



Chain of Responsibility Policy

Drivers and operators have traditionally been the focus of heavy vehicle transport legislation breaches. However, with recent and further legislative changes planned, all parties in the transport chain have a clear responsibility to ensure road safety and legislation requirements are not compromised. This is called the chain of responsibility.

The Chain of Responsibility concept is that all those with responsibility for activities that affect compliance with the road transport laws should be held legally accountable if they don't meet their responsibility.

Special Chain of Responsibility provisions in the Compliance and Enforcement Bill (Part 4) impose obligations on all parties in the transport chain and all individuals in the corporate chain of command. Parties in the chain include:

- Drivers — those who physically drive a heavy vehicle
- Consignors — those who commission the carriage of a load by road
- Packers — those who place goods in packages, containers or on pallets transported by road
- Loaders — those who place or restrain the load on a heavy vehicle
- Operators and schedulers — those who operate the business that controls the use of a heavy vehicle
- Receivers — those who pay for the goods or take possession of the load
- Employers or managers of a business may also be personally liable for breaches by an employee.

Off-road parties are as legally liable as their on-road counterparts if a breach of those requirements occurs. This enables authorities to better target the party or parties actually at fault in each case, and reduces pressures on on-road parties and eventually leads to improved compliance, and safer roads. All parties are required to either take reasonable steps to prevent an infringement of the road transport laws, or to not encourage or coerce others to breach those laws.

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The Chain of Responsibility approach has been extended to model laws dealing with fatigue, the transportation of dangerous goods and heavy vehicle speeding.

Chain of responsibility is similar to the legal concept of 'duty of care' that underpins occupational health and safety law. This approach has long been used by the courts to impose liability in negligence and damages claims. Penalties and sanctions under the road law will range from formal warnings to court-imposed fines and penalties. Businesses trying to gain an unfair commercial advantage over competitors by compromising road safety standards can be held liable and fined up to three times the amount of profit gained.

If your actions, in-actions or demands cause or contribute to road safety breaches then you can be held legally accountable. Transport Inspectors and Police Officers can investigate along the transport chain and up and down the corporate chain of command.

The law requires you to take all reasonable steps to prevent your actions or conduct from causing or contributing to a breach. In addition, the law also prohibits you from:

- Making demands that you know or ought to know would cause a breach
- Coercing, inducing or encouraging breaches
- Passing on false or misleading information that could cause a breach.

You should ensure that you can demonstrate you did not know and could not have been reasonably expected to know that a breach in the road law occurred and that either:

- You had taken all reasonable steps to prevent the breach
- There was nothing you could reasonably have done to prevent the breach.

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There are no limits to the ways in which you can do this. What constitutes reasonable steps will vary according to each individual's circumstances. You may need to change the way you do business. Taking reasonable steps could include:

- Reviewing your business practices
- Developing an industry code of practice
- Adopting a risk management approach
- Using accreditation schemes
- Changing your commercial arrangements.

Business Practices

You should regularly review your business practices to ensure that at all times the steps you are taking are reasonable. Some of the steps you may need to consider include:

- Ensuring your work practices do not contribute to or cause on-road breaches
- Training for staff to ensure they understand their obligations under chain of responsibility
- Completing audits or spot-checks to ensure compliance (for example monitoring of loading)
- Putting in place contingency plans to manage operational issues within the law.

Commercial Arrangements

You can ensure your commercial relationships do not cause your business to breach chain of responsibility laws by:

- Including best work practices (for example, safety accreditation) in relevant commercial arrangements with other responsible people or parties in the transport chain
- Requesting information about what systems and controls are in place to ensure compliance (for example, policies on drugs or fatigue management)
- Avoiding arrangements which encourage or reward non-compliance.

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