



# chain of responsibility

Understanding your obligations as a customer

**TOLL**

# All parties in the supply chain are responsible for safe on-road behaviour.

## why chain of responsibility is your core business

Freight transport is an essential part of the Australian economy. It delivers goods to the consumers that want them and provides employment for hundreds of thousands of people.

However, transport and logistics is one of the most dangerous Australian occupations. Incorrectly loaded vehicles can lead to rollovers, injury, lost or damaged loads and even death. Speeding and fatigue are major contributors to road safety accidents. For these reasons, everyone involved in the supply chain must be vigilant about safety and ensure their actions (or inactions) don't cause other people to do the wrong thing.

This is at the heart of chain of responsibility: that all parties in the supply chain work to ensure safe on-road behaviours.

This is Toll's responsibility. This is **your** responsibility.

It is essential that you understand how chain of responsibility works and what your obligations are. Failure to understand and comply with these requirements could have serious safety and legal consequences.

## what is chain of responsibility?

Chain of responsibility (or CoR) is a legal concept used in Australian road transport law. Chain of responsibility recognises that what happens on the road can sometimes be influenced by off-road parties in the supply chain. These parties include people who dispatch and receive goods, people who load and pack goods, employers, operators and people who schedule drivers.

On-road safety requires all parties in the chain to behave in ways that ensure that safe vehicles with safe drivers and safe loads are on the roads at all times. This is a collective responsibility that requires everyone to do their part.

For most states and territories, chain of responsibility is given effect through the heavy vehicle national law (HVNL) which became operational in Australia from February 2014. However, chain of responsibility is not new – it has been in force in several Australian states in various forms since the late 1980s.

## why is chain of responsibility important to Toll?

Toll Group considers chain of responsibility a fundamental part of looking after the safety of our workers, road users and the people we work with, whether customers or contractors.

Chain of responsibility compliance is also one of the ways Toll seeks to differentiate itself from its competitors and to be recognised as a market leader.

Toll seeks to partner with supply chain parties who are fully committed to fulfilling their chain of responsibility obligations.

## what is the purpose of this guide?

This guide has been produced to help inform Toll's customers and clients about chain of responsibility.

The guide explains:

- how chain of responsibility works
- why chain of responsibility is important
- what obligations are imposed on clients and customers by chain of responsibility, and
- how Toll fulfils its obligations and provides peace of mind to its supply chain partners.

## why are off-road parties considered important?

Before the introduction of chain of responsibility, drivers and sometimes operators were the focus of enforcement. This approach penalised drivers while overlooking or downplaying the role of off-road parties in influencing on-road behaviour.

Off-road parties can influence or direct on-road behaviour in many ways. They can directly or indirectly encourage unsafe behaviour by, for example:

- Offering financial or other incentives to speed
- Developing schedules that don't provide sufficient time for restorative rest
- Accepting delivery of over-mass loads
- Imposing penalties for late deliveries

Off-road parties can also influence on-road behaviour by omitting or neglecting to do important safety-related things, for example:

- Maintaining vehicles to a roadworthy standard
- Responding to driver concerns
- Investigating 'near misses' and taking steps to ensure they don't recur
- Assessing available hours to ensure drivers do not breach work and rest limits

## how does CoR ‘capture’ off-road parties in the chain?

Chain of responsibility works by imposing specific duties or obligations on parties in the chain. When specific duties are imposed, those parties are required to do (or not do) certain things. In some cases, evidence that a driver breached a road law can be taken to mean that off-road parties were also in breach. This is known as ‘extended liability’.

For example, did you know that:

- If a driver is on the road without a complying container weight declaration the consignor may be held liable
- Where a loading manager’s estimates are out by more than half an hour, the driver must be able to take rest
- If a load doesn’t comply with legal mass requirements the packer of the goods may be held liable
- If a driver’s schedule doesn’t permit all required rest breaks and travel within the designated speed limit, the scheduler can be fined \$4,100
- A contract that does not comply with speed, fatigue and mass, dimension and loading requirements can be declared void

However, complying with CoR isn’t about avoiding legal penalties. It’s a way of keeping drivers and other road users safe.

## where does chain of responsibility apply?

Chain of responsibility obligations apply to vehicle operations involving vehicles over 4.5 tonne GVM.

Obligations are placed on parties in the chain in relation to:

- mass requirements
- load restraint requirements
- dimension requirements
- speed management
- fatigue management
- heavy vehicle accreditation, and
- vehicle operations.

In the case of fatigue management, the law captures vehicles above 12 tonne GVM, rather than above 4.5 tonne. Chain of responsibility obligations also apply to the transport of dangerous goods.

Party	Mass, dimension and loading	Speeding	Fatigue	Heavy vehicle accreditation	Vehicle operations
Employer	x	x	x		x
Prime contractor	x	x	x		x
Operator of the vehicle	x	x	x	x	x
Consignor of the goods	x	x	x		
Packer of the goods	x				
Loading manager	x	x	x		
Loader	x		x		
Consignee (receiver) of the goods	x	x	x		
Scheduler		x	x		
Unloader			x		
All persons involved in the transport task			x		

## how do I know if I’m a party in the chain?

The parties in the supply chain and the areas where specific duties are assigned are shown in the table above. Toll’s customers and clients would generally fall into the category of consignors, packers, loading managers, loaders, consignees, schedulers and unloaders. Importantly, everyone in the supply chain has responsibilities in relation to fatigue management.

