

Regulatory Advice - Managing the risks of undertrained workers

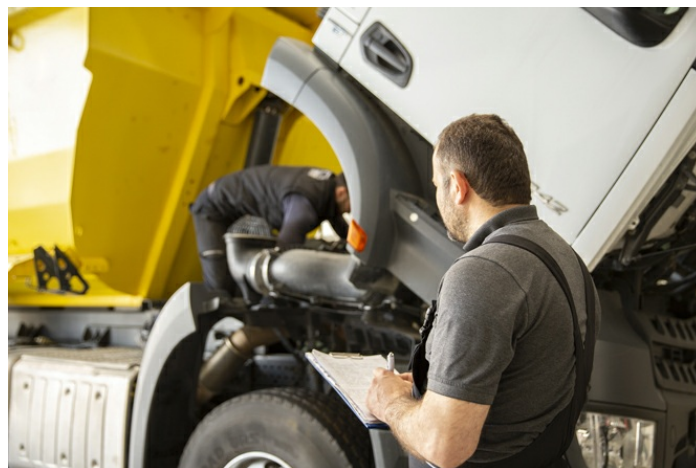
Note: This information is intended to provide general guidance only and does not constitute legal advice. We encourage you to obtain independent advice about your legal obligations.

This regulatory advice provides guidance on identifying and managing the safety risks associated with insufficiently or inadequately trained workers in the heavy vehicle industry.

Who is this advice for?

This regulatory advice is intended for:

- parties in the Chain of Responsibility (CoR) and their executives.



What are my legal obligations?

Under the [HVNL section 26C](#), each party has a **primary duty: to ensure the safety of transport activities, so far as is reasonably practicable.**

This is an obligation to eliminate or minimise public risks, and a prohibition against directly or indirectly causing or encouraging a driver or another person, including a party in the CoR, to contravene the HVNL. CoR parties and their executives, should be aware that they remain a CoR party even when their transport activities are contracted, or subcontracted, to another party.

Under the [HVNL section 26D](#), executives of a businesses that are a party in the CoR have a distinct **duty: to exercise due diligence to ensure the business complies with its primary duty .**

Note: [Transport activities](#) ↓ includes all activities and business processes associated with the use of a heavy vehicle on a road.

What are the legal consequences?

If your business is a party in the CoR and it fails to eliminate or minimise public risks so far as is reasonably practicable, then it may be in breach of its primary duty. If a breach is proven, the law provides sanctions against a company and its executives, ranging from education and improvement notices to prosecution.

What are the hazards and risks?

Undertrained workers pose a serious safety risk to themselves, their colleagues and the general public. They can also present a danger to infrastructure and the environment.

Heavy vehicle crashes and other safety incidents due to inadequate training can also result in significant reputational and financial damage to your business.

Having a heavy vehicle driver's licence is not always proof of a driver's ability to safely operate a heavy

vehicle. Even if highly skilled and experienced, the driver may need additional training to ensure they can safely and efficiently operate within a particular industry sector and/or a new work environment.

The potential safety risks resulting from these hazards may include:

- serious injury or fatalities to workers, road users and the public
- damage to road and other infrastructure.

Why is it important to manage hazards and risks?

Ensuring new and existing workers are appropriately skilled in their job role is a critical way to ensure the safety of your heavy vehicle transport activities as required under the primary duty.

Workers across all sectors of the heavy vehicle industry need to understand the hazards and risks associated with their job and the workplace and how to manage these hazard and risks to perform their work safely. Effective management of training within the heavy vehicle industry will ultimately result in a safer community and a safer and more productive workforce.

Taking proactive steps to manage safety risks and meet your legal obligations also helps protect your business from possible regulatory action.

Who has a duty to manage hazards and risks?

Executives of business that are a party in the CoR have a distinct duty to exercise due diligence to ensure the business complies with its primary duty. Executives must also ensure sufficient financial, human and other resources are available to the business to implement training effectively. They should also actively invest in monitoring tasks to assess the ongoing effectiveness of training and promote continuous improvement of safe business practices.

How do I manage these hazards and risks?

One of the most effective ways for CoR parties in the heavy vehicle supply chain to manage the safety of their transport activities is to adopt and actively use a Safety Management System (SMS) as part of their everyday business.

An SMS is a systematic approach to managing safety which, once implemented, will help CoR parties identify how to ensure the safety of their transport activities, so far as is reasonably practicable.

As part of the risk management process, CoR parties should:

- identify hazards associated with their transport activities
- assess the risks associated with those hazards
- identify and implement control measures to eliminate or minimise those risks
- review the effectiveness of control measures, either periodically or post any incident, to ensure they remain effective.

Providing appropriate training is not simply a matter of allocating and spending a training budget. Training must be relevant to the industry and aimed at improving the skills and safety of the workforce. To understand the required skill set of a business's workforce, conduct a *training needs analysis*.

Note: In this context, a 'training needs analysis' is a review of learning and development needs within an organisation. It considers the knowledge, skill and behaviours that people need and how to develop them effectively.

After completing the training needs analysis, a training plan should be developed, implemented and communicated with workers, taking into consideration:

- the particular skills needed to undertake the role safely and efficiently

- if a qualification is required to perform the role
- a level of assurance that workers have been adequately trained
- the new skills required if a worker is promoted or moved to a new role within the business.

Training should include

Induction training: Specific to each workplace, induction training should instruct workers in everything they need to know about the location, Activities, procedures and safety risks relevant to the role. It should also outline the business's expectations for a safe workplace. Workers new to the business, worksite, or role; workers returning after a long absence; or visitors to a worksite all require induction training. The on-boarding of staff may take several months of on-the-job training to complete.

