



Chain of Responsibility

A guide for Toll's
Customers and Clients

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1. What is the purpose of this guide?

This guide is designed to 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 the addition of the "safety duties" to the law in 2018 means for Toll's clients and customers, and
- how Toll fulfils its obligations and provides assurance to its supply chain partners.

The information is general in nature and should not be used as a substitute for legal advice.

Customers requiring further information should contact the National Heavy Vehicle Regulator or their Toll Account Manager.

2. 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 incidents. 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.

3. 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 is not solely directed by the driver but can sometimes be influenced by off-road parties in the supply chain.

For example, if a driver is speeding it might be because the scheduler didn't provide sufficient time for the task to be done safely. The scheduler may have cut corners because the contract with the customer didn't reflect the true cost of doing business safely. The account manager who negotiated the contract may not have appreciated how changed traffic conditions necessitated more time on task than the previous agreement. The due diligence process may have been rushed meaning that the operator's executive officers did not pick up on the problems. All of these decisions and omissions could influence or encourage the driver to speed.

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 shared 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 and was updated in October 2018. However, chain of responsibility is not new – it has been in force in several Australian states in various forms since the late 1980s.

Western Australia introduced chain of responsibility provisions for mass, dimension, load restraint, vehicle permits and vehicle safety in April 2015. Contact your Toll Account Manager for a copy of the brochure: **Chain of Responsibility: Understanding your Obligations as a Customer in Western Australia.**

4. Why is Chain of Responsibility important to Toll Group?

At Toll we believe that no task is so important that it cannot be done safely. Chain of responsibility is a fundamental part of looking after the safety of our workers, customers, subcontractors, suppliers and other road users.

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.

5. Where does Chain of Responsibility apply?

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

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

- mass requirements
- load restraint requirements
- dimension requirements
- speed management
- fatigue management
- vehicle standards and maintenance
- employment and assignment of drivers
- permits and access
- heavy vehicle accreditation, and
- vehicle operations.

In the case of fatigue management, the law captures vehicles above 12 tonne, rather than above 4.5 tonne.

Chain of responsibility obligations also apply to the transport of dangerous goods under separate legislation.

6. How do I know if I'm a party in the chain?

The Heavy Vehicle National Law identifies the following parties in the chain of responsibility:

- The employer of the driver
- The prime contractor of the driver
- An operator of the vehicle
- A scheduler for the vehicle
- A consignor of any goods in the vehicle
- A consignee of any goods in the vehicle
- A packer of any goods in the vehicle
- A loading manager for any goods in the vehicle
- A loader of any goods in the vehicle
- An unloader of any goods in the vehicle.

Toll's customers and clients would generally fall into the category of consignors, packers, loading managers, loaders, consignees, schedulers and unloaders.

Importantly, a person becomes a party in the chain by virtue of their functions and tasks, not by their job title or written contract. 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.

In some instances the law places specific obligations on specific parties. For example:

- The consignor must ensure, so far as is reasonably practicable, the consignment documentation is not false or misleading.
- The consignor or packer must ensure, so far as is reasonably practicable, the weight of the container does not exceed the maximum weight marked on the container or its safety plate.
- The operator of the vehicle must ensure the driver keeps accreditation documents in their possession, unless the operator has a reasonable excuse.

7. If I am not a named party in the chain, do I still have obligations and responsibilities?

Yes. Often the law simply refers to “persons” rather than parties, making it clear that anyone with control and influence over transport activities must take steps to ensure the safety of the transport activities.

Although drivers are not identified as parties in the chain, the law imposes many obligations on drivers to ensure they are safe on the road. These obligations include:

- ensuring that vehicles comply with mass, dimension and load restraint requirements before they leave a premises
- adhering to maximum hours of work and minimum hours of rest when driving vehicles 12 tonne and above
- carrying documents such as Container Weight Declarations, PBS vehicle approvals, permits and Basic Fatigue Management induction letters.

