 2.

**29. LIQUID HEATING APPLIANCE** – an electrical appliance which –

- (a) is a household type;
- (b) is portable;
- (c) has a capacity not exceeding 10L; and
- (d) heats liquid for:
  - (i) humidifying room air; or
  - (ii) use in, or as, a hot beverage; or
  - (iii) cooking.

Class specification:

Humidifier-

AS/NZS 3350.1 and AS/NZS 3350.2.98:1998 with amendments 1 and 2 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.98:2005.

Other-

AS/NZS 3350.1 and AS/NZS 3350.2.15:2002 with amendments 1 to 3 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.15:2002 with amendments 1 to 3.

**30. LUMINAIRE - PORTABLE TYPE** - an electrical appliance which -

- (a) is a household type;
- (b) provides illumination or for decorative purposes, produces light;
- (c) is fitted with a supply flexible cord, an appliance inlet socket or a power supply unit with integral pins for insertion into a socket outlet;
- (d) is for standing on a table or floor, or is fitted with a clamp or similar for attachment to vertical or horizontal surfaces;
- (e) is for use with tungsten filament, tubular fluorescent or other discharge lamps; and
- (f) is constructed to represent a model, person or animal and by its design and materials is likely to be treated by a child as a toy; or
- (g) has metal parts which are required to be earthed or double insulated from live parts (excluding live parts of an all insulated lampholder).

Class specification:

Child appealing type (refer to clause (f))-

AS/NZS 60598.1 and AS/NZS 60598.2.10:1998.

AS/NZS 60598.2.10:1998 is modified to deem luminaires to be of class III construction where they are permanently connected to an approved safety extra-low voltage source and that source is separated from the child appealing part by at least 2m.

Type fitted with a built-in transformer or convertor-

AS/NZS 60598.1 and AS/NZS 60598.2.6:1998.

Floodlight-

AS/NZS 60598.1 and AS/NZS 60598.2.5:2002.

Other-

AS/NZS 60598.1 and AS/NZS 60598.2.4: 2005 with amendment 1.

**31. MESSAGE APPLIANCE** - an electrical appliance which -

- (a) is a household type;
- (b) is for massaging the human body;
- (c) is portable; and
- (d) is self-contained.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.32:2001 with amendment 1 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.32:2004 with amendment 1.

**32. MICROWAVE OVEN** - an electrical appliance which -

- (a) is a household type; and
- (b) applies heat to food, liquid or other substances in a chamber by means of high-frequency electromagnetic radiation.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.25:2001 with amendment 1 (until 13 May 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.25:2002 with amendments 1 to 4.

**33. MINIATURE OVERCURRENT CIRCUIT-BREAKER** - an electrical device which -

- (a) is an enclosed air-break switch;

- (b) opens a low voltage circuit automatically under pre-determined conditions of over-current;
- (c) has a nominal rating not exceeding 125 A; and has -
  - (i) a current breaking capacity up to but not including 10 kA; and/or
  - (ii) a projected panel mounting area not exceeding 4000 square millimetres per pole;
 but does not include -
- (d) miniature overcurrent circuit-breakers as defined but which are intended and marked as being only for use in industrial application.

Class specification:

AS 3111:1994 with amendment 1 or AS/NZS 60898.1:2004 and 60898.2:2004.

**34. OUTLET DEVICE** - an electrical device which -

- (a) is a household type;
- (b) as its primary function, extends supply from a socket-outlet;
- (c) is portable;
- (d) incorporates facilities for the insertion of a plug or plugs; and
- (e) has a rating not exceeding 20 A;

but does not include -

- (f) a cord extension set.

Class specification:

Integral pin type (including travel adaptor) -  
AS/NZS 3100 and AS/NZS 3122:2005.

AS/NZS 3122:2005 is modified to preclude types that can be rewired by the user.

Other -

AS/NZS 3100 and AS/NZS 3105:2007.

**35. PLUG** - an electrical device which -

- (a) makes a detachable connection between the contacts of a socket-outlet and the conductors of a flexible cord;
- (b) has two, three or four pins for insertion into a socket-outlet; and
- (c) has a rating not exceeding 20A.;

but does not include -

- (d) a plug which is within the scope of AS/NZS 3123:1994 with amendment 1 and is intended for industrial use; or
- (e) a plug which is within the scope of AS/NZS 3131:1995.

Class specification:

AS/NZS 3100 and AS/NZS 3112:2004 with amendment 1.

**36. POWER SUPPLY OR CHARGER** – an electrical appliance which-

- (a) provides an output not exceeding 50 volts a.c. or 120 volts ripple free d.c.;
- (b) is a type to provide supply to separate luminaires; or
- (c) is a household type for either charging batteries or to provide a supply to separate equipment.

Class specification:

Power supply for general use-

AS/NZS 61558.1 and AS/NZS 61558.2.6:2001 with amendment 1.

Power supply (electronic or transformer types) designated for use with specific electronic equipment-  
AS/NZS 60065 or AS/NZS 60950.1:2003 with amendments 1 to 3.

