

An Australian perspective – work health safety and Australia’s national heavy vehicle law

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National Transport Commission (NTC)

The NTC is an independent statutory body.

We develop national transport reforms that improve productivity, safety and environmental outcomes across Australia's road, rail and intermodal transport networks.

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Introduction & overview

1. Australia's approach to regulating heavy vehicles
2. The relationship between Australia's heavy vehicle laws and work health safety
3. What is Chain of Responsibility (CoR) and why it is a key pillar of Australia's heavy vehicle national law
4. Why are the CoR laws changing
5. What are the reforms
6. What are the likely impacts of these reforms



A national safety hierarchy

**Model Work Health
Safety Law**

**Rail Safety National
Law**

**Marine Safety
(Domestic
Commercial Vessel)
National Law**

**Heavy Vehicle
National Law**

What is chain of responsibility?

Ensures supply chain parties in a position to control and influence heavy vehicle on-road behaviour is identified and held accountable.

Applies to operators, prime contractors, employers, schedulers, consignors and consignees, loading managers, loaders, packers and unpackers

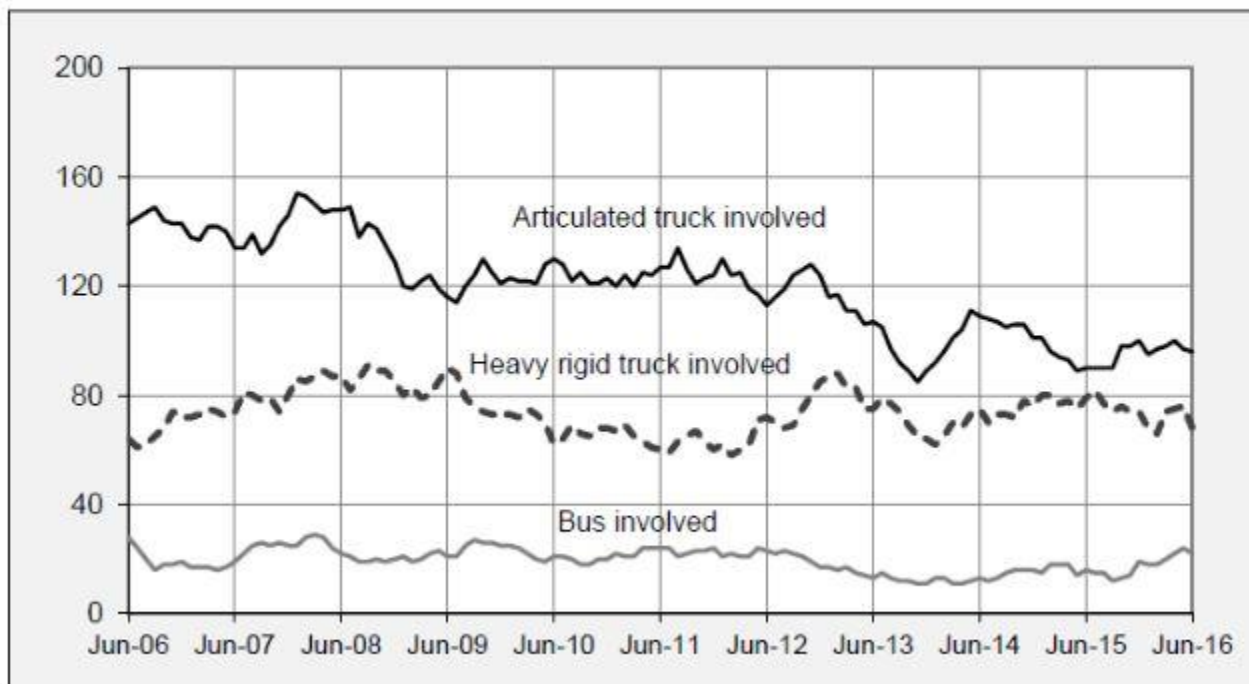
Covers speed, fatigue and mass, dimension & loading



Why is chain of responsibility important?

Fatal crashes involving heavy vehicles, Australia — moving annual total

(Each point shows the number of fatal crashes during the preceding 12 months)



Why is the law changing?

- CoR is prescriptive & the obligations inconsistent
- CoR is complex & costly to comply with
- CoR is difficult to enforce



In 2012:

- 20% road deaths involved heavy vehicles
- 71% workers killed were road freight workers



**Heavy Vehicle National Law
and Other Legislation
Amendment Bill 2016**

The chain of responsibility primary duty

26C Primary duty

Each party in the chain of responsibility for a heavy vehicle must ensure, so far as reasonably practicable, the safety of the party's transport activities relating to the vehicle.

What is the standard of care?

Currently 'all reasonable steps'

Ministers agreed to change standard of care from 'all reasonable steps' to 'so far as reasonably practicable' – the standard of care applied under work health safety laws.

Will apply throughout the Heavy Vehicle National Law.

What is 'reasonably practicable'?

reasonably practicable, means that which is, or was at a particular time, reasonably able to be done weighing up all relevant matters, including——

- (a) the likelihood of a safety risk, or damage to road infrastructure, happening; and
- (b) the harm that could result from the risk or damage; and
- (c) what the person knows, or ought reasonably to know, about the risk or damage; and
- (d) what the person knows, or ought reasonably to know, about the ways of—
 - (i) removing or minimising the risk; or
 - (ii) preventing or minimising the damage; and
- (e) the availability and suitability of those ways; and
- (f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

Penalties and principles

- Align penalties for breach of primary duty with other national safety laws
- Establishes principles for application of the duties

How will the primary duties apply to executive officers?

- Currently a range of offences apply to executive officers with a reverse onus of proof
- Due diligence obligation on executive officers to ensure that their organisations meet primary duties
- Removes reverse onus of proof

Interaction between WHS and the HVNL

Relationship between WHS and HVNL clarified:

- Must comply with both WHS and HVNL where provisions deal with same thing and it is possible to do so
- Where provisions deal with same thing but it is not possible to comply with both, the person must must comply with the WHS provision

No double jeopardy

Other elements

- Investigative powers – changes to align with WHS legislation
- Clarifies the status of codes of practice



Next steps

- Bill currently before the Queensland parliament – expected to be passed later this year
- Implementation of the reforms to be led by the National Heavy Vehicle Regulator
- Reforms likely to come into effect in mid 2018

Benefits of reforms

- Clarify and simplify existing CoR obligations
- Assist CoR parties and regulators to better understand and apply the law
- Simplify enforcement
- Better align with Australia's national safety laws
- Reduce red tape and compliance cost

Further information

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Questions?