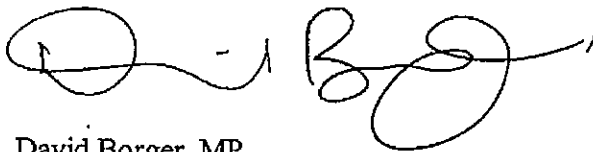


ROAD TRANSPORT (GENERAL) ACT 2005

Ministerial Exemption (*Bus Operator Fatigue Management Accreditation Requirements*) Order 2009

I, David Borger, Minister Assisting the Minister for Transport and Roads, pursuant to section 16 of the *Road Transport (General) Act 2005*, make the following Order.

Dated this 17 day of DEC 2009.



David Borger, MP
Minister Assisting the Minister for Transport and Roads

- 1 **Citation**
This Order may be cited as the *Ministerial Exemption (Bus Operator Fatigue Management Accreditation Requirements) Order 2009*.
- 2 **Commencement**
This Order takes effect on the day it is published in the New South Wales Government Gazette.
- 3 **Effect**
This Order remains in force until it is amended or revoked.
- 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 **Application**
This Order applies to operators of buses who are accredited by NSW Transport and Infrastructure to operate public passenger services in accordance with the *Passenger Transport Act 1990* ("accredited service operators").
- 6 **Exemptions from Fatigue Management Accreditation Requirements**
 - 6.1 **Compliance history declaration**
Subclauses 103(4) and 109(5) of the *Road Transport (General) Regulation 2005* are declared not to apply to an accredited service operator.
 - 6.2 **AFM accreditation certificates**
The requirement in Subclause 110(6) of the *Road Transport (General) Regulation 2005* that the accreditation certificate issued for an AFM accreditation is in the form approved by the Australian Transport Council by notice published in the Commonwealth Government Gazette is declared not to apply to an accredited service operator.

- 6.3 Fatigue management accreditation details carried by drivers**
Clauses 106 and 112 of the *Road Transport (General) Regulation 2005* are declared not to apply to a bus driver working for an accredited service operator, where the bus driver is;-
- (a) engaged in a journey of less than 100km from the driver's base; or
 - (b) 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.

- 6.4 Health assessment requirements**
- (a) For the purposes of clauses 103 and 105, the requirements of section 2.1 of the BFM Standards are declared not to apply to an accredited service operator.
 - (b) For the purposes of clauses 109 and 111, the requirements of section 7.1 of the AFM Standards are declared not to apply to an accredited service operator.

7 Transitional Exemption from AFM Application Criteria

- 7.1 Compliance with AFM standards**
Subclause 109(2)(d) of the *Road Transport (General) Regulation 2005* is declared not to apply to applications for Advanced Fatigue Management accreditation by an accredited service operator, lodged by 28 September 2009.

- 7.2 Compliance with AFM standards pending provision of auditor's statement**
Subclause 111(1) of the *Road Transport (General) Regulation 2005* is declared not to apply to accredited service operators to whom Clause 7.1 of this Order applies.

- 7.3 Condition**
The exemptions set out in Clauses 7.1 and 7.2 of this Order apply on the condition that the accredited service operator provides the auditor's statement described in Subclause 109(2) of the *Road Transport (General) Regulation 2005* to the Authority by the date specified in the operator's AFM accreditation certificate or in any case no later than 28 March 2010.

8 Revocations

The *Ministerial Exemption (Bus Operator Fatigue Management Accreditation Requirements) Order 2009* dated 9 September 2009 is hereby revoked.

Explanatory Note

The Roads and Traffic Authority administers a fatigue management accreditation scheme for operators of heavy vehicles in accordance with Part 6, Division 5 of the *Road Transport (General) Regulation 2005*. There are two classes of fatigue management accreditation;-

- Basic Fatigue Management (BFM); and
- Advanced Fatigue Management (AFM).

This Order remakes the *Ministerial Exemption (Bus Operator Fatigue Management Accreditation Requirements) Order 2009* approved on 9 September 2009 and gazetted on 18 September 2009. This Order includes all provisions of the earlier Order and two new clauses (clauses 6.4 and 7.2).

The purpose of the Order is to make minor modifications to BFM and AFM accreditation requirements for bus and coach operators, in order to minimise unnecessary duplication with the requirements of the Bus Operator Accreditation Scheme and the Bus Driver Authorisation Scheme administered by NSW Transport and Infrastructure.

In summary, Clause 6 of this Order makes the following changes to BFM and AFM accreditation requirements for bus operators;

- applications for BFM and AFM accreditation are not required to include a compliance history declaration;
- AFM accreditation certificates issued to bus operators will include additional information to ensure that bus driver work and rest time limits are enforceable;
- bus drivers working for BFM and AFM accredited operators will not be required to carry details of the operator's accreditation when undertaking work for which a work diary is not required.
- bus operators are not required to comply with BFM and AFM Standards for health assessments.

In addition, Clause 7 of this Order provides bus operators, who apply for AFM accreditation before 28 September 2009, with additional time to achieve compliance with AFM standards.

This Order applies in New South Wales only. Bus drivers operating in other States and Territories must comply with heavy vehicle driver fatigue laws that apply in those States and Territories.