

WORK TIME AND LOGBOOKS

WORK TIME RESTRICTIONS

Work time restrictions, set out in the Land Transport Rule: Work Time and Logbooks 2007 ("Work Time and Logbook Rule") apply to any person who drives:

- A motor vehicle that requires a class 2, 3, 4 or 5 licence;
- Any vehicle that is being used under a transport service licence (other than a rental service licence);
- Any vehicle that is being used in circumstances in which it ought to be operated under a transport service licence; and
- A vehicle that is used to carry goods for hire or reward.

Work time restrictions **do not** apply to a driver of a goods service vehicle that requires a class 1 or 2 licence, is used within a 50km radius of the vehicle's normal base of operation and is not used for hire or reward.

Work Time

Work time includes:

- All time spent driving;
- Loading and unloading;
- Maintenance and cleaning of vehicles, (unless the cleaning is unpaid and done outside of working hours);
- Administration or recording;
- Any paid employment of any kind, except paid leave or breaks of at least 30 minutes, whether or not related to transport activity.

Rest Time

Rest time is time that is not work time, that is at least 30 minutes in duration and is not spent in a moving vehicle associated with work. A minimum 30 minute break must be taken after a maximum of 5 ½ hours' work time. If a journey involves a ferry crossing and the trip lasts more than 1 hour, this can be counted as a rest break.

5 ½ Hours' Work Time

A driver must take a rest break after five and a half hours of continuous work time.

13 Hours Working Per Day

A driver must not work for a total of more than 13 hours in any work day.

10 Hours' Rest Time

A driver must have at least 10 consecutive hours of rest time in every work day.

Work Day

A work day begins at the end of a continuous 10 hour rest break and comprises 24 hours.

70 Hours' Work Time

No driver can exceed 70 hours work time in a cumulative work period. A cumulative work period is the period of work time between continuous rest periods of at least 24 hours.

LOGBOOKS

The logbook rules, also set out in the Work Time and Logbooks Rule, apply to drivers who drive:

- vehicles that require a class 2, 3, 4, or 5 licence; or
- vehicles that are used in a transport service (other than a rental service); or
- vehicles that must be operated under a transport service licence; or
- vehicles that are used to carry goods for hire or reward, if that vehicle is a heavy motor vehicle.

Drivers must maintain a logbook which clearly and legibly records on each page:

- The driver's name and the date on which the logbook page starts;
- The date of the end of the driver's last 24-hour break as well as any days off immediately before the day for which the page is being completed;
- The registration number of each vehicle driven;
- For vehicles subject to RUC, the distance recorder readings at the start and finish of each period of driving;
- The start and finish time for all periods of work time and rest breaks (must be recorded either in am/pm or 24 hour format);
- The location of each event: the town or locality for smaller areas, or for cities you must use the suburb and city; and

cality for smaller areas, or for cities you must use the suburb and city; and

- The activity grid must be completed for the whole page.

Logbook entries are required for the period between the two 24 hour breaks, which is known as a cumulative work period.

If any delay is experienced which causes, or is likely to cause, the work time limits for a cumulative work day or a cumulative work period to be exceeded, the event and the length of delay should be noted in the logbook.

The last page of this Trainers' Guide has an example logbook page with further tips for heavy motor vehicle drivers.

Period in which a logbook must be maintained

Logbook entries must:

- Show the driver's cumulative work day and cumulative work period.
- Record when the most recent 10 hour break was taken.
- Record the period back to (and including) the last 24 hour break.
- Be maintained until the next 24 hour break is taken at the end of that cumulative work period.

Every driver must keep their logbook for 12 months from the date of the last entry, and if that driver is an employee, they must deliver a copy of the logbook to their employer within 14 days after completing that record. The employer must keep a copy of each logbook for 12 months.

Driver Offences

Offences are committed where a driver:

- Maintains two logbooks at the same time.
- Makes, or causes to be made, any false statement in a logbook.
- Allows any omission to occur in a logbook.
- Fails to produce without delay all logbooks on demand by an enforcement officer.

