

Third Party Interactions – Quick Guide

Third party interactions

Transport activities often involve interactions with third parties who have a shared responsibility for the safety associated with the use of a heavy vehicle on a road.

The level of responsibility that each business or person has depends on their capacity to influence and control the particular activity, including the decision-making relating to the activity. Capacity, in general, means the ability to have an effect on something or the behaviour of someone. Capacity in this context means the ability to control, eliminate or minimise the safety risk.

The more control and influence you have over a task (e.g. loading or unloading), the more you need to do to ensure the task is done safely.

A safety duty under the Heavy Vehicle National Law (HVNL) may not be transferred to another person, so it's essential that all parties in the chain cooperate to control, eliminate or minimise transport risks.

Safety duties

The safety duty requirements of the HVNL include:

- **Primary duty** – applies to each party in the Chain of Responsibility (CoR)¹
- **Duty of executive of legal entity**² – applies to executives of an entity that is a CoR party
- **Prohibited requests and contracts** – applies to any person.

Primary duty

The primary duty requires each party in the CoR to ensure, so far as is reasonably practicable, the safety of the party's transport activities related to the heavy vehicle.

The primary duty also requires that each party must, so far as is reasonably practicable:

- eliminate or minimise the public risks associated with their transport activities
- ensure their conduct does not cause or encourage drivers to speed, or any person to breach the HVNL.

All parties in the CoR have a shared responsibility to ensure, so far as is reasonably practicable, that business practices, requests or demands, delivery requirements, schedules, packing goods, loading or unloading practices do not directly or indirectly cause or encourage:

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| <p>The driver to:</p> <ul style="list-style-type: none"> • contravene the HVNL • exceed the speed limits. | <p>Another person (including another party in the CoR) to:</p> <ul style="list-style-type: none"> • contravene the HVNL. |
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Duty of executive of legal entity

An executive of a legal entity must exercise due diligence to ensure the legal entity complies with its safety duty.

Due diligence includes taking reasonable steps to:

- gain and keep up to date with knowledge about the safe conduct of transport activities
- ensure appropriate resources are available and used to eliminate or minimise hazards and risks
- ensure processes are developed and implemented to:
 - eliminate or minimise those hazards and risks
 - receive, consider and respond in a timely way to information about those hazards, risks and any incidents.

Prohibited requests and contracts

Prohibited requests and contracts means any person (including any party in the CoR and any third party) must not ask, direct, require or enter into a contract that requires a driver or a party in the CoR to do, or not do, something they know, or ought reasonably to know, would cause or encourage the driver to breach the HVNL.

What are third party interactions?

Generally, a third party may be a business or an individual not directly employed by you that you interact with—and that you may or may not have an agreement with—to complete the tasks associated with your transport activities.

These interactions can take place between:

- clients
- prime contractors
- subcontractors
- warehouses and distribution centres
- maintenance and equipment service providers.

Why manage safety in third party interactions?

When third parties interact, new risks may arise that are beyond the scope of their existing safety systems. Therefore all organisations should ensure their business practices and the activities of their employees do not adversely impact on the safety of another party's transport activities.

Working collaboratively with other third parties involved in the transport activity will help identify and address gaps in managing the safety risks that may occur. These gaps may occur when there's:

- a lack of understanding of how each person's work will be carried out
- an assumption that someone else is managing the safety of the activity.

Good business practices

It is good business practice to understand and assess the risks associated with your third party interactions. A Safety Management System (SMS) is a proven way to manage the safety of your transport activities and can help you to:

- become a preferred supplier
- ensure third parties understand your safety systems and expectations
- choose providers who can meet your safety requirements.

How to manage your third party interactions

You should clearly be able to demonstrate that:

- your safety systems and processes are in order and you will not breach the HVNL
- you will not agree to requests, directions, demands and contract requirements that would cause you to breach the HVNL. If you receive any of these, you may wish to call the NHVR's Heavy Vehicle Confidential Reporting Line on **1800 931 785**.

¹ Defined in section 5 (Definitions) of the HVNL.

² Entity means a "corporation; or an unincorporated partnership; or an unincorporated body" (Section 26D (3) of the HVNL).

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You should get your safety systems in order, which means that you have:

- an understanding and knowledge of your transport activities and that they're conducted safely
- identified the hazards and risks associated with your transport activities, and use processes and appropriate resources to eliminate or minimise your hazards and risks so far as is reasonably practicable.

You could also consider getting involved in a heavy vehicle accreditation scheme, which would demonstrate to other parties that you have systems to deal with the risks associated with specific transport activities.

Third party interactions with no formal agreement

You may interact with third parties where there is no formal agreement in place. This could be at a:

- pickup or delivery location (e.g. a distribution centre, warehouse, other business) that might be a supplier, end user or customer of your customer
- customer's private pickup/delivery address.

When interacting with these parties, it's still important to consider:

- who has the capacity to influence and control the activity
- whether the risks have been identified and assessed, and the activities can be carried out safely.

In these interactions, your scheduler and driver need to have a good understanding of the transport activities under their control. They should be prepared to ask questions of, or inform, the other party about their responsibilities, for example by confirming:

- any risks to be considered (e.g. entry and exit concerns)
- the weight/dimensions of the product to be picked up or loaded
- that delays may impact driver's compliance with fatigue rules
- personal protective equipment and induction requirements.

Working for, or engaging, a third party under a formal agreement

When you're working for a third party, it's important to have a good understanding of the work you're being asked to do and how you're expected to do it.

When a third party is performing transport activities on your behalf or at your request, it's important that you can explain how you expect the work to be done.

This will help each party identify and assess any new risks that arise, so they can ensure the work can be done safely.

When you're working for a third party or when a third party is working for you, you should consider the following:

- Formalise any contractual arrangements to confirm a clear understanding of each party's activities.
- Identify any new risks and undertake a formal risk assessment, if not previously identified and assessed.
- Use a third party engagement checklist wherever possible to identify and document which business or individual is responsible for each activity. This will assist you to determine the suitability of the other party you plan to engage with.

- Ensure any requests or contractual arrangements don't require, encourage or place pressure on you or your third parties to breach the HVNL. For example:
 - Has enough time been allowed to complete the task safely within agreed work and rest hour limits?
 - Is there suitable equipment to move, load and unload the freight safely?
 - Are there additional considerations, such as road access permits or specific routes?
- Consider a review process or having regular catch-ups to ensure the activities are being performed according to your agreed or contractual arrangements.

On the NHVR website there is a third party engagement checklist template. We encourage you to use and change the template by adding and removing transport activities that are, or not relevant to your business.