8. As a supply chain party, how can I influence or control what happens on the road?

Off-road parties can influence or direct on-road behaviour in many ways. They can directly or indirectly encourage unsafe and illegal 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
- Inefficient queuing and loading practices that eat into drivers' available working hours

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 about safety and wellbeing
- Investigating 'near misses' and taking steps to ensure they don't recur
- Assessing available working hours to ensure there is sufficient time for the required task
- Checking that drivers have valid, current licences

9. 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. We can, however, “so far as is reasonably practicable” do everything in our power and influence to ensure the safety and wellbeing of others.

“So far as is reasonably practicable” does not mean doing everything conceivable to ensure safety. It means understanding and responding to the risk involved in the transport activity, having regard to:

- The likelihood of the risk occurring
- The degree of harm that would arise if the risk was realised
- What the person knows about the risk
- Ways to remove or reduce the risk and whether they are feasible
- If the costs of risk mitigation are proportionate to the risk.

10. Updates to the law

In October 2018 the Heavy Vehicle National Law was amended to align it more closely with workplace health and safety laws.

Prior to October 2018, something had to go wrong on the road before parties along the chain could be investigated. For example, a driver had to be caught driving an overloaded vehicle before parties like loading managers and packers could be investigated. This reactive and retrospective approach weakened the power of chain of responsibility.

Instead, the updated law imposes a primary duty on each party in the chain **to ensure, so far as is reasonably practicable, the safety of the party's transport activities.**

Sections 11 and 12 of this brochure outline some of the key changes to the law. Other important changes introduced to the law in October 2018 include:

- The inclusion of “unloaders” of goods as parties in the chain of responsibility for all matters (not just fatigue related)

- Replacement of “reasonable steps” with “so far as is reasonably practicable” and “reasonable excuse”
- Changes to record keeping information requirements for fatigue management purposes
- Removal of the vehicle registration chapter. Registration will indefinitely remain a matter for the states and territories
- Removal of the reverse onus of proof
- Significantly greater penalties for non compliance than have been available in the past, including imprisonment
- Greater powers for authorised officers to gather evidence, including obtaining documents and information from third party providers outside the supply chain.

11. What is the “primary duty”?

Section 26C of the Heavy Vehicle National Law introduces a primary duty as follows:

1. Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party’s transport activities relating to the vehicle.
2. Without limiting subsection (1), each party must, so far as is reasonably practicable—
 - a. eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
 - b. ensure the party’s conduct does not directly or indirectly cause or encourage—
 - i. the driver of the heavy vehicle to contravene this Law; or
 - ii. the driver of the heavy vehicle to exceed a speed limit applying to the driver; or
 - iii. another person, including another party in the chain of responsibility, to contravene this Law.
3. For subsection 2b, the party’s conduct includes, for example—
 - a. the party asking, directing or requiring another person to do, or not do, something; and
 - b. the party entering into a contract—
 - i. with another person for the other person to do, or not do, something; or
 - ii. that purports to annul, exclude, restrict or otherwise change the effect of this Law.

The following sections unpack the implications of 26C.

11.1 What does section (1) mean?

(1) Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party’s transport activities relating to the vehicle.

Essentially, this means that every person involved in the process from consignment to delivery of goods must ensure the safety of the functions and tasks over which they have control or influence.

The key word here is “ensure”. What is ensured is evidence-based, systematic and defensible. It is not the result of custom, habit or received wisdom.

What does “ensured” look like?

✓	✗
“Everything I need to do is clearly explained in this work instruction”	“Our site is different and we need to do things our way, regardless of what any work instruction says”
“I’ve reviewed the operator’s safety management system and safety history, so I’m confident giving this work to them”	“My job is to secure the cheapest carrier rate possible. Safety is all on the operator”
“I’m not satisfied that the process I’m following is based on best practice or evidence-based information, so I’ll check to make sure this is the right way”	“The person who used to have my job told me to do it this way so I do”
“We understand that poorly packaged freight can lead to serious incidents, so we conduct regular inspections on how our warehouse staff are preparing and packaging our freight for transport”	“No one has ever reported a problem with our packaging which means it is probably sufficient”

Ensuring the safety of transport activities means being preventative and proactive. This means figuring out what could go wrong and heading it off before it happens.

