



# Loading Requirements and the Chain of Responsibility

The *Heavy Vehicle National Law* (HVNL) (Chapter 4) imposes obligations on parties in the chain of responsibility (CoR) to take all reasonable steps to ensure that a driver does not commit a loading offence.

Loads carried on or in a heavy vehicle must be properly restrained so that they will not fall or be dislodged. Loads must be positioned in such a manner that they do not make the vehicle unstable or unsafe.

The information contained here is aimed at assisting you to identify relevant CoR obligations and assist in developing measures to meet those obligations.

## Who are the parties in the supply chain?

The CoR provisions are aimed at persons who can influence and/or control driver behaviour. Parties in the chain of responsibility include:

- **The prime contractor of a driver**
- **The operator of a vehicle**
- **The scheduler of goods or passengers for transport in or on a vehicle, and the scheduler of its driver**
- **Consignors/consignees of goods for transport**
- **Loaders of goods.**

## Taking reasonable steps to prevent loading offences

The HVNL provides a way for parties in the chain of responsibility to establish that they have taken all reasonable steps in relation to **loading offences**. For a loading offence the court will consider:

- (a) The circumstances of the offence
- (b) The measures available and measures taken by the person:
  - (i) To safely restrain the load on or in the heavy vehicle
  - (ii) To provide and obtain sufficient and reliable evidence from which the weight or measurement of the heavy vehicle or its load might be calculated
  - (iii) To manage, reduce or eliminate a potential contravention arising from the location of the heavy vehicle, or from the location of the load in the heavy vehicle, or from the location of goods in the load
  - (iv) To exercise supervision or control over other persons involved in activities leading to the contravention
- (c) The measures available and measures taken by the person:
  - (i) To include compliance assurance conditions in relevant commercial arrangements with other responsible persons for heavy vehicles
  - (ii) To provide information, instruction, training and supervision to employees to enable compliance with the HVNL
  - (iii) To maintain equipment and work systems to enable compliance with the HVNL
  - (iv) To address and remedy similar compliance problems that may have happened in the past
- (d) Whether the person had, either personally or through an employee or agent, custody or control of the heavy vehicle, its load, or any goods included or to be included in the load
- (e) The personal expertise and experience that the person had or ought reasonably to have had or that an employee or agent of the person had or ought reasonably to have had.

For a party in the chain of responsibility, collaboration with your drivers, staff, service providers and with other (external) parties in the supply chain is essential. Understanding your obligations under the law and ensuring that the arrangements you have in place and the arrangements other parties have in place will contribute to a safer road environment for heavy vehicle drivers and all other road users.

More information about the chain of responsibility is available from:

[rms.nsw.gov.au/business-industry/heavy-vehicles/safety-compliance/chain-of-responsibility](https://rms.nsw.gov.au/business-industry/heavy-vehicles/safety-compliance/chain-of-responsibility)

## Promoting road safety and protecting yourself, your business and your reputation

The law imposes strict obligations on CoR parties but it also gives clear guidance on how to meet those obligations. When considering whether you have met your loading obligations asking yourself the following sorts of questions may be of assistance:

- What have we done to ensure that we have the ongoing capacity to comply with relevant loading and load restraint requirements? How do we know what these are? Do we use the restraint methods outlined in the *Load Restraint Guide*? If not, why not? Have the load restraint methods we use been assessed and certified by an appropriately qualified person?
- Have we communicated our needs with respect to the use of appropriate methods of load restraint to our customers? How have we done this? What assurances as to *their* compliance with these obligations have we received? Have we done enough to protect our position?
- Do we have a system for regular inspection of vehicles and restraint equipment (including for example straps, chains, anchor points, tensioners, chocks, curtains and gates)? Do drivers, maintenance staff and supervisors have a clear and simple process for checking equipment and raising a defect (or request for work) where it may be unsafe or unserviceable?
- How much consultation have we held with drivers about our loading obligations? Do our drivers know what to do if they attend a pick up point and the load is not appropriately restrained? Will we support our driver if they refuse to carry a non-compliant load? Do our supervisors understand and promote safe and compliant heavy vehicle operations?
- How much training and support do we provide to drivers (and to packers, loaders and supervisors) about, specifically, our load restraint obligations and, more broadly, about safe and compliant heavy vehicle operations?
- In respect of consultation, training and support, and loading compliance – how do we respond to what we are hearing from our drivers and other staff? Are the training and support we provide effective? If we have monitoring systems what do we do when we detect non-compliance?
- What form of record keeping do we maintain in respect of each of these factors? Do we retain those records for at least three years? Who has responsibility for the ongoing review of our practices and the measures we use to ensure compliance? How do we establish that we responded appropriately and effectively to gaps in our compliance systems?

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