



HVNL Fatigue Issues
Discussion Paper
May 2018



National Transport Commission

Report outline

Title	HVNL Fatigue Issues
Type of report	Discussion paper
Purpose	For public consultation
Abstract	The paper focuses on two fatigue issues that have been identified that may require amendments to the Heavy Vehicle National Law and the Heavy Vehicle (Fatigue Management) Regulation. The paper invites submissions to clarify work and rest times for drivers transitioning between two-up and solo driving arrangements and back again; and to clarify how to count work and rest time spent outside participating jurisdictions.
Submission details	Submissions will be accepted until Friday 6 July 2018 online at www.ntc.gov.au or by mail to: Attn: HVNL Fatigue Issues National Transport Commission Level 3/600 Bourke Street Melbourne VIC 3000
Key words	Heavy Vehicle National Law, fatigue, two-up driving arrangements, solo driving, counting work and rest, participating jurisdiction
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1 Context

Key points

Drivers of fatigue-regulated heavy vehicles are required to comply with the Heavy Vehicle National Law (HVNL) and the Heavy Vehicle (Fatigue Management) National Regulation (Regulation).

Two specific fatigue issues have been identified in relation to a lack of clarity in the law about:

- work and rest time requirements when transitioning between two-up and solo driving arrangements and back again; and
- counting work and rest time spent outside participating jurisdictions.

The purpose of this paper is to seek stakeholder feedback regarding possible amendments to the Heavy Vehicle National Law (HVNL) and the Heavy Vehicle (Fatigue Management) National Regulation (Regulation) to clarify the two identified fatigue issues.

1.1 Objectives

The National Transport Commission (NTC) has been asked by NatRoad and the South Australian Road Transport Association (SARTA) to investigate two specific fatigue issues.

The two identified fatigue issues apply to how drivers of heavy vehicles are required to manage fatigue risk. The current lack of clarity surrounding these two issues is considered by industry to be causing significant confusion for drivers, and potentially inhibiting the productivity and compliance benefits the original obligations were intended to provide

The purpose of this paper is to seek stakeholder feedback regarding possible amendments to the Heavy Vehicle National Law (HVNL) and the Heavy Vehicle (Fatigue Management) National Regulation (Regulation) to clarify the two identified fatigue issues.

Depending on the recommended outcomes following consultation, the NTC will either:

- progress stand-alone regulatory changes to address these matters by the end of 2018, or
- pursue changes as part of the future reform to HVNL fatigue laws as part of the review of the HVNL.

Future reform of current HVNL fatigue laws will also be informed by current work being undertaken by the Alertness Cooperative Research Centre (Alertness CRC) as part of the NTC's heavy vehicle driver fatigue data project. The heavy vehicle driver fatigue data project will scientifically evaluate the impact of the HVNL fatigue regulations on road safety risks. An initial report to the Transport and Infrastructure Senior Officials' Committee is expected in September 2018.

1.2 Background

In Australia, drivers of fatigue-regulated heavy vehicles are required to comply with the HVNL and Regulation. The fatigue management obligations under the HVNL and Regulation require drivers to record and comply with maximum work and minimum rest limits to prevent driver fatigue.

In November 2017, two specific fatigue issues were raised in relation to a lack of clarity in the law about:

- work and rest time requirements when transitioning between two-up and solo driving arrangements and back again; and
- counting work and rest time spent outside participating jurisdictions.

1.3 Issues

The NTC has consulted with NatRoad, SARTA and the National Heavy Vehicle Regulator (NHVR) to identify and understand the two fatigue issues. The two issues are:

- **Issue 1:** Drivers operating under a two-up arrangement are unable to transition to solo driving unless they are fully compliant with solo work and rest hours, or complete a reset rest break of 48 hours plus two consecutive night breaks. Based on the current law, there is no incentive for drivers to operate under a two-up arrangement. A two-up arrangement ceases when the second driver exits the vehicle, and the driver is then considered to be a solo driver.
- **Issue 2:** Industry has identified differences in the long-standing normal practice for counting work and rest time in non-participating jurisdictions and the requirements set out under the HVNL. The HVNL requires drivers travelling from a participating jurisdiction into a non-participating jurisdiction and back again in the last seven days to comply with work and rest hours under the HVNL. However, long-standing normal practice has been for drivers to comply with the laws of the jurisdiction they are in at the time.