Power supply for toys-  
AS/NZS 61558.1 and AS/NZS 61558.2.7:2001.

Power supply for bells or chimes-  
AS/NZS 61558.1 and AS/NZS 61558.2.8:2001.

Power supply (electronic type) for lighting purposes-  
LED modules:  
AS/NZS 61347.1 and IEC 61347.2.13 edition 1.0  
Other:  
AS/NZS 61347.1 and AS/NZS 61347.2.2:2007.

Power supply for Handlamps-  
AS/NZS 61558.1 and AS/NZS 61558.2.9:2003.

Battery charger-  
AS/NZS 3350.1 and AS/NZS 3350.2.29:2001 with amendment 1 (until 31 May 2011) or  
AS/NZS 60335.1 and AS/NZS 60335.2.29:2004 with amendment 1.

- 37. PROJECTOR** – an electrical appliance which –  
(a) is a household type; and  
(b) is for projecting an image from a photographic slide or moving film.

Class specification:  
AS/NZS 3350.1 and AS/NZS 3350.2.56:1998 with amendments 1 to 3 (until 23 June 2013) or  
AS/NZS 60335.1 and AS/NZS 60335.2.56:2006.

- 38. RANGE** - an electrical appliance which -  
(a) is a household type;  
(b) is for cooking food using heat produced by electrical energy; and  
(c) is stationary.

Class specification:  
AS/NZS 3350.1 and AS/NZS 3350.2.6:2006 (until 22 November 2009) or AS/NZS 60335.1  
and AS/NZS 60335.2.6:2002 with amendments 1 to 4.

- 39. RANGE HOOD** - an electrical appliance which -  
(a) is a household type;  
(b) collects and/or filters air; and  
(c) is for installation above a cooking appliance.

Class specification:  
AS/NZS 3350.1 and AS/NZS 3350.2.31:2001 with amendments 1 and 2 (until 3 September  
2011) or AS/NZS 60335.1 and 60335.2.31:2004 with amendments 1 and 2.

- 40. RAZOR/HAIR CLIPPER** - an electrical appliance which -  
(a) is a household type; and  
(b) shaves, cuts or trims human hair.

Class specification:  
AS/NZS 3350.1 and AS/NZS 3350.2.8:1995 with amendments 1 to 3 (until 31 May 2011) or  
AS/NZS 60335.1 and AS/NZS 60335.2.8:2004 with amendment 1.

**41. REFRIGERATOR/FREEZER** - an electrical appliance which -

- (a) is a household type; and
- (b) cools and stores food.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.24:2001 with amendment 1 (until 14 November 2010) or AS/NZS 60335.1 and AS/NZS 60335.2.24:2003 with amendments 1 to 3.

**42. RESIDUAL CURRENT DEVICE** - an electrical device which -

- (a) isolates or initiates a tripping signal to isolate a low-voltage supply to protected circuits, sockets-outlets or equipment in the event of a current flow to earth which exceeds a pre-determined level;
- (b) has a rated residual current not exceeding 300 mA for devices intended for connection to fixed wiring or 30 mA for other devices; and
- (c) has a rated load current not exceeding 125 A for devices intended for connection to fixed wiring or 20 A for other devices;

but does not include -

- (d) a device intended to be used with a particular circuit-breaker other than a miniature overcurrent circuit-breaker; or
- (e) a device intended to protect an electricity supply authority distribution system; or
- (f) a device covered by AS 2081 and intended for mines use.

Class specification:

Without integral overcurrent protection

AS/NZS 61008.1:2004 or AS3190:2002 with amendment 1.

With integral overcurrent protection

AS/NZS 61009.1:2004 with amendment 1 or AS/NZS 3190:2002 with amendment 1 and AS 3111 with amendment 1.

**43. ROOM HEATER** - an electrical appliance which -

- (a) is a household type; and
- (b) is for heating, by electrical energy, the atmosphere for comfort purposes;

And includes –

- (c) an appliance that accommodates one or more heatlamps;

but does not include -

- (d) an airconditioning appliance;
- (e) a heating system that is intended to heat the atmosphere of a room primarily by raising the temperature of any floor, wall, or ceiling area; or
- (f) an under-carpet heating system.

Class specification:

Thermal storage type-

AS/NZS 3350.1 and AS/NZS 3350.2.61:2001 with amendment 1 (until 17 June 2012) or AS/NZS 60335.1 and AS/NZS 60335.2.61:2005 with amendment 1.

Other-

AS/NZS 3350.1 and

AS/NZS 3350.2.30:2007 with amendment 1 (until 31 May 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.30:2004 with amendments 1 to 5.

**44. SEWING MACHINE** – an electrical appliance which –

- (a) is a household type; and
- (b) is for stitching fabric or other material.



Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.28:1996 with amendments 1 to 3 (until 23 June 2013) or AS/NZS 60335.1 and AS/NZS 60335.2.28:2006.

