

New Chain of Responsibility Laws

- Safety Workshops for Nov & Dec
- The BIG Workplace Breakfast with FCW Lawyers
- Safety Plans for 2019

November 2018 News

Welcome to the November Safety Action News

This month we welcome Katie and Stephen Weber's daughter, Cassandra Rose Weber, born on 18th October. Both Katie, baby and rest of the Weber family are well. Katie is on maternity leave for a while but will be keeping in touch.

Last month we reported new laws and higher penalties on Chain of Responsibility have commenced, and we conducted a webinar to brief you on the key changes. In this edition we summarise the requirements for any business involved in sending or receiving goods.

We have another exciting breakfast briefing with FCW Lawyers coming up (22 November in CBD & 27 November at our Clayton Conference Room) on Drugs, Sex, Alcohol, Social Media and Rock n Roll, which is timely for the upcoming holiday season parties.



Katie Weber with new baby, Cassandra Rose

Safety Action Team



Andrea Rowe



Gary Rowe



Stephen Weber



Zara McMahon



Benedict Olih

Upcoming Safety Training and Events

2-day Safety Leadership Course – Tuesday 13th & Wednesday 14th November 2018
[Click here for more information or to book.](#)

Strategic Planning Workshop – Tuesday 18th December 2018
 Prepare your safety plans for next year. [Click here for more information or to book.](#)

Safety Action (FREE) Christmas Breakfast – Planning for 2019
 Thursday 13th December 2018. [Click here to reserve your place.](#)

New Chain of Responsibility Laws

What is the Chain of Responsibility Law?

Chain of responsibility (CoR) obligations come from the Heavy Vehicle National Law Act in each state.

Queensland is the lead state and each Australian jurisdiction, except NT & WA, have adopted the Queensland requirements for uniformity.

For example, in Victoria the legislation is called the ***Heavy Vehicle National Law Application Act 2013***.

The law is supported by regulations that include: general, safety, fatigue, mass, dimensions, loading, registration and vehicle standard.

What is a Heavy Vehicle?

All vehicles with a gross mass (weight) greater than 4.5 Tonnes are classified as a Heavy Vehicle (HV) and subject to these laws.

These laws apply to a one-off delivery using a heavy vehicle as well as companies running high-volume long-distance logistics businesses.

Note: The gross weight also includes weight of any trailers and loads.



Rigid trucks

Most rigid trucks, buses, heavy agricultural equipment that travel on roads, excavators and road construction equipment, B-Double trucks and road trains all come under the heavy vehicle laws.



Semi-trailer



Truck with trailer (B-Double)

Who is Subject to the CoR Laws?

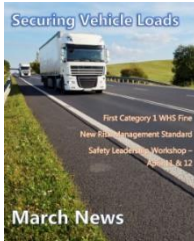
Any person or business involved in the logistics chain with heavy vehicles must comply with their respective CoR obligations.

The parties with specific CoR obligations include:

- Consignors eg engage transport of goods
- Consignees eg receive goods
- Employers & Executive Officers
- Load packers
- Schedulers & load managers
- Loaders eg forklift operators
- Drivers
- Contractors



Loader



Note: Our March newsletter explained the key requirements for load restraint, which is the primary duty of drivers, but loaders and load packers also share this duty and must ensure no load goes on the road with inadequate load restraint.

What Other Laws Apply?

In addition to the CoR laws there is also safety obligations under:

- a) General traffic laws which apply to all vehicles on the road eg roadworthy, speed, lights and parking requirements;
and
- b) Workplace safety laws - general duty of care eg need for a traffic management plan for safe movement and loading / unloading of vehicles on site.

New CoR General Duty

From 1st October 2018 companies and executives must be able to demonstrate they have exercised due diligence (general duty of care) to ensure their employees, contractors, drivers and other parties in the logistics chain are compliant with the CoR laws.

Each party involved in the transport of goods via heavy vehicles is required to consult with the other parties in the logistics chain to ensure compliance.

For example, if a company procedurally receives goods with excessive over-hang on the trucks or over-loaded they must advise the other party and if necessary take whatever commercial action is available to them to correct the situation.

Action in response to alleged CoR breaches could include; training contractors in the transport and company rules, formal complaint to consignor and or transport company, or cancel transport contract if firm is not willing or able to comply with CoR requirements.

What Penalties Apply?

The new CoR laws have adopted a similar structure of penalties as in the harmonised workplace safety laws with three categories. The maximum penalties are outlined below:

Category 1 Offence – Reckless breach creating risk of death or serious injury

\$3m for Corporation

\$300,000 or 5-year's jail or both for Individual

Category 2 Offence – Breach creating risk of death or serious injury (not reckless)

\$1.5m for Corporation
 \$150,000 for Individual

Category 3 Offence – Other breach eg technical breach such as incomplete records

\$500,000 for Corporation
 \$50,000 for Individual

What are the Key CoR Requirements?