- Produces a logbook that is false in a material particular, whether or not the driver knows of the falsehood.
- Produces a logbook that omits a material particular, whether or not the driver knows of the omission.
- Produces a logbook in which any material particular is entered illegibly or in such a manner that a matter specified in the Rules cannot be readily ascertained.

All drivers committing an offence as stated above are liable on conviction to a fine not exceeding \$2,000 and may be disqualified from holding or obtaining a licence to drive a vehicle that requires a class 2, 3, 4 or 5 licence and is used in the relevant transport service.

Employer Offences

Every employer, not being the driver of the vehicle, commits an offence under the Rules where it requires, directs, or allows a vehicle to be used when:

- a logbook is not maintained in respect of the driving of that vehicle, whether or not the employer knows that a logbook is not maintained; or
- the logbook maintained in respect of the driving of that vehicle is false in a material particular, whether or not the person knows of the falsehood;
- the logbook maintained in respect of the driving of that vehicle omits a material particular, whether or not the person knows of the omission.

Chain of Responsibility

It is an offence to cause or require a driver to breach speed limits, maximum work time or rest time requirements. An employer commits an offence if they, by act or omission, directly or indirectly cause or require a driver to:

- Exceed any applicable speed limit if the employer knew, or should have known, that the speed limit would be or would likely be exceeded.
- Exceed the maximum work time prescribed in the Act or the Rules if the employer knew, or should have known, that the maximum work time would be or would likely be exceeded.
- Fail to comply with the rest time requirements prescribed in the Act or the Rules if the employer knew, or should have known, that the rest time requirements would not be, or would likely not be, complied with.
- Fail to maintain a logbook in the prescribed manner if the employer knew, or should have known, that the failure to maintain the logbook would contravene the Rules.

An employer commits an offence as stated above and is liable on conviction to a fine not exceeding \$25,000.

Penalties

The penalties for breaching work time restrictions are:

- Exceeding work time restrictions or rest time

requirements by less than 60 minutes in a cumulative day or 120 minutes in a cumulative work period: a fine of up to \$2,000 and the Court may disqualify the driver for one month or more from driving a vehicle that requires a class 2, 3, 4 or 5 licence or is used in a transport service or is used to carry goods for hire or reward.

- Exceeding work time restrictions or rest time requirements by 60 minutes or more in a work day: a fine of up to \$2,000 and a mandatory one month disqualification as above.
- Exceeding work time restrictions or failing to comply with rest time requirements by 120 minutes or more in a cumulative work period: a fine of up to \$2,000 and a mandatory one month disqualification as above.

Defences

It is a defence to an offence of breaching the work time or rest time requirements if the Court is satisfied that the failure to comply was due to unavoidable delay arising out of circumstances that could not reasonably have been foreseen by the driver, or it was an emergency (as defined by section 79P (2) of the Land Transport Act 1998).

Exemptions

The New Zealand Transport Agency (“NZTA”) can grant partial or total exemption from some or all of the requirements to maintain logbooks.

In addition, the Rules provide exemptions for certain types of drivers from the logbook requirements. These include:

- If a person drives for the New Zealand Defence Force, the New Zealand Police, an ambulance service or the New Zealand Fire Service;
- Drivers of certain services or types of vehicles are also exempt from filling in logbooks.

Examples:

- ◊ Farm vehicles - provided that the vehicle is only driven within a 50km radius of the farm and is used for work that is directly related to the management of the farm, or used to transport farming equipment or stock.
- ◊ Motor homes - provided that the vehicle has sleeping and cooking facilities that take up more than half of the vehicle’s floor area.
- ◊ Recreational vehicles (e.g. heavy vintage vehicles) or special type vehicles such as forklifts and rollers.
- A driver doesn't need to keep a logbook record if operating the vehicle under a Goods Service Licence within a 50km radius of the business, and the vehicle requires a class 1 or 2 licence. The legislation also covers drivers who are working within a 50km radius from a temporary operations base.
- Vehicle Recovery Service vehicles are not required to complete logbook entries provided they keep tow authorities as a record for their work hours.

If a driver does not fall under the above exemptions, that driver can still apply to NZTA for exemptions from some or all the requirements to maintain logbooks. The main consideration in any application for exemption is road safety. The sectors to

whom the logbook exemptions apply must still meet work time requirements.