**45. SOCKET-OUTLET** - an electrical device which -

- (a) is for fixing at a point at which fixed wiring terminates;
- (b) provides a detachable connection with the pins of a plug;
- (c) has two, three or four contacts; and
- (d) has a rating not exceeding 20A.;

but does not include -

- (e) an outlet within the scope of AS/NZS 3123 or AS/NZS 3131.

Class specification:

AS/NZS 3100 and AS/NZS 3112:2004 with amendment 1.

**46. SOLDERING IRON** - an electrical appliance which -

- (a) is for the application or removal of solder; and
- (b) is hand held;

and includes -

- (c) any integral or associated power supply or controller;

but does not include -

- (d) a soldering iron promoted exclusively to industry.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.45:1997 with amendments 1 to 3 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.45:2004.

**47. SUPPLY FLEXIBLE CORD** - an electrical cord which -

- (a) is unscreened and flexible;
- (b) is designed for use at low voltage;
- (c) consists of two or three elastomer or PVC insulated cores of multistrand construction;
- (d) has a cross-sectional area of each conductor not exceeding 2.5 square millimetres; and
- (e) has for other than tinsel cords, individual wire strandings not exceeding -
  - (i) 0.21 mm for conductor sizes up to 1 square millimetre; or
  - (ii) 0.26 mm for conductor sizes exceeding 1 square millimetre;

but does not include -

- (f) a flexible cord directly connected to equipment or approved non-rewirable accessories which is marked in accordance with the CENELEC HAR marking scheme for flexible cords.

Class specification:

AS 3191:2008; or  
AS/NZS 60227.5:2003 with amendment 1 (PVC); or  
AS/NZS 60245.4:2003 with amendment 1 (Rubber).

**48. SWIMMING POOL OR SPA EQUIPMENT** - an electrical appliance or device -

- (a) that is a transportable spa pool or transportable spa-bath
- (b) that is for circulating air or water in a conventional bath; or
- (c) that is for use in the operation or cleaning of a swimming pool, non-transportable spa pool or non-transportable spa-bath

But does not include –

- (d) an appliance or device exclusively promoted for commercial use; or
- (e) a heat pump

Class specification:

Pump-

AS/NZS 3350.1 and AS/NZS 3350.2.41:1997 with amendments 1 to 3 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.41:2004.

Spa pool, Spa bath or an appliance intended to circulate air or water in a conventional bath-  
AS/NZS 3350.1 and AS/NZS 3350.2.60:2000 with amendments 1 to 4 (until 24 March 2013)  
or AS/NZS 60335.1 and AS/NZS 60335.2.60:2006.

Other-

AS/NZS 3100 and AS/NZS 3136:2001 with amendments 1 and 2.

**49. TELEVISION RECEIVER** - an electrical appliance which -

- (a) is for household use;
- (b) is for the display of public or subscription television broadcasts; and
- (c) incorporates a single cathode ray picture tube.

Class specification:

AS/NZS 60065

**50. THERAPEUTIC LAMP** – an electrical appliance which –

- (a) is a household type;
- (b) produces ultraviolet or infra-red radiation for personal, therapeutic or cosmetic purposes; and
- (c) is portable.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.27:1996 with amendments 1 to 3 (until 31 May 2011) or  
AS/NZS 60335.1 and AS/NZS 60335.2.27:2004 with amendments 1 and 2.

**51. TOOL - PORTABLE TYPE** - an electrical appliance which -

- (a) is for machining, drilling, sawing, or surface preparation; and
- (b) may be entirely supported by hand during operation;

but does not include -

- (c) a tool, portable type, promoted exclusively to industry.

Class specification:

Drill-

AS/NZS 60745.1 and AS/NZS 60745.2.1:2003.

Sander or polisher (other than disk types)-

AS/NZS 60745.1 and AS/NZS 60745.2.4:2003.

Circular saw-

AS/NZS 60745.1 and AS/NZS 60745.2.5:2003 (until 25 May 2009) or AS/NZS 60745.1 and  
AS/NZS 60745.2.5:2007.

Jig or sabre saw-

AS/NZS 60745.1 and AS/NZS 60745.2.11:2003.

Planer-  
AS/NZS 60745.1 and AS/NZS 60745.2.14:2003.

Router-  
AS/NZS 60745.1 and AS/NZS 60745.2.17:2003.

Grinder, polisher and disk type sander-  
AS/NZS 3100 and AS/NZS 3160 (until 20 October 2009) or AS/NZS 60745.1 and AS/NZS 60745.2.3:2006.

Chain saw-  
AS/NZS 3100 and AS/NZS 3160 (until 25 August 2009) or AS/NZS 60745.1 and AS/NZS 60745.2 13:2006.

Jointer-  
AS/NZS 3100 and AS/NZS 3160 (until 25 November 2008) or AS/NZS 60745.1 and AS/NZS 60745.2 193:2005.

Other-  
AS/NZS 3100 and AS/NZS 3160.

