


# VICTORIAN OWNER DRIVER INFORMATION BOOKLET



Published by Industrial Relations Victoria  
Department of Premier and Cabinet, 1 Spring Street Melbourne, Victoria 3000  
Email: [irv.info@dpc.vic.gov.au](mailto:irv.info@dpc.vic.gov.au)

October 2020

© Copyright State Government of Victoria 2020. This publication is copyright. No part may be reproduced by any process except in accordance with provisions of the *Copyright Act 1968*.

Authorised by the Victorian Government, Melbourne.

## Disclaimer

The content of this Information Booklet is drawn from a range of sources and the advice of industry participants, and is provided for information and general guidance purposes only. No claim is made as to the accuracy, currency or completeness of the content of this Information Booklet. While the information is intended to be of general assistance, it is not intended as providing professional advice to any person or organisation.

You should make your own enquiries as to the appropriateness and suitability of the information in this Information Booklet for your particular circumstances. You should note that laws and regulations change from time to time. You should check the information, including verification of whether the laws or regulations referred to are current.

The Victorian Government including the Department of Premier and Cabinet do not accept any loss or damage that may be suffered by any person that relies on the information (or the use of such information) which is provided or referred to in this Information Booklet. No responsibility is taken for any information or services that may appear on any of the websites referred to. Further, the views expressed in the Information Booklet or on linked websites are not necessarily endorsed by, and may not reflect the policies or practices of, the Victorian Government.

Additionally, although we have made every effort to ensure that the material provided is complete, current, reliable and free from error, we do not warrant or make any representation about the accuracy, adequacy or completeness of the information.

## Accessibility

This publication is published in PDF and Word formats on [www.business.vic.gov.au/odfc](http://www.business.vic.gov.au/odfc)

# Table of contents

<b>Message from the Minister</b>	<b>5</b>
<b>Message from the Transport Industry Council</b>	<b>5</b>
<b>How to use this Information Booklet</b>	<b>6</b>
Key terms	6
<b>Part 1. Understanding the Owner Drivers Scheme</b>	<b>9</b>
1.1. What is the Owner Drivers Scheme?	9
1.2. Who is covered by the Owner Drivers Scheme?	10
1.3. What is required under the Owner Drivers Scheme?	11
1.4. Hiring Owner Drivers	11
1.5. Contract requirements	15
1.6. Paying Owner Drivers and requiring Owner Drivers to make payments	16
1.7. Terminating engagements	17
1.8. Protections for exercising rights	18
1.9. Dispute resolution process	19
1.10. Victorian Small Business Commission	19
1.11. The Victorian Civil and Administrative Tribunal	21
1.12. Wage Inspectorate Victoria	21
1.13. Further assistance	22
<b>Part 2. Business basics and support for Owner Drivers</b>	<b>23</b>
2.1. Business planning and risk	23
2.2. Business structures	24
2.3. Buying into an existing business or a franchise	24
2.4. Customer service	25
2.5. Negotiating a contract	25
2.6. Financial planning	27
2.7. Understanding your business costs	27
2.8. Preparing financial statements	27
2.9. Reducing your overhead costs	28
2.10. Your terms for payment	28
2.11. Insurance	29
2.12. Taxation	29
2.13. Financial problems	29
2.14. Record keeping	29
2.15. Engaging substitute drivers	30
2.16. Business advice	30



<b>Part 3. Safety regulation in the transport industry</b>	<b>33</b>
3.1. Occupational health and safety laws	33
3.2. Transporting dangerous goods and hazardous substances	33
3.3. Heavy Vehicle National Law	34
3.4. The Victorian Bus and Truck Drivers' Handbook	34
3.5. Fatigue management	35
3.6. New technologies	36

## Message from the Minister

Welcome to the new edition of the Victorian Owner Driver Information Booklet.

The transport industry is vital to both the state and national economies.

Victoria's owner drivers play a key role by connecting producers and suppliers with the market.

This Information Booklet was developed by the Transport Industry Council in close consultation with the Department of Premier and Cabinet.

The Information Booklet is a key component of the *Owner Drivers and Forestry Contractors Act 2005*, which seeks to advance the position of small businesses in those industries.

It sets out how the Victorian owner drivers system operates and details how to set up and run a small business and the role Victorian and Commonwealth Governments play in the regulation and safety of our vitally important transport industry.

The Information Booklet is an essential tool to assist owner drivers to run their business safely and commercially.

And it helps owner drivers to understand their cost structures and contracts, before agreeing to provide their service.

Providing valuable, up to date information will enable owner drivers to make informed decisions and conduct sustainable commercial operations.

The Victorian Government will continue to assist small business operators and make sure that the regulatory environment in this state promotes safe and profitable enterprise.

TIM PALLAS MP

Minister for Industrial Relations

## Message from the Transport Industry Council

Owner Drivers are a key part of the transport industry. It is important that they are provided with information, support and guidance to run successful businesses.

This Information Booklet aims to ensure Owner Drivers are equipped with the resources necessary to understand their rights and obligations.

The Transport Industry Council wishes to acknowledge assistance and material from the Victorian and Commonwealth agencies and departments, and other associations mentioned in this Information Booklet.

## How to use this Information Booklet

This Information Booklet is a practical resource to help you, as an Owner Driver, to understand your rights and obligations, and operate a successful business. This Information Booklet is divided into the following parts:

- **Part 1. Understanding the Owner Drivers Scheme** – This part provides an overview of the Owner Drivers Scheme, who is covered by it and what is required under it, the processes available to resolve disputes and the role of Wage Inspectorate Victoria.
- **Part 2. Business basics and support for Owner Drivers** – This part provides useful tips for you, as an Owner Driver, for setting up and running a business as well as information on business and financial planning, taxation, record keeping, insurance, engaging substitute drivers and what to do if you have financial problems. Part 2 also includes information about business advice services.
- **Part 3. Safety regulation in the transport industry** – This part explains key safety requirements in the transport industry.

Use the contents section of this Information Booklet to find specific topics and check out the 'More Information' sections which contain useful web links and other references to find more detailed information on an issue.

## Key terms

Set out below are some key terms which you will find throughout the information booklet:

Term	Definition
ADR	Means alternative dispute resolution. Alternative dispute resolution is a process where an impartial person helps people with a dispute to resolve the issues between them. It includes arbitration by consent where a decision maker (the arbitrator) can make a decision about the dispute for both parties. It does not include any decisions made by a judge about how a dispute is to be resolved.
Act	Unless otherwise stated, means the <i>Owner Drivers and Forestry Contractors Act 2005</i> (Vic).
Business Day	A day other than a Saturday, Sunday or a public holiday.
Code	Means the Code of practice for owner drivers and forestry contractors prescribed in the Regulations.
Freight Broker	Means a broker or agent in the business of procuring or arranging the engagement of Owner Drivers by Hirers, including a person who provides an online platform that facilitates the engagement of Owner Drivers by Hirers.
Hirer	Means a person who engages an Owner Driver under an Owner Driver Contract.
HVN Law	Means the Heavy Vehicle National Law. The HVN Law establishes a national scheme for facilitating and regulating the use of heavy vehicles on roads.

The HVN Law is set out in the Schedule to the *Heavy Vehicle National Law Act 2012 (Qld)* and applies here in Victoria pursuant to the *Heavy Vehicle National Law Application Act 2013 (Vic)*.