It is important to understand that a person becomes a party in the chain by virtue of the function they fulfil, not by their job title. For example, a job title doesn’t have to include the word ‘scheduler’. If someone is involved in assigning driving jobs and deliveries and giving instructions to drivers then they perform at least some of the functions of a scheduler. Therefore, they have CoR responsibilities.

It is possible for one person to act as more than one party in the chain at any one time. For example, a person might perform both loading manager and consignor functions and have obligations under the law for both functions.

## we’ve never had any problems, so why do we need chain of responsibility?

At the heart of chain of responsibility is a refusal to be complacent. It recognises that we cannot afford to assume that ‘the way we’ve always done things’ is good enough. Our beliefs and attitudes, however genuinely held, could be mistaken and lead us to overlook important safety considerations.

Such beliefs and attitudes might include:

- ‘I’ve known that driver for twenty years – he knows how things work’
- ‘I just pack the goods. What happens on the road is nothing to do with me’
- ‘I don’t know when it was last tested but I’m pretty sure that the weighbridge is accurate’
- ‘We’ll unload them when we get to them. It’s the driver’s responsibility to manage their hours’
- ‘How was I to know that the permit had expired?’
- ‘If the container weight declaration says its within limits, it must be right’

CoR requires that we actively review our practices and beliefs, and that we learn from our past incidents and near-misses.

If we develop this mindset we are living and breathing chain of responsibility.

## how can I make sure other people do the right thing?

Being a party in the supply chain, you are in a position to influence other people to do the right thing.

However, there are practical limits to the influence of even the most diligent individual. Despite best endeavours, mistakes can still happen and other parties may remain ignorant of their responsibilities or deliberately break the law.

We cannot always control other people's actions. What we can do is take the **reasonable steps** available through our own power and influence to promote the safety and wellbeing of others.

As far as the law is concerned, even if an accident or a breach occurs, if you can show that you took all reasonable steps to prevent it, then you have fulfilled your responsibilities.

As a defence, reasonable steps only applies where:

You did not know, and could not reasonably have been expected to know, of the contravention concerned; **and**

**Either**

You took all reasonable steps to prevent the contravention; **or**

There were no steps you could reasonably have been expected to take to prevent the contravention.

The law requires all reasonable steps to be taken. Not some, but all reasonable steps.

## how does Toll take reasonable steps?

The way in which Toll takes reasonable steps to ensure the safety of its workers, clients, customers and other road users varies depending on the nature of the transport task.

Some of the ways in which Toll may take reasonable steps include:

- Use of GPS monitoring (or 'black box' technology) to monitor and manage driver speed and fatigue
- Use of DSS technology to monitor eye-lid and head movement for fatigue management in high-risk sectors such as mining
- In-truck and outward-facing cameras to measure G-force events to enable incident investigation and proactive management
- Driver training on purpose-built simulators
- Strict compliance standards for speed limiters
- Ongoing consultation with industry associations, regulators, enforcement agencies and unions to ensure best practice and continuous improvement.

If you are a consignor or consignee, you need to satisfy yourself that the terms on which goods are transported won't lead to breaches of the law. In other words, you need to know the reasonable steps that your transport partners are taking.

## what are the consequences of non compliance?

Non compliance with chain of responsibility provisions could mean injury or even death for a driver, customer, client or fellow road-user. This is the primary reason for compliance with chain of responsibility provisions.

Beyond safety and reputational consequences, non compliance can also have serious legal consequences.

These consequences can range from warnings to infringement notices, demerit points and court-imposed fines. CoR fines can be as much as \$50,000 for a single offence. In the worst cases, a judge may prohibit a person from having any role or responsibility associated with road transport for up to one year. A recent compensation order imposed on a transport company was in excess of one million dollars. The enforcement pyramid is shown on the final page.

## further information

The heavy vehicle national law: <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/H/HeavyVehNLA12.pdf>