**52. VACUUM CLEANER** - an electrical appliance which -

- (a) is a household type;
- (b) is portable; and
- (c) removes dust, dirt or moisture and the like from floor coverings by suction; or
- (d) removes garden refuse from lawns or paths and the like by suction.

Class specification:

Hand held garden type-

AS/NZS 3350.1 and AS/NZS 3350.2.2:2001 with amendment 1 (until 14 November 2010) or AS/NZS 60335.1 and AS/NZS 60335.2.100:2003

Other-

AS/NZS 3350.1 and AS/NZS 3350.2.2:2001 with amendment 1 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.2:2002 with amendments 1 and 2.

**53. WALL SWITCH** - an electrical device which -

- (a) is an air-break switch;
- (b) is for connection to the wiring of an electrical installation;
- (c) is primarily for mounting on a vertical surface;
- (d) is manually opened and manually closed; and
- (e) has a rating not exceeding 20 A.

Class specification:

AS/NZS 3100 and AS/NZS 3133:2003 with amendment 1.

**54. WASHING MACHINE** - an electrical appliance which -

- (a) is a household type; and
- (b) is used for washing clothes.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.7:2001 with amendment 1 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.7:2002 with amendments 1 to 3.

**55. WATER BED HEATER** - an electrical appliance which -

- (a) is for installation under a water bed envelope; and
- (b) heats water contained in that envelope;

and includes -

- (c) any associated control device.

Class specification:

AS/NZS 3350.1 and AS/NZS 3350.2.66:1997 with amendments 1 to 3 (until 3 September 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.66:2004.

**56. WATER HEATER** - an electrical appliance which -

- (a) is for heating and storage of water for bathing, washing or similar purposes;
- (b) incorporates a heating element;
- (c) is unvented; and
- (d) has a storage capacity not less than 4.5 L nor more than 680 L.

or

- (e) is for heating water
- (f) is of the instantaneous type; and
- (g) incorporates live parts in contact with water.

Class specification:

Pressure storage -

AS/NZS 3350.1 and AS/NZS 3350.2.21:1999 with amendments 1 to 5 (until 22 November 2009) or AS/NZS 60335.1 and AS/NZS 60335.2.21:2002 with amendments 1 and 2.

Instantaneous -

AS/NZS 3350.1 and AS/NZS 3350.2.35:1999 with amendments 1 and 2 (until 15 October 2011) or AS/NZS 60335.1 and AS/NZS 60335.2.35:2004 with amendment 1.

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**MOTOR ACCIDENTS COMPENSATION ACT 1999**

Motor Accidents Authority of NSW

PURSUANT to section 49 of the Motor Accidents Authority Act 1999 (the Act), I approve the following Accident Notification Form to be used for notification under Part 3.2 of the Act for accidents on or after 1 October 2008.

Dated: 23 September 2008.

DAVID BOWEN,  
General Manager,  
Motor Accidents Authority

# ACCIDENT NOTIFICATION FORM



**MOTOR ACCIDENTS  
AUTHORITY**

THIS FORM IS APPROVED BY THE MOTOR ACCIDENTS AUTHORITY OF NSW. IT IS TO BE USED FOR NOTIFICATIONS MADE UNDER THE MOTOR ACCIDENTS COMPENSATION ACT 1999 FOR ACCIDENTS ON OR AFTER 1 OCTOBER 2008

**If you have been injured in a motor vehicle accident in NSW, you may be able to immediately claim up to \$5,000 for your treatment expenses and lost earnings**

**You need to:**

1. obtain the registration number of the vehicle that caused the accident
2. report the accident to the police if they did not attend the accident
3. obtain the event number of the accident from the police
4. call 1300 656 919 to find out the Green Slip or Compulsory Third Party (CTP) insurer of the vehicle that caused the accident
5. complete and send this form to the CTP insurer within 28 days of the accident:  
make sure that you sign the declaration and get your doctor to complete the medical certificate

The insurer will let you know within 10 days whether it will pay for your reasonable and necessary treatment expenses and lost earnings and will provide you with a reference number that must be used in all correspondence.

**Your information is confidential**

The information in this form will be treated confidentially. Only staff of the Motor Accidents Authority (MAA), CTP insurers and other approved bodies with proper legal authority are allowed to access your information and are restricted in how they use the information. You have the right to access and correct information about you held by the MAA or CTP insurers. If you consider:

- < that your personal information has been handled incorrectly by the MAA, you can ask the authority to undertake an internal review or you may contact Privacy NSW
- < that an insurer has handled your information incorrectly, you may contact the relevant insurer for an internal review or the Office of the Federal Privacy Commissioner.

CTP insurers are bound by national privacy principles. You may visit the licensed insurers' websites or contact them directly to request information on how to access your personal information, seek an internal review or determine with whom they share the information.

**Interpreter service**

If you need an interpreter to help you understand this form, contact Associated Translators & Linguists on **02 9231 3288** during office hours.