2 Issue 1: Lack of clarity about transitioning between two-up and solo driving arrangements and back again

Key points

NatRoad has advised that drivers are being fined when transitioning from two-up driving arrangements to solo driving. There is no express provision in the HVNL or Regulation for transitioning rest from a two-up driving arrangement to rest as a solo driver. The NTC proposes amending the HVNL and Regulation to provide clarity on how work and rest hours should be enforced when transitioning between two-up and solo driving arrangements and back again.

2.1 Problem statement

Drivers operating under a two-up arrangement are unable to transition to solo driving unless they are fully compliant with solo work and rest hours, or complete a reset rest break of 48 hours plus two consecutive night breaks. Based on the current law, there is no incentive for drivers to operate under a two-up arrangement. A two-up arrangement ceases when the second driver exits the vehicle, and the driver is then considered to be a solo driver.

2.2 Background

NatRoad is a not-for-profit association that is funded by its members to represent more than 45,000 large and small trucking companies.

In November 2017, NatRoad advised that the HVNL and Regulation do not provide adequate clarity on work and rest times for drivers when transitioning between two-up and solo driving arrangements and back again.

In their submission, NatRoad noted that they have received complaints from members who have been fined when transitioning from two-up driving arrangements to solo driving. NatRoad stated enforcement agencies are treating the two-up rest hours as solo rest hours for subsequent calculations. The two-up driver then has to reset their rest hours with solo rest hours to comply.

NatRoad is of the view that without a regulatory change, there is no incentive for drivers to operate under two-up driving arrangements. NatRoad advised that this issue requires urgent attention and could be resolved in the short term by way of a nationally agreed policy for regulation of work and rest hours when transitioning between two-up and solo driving arrangements and back again. This national policy could be followed in the long term by a legislative amendment.

This lack of clarity in the law reduces the incentive for drivers to operate under a two-up driving arrangement. Based on the current law, drivers are required to comply with the work and rest hours of both solo and two-up if they transition between the two. In a practical sense, this requirement contradicts the purpose of two-up driving which involves driving long distances in less time by sharing the work and rest requirements between two drivers. In addition, it limits the safety, environmental and productivity gains offered through a two-up driving arrangement as it takes longer to complete one trip, as extra rest breaks are required, and the operator must pay two drivers to complete a journey under solo compliant hours.

The NTC discussed the practical application and interpretation of the HVNL and Regulation with the National Heavy Vehicle Regulator (NHVR). The NHVR recognises that the HVNL does not provide a specific legal mechanism for meeting the simultaneous rest requirements that apply when a driver swaps between solo and two-up driving arrangements. As a consequence of this, the NHVR advises drivers to ensure they comply with the most restrictive requirement until a national arrangement can be implemented.

The NTC discussed the practical application and interpretation of the HVNL and Regulation with enforcement officers from Roads and Maritime Services (RMS). RMS enforcement officers advised their current enforcement approach for drivers transitioning between two-up and solo driving or vice versa includes considering and applying the relevant sections in the HVNL and Regulation and internal policies, such as the RMS enforcement policy, fatigue policy and counting time policy. RMS enforcement officers explained the first step in their enforcement approach involves checking whether there is or was a second driver in the vehicle. If the second driver is in the vehicle, the enforcement officer compares the drivers' two written work diaries against one another to confirm adequate rest breaks have been taken. RMS enforcement officers commented this process can be complicated if the drivers are under different work and rest hours options, such as standard and BFM. If the second driver is not in the vehicle, the enforcement officer may investigate where the driver finished their two-up driving arrangement and may attempt to confirm the details, i.e. by calling the second driver and discussing what is recorded in their written work diary or sending a Notice to Produce Records to the company requesting records of all drivers of the vehicle on the dates in question.

