

ARE YOU MEETING YOUR CoR OBLIGATIONS?

Understanding your obligations with 'shared' responsibility in the Chain of Responsibility CoR 2018.

As many of you are aware on October 1st 2018, the Heavy Vehicle National Law (HVNL) was amended to provide that every party in the heavy vehicle transport supply chain has a **Primary Duty** to ensure the safety of their transport activities. The noteworthy part of these CoR changes is that all parties must now ensure safety "**so far as is reasonably practicable**" to eliminate/ minimise public risk and ensure that no-one directly or indirectly encourages drivers to contravene HVNL.

Note the 5 Focus areas of the amended CoR 2018:

1. <u>Fatigue management</u> , ensure drivers are well rested and given enough time to take their required breaks
2. <u>Load restraint</u> , ensure loads are adequately secured on vehicles and inside ISO containers
3. <u>Speed</u> , ensure drivers have enough time to complete tasks and meet demands without putting themselves or others at risk
4. <u>Mass & Dimension</u> , ensure vehicle is within its mass and dimension limits with appropriate permits
5. <u>Maintenance / Vehicle Roadworthiness</u> , maintaining vehicle standards, creating thorough maintenance systems with fault reporting, repair tracking and roadworthiness monitoring

Key Phrases:

Primary Duty – To eliminate or minimise harm or loss (risk) by doing all that is Reasonably Practicable to ensure safety is consistent with the requirements of the HVNL.

Reasonably Practicable – That which is, or was at a particular time reasonably able to be done in relation to ensuring health & safety, taking in account and weighing up all relevant matters using the 5 limb test.

Use the Reasonably Practicable 5 Limb Test for assessing hazards & risks:

1. Likelihood , what is the likelihood of the hazard or risk occurring?
2. Harm , what is the degree of harm that might result from the hazard or risk?
3. Knowledge , what the person concerned knows or ought to reasonably know?
4. Solutions , what are the ways of eliminating or minimising the risk?
5. Cost , what are the costs associated with eliminating or minimising the risk including whether the cost is grossly disproportionate to the risk?

Now is the time to confirm you & your partners in the chain have the capability and resources to fully comply. Use the National Heavy Vehicle Regulator (NHVR) gap analysis tool for CoR governance to determine any areas of non-compliance with the NHVL at <https://www.nhvr.gov.au/cor-gap-assessment/views/>.

6 Steps you should be completing now:

1. Review your existing system's compliance in the CoR chain, evaluate what influence do you have over any activity with the role you play?
2. Ensure your transport suppliers are professionals with fatigue management, loading plans maintenance regimes etc in place with proper record keeping.
3. Make adjustments to your system to correct any gaps you identify.
4. Implement changes and communicate them to all parties.
5. Prepare and implement a management plan to verify and ensure controls and system effectiveness.

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| <p>6. Maintain Executive due diligence, you must respond to information received about hazards and risks in a timely manner and must verify that suitable resources and processes are provided, used and implemented.</p> |
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Beware of Common CoR errors:

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| <p>1. Applying business practices or demands that cause a driver to breach fatigue management requirements or speed limits</p> |
| <p>2. Failing to weigh, measure or secure loads, including poor weight distribution over the axles with ISO shipping containers</p> |
| <p>3. Setting schedules with unrealistic time frames, that do not allow for variables that affect delivery times</p> |
| <p>4. Causing unreasonable delays in loading and unloading, impacting on driver hours/delivery times</p> |
| <p>5. Packing goods incorrectly on modes, such as Airfreight, LCL & FCL shipments.</p> |
| <p>6. Entering terms in contracts and arrangements that encourage, reward or give incentives to the driver or other parties in the CoR to breach the law</p> |

Lastly, look to establish a Safety Management System (SMS) that sets out a safety process for everyone to follow. It ensures that you are complying with legislation, and that everyone is aware of their responsibilities and knows what to do in risky situations. More information at <https://www.nhvr.gov.au/safety-accreditation-compliance/safety-management-systems>

Think about these areas when looking to create your SMS:

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| <p>1. Communicate and consult with your workers so that you understand their perspective on safety, and so that they can raise concerns, report problems and suggest solutions to safety issues.</p> |
| <p>2. Effective safety training is essential for the induction of new employees, practising procedures and understanding your responsibility in a practical sense.</p> |

3. **Record keeping** is required under HVNL of all risk management practices, this is not only proof of compliance but it is vital in reviewing your system.

4. **Regularly review** your system to ensure that it is effective and to identify any areas of improvement. There is no point having the best system in the world if it is not reviewed for effectiveness & improvements.

References:

- [National Heavy Vehicle Regulator](#)
- [Heavy Vehicle National Law and Regulations](#)
- [National Transport Commission Australia](#)