Information Booklet	Means this information booklet.
Model Contracts	Means the model contracts developed by the TIC to assist parties to comply with the requirements of the Act and to promote good drafting of contracts.
Model Forms	Means the model forms developed by the TIC to assist parties to comply with the requirements of the Act and the Code.
NHV Regulator	Means the National Heavy Vehicle Regulator. The National Heavy Vehicle Regulator administers the HVN Law and is the national independent regulator for all vehicles over 4.5 tonnes GVM.
OHS Act	Means the <i>Occupational Health and Safety Act 2004 (Vic)</i> .
Owner Driver	Means a person, non-public company or partnership supplying up to a maximum of three vehicles to transport goods where the owner of the business also operates one of those vehicles.
Owner Driver Contract	Means a contract made in the course of business by an Owner Driver with another person to transport goods that is not an employment contract.
Owner Drivers Scheme	Means the Owner Drivers Scheme which is explained in section 1.1 of this Information Booklet.
Rates and Costs Schedules	Means the rates and costs schedules developed by the TIC for different vehicle types in relation to the typical costs of running an Owner Driver business and explained in section 1.4.1 of this Information Booklet.
Regulations	Unless otherwise stated, means the <i>Owner Drivers and Forestry Contractors Regulations 2017 (Vic)</i> .
TIC	Means the Transport Industry Council established by the Act. The TIC is made up of representatives from the road transport industry and government and has a number of functions under the Act.
Tip Truck Driver	Means an Owner Driver who drives a tip truck in connection with work that involves the removal of soil or rock from a site to form an open face, hole or cavity in the building and construction industry.
TWU	Means the Transport Workers Union. The TWU represents employees and Owner Drivers in the transport industry, and provides services including representation in disputes and negotiations, assistance in health and safety matters, training, and referrals to other services.
VCAT	Means the Victorian Civil and Administrative Tribunal. VCAT is an independent tribunal that seeks to provide a low cost, accessible and efficient disputes resolution service. Under the Act, where a dispute cannot be resolved by VSBC, the dispute can be referred to VCAT for resolution.
VicRoads	VicRoads is part of an integrated Department of Transport. VicRoads owns, manages and regulates the arterial road network, delivers road safety initiatives, and provides registration and licensing services.
VSBC	Means the Victorian Small Business Commission. The VSBC aims to promote a competitive and fair operating environment for Victorian small businesses. The VSBC performs an alternative dispute resolution function under the Act, including the mediation of disputes and arbitration with the consent of both parties.

---

VTA	Means the Victorian Transport Association. The VTA represents employer organisations (owners of freight and logistic businesses) involved in the transport industry, and provides information about a wide range of issues affecting the industry and seminars and training programs.
WorkSafe	WorkSafe Victoria is a statutory agency set up to help avoid workplace injuries, enforce Victoria's occupational health and safety laws, provide workplace injury insurance for employers, manage the workers' compensation scheme and help injured workers back into the workforce.

---

## More information

You can find more information for Owner Drivers and Hirers, as well as a downloadable copy of this booklet, at [www.business.vic.gov.au/odfc](http://www.business.vic.gov.au/odfc)



## Part 1.

# Understanding the Owner Drivers Scheme

## 1.1. What is the Owner Drivers Scheme?

The Owner Drivers Scheme establishes a framework for the regulation of contractual dealings between Owner Drivers, Hirers and Freight Brokers which consists of:

- the Act;
- the Regulations; and
- the Code.

The Owner Drivers Scheme is supported by this Information Booklet, the Rates and Costs Schedules, the Model Contracts and the Model Forms to appoint negotiating agents.

### The Act

The Act aims to provide some basic protections and a framework for the effective resolution of disputes to improve the position of Owner Drivers in the road transport industry, while maintaining a healthy and competitive industry. It also applies to forestry contractors.

The Act establishes the TIC which is comprised of representatives from industry and employee associations and government. The TIC has specified functions which include advising and making recommendations to the Minister on the content of Codes of Practice, the Information Booklet, and Rates and Costs Schedules. The TIC also advises on matters relevant to Owner Driver Contracts, and the commercial practices of Owner Drivers generally.

The Act was amended effective 1 May 2020, including to provide for penalties for non-compliance with the Act.

### The Code

The Code, which is included in the Regulations:

- sets out mandatory requirements that must be complied with;
- provides guidance on conduct that may be unconscionable and contract terms that may be unjust (including examples to assist Owner Drivers and Hirers to avoid such conduct); and
- describes industry best practice.

### Rates and Costs Schedules

TIC has developed Rates and Costs Schedules for a number of vehicle types to provide Owner Drivers with information about the typical operating costs applying to their business depending on the type of vehicle being operated.



Note the Rates and Costs Schedules do not set minimum rates that must be paid to Owner Drivers.

The Rates and Costs Schedules set out both variable operating costs and fixed operating costs.

- Variable costs are incurred when your vehicle is running, and include fuel, oil, tyres, road tolls, repairs and maintenance. Generally, the further your vehicle travels, the more you will pay.
- Fixed costs are expenses that stay the same whether your vehicle stays in your driveway or travels 100 or 100,000 kilometres. Fixed costs include loan repayments, insurance, administration costs and registration.

The Rates and Costs Schedules also provide information on rates that would typically apply for an Owner Driver's own labour if he or she did the work as an employee. Having this information before entering into a contract assists Owner Drivers to assess whether they should accept an offer and facilitates better-informed contract negotiations.

Every vehicle is different, and every business depends upon many factors so your own costs may be different from the Rates and Costs Schedule. If you have a different vehicle type or additional features, you can use the Rates and Costs Schedule for the vehicle that is most similar to your own vehicle as a guide and add in any additional costs accordingly.

## More information

- A copy of the Act and the Regulations can be downloaded from [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).
- The current Rates and Costs Schedules and the Code can be obtained from [www.business.vic.gov.au/odfc](http://www.business.vic.gov.au/odfc).

## 1.2. Who is covered by the Owner Drivers Scheme?

The Act applies to Owner Drivers who are engaged:

- under a contract made in Victoria or subject to the law of Victoria;
- to transport goods wholly within Victoria; or
- to transport goods if a substantial part of the services under the contract are performed in Victoria.

This includes Owner Drivers working for online platform businesses.

The Act also applies to haulage and harvesting contractors in the forestry industry. The Act does not apply to employee drivers.

An Owner Driver is any sole trader, non-public company or partnership that:

- carries on a business of transporting goods in a maximum of three vehicles; and
- those vehicles are supplied and operated by the owner of the business (whether solely or with the use of additional or relief drivers).

Owner Drivers and forestry contractors are sometimes referred to as 'contractors' in the Owner Drivers Scheme.

## More information

- See sections 4 and 8 of the Act and clause 6 of the Regulations.

## 1.3. What is required under the Owner Drivers Scheme?

The Act and the Code contain rules (set out in more detail below) in relation to:

- Hiring Owner Drivers (see [1.4](#) of this Information Booklet);
- Contract requirements (see [1.5](#) of this Information Booklet);
- Paying Owner Drivers and requiring Owner Drivers to make payments (see [1.6](#) of this Information Booklet);
- Terminating engagements (see [1.7](#) of this Information Booklet); and
- Protections for exercising rights (see [1.8](#) of this Information Booklet).

Disputes between Owner Drivers and Hirers (including claims of non-compliance with these requirements) may be dealt with by the dispute resolution process set out in the Act (see [1.9](#) of this Information Booklet).

Breach of some of these requirements may be an offence and Wage Inspectorate Victoria has powers to investigate and may take enforcement action (see [1.12](#) of this Information Booklet).