RMS enforcement officers commented that in the past two-up driving has been rare; however it has become more popular recently. RMS enforcement officers advised that drivers who transition between two-up and solo driving on a regular basis are aware of the current requirements and ensure they have a seven hour rest for their last break under two-up before transitioning to solo driving. In addition, RMS enforcement officers observed that drivers do not seem to randomly transition on an ad hoc basis, rather it is something that may occur as part of a regular pattern.

RMS enforcement officers provided examples of how the rest hours of a two-up to solo driving arrangement transition is enforced.

Examples – Two-up to solo driving enforcement approach used by RMS enforcement officers

1. When transitioning from two-up to solo standard driving hours in the same 24 hour period involving a 5 hour continuous break

RMS enforcement officers advised in this situation the driver needs to have had a seven hour rest break (as required under solo rest hours), or a reset rest break of 48 hours, plus two night rest breaks taken on consecutive days.

RMS enforcement officers confirmed that a two-up driver cannot have a five hour rest and then an additional two hours rest if they decide to transition to solo hours – a driver has to be compliant under both driving hour regimes.

2. When transitioning from two-up to solo standard driving hours in the 24 hour period following the end of a 5 hour continuous break

RMS enforcement officers advised in this situation they will refer to the RMS counting time policy. In accordance with the policy, time is to be counted from the end of the last major rest break, such as seven hours for a solo standard hours option or from the end of a five hour rest break in a standard hours two-up arrangement. Enforcement officers then count forward 24 hours and compare the records of the two drivers.

3. When transitioning from two-up to solo standard driving hours on the next

calendar day, or at any point in the future

RMS enforcement officers advised in this situation they will also refer to the RMS counting time policy. If a driver is transitioning from two-up to solo standard hours they have to comply with all relevant work rest requirements of the solo standard option including a seven hour rest in the relevant 24 hour period and four night rest breaks (including two night rests in the previous 14 day period, plus two consecutive night rests in the previous 14 day period).

2.3 Current legislative requirements for two-up and solo driving arrangements

The HVNL and Regulation contain important information for solo and two-up drivers to comply with their work and rest hours.

Section 221 of the HVNL defines the following terms:

- **solo driver** means a driver who is not a party to a two-up driving arrangement.
- **two-up driving arrangement** means an arrangement under which 2 persons share the driving of a fatigue-regulated heavy vehicle that has an approved sleeper berth.
- **work and rest change**, for the driver of a fatigue-regulated heavy vehicle, means –
 - (a) a change from work time to rest time; or
 - (b) a change from rest time to work time; or
 - (c) a change from being a solo driver to being a driver who is a party to a two-up driving arrangement; or
 - (d) a change from being a driver who is a party to a two-up driving arrangement to being a solo driver.

Section 16 of the Regulation sets out in detail the recording requirements for a work and rest change. This provision requires the driver to record whether a work and rest change was a change from being: a solo driver to being a driver who is a party to a two-up driving arrangement, or a driver who was party to a two-up driving arrangement to being a solo driver. This provision anticipates that a driver may transition between solo and two-up driving and back again.

Section 22(2) of the Regulation provides that a driver may fulfil minimum rest time requirements concurrently, providing that the rest period taken meets the requirements of each minimum rest time requirement. Schedule 3 of the Regulation provides a number of examples around ways for drivers to meet their rest time requirements concurrently. For example, a driver working under a two-up driving arrangement under Basic Fatigue Management (BFM) hours must have at least the following rest breaks:

- 10 continuous hours of stationary rest in every 82 hour period (A)
- 24 continuous hours of stationary rest in every 7 days (B)
- 24 hours of stationary rest in blocks of at least 7 continuous hours in every 7 days (C)
- 4 night rest breaks in every 14 days (D).

