

**ROAD TRANSPORT (GENERAL) ACT 2005**

## Ministerial Exemption (Local Area Work Diary) Order 2009

I, Michael Daley, Minister for Roads, pursuant to section 16 of the *Road Transport (General) Act 2005*, make the following Order.

Dated this 14th day of September 2009.

MICHAEL DALEY, M.P.,  
Minister for Roads

**1. Citation**

This Order is the *Ministerial Exemption (Local Area Work Diary) Order 2009*.

**2. Commencement**

This Order takes effect on 6 October 2009.

**3. Effect**

This Order remains in effect until it is amended or revoked.

**4. Definitions**

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**

Pursuant to section 16(1) of the *Road Transport (General) Act 2005*, Subdivision 2 (Work diary requirements) of Division 4 of Part 6 (Duties relating to record keeping) of the *Road Transport (General) Regulation 2005* is declared not to apply to a driver of a regulated heavy vehicle if:

5.1 The driver is undertaking a journey within a 100km radius of 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.

**6. Exemption not to apply if driver engaged in long journey at any time since last major rest break**

6.1 If, in a period since the driver's last major rest break, the driver engages in a long journey, clause 5 does not apply for that period, regardless of whether the long journey was undertaken before or after any local journey.

6.2 A driver to whom this clause applies must complete a work diary for the whole of the period following the driver's last major rest break.

6.3 A driver to whom this clause applies must complete a work diary as soon as practicable after becoming aware that he or she would be engaging in a long journey only if the long journey is engaged in after any local journey.

6.4 In this clause:

*local journey* is a journey within a 100km radius of the driver's base.

*long journey* is a journey more than a 100km radius from the driver's base.

**Explanatory Notes:**

This Order only applies in New South Wales. When working in other States and Territories, drivers of regulated heavy vehicles must comply with requirements for carrying work diaries in the laws of those States and Territories.

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.

**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 means:

- (a) in the case of a heavy vehicle that is normally kept at a depot when not in use—the principal depot of the vehicle, or
- (b) in the case of a heavy vehicle that is not normally kept at a depot when not in use:
  - (i) where the vehicle has only one registered operator—the home address of the registered operator, or
  - (ii) where the vehicle has more than one registered operator—each of the home addresses of the registered operators, or
- (c) in the case of a vehicle that is not a heavy vehicle—the place nominated by the applicant for registration of the vehicle as the place where the vehicle is normally kept.

**heavy truck** 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.

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

**record keeper** for the driver is:

- (a) for an employed driver — the employer; or
- (a) for a self-employed driver — the self-employed driver.

**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.