Production of Logbook, Time and Wage Records

Drivers are required to produce, on demand by any enforcement officer and without delay, any logbook that the driver is required to maintain that relates to the day of the driver’s last rest time of at least 24 hours and all the days since that rest time.

Both the driver and the employer are required to make the logbook and any relevant time records, wage records and related employment records available for immediate inspection on demand by any enforcement officer at any reasonable time during the period for which the logbook is required to be retained.

Evidence

The evidence given by an enforcement officer as to the contents of any logbook as seen and recorded by that person at the time it was produced, is sufficient evidence of the contents of the logbook, until the contrary is proven by the production in Court of the logbook or a duplicate copy of the logbook. The Court shall presume until the contrary is proven that the contents of any logbook produced to an enforcement officer accurately record the matters required to be recorded in the logbook.

Alternative Record

NZTA may approve the use of an alternative means of recording the particulars required to be recorded in the logbook, such as an electronic logbook.

Statements by the Driver

The legislation also provides that any statement made to an enforcement officer by a driver about the driver’s employer’s name, or any matter that is or should be in the logbook, can be given in evidence by the officer and shall be admissible as evidence. This means that drivers should be very careful about what is said to police officers, particularly concerning driving hours and logbooks. They must give their name, address and the name and address of the owner of the vehicle. They should be very careful about saying anything else whatsoever to a police constable or traffic officer, because it will invariably be mentioned in Court.

This summary is intended only as a guide. It is not a full summary of the law relating to work time and logbooks. If you have specific questions, or need legal advice on a particular issue, please contact Cathy Fisher or Shafraz Khan at Fortune Manning Lawyers. Cathy and Shafraz have extensive experience in all areas of the law relating to the transport industry.

Cathy Fisher
cathy.fisher@fortunemanning.co.nz

Shafraz Khan
shafraz.khan@fortunemanning.co.nz

www.fortunemanning.co.nz
0800 4 FM LAW

FORTUNE MANNING
lawyers

EXAMPLE LOGBOOK PAGE

The example logbook page below shows the work time of this driver for the 24-hour period starting at midnight on 25 May 2019. This driver started work at 5.00am at Albany, Auckland after two days off work.

Complete activity grid for the whole page

Complete name of driver

Mark start time for page

Record date this page starts on

Driver name: James Smith

Start time for page: Noon / midnight

Date: 25/5/2019

Driver copy stays in the book AB-CDEF 00

All work must be recorded, including other employment.

No more than 13 hours work time in any 24 hours — 10-hour break between days.

No more than 70 hours work time before taking a 24-hour break.

Record copy must be given to employer within 14 days.

Record dates of any days off before today

Record start time and place, including suburb

Record registration number of each vehicle driven, and distance recorder reading if vehicle is subject to RUC

Record start and finish time, as well as location, of all breaks

Record finish time and place, including suburb

Hours	Rest time	Work time	Location (of each change)	Registration	Distance
			Remarks	Driven vehicle	Record for vehicles subject to RUC
12					
1			23/5/2019 - Day off		
2			24/5/2019 - Day off		
3					
4					
5			5.00 am Albany, Auckland	ABC123	25662
6					
7					
8					
9					
10			10.15 am Huntly		
11			11.30 am Huntly		
12					
1			2.00 pm Te Rapa, Hamilton	ABC123	25995
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					

End of last 24-hour break (date)	Work time hours — today	+ previous total for cumulative work period	= total hours in this cumulative work period
25/5/2019	7.75	+ 0	= 7.75

Record date of last 24-hour break

Use this space to calculate work time for cumulative work period

LOGBOOK TIPS

- Enter the driver's full name: either initials or full first name and family name;
- Record the full date (including year);
- The suburb MUST be included if the location is a city;
- If there is an unforeseen delay, this should be recorded under "remarks";
- Any vehicle subject to work time requirements must be recorded if driven during the work day. Private cars do NOT need to be included, even if driven for work;
- Start time is the earlier of when paid employment begins OR when driving a vehicle subject to work time requirements starts.
- Finish time is the later of when paid employment ends OR when driving a vehicle subject to work time requirements finishes.