A two-up driver under BFM hours is able to fulfil their A, C and D rest requirements concurrently by taking a rest break of 10 hours between 10pm and 8am (illustrated below).

	10	11	Midnight	1	2	3	4	5	6	7	8	9
A 10 hours	Work	Work	Work	Work	Work	Work	Work	Work	Work	Work	Work	Rest
C 7 hours	Work	Work	Work	Work	Work	Work	Work	Rest	Rest	Rest	Rest	Rest
D 1 night	Work	Work	Work	Work	Work	Work	Work	Rest	Rest	Rest	Rest	Rest

Section 243 of the HVNL provides that work and rest hour options can include standard hours, BFM hours or Advanced Fatigue Management (AFM) hours. Drivers may operate under solo or two-up driving arrangements to meet their preferred work and rest hours option. Solo and two-up driving is permitted for standard and BFM options.

Standard hours can be complied with either as a solo or two-up driver.

- Section 5 and table 1 of schedule 1 of the Regulation set out the standard work and rest hours for solo drivers.
- Section 8 and table 3 of schedule 1 of the Regulation set out the standard work and rest hours for two-up drivers.
- Sections 250 and 251 of the HVNL contain the offence provisions for solo and two-up drivers operating under standard hours.

BFM hours can be complied with either as a solo or two-up driver.

- Section 9 and table 1 of schedule 2 of the Regulation set out the BFM work and rest hours for solo drivers.
- Section 10 and table 2 of schedule 2 of the Regulation set out the BFM work and rest hours for two-up drivers.
- Sections 254 and 256 of the HVNL contain the offence provisions for solo and two-up drivers operating under BFM hours.

AFM hours can be complied with either as a solo or two-up driver on a case-by-case basis.

- Section 11 and schedule 4 of the Regulation set out the AFM risk categories for contravention of work and rest hours.
- Section 258 of the HVNL contains the offence provisions for drivers operating under AFM hours.

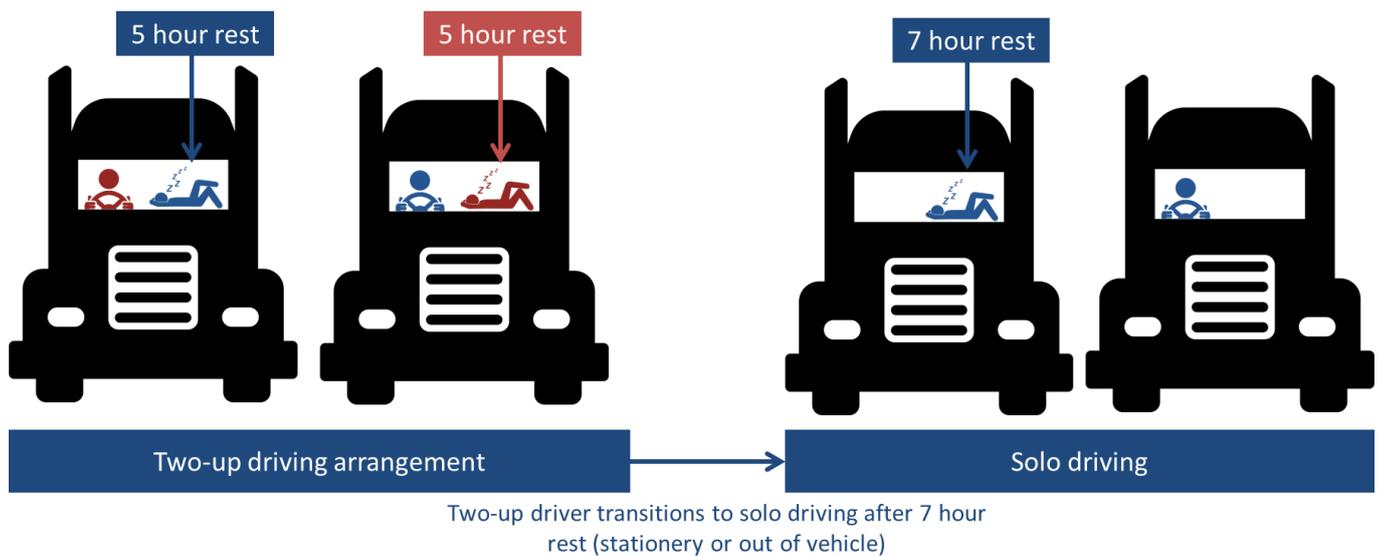
There is no express provision in the HVNL or Regulation for transitioning rest from a two-up driving arrangement to rest as a solo driver.