How do I know if something is “reasonably practicable”?

The law recognises that there are limits to the control and influence of even the most diligent individual and organisation. That is why the obligations at 26C extend “so far as is reasonably practicable”.

Doing what is “reasonably practicable” does not mean doing everything conceivable to ensure safety. It means targeting effort by understanding the nature, likelihood and consequence of hazards and addressing them in proportionate ways.

What are “transport activities”?

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

- a. contracting, directing or employing a person—
 - i. to drive the vehicle; or
 - ii. to carry out another activity associated with the use of the vehicle (such as maintaining or repairing the vehicle); or
- b. consigning goods for transport using the vehicle; or
- c. scheduling the transport of goods or passengers using the vehicle; or
- d. packing goods for transport using the vehicle; or
- e. managing the loading of goods onto or unloading of goods from the vehicle; or
- f. loading goods onto or unloading goods from the vehicle; or
- g. receiving goods unloaded from the vehicle.

There are 3 crucial elements of this definition that are different to the previous law.

Firstly, “associated with the use of a heavy vehicle on a road” is a broad definition. It might include, for example:

- breakdown services dispatched to assist immobilised or damaged vehicles
- chaplaincy or counselling services assigned to assist drivers and other road users in distress or difficulty post-incident
- light vehicles sent to collect drivers that have run out of hours or are unfit to drive

The same proactive and preventative lens must be brought to these activities as to the heavy vehicle freight task.

Secondly, the previous law had very little to say about drivers other than stipulating their minimum hours of rest and maximum hours of work, and documents they must carry. The updated law explicitly includes hiring drivers and giving drivers instructions about their tasks.

In the context of the proactive and preventative thrust of the law, customers need to consider how their carriers:

- ensure that their drivers hold current and valid licences for the tasks they undertake
- ensure that their drivers hold the appropriate skills and competencies for the task
- promote and monitor fitness for duty including through drug and alcohol testing, functional assessment and mental health support services

Thirdly, the definition includes “maintaining or repairing the vehicle”. The previous law had little to say about repairs and maintenance. Instead, it required that vehicles conform to heavy vehicle standards (s.60) and be “safe” (s.89). The updated law explicitly includes repairs and maintenance in its definition of “transport activities” at 26C.

Customers therefore need to consider whether their carriers:

- Have appropriate maintenance schedules and service standards
- Inspect and maintain their vehicles consistent with the National Heavy Vehicle Inspection Manual, Australian Design Rules and OEM specifications
- Conduct pre-start vehicle inspections
- Actively check for evidence of equipment tampering (including speed limiters and odometers)
- Quality assure third party repairs and maintenance providers

11.2 What does section (2) mean?

(2) Without limiting subsection (1), each party must, so far as is reasonably practicable –

- a. eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
- b. ensure the party’s conduct does not directly or indirectly cause or encourage—
 - i. the driver of the heavy vehicle to contravene this Law; or
 - ii. the driver of the heavy vehicle to exceed a speed limit applying to the driver; or
 - iii. another person, including another party in the chain of responsibility, to contravene this Law.

Section 2a highlights the obligations parties have to other road users (“public safety”). As with “reasonably practicable” it directs parties to take a risk managed approach to transport activities. Reporting and analysing incidents and near-misses is a sound way to concentrate preventative effort. In the event that prevention fails, incident and emergency response systems to minimise trauma and damage to drivers, other road users and the environment should be in place.

Responding appropriately requires that parties remain up-to-date with industry practice and emerging trends. The test of “as far as is reasonably practicable” recognises that what might be impractical and cost-prohibitive at one point in time can be affordable and workable at a later date.

Subscribing to peak industry communications, checking in with your Account Manager, and following the National Heavy Vehicle Regulator and National Transport Commission websites are all useful ways of staying current.

