


ROAD TRANSPORT (GENERAL) ACT 2005

**Ministerial Exemption (Extension of Driver Work Time
to Ensure Livestock Welfare) 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 December 2009.



David Borger MP
Minister Assisting the Minister for Transport and Roads

- 1 Citation**
This Order is the *Ministerial Exemption (Extension of Driver Work Time to Ensure Livestock Welfare) Order 2009*.
- 2 Commencement**
This Order takes effect on the day that it is published in the *New South Wales Government Gazette*.
- 3 Effect**
This Order remains in force until it is amended or revoked, and may not be revoked unless a notice is published in the Gazette providing at least six months notice of its proposed revocation.
- 4 Interpretation**
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 solo drivers of regulated heavy vehicles who are driving under Standard hours or working under a Basic Fatigue Management accreditation, where:
 - (a) the primary load of the vehicle is live cattle, sheep, goats, pigs or other livestock; and
 - (b) the welfare of the livestock is at risk due to circumstances which were not reasonably foreseeable.
- 6 Exemption**
Pursuant to section 16(1) of the *Road Transport (General) Act 2005*, the following provisions of the *Road Transport (General) Regulation 2005* are declared not to apply to drivers defined in Clause 5 of this Order:

- (a) in the case of a solo driver working under standard hours - the maximum work time in any period of 24 hours, 7 days and 14 days as specified in clause 64; and
- (b) in the case of a driver working under an operator's Basic Fatigue Management accreditation - the maximum work time in any period of 24 hours and 14 days as specified in clause 67.

7. Conditions

The exemption set out in Clause 6 of this Order applies subject to the following conditions.

- (a) a driver working under standard hours may work a maximum of:
 - (i) 14 hours in any period of 24 hours; and
 - (ii) 74 hours in any period of 7 days, only when this exemption applies during the last 24 hours in the 7 day period; and
 - (iii) 146 hours in any period of 14 days, only when this exemption applies during the last 24 hours in the 14 day period.
- (b) a driver working under an operator's Basic Fatigue Management accreditation may work a maximum of:
 - (i) 15 hours in any period of 24 hours ; and
 - (ii) 145 hours in any period of 14 days, only when this exemption applies during the last 24 hours in the 14 day period.
- (c) the driver must:
 - (i) in the case of a solo driver working under Standard hours - have a minimum of 10 continuous hours rest time between finishing work on the day the driver has worked in accordance with this exemption, and resuming work; or
 - (ii) in the case of a driver working under an operator's Basic Fatigue Management accreditation - have a period of continuous rest time of at least 7 hours plus twice the amount of time the driver worked in excess of 14 hours on the day the driver worked in accordance with this exemption, between finishing work on the day the driver worked in accordance with this exemption and resuming work.
- (d) the driver must, after becoming aware of the circumstances set out in Clause 5(b) and before resuming driving after the next occasion the driver stops the vehicle to inspect the livestock and/or take a rest time break, and in any case, before exceeding the applicable regulated limit on maximum work time in any period of 24 hours, make a written record which includes the following information:
 - (i) the nature of the circumstances which resulted in risks to the welfare of the livestock; and
 - (ii) the time, date and location when the driver became aware of these circumstances; and
 - (iii) the nature of the risks to the welfare of the livestock.
- (e) the written record made by the driver must:
 - (i) in the case of a driver who is required to record information in a work diary on the day on which the driver worked in accordance with this exemption –

- be kept with the driver's work diary and provided to their record keeper within 21 days; or
- (ii) in any other case – be provided to their record keeper as soon as practicable, but no later than 21 days.
- (f) within 7 days of receiving the written record provided by a driver in accordance with Clause 7(e) of this Order, the record keeper must notify the Authority, in a form approved by the Authority, of:
- (i) the name and licence number of the driver;
 - (ii) the date(s) the driver worked in accordance with this exemption;
 - (iii) the total amount of work time undertaken by the driver on the relevant dates;
 - (iv) the nature of the circumstances which resulted in risks to the welfare of the livestock; and
 - (v) the nature of the risks to the welfare of the livestock.
- (g) the record keeper of the driver must keep the written record referred to in Clause 7(d) and a record of the information notified to the Authority in accordance with Clause 7(f), for 3 years after they are created.

Explanatory Notes:

This Order replaces an earlier Order with the same title and substantive provisions, which was gazetted on 26 June 2009, and revoked on 26 December 2009. This Order may not be revoked unless

Part 6 of the *Road Transport (General) Regulation 2005* specifies maximum work time limits for drivers of regulated heavy vehicles.

The purpose of this Order is to permit standard hours and BFM hours solo drivers of regulated heavy vehicles carrying livestock to exceed the applicable regulated limit on work time in any 24 hour period, if the welfare of the livestock is at risk due to circumstances which were not reasonably foreseeable.

Under the Order drivers are also permitted to exceed the relevant work time limit in any 7 and 14 day period, only if this exemption applies on the last day of the relevant period. To ensure the driver has adequate opportunity for rest and sleep after exceeding the relevant work time in any 24 hour period in accordance with this Order, a driver must take an extended period of continuous rest time before resuming work.

In order for the Roads and Traffic Authority (RTA) to monitor the extent and circumstances in which this Order is utilised, drivers are required to provide relevant information to their record keeper, and the record keeper is required to provide relevant information to the Authority. The "record keeper" of a driver is;

- if the driver is an employed driver working under Standard hours – the employer; or
- if the driver is a self-employed driver working under Standard hours – the self-employed driver; or
- if the driver is working under an operator's Basic Fatigue Management accreditation – the operator.

This Order only applies in New South Wales. When working in other States and Territories, drivers of regulated heavy vehicles must comply with the limits on work and rest time that are provided in the laws in those States and Territories.

Further information regarding this Order, including the approved notification form and options for submitting notification forms to the RTA (as per clause 7(f)), is available on the RTA website: www.rta.nsw.gov.au.