

**VICTORIAN  
OWNER  
DRIVER**  
Information Booklet

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Jobs, Transport and Resources  
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Word formats on [www.business.vic.gov.au/ownerdriversshirers](http://www.business.vic.gov.au/ownerdriversshirers)

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# 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 Economic Development, Jobs, Transport and Resources.

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.

**HON NATALIE HUTCHINS 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 this scheme, and the Rates and Costs Schedules which are published by the Minister for Industrial Relations. You will also find information on what to include in your contracts, what constitutes unconscionable conduct, how to conduct joint negotiations and the processes available to resolve disputes.
- **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: Transport industry regulation and safety** – This part explains the role of key organisations in the transport industry. You will also find information on the 'Chain of Responsibility' laws as well as how to manage safety issues and fatigue.

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.

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

## Key terms

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 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 (Vic)</i> .
Code	Means the <i>Owner Drivers and Forestry Contractors Code of Practice</i> prescribed in the Regulations.
DEDJTR	Means the Department of Economic Development, Jobs, Transport and Resources.  The Department of Economic Development, Jobs, Transport and Resources is the Victorian Government department that is responsible for administering the Act and has information about the Owner Driver Scheme at <a href="http://www.business.vic.gov.au/ownerdrivershirers">www.business.vic.gov.au/ownerdrivershirers</a> .
Dispute Resolution Process	Means the process for resolving disputes between Owner Drivers and Hirers which is set out in Part 5 of the Act and explained in section 1.11 of this information booklet.
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 <i>Heavy Vehicle National Law Application Act 2013 (Vic)</i> .
Information Booklet	Means this information booklet.

Term	Definition
<b>Model Contracts</b>	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.
<b>Model Forms</b>	Means the model forms developed by the TIC to assist parties to comply with the requirements of the Act and the Code.
<b>NHV Regulator</b>	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.
<b>OHS Act</b>	Means the <i>Occupational Health and Safety Act 2004 (Vic)</i> .
<b>Owner Driver</b>	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.
<b>Owner Driver Contract</b>	Means a contract made in the course of business by an Owner Driver with another person to transport goods.
<b>Owner Drivers Scheme</b>	Means the Owner Drivers Scheme which is explained in section 1.2 of this Information Booklet.
<b>Rates and Costs Schedules</b>	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 of this information booklet.
<b>Regulations</b>	Unless otherwise stated, means the Owner Drivers and Forestry Contractors Regulations 2006 (Vic).
<b>TIC</b>	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.
<b>TSS</b>	Means the VicRoads' Transport Safety Services.  The TSS enforces the HVN LAW on behalf of the NHV Regulator.

Term	Definition
<b>TWU</b>	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.
<b>VCAT</b>	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.
<b>VSBC</b>	Means the Victorian Small Business Commissioner.  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.
<b>VTA</b>	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.
<b>WorkSafe</b>	WorkSafe 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/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers).

A copy of the Act and the Owner Drivers and Forestry Contractors Regulations 2006 may be downloaded from [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

# Part 1

## Understanding the Owner Drivers Scheme

### 1.1 Why is the Act important?

The road transport industry plays a crucial role in the safe and efficient movement of goods around Australia. It is also vital to both the state and national economies, with flow-on effects throughout many industry sectors.

The Act aims to provide some basic protections and a framework for the effective resolution of disputes to improve the position of small business 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.

Part 1 of this Information Booklet outlines the Owner Drivers Scheme and provides information about key aspects of the Act and the Code.

### 1.2 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 Scheme is supported by this Information Booklet, the Rates and Costs Schedules, the Model contract and the Model Forms to appoint negotiating agents.

## 1.3 Who is covered by the Scheme?

The Act applies to Owner Drivers who are engaged:

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

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.

Owner Drivers are sometimes referred to as 'contractors' in the Act and the Code.

## 1.4 Rates and Costs Schedules

Rates and Costs Schedules have been developed by the TIC to provide Owner Drivers with information about the typical operating costs applying to their business depending on the type of vehicle being operated. The Rates and Costs Schedules do not set minimum rates that must be paid to Owner Drivers.

The TIC has developed Rates and Costs Schedules for the following vehicle types:

- 1 tonne van (general freight);
- 1 tonne van (courier/messenger);
- 4.5 tonne gross vehicle mass (GVM);
- 8 tonne GVM;
- 12 tonne GVM;
- Prime mover (bogie drive); and
- Semi-trailer (bogie drive, 6 axle).

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 (e.g. a refrigeration unit or hoist) 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.

A sample Rates and Costs Schedule for a 4.5 tonne vehicle is included as **Appendix A** to this Information Booklet. The current Rates and Costs Schedules are available from [www.business.vic.gov.au/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers).

The TIC is required to revise each Rates and Costs Schedule at periods not exceeding 12 months.

## 1.5 Giving information to Owner Drivers

The Act sets out a number of requirements to ensure that Owner Drivers have important information about their businesses and their contracts.

In particular, the Act requires that a Hirer must provide an Owner Driver with a copy of this Information Booklet and a copy of the relevant Rates and Costs Schedule:

- 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.

These requirements also apply to freight brokers and to tender situations.

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

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. If the document is given in electronic form, a copy of the document should be emailed to a direct email address of the Owner Driver. Emailing only a link to a website or emailing to a generic email address will not satisfy the requirements of the Act. An Owner Driver should

be provided with a hard copy of the Rates and Costs Schedule or Information Booklet if they have requested either document in hard copy rather than in electronic form.

In order to demonstrate compliance with the requirements of the Act, it is important to keep good records. It is recommended that you obtain a notice of receipt or acknowledgement from an Owner Driver when providing the Rates and Costs Schedule or Information Booklet to them.

If the Hirer does not comply with these requirements, the Owner Driver may notify a dispute to the VSBC. If the dispute is not resolved through ADR, the Owner Driver may refer the matter to VCAT. After considering the matter, VCAT may make an order that the Owner Driver is paid a specified amount, taking into account the terms of the relevant contract, the amount the Owner Driver would have been entitled to had the Owner Driver provided the services as an employee, any applicable Rates and Costs Schedules, and what is fair and reasonable in the circumstances.

## 1.6 Contract requirements

### 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, the contract must be in writing and specify 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 of termination of the engagement or payment in lieu of notice.

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

### Notice of termination

Where there is an ongoing engagement of over 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 there has been a material breach of the contract by the Hirer.

If this notice requirement does not suit the Owner Driver, the requirement can be waived by the Owner Driver obtaining a certificate from the VSBC. 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.

## MORE INFORMATION

- See sections 21 and 22 of the Act. Section 22 sets out a formula for calculating payment in lieu of notice.
- Telephone the VSBC on **13 8722** or go to [www.vsbv.vic.gov.au](http://www.vsbv.vic.gov.au).

## Model Contracts

To assist Owner Drivers and Hirers to comply with the requirements for written contracts, the TIC has developed a Model Contract for use by the parties.

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 ON MODEL CONTRACTS

- You can download the Model Contract from [www.business.vic.gov.au/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers).
- Your industry association, union or lawyer can also assist you to use the Model Contract or to draft your own contract.

## Restrictions on deductions

The Act provides that a Hirer must not require an Owner Driver to pay money for services or goods provided by the Hirer unless:

- the costs are specified in the contract (that is, they are agreed costs);
- the costs are a direct and proper reflection of the cost of the service or equipment provided; and
- the Owner Driver has been provided with an opportunity (if practicable) to obtain the same or equivalent services or equipment from an alternative supplier.