11.3 What is the difference between “direct” and “indirect” conduct?

Section 2b recognises that on-road incidents are not solely caused by drivers, but by actions and inactions along the supply chain. Conduct that directly causes a driver to break the law tends to be easy to spot because it often contains an element of coercion, threat or incentivisation.

For example:

“If you don’t get this freight to the depot by 11pm you’re fired.”

“I know you’re out of hours, but it’s only an extra forty minutes so stop fussing and get on with it.”

“Just fudge the rest breaks in the log book. No one will ever know.”

“We’re running late. Use fewer straps on the load and we’ll get it out of here faster.”

“Johnno keeps complaining that his indicator is dodgy. Put him on the run that he hates and that should shut him up.”

Indirect behaviour is harder to identify and call out because it can be subtle and so ingrained in ways of working that it escapes notice. For example:

Scenario	Potential consequence
A customer depot routinely holds drivers up where there are no facilities for rest.	Drivers speed to reach their next destination before they run out of available hours.
A contract imposes financial penalties for late deliveries.	Drivers ignore fatigue breaks and take shorter, but illegal, routes to avoid being late.

Scenario	Potential consequence
A driver is feeling unwell so pulls over to take an unscheduled rest break. The ops manager responds by calling the driver “a princess”.	The driver now continues to drive even when he is unfit for duty for fear of being shamed.
A depot loads a container and gives the driver a Container Weight Declaration, but doesn’t provide space or facilities for the driver to check how the container is loaded.	The vehicle rolls over because of a high centre of gravity and unrestrained freight.

Importantly, 2b is not just about conduct that causes drivers to break the law, but about direct and indirect conduct that causes any *other person* to break the law. Consider these scenarios for example:

- A consignee ignores complaints that a carrier is not restraining loads correctly, putting unloaders at risk of injury
- Budget cutbacks mean training for new schedulers is delayed, so schedulers are taking their “best guess” on how to count time
- The depot forgets to buy dunnage so loaders are working with insufficient friction, possibly compromising load restraint.

11.4 What does section (3) mean?

(3) For subsection (2)(b), the party’s conduct includes, for example –
a. the party asking, directing or requiring another person to do, or not do, something; and
b. the party entering into a contract—
i. with another person for the other person to do, or not do, something; or
ii. that purports to annul, exclude, restrict or otherwise change the effect of this Law.

Section 3 points out that “conduct” is not just about the things we do and say (asking, directing or requiring); it’s also about the things we omit to do. The things we *don’t* do.

Consider these scenarios and how they might impact safety:

- A driver delivers a load to a customer depot where he is a regular. He is very pale and has dark circles under his eyes. He hasn’t shaved, which isn’t like him at all. The loading manager notices these signs but doesn’t intervene to ensure that the driver is fit for duty. She reasons that “If he wasn’t okay he’d say something” and lets it go.

- An Executive Officer is receiving reports that point to a systemic problem at a particular customer depot. Drivers are routinely being held up, compromising transit times and fatigue-management. But that contract makes budget so the Executive Officer decides not to take action this month.
- A loader notices that one of his colleagues continues to use hand ratchets rather than drum winches, despite advice and training that a drum winch is best for their particular freight profile. The loader ignores it. After all, she's doing it correctly. What her team member chooses to do is not her business.

The other important element in 3b is its reference to “contracts”. In the previous law, contracts were included in the definition of “business practices”. In the updated law “contracts” are front and centre.

Why are contracts important?

If Authorised Officers undertake monitoring, investigation or enforcement activity it is likely that they will ask to see contracts between customers and carriers. These documents may be scrutinised for signs of direct and indirect encouragement and incentivisation to behave unsafely and non-compliantly. Enforcement may also look for evidence of safety obligations being “pushed” or “outsourced” onto other parties. Contracts are an opportunity to set expectations of safe behaviour along the supply chain and establish processes for how risks and hazards will be resolved.

