#

Commercial vehicle drivers:
Hours of work – Work Health and Safety Regulations for Western Australia

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# Introduction

Part 3 – Workplace safety requirements, Division 10 – Driving commercial vehicles of the Occupational Safety and Health Regulations 1996 (Division 10), prescribes requirements in relation to:

1. commercial vehicle drivers
2. medical practitioner certification in relation to fitness to drive
3. hours of work for commercial vehicle drivers
4. driver fatigue management plans.

It is intended that, subject to consultation, the requirements of Division 10 will be included in the Work Health and Safety regulations for Western Australia.

For your information, below is a copy of Division 10. If you require further information such as specific definitions, these can be obtained from the [Occupational Safety and Health Regulations 1996](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a555.html).

Accompanying Division 10 is the [Code of Practice - Fatigue Management for Commercial Vehicle Drivers](https://www.commerce.wa.gov.au/publications/code-practice-fatigue-management-commercial-vehicle-drivers)

# Division 10 — Driving commercial vehicles

 [Heading inserted: Gazette 8 Apr 2003 p. 1108.]

## 3.129. Application of Division

 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.

 [Regulation 3.129 inserted: Gazette 8 Apr 2003 p. 1108.]

## 3.130. Terms used

 In this Division —

commercial vehicle means —

 (a) an omnibus within the meaning of the *Transport Co‑ordination Act 1966*; or

 (b) a school bus within the meaning of the *Road Traffic (Vehicles) Regulations 2014* regulation 226; or

 (c) any mobile plant or motor vehicle with a GVM over 4.5 tonnes 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 tonnesused 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; or

 (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; and

 (b) rostering drivers; and

 (c) establishing a driver’s fitness to work; and

 (d) education of drivers in fatigue management; and

 (e) managing incidents on or relating to commercial vehicles; and

 (f) establishing and maintaining appropriate workplace conditions;

 GVM has the meaning given in the *Road Traffic (Vehicles) Act 2012* section 3(1);

 motor vehicle has the meaning given in the *Road Traffic (Vehicles) Regulations 2014* regulation 3;

 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; and

 (b) time spent operating the mobile plant, where the commercial vehicle is plant; and

 (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.

 [Regulation 3.130 inserted: Gazette 8 Apr 2003 p. 1108‑10; amended: Gazette 8 Jan 2015 p. 101‑2.]

## 3.131. Commercial vehicle driver, duties of and in relation to

 (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: the regulation 1.16 penalty.

 (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: the regulation 1.15 penalty.

 Penalty in any other case:

 (a) for a first offence, $25 000; and

 (b) for a subsequent offence, $31 250.

 (3) For the purposes of subregulations (1)(b) and (2)(b), the certificate is to state that, not more than 5 years before the driving, the medical practitioner examined and passed the commercial vehicle driver in accordance with —

 (a) the document *Assessing Fitness to Drive 2016* published jointly by Austroads Ltd and the National Transport Commission, as revised in 2017; or

 (b) requirements exceeding or substantially equivalent to the requirements in the document referred to in paragraph (a).

 [Regulation 3.131 inserted: Gazette 8 Apr 2003 p. 1110; amended: Gazette 25 Jun 2004 p. 2292; 14 Dec 2004 p. 6017 and 6018; 14 Jun 2013 p. 2254; 10 May 2019 p. 1401.]

## 3.132. Commercial vehicle driver, hours of work

 (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 hours of non‑work time, which time is not spent in the vehicle while it is moving, includes a period of at least 24 consecutive hours non‑work time and does not include a period of non‑work time of less than 7 consecutive hours.

 (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.

 [Regulation 3.132 inserted: Gazette 8 Apr 2003 p. 1110‑11; amended: Gazette 25 Jun 2004 p. 2292.]

## 3.133. Driver fatigue management plan, requirement for

 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: the regulation 1.16 penalty.

 [Regulation 3.133 inserted: Gazette 8 Apr 2003 p. 1111; amended: Gazette 14 Dec 2004 p. 6018.]

## 3.134. Record of commercial vehicle drivers’ work time etc.

 (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: the regulation 1.16 penalty.

 (2) The record is to be —

 (a) set out in a clear and systematic manner; and

 (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.

 [Regulation 3.134 inserted: Gazette 8 Apr 2003 p. 1112; amended: Gazette 14 Dec 2004 p. 6018.]