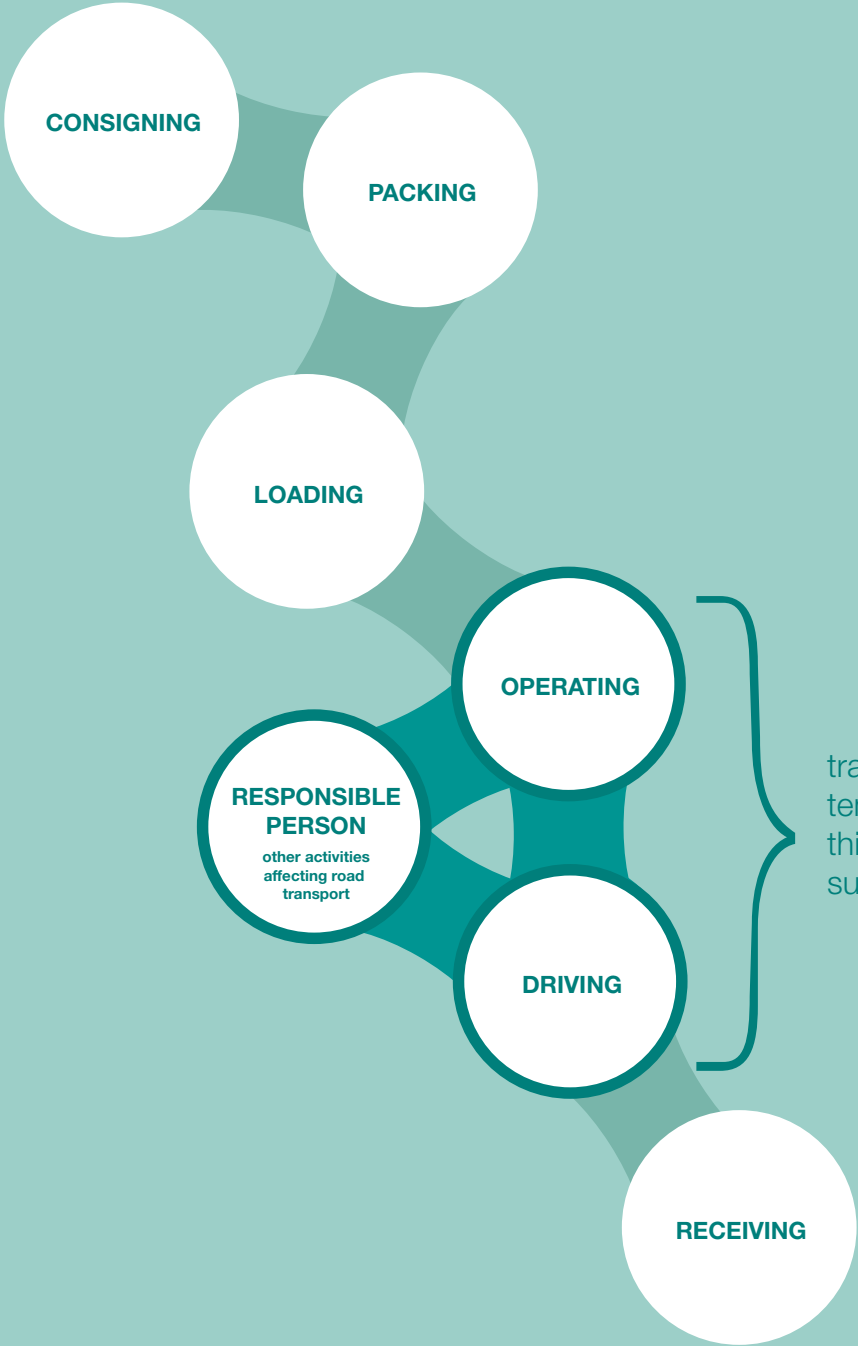
The National Transport Commission's Fatigue Management Guidelines: [http://www.ntc.gov.au/filemedia/bulletins/Guidelines\\_Fatigue\\_August07.pdf](http://www.ntc.gov.au/filemedia/bulletins/Guidelines_Fatigue_August07.pdf)

The National Transport Commission's Load Restraint Guide: <http://www.ntc.gov.au/viewpage.aspx?documentid=00862>

The National Heavy Vehicle Regulator's information about chain of responsibility: <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility>

The Australian Logistics Council's guidance material in relation to queuing and time-slotting principles, and load restraint: <http://alcsafety.com.au/guidance-tools>

the supply chain



# 1. Mass, dimension and loading – parties and offences†

## 1.1 extended liability offences

Offence	Relevant Party	Maximum Penalty	Infringable
If the driver drives a heavy vehicle that (together with its load) doesn't comply with the mass requirements applying to the vehicle (s96); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator of the vehicle<sup>1</sup></li> <li>• Consignor of the goods</li> <li>• Packer of the goods</li> <li>• Loading manager</li> <li>• Loader</li> </ul> are also taken to have committed an offence (s183(2))	Minor risk breach: \$4,100	✓
		Substantial risk breach: \$6,150	✓
		Severe risk breach: \$10,240, plus a maximum of \$510 for every additional 1% over a 120% overload to a maximum of \$20,490 additional penalty.	✗
If the driver drives a heavy vehicle that (together with its load) does not, or whose components do not or whose load does not, comply with the applicable dimension requirements (s102); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator of the vehicle</li> <li>• Consignor of the goods</li> <li>• Packer of the goods</li> <li>• Loading manager</li> <li>• Loader</li> </ul> are also taken to have committed an offence (s183(2))	If the vehicle does not have goods or passengers in it: \$3,070	✓
		If the vehicle has goods or passengers in it: Minor risk breach: \$3,070	✓
		If the vehicle has goods or passengers in it: Substantial risk breach: \$5,120	✓
		If the vehicle has goods or passengers in it: Severe risk breach: \$10,240	✗
If the driver drives a heavy vehicle that does not, or whose load does not, comply with the loading requirements applying to the vehicle (s111(1)); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator of the vehicle</li> <li>• Consignor of the goods</li> <li>• Packer of the goods</li> <li>• Loading manager</li> <li>• Loader</li> </ul> are also taken to have committed an offence (s183(2))	Minor risk breach: \$3,070	✓
		Substantial risk breach: \$5,120	✓
		Severe risk breach: \$10,240	✗
If the driver of a pilot or escort vehicle accompanying a heavy vehicle does not comply with the conditions of the mass and dimension exemption about the use of the pilot vehicle or escort vehicle (s130(2)); then the	<ul style="list-style-type: none"> <li>• Operator</li> </ul> Is taken to have also committed an offence (s130(3))	\$6,150	✓
If the driver of a class 1 or class 3 heavy vehicle does not keep relevant documentation <sup>2</sup> while driving under a mass or dimension exemption (notice) (s132(1)); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Are taken to have also committed an offence (s132(7))	\$3,070	✓
If the driver class 1 or class 3 heavy vehicle does not keep a copy of the permit while driving under a mass or dimension exemption (permit) (s133(1)); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Are taken to have also committed an offence (s133(7))	\$3,070	✓
If the driver of a class 2 heavy vehicle does not keep relevant documentation <sup>3</sup> while driving the vehicle under the authorisation (notice) (s151(3)); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Are taken to have also committed an offence (s151(7))	\$3,070	✓

