

M HAULAGE Management - Chain of Responsibility

What is Chain of Responsibility (CoR)?

The aim of CoR is to make sure everyone in the supply chain share equal responsibility for ensuring breaches of the **Heavy Vehicle National Law (HVNL)** do not occur. Under COR laws if you exercise (or have the capability of exercising) control or influence over any transport task, you are part of the supply chain and therefore have a responsibility to ensure the HVNL is complied with.

The law recognises that multiple parties may be responsible for offences committed by the drivers and operators of heavy vehicles. A person may be a party in the supply chain in more than one way. For example they may have duties as the employer, the operator and the consigner of goods.

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

This is the 'chain of responsibility' (CoR).

The Chain of responsibility (CoR) laws (HVNL) encompass heavy vehicle:

- Mass, dimension and load restraint requirements;
- Speed, Fatigue Management; and
- Vehicle standards and maintenance

Scope:

The Heavy Vehicle National Law (HVNL) and regulations commenced in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria on 10 February 2014. In addition to passing the HVNL, states and territories agreed to four regulations made under the national law. Although Western Australia has not commenced the HVNL at this time, all M Haulage Management branches including WA will comply with our company CoR Policy for all sized vehicles in our fleet.

Parties in the Chain of Responsibility are (but not limited to):

- Corporations, partnerships, unincorporated associations or other bodies corporate
- employers and company directors
- exporters/importers
- primary producers
- drivers (including owner-driver)
- prime contractors of drivers
- the operator of a vehicle
- operators of a transport company
- schedulers of goods or passengers for transport in or on a vehicle, and the scheduler of its driver
- consignors/consignees/receivers of the goods for transport
- loaders/unloaders of goods
- loading managers (the person who supervises loading/unloading, or manages the premises where this occurs)

Protections and Reasonable Practicable Steps

The law requires all parties to demonstrate that you took reasonable steps to prevent a breach from occurring in your workplace or as a result of your activities. There are no limits to the ways in which you can do this. To reduce your chances of contributing to a breach:

- Identify and assess risks
- Take steps to eliminate, manage or prevent the risk
- Monitor and review risk management processes



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- Check your vehicle dimensions and weights
- Ensure proper packing, placing and securing of loads
- Ensure your vehicle does not speed
- Ensure the vehicle is roadworthy by conducting daily pre-checks of your vehicle
- Reporting suspected breaches
- Reporting maintenance defects
- Suspending drivers with known defects and maintenance issues
- Managing and monitoring speed and driver hours
- Question requests that may cause breaches of the law

Corporate and organisational liability

Under the laws a party (corporation, partnership, unincorporated association or other body corporate) is also liable for any offences committed by its employees, directors or officers.

Managerial liability

Where a corporation, partnership or other body corporate commits an offence, anyone who is involved in the management of the organisation may also be personally responsible. For example, employers may be liable for any offences committed by their employees. Other managerial liability may include:

- Directors or managers of the company
- Partners in the partnership
- Those involved in the management of unincorporated associations.

Drivers Responsibility

General duty (similar to occupational health and safety laws) requires all heavy vehicle drivers to take all reasonable steps to prevent the fatigue. They also are responsible for the loading of their own vehicle. This means that Drivers must:

- Stop if they are feeling tired
- Never load their vehicle over load limit capacity of the vehicle they are driving
- Ensure the correct restraints are used accordingly to the load capacity
- Ensure the load dimensions are accurate
- Keep a diary of their hours
- Maintain the vehicle regularly and submit maintenance records to the Fleet Manager for review
- Conduct daily pre-check of the vehicle to ensure its safety eg checking brakes, lights etc
- Follow the road and speed rules
- Use a speed limiter (if applicable)
- Not tamper with a speed limiter

Schedulers (Allocators) Responsibility:

The HVNL currently imposes specific obligations on allocators/schedulers relating to speed and fatigue. The law recognises the allocators' influence over the setting or developing of schedules for driver's work and rest times and the transport of passengers and goods. The HVNL defines a scheduler as 'a person who schedules the transport of any goods or passengers by the vehicle; or who schedules the work times and rest times of the vehicle's driver'. Everyone in the Supply Chain must ensure that the driver's schedule will not cause the driver to exceed speed limits or drive while fatigued. In addition to their direct obligations, schedulers are also deemed liable under section 261 of the HVNL if a driver contravenes a maximum work requirement or minimum rest



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requirement. To comply with their speed and fatigue obligations, schedulers must ensure that timeframes for drivers are realistic, and will not contribute to or cause on-road breaches, for example by:

- allowing for required rest breaks and providing flexibility so as to make allowance for traffic conditions and unexpected delays;
- ensuring schedules are safe and achievable for drivers and do not put pressure on them to breach speed or fatigue requirements; and
- consulting with drivers when developing schedules and ensuring that any scheduling problems are reported

The scheduler must ensure that the driver's schedule does not result in safety breaches relating to either speed or fatigue.

