



EROAD

EROAD GUIDE

Navigating Chain of Responsibility

An expert guide to what the changes to the Heavy Vehicle National Laws (HVNL) in 2018 mean for your business and how to manage your fleet's safety compliance



About EROAD

EROAD is one of Australasia's leading transportation technology and services company.

It is a leading provider of health and safety compliance services, chain of responsibility products, including vehicle inspection, driver behaviour, tax management, and performance measures

EROAD's in-vehicle technology and global electronic platform enables customers to efficiently utilize their capital and reduce the costs associated with fleet operations and management.

Security and accuracy of data is off primary concern in EROAD's independently tested platform, you can rely on these to provide credible insight and competitive advantage.

The logistics chain means everyone is responsible

On 1 October 2018 an important change was made to the Heavy Vehicle National Law (HVNL).

An amendment was made to the Chain of Responsibility (CoR) legislation which means that anyone with control or influence over any part of your transport supply chain – including executives – now shares responsibility for the safety of your fleet. This encompasses everyone whose actions within the logistics chain have bearing on the ability of the driver to perform their tasks in conjunction with the relevant legal requirements and safety objects these requirements promote. With this amendment, they can face tougher penalties for a breach that falls within the reasonable scope of their control, even if no incident or injury occurs.

So, what does this mean for your business and what can you do to ensure your fleet is safe and compliant with the amended laws?

In this report, our panel of experts provide their thoughts and advice on how to employ the right tools, management approach, policies and procedures to ensure your fleet remains safe and fully compliant.



MORE ACCOUNTABILITY WITH ENHANCED CHAIN OF RESPONSIBILITY

The amendment to the Chain of Responsibility legislation seeks to increase accountability within your organisation by sharing responsibility for safety. It seeks to improve cooperation between all parties in your supply chain, which means you need to take an end-to-end view of logistics and improving your compliance.

This changes the way you need to approach and manage the safety and operation of your heavy vehicles. Not only do the new laws have more wide-ranging powers and tougher penalties for breaches, it also now means everyone with a role in your transport supply chain, both on and off the road, is collectively responsible for the safety of your transport operations.

Now, prosecutors only need to establish that your business, or someone within the logistics chain, hasn't taken adequate precautions to avoid a foreseeable risk for the matter to be taken further against all those who failed to act.

ENSURE EVERY LINK IN YOUR SUPPLY CHAIN IS SOLID

The enhanced CoR legislation aims to have the parts of the logistics chain work together as links in a chain, not silos. Each link needs to be mindful of how what it does strengthens and increases the safety of the chain as a whole.

"CoR changes the whole perspective of the heavy vehicle legislation," says **Carly Richards**, a director in KPMG's Risk Assurance and Supply Chain Risk teams, who helps people evaluate their CoR strategy.

"Previously, responsibilities were linked only to the specific role each person performed within your organisation. For instance, a loader was solely responsible for ensuring vehicles were loaded in accordance with weight and dimensions. Whereas, a fleet manager was likely only responsible for such things as ensuring fatigue was managed effectively," she says.

"Chain of Responsibility is no longer limited to specific roles within your organisation. It now requires your entire supply chain to manage risk together and ensure appropriate processes and systems are in place to manage road safety.

Richards says partnerships are also key to the effective management of HVNL.

"You now have to work far more in partnership with the people who deliver transport solutions on your behalf, or for those you're working on behalf of, to ensure everyone is safe. This means everyone has more obligations than they did before. For example, if one of your unloaders notices that a driver is unwell, it's no longer acceptable to simply let them drive away," she says.

Richards says an additional point has also been added to the HVNL which, along with existing requirements around speed, fatigue and load, means you are now more accountable for your vehicle standards.

"A vehicle's condition plays a key role in road safety too, so regular maintenance and inspections are now seen as key in the updated legislation. This means you need to run a proactive preventative maintenance and inspection program to monitor your fleet's vehicle standards and roadworthiness. You also have a responsibility to ensure the economics of your contracts enable your drivers to effectively manage their time and service their vehicles."