† Penalty amounts are as at 1 July 2014.

<sup>1</sup> This includes an operator of any part of the configuration in the vehicle.

<sup>2</sup> A relevant document = the Commonwealth Gazette notice for the exemption or an information sheet about the exemption published on the NHVR website.

<sup>3</sup> A relevant document = the Commonwealth Gazette notice for the authorisation or an information sheet about the authorisation published on the NHVR website.

## 1.2 specific duties

Offence	Relevant Party	Maximum Penalty	Infringable
The responsible entity for the freight container must not permit an operator or driver of a heavy vehicle to transport the freight container by road using the vehicle unless the operator or driver has been provided with a complying container weight declaration for the freight container. (s190)	<ul style="list-style-type: none"> <li>Consignor<sup>4</sup></li> </ul>	\$6,150	✓
<p>An operator of a heavy vehicle must not permit the vehicle's driver to transport the freight container by road using the vehicle unless the driver has been provided with a complying container weight declaration for the freight container. (s191(1))</p> <p>If the driver does not have a complying container weight declaration when transporting the goods, the operator will be taken to be in breach unless they can prove that the driver was provided with the declaration before the driver started transporting the freight container. (s191(2))</p>	<ul style="list-style-type: none"> <li>Operator</li> </ul>	\$6,150	✓
If the freight container is to be transported partly by a person (a carrier) by a means other than by road using a heavy vehicle, an operator of a heavy vehicle must not give the freight container to the carrier unless the carrier has been provided with— (a) a complying container weight declaration for the freight container; or (b) the prescribed particulars contained in a complying container weight declaration for the freight container. (s181(3))	<ul style="list-style-type: none"> <li>Operator</li> </ul>	\$6,150	✓
Each consignor or packer of the goods commits an offence if the weight of the container exceeds the maximum gross weight marked on the container or the container's safety approval plate. <sup>5</sup> (s193(2))	<ul style="list-style-type: none"> <li>Consignor or</li> <li>Packer</li> </ul>	\$10,240	✗
<p>A person who is a consignee of goods consigned for road transport using a heavy vehicle commits an offence if— (a) the person does an act or makes an omission; and (b) the doing of the act or making of the omission results, or is likely to result, in inducing or rewarding a contravention of a mass, dimension or loading requirement; and (c) the person— (i) intends that result; or (ii) is reckless or negligent as to the matter mentioned in paragraph (b). (s194(1))</p> <p>The consignee is taken as having intended the contravention where the container weight declaration was not given as required or the container weight declaration was false or misleading in a material particular (s194(2))</p>	<ul style="list-style-type: none"> <li>Consignee</li> </ul>	\$10,240	✗

<sup>4</sup> Responsible entity for a freight container means: the person whom in Australia, consigned the container for road transport using a heavy vehicle; or if there is no person as described... the person who, in Australia, for a consignor, arranged for the container's road transport using a heavy vehicle; or if there is no person as described... the person who, in Australia, physically offered the container for road transport using a heavy vehicle. (Definition of 'responsible entity', s.5)

<sup>5</sup> Safety approval plate refers to the plate required by the International Convention for Safe Containers – see schedule 5 of the Navigation Act 1912 (Commonwealth Act)

## 2. Speeding – parties and offences†

### 2.1 extended liability offences

Offence	Relevant Party	Maximum Penalty	Infringable
If a speeding offence is committed in relation to a heavy vehicle (s219), then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Are taken to have committed an offence (s219(1))	Where the limit is: 50km/h – 60km/h; and the driver exceeded by less than 15km/h \$3,070	✓
		Where the limit is: 70km/h – 80km/h; and the driver exceeded by less than 15km/h \$3,070	✓
		Where the limit is: 70km/h – 80km/h; and the driver exceeded by ≥ than 15km/h \$5,120	✓
		Where the limit is: 90km/h; and the driver is not driving a road train and they exceed the limit by less than 15km/h \$3,070	✓
		Where the limit is: 90km/h; and the driver is not driving a road train and they exceed the limit by ≥ than 15km/h \$5,120	✓
		Where the limit is: 90km/h; and the driver is driving a road train and they exceed the limit by less than 15km/h \$5,120	✓
		Where the limit is: 90km/h; and the driver is driving a road train and they exceed the limit by ≥ than 15km/h \$10,240	✗
		Where the limit is: 100km/h; and the driver exceeds the limit by less than 15km/h \$5,120	✓
		Where the limit is: 100km/h; and the driver exceeds the limit by ≥ than 15km/h \$5,120	✗