Consignors and consignees

Under the HVNL, a consignor is a 'person who engages an operator of the vehicle to transport the goods by road'. The primary obligations for consignors require them to ensure that the terms of consignment will not cause the driver to speed or breach fatigue requirements. In addition, they must ensure that information provided in transport documentation or on the container or safety approval plate relating to the mass, dimension or load of the goods is incorrect and not false or misleading.

Consignors of goods are often end customers who engage third parties to carry goods on their behalf. Consignors therefore possess a level of control that can directly influence both the mass of a heavy vehicle and the timing of the transport task. Consignors therefore have a number of obligations relating to fatigue, speed, and mass dimension and loading and influence the setting of slot times for the delivery of goods.

The HVNL defines a consignee as 'a person who receives the goods after completion of their road transport'. The principal obligations for consignees require them to ensure that the terms of consignment will not cause the driver to speed or breach fatigue requirements. In addition, the consignee must ensure that they do not induce or reward a contravention of a mass, dimension or load requirement.

To comply with their obligations, consignors and consignees must ensure that the terms of consignment will not result in breaches of the law, for example by:

- ensuring contractual arrangements and documentation for the consignment and delivery of goods enable compliance with the HVNL;
- contingency planning concerning consignments and delivery times;
- requesting information about what systems and controls are in place to ensure compliance; and
- ensuring there are no arrangements which encourage or reward non-compliance

Loading managers

Loading managers control, supervise and manage the sites where goods are loaded or unloaded and as such are directly involved in on-road operations of heavy vehicles that transport goods. The HVNL defines a loading manager as the 'person who is responsible for supervising, managing or controlling, directly or indirectly, activities carried out by a loader or unloader of goods at the premises'. Their primary obligations are to ensure that the loading arrangements will not cause the driver to breach speed or fatigue requirements. In addition, the

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loading manager is deemed liable under section 183 if a person drives a heavy vehicle that does not comply with mass, dimension or loading requirements and under section 261 if a driver contravenes a maximum work or minimum rest requirement. Examples of how loading managers can comply with their obligations include:

- working with other off-road parties to make reasonable arrangements to manage loading and unloading timeslots;
- ensuring that vehicles are loaded/unloaded as quickly and efficiently as possible; and
- putting systems in place for unexpected jobs - for example where there have been unexpected road delays.

Loaders and packers

Like loading managers, loaders and packers are directly involved in on-road operations of heavy vehicles that transport goods. The HVNL defines a loader as a 'person who loads the vehicle or container with the goods for road transport or who loads the vehicle with a freight container'. The HVNL defines a packer as a 'person who puts the goods in packaging or who assembles the goods as packaged goods in an outer packaging'. The loader and packer are deemed liable under section 183 if a person drives a heavy vehicle that does not comply with mass, dimension or loading requirements. In addition, the loader is liable under section 229 for not taking all reasonable steps to ensure a driver does not drive whilst fatigue and under section 261 if a driver contravenes a maximum work or minimum rest requirement. The packer also commits an offence if the weight of the container exceeds the maximum gross weight marked on the container or the container's safety approval plate or if the transport documentation relating to the mass, dimension or loading of the goods is false or misleading. Examples of how loaders could comply with their obligations include:

- ensuring a vehicle's load does not exceed vehicle mass or dimension limits;
- ensuring a vehicle's load is placed in a way so it does not become unstable, move or fall off the vehicle; and
- ensuring vehicles are loaded as quickly and efficiently as possible

Examples of how packers could comply with their obligations include:

- ensuring documentation about the vehicle's load is not false or misleading; and
- ensuring any goods packed in a freight container does not cause the container's gross weight or safety approval rating to be exceeded.