Chain of Responsibility legislation: Key points

1. The Heavy Vehicle National Law has changed focus. Responsibility for safety has shifted from being role-based to being risk-based and has become a collective responsibility.
 2. Anyone in your supply chain who has an influence on safety standards is accountable for ensuring safety (Chain of Responsibility).
 3. Vehicle standard requirements have been added to the HVNL.
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A GOOD SAFETY CULTURE IS FUNDAMENTAL TO COR COMPLIANCE

Having robust safety management systems and controls in place is now key to nurturing a good safety culture, and also now fundamental to your compliance.

Chris Evans, an international safety expert, who is Health and Safety Stakeholder Manager for leading telematics manufacturer [EROAD](#), says that safety can't simply be a bolt-on to your business practices.

"I don't think there's such a thing as a standalone safety culture. What you have is a corporate culture, with safety imbedded within that."

Evans says workplace culture comes from the top.

"As a leader in your business, it's important you invest in safety, health and wellbeing, and make sure you have the systems and budgets in place for it to be managed well. You must also lead by example; you can't say one thing and do another. Your management team has to actively participate, be involved in resolutions and support the welfare of all of your employees."

Carly Richards says that even companies starting from a low base can get up to speed with the basics fairly quickly.

"Some of it is common sense – like reviewing how often your vehicles are serviced and also ensuring vehicle pre-checks are built into your driver's schedules. You also need to ensure your drivers are working the correct hours. Technology can help monitor that and it isn't difficult to implement."

Richards says there's no single set of recommendations for managing CoR as each business is different. However, she says there are some basic tips that will help with your CoR compliance.

"Firstly, you need to understand the legislation and then conduct a risk assessment to understand how it impacts your business and where improvements can be made. Talk to your partners and also ensure you understand their approach to managing CoR. It's important you are on the same page."



A good safety culture is fundamental: Key points

1. Ensure you have your own safety standards and controls in place.
 2. Safety must be part of your organisation's workplace culture, and that starts at the top, with your senior managers.
 3. Some of the basics of workplace safety can be implemented quickly and cheaply.
 4. Understand the legislation, then do a risk assessment to find out where your gaps are.
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VISIBILITY OF YOUR PARTNERS IS A KEY PART OF MANAGING COR

Most businesses using heavy vehicles engage sub-contractors in some capacity. Visibility of your partner and sub-contractor fleets is, therefore, essential in order to manage your obligations under the [Chain of Responsibility](#) legislation

“What the Heavy Vehicle National Law aims to do with these changes is to get everyone throughout your supply chain to work more closely together, which is ultimately about improving road safety,” says Richards. “That sometimes means having serious conversations with your partners to ensure they comply with those safety requirements.”

“It’s also about influencing, rather than demanding,” advises Evans who points to an example of how EROAD works alongside its network of installers who put EROAD’s products in vehicles.

“You can’t just give someone a two-page list of things they have to comply with. EROAD had to sit down with each of our installers and explain the law and our expectations of them in order to comply. We have a duty of care that can’t be contracted out. If they had an accident or injury, EROAD would also be liable if we hadn’t introduced minimum standards. We came to the standards through consultation with our installers; I think we went through three iterations before we agreed.”

Getting face to face with people is also crucial, Evans says.

“You can’t rely on emails. People are busy running their business and don’t have a lot of time to spend in front of a computer. You need to go out and meet people; explain what you need them to do, why it’s important, and how you can help each other reach your end goal.”

Evans says once an agreement is made, it’s important that what’s agreed is monitored.

“Our regional managers regularly audit our installers, and if there are areas that need improvement, we give help and advice on how to do that.”



Richards says regardless of the size of your business, the rules still apply to everyone.

“It goes without saying that contracts that require drivers to break the law to fulfil them are illegal - but there have been cases where contracts have been so squeezed that drivers couldn’t afford to maintain their vehicles properly,” she says.