**Need more information?**

If you have any questions, would like more information or need help completing this form, contact the MAA's Claims Advisory Service on **1300 656 919** or visit **[www.maa.nsw.gov.au](http://www.maa.nsw.gov.au)**

**THIS FORM MUST BE COMPLETED AND SENT TO THE CTP INSURER  
WITHIN 28 DAYS OF THE ACCIDENT**

## INFORMATION FOR PEOPLE INJURED IN A MOTOR VEHICLE ACCIDENT

### Eligibility for early payment of treatment expenses and lost earnings

You can claim up to \$5,000 for your treatment expenses and any loss of income you have sustained if:

1. the accident was caused, or mainly caused by the fault of another driver, or
2. the accident was a blameless motor accident. Examples of blameless motor accidents could include accidents resulting from the sudden illness of the driver, such as heart attack or stroke or vehicle failure, such as a tyre blow-out.

### Special benefit for children

If you were under 16 years old and lived in NSW at the time of the accident, you may still claim up to \$5,000 for your treatment expenses even if the accident was not caused by any fault of the driver of the motor vehicle. For children under 16 years, the accident will be deemed to have been caused by the owner/driver of the motor vehicle.

The Accident Notification Form provides for hospital, medical, pharmaceutical and rehabilitation expenses up to \$5,000 for these injured children.

If you were 16 or older, you should not submit an Accident Notification Form if you were the driver completely at fault in the accident.

### Information required to claim these expenses

To claim these expenses you will need:

- < the registration number of the vehicle that caused, or mainly caused the accident,
- < the event number of your accident from the police – if a police officer did not attend the accident you must report the accident to the police,
- < to send the form to the insurer within 28 days of the accident.

If you cannot identify the vehicle that caused the accident, contact the MAA's Claims Advisory Service on 1300 656 919 for assistance.

### Completing this form

You will need to provide:

- < the police event number,
- < the registration number of the vehicle that caused the accident,
- < the registration numbers of other vehicles involved in the accident,
- < a brief description of the accident and details of your role in it,
- < and details of your employment situation and income at the time of the accident.

You are required to make a declaration giving permission for the insurer to contact and obtain information from individuals or organisations about your claim. See page 5.

If you were 16 or older, you are also required to make a declaration that the accident was not wholly or mainly your fault.

This form includes a medical certificate, which should be completed by your doctor. It will include details of your injuries, the results of any medical investigations and recommended treatment.

Once the form has been lodged with the CTP insurer, it will provide you with a reference number to assist you to access treatment.

### Payment of treatment expenses

Your treatment accounts should be sent to the insurer, including the account for completion of the medical certificate by your doctor. You should include with the accounts, your name, the date of the accident, the registration number of the vehicle that caused the accident and the reference number given to you by the insurer.

The insurer is only obliged to pay for treatment expenses that are reasonable and necessary. The insurer may use approved treatment guidelines to decide what is reasonable and necessary.

### Payment of lost earnings

You should provide details of your employment situation and income before the accident as well as details of any income you have lost as a result of your injuries. The insurer may ask you for additional information to verify your income loss. This additional information can include things such as pay slips, tax returns or information from your employer confirming your employment details.

### Important additional information

The agreement by the insurer to pay these expenses is not an admission of liability, or an agreement to pay any other expenses.

The Accident Notification Form allows you to claim up to \$5,000 for treatment provided and loss of income suffered within six months of the date of the accident. In paying these expenses, the insurer must give priority to payment of treatment expenses which means they will pay expenses for reasonable and necessary treatment provided in the first six months before making any payment for lost earnings. For this reason, the insurer will not make payment for any loss of income until the end of the six month period following the accident.

### Submitting a Personal Injury Claim Form

You should submit a Personal Injury Claim Form if:

- < you are unable to lodge the Accident Notification Form within 28 days, or
- < you cannot identify the vehicle that caused the accident, or
- < your treatment and lost earnings expenses will exceed \$5,000 in the first six months, or
- < you wish to claim other compensation such as payment for your pain and suffering

If any of these circumstances apply, **you should submit a Personal Injury Claim Form to the insurer as soon as possible**. Your claim may not be accepted if the insurer does not receive your completed Personal Injury Claim Form **within six months** of the accident.

You can obtain the claim form from the insurer of the vehicle that caused the accident or you can download it from [www.maa.nsw.gov.au](http://www.maa.nsw.gov.au)

### Entitlements of claimants

Under the Motor Accidents Scheme, if another driver was at fault in the accident, or the accident was a blameless accident, you are entitled to compensation for:

- < reasonable and necessary medical, pharmaceutical, rehabilitation, respite care and attendant care expenses
- < other expenses and economic losses e.g., loss of income and out of pocket expenses
- < non-economic loss (payment for your pain and suffering) if you have a serious, permanent injury

## ACCIDENT NOTIFICATION FORM – TO BE COMPLETED BY THE INJURED PERSON

### Personal Details

Surname/family name  Given name(s)  Date of birth  /  /  Sex M  F

Address

Phone numbers  
Home:  Work:  Mobile:

Occupation  Name of employer

Have you ever made a claim for personal injury compensation, workers compensation or other damages e.g. slip and fall, assault, medical negligence or another motor accident?