## 1.4. Hiring Owner Drivers

### 1.4.1. Giving information to Owner Drivers

The Act contains requirements to ensure that Owner Drivers have a copy of this Information Booklet and a copy of the relevant Rates and Costs Schedule.


#### When must the Hirer provide the information?

Hirers must provide **Owner Drivers** with a copy of this Information Booklet and a copy of the relevant Rates and Costs Schedules:

- at least three business days before the Owner Driver is engaged, if the Owner Driver will be engaged for a period of at least 30 days; or
- on the 30th day, if the Owner Driver is engaged for a total period of at least 30 days in any three-month period.

Hirers must give **Tip Truck Drivers** (irrespective of the how long they will be engaged for):

- A copy of this Information Booklet at least three business days before the Tip Truck Driver is first engaged. Unless it is revised it does not need to be provided for subsequent engagements with the same Hirer.
- A copy of the relevant Rates and Costs Schedule at least three business days before the Tip Truck driver is first engaged. Unless it is revised it does not need to be provided for subsequent



engagements with the same Hirer if the interval between engagements does not exceed 12 months.

These requirements also apply to tender situations.

Under the Act, “business day” is a day other than a Saturday, Sunday or public holiday.

A Hirer must also provide any revised relevant Rates and Costs Schedule to current Owner Drivers and Tip Truck Drivers as soon as practicable after publication.

If the Owner Driver or Tip Truck Driver is engaged through a Freight Broker, then the Freight Broker must provide this information instead.

Failure by the Hirer or Freight Broker to comply with these provisions may be an offence under the Act.

### **How can the Hirer provide this information?**

A Hirer or Freight Broker, who is required under the Act to provide the applicable Rates and Costs Schedule and Information Booklet to an Owner Driver, may do so in hard copy or electronic form. Examples of ways of providing copies of the Information Booklet and the Rates and Costs Schedule are via a link to an Internet site on which this information is available or in hard copy by mail or in person.

In order to demonstrate compliance with the requirements of the Act, it is important to keep good records.

From late 2020, Hirers and Freight Broker are required under the Code to keep certain records about the engagement of contractors. This includes the date/s that the Information Booklet and the Rates and Costs Schedule are given to an Owner Driver and any records of them being given. If this information is provided by hand, the Hirer or Freight Broker must also retain a signed acknowledgement of receipt by the Owner Driver.

### **More information**

- Divisions 1 and 2 of Part 2 of the Act and section 26A of the Act.

#### **1.4.2. No misleading advertising**

A Hirer seeking to engage an Owner Driver must not make any representations that are false, misleading or deceptive.

For example, if an Owner Driver sees an advertisement that says drivers ‘will’ earn in excess of \$1500 per week, and later finds out that their average gross income is less than \$900 per week and no other drivers for the business have earned more than \$1200 per week, this would be considered a breach of the Code.

## More information

- See clause 9 of the Code.

### 1.4.3. No unconscionable conduct


Hirers and Owner Drivers must not engage in unconscionable conduct with respect to each other, including during negotiations.

Unconscionable conduct is not defined in the Act; however, the Act sets out factors that VCAT may examine when deciding if conduct is unconscionable. The Code also provides guidance on what may be found by VCAT to be unconscionable conduct during negotiations; however, what may amount to unconscionable conduct will depend on the whole of the parties' circumstances.

The Code does not prevent Hirers or Owner Drivers from acting vigorously in their commercial interests. However, each party should deal with the other party, or parties, fairly and in good faith when negotiating a new contract or a variation to a contract.

The Code notes that in the absence of any special circumstances, where a Hirer or an Owner Driver engages in the type of conduct described below during negotiations, VCAT may find it is unconscionable (the Code also notes that other behaviour may also be considered by VCAT to be unconscionable conduct):

- where a party, by themselves or through an agent:
  - does not provide a reasonable opportunity to discuss an offer, or makes offers on a 'take it or leave it' basis, suggesting a party must accept an offer and refuses to consider any alternative offers; or
  - does not provide a reasonable opportunity for another party to properly examine and consider offers; or
  - does not provide a reasonable opportunity for another party to obtain legal, financial or other advice, including in the party's preferred language; or
  - disguises the terms of a contract by using fine print, unnecessarily difficult language, or a deceptive layout or headings; or
  - summarises the meaning of a document to another party, but omits to mention important terms in a way that is misleading; or
  - fails to correct another party's misunderstanding, where they knew, or reasonably ought to have known, that the other party was under a serious misapprehension about the terms of the agreement; or
- where a party builds up reasonable commercial expectations in another party for the renewal of an agreement, and then exploits those expectations to extract a harsh or one-sided deal from the other party; or
- where a party attempts to pressure another party into accepting an offer by acting in breach of contract, or otherwise acting unlawfully or threatening to do so.



An allegation of unconscionable conduct by a Hirer or Owner Driver can be referred to the VSBC for resolution, and if not resolved, can be referred to VCAT. See section [1.9](#) below.

### More information

- See sections 31 and 32 of the Act and clauses 4 and 5 of the Code.
- The Code also provides guidance on when VCAT might decide that there has been unconscionable conduct in other circumstances including in relation to:
  - parties not disclosing information (see clause 7);
  - the Hirer not passing on additional rates or levies paid by the customer (see clause 12);
  - the contract not providing for regular rate reviews for increases in overheads costs (see clause 12);
  - the Hirer reducing remuneration for carrying smaller loads (see clause 13);
  - not paying invoices when due (see clause 14); and
  - allocation of work (see clause 18).

#### 1.4.4. Joint negotiations

Owner Drivers or Hirers may appoint negotiating agents to act on their behalf. The Act requires the other party to recognise and deal with that agent. The agent could be an accountant, consultant, a trade union or industry association, an Owner Driver colleague or a committee of colleagues.

An agent can enter into a binding legal contract on behalf of the Owner Driver or Hirer. A Hirer can request that you provide an instrument of appointment which authorises an agent to act on your behalf before the Hirer party will deal with your agent (and vice versa). The TIC has developed model forms to appoint negotiating agents.

Hirers and Owner Drivers must not be coerced in relation to the appointment of a negotiating agent.

The Act permits joint negotiations between Owner Drivers engaged by a single business and their common Hirer, but not industry-wide negotiations. The Act does not authorise breaches of contract, strikes or boycotts in the conduct of joint negotiations.

Owner Drivers may be offered a regulated contract on the same terms as an existing jointly negotiated contract, while at the same time retaining the opportunity to negotiate their own contractual arrangements.

### More information

- See sections 25, 26 and 64 of the Act.
- The model forms to appoint a negotiating agent can be downloaded from [www.business.vic.gov.au/odfc](http://www.business.vic.gov.au/odfc).

### 1.4.5. Varying contracts for different vehicles or motorised equipment

If a Hirer requests or requires the Owner Driver to supply a vehicle or motorised equipment that is different to what is supplied under the contract, or if the Owner Driver identifies a legitimate need to upgrade the vehicle or motorised equipment:

- The Hirer and Owner Driver must enter into negotiations for variations to the contract for that purpose, having regard to the factors in clause 10(2)(a)-(d) of the Code;
- If, after these negotiations, the Hirer agrees that a different vehicle or motorised equipment may be supplied by the Owner Driver, the Hirer must set out in writing the terms and conditions being offered for the services using the different vehicle or motorised equipment before the Owner Driver purchases or otherwise commits to supplying the vehicle or motorised equipment; and
- If the Hirer requires particular specifications for the different vehicle or motorised equipment, the specifications must be provided in writing to the Owner Driver. The Hirer should also provide a copy of the applicable Rates and Costs Schedule.