“When we talk to organisations, we start by looking at their economic modelling to ensure they are paying the right contracting price to their drivers. It’s about making sure that their contracts enable them to do the right thing by their drivers but also by themselves, in terms of CoR.”

Even with the law in place, Chris Evans admits that an unintended consequence of ‘the Amazon effect’ has been to also make things more challenging for transportation businesses.

“Customers now expect things to be delivered at the speed of light. Naturally you want to support the needs of your customers, but again, contracts that mean drivers must break the law to fulfil them are illegal.”

Evans suggests that, in such cases, businesses need to employ a ‘sense check’.

“What a customer wants and what you can actually deliver could be two different things. If it’s not possible, it’s important to educate them on what’s legally possible.”

Evans points out that some customers may not even be aware that what they’re expecting is dangerous or illegal.

“Your customers are probably not logistics experts. They won’t know about driving time regulations, or how long it takes to get from Newcastle to Adelaide. There’s a duty of care to make sure the people demanding your services are educated about what is practicable and reasonable.”

Visibility of partners: Key points

1. Develop a team culture across your partners which comes to agreement through consultation.
 2. Agreements need to be monitored to ensure what’s been agreed is being carried out.
 3. Contracts that require drivers to break the law are illegal.
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HOW TECHNOLOGY CAN SUPPORT YOUR COR COMPLIANCE

Given that he works in the tech sector, it's unsurprising that Chris Evans firmly believes that [telematics](#) can really help with CoR compliance. But so too does KPMG's Carly Richards.

"I think you need technology if you want to effectively manage road safety and your fleet well," she says.

"If you're running a fleet of vehicles, you're unlikely to be able to manage maintenance requirements or scheduling constraints on a spreadsheet anymore. You will, at the very least, need something that ensures your vehicles are regularly inspected and maintained so that you have an audit trail and drivers aren't overworked."

Technology can assist with CoR in numerous other ways.

EROAD Senior Product Manager **Rebecca Kemp** says products such as her company's [Share](#) feature provides users with the same digital visibility of a partner or sub-contractor's fleet that they have of their own, as a good way to ensure CoR obligations are being met.

"With Share, you can see what's happening with your subcontractors'. Similarly, you could also share a view of your driver behaviour to a major supplier who wants to periodically see how well your fleet is complying with speed limits. You can also schedule reports to be sent to other parties in your supply chain. It means you can easily maintain an ongoing view of your entire performance."