No  Yes  Please give details if you can

Type of claim  Date of injury  /  /  Insurance company  Claim or reference number

Please attach a separate page if you need to include more information.

### Details of this accident

Date of accident  /  /  Time of accident  am/pm Place of accident – include street, town or suburb and state

Name of police officer attending the accident  Police station  Police 'event' number

You must report this accident to Police. If you have a copy of the Police Report please attach it to this form.

Your part in the accident: Driver  Passenger  Motorcycle rider  Pillion passenger  Cyclist  Pedestrian  Other

1) Vehicle causing the accident

Registration No.	State	Make	Driver & phone No.	Owner
------------------	-------	------	--------------------	-------

2) Vehicle you were travelling in

Registration No.	State	Make	Driver & phone No.	Owner
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3) Other vehicle/s involved in the accident if known

Registration No.	State	Make	Driver & phone No.	Owner
------------------	-------	------	--------------------	-------

Diagram of the accident <input type="text"/>	Brief description of the accident <input type="text"/>
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Was an ambulance called?

No  Yes  Were you: Treated at the scene only  Transported to hospital

Had you taken any drugs, including medication or alcohol in the 12 hours before the accident?

No  Yes  Give details of type and amount



# ACCIDENT NOTIFICATION FORM – TO BE COMPLETED BY THE INJURED PERSON

## Employment Details (relating to loss of income)

If you are claiming payment for lost earnings, the insurer may ask you for additional information or they may contact your employer to confirm your employment details.

Your employment situation before the accident

<input type="checkbox"/> Self employed	<input type="checkbox"/> Full time employed	<input type="checkbox"/> Part time employed	<input type="checkbox"/> Retired
<input type="checkbox"/> Casual	<input type="checkbox"/> Student/child	<input type="checkbox"/> Home duties	<input type="checkbox"/> Not working
<input type="checkbox"/> Other	<input type="checkbox"/> Pensioner		
<small>Please describe</small>		<small>Please describe</small>	

Have you taken time off work because of the injuries you sustained in the accident? No  Go to Declaration Yes

Work time lost

	From		To
	/ /		/ /
	/ /		/ /

Have you returned to work?

Yes  No  When do you expect to return to work?  / / Don't know

Fully?  Partly? (e.g. light/modified duties) Date of return  / /

Name of employer  Contact person's name  Contact phone number

Workplace address

Town/suburb  State  Postcode

Employer's email address (if known)

Usual weekly working hours  Usual weekly earnings (including overtime, regular bonuses and commission)

Ordinary  Overtime  Pay before tax (gross)  Pay after tax (net)

Description of duties

Have you received or will you receive money for being unable to work because of your injuries (e.g. sick leave or holiday pay, social security benefits, workers compensation or insurance payment)

Yes  No  Go to Declaration

Give details (e.g. insurer, claim number, contact name, if known)

## ACCIDENT NOTIFICATION FORM – TO BE COMPLETED BY THE INJURED PERSON

### Please read the declaration carefully before signing.

- < This declaration allows the insurer to obtain records or information which may affect your claim, including any information about treatment you have received from a doctor or hospital.
- < This declaration must be signed by the injured person unless he/she is under 18 or unable to make the declaration. In that case, the declaration must be made by a parent, guardian, relative or friend on the injured person's behalf.
- < It is an offence under the Motor Accidents Compensation Act 1999 to knowingly make a false or misleading statement in this form. Information that is knowingly false or misleading may result in a fine of up to \$5,500 or imprisonment for up to 12 months, or both.

### Declaration

I declare that to the best of my knowledge the information given in the Accident Notification Form is true and correct in every respect. I declare that to the best of my knowledge I was not wholly or mainly at fault in this accident OR I was under 16 years of age at the date of the accident.

I authorise the Nominal Defendant or the insurer against whom this notification is made to contact and obtain information and documents which are relevant to this claim for treatment expenses and lost earnings from:

- < any doctor, ambulance service, hospital or other service/treatment provider
- < any police department
- < any property damage insurer
- < any employer or accountant of the injured person
- < any personal injury claim or workers compensation insurer
- < Lifetime Care and Support Authority (LTCSA)

Name	Signature	Date / /
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If the declaration has been signed on behalf of the injured person, please provide details:

Relationship to injured person	Phone contact	Reason injured person could not sign
--------------------------------	---------------	--------------------------------------

This form must be sent to the CTP insurer within 28 days of the accident.