It is important that contracts accurately reflect the spirit and letter of the law because s.742 states that a contract is void to the extent to which it:

- Is contrary to the law
- Purports to annual, exclude, restrict or otherwise change the effect of a provision of the law
- Purports to require the payment or reimbursement by a person of all or part of a penalty that another person has been ordered to pay under the law.

12. “Person who permits” clauses

The previous version of the law used extended liability, whereby if the driver was found (or suspected) to have done something wrong, the parties that influenced the driver could also be investigated. The updated law is much more direct in that there are offences for people who permit other people (often drivers) to do the wrong thing. Examples include:

96(1) A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle’s components and load, comply with the mass requirements applying to the vehicle, unless the person has a reasonable excuse.

102(1) A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle’s components and load, comply with the dimension requirements applying to the vehicle, unless the person has a reasonable excuse.

111(1) A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle’s components and load, comply with the loading requirements applying to the vehicle, unless the person has a reasonable excuse.

It is up to the enforcement officer to determine the person who permits, but it will often be the most senior person at the site or the person who issued the instruction to the driver on the day.

These “permit” clauses emphasise the importance of robust policies and procedures that are well understood and consistently followed along the chain.

13. What obligations are imposed on executives?

26D(1) of the Heavy Vehicle National Law imposes the following duty on an executive:

If a legal entity has a safety duty, an executive of the legal entity must exercise due diligence to ensure the legal entity complies with the safety duty.

Due diligence includes taking reasonable steps—

- to acquire, and keep up to date, knowledge about the safe conduct of transport activities; and
- to gain an understanding of—
 - the nature of the legal entity’s transport activities; and
 - the hazards and risks, including the public risk, associated with those activities; and
- to ensure the legal entity has, and uses, appropriate resources to eliminate or minimise those hazards and risks; and
- to ensure the legal entity has, and implements, processes—
 - to eliminate or minimise those hazards and risks; and
 - for receiving, considering, and responding in a timely way to, information about those hazards and risks and any incidents; and
 - for complying with the legal entity’s safety duties; and
- to verify the resources and processes mentioned in paragraphs (c) and (d) are being provided, used and implemented.

The definition of an executive is very broad. In a corporation it refers to a director of the corporation, or any person who is concerned or takes part in the management of the corporation. In other business structures an executive may refer to a partner or a member of the management team.

An executive may be convicted even if there are no proceedings against the legal entity for which they work.

14. How does Toll ensure the safety of its transport activities?

The way in which Toll ensures the safety of its workers, subcontractors, customers and other road users varies depending on the nature of the transport task.

Some of the ways in which Toll ensures that everyone goes home safely include:

- Residential facilities for long distance drivers to promote restorative rest
- Speed monitoring to detect trucks travelling above the regulated speed limit
- Use of Driver State Sensing (DSS) technology to identify potential impairment by fatigue
- In-truck and outward-facing cameras to enable training and incident investigation
- Compliance standards for speed limiters
- Strict disciplinary intervention in the event of equipment tampering
- Certified load restraint guides that reflect industry best practice and the regulated performance standards
- Review of work records to ensure compliance with work and rest rules
- Investment in a safe, modern vehicle fleet
- Use of serviced, calibrated weigh bridges for the purposes of mass management
- Thorough, timely incident investigation with corrective

actions for close-out

- Commitment to training, education, upskilling and coaching in safe operational practices
- In-house chaplaincy service and employee support programs that promote health and wellbeing (including mental health) and counsel staff experiencing challenges in their personal lives
- Monitoring and reporting on road safety and CoR metrics
- National Heavy Vehicle Accreditation Scheme and Western Australian Heavy Vehicle Accreditation Scheme membership
- Audit and assurance of subcontractors
- Active engagement with industry associations, regulators, enforcement agencies and unions to ensure best practice.

If you are a consignor or consignee, you need to satisfy yourself that the terms on which goods are transported ensures safety, as far as is reasonably practicable. In other words, you need to satisfy yourself that **your** transport service provider understands, monitors and mitigates risk.

15. 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. The most serious breaches of the safety duty under s.26C attract fines of up to \$300,000 for an individual or 5 years imprisonment. For a company the fines can be as high as \$3,000,000.