### 2.2 specific duties

Offence	Relevant Party	Maximum Penalty	Infringable
A relevant party for the driver of a heavy vehicle must take all reasonable steps to ensure the relevant party's business practices will not cause the driver to exceed a speed limit applying to the driver (s204(1)). [Examples of reasonable steps are provided]	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul>	\$10,240	✗
An employer of an employed driver of a heavy vehicle must not cause the driver to drive the heavy vehicle unless the employer has complied with section 204; and the employer is reasonably satisfied each scheduler for the vehicle has complied with sections 207 and 208. (s205)	<ul style="list-style-type: none"> <li>• Employer</li> </ul>	\$4,100	✗
A prime contractor or operator must not cause the driver to drive the heavy vehicle unless they have complied with section 204; and they are reasonably satisfied each scheduler for the vehicle has complied with sections 207 and 208. (s206)	<ul style="list-style-type: none"> <li>• Prime contractor</li> <li>• Operator</li> </ul>	\$4,100	✗

† Penalty amounts are as at 1 July 2014.



Offence	Relevant Party	Maximum Penalty	Infringable
A scheduler for a heavy vehicle must take all reasonable steps to ensure the schedule for the vehicle's driver will not cause the driver to exceed a speed limit applying to the driver (s207) [Examples of reasonable steps are provided]	<ul style="list-style-type: none"> <li>Scheduler</li> </ul>	\$10,240	×
A scheduler for a heavy vehicle must not cause the vehicle's driver to drive the vehicle unless— the scheduler has complied with section 207; and the driver's schedule for driving the vehicle allows— for compliance with all speed limits; and for the driver to take all required rest in compliance with all laws regulating the driver's work times and rest times; and for traffic conditions and other delays that could reasonably be expected. (s208)	<ul style="list-style-type: none"> <li>Scheduler</li> </ul>	\$4,100	×
A loading manager must take all reasonable steps to ensure the arrangements for loading goods onto and unloading goods from heavy vehicles will not cause the driver of a heavy vehicle to exceed a speed limit applying to the driver. (s209) [examples of reasonable steps are given]	<ul style="list-style-type: none"> <li>Loading manager</li> </ul>	\$10,240	×
A commercial consignor or a consignee of goods must take all reasonable steps to ensure the terms of consignment will not cause the relevant driver to exceed a speed limit applying to the driver (s212(1))	<ul style="list-style-type: none"> <li>Commercial consignor</li> <li>Consignee</li> </ul>	\$10,240	×
A commercial consignor or a consignee of goods must take all reasonable steps to ensure the terms of consignment will not cause a relevant party for the relevant driver to cause the driver to exceed a speed limit applying to the driver (s212(2))	<ul style="list-style-type: none"> <li>Commercial consignor</li> <li>Consignee</li> </ul>	\$10,240	×
A commercial consignor or a consignee of goods must not make a demand that affects, or may affect, a time in a schedule for the transport of the consigned goods unless— the consignor or consignee has complied with section 212; and the consignor or consignee is reasonably satisfied the making of the demand will not cause a person to contravene section 207 or 208 (s213).	<ul style="list-style-type: none"> <li>Commercial consignor</li> <li>Consignee</li> </ul>	\$6,150	×
A person must not ask, direct or require, directly or indirectly, the driver of a heavy vehicle, or a party in the chain of responsibility for a heavy vehicle, to do something the person knows, or ought reasonably to know, would have the effect of causing the driver to exceed a speed limit applying to the driver (s215)	<ul style="list-style-type: none"> <li>Employer</li> <li>Prime contractor</li> <li>Operator</li> <li>Scheduler</li> <li>Loading manager</li> <li>Commercial consignor</li> <li>Consignee</li> </ul>	\$10,240	×
A person must not enter into a contract or other agreement with the driver of a heavy vehicle, or with a party in the chain of responsibility for a heavy vehicle, that the person knows, or ought reasonably to know, would have the effect of causing the vehicle's driver to exceed a speed limit applying to the driver (s216(1)).	<ul style="list-style-type: none"> <li>Employer</li> <li>Prime contractor</li> <li>Operator</li> <li>Scheduler</li> <li>Loading manager</li> <li>Commercial consignor</li> <li>Consignee</li> </ul>	\$10,240	×
A person must not enter into a contract or other agreement with the driver of a heavy vehicle, or with a party in the chain of responsibility for a heavy vehicle, that the person knows, or ought reasonably to know, would encourage or provide an incentive for the vehicle's driver, or a party in the chain of responsibility for the vehicle to cause the vehicle's driver, to exceed a speed limit applying to the driver (s216(2)).	<ul style="list-style-type: none"> <li>Employer</li> <li>Prime contractor</li> <li>Operator</li> <li>Scheduler</li> <li>Loading manager</li> <li>Commercial consignor</li> <li>Consignee</li> </ul>	\$10,240	×