# MEDICAL CERTIFICATE – TO BE COMPLETED BY TREATING DOCTOR

Injured person's surname/family name		Given name(s)		Date of birth	
<input type="text"/>		<input type="text"/>		/ /	
Date of accident		Date of examination		Are the injuries/conditions consistent with the circumstances of the motor accident described to you?	
/ /		/ /		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Medical diagnosis and description of the injury					
<input type="text"/>					
<input type="text"/>					
Clinical findings (symptoms, results of any investigations)					
<input type="text"/>					
<input type="text"/>					
Did the patient attend hospital?		Length of stay			
No <input type="checkbox"/> Yes <input type="checkbox"/>		<input type="text"/>			
		Name of hospital?			
		<input type="text"/>			
Was the patient admitted to hospital? No <input type="checkbox"/> Yes <input type="checkbox"/>					
Treatment plan likely to be required: Short term (6 weeks) <input type="checkbox"/> Medium term (6-12 weeks) <input type="checkbox"/> Long term (>12 weeks) <input type="checkbox"/>					
Refer to:					
Specialist <input type="text"/>					
Therapy <input type="text"/>					
Other <input type="text"/>					
Type		Name of person		Phone number or contact details	
<input type="text"/>		<input type="text"/>		<input type="text"/>	
Describe the patient's fitness for work:					
Fit to resume normal duties on		<input type="text"/>			
Fit for alternative duties on		<input type="text"/>			
Unfit for work from		To <input type="text"/>			
/ /		/ /			
Does the patient have any other co-morbidities or previous injuries? No <input type="checkbox"/> Yes <input type="checkbox"/> Please describe <input type="text"/>					
How long has this patient attended the practice? <input type="text"/>					
Date of next medical review		Does the patient need an interpreter?		Language	
/ /		No <input type="checkbox"/> Yes <input type="checkbox"/>		<input type="text"/>	
Doctor's name (please print)		Provider number			
<input type="text"/>		<input type="text"/>			
Address of practice		Phone number		Fax number	
<input type="text"/>		( )		( )	
<input type="text"/>		Area of specialty			
Postcode		<input type="text"/>			
<input type="text"/>					
<b>I declare that I am a registered medical practitioner and to the best of my knowledge, the information provided here is true and correct.</b>					
Signature				Date	
<input type="text"/>				/ /	
<b>AMA fees apply for all medical services. Fee for completing forms: \$32</b>					
For further information or forms contact the Motor Accidents Authority of NSW on 1300 656 919 or fax 1300 137 707					

# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### BLACKTOWN CITY COUNCIL

Roads Act 1993, Section 10(1)

Notice of Dedication of Land as Public Road

NOTICE is hereby given by Blacktown City Council that in pursuant to section 10(1), Division 1, Part 2 of the Roads Act 1993, the land described in the Schedule below is hereby dedicated as Public Road. Dated at Blacktown, 15 September 2008. RON MOORE, General Manager, Blacktown City Council, PO Box 63, Blacktown NSW 2148.

#### SCHEDULE

Lot 1, DP 512441. [4195]

### BLAND SHIRE COUNCIL

Roads Act 1993, Section 10

Dedication of Land as a Public Road

NOTICE is hereby given that in accordance with section 10 of the Roads Act 1993, the land described in the Schedule below is dedicated to the public as road. PHILIP MARSHALL, General Manager, Bland Shire Council, PO Box 21, West Wyalong NSW 2671.

#### SCHEDULE

Lots 3 and 4 in DP 1116290. [4196]

### BLAND SHIRE COUNCIL

Roads Act 1993, Section 10

Dedication of Land as a Public Road

NOTICE is hereby given that in accordance with section 10 of the Roads Act 1993, the land described in the Schedule below is dedicated to the public as road. PHILIP MARSHALL, General Manager, Bland Shire Council, PO Box 21, West Wyalong NSW 2671.

#### SCHEDULE

Lots 3 and 4 in DP 1116603. [4197]

### CAMPBELLTOWN CITY COUNCIL

Roads Transport Act 2005 – Notice of Load Restriction

NOTICE is hereby given under Clause 57 of the Road Transport (Mass, Loading and Access) Regulation 2005, that Campbelltown City Council proposes to implement a 4.5 tonne load limit on Kellicar Road, Campbelltown, between Bolger Street and Geary Street, to enhance public safety.

This notice, under Clause 104 of the NSW Road Rules 2008, will prohibit vehicles over 4.5 tonnes which do not have a destination in the road section. This proposal does not limit vehicles having a destination for delivering or picking up goods in this affected section.

Council invites comments on this proposal from affected businesses. Comments can be made in writing by way of support or objection to the General Manager, Campbelltown

City Council, PO Box 57, Campbelltown NSW 2560. Comments must be received by close of business on 24 October 2008. Further information can be obtained by contacting Council on 4645 4631. [4198]

### PARKES SHIRE COUNCIL

Roads Act 1993, Section 162.1

Naming of Public Roads  
Wybara Lane and Plains Road

NOTICE is hereby given that in accordance with section 162.1 of the Roads Act 1993, as amended, Parkes Shire Council have named the roads shown hereunder:

<i>Location</i>	<i>Name</i>
Shire Road 1, off MR238 Muginoble.	Wybara Lane.
Shire Road 8a, between Back Yamma Road and The Welcome Road.	Plains Road.

