

STEP-BY-STEP: RESPOND TO A NOTICE TO PRODUCE

Steps	Action	Obligations
1.	Prior to service of the notice, ensure that you have all the records required by law	<p>Under the HVNL, record keepers must keep a record of specific information for drivers of fatigue-regulated heavy vehicles.</p> <p>A record keeper may be the:</p> <ul style="list-style-type: none"> ▪ employer, if the driver is employed; ▪ accredited operator, if the driver is working under Basic Fatigue Management or Advanced Fatigue Management accreditation; or ▪ driver (as a self-employed or owner driver). <p>For each driver the record keeper must keep:</p> <ul style="list-style-type: none"> ▪ the driver's name, licence number and contact details; ▪ the dates fatigue-regulated heavy vehicles were driven; ▪ the registration number of the vehicle(s) driven; ▪ the total of each driver's work and rest times for each day and each week; ▪ copies of duplicate work diary daily sheets (if applicable); ▪ driver's rosters and trip schedules (including changeovers); ▪ driver timesheets and pay records; and ▪ any other information as required as a condition of an accreditation or exemption (such as driver training and health assessments). <p>Drivers must provide their record keeper with their relevant work and rest hours totals and any other relevant vehicle information the record keeper may not reasonably have access to. These are, for instance, registration numbers, dates the driver worked, etc.</p> <p>All records must be:</p> <ul style="list-style-type: none"> ▪ kept for three years after they are created; ▪ kept at a location accessible to an authorised officer for audit or investigation purposes; and ▪ in a format that is readable and reasonably assumed it will be readable in at least three years from the date of its creation.
2.	Review the notice to produce	<ol style="list-style-type: none"> 1. Report the notice to your supervisor, your compliance team and/or your in-house legal team. 2. Check the notice, is it addressed to you? 3. What type of documents are sought? 4. What is the stipulated time and place for production? 5. Consider how long it may take you to gather the requested documents. 6. Request an extension from the relevant authority if you cannot comply with the notice by the specified time and place.
3.	Get legal advice	Ask a lawyer about the notice to produce. A lawyer will be able to determine whether any limitations apply, whether the notice is oppressive or whether you have to produce the relevant documents.
4.	Consult other parties	Some documents that you may be required to produce may be held by third parties. You need to make requests from them to provide you with the relevant documents.
5.	Produce the documents	Attend the time and place and produce the documents that are captured by the terms of the notice. Remember, you do not have to produce irrelevant material or legally privileged material or material that is otherwise beyond the scope of notices to produce served under the HVNL.