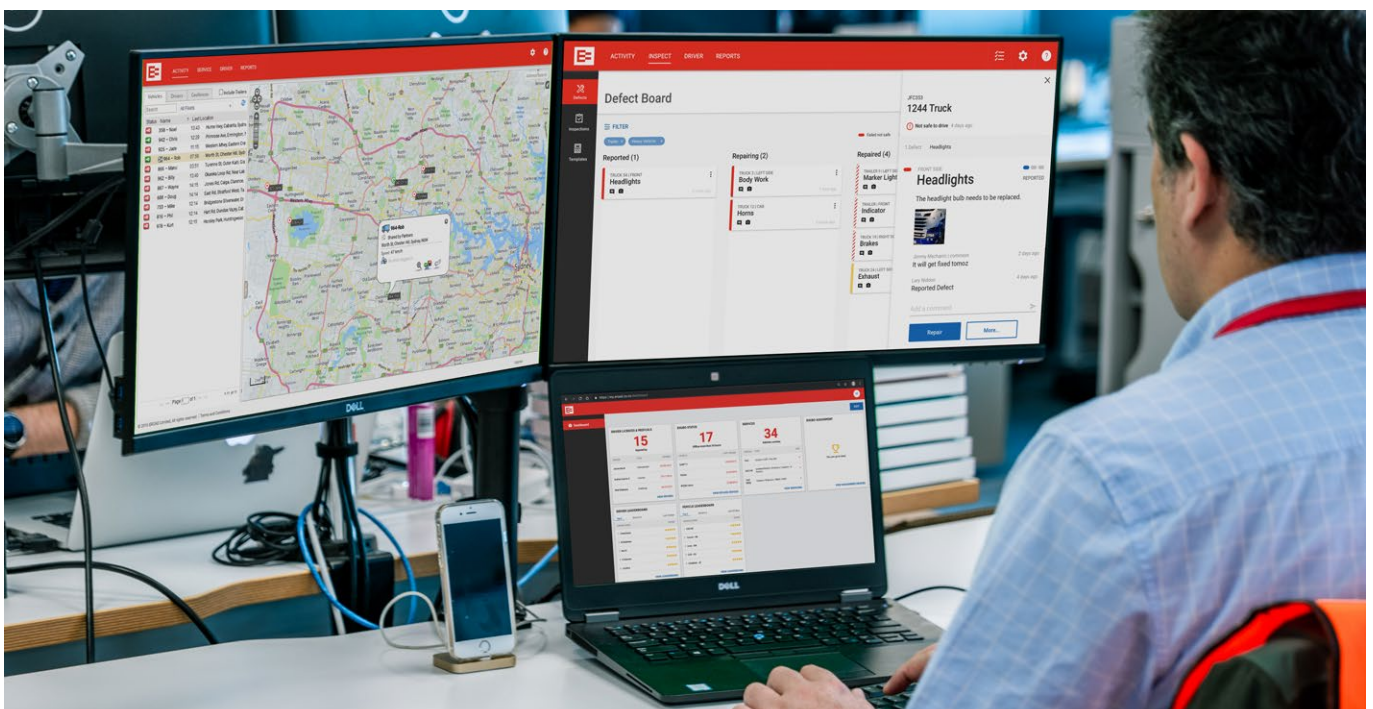
Dedicated electronic vehicle inspection apps also help address the legislation's new focus on vehicle standards.

"I've been to depots where there are piles of vehicle inspection checklists with identified faults, just waiting for someone to action them," Kemp says.

"Managing this process manually means there's a huge time lag; someone needs to log a fault on paper, which then needs to go to the office, where it is eventually reviewed before someone finally acts. We'd continually hear from drivers who were frustrated that they'd reported a problem or fault, but nothing had happened," she says.

"Now you can use an app, like EROAD's Inspect to carry out one-off and scheduled inspections to ensure that on-going maintenance is being carried out in a timely manner. With EROAD's Inspect, all you need to do is take a picture of a fault and it immediately gets sent to the right person to action. This means the lead time for repairs is dramatically shorter which not only makes it easier to comply with the new legislation, but it also saves money and, ultimately, makes for safer vehicles on the road."

But as Carly Richards points out, technology can't be left to stand on its own; it requires people within your business to use it effectively.



“A challenge we often see is that some businesses have a great telematics system that produces vast amounts of data – but they’re not doing anything with it. Data can provide a range of great insights into your fleet which can help proactively manage safety.”

Richards says that it’s important to be clear about what you want to achieve with technology.

“First and foremost, you need to assess what data you are capturing, how useful it is for your business and whether you have the capability to analyse it internally or need support.”

Richards also cautions that technology is not a ‘set and forget’ solution – rather it’s part of a broader approach to workplace safety.

“It’s important to that you still carry out regular audits and programmes, have assurance activity and regularly assess risk. You also need to continually keep safety at the forefront of both your direct team and your external providers to ensure it is embedded in your culture.”

Another key to employing technology, says Chris Evans, is that it must be used as a positive tool.

“If you’re using telematics like ‘big brother’ rather than as a continual improvement tool, it will never work because your people will come to resent it. I’d always recommend tools that empower drivers and help them self-learn.”

Evans points to his company’s [own telematics platform](#) which issues alerts in real-time about your driver’s behaviour, including speeding, sharp acceleration, harsh braking and cornering. These applications give your drivers real-time feedback while behind the wheel to help self-regulate.

