National Heavy Vehicle Regulator



May 2017

Chain of Responsibility

Prime Contractors

About the chain of responsibility (CoR)

Our road laws generally address the actions of drivers and operators, but breaches of these laws are often caused by other parties in the transport supply chain.

The aim of CoR for a heavy vehicle is to make sure everyone in the supply chain actively prevents breaches of the Heavy Vehicle National Law (HVNL). The CoR law also extends to preventing or reducing potential harm or loss (risks) to yourself and others. Managing (controlling) these risks ensures that you always recognise and carefully consider all potential dangers and satisfactorily reduce or avoid them before they occur.

Who has a responsibility?

Under CoR laws, if you undertake specified functions that exercise, or have the capability of exercising, control or influence over *any* transport task, you are part of the chain of responsibility and have an obligation to ensure compliance with the HVNL.

What if I have multiple transport tasks?

Everyone in the supply chain has a responsibility to ensure the safety of their transport tasks related to the vehicle. If you carry out *more than one task* in the supply chain, this responsibility will extend to *all* of the tasks that you carry out. You may therefore be classified by *multiple roles* in the transport supply chain under the HVNL.

Am I carrying out a prime contractor's transport tasks?

Under the HVNL, you are generally classified as a prime contractor of a heavy vehicle if you are responsible for engaging the driver of a heavy vehicle by contract or other arrangement, whether or not you are actually present for any of the transport tasks.

Prime contractors undertake the performance of goods transportation by a form of agreement and may deploy, employ, manage one or more other sub-contractors. All have an obligation to ensure parties in the chain of responsibility comply with their requirements under the HVNL.

A prime contractor may also include such persons also known as a manufacturer, producer, promoter, merchant, agent, etc. You can use the *CoR checklist* to confirm whether you are classified as a prime contractor for road transport using a heavy vehicle under the HVNL.

Your key responsibilities as a prime contractor

Some key responsibilities may include ensuring that:

- your requests or practices do not require or encourage drivers to:
  - exceed the speed limits
  - exceed regulated driving hours
  - fail to meet the minimum rest requirements
  - drive while impaired by fatigue.

What are the possible penalties for a breach?

As a prime contractor, you could be held legally liable for breaches of the HVNL even though you have no direct role in driving or operating a heavy vehicle. If your actions, inactions or demands cause or contribute to an offence, you can be held legally accountable.

Penalties and sanctions can range from formal warnings to court imposed fines and penalties relating to the commercial benefit derived from offences.

Safety systems and controls

All parties in the supply chain have a responsibility to prevent or reduce potential harm or loss (risks) by ensuring transport-related activities are safe. Under the HVNL, safety systems and controls (such as safe work practices, training and procedures) should be in place to prevent breaches of the HVNL, manage risk and maintain a safe road environment.

This means, as a 'party' in the supply chain, that you can proactively reduce risks related to your transport tasks, rather than only reacting when there is a possible breach of the law.

The following table lists some examples of the effective safety systems and controls you can implement as prime contractor to ensure breaches of the HVNL do not occur and that every road user is safe.

Safety systems and controls – Examples

Governance (administration) and review systems
• System of engagement and consultation with all other parties (especially sub-contractors)
• System to remedy breaches and take corrective action
• System to manage safety and ensure compliance with all requirements of the law
Fatigue
Managing the fatigue of the driver:
• System to ensure the terms of the consignment, contracts and agreements will not result in, encourage, or provide an incentive to a relevant party to cause the driver to
Speed
Speeding assurance procedures:
• System to ensure terms of consignment, contracts and agreements will not cause the driver to exceed speed limit
• System to ensure demands are not made of the driver that may result in the driver exceeding the speed limit
• System to ensure driver's schedule will not cause the driver to exceed the speed limit
Mass, dimension and loading
Mass, dimension, loading assurance procedures:
• System to ensure accuracy of the load weights
• System to ensure compliance with applicable gross and axle weights
• System to ensure the accuracy of load positioning
• System to ensure loads are properly restrained

The examples in the Safety systems and controls table represent *only a selection* of the possible safety systems and controls you can implement as a prime contractor to ensure breaches of the HVNL do not occur and that every road user is safe.

