

Unpacking Chain of Responsibility in New Zealand

Chain of Responsibility (CoR) in New Zealand and Australia share a similar objective: ensuring that all parties in the transport supply chain are accountable for the safety of their transport activities. The table below explores the similarities and differences in how Australia and New Zealand approach CoR, including the types of activities it applies to, how it is enforced, and the relevant legislation.

	NEW ZEALAND	AUSTRALIA
Law	<ul style="list-style-type: none"> Governed primarily by the Land Transport Act 1998 (LTA) and Health and Safety at Work Act 2015 (HSWA). 	<ul style="list-style-type: none"> Governed by the Heavy Vehicle National Law (HVNL), except Western Australia and the Northern Territory (not covered here).
Overview	<ul style="list-style-type: none"> The HSWA places a general obligation on all "persons conducting a business or undertaking" (PCBUs) to ensure the safety of their operations, including transport activities. The LTA establishes responsibilities to ensuring that vehicles are safe, and drivers operate within legal limits. The LTA identifies specific risks relating to mass, dimensions, load restraint, driver licencing, vehicle roadworthiness, speed, and fatigue/fitness for duty. 	<ul style="list-style-type: none"> The HVNL explicitly defines the CoR, requiring parties to ensure the safety of heavy vehicle activities they have influence or control over. The HVNL has a strong emphasis on accountability across all parties in the supply chain. The HVNL identifies specific risks related to transport activities that need to be managed, including speed, fatigue/fitness for duty, mass, dimension, loading and vehicle standards.
Primary Responsibilities	<ul style="list-style-type: none"> Must ensure, so far as is reasonably practicable: <ul style="list-style-type: none"> the health and safety of workers carrying out work influenced or directed by the company (while the workers are carrying out the work). the health and safety of other persons is not put at risk from work being undertaken that is influenced or directed by the company. Executives must exercise due diligence to ensure their business complies with their obligations. Must establish a safety management system. Must provide training and supervision for those involved in transport activities. Must provide sufficient resources to ensure compliance. 	<ul style="list-style-type: none"> Must ensure, so far as is reasonably practicable: <ul style="list-style-type: none"> The safety of the party's activities relating to heavy vehicles. Public risks are eliminated, or minimised if elimination is not reasonably practicable. That parties are not directly or indirectly encouraged by them to breach the law. Executives must exercise due diligence to ensure their business complies with their obligations. Parties must comply with any other requirement under the law, such as those relating to specific risks (i.e. fatigue, mass, etc.).
Penalties	<p>LTA Up to \$25,000 for an individual upon conviction.</p>	<p>HVNL Up to \$4.1M+ for businesses; \$420K+ or 5 years jail or both for individuals.</p>
	<p>HSWA Up to \$3m for a business; \$300k or 5 years jail or both, \$600k for executives.</p>	
Regulator	<p>Enforceable Undertakings (EU) Under the HSWA & LTA (for NZ), or HVNL (for AUS), an 'enforceable undertaking' (EU) can be agreed to as an alternative to prosecution. An EU requires parties to agree on actions that will be taken in response to an alleged/actual breach, and typically:</p> <ul style="list-style-type: none"> promote a positive safety outcome have some community benefit address the risk 	<ul style="list-style-type: none"> incur proportional cost have a way to measure & report on the progress of the EU
	<ul style="list-style-type: none"> HSWA is regulated by WorkSafe NZ. LTA is regulated by the NZ Transport Agency (Waka Kotahi). Historically, the enforcement of CoR in NZ has not been as extensive as seen in Australia despite similar requirements. 	<ul style="list-style-type: none"> HVNL is regulated by the National Heavy Vehicle Regulator (NHVR). Enforcement in Australia is comprehensive across both roadside enforcement (penalties/fines), and off-road enforcement (investigations, prosecutions, enforceable undertakings).