



HEAVY VEHICLE NATIONAL LAW

National Heavy Vehicle Work and Rest Hours Exemption (Personal Use – BFM and AFM) Notice 2022 (No.1)

1. Purpose

To exempt specified categories of driver from maximum work time requirements under Basic Fatigue Management (BFM) or Advanced Fatigue Management (AFM) Hours so that they may conduct permitted personal activities in excess of those maximum time limits.

Note: This Notice operates in conjunction with the Heavy Vehicle Advisory Publication - Personal Use of Fatigue-Regulated Heavy Vehicles (the BFM and AFM Advisory), published by the NHVR.

The AFM and BFM Advisory contains a list of activities classified as Permitted Personal Activity, and further information and instructions on how this exemption works.

This Notice replaces the National Heavy Vehicle Work and Rest Hours Exemption (Personal Use – BFM and AFM) Notice 2019 (No.1) on its expiry.

2. Authorising Provision

This notice is made under section 266 and section 357 of the *Heavy Vehicle National Law*.

3. Commencement

This notice commences on 1 November 2022.

4. Expiry

This notice expires on 31 October 2025.

5. Title

This notice may be cited as the *National Heavy Vehicle Work and Rest Hours Exemption (Personal Use – BFM and AFM) Notice 2022 (No.1)*.

6. Definitions

- 1) Unless otherwise stated, words and expressions used in this Notice have the same meanings as those defined in the Heavy Vehicle National Law (HVNL).
- 2) In this Notice-

Permitted Personal Activity means an activity specified as such in the *Heavy Vehicle Advisory Publication - Personal Use of Fatigue-Regulated Heavy Vehicles BFM and AFM*.

Relevant BFM or AFM fatigue management system means a fatigue management system pursuant to Chapter 8 of the HVNL that applies to the driver of a fatigue regulated heavy vehicle operating under this Notice.

Relevant Vehicle means the fatigue-regulated heavy vehicle that a driver is using for permitted personal activity.

Maximum work time requirements means:

- a) For BFM hours – *Table 1 BFM hours solo driver* in Schedule 2 of the Regulation; or
- b) For AFM hours – the work hours specified in the certificate of accreditation issued by the NHVR for an accredited AFM fatigue management system.

7. Application – Class of Driver

- 1) This Notice applies to a solo driver of a fatigue-regulated heavy vehicle operating under BFM or AFM hours pursuant to the *Heavy Vehicle (Fatigue Management) National Regulation (the Regulation)*.
- 2) This notice does not apply to drivers operating under any other work and rest hours exemption or work and rest option.

8. Exemption – Maximum Work Time

- 1) The driver of a fatigue regulated heavy vehicle operating under this Notice is exempted from counting time spent conducting Permitted Personal Activity toward maximum work time requirements under a relevant BFM or AFM fatigue management system.
- 2) The use of Permitted Personal Activity under this section is limited by the conditions in s10.

9. Exemption – Work Diary Information

When recording time spent conducting a [permitted personal activity, the driver of a fatigue regulated heavy vehicle operating under this Notice is exempt from s301 (b) of the HVNL.

10. Conditions – Conditions for Permitted Personal Activity

- 1) The driver of a fatigue regulated heavy vehicle operating under this Notice may conduct Permitted Personal Activity for up to one hour in 24 continuous hours of stationary rest specified in:
 - a) In the case of BFM, under Table 1 in Schedule 2 of the Regulation; or
 - b) In the case of AFM, the work hours specified in the certificate of accreditation issued by the NHVR for an accredited AFM fatigue management system.
- 2) The hour allowed in (1) does not count as work toward Maximum Work Time under Column 2 of Table 1 in Schedule 2 of the Regulation or the maximum work approved under AFM accreditation.

- 3) The time allowed in (1) must be taken during a period of 24 continuous hours of stationary rest.
- 4) This section does not apply to Permitted Personal Activity conducted in the first and last 3 hours of any 24 hour rest break.

11. Conditions – Consecutive 24 hour restriction

The extra one hour of Permitted Personal Activity allowed in s10 may not be used in consecutive 24 hour periods.

12. Conditions – Recording Permitted Personal Activity

If the work time allowed for Permitted Personal Activity allowed under s10 is used on a given calendar day, the driver must record the time as work in their work diary and record Permitted Personal Activity in the Comments Section of their work diary.

13. Conditions - Limits on application of Permitted Personal Activity

- 1) Driving a relevant vehicle for the extra hour allowed for Permitted Personal Activity under s8 and recorded under s9 can only be undertaken if the vehicle is not:
 - a) carrying a load; or
 - b) towing another vehicle.

Raymond Hassall
Chief Regulatory and Policy Standards Officer
National Heavy Vehicle Regulator