In addition, a contract must not allow for deductions for insurance costs unless an insurance policy is in place and a copy of the policy has been provided to the Owner Driver.

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.

## 1.7 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 is able to 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.

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.

The TIC has developed model forms to appoint negotiating agents.

### MORE INFORMATION ON APPOINTING A NEGOTIATING AGENT

- 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/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers).
- Your industry association, union or lawyer can also assist you.

## 1.8 Your rights under the Act

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 so as to prejudice their interests under a regulated contract;
- 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 Owner Drivers and Forestry Contractors Code of Practice

The Code aims to promote fair and equitable business relationships between Owner Drivers and their Hirers.

The Code sets out mandatory requirements that must be complied with. It also:

- provides guidance to Owner Drivers and Hirers, the VSBC and the VCAT on conduct that is likely to be unconscionable and contract terms that are likely to be unjust (including examples to assist Owner Drivers and Hirers to avoid such conduct); and
- describes industry best practice.

Detailed below is a summary of the mandatory requirements of the Code.

### **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 other party's rights or entitlements under the Scheme are excluded unless the Act, the Code or another law expressly permits them to do so (see clause 6 of the Code).

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.

## Misleading advertising

A Hirer seeking to engage an Owner Driver must not make any representations that are false, misleading or deceptive (see clause 9 of the Code).

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.

## Deductions from remuneration

If a Hirer makes deductions from an Owner Driver's invoice 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 (see clause 15 of the Code).

## 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 (see clause 17 of the Code).

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.

## Absences due to illness or family responsibility

A Hirer must not terminate a contract due to the Owner Driver being 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 (see clause 20 of the Code).

In considering what period of time is reasonable, regard must be had to the nature of the work and the contract terms.

## MORE INFORMATION ON THE CODE OF PRACTICE

- The Code may be obtained from [www.business.vic.gov.au/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers).
- If you believe your Hirer has breached the Code, follow the dispute resolution process set out in section 1.11.

## 1.10 Unconscionable conduct

Under the Code, businesses in the road transport industry are allowed to be rigorous and competitive in their dealings with other businesses, but must not behave in an unconscionable manner.

Unconscionable conduct can be described as occurring where a stronger party to a transaction exploits the weaker party in a way that is unreasonable and unfair.

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 provides guidance on what might constitute unconscionable conduct during negotiations. It states that in the absence of any special circumstances, where a Hirer or an Owner Driver engages in the type of conduct described below, it is likely to be unconscionable within the meaning of the Act:

- where a party, by themselves or through an agent:
  - » 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.

Part 4 of the Act also deals with 'unconscionable conduct' by Hirers towards Owner Drivers and by Owner Drivers towards Hirers. The Act sets out the factors that the VCAT may examine when deciding if conduct is unconscionable.

Claims of unconscionable conduct by a Hirer or an Owner Driver may be dealt with by the Dispute Resolution Process set out in the Act (and explained in section 1.11 of this Information Booklet).

### MORE INFORMATION ON UNCONSCIONABLE CONDUCT

- See section 1.12 (Victorian Small Business Commissioner) in this Information Booklet.
- See section 31 of the Act and clause 4 of the Code.
- Seek advice from your industry association, union or lawyer.
- Telephone the VSBC on **13 8722** or go to **[www.vsbv.vic.gov.au](http://www.vsbv.vic.gov.au)**.

## 1.11 Disputes

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). Your contract may also require you to undertake certain steps if a dispute arises.

The Code suggests that where a dispute arises, the aggrieved party should do the following:

- notify the other party of your concerns when the issue arises;
- advise the other party what you would like to happen to resolve the dispute;
- provide a reasonable time period for resolution;
- accept any invitation to meet with the other party to attempt to resolve the dispute;
- act professionally and courteously at all times;
- continue to perform or offer services as normal, while the dispute is being dealt with;
- ensure services are being performed in a safe manner; and
- follow any process agreed between the parties for the resolution of disputes.

## Dispute resolution process

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.

## 1.12 Victorian Small Business Commissioner

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.

In general, a dispute must be referred to the VSBC 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.

### Referring a dispute to the Victorian Small Business Commissioner

An Owner Driver or their Hirer may refer a dispute to the VSBC for Alternative Dispute Resolution. Before lodging a dispute, you should consider discussing the matter with your solicitor or association or contact the VSBC by telephoning **13 8722**.

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. This usually happens within 8–10 weeks, but if your dispute is urgent, a mediation can be arranged earlier. A mediation session is generally conducted over a 3–4 hour period and can be arranged in regional Victoria.

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.

If a dispute is not able to be resolved by mediation, you may refer the dispute to VCAT for a hearing and a binding decision. For this to occur, the VSBC must first certify that ADR has failed, or is unlikely, to resolve the dispute.

## 1.13 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.

### MORE INFORMATION ON THE DISPUTE RESOLUTION PROCESS

- Telephone the VSBC **13 8722** or go to **[www.vsbv.vic.gov.au](http://www.vsbv.vic.gov.au)**.
- Go to **[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)**.
- Contact 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.

Part 2 of this 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.

## 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 ON BUSINESS PLANNING

- Go to **[www.business.vic.gov.au](http://www.business.vic.gov.au)** and search for “business planning”. You will find a sample business plan document and a guide on how to prepare a business plan.
- Go to the VicRoads website at **[www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au)**.
- Go to the WorkSafe website at **[www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)**.

## 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. Below is a general summary of different business structures you could consider, but you must obtain your own independent advice before establishing your preferred business structure:

- **Sole trader** – a sole trader is an individual person who carries on a business in his or her own right as the only owner or under a registered business name. The structure is inexpensive to set up because there are few legal and tax formalities. Liability for business debts is unlimited. This means that if the business fails, liability for debts extends not only to the business assets, but also to the sole trader's total personal assets.
- **Partnership** – a partnership is formed when between 2-20 people go into business together. A partnership is relatively inexpensive to set up and operate. A formal partnership agreement is common, but not essential. Liability for business debts is unlimited, meaning it extends to each partner's total personal assets.
- **Company** – an incorporated company is a separate legal entity, regulated by the Australian Securities and Investments Commission (ASIC). It has members (shareholders) who own the company, and directors who run it. However, if you are an independent contractor you can set up a 'one person company', as the sole director and member. Running your business as a company has higher set-up costs and administrative costs because of additional reporting requirements. A company provides some asset protection, but directors can be legally liable for their actions and, in some cases, the debts of a company.
- **Trading trust** – under a trading trust, the trustee manages property or income for beneficiaries. A trust deed outlines how the trust is to operate. Setting up a trust can be expensive, as a formal deed is required, and there are formal yearly administrative tasks for the trustee to undertake. If you operate your business as a trust, the trustee is legally responsible for its operations. A trustee of a trust can be a company.

## 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.
- Seek advice from your lawyer, accountant, business or financial adviser.

## 2.3 Buying into an existing business or a franchise

### 2.3.1 Goodwill or entry payments

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.

'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.

### 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



- Seek advice from your lawyer, accountant or financial adviser.

## 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 sections 1.7 and 1.8 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 such as:

## ASK BEFORE YOU SIGN

### Rates and payment

- How are they calculated?
- Does the company pay a fuel levy to cover any rises in fuel costs?  
How often is it varied and is 100 per cent of the fuel increase passed on?
- When are your invoices paid?
- 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).
- 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 (e.g. 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 sections 19 and 20 of the Act require 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 other 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?