2.4 Example

The below image illustrates the current practice of transitioning between two-up and solo driving arrangements in a 24 hour period, as described by RMS above.

The red driver commences the trip working as a two-up driver. The blue driver commences the trip resting for five hours in the sleeper berth. Over the 24 hour period, the red and blue drivers swap work and rest roles. The red driver then rests for five hours in the sleeper berth while the blue driver works. The red driver cannot transition to solo driving unless they comply with the solo requirements under the HVNL.

As the blue driver intends to transition to solo driving, they must take a seven hour rest break (stationery or out of the vehicle), rather than the usual five hour rest break for two-up drivers (in the sleeper berth).



2.5 Proposal to clarify work and rest times for drivers when transitioning between two-up and solo driving arrangements and back again

The current law anticipates that drivers may transition between two-up and solo driving and back again. However, the law does not provide clarity around the method to be applied when counting rest time for such a transition and this limits the safety, environmental and productivity gains offered through a two-up driving arrangement. As outlined earlier, NatRoad is of the view that without a regulatory change, there is no incentive for drivers to operate under a two-up driving arrangement.

As a permanent solution, the NTC proposes amending the HVNL and Regulation to provide clarity on how work and rest hours should be enforced when transitioning between two-up and solo driving arrangements and back again. The regulatory amendment would provide clarity to jurisdictions, operators and drivers and allow drivers to continue operating and transitioning between two-up and solo driving arrangements.

In the interim, the NTC proposes developing a nationally agreed policy on how work and rest hours should be enforced when transitioning between two-up and solo driving arrangements and back again. This national policy would provide guidance to jurisdictions, operators and drivers and allow drivers to continue operating and transitioning between two-up and solo driving arrangements. This national policy would be developed in collaboration with the NHVR, road transport agencies, the road transport industry and industry associations.

The NTC invites submissions from stakeholders to inform the national policy on the approach to be used when transitioning between two-up and solo driving and back again. This may include proposing new methods for counting work and rest time, such as recognising two-up hours as solo hours, or only recognising the last major two-up rest break prior to transitioning to solo, or completing a short reset rest break prior to transitioning.

Consultation Questions

1. Is reform of the HVNL and Regulation required to clarify work and rest times for drivers when transitioning between two-up and solo driving arrangements and back again?
2. If you are a two-up driver, please provide examples of your current two-up driving routes and how you apply the work and rest times to your transition to solo driving.
3. What work and rest times do you propose are applied to drivers when transitioning between two-up and solo driving and back again?
4. How would your proposed approach impact upon you and / or your business?

3 Issue 2: The effect of section 245 in counting time spent outside participating jurisdictions

Key points

SARTA has questioned the intention and effect of section 245 of the HVNL regarding counting work and rest time spent outside participating jurisdictions.

The NHVR has advised that section 245 of the HVNL delivers the intended policy outcome and is a legislative necessity given that there are still two non-participating jurisdictions in Australia.

