
WORKSAFE

WS301*

Occupational Safety and Health Act 1984

**Occupational Safety and Health Amendment
Regulations (No. 3) 2003**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Occupational Safety and Health Amendment Regulations (No. 3) 2003*.

2. Commencement

These regulations come into operation on 1 July 2003.

3. The regulations amended

The amendment in these regulations is to the *Occupational Safety and Health Regulations 1996**.

[* Reprinted as at 19 July 2002.

For amendments to 5 March 2003 see *Gazette 10 January 2003*.]

4. Part 3 Division 10 inserted

After Part 3 Division 9 the following Division is inserted —

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Division 10 — Driving commercial vehicles**3.129. Application**

This Division does not apply to a commercial goods vehicle, as defined in section 4(1) of the *Transport Co-ordination Act 1966*, that is required to be licensed under that Act.

3.130. Interpretation

In this Division —

“**commercial vehicle**” means —

- (a) an omnibus within the meaning of the *Transport Co-ordination Act 1966*;
- (b) a school bus within the meaning of the *Road Traffic (Vehicle Standards) Regulations 2002*;

- (c) any mobile plant with a GVM over 4.5 tonnes, or motor vehicle with a GVM over 4.5 tonnes within the meaning of those terms in the *Road Traffic (Vehicle Standards) Regulations 2002* that is designed to carry, or is carrying, a large integrated item of equipment; or
- (d) any other motor vehicle with a GVM over 4.5 tonnes, within the meaning of those terms in the *Road Traffic (Vehicle Standards) Regulations 2002* used or intended to be used for the carriage of goods for hire or reward;

“commercial vehicle driver” means a person who drives a commercial vehicle in the course of work and whose work time —

- (a) is more than 60 hours per week;
- (b) for more than once per week — is more than 10 hours in any 24 hour period; or
- (c) for more than once per week — includes the period from midnight to 5 a.m.;

“driver fatigue management plan”, in relation to commercial vehicle drivers, means a written document setting out requirements and procedures relating to —

- (a) scheduling trips;
- (b) rostering drivers;
- (c) establishing a driver’s fitness to work;
- (d) education of drivers in fatigue management;
- (e) managing incidents on or relating to commercial vehicles; and
- (f) establishing and maintaining appropriate workplace conditions;

“responsible person at a workplace” means a person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace;

“work time”, in relation to driving a commercial vehicle, includes —

- (a) time spent doing work incidental to the driving;
- (b) time spent operating the mobile plant, where the commercial vehicle is plant;
- (c) time spent operating mobile plant transported on the commercial vehicle; and

- (d) a break from driving, mobile plant operation or incidental work lasting less than 30 minutes.

3.131. Driving commercial vehicles

- (1) A responsible person at a workplace must ensure that a commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace —
 - (a) drives the vehicle in accordance with regulation 3.132; and
 - (b) is certified by a medical practitioner as fit to drive the vehicle.

Penalty: \$25 000.

- (2) A commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of a workplace must —
 - (a) drive the vehicle in accordance with regulation 3.132; and
 - (b) be the holder of a certificate of a medical practitioner confirming his or her fitness to drive the vehicle.

Penalty for a person who commits the offence as an employee: \$5 000.

Penalty in any other case: \$25 000.

- (3) For the purposes of subregulations (1)(b) and (2)(b), the certificate is to state that not more than 3 years before the driving, the medical practitioner examined and passed the commercial vehicle driver in accordance with —
 - (a) the Medical Examinations of Commercial Vehicle Drivers published by the Federal Office of Road Safety and the National Road Transport Commission; or
 - (b) requirements exceeding or substantially equivalent to the requirements in the document referred to in paragraph (a).

3.132. Commercial vehicle operating standard

- (1) A commercial vehicle driver must, so far as practicable, have —
 - (a) for every 5 hours work time — breaks from driving totalling at least 20 minutes including a break from driving of at least 10 consecutive minutes after 5 hours work time; and
 - (b) in any 14 day period — no more than 168 hours of work time.

- (2) In addition to subregulation (1), a commercial vehicle driver who drives without a relief driver must, so far as practicable, have —
- (a) in any 72 hour period — at least 27 hours non-work time, including at least 3 periods of at least 7 consecutive hours non-work time, with each period separated from the next by not more than 17 hours; and
 - (b) either —
 - (i) in any 14 day period — at least 2 periods of 24 consecutive hours non-work time; or
 - (ii) in any 28 day period — at least 4 periods of 24 consecutive hours non-work time if, and only if, the driver has no more than 144 hours work time in any 14 day period that is part of the 28 day period.
- (3) In addition to subregulation (1), a commercial vehicle driver who drives with a relief driver must, so far as practicable, have —
- (a) in any 24 hour period — at least 7 hours of non-work time, whether or not the time is spent in the vehicle while it is moving; and
 - (b) either —
 - (i) in any 48 hour period — at least one period of 7 continuous hours non-work time, which time is not spent in the vehicle while it is moving; or
 - (ii) in any 7 day period — at least 48 continuous hours non-work time, which time is not spent in the vehicle while it is moving.
- (4) In addition to subregulation (1), a commercial vehicle driver who does shiftwork on 5 or more consecutive days must, so far as practicable, have at least 24 continuous hours of non-work time between shift changes.

3.133. Driver fatigue management plan

A responsible person at a workplace must ensure that a driver fatigue management plan is developed and kept current by a competent person for every commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty: \$25 000.

3.134. Record of work time, breaks from driving, and non-work time

- (1) A responsible person at a workplace must ensure that a record in accordance with subregulation (2) is established and kept current in respect of the work time, breaks from driving, and non-work time of each commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty: \$25 000.

- (2) The record is to be —
- (a) set out in a clear and systematic manner;
 - (b) available for inspection by an inspector at all reasonable times; and
 - (c) kept for at least 3 years from the date of the last entry on the record.

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By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.
