



## Chain of rules

The laws governing heavy vehicle road safety in Australia have been amended to make directors responsible for managing road freight risks in their supply chains.

By Christopher Niesche

Changes to the chain of responsibility (CoR) laws governing heavy vehicle road safety in October 2018 place a new onus on directors to proactively identify and manage road transport risks in their supply chains, even if they don't operate the vehicles. The amendments significantly increase fines for breaches. For a category 1 offence — recklessly engaging in conduct exposing an individual to a risk of death or serious injury or illness — the penalty is up to \$3m for a corporation and \$300,000 and/or five years jail for an individual. They also add vehicle standards and maintenance to CoR compliance requirements, which already include the size of the truck, its load, speed and fatigue.

"Executive officers must apply all due diligence to ensure compliance," says Andy Mulcaster, managing director of fleet manager SG Fleet Group Australia, which has developed a transport safety management tool called Inspect365. "They must ensure they have safety systems and risk management processes in place so they know whether they're working or not."

The CoR laws already make all parties within the supply chain responsible for ensuring there are no breaches of the Heavy Vehicle National Law, which regulates road transport. Thus, responsibility extends to businesses that consign/receive goods to/from heavy vehicles "if they exercise control or influence over any transport task," the National Heavy Vehicle Regulator says. A business that received goods and didn't ensure the trucks were in safe working order, or put pressure on a driver to rush to meet a deadline, could be liable.

The major change is that the legislation is now forward-looking rather than based around an incident such as an accident, says Nathan Cecil, a partner at Holding Redlich Lawyers, who works in transport and logistics. Previously, if nothing went wrong, companies were effectively complying with the law; regulators would only investigate and prosecute after an incident.

The new laws mean regulators could, in theory, check at any time what the organisation is doing to identify and manage its CoR risks. Even if the company had been

operating for 50 years without an incident, they could still be prosecuted for not managing those risks, says Cecil. "That's the big change. It requires businesses to scope out the risks in their business; to implement measures even if nothing has gone wrong in the past." He adds that while boards can rely on WHS executives within the organisation, they cannot delegate responsibility. "They must have a more active management and reporting line."

Directors should ask for a briefing on new CoR laws to ensure they're properly aware of their scope and impact on the business. "Many boards are not fully aware of the application of the new laws to their business, in particular 'internal' functions such as procurement/receiving goods, materials, supplies and the potential requirement for oversight over third parties such as suppliers and subcontracted

transport service providers," says Cecil. They should conduct a CoR compliance gap analysis to assess the adequacy of any existing compliance framework — and require periodic CoR compliance performance reporting.

Like other companies with large transport fleets, building materials manufacturer Boral is prepared for the changes. It is already compliant with CoR laws, says Boral Logistics compliance manager Craig Guthrie — the big change is in the focus on safety and compliance in its external supply chain.

"For other contractors, there's an opportunity to understand their transport activities and reduce pressure all the way through other supply chains than just their own," he says.

Non-transport operators need to ask their transport partners how their own decisions affect the operator. "There are some things they wouldn't understand, such as how a decision made by a business might affect the ability to get that truck maintained and serviced when it needs to be."

Mulcaster says it is more likely to be non-transport businesses, without the same focus on trucking and safety, that run foul of the new laws. "You can't contract your way out of your obligations. You can mitigate your risk by ensuring the people you're dealing with understand and are compliant with the obligations as much as you are," he says. ■

---

**"It requires businesses to implement measures even if nothing has gone wrong in the past."**

Nathan Cecil, Holding Redlich

---



**inspect365**  
Inspect. Report. Resolve.

## Our Solution.

Helping our customers improve safety  
and manage compliance of their fleets  
under the new HVNL CoR regulations

**sgfleet**

inspect365.com 1300 138 235