#### More information

- Clause 10 of the Code.

## 1.5. Contract requirements

### 1.5.1. Parties must not claim to exclude the Act or other laws or the Code

A party to an Owner Driver Contract (i.e. the Hirer or Owner Driver) cannot claim to the other party that the other party's rights or entitlements under the Act, any other law or the Code are excluded unless the Act, other law or the Code allows them to.

For example, if a contract included a clause that an Owner Driver cannot notify a dispute to the VSBC, this clause would be invalid and unenforceable as it is contrary to the Act.

#### More information

- Section 65 of the Act and clause 6 of the Code.

### 1.5.2. Unjust terms

VCAT has the power under the Act to vary contracts to remedy unjust terms. Section 44(2) sets out factors that VCAT may consider when deciding whether a contract contains an unjust term.

Whilst what may amount to an unjust term will depend on all the circumstances, the Code provides guidance on when VCAT may find that there is an unjust term in the context of:

- setting and reviewing rates (clauses 11 and 12);

- payment terms (clause 14); and
- deductions for the use of the Hirer's equipment and technology (clause 16).

### More information

- Section 44 of the Act and clauses 11, 12, 14 and 16 of the Code.

## 1.5.3. Written contracts

Written contracts, even for short-term arrangements, are good business practice and help reduce disputes and uncertainty.

For ongoing engagements of no fixed duration or for a period of at least 30 days, Hirers must engage Owner Drivers using a written contract. The contract must set out:

- the minimum income or hours of work (this can be zero hours or dollars if the parties agree to this);
- the rates to be paid;
- and the minimum period of notice to end the contract or payment in lieu of notice (minimum notice periods are set out in the Act and summarised at [1.7](#) of this Information Booklet).

Under the Act it is an offence for Hirers to fail to do this.

It is good business practice for both Owner Drivers and Hirers to keep a copy of the written contract.

The TIC has developed a Model Contract for use by Owner Drivers and Hirers. It is not compulsory to use the Model Contract, but you may find it useful as guidance on typical contract terms. You can vary the Model Contract to suit your own circumstances.

### More information

- Section 20 of the Act.
- You can download the Model Contract from [www.business.vic.gov.au/odfc](http://www.business.vic.gov.au/odfc).

## 1.6. Paying Owner Drivers and requiring Owner Drivers to make payments

### 1.6.1. Payment of invoices within 30 days

A Hirer must pay an amount payable to an Owner Driver within 30 days after receiving an invoice, unless there is a dispute about the amount payable or a different, fair period for payment has been agreed.

### More information

- Section 24A of the Act.



## 1.6.2. Restrictions on deductions

A Hirer must not require an Owner Driver to pay money for services or equipment, or make deductions from money payable to an Owner Driver, unless:

- the costs are specified in the contract (that is, they are agreed costs);
- the costs are a direct and proper reflection of the actual cost of the services or equipment provided;
- the Owner Driver has been provided with an opportunity (if practicable) to obtain the services or equipment from an alternative supplier; and
- in respect of insurance, an insurance policy must also be in place and a copy of the policy provided to the Owner Driver.

In addition, if a Hirer makes deductions from an Owner Driver's invoiced fees for services or equipment, the Hirer must provide a written statement to the Owner Driver setting out the nature of the equipment used or services provided, and the amounts deducted for the equipment or service.

This does not prevent a Hirer from organising group discounts on services for Owner Drivers (for example, for fuel, tyres or insurance), but these amounts can only be deducted where the above requirements are met.

### More information

- See sections 23 and 24 of the Act and clause 15 of the Code.

## 1.6.3. No penalties

A Hirer must not require an Owner Driver, or include a term in a contract requiring an Owner Driver, to make a payment which is considered to be a penalty. This is payment of an amount which is more than is necessary to remedy the actual loss or damage suffered as a result of the conduct.

For example, a contract term that requires an Owner Driver to pay \$100 if they are more than 10 minutes late for a delivery would be in breach of the Code.

### More information

- See clause 17 of the Code.

## 1.7. Terminating engagements

### 1.7.1. Notice of termination

Where there is an ongoing engagement of at least three months' duration, an Owner Driver is entitled to a minimum period of notice of termination of their contract (except in the case of serious and wilful misconduct). The notice period may be worked out or paid in lieu.

The minimum period required to be given by either party to terminate the contract is:

- three months' notice for vehicles in excess of 4.5 tonnes GVM or ATM; or
- one month's notice for other vehicles.

This minimum period does not apply where the Owner Driver has terminated the engagement because there has been a material breach of the contract by the Hirer.

Where an Owner Driver consider that this notice period is not needed, the requirement can be waived by the Owner Driver obtaining a certificate from the VSBC and then giving the Hirer written notice. An application form for a certificate to waive the notice period is available from the VSBC website [www.vsbv.vic.gov.au](http://www.vsbv.vic.gov.au).

Where an Owner Driver is engaged under a fixed-term contract, the contract will come to an end automatically on the expiry date.

Under the Act it is an offence for a Hirer to end an Owner Driver's engagement without providing the required notice of termination or payment in lieu.

### More information

- See sections 21, 22 and 22A of the Act. Section 22 sets out a formula for calculating payment in lieu of notice.

## 1.7.2. Absences due to illness or family responsibilities

A Hirer must not terminate a contract only because the Owner Driver is absent as a result of temporary illness or incapacity, family responsibilities or similar reason, without first allowing a reasonable period of time for the Owner Driver to provide a suitable replacement driver. What is a reasonable time to find a replacement driver will depend upon the nature of the work and the contract terms.

### More information


- See clause 20 of the Code.

## 1.8. Protections for exercising rights

The Act protects people exercising their rights under the Act.

A person must not subject, or threaten to subject, another person to a 'detriment', where that other person has:

- exercised their rights under the Act or the Code; or
- brought or proposed to bring a proceeding under the Act; or
- informed or proposed to inform someone of an alleged breach of the Act, Regulations, Code or a VCAT order; or
- participated or proposed to participate in joint negotiations.



The Act also provides that a Hirer must not subject or threaten to subject an Owner Driver to any 'detriment' because the Owner Driver has:

- raised or proposed to raise health and safety issues; or
- sought or proposed to seek to negotiate or renegotiate a contract.

The Act sets out different types of 'detriment', which include:

- terminating the Owner Driver's engagement;
- altering the position of an Owner Driver to their disadvantage under a contract with them;
- refusing to engage an Owner Driver; and
- discriminating against a person in the terms or conditions on which the person is to be engaged as an Owner Driver.

### More information

- See section 61 of the Act.

## 1.9. Dispute resolution process

Under the Act, a dispute means a dispute between one or more Owner Drivers and one or more Hirers arising under or in relation to the Act, the Code or a regulated contract. This includes an allegation that a person has contravened the Act, Regulations, the Code or a regulated contract.

Where a dispute arises, the Act provides a process for the resolution of disputes between Hirers and Owner Drivers. This involves the VSBC and VCAT. However, except in urgent circumstances, parties should attempt to resolve the dispute between themselves (see clause 8 of the Code).

Where a dispute is unable to be resolved between the parties, the Act provides a two-stage process for the resolution of disputes:

- stage 1 – a referral to the VSBC; and
- stage 2 – an application to VCAT.

In general, a dispute must be referred to the VSBC (and the VSBC must first certify that ADR has failed, or is unlikely, to resolve the dispute) before it may be the subject of an application to VCAT. However, where a party seeks an injunction (which is an order to stop another party from doing something), that party may apply directly to VCAT. If a party refuses to take part in, or withdraws from, the VSBC process, VCAT may make an order for costs against that party.