## MORE INFORMATION ON CONTRACTS, NEGOTIATIONS, DISPUTE RESOLUTION AND CHAIN OF RESPONSIBILITY

- Section 1.6 of this Information Booklet provides information on 'Contract requirements'.
- Section 1.7 of this Information Booklet provides information on 'Joint negotiations'.
- Part 5 of the Code provides more details on 'Best practice in negotiation'.
- Go to [www.business.vic.gov.au/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers) for Model Contracts and Model Forms to appoint negotiating agents.
- Section 3.2 of this Information Booklet provides further information on 'Chain of responsibility'.
- Section 1.11 of this Information Booklet provides information on the dispute resolution process.
- Seek advice from your lawyer, accountant or financial adviser.

## 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. Most accounting firms provide services in:

- all aspects of taxation;
- setting up a business;
- business planning and cost analysis;
- business structures and company formation;
- record systems and bookkeeping;

- estate planning;
- finance advice;
- planning for future expansion;
- problems with debtors and creditors; and
- superannuation and investment services.

## 2.6.1 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.

## 2.6.2 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.

## MORE INFORMATION

- Seek advice from your lawyer, accountant or financial adviser.

### 2.6.3 Your cost structure

Clause 11 of the Code establishes principles for Owner Drivers and Hirers to set and review rates to be paid under a contract.

In summary, Hirers should offer and pay Owner Drivers remuneration that, considering the contract as a whole, the services to be performed, and the general market for the services, provides for each of the elements of remuneration which are:

1. an amount that represents the recovery of fixed and variable costs incurred in performing the services required;
2. an amount that represents a fair return for the Owner Driver's labour; and
3. an amount that represents a return on the Owner Driver's investment.

The Code describes the factors that influence what you can expect as a return on investment, such as:

- the amount of the capital investment in the vehicle or equipment;
- the level of commercial risk assumed by the Owner Driver;
- the security and certainty of the arrangements;
- whether the vehicle or equipment provided by the Owner Driver can readily be used to provide services to other persons;
- whether the vehicle or equipment is also used for personal use;
- the efficiency and productivity of the Owner Driver; and
- the market for the services.

The amount that is a reasonable return on investment will vary widely in all the circumstances, and may vary over time as market conditions change.

## 2.6.4 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.

## 2.6.5 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.

The Code notes that payment terms of more than 30 days are likely to be considered unjust, unless unusual circumstances apply. If you believe your payment terms are unfair, you can notify a dispute to the VSBC (see section 1.11 of this Information Booklet for more information on the dispute resolution process).

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 upfront that you require payment in accordance with your contract terms. Keep a diary note about whom 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.

## 2.6.6 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. The following overview sets out of the main types of insurance policies to consider for your business:

### **WorkSafe insurance**

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).

Employers are required to take out WorkSafe insurance for their employee drivers. Hirers may also be required to pay WorkSafe premiums in relation to Owner Drivers (even incorporated Owner Drivers) where the Owner Driver generally works for the one Hirer.

You must take out a WorkSafe insurance policy if you:

- expect to pay more than \$7,500 a year in rateable remuneration (includes wages and other benefits, contact WorkSafe for more information); or
- have any apprentices or trainees. This applies even if you are a small business with only one worker.

If you trade using a company structure or a trading trust and are an employee of your own business, then your business may be required to take out a policy on your behalf.

The obligations under WorkSafe will vary depending on the individual circumstances of your business. You should seek expert advice from your accountant, industry association or union, and WorkSafe.

### **Comprehensive vehicle insurance**

Comprehensive vehicle insurance covers damage to your vehicle or someone else's property.

While a Transport Accident Commission charge is a compulsory insurance paid as part of your vehicle registration, which covers you from potential liability for personal injury to another person in a road accident.

### **Trailer in control insurance**

Trailer in control insurance commonly refers to Non-Owned Trailers which are towed by prime mover operators. Trailer in control insurance covers you against any potential damage to the Non-Owned Trailer as a result of the prime-mover operators' negligence.

## Public liability insurance

Public liability insurance covers your potential liability to third parties for personal injury or property damage if you or your business is found to be negligent. This protects you if any of your actions (including off-road actions) cause injury to another person or damage to property.

## Goods in transit insurance

Depending on your individual contract arrangements, you should consider insuring against property loss or damage while it is in transit from one place to another or being stored during a journey.

## Income protection insurance

Income protection insurance is designed to provide replacement income to individuals who are unable to work due to illness or injury.

## MORE INFORMATION



- Contact WorkSafe on **1800 136 089** or go to **www.worksafe.vic.gov.au** and search under the *Insurance and premiums* section for premium rulings applying to the transport industry.
- Go to the Business Victoria website at **www.business.vic.gov.au** for information on different types of insurance for small businesses.

## 2.6.7 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.

Contact the Australian Taxation Office (ATO) to find out about:

- personal services income (PSI);
- business income tax;
- fringe benefits tax (FBT);
- goods and services tax (GST);
- capital gains tax (CGT);
- Pay As You Go (PAYG) withholding;
- super guarantee contributions;
- business activity statements (BAS), including dates for lodgement and payment; and
- accounts and business registration, including Australian Business Numbers (ABNs) and Tax File Numbers (TFNs).

## MORE INFORMATION ON TAXATION

- Go to the ATO website [www.ato.gov.au](http://www.ato.gov.au) for information about taxation requirements or telephone 13 28 66 for further information and details for your local tax basics seminar coordinator.
- Go to the Business Victoria website at [www.business.vic.gov.au](http://www.business.vic.gov.au).
- Seek advice from your lawyer, accountant, business or financial adviser.

### 2.6.8 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.

## 2.7 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.

It is good business practice to keep the types of records set out below. This list is not intended to be an exhaustive statement of your legal record keeping obligations.

### Financial records

- copies of invoices and receipts you have provided;
- invoices for goods or services purchased;
- payments to employees and to other organisations on behalf of employees, for example superannuation and PAYG tax;
- financial statements including the profit and loss statement and a balance sheet;
- tax returns and supporting information;
- bank account and credit card statements; and
- lists of debtors and creditors.

## Business records

- contracts, lease agreements, insurance agreements and other legal documents;
- licences and permits;
- daily job and trip records for invoicing;
- written time and wages records for employees, which should include pay, hours of work, leave and superannuation contributions;
- safety records;
- full details of warranties for vehicles and equipment; and
- any other records which are 'business activity' specific and which are required by law for the operation of your business.

## Other types of records

- file notes of conversations with Hirers;
- vehicle maintenance and service records; and
- work diaries and other records as required by heavy vehicle fatigue management laws (see section 3.4 of this Information Booklet for more information).

## MORE INFORMATION ON RECORD KEEPING

- Telephone 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.
- Go to the FWO's website at [www.fairwork.gov.au](http://www.fairwork.gov.au) for information on records that an employer must keep in relation to employees.
- Seek advice from your lawyer, accountant or financial adviser.

## 2.8 Engaging substitute drivers

### 2.8.1 Finding and hiring a substitute driver

There may be circumstances when you may need to hire a substitute driver to, for example, to 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 hirer agency may be able to supply you with a driver. A substitute driver could be engaged in one of the following ways:

**As an employee.** Employees:

- receive payment as wages or salary;
- have their tax taken out by their employer;
- can be engaged on an ongoing or fixed-term basis, and can be full-time, part-time or casual; and
- can be directed when, what and how to do a task.