No objections to the proposed names were received within the prescribed period of time. A. McCORMACK, General Manager, Parkes Shire Council, PO Box 337, Parkes NSW 2870. [4199]

### SINGLETON COUNCIL

Roads Act 1993, Section 162

Naming of Public Roads

NOTICE is hereby given that Singleton Council, in pursuance of section 162 of the Roads Act 1993 and the Roads (General) Regulation 2000, has named the following roads.

<i>Description</i>	<i>New Name</i>
That section of road approximately 190m on the eastern side of McMahon Way approximately 140m west of Bridgman Road.	Joss Close.
That section of road approximately 80m on the western side of McMahon Way approximately 140m west of Bridgman Road.	Pinchin Close.

Authorised by resolution of the Council on 15 December 2003. B. CHARLTON, A/General Manager, PO Box 314, Singleton NSW 2330. [4200]

## ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of EDWIN HENRY LAND, late of Bellevue Hill, in the State of New South Wales, retired real estate agent deceased, who died on 5 July 2008, must send particulars of their claim to the executors, Gail Myrtle Darby, Anthony Darby and Timothy Fulton Edwards, c.o. Truman Hoyle Lawyers, Level 11, 68 Pitt Street, Sydney NSW 2000, within one (1) calendar month from the publication of this notice. After that time the assets of the estate and the property may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executors have notice. Probate

was granted in New South Wales on 10 September 2008. TRUMAN HOYLE LAWYERS, Level 11, 68 Pitt Street, Sydney NSW 2000 (DX 263, Sydney), tel.: (02) 9226 9888. Reference: SR 8555. [4201]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of CYRIL JOHN CAREY, late of 43A Thomas Street, Parramatta, in the State of New South Wales, who died on 22 November 2007, must send particulars of his claim to the administrator, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, within one (1) calendar month from the publication of this notice. After that time the administrator may distribute the assets of the estate having regard only to the claims of which at the time of distribution she has notice. Letters of Administration was granted in New South Wales on 29 August 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.CT.07378. [4202]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of GORDON JAYASINGHAM ARMSTRONG, late of Edwin Street, Oatlands, in the State of New South Wales, who died on 30 April 2008, must send particulars of his claim to the executor, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde NSW 2114, within one (1) calendar month from the publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution she has notice. Probate was granted in New South Wales on 8 September 2008. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde NSW (PO Box 107, West Ryde NSW 1685), (DX 27551, West Ryde), tel.: (02) 9858 1533. Reference: JSF.SM.08129. [4203]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of DULCIE MURIEL KELLY, late of Hurstville Gardens Nursing Home, 53 Gloucester Road, Hurstville, in the State of New South Wales, who died on 30 June 2008, must send particulars of their claim to the executor, Roslyn Anne Mason, c.o. Colin J. Duff, Solicitor, 7 Morts Road, Mortdale NSW 2223, within one (1) calendar month from the publication of this notice. After that time the assets of the estate may be conveyed and distributed having regard only to the claims of which at the time of conveyance or distribution the executor has notice. Probate was granted in New South Wales on 29 August 2008. COLIN J. DUFF, Solicitor, 7 Morts Road, Mortdale NSW 2223 (DX 11307, Hurstville), tel.: (02) 9570 2022. [4204]

## COMPANY NOTICES

NOTICE of application for winding up order (rule 5.6).—In the Supreme Court of New South Wales No. 4565 of 2008.—DG & BM KERR PTY LTD, ACN 077 586 728.

1. A proceeding for the winding up of DG & BM Kerr Pty Ltd ACN 077 586 728 was commenced by the plaintiff, Agricultural Risk Management Services Pty Limited ACN 076 945 107, on 4 September 2008 and will be heard by the Supreme Court of New South Wales at Queens Square, Sydney, NSW 2000 at 9.15 am on 3 October 2008. Copies of documents filed may be obtained from the plaintiff's address for service.
2. The plaintiff's address for service is Jones Day, Level 41, Aurora Place, 88 Phillip Street, Sydney NSW 2000.
3. Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and any affidavit on the plaintiff at the plaintiff's address for service at least 3 days before the date fixed for the hearing.

Date: 24 September 2008.

Name of plaintiff's legal practitioner: STEVEN FLEMING. [4205]

IN the matter of the Corporations Law and in the manner of JOHN MANNERS & CO (AUST) PTY LIMITED, ACN 000 091 449.—At an extraordinary general meeting of members of John Manners & Co (Aust) Co Pty Limited, duly convened and held at 17 Pearl Bay Avenue, Mosman, on 17 September 2008, it was resolved that the company be wound up by members' voluntary liquidation and that Edward Perez de la Sala, c.o. 17 Pearl Bay Avenue, Mosman, be appointed liquidator of the company. Dated this 22 September 2008. EDWARD PEREZ DE LA SALA, Liquidator, c.o. Macdonald Honour & Co., Chartered Accountants, Suite 7, 1A Greengate Road, Killara NSW 2071 (PO Box 124, Roseville NSW 2069), tel.: (02) 9498 7511. [4206]

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