

SAFETY MANAGEMENT IN CHAIN OF RESPONSIBILITY

A GUIDE FOR TRANSPORT OPERATORS UNDER
THE HEAVY VEHICLE NATIONAL LAW

NATROAD

NATIONAL ROAD TRANSPORT ASSOCIATION



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This document provides information for heavy vehicle operators and other parties in the chain of responsibility on how to meet their duties under the Heavy Vehicle National Law, including how to determine what is ‘reasonably practicable’.

1. CHAIN OF RESPONSIBILITY: THE BACKGROUND

Amendments to the Chain of Responsibility laws come into place from mid-2018, but can be applied to your business earlier.

The changes align the Heavy Vehicle National Law (HVNL) more closely with workplace health and safety laws that apply to all businesses.

The HVNL says:

Each party in the chain of responsibility must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle, including by:

- ▶ eliminating public risks and, to the extent it is not reasonably practicable to do so, minimise the public risks; and
- ▶ ensuring the party does not directly or indirectly cause or encourage the driver of the heavy vehicle or another person to contravene the HVNL, or the driver to exceed a speed limit.

This overarching duty is known as the 'primary duty'.

The HVNL also does not allow any person to enter into a contract, ask, direct or require a driver, or a party in the chain of responsibility to do (or not do) something the person knows (or should know) would cause the driver to exceed a speed limit or breach fatigue rules.

SO, WHAT DOES THAT MEAN?

As many transport operators know, it's not always the driver or operator responsible for breaches - often other parties are involved.

The changes to the law recognise that the responsibility for ensuring safety is shared between various parties in the supply chain, including consignors, schedulers, operators and loading managers.

The new Chain of Responsibility laws require risks to be managed in the same way as Work Health and Safety (WHS) laws do. This means that all parties in the chain need to proactively identify hazards related to the transport activity and remove or reduce the risks as much as possible, instead of only taking action when something goes wrong.

The parties must work together to ensure that they do not cause the driver of the heavy vehicle or another person to contravene the HVNL, or the driver to exceed a speed limit.

You cannot avoid your responsibilities by asking someone else to ensure safety on your behalf, for example through a contract.

UNDERSTANDING THE TERMINOLOGY

The primary duty includes the following key terms which are defined below.

WHO ARE THE PARTIES IN THE CHAIN?

Under the HVNL, a party in the chain of responsibility for a heavy vehicle means:

- ▶ If the vehicle's driver is an employed driver - an employer of the driver
- ▶ If the vehicle's driver is a self-employed driver a prime contractor for the driver
- ▶ An operator of the vehicle
- ▶ A scheduler of the vehicle
- ▶ A consignor or consignee of any goods in the vehicle
- ▶ A packer of any goods in the vehicle
- ▶ A loading manager
- ▶ A loader or an unloader

WHAT DOES REASONABLY PRACTICAL MEAN?

Reasonably practicable means that which is (or was at a particular time) reasonably able to be done in relation to the duty, weighing up all relevant matters, including:

- ▶ the likelihood of a safety risk or damage to road infrastructure happening
- ▶ the harm that could result from the risk or damage
- ▶ what the person knows, or ought reasonably to know, about the risk or damage
- ▶ what the person knows, or ought reasonably to know, about ways of removing or minimising the risk; or preventing or minimising the damage;
- ▶ the availability and suitability of those ways;
- ▶ the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

WHAT IS A PUBLIC RISK?

A safety risk, or a risk of damage to road infrastructure.

WHAT IS A TRANSPORT ACTIVITY?

Transport activities means activities, including business practices and making decisions, associated with the use of a heavy vehicle on a road, for example–



Contracting, directing or employing a person to drive or carry out another activity associated with the use of the vehicle (e.g. maintaining or repairing the vehicle)



Consigning goods for transport using the vehicle



Scheduling the transport of goods or passengers using the vehicle



Packing goods for transport



Managing the loading or unloading of goods



Loading or unloading of goods



Receiving goods unloaded from the vehicle

WHS LAW PREVAILS

While the HVNL safety duties are focussed on the use of a heavy vehicle on a road, the WHS laws require all other hazards and risks arising from the conduct of your business to be eliminated or minimised so far as is reasonably practicable.

The duties under the WHS law apply in addition to the HVNL and, if there is any inconsistency between the WHS law and the HVNL, the WHS law prevails.



A person may be a party in the chain in more than one way, e.g. they may have duties as the employer of a driver, the operator of a vehicle and the consignor of goods. More than one person can also have a duty for the same activity, e.g. loading a truck. Each person must comply with their duty to the extent of their capacity to influence and control that activity and the associated risks.

Appendix 1 can help you identify who has duties in your supply chain.



A SHARED RESPONSIBILITY

The responsibility for ensuring safety is shared between parties involved in the transport activity. The level and nature of the responsibility depends on:

- ▶ what activities the person performs or is required to perform – rather than their job title or functions described in a contract;
- ▶ the nature of the public risk created by the transport activity; and
- ▶ the person's capacity to eliminate or minimise the risk.

For example, a number of parties may be involved in loading/unloading freight:



**THE TRANSPORT
OPERATOR**



**THE LOADING
MANAGER**



**MOBILE PLANT
CONTROLLER**

These each share responsibility for safety under both WHS and HVNL laws, to the extent of their capacity to control or influence the work. They must work together to ensure risks are eliminated, or if this is not reasonably practicable, minimised. This includes risks associated with being hit by forklifts, delays in loading or unloading, exceeding vehicle mass or dimension limits.