## 1.10. Victorian Small Business Commission

The VSBC is an independent office established by the Victorian Government to assist small businesses. Under the Act, the VSBC provides an independent, fast and low-cost ADR service for Owner Drivers and their Hirers. The VSBC offers preliminary assistance and advice to ensure Owner Drivers and Hirers are fully aware of their rights and obligations. The VSBC also provides a confidential mediation service and consent arbitration service.

## Referring a dispute to the Victorian Small Business Commission

An Owner Driver or their Hirer may refer a dispute to the VSBC for ADR. Before lodging a dispute, you should consider discussing the matter with your solicitor or association or contacting the VSBC.

If you would like to refer a dispute to the VSBC, you should complete the online application form or download a hardcopy form from [www.vsbcc.vic.gov.au](http://www.vsbcc.vic.gov.au). There is no application fee.

## Preliminary assistance

Upon receiving an application, the VSBC will attempt to resolve the dispute by working through the issues with the parties by email or letter. This preliminary assistance is free of charge for the parties and is the step before mediation.

In the event that preliminary assistance does not resolve the dispute, the VSBC may invite the parties to attend mediation.

## The mediation process

Mediation is a process of negotiation that assists the parties involved in a dispute to identify and explore options to resolve the dispute. It aims to resolve all the issues between the parties to keep the relationship going and allow everyone to 'get on with business'.

The role of a mediator is to help the parties communicate openly and evaluate their options to reach their own agreement. Mediators are not judges; they do not determine binding outcomes and they do not give either party advice.

As part of the VSBC's mediation process, you will be brought together at an agreed time and location with an experienced and independent mediator appointed by the VSBC to discuss your dispute.

In the event the dispute proceeds to mediation, there is a fee payable by each party (rates are published on the VSBC website). The VSBC pays the remainder of the mediator's fees.

## The consent arbitration process

With the consent of both parties, the VSBC can arrange for disputes to be referred to be arbitration. Parties to a dispute under the Act may agree to apply for arbitration under the Act regardless of whether mediation has occurred.

After receiving written submissions and relevant documents from the parties and possibly holding a hearing, an independent arbitrator will issue a final decision that is binding upon the parties.

In the event the dispute proceeds to arbitration, there is a fee payable by each party (rates are published on the VSBC website). The VSBC pays the remainder of the arbitrator's fees.

## More information

- Divisions 1 and 2 of Part 5 of the Act and Clause 8 of the Code.
- Contact the VSBC on 13 8722 or go to [www.vsbcc.vic.gov.au](http://www.vsbcc.vic.gov.au).

## 1.11. The Victorian Civil and Administrative Tribunal

VCAT is an independent tribunal that seeks to provide a low-cost, accessible and efficient dispute resolution service.

Where there is an allegation of unlawful termination of the engagement of an Owner Driver, the application must be made within 12 months of the date on which the termination is alleged to have occurred. In all other disputes, the time limit is six years after the date on which the dispute arose.

After hearing and deciding a dispute, VCAT may make a range of orders, including:

- an order for a party to do, or refrain from doing, something;
- an order invalidating, varying or requiring performance of a contract;
- an order for a refund, compensation or damages; and
- any other order it considers fair, including varying or voiding a contract term to avoid injustice.

If the Hirer or Freight Broker has not complied with the requirements in relation to providing this Information Booklet or the applicable Rates and Costs Schedule (see [1.4.1](#) of this Information Booklet), VCAT may make an order that the Owner Driver is paid a specified amount for their services under the contract. In deciding what amount to order, VCAT must take into account the terms of the relevant contract, the amount the Owner Driver would have been entitled to if the Owner Driver had provided the services as an employee, any applicable Rates and Costs Schedules, and what is fair and reasonable in the circumstances.

### More information

- Division 3 of Part 5 of the Act.
- Contact VCAT on 1300 01 8288 or go to [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

## 1.12. Wage Inspectorate Victoria

As well as Owner Drivers and Hirers being able to follow the disputes resolution process under the Act, there are now also penalties for non-compliance with certain provisions of the Act.

Wage Inspectorate Victoria, which operates within Industrial Relations Victoria in the Department of Premier and Cabinet, is tasked to provide a robust compliance and enforcement regime.

Authorised Officers are given powers under the Act that they may exercise for certain purposes. These powers include requiring information or documents. Failure without reasonable excuse to provide the documents or information is an offence. It is also an offence to provide false or misleading documents.

### More information

- Part 7A of the Act.
- Contact Wage Inspectorate Victoria on 1800 287 287 or by email at [odfc@dpc.vic.gov.au](mailto:odfc@dpc.vic.gov.au).
- Visit [www.vic.gov.au/wage-inspectorate-victoria](http://www.vic.gov.au/wage-inspectorate-victoria).

## 1.13. Further assistance

For further assistance contact:

- Wage Inspectorate Victoria on 1800 287 287 or by email at [odfc@dpc.vic.gov.au](mailto:odfc@dpc.vic.gov.au). You can also visit [www.vic.gov.au/wage-inspectorate-victoria](http://www.vic.gov.au/wage-inspectorate-victoria).
- The VSBC on 13 8722 or go to [www.vsbv.vic.gov.au](http://www.vsbv.vic.gov.au).
- Your industry association, union or lawyer.

## Part 2.

# Business basics and support for Owner Drivers

The most important aspect of being an Owner Driver is to know the business and understand your own capabilities and resources.

Before becoming an Owner Driver, you should carefully consider your financial and personal situation, lifestyle and family commitments, and obtain independent advice from your industry association or your lawyer, accountant or other business adviser. You should also assess your overall investment in a business to ensure that it is sufficiently profitable to at least cover the capital repayments after tax and provide you with a fair income.


This section of the Information Booklet provides some useful information to assist Owner Drivers to set up and run a business. Information is provided on a range of topics including business and financial planning, taxation, record keeping, insurance, engaging substitute drivers and what to do if financial problems are experienced. There is also information about business advice services, from whom you can seek advice if you need further information.

## 2.1. Business planning and risk

A business plan is a record of how you will run your business and how you intend to identify and manage opportunities and challenges. A written business plan provides a roadmap that can help improve and even expand your business, and can also help you secure finance.

A business plan should include the following:

- an overview and vision of your business;
- an analysis of your market, including present and future sources of work;
- what business structure to use;
- how your business will be managed;
- an estimate of establishment and running costs including financing your vehicle;
- possible changes to things such as fuel costs and interest rates;
- expected cash flow;
- your projected profit and loss;
- a balance sheet (which brings together the results from your profit and loss and cash flow statements);
- your margin, mark-up and break-even point;
- expected return on investment;
- a risk management plan; and
- an action plan to implement your identified goals.



Having a risk management plan will help you if you subsequently run into problems (for example, what will happen to your business if you have an accident and cannot work). When writing your risk management plan, you should be able to answer the following questions:

- What risks am I facing?
- What level of financial risk should I accept?
- What is the likelihood of each risk?
- What will I do if things do not go according to plan?
- What consequences could be caused by each risk?
- What can I do to minimise the risks to my business?

## Your vehicle

Choosing the right vehicle is vital, as it can mean the difference between making a profit or loss. Make sure your vehicle is suited to the type of work you plan to carry out, as restrictions apply to some vehicles. For example, if you transport dangerous goods, special vehicles and equipment are required. There are also restrictions on the use of some vehicles such as B-doubles, which have a greater mass limit and can move more goods, but are only allowed to operate on specific routes.