The common breaches and respective liability for CoR breaches include:

a) Speeding

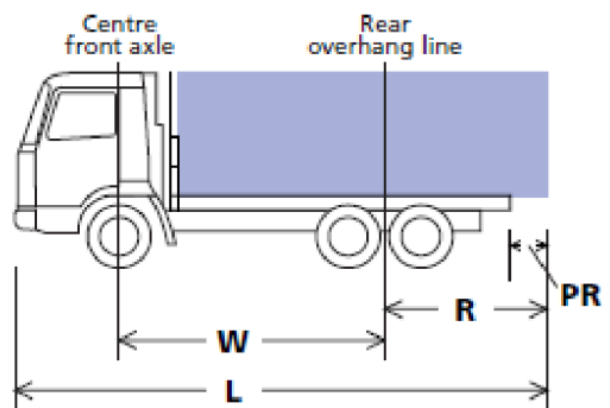
If a driver is caught speeding CoR records could be audited to see if the delivery instructions or conditions eg bonus payment for number of deliveries in a day or for on-time delivery encouraged speeding.

If so each party to the agreement could be prosecuted under the CoR laws for allowing or encouraging the breach.

b) Mass & Dimension of Loads

Whilst drivers have an obligation not to overload their vehicle, load managers, schedulers and forklift / crane operators also have a duty to ensure loads do not exceed overhang limits or the vehicle gross mass, per vehicle load plaque (usually inside driver’s door frame) or in vehicle documentation or manual.

Every load including packages and pre-loaded pallets must have clear labelling of; weight, dimensions (if could over-hang truck) and any special transport or restraint requirements.



Rigid truck with load projecting from rear

W: Wheelbase
 R: Rear overhang; Not more than 3.7 meters or not more than 60% of 'W' whichever is less.
 L: Total Length; of vehicle including projecting load = 12.5m.
 PR: Distance load can project from rear without a flag = 1.2m.

c) Load Restraint

It is not enough to display a sign that says something like **“All drivers and customers must restrain their own loads”**.



Rated load restraint equipment

Under CoR laws it could be a breach to knowingly or recklessly load a vehicle and allow it to go on road not properly restrained.

Your load managers, forklift loaders and warehouse staff need to be trained in the CoR laws and load restraint requirements for your products, and not allow anyone to leave the premises with inadequate load restraint.

It is better to display a sign with something like:

“All loads must be properly restrained by drivers, but if unable to comply we can sell you approved restraints, or we will not load or remove load until a safe vehicle and restraints are provided”

d) Fatigue

If a driver is found to be fatigued records of all parties in the logistics chain can be audited to see if any conditions or practices contributed to the alleged breach of CoR laws eg scheduling excessive shifts or deliveries.

e) Vehicle Standards

The new CoR laws now also include vehicle standards so loading a contractor’s vehicle or customer’s vehicle which is clearly unsafe or in poor condition could lead to charges for load managers or loaders or other parties if they cannot show they have exercised due diligence.

Note:

You are not expected to do a roadworthy check of other people’s vehicles, but your team need to be trained to recognise potential unsafe vehicle conditions and not load until satisfied they are safe or escalate to the load manager.

If you would like to:

- a) Know more about CoR; or***
- b) Get a quote for a CoR audit or training session for your loaders and schedulers call Gary or Ben on T. 03 85 444 300.***

New Victorian DG Transport Regulations Commenced

Victoria’s Dangerous Goods (Transport by Road or Rail) Regulations 2018 commenced on 25 October 2018.



See page 7 for more information.

Safety Action Christmas Breakfast

Our last breakfast briefing for the year will be held at our Clayton conference room on Thursday 13th December.

Our theme this year is **Planning Safety for 2019**.

All participants are encouraged to bring along your stories or experiences on:

- a) How your safety plans went this year; and
- b) Your key plans or focus for 2019.

As usual this will be light-hearted but providing some interesting tips for next year, and an opportunity to network with friends and specialists from other businesses or industries.

[Click here to register.](#)



Safety Action Webinars 2018

Chemicals Webinars

9 NOV / 1.00 PM [Chemicals – Part 8: Preparing a DG Manifest](#)

20 NOV / 10.00 AM [Chemicals – Part 9: Emergency Preparedness](#)

Machinery Safety Webinars

15 NOV / 10.00 AM [Machinery Safety – Part 5: Machinery Maturity Model](#)

27 NOV / 10.00 AM [Machinery Safety – Part 6: Machinery Solutions](#)

New Victorian Compliance Codes

Worksafe Victoria have released four new codes

[Compliance code: Prevention of falls in general construction](#)

Guidance on how to manage risks associated with falls in general construction.

