



Chain of Responsibility

Local Government and the Heavy Vehicle National Law

At the National Heavy Vehicle Regulator (NHVR) we know how important safe, reliable road transport is to all road users. We want to help make our roads safe by ensuring that everyone involved in road transport activities understands—and follows—the Heavy Vehicle National Law (HVNL).

A heavy vehicle is one that has Gross Vehicle Mass (GVM) of over 4.5 tonnes (i.e. the maximum mass stated by the manufacturer the vehicle can have when it's loaded).

Heavy vehicles are essential for the day-to-day delivery of the services that councils provide to our communities—such as collecting waste, managing recreational parks and facilities, and building roads and bridges. As a council employee or councillor you should be aware that every time your council uses a heavy vehicle to provide these services, you have responsibilities under the HVNL—even if your council doesn't own the vehicle.

What is the Chain of Responsibility (CoR)?

While our road laws generally address the actions of drivers, dangerous practices such as driving while fatigued, speeding or overloading are often caused by the activities of other parties in the transport supply chain.

Under CoR laws in the HVNL, any party in the chain who has the ability to control or influence the transport activity is responsible for safety on the road and for preventing breaches of the law. If your council uses heavy vehicles and you're doing any of the following, you will be a party in the CoR and so must comply with the HVNL:

- operating your own trucks or buses
- employing drivers
- managing or controlling premises where loading or unloading takes place (e.g. saleyards and depots)
- scheduling drivers' work times or goods for transport
- packing, loading or unloading goods
- consigning or receiving goods
- contracting others to conduct work for you or contracting your services to others.

As a party in the chain, the NHVR CoR Gap Assessment Tool will enable you to actively identify what you should be doing to ensure compliance and manage safety. You can complete the tool here: www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/cor-gap-assessment



Councils' responsibilities under the HVNL

Like any other party in the transport supply chain, you are responsible for preventing breaches of mass, dimension and loading, fatigue, speed and vehicle standards (maintenance) laws.

If you manage council works or council fleets, you especially need to understand the legal requirements of:

- monitoring drivers' health and fitness for duty
- scheduling their work and rest hours
- keeping records of the hours they work.

If your council is involved in contracting—whether providing services to other government agencies or subcontracting council work to third-party transporters—a best-practice approach is to ensure that those contracts include:

- specifications on how the requirements of the HVNL are to be met
- performance and compliance reporting.

They should not include demands of contractors that may lead to speeding, driving while tired or overloading.

In short, any time you use a heavy vehicle, regardless of whether it's a council vehicle or a sub-contractor's, you have a shared responsibility to ensure safety and to prevent breaches of the law.

How can you avoid breaches of the HVNL?

Taking the following steps will assist you in the prevention of breaches:

- Ensure all loads are within legal limits and properly restrained.
- If you're using council trucks, make sure they're maintained to a roadworthy standard.
- Train your employees so they understand their obligations and are empowered to act.
- Work with your contractors so that you and they fully understand the requirements of the law and how your activities may affect safe freight operations.
- Make sure business practices, risk management processes and controls are in place to ensure safe operations and are regularly reviewed.

Safety and the HVNL

In mid-2018, the HVNL will be amended to align CoR laws more closely with national workplace health and safety law. The amended law is slightly broader than at present because it covers more of the conduct that happens off road—such as vehicle maintenance regimes, business practices and management decisions—and also addresses the safety of drivers, passengers, road users, vehicles, loads, roads and the environment.

Under the amended law, every party in the CoR will have a legal obligation to ensure the safety of transport activities "so far as is reasonably practicable".

The "so far as is reasonably practicable" test takes into account and weighs up relevant matters, including:

- the likelihood of the risk occurring
- the degree of harm
- what the person knows about the risk
- ways to remove or reduce the risk and whether they are feasible
- whether the costs are proportionate to the risk.

Safety management systems

At NHVR we recommend that you have a Safety Management System (SMS) to assist you with this. An SMS typically includes:

- documented policies and responsibilities of key personnel, a statement of management commitment and an SMS manual
- a safety risk management system—including a risk register—to proactively identify, evaluate and control risk
- a process of assuring safe operations including, for example, safety performance monitoring, incident investigation and change management
- a programme to promote safety and train employees and contractors in safe work practices.

Where can I get more information?

For more information on the HVNL and CoR, visit:

www.nhvr.gov.au/cor

www.nhvr.gov.au/files/201703-483-cor-your-role.pdf

www.nhvr.gov.au/safety-accreditation-compliance/industry-codes-of-practice/about-industry-codes-of-practice