## 3. Fatigue – parties and offences†

### 3.1 extended liability offences

Offence	Relevant Party	Maximum Penalty	Infringable
If the driver of the fatigue-regulated heavy vehicle contravenes maximum work or minimum rest requirements (s261(1)); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> <li>• Scheduler</li> <li>• Consignor</li> <li>• Consignee</li> <li>• Loading manager<sup>6</sup></li> <li>• Loader</li> <li>• Unloader</li> </ul> are also taken to have committed an offence (s261(2))	Minor: \$4,100 Substantial: \$6,150 Severe: \$10,240 Critical: \$15,370	✘
If the driver of a fatigue-regulated heavy vehicle commits an offence against subsection (2)* (s287(3)); then the	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Is also taken to have committed an offence	\$3,070	✔
If the driver commits an offence against subsection (1)*, each relevant party for the driver is also taken to have committed the offence (s288(3)); then the...	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Is also taken to have committed an offence	\$3,070	✔
(*s287(1) & 288(1) state that the driver of a fatigue-regulated heavy vehicle who is driving the vehicle under a work and rest hours exemption (permit or notice) must keep a copy of the permit or notice in their possession).			✔
If the driver of a fatigue-regulated heavy vehicle commits an offence by contravening subdivision 1, 2, 3 or 4 (a relevant offence)*, (s315(1)); then the...	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> <li>• Scheduler</li> </ul> Is taken to have committed an offence (s315(2))	\$6,150	✘
(*Subdivision 1 relates to the requirement to keep a work diary. Subdivision 2 relates to information required to be included in a work diary. Subdivision 3 relates to how information must be recorded in a work diary. Subdivision 4 relates to work diaries that are filled up, lost or stolen).			✘
If the driver of a fatigue-regulated heavy vehicle commits an offence by contravening subsection 2*, (s376(2)); then the...	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> Is taken to have committed an offence (s376(3))287	\$3,070	✔
(*Subsection 2 relates to drivers of fatigue-regulated heavy vehicles operating under a work diary exemption (notice) keeping a copy of the notice in their possession if this is a condition of the notice).			✔

† Penalty amounts are as at 1 July 2014.

<sup>6</sup> For the purposes of ch. 6 HVNL, a loading manager is so defined only if the premises concerned are a premises at or from which an average of at least 5 fatigue-regulated heavy vehicles are loaded or unloaded on each day the premises are operated for loading or unloading heavy vehicles.

## 3.2 specific duties

Offence	Relevant Party	Maximum Penalty	Infringable
A party in the chain of responsibility (a party) for a fatigue-regulated heavy vehicle must take all reasonable steps to ensure a person (the other person) does not drive the vehicle on a road while the other person is impaired by fatigue (s229).	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> <li>• Scheduler</li> <li>• Consignor</li> <li>• Consignee</li> <li>• Loading manager<sup>7</sup></li> <li>• Loader</li> <li>• Unloader</li> </ul>	\$10,240	✘
A relevant party for the driver of a fatigue-regulated heavy vehicle must take all reasonable steps to ensure the relevant party's business practices will not cause the driver to— (a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s230(1))	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator (s227)</li> </ul>	\$6,150	✘
An employer of an employed driver of a fatigue-regulated heavy vehicle must not cause the driver to drive the vehicle unless— the employer has complied with section 230; and the employer, after making reasonable inquiries, is satisfied each scheduler for the vehicle has complied with Division 4. (s231)	<ul style="list-style-type: none"> <li>• Employer</li> </ul>	\$4,100	✘
The prime contractor or operator must not cause the driver to drive the fatigue-regulated heavy vehicle, or enter into a contract or other agreement with the driver to that effect, unless— the prime contractor or operator has complied with section 230; and the prime contractor or operator, after making reasonable inquiries, is satisfied each scheduler for the vehicle has complied with Division 4. (s232(2))	<ul style="list-style-type: none"> <li>• Prime contractor</li> <li>• Operator</li> </ul>	\$4,100	✘
A scheduler for a fatigue-regulated heavy vehicle must take all reasonable steps to ensure the schedule for the vehicle's driver will not cause the driver to— drive while impaired by fatigue; or drive while in breach of the driver's work and rest hours option; or drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s233(1))	<ul style="list-style-type: none"> <li>• Scheduler</li> </ul>	\$6,150	✘
A scheduler for a fatigue-regulated heavy vehicle must not cause the vehicle's driver to drive the vehicle unless— the scheduler has complied with section 233; and the schedule for the vehicle's driver allows for— the driver to have the rest time required under the driver's work and rest hours option; and traffic conditions and other delays that could reasonably be expected (s234(1))	<ul style="list-style-type: none"> <li>• Scheduler</li> </ul>	\$6,150	✘

<sup>7</sup> For the purposes of ch. 6 HVNL, a loading manager is so defined only if the premises concerned are a premises at or from which an average of at least 5 fatigue-regulated heavy vehicles are loaded or unloaded on each day the premises are operated for loading or unloading heavy vehicles.