**As a contractor.** Contractors:

- invoice for their work instead of receiving wages;
- run their own business;
- have their own insurance;
- are engaged to perform set tasks, such as driving a vehicle to Sydney; and
- may work for more than one Hirer.

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

**As a labour hire worker through an agency.** The agency:

- employs the worker and then on-hires them to you;
- pays the worker's wages and other entitlements; and
- charges you a commission, agency or finder's fee for the worker's services.

## MORE INFORMATION ON ENGAGING A SUBSTITUTE DRIVER

- 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 go to the Fair Work Commission website **[www.fairwork.gov.au](http://www.fairwork.gov.au)**.

## 2.9 Business advice

### 2.9.1 Industry associations and unions

The Transport Workers Union 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 Victorian Transport Association 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 ON INDUSTRY ASSOCIATIONS AND UNIONS

- Australian Asphalt Pavement Association at [www.aapa.asn.au](http://www.aapa.asn.au) or telephone **03 9853 3595**.
- Australian Industry Group at [www.aigroup.com.au](http://www.aigroup.com.au) or telephone **1300 78 38 44**.
- Construction and Material Processes 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**.

## 2.9.2 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.

### Business help online

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.

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

ABLIS helps you find the local, state and federal licences, permits, approvals, registrations, codes of practice, standards and guidelines 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 on ABLIS go to **[www.ablis.business.gov.au](http://www.ablis.business.gov.au)**.

### 2.9.4 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 ON FINDING AN ACCOUNTANT OR BOOKKEEPER

- Institute of Chartered Accountants in Australia at **[www.charteredaccountants.com.au](http://www.charteredaccountants.com.au)** 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**.
- National Institute of Accountants at **[www.nia.org.au](http://www.nia.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**.

### 2.9.5 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 on legal advisers go to the Law Institute of Victoria at **[www.liv.asn.au](http://www.liv.asn.au)** or telephone **03 9607 9311**.

## Part 3

# Transport industry regulation and safety

There are a number of Victorian and Commonwealth government organisations that play a role in the regulation and safety of the transport industry.

Part 3 of this Information Booklet provides an overview of the key organisations in the Victorian transport industry. It also provides information on issues such as Chain of Responsibility requirements, and managing safety issues and fatigue.

### 3.1 Key organisations in the transport industry

#### 3.1.1 WorkSafe

WorkSafe is broadly responsible for:

- helping to avoid workplace injuries from occurring;
- enforcing Victoria's occupational health and safety laws;
- providing workplace injury insurance for employers and managing the workers' compensation scheme; and
- helping injured workers back into the workforce.

#### MORE INFORMATION



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

#### 3.1.2 VicRoads

VicRoads' purpose is to manage a safe, reliable and sustainable arterial road system as part of an integrated transport network. This means keeping the road network in good condition, providing registration and licensing services and implementing road safety strategies.

VicRoads also enforces heavy vehicle offences under the Heavy Vehicle National Law (HVN Law) on behalf of the NHV Regulator and the Victorian Road Safety Road Rules 2009.

Drivers of heavy vehicles must obey the same road rules as other drivers. There are also some road rules that apply just to heavy vehicles, such as speed limits. Other road users must also follow certain rules when sharing the road with heavy vehicles, relating to truck lanes and not overtaking turning vehicles.

## MORE INFORMATION

- Telephone **13 11 74** or **03 9854 2666** or go to **[www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au)**.

### 3.1.3 National Heavy Vehicle Regulator

The NHV Regulator is the national independent regulator for all vehicles over 4.5 tonnes GVM and administers the HVN Law. Its objectives include improving safety and productivity for the industry, and making it easier for businesses to operate across state and territory borders.

The NHV Regulator is responsible for:

- the National Heavy Vehicle Accreditation Scheme;
- the Performance-Based Standards Scheme;
- heavy vehicle access permit applications;
- heavy vehicle standards, modifications and exemption permits; and
- the work diary and risk classification system for advanced fatigue management.

## MORE INFORMATION

- Telephone **1300 696 478** or go to **[www.nhvr.gov.au](http://www.nhvr.gov.au)**.

### 3.1.4 National Transport Commission

The National Transport Commission (NTC) is an inter-governmental agency that is responsible for developing national reforms to improve productivity, safety and the environmental performance of Australia's road, rail and intermodal transport systems.

## MORE INFORMATION

- Telephone **03 9236 5000** or go to **[www.ntc.gov.au](http://www.ntc.gov.au)**.

## 3.2 'Chain of Responsibility laws'

The aim of the CoR laws is to ensure that everyone in the supply chain shares equal responsibility for ensuring breaches of road transport laws do not occur. It recognises that multiple parties may be responsible for road transport offences, even where they have no direct role in driving or operating a heavy vehicle.

The CoR laws apply to all transport activities including consigning, packing, loading or receiving goods. Under the CoR laws, if a party exercises (or has the capability of exercising) control or influence over any transport task, that party is part of the supply chain and therefore has a responsibility to ensure compliance with road transport laws. This means that all parties in the supply chain must take all reasonable steps to prevent breaches of the road transport laws relating to mass, dimension, loading, speed compliance and work hours.

Legal liability applies to all parties for their actions or inactions.

Under the CoR laws, an Owner Driver must:

- comply with driving hours regulations – do not exceed the regulated hours for driving and working;
- take the required rest breaks – you should rest when you are tired and make sure you get adequate sleep;
- record your driving hours as required;
- make sure your vehicle does not exceed mass limits;
- make sure your vehicle and load do not exceed dimension limits;
- make sure your load is appropriately restrained;
- not exceed the speed limit; and
- not tamper with any equipment required to be fitted to your vehicle.

#### **MORE INFORMATION ON THE CHAIN OF RESPONSIBILITY**



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

### **3.3 Managing safety issues**

#### **Workplace safety**

In Victoria, workplace health and safety is governed by a system of laws, regulations and compliance codes which set out the responsibilities of employers and workers to ensure that safety is maintained at work, including in the Victorian road transport industry.

The *Occupational Health and Safety Act 2004* (Vic) (OHS Act) sets out the key principles, duties and rights in relation to occupational health and safety in Victoria. The OHS Act obliges employers to ensure, so far as is reasonably practicable, that the working environment is safe and without risks to health. The OHS Act also requires that, so far as is reasonably practicable, a workplace and the means of entering and leaving it must be safe and without risks to health.

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.

Employers are required by law to notify WorkSafe about incidents involving workplace health and safety, dangerous goods and explosives.

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.

If you witness a serious workplace incident or a 'near miss', WorkSafe must be notified immediately by calling 132 360, and then in writing within 48 hours. To access the relevant forms for reporting an incident go to **[www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)**.

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 section 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.

WorkSafe or your industry association or union could also provide information on reducing manual handling and other safety risks.

### **Dangerous goods and hazardous substances**

Under the Dangerous Goods (Transport by Road or Rail) Regulations 2008 (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, oxidising or water-reactive.

Drivers are prohibited from transporting some classes of dangerous goods through the Melbourne CBD (and surrounds) as well as tollway tunnels. The WorkSafe website provides advice on prohibited routes and has links to publications which provide guidance on the transportation of dangerous goods.

The *Application for a Dangerous Goods Driver Licence* is only available in hard copy form. The form can be obtained through authorised registered training organisations, all WorkSafe offices and the Worksafe Advisory Service on **1800 136 089**.