3.1 Problem statement

Industry has identified differences in the long-standing normal practice for counting work and rest time in non-participating jurisdictions and the requirements set out under the HVNL. The HVNL requires drivers travelling from a participating jurisdiction into a non-participating jurisdiction and back again in the last 7 days to comply with work and rest hours under the HVNL. However, long-standing normal practice has been for drivers to comply with the laws of the jurisdiction they are in at the time.

3.2 Background

SARTA is the recognised peak industry body for road transport in South Australia.

In November 2017, SARTA questioned the effect and legality of section 245 of the HVNL in applying the HVNL and counting work and rest time spent outside participating jurisdictions. SARTA would like clarity about the effect and intention of section 245(2) and counting time for drivers who travel from a participating jurisdiction into a non-participating jurisdiction and back again, such travel from Queensland or New South Wales into the Northern Territory or Western Australia and return for a period of less than 7 days.

The NTC discussed the interpretation of section 245 of the HVNL with SARTA. SARTA advised that the NHVR had confirmed that section 245 was based upon the previous legislation in South Australia, the Road Traffic (Heavy Vehicle Driver Fatigue) Regulations 2008 (South Australia).

Road Traffic (Heavy Vehicle Driver Fatigue) Regulations 2008 (South Australia)

15—Calculation of time periods

(3) For the purposes of these regulations, any time spent by a driver in another jurisdiction of the participating zone is to be treated in the same way as if the time had been spent in this jurisdiction.

(4) The following provisions apply in the case of a driver entering this jurisdiction from a non-participating jurisdiction:

- (a) if, within the preceding 7 days, the driver has spent any period of work time in the participating zone—any time spent by the driver in the non-participating zone is to be treated in the same way as if the time had been spent in this jurisdiction;
- (b) if, within the preceding 7 days, the driver has spent work time in the non-

participating zone only—

- (i) any time spent by the driver in a non-participating jurisdiction prior to his or her last major rest break is to be disregarded for the purposes of these regulations; and
- (ii) any time spent by the driver in the non-participating jurisdiction after the commencement of his or her last major rest break is to be treated in the same way as if the time had been spent in this jurisdiction.

The NTC has investigated the origin of section 245 and discovered section 42 of the National Transport Commission (Model Legislation – Heavy Vehicle Driver Fatigue) Regulations 2007 includes similar wording and intent to the current provision. It appears that section 245 reflects the Model Legislation, and the provision then implemented in the South Australian legislation.

National Transport Commission (Model Legislation—Heavy Vehicle Driver Fatigue) Regulations 2007

42 Counting time from outside the participating zone

- (1) This section applies to a driver if the driver drives a regulated heavy vehicle into this jurisdiction from another jurisdiction within the non-participating zone.

Note: Section 22(5) explains what the non-participating zone is.

- (2) If, within the last 7 days, the driver has spent any work time inside the participating zone, any time spent by the driver in the other jurisdiction within the non-participating zone is to be treated in the same way as it would have been treated if the time had been spent in this jurisdiction.
- (3) If, within the last 7 days, the driver spent any work time outside the participating zone:
- (a) any time spent in the other jurisdiction before the start of the driver's last major rest break before entering this jurisdiction is to be disregarded; and
 - (b) any time spent in the other jurisdiction after the start of that major rest break is to be taken into account; and
 - (c) any time spent by the driver in the non-participating zone (or another jurisdiction in the participating zone) after the start of that major rest break is to be treated in the same way as it would have been treated if the time had been spent in this jurisdiction.

SARTA advised the long-standing normal practice for drivers operating within participating and non-participating jurisdictions has been for drivers to comply with the laws of the jurisdiction they are in at the time. Once the driver moves back into a participating jurisdiction they must ensure they are compliant with the HVNL from that moment onwards and this usually involves the driver having a rest break on the Western Australian or Northern Territory side of the border before re-entering Queensland, New South Wales or South Australia.