## 3.2 specific duties, continued

Offence	Relevant Party	Maximum Penalty	Infringable
A consignor or consignee of goods for transport by a fatigue-regulated heavy vehicle must take all reasonable steps to ensure the terms of consignment will not result in, encourage or provide an incentive to the vehicle's driver to drive while impaired by fatigue; or drive while in breach of the driver's work and rest hours option; or drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s235(1))	<ul style="list-style-type: none"> <li>• Consignor</li> <li>• Consignee</li> </ul>	\$10,240	×
A consignor or consignee of goods for transport by a fatigue-regulated heavy vehicle must take all reasonable steps to ensure the terms of consignment will not result in, encourage or provide an incentive to a relevant party <sup>8</sup> for the vehicle's driver to cause the driver to— (a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s235(2))	<ul style="list-style-type: none"> <li>• Consignor</li> <li>• Consignee</li> </ul>	\$10,240	×
A consignor or consignee of goods for transport by a fatigue-regulated heavy vehicle must not cause the vehicle's driver to drive the vehicle, or enter into a contract or other agreement to that effect, unless the consignor or consignee has complied with section 235; and the consignor or consignee, after making reasonable inquiries, is satisfied each relevant party for the driver has complied with Division 3; and each scheduler for the vehicle has complied with Division 4 (s236(1))	<ul style="list-style-type: none"> <li>• Consignor</li> <li>• Consignee</li> </ul>	\$4,100	×
A consignor or consignee of goods for transport by a fatigue-regulated heavy vehicle must not make a demand that affects, or may affect, a time in a schedule for the transport of the consigned goods and that may cause the vehicle's driver to— (a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s237(1))	<ul style="list-style-type: none"> <li>• Consignor</li> <li>• Consignee</li> </ul>	\$10,240	×
A loading manager must take all reasonable steps to ensure the arrangements for loading goods onto and unloading goods from fatigue-regulated heavy vehicles at or from the premises in relation to which the person is a loading manager will not cause the driver of a fatigue-regulated heavy vehicle to— (a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s238(1))	<ul style="list-style-type: none"> <li>• Loading manager<sup>9</sup></li> </ul>	\$10,240	×

<sup>8</sup> A 'relevant party' in this context means an employer or prime contractor of the driver or an operator of the vehicle.

<sup>9</sup> For the purposes of ch. 6 HVNL, a loading manager is so defined only if the premises concerned are a premises at or from which an average of at least 5 fatigue-regulated heavy vehicles are loaded or unloaded on each day the premises are operated for loading or unloading heavy vehicles.

Offence	Relevant Party	Maximum Penalty	Infringable
The loading manager must take all reasonable steps to ensure the driver is able to rest while waiting for the goods to be loaded onto or unloaded from the fatigue-regulated heavy vehicle (s239(2)) <sup>10</sup>	<ul style="list-style-type: none"> <li>• Loading manager<sup>11</sup></li> </ul>	\$6,150	×
A person must not ask, direct or require, directly or indirectly, the driver of a fatigue-regulated heavy vehicle, or a party in the chain of responsibility for a fatigue-regulated heavy vehicle, to do or not do something the person knows, or ought reasonably to know, would have the effect of causing the vehicle's driver to— (a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s240).	<ul style="list-style-type: none"> <li>• 'A person'</li> </ul>	\$10,240	×
A person must not enter into a contract or other agreement <sup>12</sup> with the driver of a fatigue-regulated heavy vehicle, or with a party in the chain of responsibility for a fatigue-regulated heavy vehicle, that the person knows, or ought reasonably to know, would have the effect of causing the vehicle's driver to— (a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s241(1))	<ul style="list-style-type: none"> <li>• 'A person'</li> </ul>	\$10,240	×
A person must not enter into a contract or other agreement with the driver of a fatigue-regulated heavy vehicle, or with a party in the chain of responsibility for a fatigue-regulated heavy vehicle that the person knows, or ought reasonably to know, would encourage or provide an incentive for the vehicle's driver, or a party in the chain of responsibility for the vehicle to cause the vehicle's driver, to—(a) drive while impaired by fatigue; or (b) drive while in breach of the driver's work and rest hours option; or (c) drive in breach of another law to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option (s241(2))	<ul style="list-style-type: none"> <li>• 'A person'</li> </ul>	\$10,240	×
A relevant party for the driver must— ensure the driver does not drive a fatigue-regulated heavy vehicle after making the change unless the driver has complied with section 263*; and take whatever action is necessary to ensure the driver can comply with his or her obligations in relation to the change (s264(2)) *s263 regards changing from one work and rest hours option to another, e.g. from standard hours to BFM.	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> <li>• Scheduler</li> </ul>	\$6,150	×

<sup>10</sup> S239(1) sets out the circumstances in which the provision applies; generally where loading or unloading is more than 30 minutes late or the loader is unable to advise when loading or unloading will start or finish. This section also applies to a person acting under the loading manager's supervision or control.