For more information about the application process, including lodgement, contact Worksafe's licensing branch on 1300 852 562 or email [licensing@worksafe.vic.gov.au](mailto:licensing@worksafe.vic.gov.au).

The Occupational Health and Safety Regulations 2007 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.

### **VicRoads' requirements**

VicRoads' Transport Safety Services (TSS) Authorised Officers aim to improve road safety for all road users and protect roads and bridges from damage by ensuring that heavy vehicles comply with legislation including the *Road Safety Act 1986*, *NHV Law*, *Accident Towing Services Act 2007*, *Transport (Compliance and Miscellaneous) Act 1983*, *Road Management Act 2004*, *Environment Protection Act 1970*, road rules and regulations.

TSS Authorised Officers conduct enforcement operations, provide industry liaison and education and act as escorts, where required, of over-mass or over-dimension loads.

TSS officers intercept heavy vehicles to check them primarily for compliance with weight, load security, dimensions, roadworthiness, registration standards, impaired driving and other safety related issues such as speed and fatigue. Drivers will also be checked for licence category and to make sure they are compliant with heavy vehicle work and rest requirements.

All vehicles, when requested to, must pull over for a TSS officer. TSS have the same interception powers on Victorian roads as Victoria Police, therefore you must follow their direct instructions.

TSS Authorised Officers also enforce the HVN Law on behalf of the NHV Regulator. You should make sure your vehicle is safe for its intended use, and conduct regular inspections to ensure it is roadworthy. Keeping your vehicle in good running order is not only important for the safety of road users, but helps with the efficient operation of your business. You may also be subject to penalties for failing to keep your vehicle in a roadworthy condition.

### **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.

## MORE INFORMATION

- VicRoads on **13 11 74** or go to **[www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au)**.
- The Victorian Bus and Truck Drivers' Handbook may be downloaded from the VicRoads website at **[www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au)**. A printed copy may be purchased from a VicRoads Customer Service Centre, or from the VicRoads publications line which can be contacted on **03 8391 3255**.
- The WorkSafe Advisory Service on **1800 136 089** or go to **[www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)**.

## 3.4 Fatigue management

### 3.4.1 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.

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.

### 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.

### **3.4.2 Fatigue-regulated heavy vehicles**

HVN laws are now in place to combat heavy vehicle driver fatigue.

A fatigue-regulated heavy vehicle is a vehicle with a GVM of more than 12 tonnes. This includes a vehicle combination of a total GVM of more than 12 tonnes, and a bus of more than 4.5 tonnes fitted to carry more than 12 adults, including the driver. The HVN Law also sets out when a heavy vehicle is not classed as a fatigue-regulated heavy vehicle.

Broadly, the heavy vehicle fatigue laws cover work and rest requirements, work diaries, fatigue management exemptions and chain of responsibility obligations.

#### **Work and rest requirements**

In addition to the general duty to not drive a fatigue-regulated heavy vehicle on a road while impaired by fatigue, drivers must comply with certain maximum work limits and minimum rest limits. Parties in the supply chain are required to take all reasonable steps to prevent drivers from exceeding these limits. This is similar to occupational health and safety laws, and means that drivers must stop if they are at risk of exceeding the limits and make alternative arrangements.

The HVN Law provides for three work and rest arrangements: standard hours and, through the National Heavy Vehicle Accreditation Scheme, Basic Fatigue Management or Advanced Fatigue Management modules. These optional accreditations give operators more flexibility on when a driver can work and rest, as long as they have a compliant fatigue management system that properly manages the risks of driver fatigue.

### **Work diaries**

Most drivers of a fatigue-regulated heavy vehicle are required by law to create a record of time spent working (including driving time) and resting daily. A work diary is evidence that a driver's work and rest hours are compliant with the law and that their fatigue is being managed.

The HVN Law names the circumstances where a work diary must be used – namely, when drivers of fatigue-regulated heavy vehicles:

- drive more than 100km from their home base; or
- operate under Basic Fatigue Management or Advanced Fatigue Management.

This applies unless the driver has a work diary exemption through either a notice or permit.

### **Fatigue management exemptions**

Drivers and Hirers may apply to the NHV Regulator for an exemption from the work and rest requirements as well as the obligation to keep a work diary where they cannot reasonably work with those requirements. These exemptions are referred to as 'fatigue management exemptions'. The NHV Regulator has strict approval criteria for fatigue management exemption applications.

Fatigue management exemptions provide Hirers and drivers an opportunity to use alternative methods to comply with the objectives of the HVN Law, while at the same time maintaining a high level of driver safety.

### **MORE INFORMATION**



Go to the NHV Regulator's website at [www.nhvr.gov.au](http://www.nhvr.gov.au) or telephone **1300 778 478**.

## 3.5 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. 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



- Go to the NTC website at [www.ntc.gov.au](http://www.ntc.gov.au) for more information about emerging technologies and legal obligations.

# Appendix A: Sample Rates and Costs Schedule

## 4.5 Tonne Rigid Vehicle (GVM)

### Introduction

This vehicle operating Rates and Costs Schedule is based on the Transport Industry Council's evaluation of the cost recovery recommended for an owner driver to take into consideration based on being able to operate a business on a sustainable basis.

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**This Schedule is a general guide only. Owner drivers<sup>1</sup> are strongly advised to seek independent professional accounting advice for their own situation and discuss all issues with their hirer or potential hirer to ensure that there is no misunderstanding concerning payment structures.**

This Rates and Costs Schedule is published under section 14 of the *Owner Drivers and Forestry Contractors Act 2005* (Vic) (the Act). Under the Act, this Schedule must be given 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 thirtieth day, if the owner driver is engaged for a total period of at least 30 days in any three month period.

These requirements also apply to freight brokers and to tender situations.

This Schedule will be revised at least annually, and under section 18 of the Act, hirers are required to give owner drivers a copy of any such revised Schedule as soon as practicable after it is published.

The Schedule is intended to assist owner drivers and their hirers to better understand the typical operating costs of an owner driver business and to inform their negotiations.

### **The schedule does not set minimum rates that must be paid.**

The Schedule sets out a worked example of typical overhead costs for an owner driver supplying a 4.5 Tonne Vehicle (GVM). The worked example is based on certain assumptions about the business, for example, that the vehicle is 5 years old, is in operation for 7.6 hours a day and uses a certain number of tyres.

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<sup>1</sup> Owner Driver is defined in the *Owner Drivers and Forestry Contractors Act 2005*. The definition is also affected by the Owner Drivers and Forestry Contractors Regulations 2006 made under the Act.

The aim of the Schedule is to assist owner drivers to:

- better understand their business cost structures and how increases and decreases in different cost items affect overall profitability; and
- calculate their own unique cost model.

This Schedule applies to owner drivers who supply a 4.5 Tonne Vehicle (GVM) (4.5 tonnes being the weight of the vehicle fully loaded) or similar vehicle<sup>2</sup>.

The Schedule is structured as follows:

### **Part 1: Fixed Costs**

Describes typical fixed (or annual) business costs. These are the costs that the business must pay each year regardless of how many kilometres the vehicle travels.

### **Part 2: Variable Costs**

Describes typical variable business costs. These are the costs (such as fuel and tyres) that vary with how many kilometres are travelled. These are calculated on an hourly basis.

### **Part 3: Payment for Labour**

Describes the range of rates that are typically paid to employee drivers for performing similar kinds of work, to assist the owner driver to determine what may be a reasonable payment for their own labour.