The influence and control held by each person varies, depending on the circumstances. For example, when a transport operator visits a particular business regularly where a forklift and operator are available to load/unload freight, that business would generally have a high capacity to influence and control the work. The transport operator would therefore follow the business's delivery/pick up schedule and traffic management procedures.

However, when a transport operator visits a business that rarely receives freight, the transport operator would generally influence and control the work and the risks. They will need to work with the business to devise safe work methods which could be included with the booking system information.

Meeting the primary duty requires a shared understanding of what the risks of the transport activity are and what each party in the chain of responsibility will do to control the risks. You need to identify the other parties in your supply chain whose actions and decisions affect the safety of your transport activities and work with them so that risks are eliminated or minimised so far as is reasonably practicable (see section 4 of this Guide).

When entering into contracts, you should:

- ▶ review the job to be undertaken
- ▶ discuss any safety issues that may arise and how they will be dealt with, and
- ▶ inform the other parties of your safety requirements and policies.

Talking to, and co-operating and co-ordinating activities with others who are involved in the transport activity will make the control of risks more likely and assist each party comply with their duty.



Never assume that someone else in the chain of responsibility is taking care of a safety issue. Check and confirm what others are doing and ensure any contracts clearly specify who is responsible for what.

2. HOW TO DETERMINE WHAT IS “REASONABLY PRACTICABLE”

The ‘reasonably practicable’ standard of care is also used in WHS laws and takes into account the wide variety of situations that exist in workplaces. There are two elements to what is reasonably practicable:

- first consider *what can be done* - that is, what is possible for ensuring safety, and
- then consider whether it is *reasonable, in the circumstances* to do all that is possible.

In a prosecution, a court will look at what was reasonably foreseeable by someone in the position of the duty holder at the particular time and what the person knew or should have known.

WEIGHING UP ALL THE ‘RELEVANT MATTERS’

When deciding what is reasonably practicable all relevant matters, including those listed below, must be taken into account and weighed up:



THE LIKELIHOOD OF A SAFETY RISK OCCURING

The greater the likelihood of a risk occurring, the more important this factor will be when determining what is reasonably practicable. The frequency or duration of an activity will be relevant to the likelihood of a risk occurring. If harm or damage is more likely to occur, then it is reasonable to expect more to be done to eliminate or minimise the risk.



THE HARM THAT COULD RESULT FROM THE RISK OR DAMAGE

Hazardous activities may cause different types of harm, with fatalities being the most serious.

The greater the degree of harm that could result from the risk or damage, the more would be expected of a duty holder to eliminate or minimise the risk.



WHAT THE PERSON KNOWS OR OUGHT REASONABLY TO KNOW ABOUT:

- ▶ the risk or damage
- ▶ ways of removing or minimising the risk
- ▶ ways of preventing or minimising the damage

In deciding whether the person ought reasonably to have known these things, a court will consider—

- ▶ the person’s abilities, experience, expertise, knowledge, qualifications and training
- ▶ the circumstances of the offence
- ▶ what a reasonable person in the duty-holder’s position (e.g. a person in the same industry) would be expected to know.

Under the HVNL, registered Industry Codes of Practice can be used by a court as evidence of what is known about a hazard or risk, risk assessment or risk control and what is reasonably practicable in the circumstances to which the code relates.



WAYS TO REMOVE OR REDUCE THE RISK

This requires consideration of what is available and also what is suitable for eliminating or minimising the risk. A risk control that is effective in some circumstances or environments may not work so well in others, due to things such as the workplace layout, skills of relevant workers, the way in which the work is done or if the control interferes with other systems creating new risks.

Equipment to eliminate or minimise a risk is regarded as being available if it is provided on the open market, or if it is possible to manufacture it.

A work process (or change to a work process) to eliminate or minimise a risk is considered available if it is feasible to implement.

A way of eliminating or minimising a risk is considered suitable if it:

- ▶ is effective in eliminating or minimising the likelihood or degree of harm
- ▶ does not introduce new or greater risks, and
- ▶ is practical to implement in the circumstances.



THE COST OF REMOVING OR REDUCING THE RISK

The more likely the risk or damage and the greater the harm that may result from it, the less importance is placed on the cost of eliminating or minimising the risk.

Where the cost of implementing control measures (in terms of time and/or money) is completely disproportionate to the risk, it may be that implementing them is not reasonably practicable and therefore not required. For example, it may not be reasonable to make very expensive modifications to equipment to minimise a risk that has a low likelihood of occurring and would cause minor harm. But this cannot be used as a reason for doing nothing. A less expensive way of minimising the likelihood or degree of harm, such as training and supervision, will need to be used instead.

These are not the only things that may be relevant in deciding what is reasonably practicable. Other matters may also need to be considered. For example:

- ▶ There may be other legislation that requires or prohibits certain activities and therefore limits what you can do.
- ▶ You may or may not have the ability to control or influence a particular thing or another person's actions (see below).

INFLUENCE AND CONTROL

The capacity to influence and exercise control over an activity is also taken into account when determining what is reasonably practicable.

A person may be found to have control if they have the capacity to eliminate or minimise a risk, whether that capacity is exercised or not.

Control may arise from the legal ability to take control of the work activity, for example, under the terms of a contract, or from the practical ability to do so, for example, by being able to direct people on site and have those directions followed. That is, what a person does and what they are able to do will determine if they have control.