<sup>11</sup> For the purposes of ch. 6 HVNL, a loading manager is so defined only if the premises concerned are a premises at or from which an average of at least 5 fatigue-regulated heavy vehicles are loaded or unloaded on each day the premises are operated for loading or unloading heavy vehicles.

<sup>12</sup> Such contracts can be found void – see s742

## 4. Operating under heavy vehicle accreditation – parties and offences†

### 4.1 extended liability offences

Offence	Relevant Party	Maximum Penalty	Infringable
<p>If the driver commits an offence against subsection 1*, then the...(s468)</p> <p>*(Subsection 1 relates to the requirement for a driver to keep in their possession a copy of the accreditation certificate under which they're operating and a document – signed by the operator – stating that the driver is operating under the operator's accreditation, has been inducted into the operator's management system and meets the requirements relating to drivers operating under the operator's heavy vehicle accreditation)</p>	<ul style="list-style-type: none"> <li>• Operator</li> </ul> <p>Is taken to have committed an offence (s468(3))</p>	\$3,070	✓

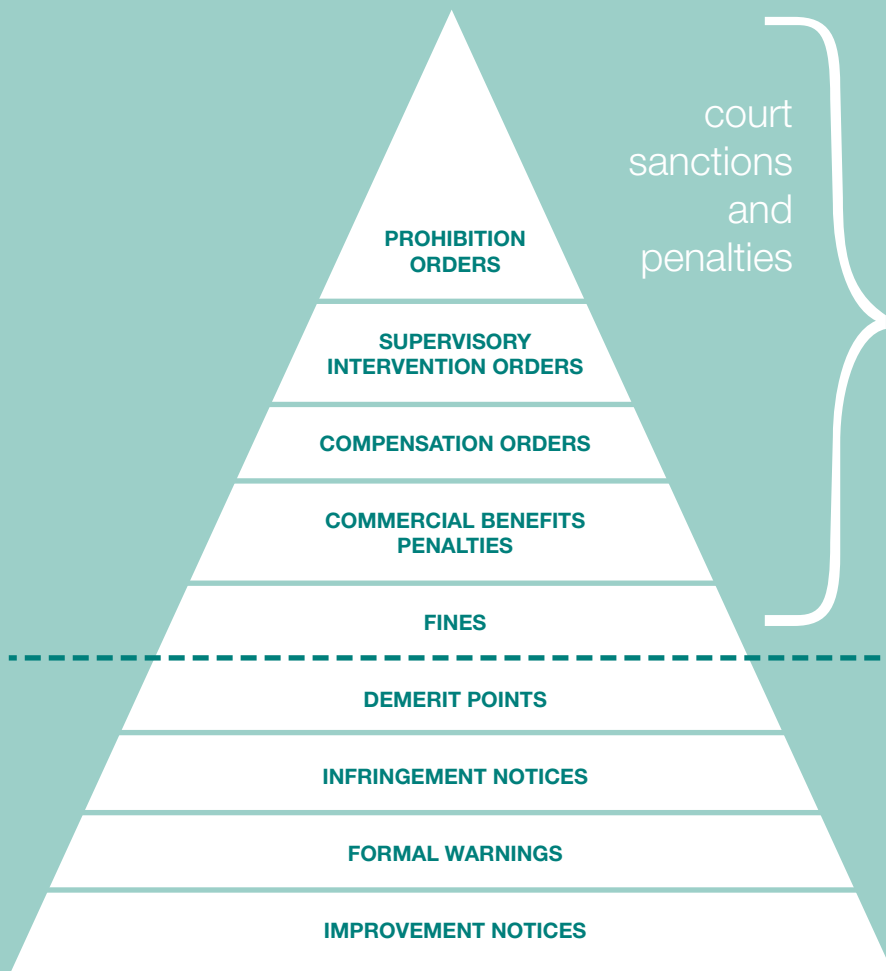
## 5. Vehicle safety – parties and offences†

### 5.1 extended liability offences

Offence	Relevant Party	Maximum Penalty	Infringable
<p>If the driver of a heavy vehicle commits an offence against subsection (2)*, each relevant party for the driver is taken to have committed an offence against this subsection (s82(3)); then the...</p> <p>*(Subsection 2 relates to the requirement for a driver operating under a vehicle standards exemption (notice) to carry a copy of the exemption in their possession if that is a condition of the exemption)</p>	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> <p>Is taken to have committed an offence.</p>	\$3,070	✓
<p>If the driver of a heavy vehicle commits an offence against subsection (1)*, each relevant party for the driver is taken to have committed an offence against this subsection (s83(3)); then the...</p> <p>*(Subsection 1 relates to the requirement for a driver operating under a vehicle standards exemption (permit) to carry a copy of the exemption in their possession)</p>	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Prime contractor</li> <li>• Operator</li> </ul> <p>Is taken to have committed an offence.</p>	\$3,070	✓

† Penalty amounts are as at 1 July 2014.

# the enforcement pyramid



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This guide is provided as general information only and should not be used as a substitute for legal advice.

This information is current as at 1 July 2014. For the most current Chain of Responsibility information please refer to the National Heavy Vehicle Regulator.

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