### More information

- Go to the Business Victoria website [www.business.vic.gov.au](http://www.business.vic.gov.au) for guidance on how to prepare a business plan.

## 2.2. Business structures

There are a number of ways of operating a business. The structure you choose will affect your tax liability, how your business can be sold, and whether your personal assets are protected. To pay your business taxes, claim deductions for business expenses, open accounts and trade legally, you need to choose the right business structure for you.

### More information


- Go to the ASIC website [www.asic.gov.au](http://www.asic.gov.au) for detailed information about the establishment of company structures and business name registration.
- Go to the Business Victoria website [www.business.vic.gov.au](http://www.business.vic.gov.au) for an overview of different business structures.

## 2.3. Buying into an existing business or a franchise

### 2.3.1. Goodwill or entry payments

'Goodwill' means a payment that is over and above the market price of a vehicle that you are buying from another person. It is a payment for the value of the business and is usually paid in the expectation that the truck will be sold as 'in work', under an existing contract.





Goodwill or entry payments are discouraged by the VTA and the TWU. Goodwill payments create a higher entry price into an industry, meaning margins are tighter and it is harder to make a profit. They have also been the cause of unfairness and disputes. For example:

- New drivers paying goodwill for a vehicle that is under an existing contract, in the expectation they will get the work, but then not being taken on by the Hirer and losing the money they paid as goodwill.
- Drivers paying a goodwill payment to get into the work, but then not being able to recover that payment when they decide to leave the business later on.

### 2.3.2. Franchise fees

Paying for the rights to run a business with an established name, marketing and operating procedures offers a new business owner guidance and assistance. However, it also means you need to follow the franchisor's system of running and marketing the business, which may not suit everyone.

Franchise fees are sometimes requested as a condition for the right to operate as a courier or driver in a geographical area for a business.

#### More information

- Go to the Business Victoria website [www.business.vic.gov.au](http://www.business.vic.gov.au) for factors to consider before buying a franchise.

## 2.4. Customer service

The transport industry has become more efficient and professional, with customers expecting a higher level of service. It is therefore important that Hirers and Owner Drivers understand and agree on how customer service standards are to be met as disputes may arise where a party considers that there is a breakdown of customer service standards.

## 2.5. Negotiating a contract

When starting with a Hirer, you need to carefully consider the arrangements for work and income you will receive. Carefully read any contract you are offered, and ask questions if you are not sure of anything. Refer to [Part 1](#) for more information about contracts and joint negotiations.

When negotiating contract terms with a new or existing Hirer, plan your approach in advance. Before you discuss a new job with a potential Hirer, write yourself a list of questions you want to ask before you sign such as:

#### ***Rates and payment***

- How are they calculated?
- Does the company pay a fuel levy to cover any rises and falls fuel costs? How often is it varied and is 100 per cent of the fuel increase or decrease passed on?

- When are your invoices paid? (Note hirers' obligations in relation to payment of invoices - see 24A of the Act).
- Is there a guaranteed number of hours or guaranteed earnings? Will you be guaranteed enough work to cover your outgoing expenses? (Note that the agreed minimum must be reflected in your written contract – see section 20 of the Act and [1.5.3](#) of this Information Booklet).
- What do other Owner Drivers with the same Hirer typically earn each week and year?
- Who raises the invoice? For example, does the Hirer work on a reverse billing arrangement and how will you reconcile the account?
- What are the paperwork and documentation requirements to support the payments?
- What information and communications equipment or technology do you need to perform the work, and who provides, maintains and pays for it?
- Are there any deductions from the payments for goods or services (for example, insurance, administration charges)? How much?
- From what times do the task and related payments start and finish?
- Do you get paid for training?

### ***Hours of work***

- What are the usual hours of work?
- Are you required to work on weekends, nights or public holidays?
- Can you refuse an offer of work if it doesn't suit you?
- Where do you park your vehicle? Is parking provided by the Hirer or customer? If not, how are overnight/stick-up loads kept secure?

### ***Security and contract terms***

- Are there any close-down periods?
- Do you need to have the Hirer's or customer's livery on your vehicle, and who provides, maintains and pays for this?
- Are there quiet periods during the year? What factors cause work to drop off or increase?
- Are you permitted to work for another business?
- What are the arrangements if you are ill or need a break?
- Can you use a replacement driver?
- Is the business's work and client base secure?
- What are the contract arrangements? (Note that section 20 of the Act requires ongoing contracts of no fixed duration or for a period of at least 30 days to be in writing).

### ***Safety***

- Is the company accredited under the National Heavy Vehicle Accreditation Scheme (or another relevant scheme)?
- What is the company's safety record and approach to chain of responsibility requirements?

- Do you have to attend or pass any customer-related inductions or training to perform the work?

## 2.6. Financial planning

It is important to have an independent view of your business situation. Securing the assistance of a qualified and reliable accountant or other financial adviser can be of great benefit to you and your business.

## 2.7. Understanding your business costs

You will need to have a good understanding of how much it costs to run your vehicle and your business. It is important to have a well-prepared budget to understand your business costs, for the following reasons:

- It will assist you to manage your finances and cash flow, and provide an easy way of setting goals and working out budgets and forecasts.
- You can make decisions on what rates of pay are reasonable – this will help you negotiate with your Hirer and compare the benefits of different jobs.
- Whether you are paid by the load, the hour or the kilometre, you need to know your costs and be able to convert them from a per-hour to a per-kilometre or per-load figure and vice versa.
- Information about your costs is essential when borrowing money to update your vehicle or expand your business. When planning to change vehicles, you need to know how your costs will change and make sure that you can make a reasonable profit.

## 2.8. Preparing financial statements

Financial statements should be prepared regularly and provide key information to help you improve your business.

Financial statements should include the following:

- **Establishment costs** – this is a detailed list of the expenses incurred to set up a business until it becomes established and starts to make a profit. Establishment costs are 'one-off' costs that are not repeated.
- **Profit and loss statement** – this is a summary of income and expenses for your business over a period of time. It is prepared at regular intervals, usually monthly and at the end of the financial year. New businesses should calculate their profit and loss statement on a monthly basis and include the establishment costs. It is important not to overestimate your revenue and not to underestimate your establishment costs and ongoing expenses.
- **Cash flow statement** – a cash flow statement is an important part of the business plan. Regardless of normal business ups and downs, it is critical that you do not run out of cash. The cash flow statement is a record of when all income is received and when all payments are made by the business for ongoing essentials, such as taxation payments.

- **Balance sheet** – the balance sheet is a general snapshot of the financial health of a business on a given day. You would normally complete a balance sheet at the end of a month or financial year.

## 2.9. Reducing your overhead costs

A number of websites and apps provide information on where to find the cheapest fuel each day. Plan ahead on where and when you are going to fill up and you could make savings in the long run.

You may also want to consider a group buying scheme for major purchases. By coordinating with other Owner Drivers or with your Hirer, you might be able to get significant group discounts on the purchase of new vehicles or equipment, maintenance and servicing, tyres, oil and other costs.

### More information

- Go to the RACV website [www.racv.com.au](http://www.racv.com.au) to find the cheapest fuel prices in your area.

## 2.10. Your terms for payment

The terms for payment of your invoices are critical, especially if you are carrying your fuel costs on an overdraft or on credit.

Under the Act, Hirers are required to pay you within 30 days after receiving an invoice unless there is a dispute about the amount payable or you have agreed to a different payment period and that period is not unfair to you or the Hirer (see [1.6.1](#) of this Information Booklet).