The more control or influence you have over the transport activity, the greater the steps you need to take to ensure safety.

It may not be reasonable to require a person to do things that are beyond their control or to require them to acquire the necessary control. For example, some parties in the chain of responsibility may not be able to control the maintenance of heavy vehicles, but they can influence the use of defective or unsafe vehicles on the road.

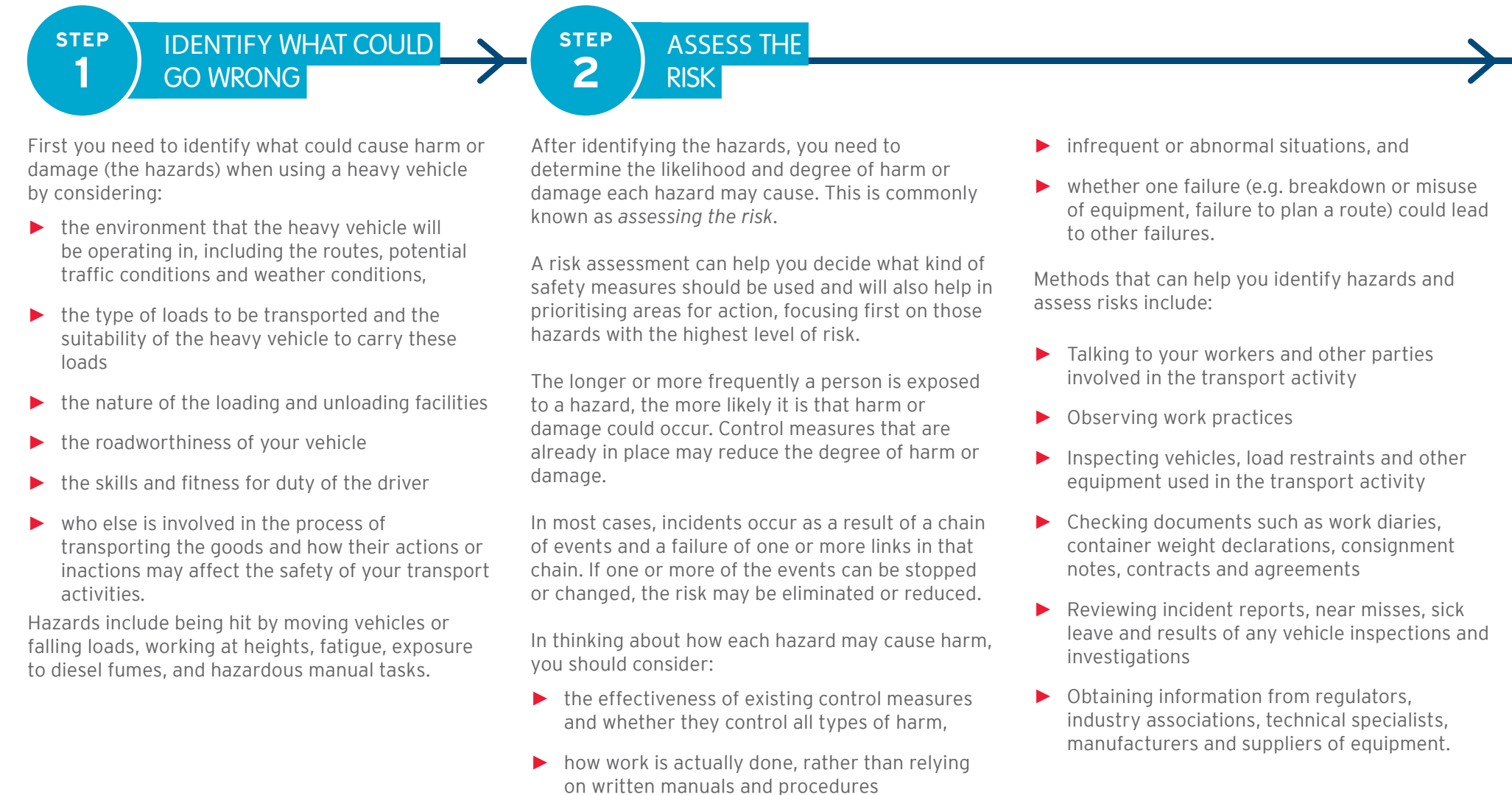
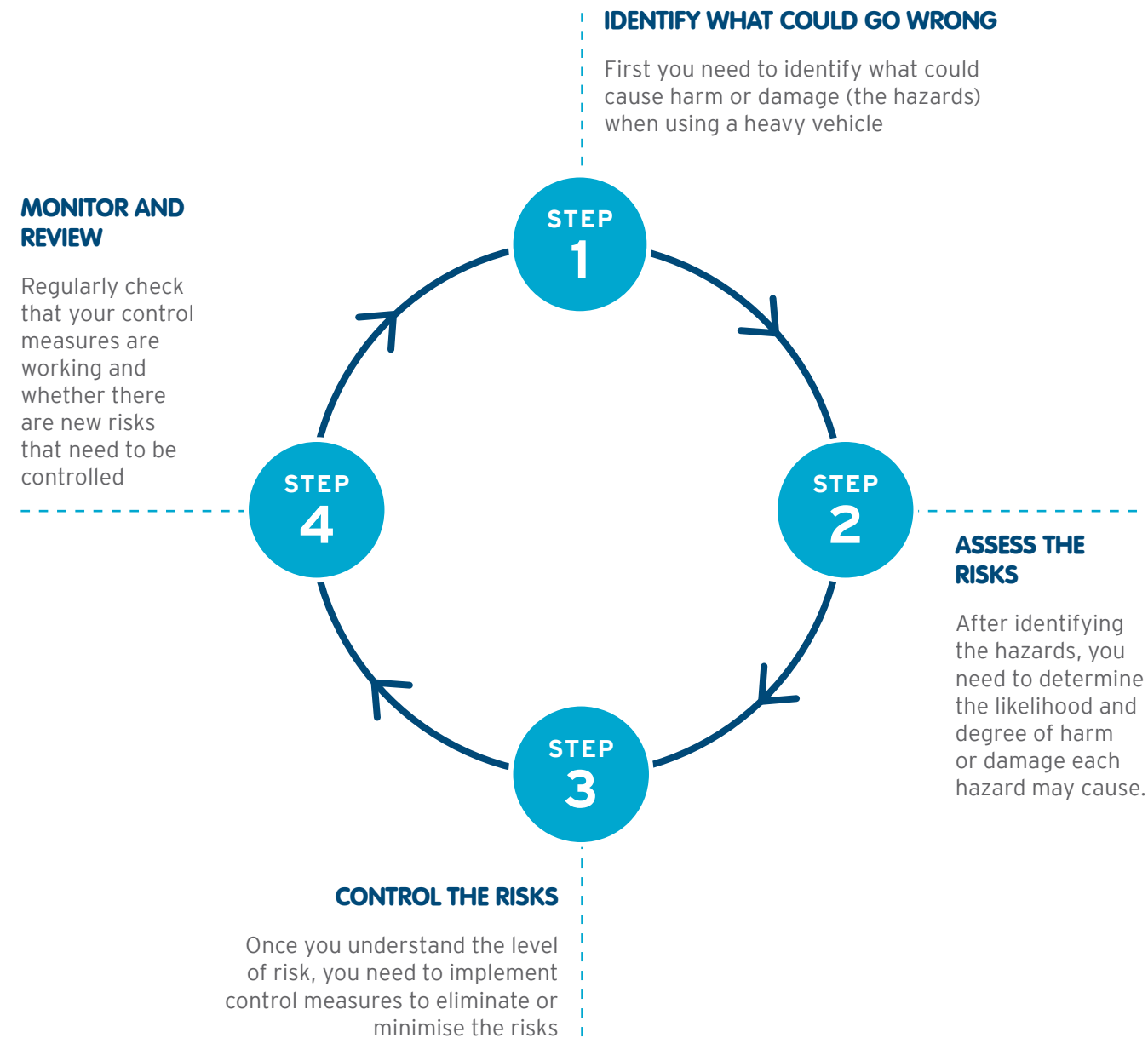
In this sense, the role of the party is one of observe, report and record. If a person sees a defective or potentially dangerous condition on a vehicle, then that person should contact the responsible transport operator to report the issue. For example, a loading manager is not expected to undertake vehicle inspections, but vigilance and being prepared to report what they see is a reasonable response.