### **Part 4: Totals**

This section allows the owner driver to prepare total hourly rates for ordinary hours (up to 1,672 a year) and excess hours.

The Schedule does not deal with the issue of return on investment, and this would need to be factored in where appropriate. The issue of return on investment is dealt with in section 11 of the *Owner Drivers and Forestry Contractors Code of Practice*.

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2 Rates and Costs Schedules have been published for 1 tonne Van Courier Messenger, 1 tonne GVM – General Freight, 4.5 tonne GVM, 8 tonne GVM, 12 tonne GVM (2-axle), Prime Mover (Bogie Drive) and Semi-Trailer (Bogie Drive, 6-axle). Hirers are required to provide owner drivers with the Schedule that most closely relates to the owner driver's vehicle.

## Key assumptions

The model set out in this Schedule is based on certain assumptions about the vehicle used, hours of work and the type of business. The assumptions used that have the greatest impact on the figures given are:

Subject	Costing assumptions
Vehicle and finance	<p>The fixed costs are based on:</p> <ul style="list-style-type: none"> <li>• a vehicle with a current capital value of \$36,497 (being the current average retail value of a 5 year old vehicle).</li> <li>• a vehicle subject to a lease arrangement, over a 4 year term with a 25% residual, with interest at a comparison interest rate of 5.5% per annum.</li> </ul> <p>Note that if the business owns the vehicle outright, or has a loan, the cost structure will be different with depreciation as the relevant cost rather than lease payments. All costs exclude GST.</p>
Driving hours per year (kilometres travelled)	<ul style="list-style-type: none"> <li>• The calculation of the fixed costs assumes the vehicle is in operation for 7.6 driving hours per day for 220 working days a year. This equals 1,672 hours of operation a year.</li> <li>• The model spreads fixed operating costs over those 1,672 hours.</li> <li>• In Part 4, a separate hourly rate for hours over and above the base hours of 1,672 a year is provided. To avoid double counting of fixed costs, this rate only includes variable costs and a return for labour, based on an overtime labour rate.</li> </ul>

The cost structure of the individual business will be significantly different if, for example:

- The age, current capital value (or both) of the vehicle is less or more than the above figures;
- Other finance arrangements apply (for example, the vehicle is fully owned or is subject to a loan);
- More or fewer hours are worked each year.

**Because of these potential variations, great care should be taken in using the indicative figures set out in the cost model, as the costs of the individual business may vary significantly.**

To assist owner drivers to calculate their own unique cost model, a blank column is included to calculate the business's own unique costs.

## **Rate Structures**

This model calculates the cost of running a typical owner driver business, described as an hourly rate, made up of fixed and variable costs and a payment for the owner driver's labour. The Schedule does not calculate or suggest any particular rate calculation or payment method.

Arrangements for payment for owner drivers in the transport industry vary enormously. They can be paid an hourly rate, a load rate, parcel rate, on the basis of tasks performed, or even kilometres travelled. If an owner driver is paid on such an arrangement, the Schedule set out below can be used as a base to calculate the cost to the business of travelling per kilometre, or delivering a particular load. Unions, industry associations or accountants and other professional advisers can assist in this task.

## Part 1 – Fixed Annual Costs – Per Year and Per Hour

**Note:** All costs are exclusive of GST

Cost items assumptions used in the example	Example: Typical cost per year	Your costs: \$	Variations in this cost item
<p><b>Vehicle Lease Costs</b></p> <p>This model is based on a vehicle with a current capital value of \$36,497 (based on typical retail value of a 5 year old vehicle), and is based on a lease arrangement over a 4 year term with a 25% residual, at 5.5% interest per annum.</p>	<p>\$7,619</p>		<p>Finance arrangements will vary widely depending on:</p> <ul style="list-style-type: none"> <li>• if the arrangement is a lease or hire purchase, or purchase of the vehicle through a loan; or</li> <li>• if the arrangement is a loan, then the purchase price, the amount borrowed and the loan terms will affect cash-flow, and depreciation needs to be allowed for.</li> </ul>
<p><b>Registration, Permits and TAC Fees</b></p> <p>Based on vehicle registration fee of \$277.70 and TAC charge of \$720.50 which is net of GST. Assumes payment is made on an annual basis. TAC charge assumes vehicle is garaged in a high risk area (e.g. metropolitan Melbourne).</p>	<p>\$998.20</p>		<p>These fees are current as at 1 July 2015 but may change.</p> <p>Additional licences may be payable for certain types of operations (e.g. interstate registration, oversize, port security permit, dangerous goods).</p> <p>Additional administration charges may apply to registration fees if they are paid in instalments. TAC charges may be lower if the vehicle is garaged in a medium or low risk area.</p>

Cost items assumptions used in the example	Example: Typical cost per year	Your costs: \$	Variations in this cost item
<p><b>Superannuation</b></p> <p>Self-funded, based on 9.5% of own labour assumed at \$39,906.</p>	\$3,791		
<p><b>Insurance Comprehensive Vehicle</b></p> <p>Based on rate of 3.15% per annum. Based on operator who is over the age of 25, has at least 5 years' experience and no claims history. Assumes vehicle is not carrying dangerous goods. Assumes vehicle is travelling intrastate only.</p>	\$1,150		<p>Rates may be higher for interstate trucks. Additional insurance charges may apply to certain kinds of goods carried (e.g. refrigerated goods or livestock). Comprehensive vehicle insurance costs may vary depending upon the age and value of the equipment insured, the insurance provider, the amount of any excess payable, the individual's claims history, the age and experience level of the driver and whether the vehicle is carrying dangerous goods.</p>
<p><b>Insurance Goods in Transit</b></p> <p>Based on an insured sum of \$30,000 at an insurance rate of 0.8%. Assumes vehicle is not carrying dangerous goods.</p>	\$240		<p>The cost of goods in transit insurance may vary depending on the type of goods being transported.</p>

Cost items assumptions used in the example	Example: Typical cost per year	Your costs: \$	Variations in this cost item
<p><b>Insurance Personal Sickness and Accident/Income</b></p> <p>Basic policy, based on 80% of income for 52 weeks, 30 day waiting period. Assumes driver is travelling intrastate only.</p> <p>Assumes driver has no pre-existing conditions. Maximum age limit of 60 years.</p>	\$485		<p>The cost of personal income and accident insurance (also called income protection insurance) will vary depending on the individual's health history, the amount of income insured, the period of time after an accident before benefits are payable and the maximum period over which benefits are paid.</p>
<p><b>Insurance Public Liability</b></p> <p>Assumes policy for public liability claims up to \$10 million.</p>	\$436		
<p><b>Insurance Workers' Compensation</b></p> <p>Assumed at the rate of 4.7% for the assumed labour rate of the business owner of \$39,906.</p> <p>Assumes vehicle is primarily travelling intrastate.</p>	\$1,875		<p>The rate is current as at 2014-2015 and is subject to change.</p> <p>The rate charged for workers' compensation insurance may vary depending on whether the vehicle is travelling short or long distances and whether the vehicle is travelling interstate. The rate may also vary depending on the driver's claims history.</p>