Maximum Penalties for Offences under 26C

Category	A person commits an offence if	Maximum penalty	
		Individual	Company
1	<ul style="list-style-type: none">a. the person has a duty under section 26C; andb. the person, without a reasonable excuse, engages in conduct related to the duty that exposes an individual to a risk of death or serious injury or illness; andc. the person is reckless as to the risk.	\$300,000 or 5 years imprisonment	\$3,000,000
2	<ul style="list-style-type: none">a. the person has a duty under section 26C; andb. the person contravenes the duty; andc. the person's contravention exposes an individual, or class of individuals, to a risk of death or serious injury or illness.	\$150,000	\$1,500,000
3	<ul style="list-style-type: none">a. the person has a duty under section 26C; andb. the person contravenes the duty.	\$50,000	\$500,000

16. Further information

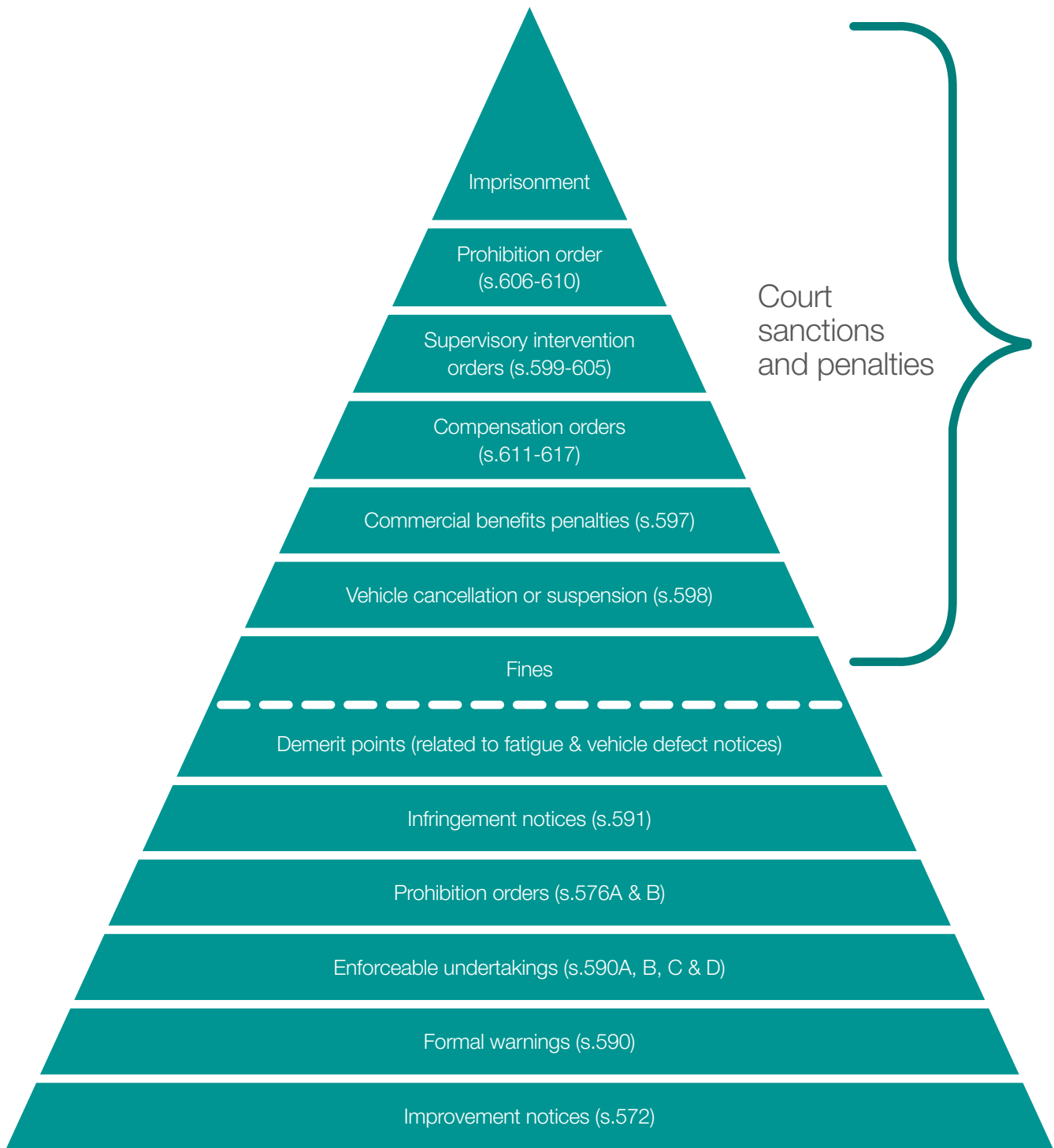
For more information on the Heavy Vehicle National Law and ensuring the safety of your transport activities, contact your Toll Account Manager.