Documenting or keeping a record of the observations, the interaction with the company and the action taken will help the duty holder comply with the law.



3. HOW TO MANAGE SAFETY RISKS

Determining what is reasonably practicable is a step-by-step process that is consistent with the risk management process. It involves:





Each hazard may cause different types of harm, each of which may be more or less likely.

Statistics show that the main causes of death in the road transport industry are vehicle collisions and being hit by moving or falling objects.

THE MAIN CAUSES OF INJURY ARE:



MUSCULAR STRESS



FALLS



TRIPS AND SLIPS



BEING HIT BY MOVING
OBJECTS

STEP
3

CONTROL THE RISKS

Once you understand the risks, you need to find out what can be done to eliminate or minimise them. There may be many different ways of eliminating or minimising risks, known as *control measures*. You should identify as many of these as you can, to give you the greatest scope to choose and apply the most effective control measures in your particular circumstances.

The ways of controlling risks are ranked from most effective and reliable to the least effective and reliable, known as the *hierarchy of risk controls* (see Figure 1).

ELIMINATE THE HAZARD OR RISK

The most effective control measure involves completely removing the hazard and associated risk. You must always aim to eliminate a hazard. The best way to do this is by, first, not introducing the hazard into the workplace.

Eliminating hazards is often cheaper and more easily achieved at the design or planning stage. For example, purchasing a truck with well-designed steps and handholds for safer access is easier than retrofitting these features. Your best chance of influencing the design of vehicles and equipment is by discussing and negotiating your requirements at the purchasing stage.

MINIMISE THE HAZARD OR RISK

Sometimes it may not be possible to eliminate a hazard if doing so means that you cannot carry out the job. In this case, you must minimise the risk by working through the other options in the hierarchy from top to bottom.

- ▶ **Substitute** the hazard with something safer
- ▶ **Isolate** the hazard from people by physically separating the hazard by distance or using barriers
- ▶ Use **engineering controls** which modify machines or equipment to make the work safer
- ▶ Use **administrative controls** which include work methods, procedures and training designed to minimise exposure to a hazard
- ▶ **Personal protective equipment (PPE)** reduces exposure to a hazard but only if workers wear and use the PPE correctly.

Administrative controls and PPE rely on human behaviour and supervision. Used on their own these measures tend to be least effective in minimising risks.