“Systems that give instant feedback allow your drivers to change and adapt their driving style and behaviour, which in the end helps change their attitude. What works best is if you can offer some bonus or incentive for driving well, and therefore bringing costs down by saving on fuel, brakes, lowering maintenance costs and, ultimately, reducing the risk of accidents,” he says.

“Employing technology such as EROAD’s Inspect app encourages drivers and others in your supply chain to take more responsibility for ongoing maintenance. Carrying out daily maintenance checks not only ensures you’re compliant with the CoR legislation, it also helps deliver cost efficiencies, improves assurance levels, minimises liabilities and reduced vehicle downtime.

If you do all that, then you will develop a culture that breeds positivity, productivity and additional efficiencies.”

The role of technology: Key points

1. If you have the technology, use it to its full potential. If you need outside help to make the data meaningful, get it.
 2. You can’t just install telematics technology, set and forget about it.
 3. Technology works best when embedded into your culture and is top of mind for everyone.
 4. Telematics solutions such as [EROAD’s fleet management platform](#) provides advanced analytics that can not only ensure your business is compliant with the CoR legislation, it can help your business continually improve.
 5. If you set targets, offer incentives to meet them.
 6. Technology doesn’t have to be a financial burden. If used to its potential, tools like EROAD’s Inspect app or Service can actually help you generate a return on your investment.
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TOUGHER PENALTIES NOW APPLY UNDER CHAIN OF RESPONSIBILITY

The new Chain of Responsibility legislation switches the focus from a reactive to a more proactive need for everyone in your chain to manage safety.

It's also important to understand that the risk of prosecution is also no longer dependent on a road offence actually taking place. Now, prosecutors only need to be able to establish that your business, or someone within it, hasn't taken adequate precautions to avoid a foreseeable risk for charges to be laid against all those responsible for a breach of law in the chain.

Even with the best safety practices in place, accidents can still occur. For those who had control or influence (either direct or indirectly) over any part of the supply chain at the time, new penalties could see individuals face up to five years in prison and a \$300,000 fine, while your company could be fined as much as \$3 million.

In the event the unthinkable happens, it's important you can show you've done everything reasonably practical to prevent a breach of the HVNL.

The Heavy Vehicle National Regulator recommends that safety management should include regular reporting, including to your executive officers, and should also involve documenting or recording all actions taken to manage safety. In the case of a prosecution, each party in your chain needs to show they've taken every reasonable step to prevent a breach of the law.

"It's about ensuring you've done everything, within reason, to monitor and measure your fleet's operations to the best of your ability," says Carly Richards. "This includes everything from how you manage your drivers, engage third parties, your terms and conditions of employment to how you negotiate contracts."

Rebecca Kemp also says having the ability to show constant improvement is also important.

"Everyone knows they need to proactively manage their safety obligations and using analytics tools, like telematics, is a key part of helping you do that. With the right platform you can prove you have a good track record of improvement over three, six, 12 or 24 months," she says

"We've seen, first-hand, how ongoing engagement and monitoring of key elements such as speed, braking and cornering, alongside real-time in-cab coaching, empowers drivers to perform at a higher level which benefits your entire business."

"In the end, it's about everyone taking collective responsibility across your entire business to keep your people and everyone else on the roads safe," says Richards.



What if the unthinkable happens: Key points

1. Regularly report on and document your safety initiatives.
 2. The ability to show a trend of continual improvement is important.
 3. Prosecution can occur even without an event happening – it only has to be proven that your company has been negligent or hasn't taken the necessary steps to avoid a foreseeable risk.
 4. Breaches of the Heavy Vehicle National Law could incur a maximum penalty of \$300,000 and five years in prison for an individual, and \$3 million for a company.
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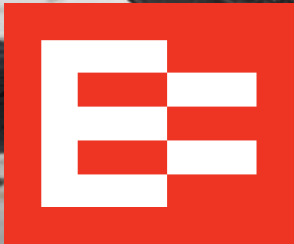
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