The Code also notes that, unless a hirer and an owner driver agree to a different payment period that is not unfair to one of the parties, payment terms of more than 30 days may be considered to be unjust (see [1.5.2](#) of this Information Booklet).

If you believe that you should have been paid within 30 days after receiving an invoice but have not been, or that your payment terms are unfair, you can notify a dispute to the VSBC (see [1.9](#) of this Information Booklet).

Owner Drivers working in the building and construction industry may also have rights to progress payments and to make claims against principals for unpaid work under the *Building and Construction Industry Security of Payment Act 2002 (Vic)*.

If you are not paid or are short-paid, first speak with your Hirer and seek a commitment to the payment. Tell your Hirer up front that you require payment in accordance with your contract terms. Keep a diary note about who you spoke to, what they undertook to do and by when.

If your Hirer continues not to pay you, you may wish to reconsider whether you continue to provide services as the Hirer may be heading towards insolvency and you may never get paid or not for a very long time. If you find yourself in this situation seek urgent advice from your industry association, lawyer, accountant or other business adviser.

## 2.11. Insurance

An insurance policy that is appropriate to your business needs can protect you against a range of risks or events, such as theft of equipment. Adequate insurance is essential for all businesses, as it reduces the risk of an accident or illness resulting in you losing your business.

WorkSafe insurance is a compulsory insurance for Victorian employers that is funded by their contributions. It provides employers with insurance cover for the cost of benefits, if their workers are injured or become ill because of their work. It does not cover conditions that are not work-related (such as sporting injuries or general ill health). Obligations in relation to WorkSafe insurance will vary depending on the individual circumstances of your business.

### More information

- Contact WorkSafe on 1800 136 089 or go to [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au).
- Go to the Business Victoria website at [www.business.vic.gov.au](http://www.business.vic.gov.au) for information on different types of insurance for small businesses.

## 2.12. Taxation

A range of taxes may apply to your business operations, depending on the business' size and location. Understanding taxes and the deductions and exemptions you may be able to claim can save you money. You do not want to pay too much tax and you do not want to be penalised for paying it late.

### More information

- Contact the ATO on 13 28 66 or go to [www.ato.gov.au](http://www.ato.gov.au).
- Go to the Business Victoria website at [www.business.vic.gov.au](http://www.business.vic.gov.au).

## 2.13. Financial problems

Help is available if you get into financial difficulty. Banks, the ATO and other creditors may be able offer assistance. Don't just ignore creditors and your situation.

If you cannot pay your debts, ask your accountant or financial adviser for advice straight away. Your adviser can help you prepare a written business survival plan to give to your bank and to negotiate alternative payment arrangements with creditors. There are accountants who specialise in turning around struggling businesses. If the business cannot be saved, they may be able to advise on the various forms of insolvency administration.

## 2.14. Record keeping

It is essential to keep proper business records to satisfy a range of legal requirements, such as for taxation purposes. Retaining appropriate records can also show the Hirer that you have met your contractual requirements.

## More information

- Contact the ATO on 13 28 66 or go to [www.ato.gov.au](http://www.ato.gov.au).
- Go to the Business Victoria website at [www.business.vic.gov.au](http://www.business.vic.gov.au) for information on record keeping for small businesses.

## 2.15. Engaging substitute drivers

There may be circumstances when you may need to hire a substitute driver to, for example, run a second shift or if you are ill. It is recommended that you discuss the use of a substitute driver with your Hirer. If you need help finding a substitute driver, your Hirer or another Owner Driver may be able to recommend someone. Alternatively, a labour hire agency may be able to supply you with a driver (you must check that they can operate under the Victorian labour hire licensing scheme). A substitute driver could be engaged as an employee, as a contractor or as a labour hire worker through an agency.

It is important to note that if you engage a contractor who provides their own vehicle, you may now be a Hirer of an Owner Driver under the Act and Code, and be required to meet all of the obligations as a Hirer.

## More information

- Clause 20 of the Code
- Go to the Business Victoria website at [www.business.vic.gov.au](http://www.business.vic.gov.au) for a guide to employing people.
- For information on your taxation obligations, contact the ATO on 13 28 66 or go to [www.ato.gov.au](http://www.ato.gov.au).
- For information on WorkSafe obligations call 1800 136 089 or go to [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au).
- For information on workplace relations laws contact the Fair Work Ombudsman on 13 13 94 or go to [www.fairwork.gov.au](http://www.fairwork.gov.au).
- For information on the Victorian labour hire licensing scheme, contact the Labour Hire Authority on 1300 545 200 or [www.labourhireauthority.vic.gov.au](http://www.labourhireauthority.vic.gov.au).

## 2.16. Business advice

### 2.16.1. Industry associations and unions

The TWU represents employees and Owner Drivers in the transport industry. The TWU provides services including representation in disputes and negotiations, assistance in health and safety matters, training, and referrals to other services.

The VTA represents employer organisations (owners of freight and logistic businesses) involved in the transport industry. The VTA provides information about a wide range of issues affecting the industry and seminars and training programs.

Other industry associations listed below have expertise in sectors of the transport industry including concrete, quarrying, asphalt, manufacturing or livestock transport.

### More information

- Australian Asphalt Pavement Association at [www.aapa.asn.au](http://www.aapa.asn.au) or telephone 03 8416 4500.
- Australian Industry Group at [www.aigroup.com.au](http://www.aigroup.com.au) or telephone 1300 55 66 77.
- Construction Material Processors Association at [www.cmpavic.asn.au](http://www.cmpavic.asn.au) or telephone 1300 267 222.
- Transport Workers Union at [www.twu.asn.au](http://www.twu.asn.au) or telephone 1300 727 614.
- Victorian Chamber of Commerce and Industry at [www.victorianchamber.com.au](http://www.victorianchamber.com.au) or telephone 03 8662 5333.
- Victorian Transport Association at [www.vta.com.au](http://www.vta.com.au) or telephone 03 9646 8590.

## 2.16.2 Business Victoria

Business Victoria provides a range of programs and services to help business owners make strategic decisions, improve their management skills and develop greater confidence in their business future.

The website [www.business.vic.gov.au](http://www.business.vic.gov.au) is the key online link between business and government. The website provides information on a range of business matters, including setting up a business, employing and managing people and financial management.

The website also has details on grants, workshops and events to help make the most of running your own business. You can get in touch with a small business expert or book time with a mentor to help get your business in good shape.

### More information

- Contact Business Victoria at [www.business.vic.gov.au](http://www.business.vic.gov.au) or on 13 22 15

## 2.16.3 Australian Business Licence and Information Service (ABLIS)

ABLIS helps you find the local, state and federal government licences, permits, approvals, regulations and codes of practice you need to know about to meet your legal responsibilities.

If you are starting, operating, growing, or closing a business, just answer a few questions about your business and ABLIS will generate personalised information:

- about required registrations, licences and permits;
- downloadable application forms and links to online registrations; and
- contact details for the authorities you will need to deal with.

## More information

- Go to the ABLIS website at [www.ablis.business.gov.au](http://www.ablis.business.gov.au)

### 2.16.4 Accountants and bookkeepers

It is important to have an independent view of your business situation. Securing the assistance of a qualified and reliable accountant or other financial adviser can be of great benefit to you and your business.

A bookkeeper could also assist you with keeping accounts and preparing your Business Activity Statement.