The more likely the risk or damage and the greater the harm that may result, the higher the level of control required.

FIGURE 1: THE HIERARCHY OF RISK CONTROL WITH EXAMPLES



DETERMINE WHAT YOU ARE REASONABLY ABLE TO DO

How far a control measure reduces risk, on its own or together with other controls, should be considered when deciding what can reasonably be done. A risk control measure that is effective in some circumstances may not be effective or suitable in others.

For example, taking a shorter route to manage fatigue may not be possible if the particular road is damaged due to a flood or not rated for the type of vehicle combination used.

The HVNL and other laws include control measures which **must** be complied with. For example, the HVNL has detailed requirements for managing fatigue and for vehicle mass, dimension and load restraint.

Registered Industry Codes of Practice, technical standards and materials developed by regulators also provide information on risks and control measures.

While you are not required to comply with a registered Industry Code of Practice, you are expected to consider this information. You should follow a code if it is suitable in your circumstances, unless you can comply with the law in another way that provides a standard of safety equivalent to or higher than the standard required in the code.

In a prosecution a court will consider what the duty holder knows or should have known about ways of removing or minimising the risk or preventing or minimising the damage. This means that you need to know what the law requires and keep up to date with the latest safety developments in the transport industry. You can do this in various ways, for example subscribing to relevant newsletters and alerts, checking regulators' websites or becoming a member of an industry association.

STEP 4

MONITOR AND REVIEW

The transport activity is dynamic and safety can be affected, for example by:

- ▶ changing weather conditions
- ▶ being forced to take different routes due to road closures or traffic accidents
- ▶ introducing new equipment, machinery or new processes
- ▶ engaging new drivers
- ▶ transporting different types of goods
- ▶ loading or unloading at unfamiliar places.

As circumstances change over time, the risks and the ways in which they can be eliminated or minimised will also change. It is therefore important to regularly check whether something more or different may need to be done to control the risks.



Don't wait until something goes wrong. Review the effectiveness of your control measures with each journey and check whether there are any new hazards or risks.

In carrying out a review, consider the following questions:

- ▶ Are the control measures working effectively in both their design and operation?
- ▶ Have the control measures introduced new problems?
- ▶ Have all hazards been identified?
- ▶ Have new work methods or new equipment made the job safer?
- ▶ Are safety procedures being followed?
- ▶ Has instruction and training provided to workers on how to work safely been successful?
- ▶ Are workers actively involved in identifying hazards and possible control measures? Are they openly raising health and safety concerns and reporting problems promptly?
- ▶ Is the frequency and severity of health and safety incidents reducing over time?
- ▶ If new legislation or new information becomes available, does it indicate current controls may no longer be the most effective?

If problems are found, go back through the risk management steps, review your information and make further decisions about risk control. Control measures for serious risks should be reviewed more often.

4. HOW TO WORK WITH OTHER PARTIES IN THE CHAIN

You share responsibility for the safety of your transport activities with others and therefore it is essential that you consult and work together with them to identify and control risks that may contribute to breaches of the HVNL.

The WHS laws include a requirement that if more than one person has a duty in relation to the same matter, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a duty in relation to that matter. This approach can also be used when working with other parties in the chain of responsibility under the HVNL.

STEP 1: CONSULT

First, identify the other duty holders involved in the transport activity, for example the consignor, the loading manager at a distribution centre, schedulers and any sub-contracted drivers.

Start discussions with these parties as soon as you become aware they are or will be involved in the work to ensure risks are identified and controlled from the start. Consultation may occur as part of contractual negotiations, or discussions at the time you are engaged to carry out the work, or when you engage another business to carry out work for you.

The consultation will depend on the circumstances, including the nature of the work and the extent of interaction. For example, a loading manager and a loader working together may engage in direct discussions and planning as part of their everyday work, whereas a large retailer may need formal mechanisms with the parties they engage to transport, load and unload their goods, such as written agreements and consultative committees.

A need for further consultation may arise when circumstances change during a journey, for example when an incident causes delays.

WHAT SHOULD BE DISCUSSED

- ▶ the timing and process for the collection and delivery of the goods
- ▶ who has control or influence over aspects of the work or the environment in which the work is being undertaken
- ▶ what each party knows about the hazards and risks associated with their activity
- ▶ ways in which the activities of each party may affect the work
- ▶ what information may be needed by the other parties to ensure they do not directly or indirectly cause or encourage the driver of the heavy vehicle or another person to contravene the HVNL, or the driver to exceed a speed limit
- ▶ whether the activities of others may introduce or increase hazards or risks
- ▶ what each party will be doing to control risks
- ▶ what further communication may be needed to monitor safety and identify any changes in the work or environment.

Appendix 2 will help you identify the key responsibilities of each party in the chain of responsibility.

STEP 2: CO-OPERATE

Co-operation involves implementing arrangements in accordance with any agreements reached during consultation with the other parties and not acting in a way that may compromise what they are doing.

If you are approached by other parties in the chain of responsibility to discuss a safety matter, you should respond to reasonable requests to assist them in meeting their duty and not obstruct communication.

STEP 3: CO-ORDINATE

The co-ordination of activities involves ensuring that the measures you each put in place work effectively together to control the risks. For example, transport operators and schedulers will need to coordinate pick-up and delivery times to ensure sufficient time is allowed for rest stops.