The Heavy Vehicle National Law is available on the Office of the Queensland Parliamentary Council website:
<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2012-hvnlq>

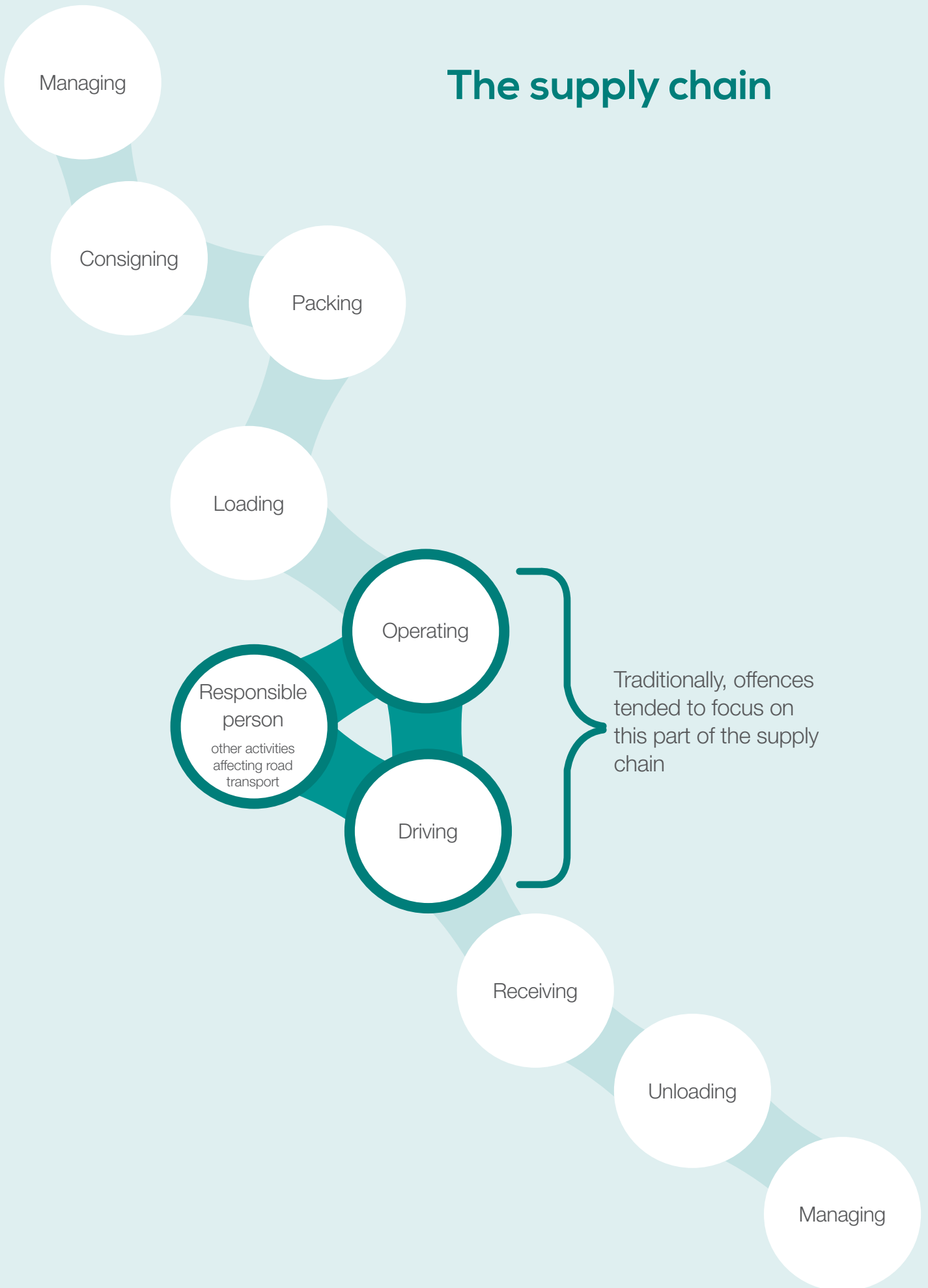
The National Heavy Vehicle Regulator makes information about chain of responsibility available here:
<https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility>