Cost items assumptions used in the example	Example: Typical cost per year	Your costs: \$	Variations in this cost item
<p><b>Business Administration Costs</b></p> <p>Includes maintenance of records, preparation of tax returns, mobile phone charges, consumer price index and sundry business expenses.</p>	\$2,612		<p><b>Accounting/bookkeeping fees</b> may be lower if the business prepares its own BAS and accounts.</p> <p><b>Mobile phone charges</b> will vary significantly depending on level of use.</p> <p><b>Other costs:</b> Professional association fees, accommodation costs, parking fees, bank charges, and other costs should be allowed for where relevant. This example is based on a business that is already up and running, and does not take into account the costs of starting a business (e.g. registering a company). This figure may also vary depending on contractual conditions.</p>
<p><b>Total annual fixed costs</b></p>	\$19,206.20		
<p><b>Total hourly fixed costs</b></p> <p>Assuming 1,672 vehicle operation hours.</p>	\$11.43		<p>Assumes that the annual fixed costs of the business are spread over 1,672 vehicle operation hours per year.</p>

## Part 2 – Variable Costs – Per Kilometre and Per Hour

Note: All costs are exclusive of GST

Cost items assumptions assumes 39,600 km travelled per year	Typical cost per km	Your costs per km	Variations in this cost item
<p><b>Fuel</b></p> <p>Based on retail diesel fuel cost as at 14 July 2015 of 111.92 cents per litre, which is net of GST. Assumes 20.2 litres consumed per 100 km.</p>	22.61 cents		<p>Fuel is the single biggest variable cost and will significantly affect your business.</p> <p>Fuel costs will also vary depending on the age, features and condition of the vehicle.</p>
<p><b>Tyres</b></p> <p>Assumes cost of \$326.50 per tyre (6 tyres) based on vehicle specific average performance and replaced after 60,000 km.</p>	3.27 cents		<p>Consumption of tyres will vary with the age of vehicle, off-road use, geographic and road conditions, braking frequency and driving techniques and the quality of the tyres used.</p> <p>Cost of tyres will also vary depending on the manufacturer, type of tyres and any discount arrangements.</p>
<p><b>Servicing, Repairs and Maintenance</b></p> <p>Based on rate of 7.44 cents per km.</p>	7.44 cents		<p>Repair and maintenance costs will vary significantly with the age and condition of the vehicle. Major repairs may be a one-off major cost in any given year.</p> <p>Significant savings can be made if the business does its own servicing and repairs.</p>
<b>Total variable costs per km</b>	<b>33.32 cents</b>		

Total variable costs per driving hour	Typical cost per km	Your costs per km	Variations in this cost item
Assumes 25km travelled per hour.	\$8.33		<p>These rates are typical for city driving only.</p> <p>The number of kilometres travelled per hour will vary significantly depending on the routes travelled, whether the work is metropolitan or regional, how often the vehicle stops to load or unload and the nature of the work.</p> <p>Drivers who travel long distance or in the country will need to take this into account for their own calculations.</p>

**Note:** Citylink tolls: Where directed to take a route using tolls you may incur an additional cost for road tolls.

### Part 3 – Payment for the Owner Driver’s Own Labour

The next factor to include in a business cost model is an amount for the business owner’s own work (labour) in driving the vehicle and in work such as loading and unloading and tasks necessary in running the business. This Part will provide information to assist owner drivers to determine the amount they can aim to receive as a payment for that labour.

Because an owner driver is a small business (not an employee) the hirer is not legally obliged to pay a minimum wage or rate of pay. However, the wages that are paid to employee drivers are a useful guide to the market for the labour services of driving a vehicle.

Set out below are rates that would typically be paid for driving a vehicle if this work was performed by an employee rather than an owner driver.

These rates will vary over time, and should be used as a general guide only. Unions, industry associations, newspaper job advertisements and other drivers are sources of advice about the going rates in your industry sector.

Base hourly rate <sup>1</sup>	Casual/loaded hourly rate <sup>2</sup> (includes allowance for leave, etc.)	Casual overtime rate <sup>3</sup> For the first two hours over 7.6 per day or 38 per week	Casual overtime rate <sup>3</sup> For hours worked over 10 per day or 48 per week
<b>Typical base and casual rates paid to employee drivers per hour</b>			
\$22.76	\$23.75	\$30.40	\$39.91
<b>Range of rates typically paid in Victoria<sup>4</sup></b>			
\$22.76 to \$27.31	\$23.75 to \$28.50	\$30.40 to \$36.48	\$39.91 to \$47.89

## Notes:

- 1. Base hourly rate:** The base hourly rate is based on the rate in the *Road Transport and Distribution Award 2010* for an employee driver of a 4.5 Tonne Vehicle (GVM) ("the Award rate"). The base hourly rate is calculated by first working out the minimum amount an employee driver working a 38 hour week would be paid under the Award over one year (including 4 weeks annual leave, 10 days personal/carer's leave, 10 public holidays and 17.5% annual leave loading). This amount is then converted to an hourly rate for working 38 hours per week over 44 weeks (one year less the paid leave and public holiday entitlements of a full-time employee).  
  
The Award rate is accurate as at 1 July 2015, but is varied from time to time by the Fair Work Commission. You can find information about the most recently published minimum employee rates by visiting [www.fwc.gov.au](http://www.fwc.gov.au) or contacting your association or union.
- 2. Casual/loaded rate:** The casual/loaded rate includes an additional 25% loading. This is compensation for not receiving the paid annual leave, personal/carer's leave and public holidays that ongoing employees enjoy. The casual/loaded rate is calculated on the Award rate.
- 3. Casual overtime rates:** Employee drivers in Victoria would typically receive payment at overtime rates for hours worked in excess of 38 hours a week. Typically a 50% loading applies for the first two hours of overtime per day or up to 48 hours per week and then a 100% loading for hours thereafter. For each hour of overtime worked a casual must also be paid 10% of 1/38th of the minimum wage specified in the Award for their classification. The overtime rates are calculated on the Award rate.
- 4. The range of rates in Victoria:** This part of the table sets out a range of rates typically paid in Victoria to employee drivers in the transport industry. A range is supplied because the rate paid will vary depending on whether a company is party to an enterprise agreement, the particular industry sector, the skill and efficiency of the particular driver and market factors such as whether there is a shortage of drivers in the area. The top rate in each range is calculated by adding 20% to the bottom rate.

## Part 4 – Hourly Totals

### 1. Hourly total for hours up to 7.6 hours a day, 1,672 hours a year

Totals			
Totals per driving hour	Typical costs	Your figures	Notes
Fixed Costs	\$11.43		Assuming fixed costs spread over 1,672 hours.
Variable Costs	\$8.33		Assuming 25 km travelled per hour.
Labour	\$22.76		This worked example is based on a labour rate of \$22.76 per hour.  See discussion on rates for labour in Part 3.
Total per hour (up to 1,672 hours)	\$42.52		Note that this is not a prescribed or recommended rate.  Owner drivers are strongly recommended to consider their own circumstances and obtain advice.

## 2. Total per hour – for hours in excess of 7.6 hours per day / 1,672 hours a year

This model assumes that the owner driver will recover fixed annual costs over 1,672 driving hours a year. Many owner drivers work longer than these hours, either extra days each week or longer hours each day. This table calculates an hourly rate for those extra hours, using variable and labour costs only, and using an overtime rate of pay.

Totals			
Totals per driving hour	Typical costs	Your figures	Notes
Variable Costs	\$8.33		Assuming 25 km travelled per hour.
Labour (casual overtime rates)	\$30.40		This worked example is based on a nominal penalty labour rate of \$30.40 per hour.  See discussion on rates for labour in Part 3.
Total per hour (over 1,672 hours)	\$38.73		Note that this is not a prescribed or recommended rate.  Owner drivers are strongly recommended to consider their own circumstances and obtain advice.