WHAT IF ANOTHER DUTY HOLDER REFUSES TO CONSULT OR CO-OPERATE?

What is reasonably practicable for you to do may depend on the level of participation of other parties in the supply chain. For example, there may be disagreement between you about the process for loading or unloading a truck. This does not mean that you should simply accept what you consider to be inadequate action by another duty holder. You should check that they are aware of their duty and what you consider is needed to comply with it. Written arrangements are not essential, but they may help to clarify everyone’s expectations.

You should consider including in your contracts a requirement for other parties to consult, co-operate and co-ordinate on safety matters, as that can be very useful. This will make the other party clearly aware of the obligation and give you a contractual right to enforce it.

CAN YOU RELY ON SOMEONE ELSE TO TAKE THE NECESSARY ACTION?

The duties under the HVNL require each party in the chain of responsibility to ensure, so far as is reasonably practicable, the safety of the transport activities. This does not necessarily require the duty holder to provide everything themselves to achieve this outcome. It is common practice to engage a specialist or technical expert to carry out specific types of work, for example engaging a heavy vehicle mechanic to carry out repairs or maintenance on your truck. In these situations, you can rely on the expertise of the specialist or technical expert.

However you still carry some responsibility for ensuring the requirements of the HVNL are met, which means that you need to verify and confirm, as far as you can, that the specialist or technical expert does in fact have the required expertise and processes to carry out the work properly.

5. THE DUTIES OF EXECUTIVE OFFICERS

An ‘executive’ of a business must exercise due diligence to ensure the business complies with the primary duty. It applies to executive directors and officers of a corporation, partners of an unincorporated partnership and management members of an unincorporated body. The duty is equivalent to the duty of an ‘officer’ under WHS laws.

In order to meet the due diligence obligation executives must take reasonable steps to:

- ▶ keep up to date with knowledge about safe practices in the transport industry
- ▶ understand the organisation’s activities and the hazards and risks associated with them
- ▶ ensure that the organisation has resources available to eliminate or minimise those risks
- ▶ ensure the organisation implements process to manage risk and respond to incidents, and
- ▶ check and confirm that these resources and processes are provided and used.

An executive must have a good understanding of what is going on in the business before they are able to make decisions on resources and processes to eliminate or minimise those risks. That knowledge will be:

- ▶ technical (knowledge of safety risks and legal requirements in the industry)
- ▶ situational (what is happening and what that means), and
- ▶ strategic (what should the business be doing and why).

Executives will need information from various sources, including from managers, subject matter experts and workers involved in the transport operations.

If an executive fails to exercise due diligence they can be held personally liable, even if the company they work for is not convicted of an offence relating to the duty.

THE FOLLOWING QUESTIONS MAY HELP EXECUTIVES DETERMINE WHETHER THEY ARE TAKING POSITIVE STEPS TO MEET THEIR DUTY:



KEEPING UP TO DATE WITH KNOWLEDGE

- ▶ How does your business keep up to date with safety issues?
- ▶ What type of information is provided in these updates? Do they include regulatory changes, industry safety practices and technological developments?
- ▶ How do you ensure this information is distributed to the right people - executives, employees and parties in your supply chain?



UNDERSTANDING THE BUSINESS OPERATIONS AND ASSOCIATED HAZARDS

- ▶ What steps are taken to identify hazards and assess the risks in your business?
- ▶ How well do the executives understand your operations and the associated hazards and risks, particularly where they are not directly involved in day-to-day running of the business?



AVAILABILITY AND USE OF RESOURCES AND PROCESSES TO MANAGE RISKS

- ▶ What resources do you apply to safety in terms of people, time, money, training?
- ▶ Are the resources applied proportionate to the level of risk?
- ▶ Are the processes for managing risks effective? How do you know?
- ▶ Are the safety roles and responsibilities of parties within the business and in your supply chain clearly identified and communicated?



PROCESSES FOR RECEIVING AND CONSIDERING INFORMATION

- ▶ How is information collected on incidents, hazards, vehicle maintenance and non-compliance in the business?
- ▶ How is information about hazards and risks and any changes to the operations communicated up the chain of responsibility and back down again?
- ▶ Do the incident, hazard and risk reports provide an accurate account of safety performance in the business?
- ▶ Are these reports communicated to the right people? What is done about them?



PROCESS FOR COMPLIANCE WITH LEGAL OBLIGATIONS

- ▶ Has your business identified all of its legal obligations?
- ▶ Are there systematic processes in place for managing risks?
- ▶ What processes are in place for addressing breaches of the HVNL and WHS laws? Do you have supporting evidence?



VERIFY

- ▶ How do you monitor that your business practices and those of other parties in the chain of responsibility do not cause or encourage the driver of the heavy vehicle or another person to contravene the HVNL, or the driver to exceed a speed limit?
- ▶ Do you challenge or question the information you receive, ask for evidence, test or audit procedures?



6. PUTTING IT ALL TOGETHER - THE SAFETY MANAGEMENT SYSTEM

A safety management system will help you comprehensively manage the safety performance of your business and comply with safety laws. It may also give your business a commercial advantage and is a requirement for various accreditation schemes.

Your safety management system should be tailored to suit your business, whether it is small or large, and everyone in your business should be familiar with it. A safety management system generally consists of the following key elements:

MANAGEMENT COMMITMENT AND ACCOUNTABILITY

Effective safety management starts at the top. This is reflected in the duty of executives to exercise due diligence (see section 5 of this guide). Those who operate and manage the business need to show that they take safety seriously, for example by:

- ▶ getting involved in health and safety issues
- ▶ investing time and money in health and safety
- ▶ ensuring safety procedures are followed.