Task-specific training: This should cover the specific skills and knowledge needed for a worker to perform tasks competently and safely at all workplace locations, including:

- acquiring necessary documentation (for example, a specific vehicle class licence or first aid certificate)
- ensuring that specialised roles, such as forklift drivers or crane operators, are appropriately trained, competent and certified
- providing loading and load restraint training (for example, for general freight, mixed loads, livestock or dangerous goods).

Other training: Through the risk assessment process, a business may identify other necessary training workers should complete to perform their job safely (for example, site-specific work health and safety training at distribution centres).

There are typically three types of training delivery methods:

1. **Internal training** - training developed and delivered in-house by staff with relevant experience/skills/qualifications
2. **Accredited training** - nationally accredited training delivered by approved educational institutions (RTOs, TAFE, Uni)
3. **SME consultants** - external consultants who offer non-accredited training services based on a particular expertise (for example, load restraint, crane operation, ancillary attachments to vehicles).

Businesses are responsible for ensuring any external training delivered is **fit for purpose** and **contextualised** to their work environment. In other words, avoid generic 'tick the box' training that offers little impact or benefit. Make sure your training provider is clear on your specific training needs.

Reviewing training

Regularly conduct a review of your business's training needs to check it's up to date, fit for purpose and responsive to emerging risks or changing situations. Reviews may also be helpful to identify gaps in training or alternatives for delivery as part of your wider Safety Management System (SMS). Conduct reviews on a regular, scheduled basis and on an as-needed basis.

Refresher training

Refresher training may be required following an incident or annually as part of your safety management system. Refresher training is essential to help workers:

- retain previously delivered information
- reinforce the skills necessary to do their job
- identify gaps or correct any misunderstandings in their knowledge.

The depth and regularity of refresher training will vary according to the level of risk. For example, refresher training on the use of fire extinguishers on a fuel tanker may be required more regularly than manual handling refresher training.

You may not need to repeat the original training in full. It may be enough to offer a summarised version in the form of an information sheet or email, reminding workers of their obligations and the business's expectations.

Maintaining training records

Keep records to track information related to training. Records should, at a minimum, capture any information required to be documented by law, but can also provide useful information to further assist training.

Training records should be endorsed by both an appropriate member of the management team and the worker that completed the training. Records should be kept, stored and maintained in accordance with legal record-keeping requirements. This will assist in promoting transparency, accountability and awareness across the business.

Providing adequate supervision

A worker may need to be supervised during their training depending on the level of risk involved, the ability of existing controls to reduce the risk, and the individual's experience level. A lower level of supervision may be reasonable for a skilled worker performing a relatively low-risk task, while a higher level of supervision may be required for an inexperienced worker or while performing a high-risk task.

Supervisors should be suitably experienced and competent and understand their responsibilities. They are expected to provide proper supervision, guidance and direction to workers and respond appropriately to instances of non-compliance with a business's procedures.

Review of training, policies and procedures

It is important that your business reviews training modules, and the related policies and procedures, to ensure they remain relevant, up to date and effective. Reviews should be undertaken following an incident, the introduction of new equipment or technology or as scheduled.

Resources

Master Code

Guidance and direction on how to effectively introduce a risk management process within your business can be found in Section 3 of the [Master Code](#).

Safety Management System (SMS)

Management of safety risks can be more effective with the adoption, development and active use of a Safety Management System (SMS).

An SMS can help you:

- provide a safer work environment for your employees, customers, contractors and the public
- manage your safety duties under the HVNL
- demonstrate your ability to manage risk and ensure safety
- become an employer of choice and preferred supplier to customers
- make informed decisions and increase efficiency
- allocate resources to the most critical areas that have an impact on safety
- reduce costs associated with incidents and accidents.

Regardless of the size of a business, an effective SMS can help your business have an appropriate safety focus and comply with its duty to ensure the safety of its transport activities.

Structured information and resources including quick-guide documents, templates, worked examples and toolbox talks to guide you through each step of developing an SMS, implementing it with your

Understand the HVNL and your primary duty

Under the HVNL section 26C, each party in the CoR has a primary duty to ensure the safety of its transport activities, *so far as is reasonably practicable*. This duty includes an obligation to eliminate or minimise public risks and a prohibition against directly or indirectly causing or encouraging a driver or another person, including a party in the CoR, to contravene the HVNL.

So far as is reasonably practicable

So far as is reasonably practicable means an action that can reasonably be done in relation to the duty, considering relevant matters such as:

- the likelihood of a safety risk or damage to road infrastructure
- 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 the 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.

More information can be found in [Regulatory Advice - Reasonably practicable](#).

Executives of businesses that are parties in the CoR have a distinct duty under the HVNL section 26D to exercise due diligence to ensure the business complies with its duty to ensure the safety of its transport activities.

Due diligence

Exercising due diligence includes taking reasonable steps to:

- acquire and maintain knowledge about conducting transport activities safely
- understand the nature of the business's transport activities, including the hazards and risks associated with those activities
- ensure the business has, and uses, appropriate resources to eliminate or minimise the hazards and risks associated with its transport activities
- ensure the business has, and uses, processes to eliminate or minimise the hazards and risks associated with its transport activities and that information about hazards, risks and incidents is received, considered and responded to in a timely way.

Executive due diligence

Examples of executive due diligence activities include:

- collecting information about incident rates to see if the safety management plan is working
- participating in industry-led forums and safety seminars
- ensuring work procedures are being followed and result in improvements in safety

- ensuring safety incidents are responded to and investigated
- implementing learnings from the investigation of safety incidents
- ensuring that sufficient resources are allocated to enable implementation and management of the business's risk management activities.

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