In addition to the figures above, owner drivers should where relevant include any amount that they seek as a return on their capital investment. This issue is dealt with in section 11 of the *Owner Drivers and Forestry Contractors Code of Practice*, available from [www.business.vic.gov.au/ownerdrivershirers](http://www.business.vic.gov.au/ownerdrivershirers).

Note that this is not a prescribed or recommended rate. It is strongly recommended that owner drivers obtain advice on their own individual circumstances and discuss all issues with their hirer or potential hirer to ensure that there is no misunderstanding concerning payment structures.

## Appendix B: Organisations, contacts and websites

Organisation	Website	Telephone
Australian Asphalt Pavement Association	<a href="http://www.aapa.asn.au">www.aapa.asn.au</a>	03 9853 3595
Australian Business Register	<a href="http://www.abr.business.gov.au">www.abr.business.gov.au</a>	13 92 26
Australian Industry Group	<a href="http://www.aigroup.com.au">www.aigroup.com.au</a>	1300 78 38 44
Australian Securities and Investment Commission	<a href="http://www.asic.gov.au">www.asic.gov.au</a>	1300 300 630
Australian Taxation Office	<a href="http://www.ato.gov.au">www.ato.gov.au</a>	13 28 66
Business Enterprise Centres	<a href="http://www.becvic.com">www.becvic.com</a>	03 9940 1444
Business Victoria	<a href="http://www.business.vic.gov.au">www.business.vic.gov.au</a>	03 9651 9999
Careers in Transport	<a href="http://www.careersintransport.org">www.careersintransport.org</a>	
Centre for Adult Education	<a href="http://www.cae.edu.au">www.cae.edu.au</a>	03 9652 0611 1800 601 111 (toll free outside Melbourne)
Certified Practising Accountants Australia	<a href="http://www.cpaaustralia.com.au">www.cpaaustralia.com.au</a>	1300 73 73 73
Construction and Material Processors Association	<a href="http://www.cmpavic.asn.au">www.cmpavic.asn.au</a>	1300 267 222
Consumer Affairs Victoria	<a href="http://www.consumervic.gov.au">www.consumervic.gov.au</a>	1300 55 81 81
Department of Infrastructure and Regional Services	<a href="http://www.infrastructure.gov.au">www.infrastructure.gov.au</a>	02 6274 7111
Department Transport, Ports and Freight Division	<a href="http://www.transport.vic.gov.au/freight">www.transport.vic.gov.au/freight</a>	03 8392 6483

Organisation	Website	Telephone
Fair Work Ombudsman	<a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a>	13 13 94
Financial Counselling (Vic)	<a href="http://www.financial-counselling.org.au">www.financial-counselling.org.au</a>	03 9585 1955
Financial Ombudsman Service	<a href="http://www.fos.org.auf">www.fos.org.auf</a>	1300 78 08 08
Institute of Certified Bookkeepers	<a href="http://www.icb.org.au">www.icb.org.au</a>	1300 85 61 81
Australian Restructuring Insolvency & Turnaround Association	<a href="http://www.arita.com.au">www.arita.com.au</a>	02 9290 5700
Institute of Chartered Accountants	<a href="http://www.charteredaccountants.com.au">www.charteredaccountants.com.au</a>	1300 137 322
Institute of Public Accountants	<a href="http://www.publicaccountants.org.au">www.publicaccountants.org.au</a>	03 8665 3100
Insurance Brokers Network of Australia	<a href="http://www.ibna.com.au">www.ibna.com.au</a>	02 8913 1643
Insurance Council of Australia Limited	<a href="http://www.insurancecouncil.com.au">www.insurancecouncil.com.au</a>	02 9253 5100
Law Institute of Victoria	<a href="http://www.liv.asn.au">www.liv.asn.au</a>	03 9607 9311
Livestock Transporters Association of Victoria	<a href="http://www.lrtav.com.au">www.lrtav.com.au</a>	0400 933 713
Mensline Australia	<a href="http://www.menslineaus.org.au">www.menslineaus.org.au</a>	1300 789 978
National Insurance Brokers Association of Australia	<a href="http://www.niba.com.au">www.niba.com.au</a>	02 9964 9400
National Transport Commission	<a href="http://www.ntc.gov.au">www.ntc.gov.au</a>	03 9236 5000
Office of Workplace Services	<a href="http://www.ows.gov.au">www.ows.gov.au</a>	1300 724 200
Port of Melbourne	<a href="http://www.portofmelbourne.com">www.portofmelbourne.com</a>	03 9628 7555 1300 857 662
Small Business Mentoring Service	<a href="http://www.sbms.org.au">www.sbms.org.au</a>	03 9879 4486 13 22 15

Organisation	Website	Telephone
<b>Superannuation</b> TWU Super	<a href="http://www.twusuper.com.au">www.twusuper.com.au</a>	1800 222 071
<b>Transport and Distribution Training (Victoria)</b>	<a href="http://www.tdtvictoria.org.au">www.tdtvictoria.org.au</a>	03 9326 7211
<b>Transport Workers Union Victorian/Tasmanian Branch</b>	<a href="http://www.twu.asn.au">www.twu.asn.au</a>	1300 727 614
<b>VicRoads</b>	<a href="http://www.vicroads.vic.gov.au">www.vicroads.vic.gov.au</a> For specific advice on heavy vehicle regulations, mass and dimension permits and accreditation schemes, contact the VicRoads Transport Safety Service Offices shown on the next page.	General queries, licensing and registration: 13 11 71
<b>Victorian Chamber of Commerce and Industry</b>	<a href="http://www.victorianchamber.com.au">www.victorianchamber.com.au</a>	03 8662 5333
<b>Victorian Transport Association</b>	<a href="http://www.vta.com.au">www.vta.com.au</a>	03 9646 8590
<b>Victorian Small Business Commissioner (VSBC)</b>	<a href="http://www.vsbcc.vic.gov.au">www.vsbcc.vic.gov.au</a>	138 722
<b>WorkSafe</b>	<a href="http://www.worksafe.vic.gov.au">www.worksafe.vic.gov.au</a>	1800 136 089 03 9641 1444

## VICROADS: TRANSPORT SAFETY SERVICES OFFICES

For specific advice on heavy vehicle regulations, mass and dimension permits and accreditation schemes, contact your nearest VicRoads office.

VicRoads Region	Area	Telephone	Address
<b>Metro Melbourne</b>	All Metro Melbourne	9881 8863	12 Lakeside Drive Burwood Vic
<b>Eastern</b>	Morwell, Moe, Sale, Traralgon, South, East and West Gippsland	9881 8095	87 Princes Drive, Morwell Vic 3840
<b>Northern</b>	Seymour, Kyneton, Bendigo, Echuca, Swan Hill, Charlton.	9881 8095	57 Lansell Street, Bendigo Vic 3550
<b>North Eastern</b>	Yea, Mansfield, Wodonga, Cobram, Shepparton.	9881 8095	50 Clarke Street Benalla Vic 3672
<b>South Western</b>	Geelong, Colac, Warrnambool, Portland, Hamilton.	9881 8095	180 Fyans Street, South Geelong Vic 3220
<b>Western</b>	Bacchus Marsh, Ballarat, Ararat, Horsham, Mildura.	9881 8095	88 Learmonth Road, Wendouree Vic 3350