Clearly assign safety roles and responsibilities and ensure everyone in your business understands where they fit in the safety management system. This can be done through organisational charts, job descriptions and safety policies.

Identify the legal requirements that apply to your business and implement systems or practices to detect and prevent potential breaches.

COMMUNICATION AND CONSULTATION

Identify who needs what information, when they need it and how that information will be collected, checked, communicated and documented if necessary.

In addition to consulting parties in the chain of responsibility (see section 4 of this guide) the WHS laws require that you consult your workers on health and safety issues so that you can take their views into account when making decisions that affect them. Consultation can be as simple as talking to your workers regularly and encouraging them to:

- ▶ ask questions about health and safety
- ▶ raise concerns and report problems
- ▶ make safety recommendations and be part of the problem solving process.

RISK MANAGEMENT

The risk management process outlined in section 3 of this guide is the driving force behind the safety management system. Involve your workers in this process to achieve the best outcome.

COMPETENCY AND TRAINING

Check the competency of your workers and contractors, including licences that are required. Use the risk management process to identify any gaps in competency and provide training to ensure workers can undertake their jobs safely. Managers or supervisors can provide on-the-job training in such things as:

- ▶ Induction of new employees
- ▶ Specific hazards associated with the job, e.g. fatigue management
- ▶ Safe work procedures, e.g. load restraint
- ▶ Emergency procedures

PROCUREMENT AND CONTRACT MANAGEMENT

Include safety specifications when purchasing new vehicles and equipment. Select contractors with safety as one of your key conditions and specify your requirements. Ask questions and get evidence of their experience with the type of job you want them to do and their safety performance. Ensure that the terms of any contract do not lead to unsafe work.

SECURITY MANAGEMENT

Include a list of the risks arising from theft, assault, sabotage, terrorism and other criminal acts that could cause harm or damage and the measures you will use to manage those risks. Work with other parties in the supply chain to prevent and respond to security incidents.

INCIDENTS AND EMERGENCIES

Consider the type of emergencies your business could be exposed to, for example fire, explosion, chemical spills, vehicle accidents and medical emergencies. Develop procedures on how to respond quickly and safely when a critical incident occurs. Test these procedures at regular intervals to ensure they can be properly implemented if an actual emergency arises.

Investigate the causes of incidents to prevent recurrence and ensure 'notifiable' incidents are reported to relevant authorities.

RECORD KEEPING

There are specific record-keeping requirements under the HVNL, for example work diaries and permits. Other records of your safety management system should be kept to help you review your safety performance and demonstrate compliance with safety laws, for example training records and risk registers.

Ensure that everyone in your business is aware of record-keeping requirements, including which records are accessible and where they are kept.

REVIEW

Regularly review how effective your safety management system is in eliminating or reducing risks and achieving compliance. Ask your workers on whether, and how, it could be improved.



APPENDIX 1 DO YOU HAVE CHAIN OF RESPONSIBILITY DUTIES?

If you select 'yes' in any of the following checkboxes for a specific role/s, you are a party in the chain of responsibility under the HVNL.

 Tear this page out and photocopy for future uses

Are you a loading manager?	Yes	No
You manage, or are responsible for the operation of, premises where heavy vehicles are regularly loaded or unloaded		
You are assigned responsibility for supervising, managing or controlling, directly or indirectly, activities carried out by a loader or unloader of goods at regular loading or unloading premises.		
Are you a loader or unloader?	Yes	No
You load or unload goods in or from a heavy vehicle		
You load or unload the vehicle or any container that is in or part of the vehicle		
You load or unload the vehicle with a freight container (whether or not it contains goods for road transport)		
WHAT IS A HEAVY VEHICLE LOAD?		
<div><div>▶</div>All the goods, passengers, drivers and other persons in the vehicle</div> <div><div>▶</div>All fuel, water, lubricants and readily removable equipment carried in the vehicle and required for its normal use</div> <div><div>▶</div>Personal items used by the vehicle's driver or someone else necessary for the normal use of the vehicle</div> <div><div>▶</div>Anything that is normally removed from the vehicle when not in use</div>		
Are you a consignee?	Yes	No
You have agreed to and been named as a consignee in the documentation for the road transport of the goods		
You receive the goods after road transport (but not merely the unloader)		
Note: In some circumstances, this also applies when acting through an agent or intermediary		

Are you a consignor?	Yes	No
You have agreed to and been named as a consignor in the documentation for the road transport of the goods		
You request an operator of the heavy vehicle (directly, indirectly or through their representative) to transport the goods by road		
You have possession of, or control over, the goods immediately before the goods are transported by road		
You load a vehicle with the goods for road transport at an unattended storage/collection location where the goods are stored, or temporarily held waiting for collection Note: This storage/collection location would be unattended, other than by the vehicle's driver or someone else necessary for the normal use of the vehicle, during loading		
The goods are imported into Australia and you are the importer		
Are you an operator?	Yes	No
You control or direct the use of a heavy vehicle (includes self-employed drivers)		
Are you a scheduler?	Yes	No
You schedule the transport of goods or passengers		
You schedule the work/rest times of a heavy vehicle driver		