[Compliance code: Prevention of falls in housing construction](#)

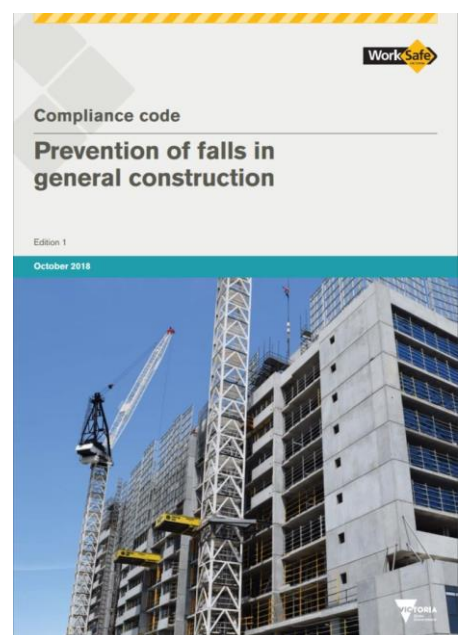
How to manage risks of falls in housing construction.

[Compliance Code Managing asbestos in the workplaces](#)

Highlights the specific duties for asbestos management under OHS Act and Regulations.

[Compliance Code Removing Asbestos in Workplaces](#)

Information on the safe removal of asbestos from workplaces and domestic premises, for persons involved in removing asbestos.



The **BIG** Workplace Breakfast

Drugs, Alcohol, S*x, Social Media and Rock 'n' Roll:

The end of the year event need not be the end of the world

The end of year celebrations (both formal and informal) create complex questions about what a workplace is, how to manage alcohol and drugs, spontaneous intimate relationships and the aftermath, including the use of social media.

This free event will help you understand, prepare and manage the following issues:

1. As a matter of law, when am I 'at work' outside of 'normal work time', and responsible for my behaviour and that of others?
2. Can we regulate how people behave towards each other at work, away from work and at functions (workplace and private)? Does this include intimate consensual relationships?
3. Does social media's high privacy settings activate privacy law and, if so, how?
4. What are the safety responsibilities and how do they drive employment law considerations?
5. How does workers' compensation law extend work times beyond other areas of law?
6. What happens in workers' compensation and employment law where an employee's claim in respect of a function is accepted and the person subsequently has capacity to work but doesn't want to work with a person following what happened at the event?

Thursday, 22 November 2018

Intercontinental Melbourne, The Rialto
495 Collins Street
Melbourne VIC 3000
7:40am – 9:00am

Tuesday, 27 November 2018

UniPark Conference Centre
195 Wellington Road
Clayton VIC 3168
7:40am – 9:00am

To reserve your place **RSVP to**
marketing@fcwlawyers.com.au
before 15 November 2108

Meet our presenters



Andrew Douglas

As Managing Principal of FCW Lawyers, Andrew brings together many years of advisory experience, both his own and that of the team he has assembled, in this unique collaboration of diverse and deep consulting skills.

Andrew has an established reputation for achieving positive outcomes for his clients in workplace law in Australia, Asia and New Zealand.



Gary Rowe

Gary is the Chief Executive Officer of Safety Action Pty Ltd® and has over 25 years' experience in workplace safety and leadership. Key specialities include: safety culture and leadership programs, independent facilitator, contractor management, incident investigations and strategic planning. Other areas of expertise include coaching executive teams and governance committees in risk management and safety leadership.



Matthew Salter

Matthew is the Managing Director of SafeT Now Consulting Pty Ltd and has worked in the field of Health and Safety for the past 15 years. He has extensive experience in the provision of a wide range of Work (Occupational) Health and Safety areas.

Matthew, as a qualified physiotherapist, also has extensive experience in the field of Injury Management and Industrial Medicine.



Paul Marsh

Paul assists employers to take control of WorkCover claims and self-manage their WorkCover costs, which is normally their second highest labour cost.

Paul is a Senior Occupational Therapist and co-owner of P2 Group with over 17 years of WorkCover and Injury Management experience.



Simon Booth

Simon is a former Psychologist who started his career in Workers' Compensation in 1998.

Since then he has worked across underwriting, risk management, loss control, injury management and claims management. As an Insurance Broker specialising in Workers' Compensation, he works with employers nationally to reduce their risks, liabilities and premium spend.