Heavy Vehicles

Under the Heavy Vehicle National Law (HVNL) a heavy vehicle is a vehicle that has a Gross Vehicle Mass (GVM) or Aggregate Trailer Mass (ATM) of more than 4.5 tonnes and a combination that includes a vehicle with a GVM or ATM of more than 4.5 tonnes.

Heavy Vehicles Speed limits

The maximum speed limit for a vehicle more than 4.5 tonnes Gross Vehicle Mass (GVM) is **100 km/h**. For certain road conditions, special speed limit signs may be posted for trucks, road trains and buses. You must not drive at a speed greater than the speed shown on the sign.

Vehicles Required to be Fitted with a Speed Limit Device

The Australian Design Rule 65/00 requires the following vehicles be fitted with a speed limiting device:



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- heavy omnibus over 5 tonne, up to 14.5 tonne GVM and built on or after 1 July 1991
- heavy omnibus over 14.5 tonne GVM and built on or after 1 Jan 1991
- heavy goods vehicle over 12 tonne GVM, up to 300HP and built on or after 1 July 1991
- heavy goods vehicle over 12 tonne GVM, over 300HP and built on or after 1 Jan 1991

Section 140 of the Vehicle Standard of Safety Regulation requires the following vehicles comply with ADR 65/00:

- buses with a GVM over 14.5 tonne built after 1987
- prime movers with a GVM over 15 tonne built after 1987

Mass, Dimension and Load Restraint

All parties to the CoR must comply with all mass, dimension and load restraint laws

Mass requirements may relate to the:

- Tare mass of heavy vehicles;
- Mass of heavy vehicles together with their loads;
- Mass on tyres, axles or axle groups of heavy vehicles;
- Axle spacing on any heavy vehicle or trailer; or
- Weight of any freight container and its goods

Dimension requirements may relate to the dimension of a:

- Heavy vehicle (together with its equipment;
- Component of a heavy vehicle; or
- Heavy vehicle's load

Load restraint requirements may relate to the restraint or positioning of a load or any part on a vehicle, including the restraint or positioning of a load within the freight container. M Haulage Management refers to the terms and guidelines of the National Transport Commission (NTC) Load Restraint Guide for the performance and standards of safe carriage of loads on heavy vehicles.

All transport documentation must be accurate and not be false or misleading as far as it relates to the mass, dimension or loading of any or all of the goods.

The primary responsibility to monitor all mass, dimensions and load restraint with respect to any heavy vehicle rests with the driver. The driver should check compliance with all mass, dimension and load restraint requirements before driving any load. In the event that the load exceeds the requirements, it is the responsibility of the driver to contact the M Haulage Management and/or its subcontractor base immediately.

Fatigue and Speed

M Haulage Management will comply with fatigue regulations. No driver should:

- Drive while impaired by fatigue; or
- Drive while in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours

If any person suspects a driver is fatigued, then they **MUST** ensure they contact the M Haulage Management and/or its subcontractor immediately and inform them of their concern.

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The Fleet or Operations Manager will immediately contact the driver and discuss their concerns. This may lead to the decision to stand down the driver for a mandatory rest break or place the driver on a driver fatigue program.

M Haulage Management will not accept a higher payment for the transport of goods which will breach any fatigue or speed requirement.

As per the HVNR a fatigue related vehicle is 12 Tonne GVM and above in NSW, QLD, VIC and SA. Fatigue related vehicles in WA are at 4.5 t GVM as per the WA Main Roads Authority and Department of Transport laws.

It is an offence for any vehicle to travel faster than the designated speed limit. Increased speed means not only an increased risk of crashing but also increased severity if a crash occurs.

National Heavy Vehicle Regulator

The National Heavy Vehicle Regulator (NHVR) looks after one rule book for heavy vehicles over 4.5 tonnes gross vehicle mass. Refer to the below rules for each category for road safety for each state:

Rule	NSW	VIC	QLD	SA	WA
Heavy Vehicle Classification	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM
Fatigue related to Fatigue regulated heavy vehicles	=>12 t GVM	=>12 t GVM	=>12 t GVM	=>12 t GVM	=>4.5 t GVM
Speed, Mass, Dimensions, Load Restraint laws	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM
Maintenance to vehicle standards	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM	=>4.5 t GVM
Work Diaries required (outside 100km from base/home)	=>12 t GVM	=>12 t GVM	=>12 t GVM	=>12 t GVM	=>12 t GVM Only required if transporting interstate
Speed Limiters - Australian design rules ADR65 applicable to all vehicles over 12 tonne GVM manufactured after 1991	=>12 t GVM	Not required <u>but</u> 100klm ph limit for HV's	=>12 t GVM	Not required <u>but</u> 100klm ph limit for HV's	Not required <u>but</u> 100klm ph limit for HV's