SARTA informed the NTC that drivers and operators operating under AFM or BFM programs approved by the NHVR, included provisions to ensure that at the time of re-entry into the participating jurisdiction they were fully compliant with the HVNL. However, the NHVR has recently required removal of those provisions from more recent AFM and BFM programs before the NHVR would grant approval, stating, for the first time, that the provision was inconsistent with section 245.

SARTA commented that all drivers, operators and schedulers operating under BFM in participating jurisdictions and who travel from South Australia to Western Australia return etc. would be exposed to severe category breaches under the HVNL, as the maximum hours of work permissible in a 24 hour period is significantly greater in Western Australia and the Northern Territory than it is under standard and BFM hours under the HVNL.

SARTA advised that the vast bulk of drivers and operators transitioning between participating and non-participating jurisdictions were not aware of section 245 until SARTA started advising industry of the NHVR's new policy position in 2017. SARTA also advised that section 245 has not been enforced to date.

SARTA also informed the NTC that the former 2008 provision in South Australia was never enforced because the Western Australian government decided not to enact a parallel enabling provision that would have given effect to the South Australia provision.

SARTA argues that if the intent and legal effect of section 245 is to apply the HVNL to all time worked within non-participating jurisdictions before returning to a participating jurisdiction within a 7 day period, then:

1. The provision is inappropriate and impractical and should be repealed;
2. Alternatively if section 245 is to be retained, then its effect should be widely publicised throughout the industry.

The NTC discussed the interpretation of section 245 of the HVNL with the NHVR. The NHVR's position is that all work done by drivers has the capacity to affect their fatigue when they return to a participating jurisdiction. The NHVR further advised that their interpretation of section 245 of the HVNL is that it applies to drivers who work outside of a participating jurisdiction and return into a participating jurisdiction. The NHVR confirmed the policy intent of section 245 to include: work activities outside of participating jurisdictions are counted when the driver works in a participating jurisdiction, and there are appropriate protections in the provision to avoid it becoming overly burdensome. The NHVR advised that section 245 of the HVNL delivers the intended policy outcome and is a legislative necessity given that there are still two non-participating jurisdictions in Australia. The NHVR is of the view that there is no reason why drivers could not comply with the regulatory requirements of participating and non-participating jurisdictions by adopting the more restrictive limits. The NHVR noted that industry was consulted on the policy intent prior to the provision being created in 2004 and 2006 and anecdotally, industry is aware of and compliant with the provision.

3.3 Current legislative requirements for counting time spent outside participating jurisdictions

Section 245 of the HVNL is the principal provision dealing with counting time spent outside participating jurisdictions.

Section 245(2) provides that if within the last 7 days, the driver has spent any work time in a participating jurisdiction, any time spent by the driver in the non-participating jurisdiction must be treated the same as time spent in a participating jurisdiction.

Section 245(3)(a) provides that if within the last 7 days, the driver has spent work time only in non-participating jurisdictions, any time spent in the non-participating jurisdiction before the start of the driver's last major rest break before entering a participating jurisdiction must be disregarded.

Section 245(3)(b) provides that any time spent by the driver in the non-participating jurisdiction after the start of the last major rest break must be taken into account and treated in the same way as if the time had been spent in a participating jurisdiction.

3.4 Example

3.4.1 Approach under the Heavy Vehicle National Law

The HVNL provides that work time spent in a non-participating jurisdiction within the last 7 days must be treated the same as time spent in a participating jurisdiction. The figure below illustrates two examples of when work and rest time must be recorded under the HVNL.

- **Green route:** The driver travels from Adelaide to Darwin and return within the last 5 days. The driver is required to be compliant under HVNL during their time in the Northern Territory and when they re-enter South Australia.
- **Red route:** The driver travels from Adelaide to Perth to Port Hedland to Albany to Adelaide within the last 13 days. Whilst in Western Australia, the driver is not required to be compliant under the HVNL, but must comply with the work and rest requirements of Western Australia. Once the driver moves back into South Australia they must comply with the HVNL.