The National Transport Commission's updated (2018) Load Restraint Guide is available here:
<http://www.ntc.gov.au/heavy-vehicles/safety/load-restraint-guide/>

The Master Code (a registered industry code of compliance under s. 706 of the Heavy Vehicle National Law) is available here:
<http://www.austlogistics.com.au/wp-content/uploads/2018/11/Master-Registered-Industry-Code-of-Practice-FINAL.pdf>



The supply chain



17. Safety duties under the Heavy Vehicle National Law

The following information is extracted from the Heavy Vehicle National Law. It shows all offences against the Safety Duties. This is **not** a complete list of offences under the Heavy Vehicle National Law. If you would like a list of all offences, parties and penalties, contact your Toll Account Manager.

Penalties are as per the 2018/2019 rate

Infringable offences = 10% of the maximum court imposable penalty

Offence	Relevant Party	Maximum Penalty	Infringable
26D(1) If a legal entity has a safety duty, an executive of the legal entity must exercise due diligence to ensure the legal entity complies with the safety duty.	Executive	The penalty for a contravention of the provision by an individual.	x
26E(1) 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 to do or not do something the person knows, or ought reasonably to know, would have the effect of causing the driver – a. to exceed a speed limit applying to the driver; or b. to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or c. to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or d. to drive a fatigue-regulated heavy vehicle 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.	Person	\$11,000	x
26E(2) A person must not enter into a contract with the driver of a heavy vehicle or a party in the chain of responsibility that the person knows, or ought reasonably to know, would have the effect of causing the driver, or would encourage the driver, or would encourage a party in the chain of responsibility to cause the driver – a. to exceed a speed limit applying to the driver; or b. to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or c. to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or d. to drive a fatigue-regulated heavy vehicle 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. Person	Person	\$11,000	x

Offence	Relevant Party	Maximum Penalty	Infringable
26F(1) A person commits an offence if - a. the person has a duty under section 26C; and b. the person, without a reasonable excuse, engages in conduct related to the duty that exposes an individual to a risk of death or serious injury or illness; and c. the person is reckless as to the risk.	Person	If an individual commits the offence – \$300,000 or 5 years imprisonment or both	X
	Corporation	If a corporation commits the offence – \$3,000,000	X
26G A person commits an offence if - a. the person has a duty under section 26C; and b. the person contravenes the duty; and c. the person's contravention exposes an individual, or class of individuals, to a risk of death or serious injury or illness.	Person	If an individual commits the offence - \$150,000	X
	Corporation	If a corporation commits the offence - \$1,500,000	X
26H A person commits an offence if - a. (a) the person has a duty under section 26C; and b. (b) the person contravenes the duty.	Person	If an individual commits the offence – \$50,000	X
	Corporation	If a corporation commits the offence – \$500,000	X

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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 30 March 2019. For the most current chain of responsibility information please refer to the National Heavy Vehicle Regulator.

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