## More information

- Chartered Accountants Australia and New Zealand at [www.charteredaccountantsanz.com](http://www.charteredaccountantsanz.com) or telephone 1300 137 322.
- Certified Practising Accountants Australia at [www.cpaaustralia.com.au](http://www.cpaaustralia.com.au) or telephone 1300 73 73 73.
- Institute of Public Accountants at [www.publicaccountants.org.au](http://www.publicaccountants.org.au) or telephone 03 8665 3100.
- The Institute of Certified Bookkeepers at [www.icb.org.au](http://www.icb.org.au) or telephone 1300 85 61 81.

### 2.16.5. Legal advisers

There may be times when you need the services of a lawyer, for example, to negotiate a contract or to act for you in a dispute.

Your union or association may be able to refer you to a lawyer. The Law Institute of Victoria is the professional organisation for lawyers in Victoria. Their website provides information on a broad range of legal issues and guidance on choosing a lawyer.

## More information

- The Law Institute of Victoria at [www.liv.asn.au](http://www.liv.asn.au) or telephone 03 9607 9311.



## Part 3.

# Safety regulation in the transport industry

Part 3 of this Information Booklet provides an overview of the key safety requirements in the Victorian transport industry.

## 3.1. Occupational health and safety laws

The OHS Act sets out the key principles, duties and rights in relation to occupational health and safety in Victoria.

The physical work of an Owner Driver may include loading, unloading, packing, assembling, sorting and using equipment. Hazardous manual handling can lead to injuries or disorders. You may be exposed to the risk of falling from vehicles, loading docks and other elevated areas when loading or unloading. Driver fatigue or 'drowsy driving' is also a significant safety hazard for the road transport industry (see [3.5](#) of this Information Booklet).

If you become aware of a workplace safety issue, firstly discuss the matter with your Hirer to see if the safety problem can be resolved. If the issue remains unresolved, you could seek advice from WorkSafe, your industry association or your union.

Under section 61 of the Act, your Hirer cannot subject you to a detriment because you have drawn attention to a safety problem or you have reported an incident. Refer to [1.8](#) of this Information Booklet for more details about your rights under the Act. You may also have rights under other State or Commonwealth laws.

### More information

- Contact WorkSafe on 1800 136 089 or go to [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au).


## 3.2. Transporting dangerous goods and hazardous substances

Under the *Dangerous Goods (Transport by Road or Rail) Regulations 2018 (Vic)*, you need a Dangerous Goods Driver Licence as well as a Dangerous Goods Vehicle Licence if you are transporting:

- dangerous goods that are in a container with a capacity of more than 500 litres; or
- more than 500 kilograms of dangerous goods in a container.

Dangerous goods include substances that may be corrosive, flammable, spontaneously combustible, toxic, oxidizing or water-reactive.

You can apply for these licences online on the WorkSafe website ([www.worksafe.gov.au](http://www.worksafe.gov.au)).



Drivers are prohibited from transporting some classes of dangerous goods on certain routes. The WorkSafe website provides advice on prohibited routes and has links to publications which provide guidance on the transportation of dangerous goods.

The *Occupational Health and Safety Regulations 2007 (Vic)* also regulate hazardous substances (which are classified on the basis of their immediate and long-term health effects). Many substances may be both hazardous substances and dangerous goods, in which case both sets of laws apply.

### More information

- Contact WorkSafe on 1800 136 089 or go to [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au).
- For more information about the licensing process, contact WorkSafe's Licensing Branch on 1300 852 562 or email [licensing@worksafe.vic.gov.au](mailto:licensing@worksafe.vic.gov.au).

## 3.3. Heavy Vehicle National Law

Drivers of heavy vehicles must obey the same road rules as other drivers.

Vehicles over 4.5 tonnes GVM are also regulated by the HVN Law.

Under the Chain of Responsibility (CoR) rules, every party in the heavy vehicle supply chain may be liable for HVN Law breaches committed anywhere along the chain.

The NHV Regulator is responsible for heavy vehicle on-road compliance and enforcement services in Victoria.

### More information

- Contact VicRoads on 13 11 74 or 03 9854 2666 or go to [www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au).
- Contact the NHV Regulator on 1300 696 or go to [www.nhvr.gov.au](http://www.nhvr.gov.au).

## 3.4. The Victorian Bus and Truck Drivers' Handbook

The Victorian Bus and Truck Drivers' Handbook outlines the legal and road safety requirements for drivers of buses and trucks. It helps drivers understand heavy vehicle laws, know what is required by the industry to operate a truck or bus and explains how to gain a licence. The handbook also provides important compliance and enforcement information.

The handbook can be downloaded from the VicRoads website ([www.vicroads.gov.au](http://www.vicroads.gov.au)).

The latest version of this handbook is dated January 2015. VicRoads provides a separate link on its website for the most up to date list of accredited training and test providers for heavy vehicles.

### More information

Contact VicRoads on 13 11 74 or go to [www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au).

## 3.5. Fatigue management

### 3.5.1. Understanding and managing fatigue

Driver fatigue or 'drowsy driving' is a significant safety hazard for the road transport industry. The main causes of fatigue are too little sleep, driving at times when you would normally be asleep and working or being awake for very long hours. HVN Law to combat driver fatigue apply to fatigue-regulated heavy vehicles.

Some of the signs of fatigue include:

- blurred vision;
- constant yawning;
- slow reactions;
- poor concentration;
- sore eyes;
- impatience; and
- not remembering the last few kilometres of the trip.

### 3.5.2. Tips for managing fatigue

Develop and apply recognised methods of minimising fatigue on trips including:

- assess fatigue risks associated with your work;
- make sure you have undergone training and are informed about fatigue;
- maintain vehicles to ensure they meet roadworthy standards;
- minimise driving in low alertness periods (night and early afternoon);
- work within time limits designed to reduce fatigue; and
- understand the limitations of temporary measures such as coffee, short breaks and naps to deal with fatigue.

Plan your workload by building in time to recover from fatigue, including:

- plan trips to allow as much sleep at night as possible;
- build in time to adjust from a return from a break or from day to night driving;
- schedule trips to allow for adequate rest breaks; and
- schedule trips allowing for possible delays.

Manage disruptions to schedules by:

- rescheduling pick-up and delivery times;
- finding a substitute driver when a long delay extends your working time;
- adjusting the schedule to get to a good place for rest or sleep;
- balancing extra working time with a longer break; and

- balancing any reduction in normal sleep with a longer sleep opportunity in the next period.

Keep basic records for managing fatigue, including:

- work diaries;
- records of required health assessments and any training undertaken; and
- records of any fatigue-related incidents and action taken as a result.

### More information

- Contact the NHV Regulator on 1300 696 or go to [www.nhvr.gov.au](http://www.nhvr.gov.au).

## 3.6. New technologies

New and emerging technologies have the potential to significantly improve safety and efficiency in the transport industry.

You may adopt a range of electronic work diaries and speed and mass monitoring devices to improve your productivity and record-keeping. Some systems can even monitor tyre and engine condition to allow for efficient fleet management. There are also electronic stability controls, driver fatigue monitoring systems and adaptive cruise controls. Staying up to date with new technologies can assist you as an Owner Driver to achieve administrative and safety improvements.

With the introduction of Cooperative Intelligent Transport Systems (C-ITS) in Australia, vehicles and surrounding infrastructure will be able to exchange information about the location, speed and direction of other road users. This will improve road safety and has the potential to reduce road congestion and allow for the more efficient movement of road freight.

### More information

- Contact the National Transport Commission on 03 9236 5000 or go to [www.ntc.gov.au](http://www.ntc.gov.au).