3.4.2 Long-standing practice

The long-standing practice for drivers operating within participating and non-participating jurisdictions has been for drivers to comply with the laws of the jurisdiction they are in at the time. The figure below illustrates the long-standing work and rest practice.

- **Blue route:** The driver travels from Adelaide to a non-participating jurisdiction. The driver must comply with the HVNL work and rest requirements until they leave the participating jurisdiction. Once the driver moves back into a participating jurisdiction they must ensure they are compliant with the HVNL (i.e. having a rest break on the Western Australian or Northern Territory side of the border before re-entering the participating jurisdiction).
- **Orange route:** The driver travels from a participating jurisdiction to a non-participating jurisdiction. The driver complies with the work and rest requirements of the jurisdiction they are in at the time. Once the driver moves back into a participating jurisdiction they must ensure they are compliant with the HVNL (i.e. having a rest break on the Western Australian or Northern Territory side of the border before re-entering the participating jurisdiction).



3.5 Proposal to clarify how to count work and rest time spent outside participating jurisdictions

The NTC is seeking submissions on whether the current provision for counting time spent in participating and non-participating jurisdictions is appropriate.

If stakeholders are of the view that the current provision is not appropriate, the NTC would like to understand what alternative approaches are supported that would provide industry with sufficient clarity and the ability to manage fatigue risks when driving between participating and non-participating jurisdictions.

Consultation Questions

5. Should the HVNL apply to counting work and rest time during time spent in non-participating jurisdictions or should the laws of the non-participating jurisdiction apply to all work and rest time within those jurisdictions?
6. Is the current provision for counting time spent in participating and non-participating jurisdictions appropriate?
7. If you do not believe the current provision is appropriate, what alternative counting time provision do you propose is applied to drivers when driving between participating and non-participating jurisdictions?
8. Are you able to provide evidence about how the operation of the provision is or is not addressing the intended fatigue risk?

4 Consultation and next steps

Key points

The NTC is seeking submissions regarding possible amendments to the HVNL and Regulation to clarify:

- work and rest times for drivers when transitioning between two-up and solo driving arrangements and back again, and
- how to count work and rest time spent outside participating jurisdictions.

Stakeholders can provide feedback on the questions until Friday 6 July 2018.

4.1 Questions to consider

The NTC is inviting submissions on this paper by **Friday 6 July 2018**.

Issue 1: Transitioning from two-up to solo driving arrangements

1. Is reform of the HVNL and Regulation required to clarify work and rest times for drivers when transitioning between two-up and solo driving arrangements and back again?
2. If you are a two-up driver, please provide examples of your current two-up driving routes and how you apply the work and rest times to your transition to solo driving.
3. What work and rest times do you propose are applied to drivers when transitioning between two-up and solo driving and back again?
4. How would your proposed approach impact upon you and / or your business?

Issue 2: Counting time between participating and non-participating jurisdictions

5. Should the HVNL apply to counting work and rest time during time spent in non-participating jurisdictions or should the laws of the non-participating jurisdiction apply to all work and rest time within those jurisdictions?
6. Is the current provision for counting time spent in participating and non-participating jurisdictions appropriate?
7. If you do not believe the current provision is appropriate, what alternative counting time provision do you propose is applied to drivers when driving between participating and non-participating jurisdictions?
8. Are you able to provide evidence about how the operation of the provision is or is not addressing the intended fatigue risk?

4.2 How to submit

Any individual or organisation can make a submission to the NTC.

To make an online submission, please visit www.ntc.gov.au and select 'Submissions' from the top navigation menu.

Or, you can mail your comments to:

Attn: HVNL Fatigue Issues
National Transport Commission
Level 3/600 Bourke Street
Melbourne VIC 3000

Where possible, you should provide evidence, such as data and documents, to support your views.

Unless you clearly ask us not to, we will publish all submissions online. However, we will not publish submissions that contain defamatory or offensive content.

The *Freedom of Information Act 1982 (Cwlth)* applies to the NTC.