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Rest breaks for all Heavy Vehicles

The National Heavy Vehicle Law states that a rest break for all heavy vehicle drivers must be taken after 5 **continuous** driving hours. If you stop at a customer's site and you are **NOT** loading or unloading or supervising the load or unload of your vehicle, then this waiting period is classified by the regulator as a rest break (if it 15 minutes or longer). Also, if you are sitting in your vehicle while the forklift driver is loading or unloading your vehicle please ensure that your vehicle is switched off during the loading process. A rest break allows you to sit in the vehicle, but the engine cannot be running.

Corrective Actions

Upon becoming aware of any breach of mass, dimension, load restraint, fatigue or speed, M Haulage Management and/or its subcontractor may report the breach to the relevant authorities and retain records of the breach. Drivers may lose their contract of carriage with M Haulage Management and/or its subcontractor if the breach is deemed a serious offence. More than three breaches for the same matter will cancel the driver's contract of carriage with M Haulage Management and/or its subcontractor. Internal employees will also undergo disciplinary procedures which may include termination. A driver **MUST** ensure their vehicle is roadworthy at all times - driver fails to report a faulty vehicle to M Haulage Management and/or its subcontractor, then the Driver's contract of carriage will be terminated. If a M Haulage Management and/or its subcontractor employee fails to report a driver's faulty vehicle then they will be subject to disciplinary procedures up to termination of employment.

Penalties

Employers, employees, drivers and customers will be held accountable for dangerous work schedules and long truck queues, which are known to be major causes of fatigue. If poor business practices endanger the lives of other road users, there will be severe penalties for those responsible.

What are the penalties?

- improvement notices
- infringement/expiation notices
- court imposed fines
- Supervisory Intervention Orders
- Road Compensation Orders
- Commercial Benefits Orders
- Prohibition Orders
- Licensing and registration sanctions

Penalties escalate sharply for offences which pose a serious road safety risk; including court-imposed fines of up to \$3 million (for corporations) per offence and \$300,000 and or 5 years imprisonment (per person) per offence. Under the new CoR laws changing in 2018 penalties will be based on the severity of the risk posed by an offence.

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Summary

The safety of all road users hinges upon the proper maintenance of heavy vehicles. Heavy vehicle drivers operators are required to ensure their vehicles/or fleet are free from defects, mechanically safe and in proper working order before a vehicle enters the road network.

Heavy Vehicle National Law

Information in regards to Heavy Vehicle National Law and regulations can be found at:

<https://www.nhvr.gov.au/safety-accreditation-compliance>

Further information

Additional information is available from Road and Transport Authority website:

http://www.rta.nsw.gov.au/heavyvehicles/downloads/compliance_and_enforcement_-_chain_of_responsibility.pdf. The National Transport Commission has developed *Guidelines for Managing Heavy Vehicle Driver Fatigue*. The guidelines are designed for drivers, employers, operators and schedulers, as well as Chain of Responsibility Statement users and customers of road transport. They provide guidance on managing heavy vehicle driver fatigue and on the responsibilities of each of party. They are available at the National Transport Commission website www.ntc.gov.au. or www.nhvr.gov.au/law-policies/heavy-vehicle-national-law-and-regulations

Heavy Vehicles Driver Handbook can be downloaded

<http://www.rms.nsw.gov.au/documents/roads/licence/heavy-vehicle-driver-handbook.pdf>

Load Restraint Guide can be downloaded:

<https://www.ntc.gov.au/heavy-vehicles/safety/load-restraint-guide/>

Industry Codes of Practice

Compliance with the law can also be shown through application of Registered Industry Codes of Practice.

Industries can access the national *Guidelines for Developing and Registering Industry Codes of Practice* at

www.austroads.com.au

WA Heavy vehicle rules can be viewed:

<https://www.mainroads.wa.gov.au/usingroads/heavyvehicles/pages/heavyvehicleshome.aspx>