Are you a packer?	Yes	No
You put goods into packaging, even if that packaging is already on a vehicle (e.g. person filling up a fuel tanker)		
You assemble goods in an outer packaging (e.g. mixed products bundled on a pallet)		
You supervise, manage or control these packaging activities		
Are you an employer?	Yes	No
You employ someone to drive a heavy vehicle (including casual, permanent, part time, contract driving and labour hire)		
Are you a prime contractor?	Yes	No
You engage driver/s to drive a heavy vehicle under a contract for services		
Are you an executive officer?	Yes	No
You are an executive officer of a corporation (e.g. director)		
You are a partner of an unincorporated partnership		
You are a person who is involved in the management of an unincorporated body		

APPENDIX 2 CHAIN OF RESPONSIBILITY ROLES

You must ensure the safety of your transport activities relating to a vehicle so far as is reasonably practicable, including ensuring that your actions or inactions do not cause or encourage the driver of the heavy vehicle or another person to contravene the HVNL, or the driver to exceed a speed limit. Check that other parties in your supply chain are meeting their responsibilities.



These checklists provide guidance on the key responsibilities of each party.

Tear this page out and photocopy for future uses

What you must do

- ▶ Drivers and other parties involved in the transport activity are consulted on how to ensure safety and deal with any issues
- ▶ Systems are in place to identify, assess and control safety risks
- ▶ Systems are in place to monitor and supervise compliance in real-time, where possible
- ▶ The effectiveness of these systems are tested regularly to ensure they are working as intended
- ▶ Contracts and agreements are reviewed to ensure they do not demand or encourage unlawful behaviour
- ▶ Only companies able to demonstrate safe and compliant practices are engaged
- ▶ Record-keeping systems are in place to keep records for three years
- ▶ Responsible parties are immediately notified of any unsafe conditions,

ALL PARTIES



What you must do

- ▶ Loads do not exceed vehicle mass or dimension limits
- ▶ Loading arrangements do not cause delays
- ▶ Load weights are accurate
- ▶ Consignment documentation is accurate and operators carrying freight containers have a complying Container Weight Declaration
- ▶ Your delivery requirements 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

CONSIGNORS

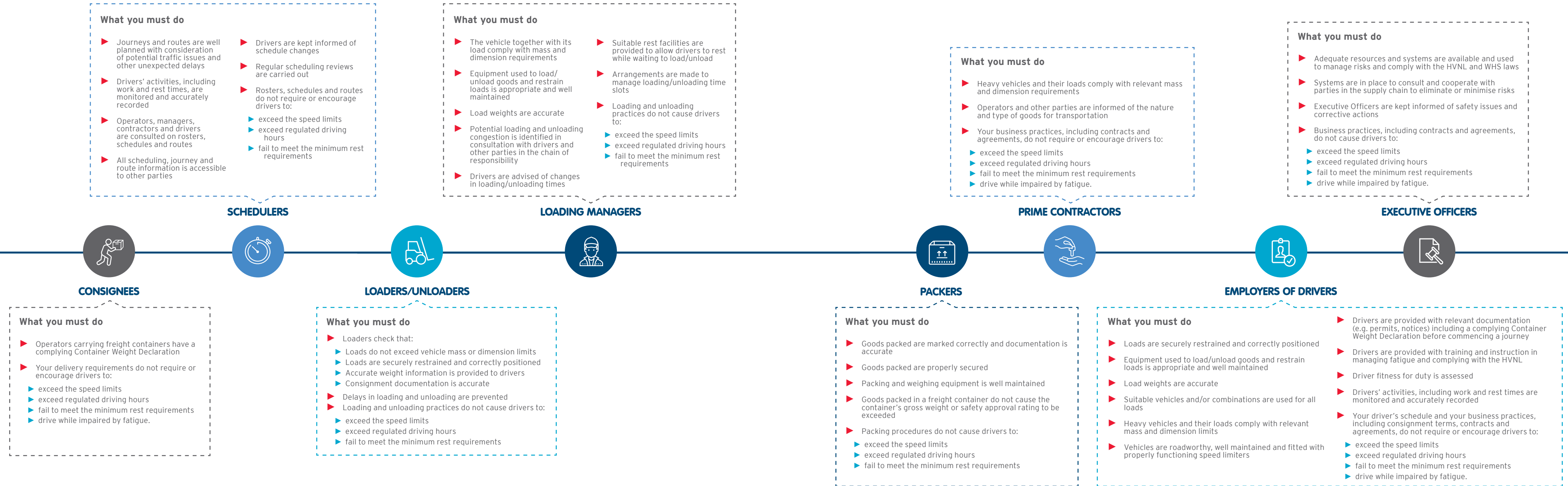


OPERATORS



What you must do

- ▶ Loads are securely restrained and correctly positioned
- ▶ Equipment used to restrain loads is appropriate and well maintained
- ▶ Load weights are accurate
- ▶ Suitable vehicles and/or combinations are used for all loads
- ▶ Heavy vehicles and their loads comply with relevant mass and dimension limits
- ▶ Vehicles are roadworthy, well maintained and fitted with properly functioning speed limiters
- ▶ Drivers are provided with relevant documentation (e.g. permits, notices) including a complying Container Weight Declaration before commencing a journey
- ▶ Driver fitness for duty is assessed
- ▶ Drivers' activities, including work and rest times are monitored and accurately recorded
- ▶ Your driver's schedule and your business practices, including consignment terms, contracts and agreements, 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.





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