

## A Simple Overview

# ‘CHAIN OF RESPONSIBILITY’ Legislation

### GENERAL INFORMATION FOR ALL BUSINESSES

#### What are the primary reasons for ‘Chain of Responsibility’ legislation?

- To improve road safety for drivers of transport vehicles and members of the general public – that includes you, me and our families and friends.
- To limit the number and severity of heavy vehicle accidents and in doing so reduce fatalities, the cost of damaged goods and traffic congestion caused by these accidents.

#### How does the legislation attempt to do this?

- By checking that load weights are accurate and comply with safe limits set by legislation.
- By checking that loads are adequately restrained and comply with safe limits set by legislation.
- By educating all members of the supply chain of the legal requirements for road transport, and having responsibility for checking the observance of these regulations shared by all supply chain levels.

#### Who has an element of responsibility in this chain? (Referred to as ‘Responsible Entities’)

- Consignors - those who commission the carriage of a load by road.
- Packers - those who place goods in packages, containers or on pallets transported by road.
- Loaders - those who place or restrain the load on a heavy vehicle.
- Drivers - those who physically drive a heavy vehicle.
- Operators and schedulers - those who operate the business that controls the use of a heavy vehicle.
- Receivers - those who pay for the goods or take possession of the load.
- Employers - or managers of a business may also be personally liable for breaches by an employee.

#### Notes for Management

- Safety is paramount.
- Legislation dictates that by not complying you could be found legally liable for infringements, and as such the cost of non-compliance will far outweigh the cost of compliance. You are as responsible by your inaction as you are by your action.
- Everyone involved in road transport must operate within the legal guidelines.
  - You cannot *assume* your suppliers and customers are. Ask questions to find out.
  - This will require cooperation and communication along the chain to ensure your and their policies and procedures ensure compliance.
  - Need to demonstrate you are taking reasonable steps to prevent an infringement from occurring.

#### Notes for Consigners & Receivers

- Need to ensure the load is secure and complies with weight and dimension regulations.
- Get information from your customers and suppliers about their systems in place to ensure compliance to regulations.

#### Notes for Loaders & Packers

- Need to ensure the dimensions and weights comply with road laws.
- Need to ensure the load is secure. Loaders and packers have direct ‘on road’ part in the Chain of Responsibility.

### Notes for Drivers

- Same duties as before introduction of Chain of Responsibility legislation. Duties have not diminished.
- Check the load is secure and weight/dimension requirements are adhered to.
- Responsible for the maintenance of the vehicle.

### New Enforcement Powers under the Chain of Responsibility

- The purpose is to resolve inconsistencies that occur and investigate these along the chain of supply.
- Inspectors have more power with respect to stopping vehicles, inspections, enter and search, and to obtain information and request assistance.

### The Reasonable Steps Defence

- Defend your part in the Chain of Responsibility.
- Demonstrate you did not know, or could not have been reasonably expected to know a breach in road laws had occurred.
- Demonstrate you took all reasonable steps to prevent a breach in road laws, or that no reasonable steps could have been taken.
- There are no limits on the number of steps that you can take to protect yourself, staff or business. Some steps include:
  - Reviewing your business practices.
  - Developing/becoming a signatory to an industry code of practice.
  - Adopting a risk management approach.
  - Using accreditation schemes.
  - Changing your commercial arrangements.
- The more documentation and information provided, the stronger your defense will be. (Examples of this include training your staff, attending information seminars, auditing your procedures to ensure compliance, etc.)
- Show you and your organization acted responsibly; if individuals and companies do the right thing, then everyone can share in the rewards of safer roads.

### Reviewing your Business Practices:

You should **regularly review** your business practices to ensure that at all times the steps you are taking are reasonable. Some of the steps you may need to consider include:

- Ensuring your work practices do not contribute to or cause on-road breaches.
- Training for staff to ensure they understand their obligations under chain of responsibility.
- Completing audits or spot-checks to ensure compliance (for example, monitoring of loading).
- Putting in place contingency plans to manage operational issues within the law.

### Reviewing your Commercial Arrangements:

You can ensure your commercial relationships do not cause your business to breach chain of responsibility laws by:

- Including best work practices (for example, safety accreditation) in relevant commercial arrangements with other responsible people or parties in the transport chain.
- Requesting information about what systems and controls are in place to ensure compliance (for example, policies on drugs or fatigue management).
- Avoiding arrangements which encourage or reward non-compliance.

### Penalties

- Dependant on type of infringement which ranges from minor to substantial to severe.
- A one-off infringement notice is currently \$600.

- For severe incidents, there is a maximum penalty for individuals of up to \$10,000 which is substantially higher for companies.
- For companies there are further administrative penalties and court imposed penalties that might be applied, for example compensation payments or registration sanctions.

### COMMERCIAL FOCUS – CASE STUDY FOR IMPLEMENTATION - Nu-lec Industries

#### Step 1: Need to understand the legislation.

- Help is available to understand the code.
- Queensland Transport Website. [www.transport.qld.gov.au](http://www.transport.qld.gov.au)
- Use a code of conduct (eg. National Logistics Safety Code)  
[http://www.austlogistics.com.au/index.php?option=com\\_content&task=blogcategory&id=87&Itemid=276](http://www.austlogistics.com.au/index.php?option=com_content&task=blogcategory&id=87&Itemid=276)
- Collateral supplied by transport companies and industry partners.

#### Step 2: Identify key stakeholders.

- Legal, management, operational managers, corporate teams (ie. OH&S committee)
- Identify a champion (high authority to drive the project through).
- Identify a project manager.
- Identify a core team (logistics, dispatch, sales, OH&S).

#### Step 3: Assess your organisations' current state and map the code to your business.

- Who has interaction with the code? Who is identified as a 'responsible entity'? Identify internal roles (ie. Consignee, consignor, packer, loader, receiver, etc). Developing a matrix to identify who has what roles could help with this (Example below):

NAME	SUPERVISOR	CONSIGNEE	CONSIGNOR	PACKER	LOADER	DRIVER	OPERATOR	RECEIVER
Harry	X		X					
Fred				X	X			
George				X	X			
Ginny	X					X		X
Hermione	X	X	X				X	X
Ron				X	X	X		

NB: Your organisation might not operate all of the outlined categories. See definitions of each role as outlined by the Code under 'who is responsible'.

- Identify your transport/freight forward partners.
- Identify which of your suppliers are likely to transport your goods that are heavy enough to have the possibility of being overweight and work with them closely.
- Identify your expected outcomes of plans implemented (ie. Compliance with the code, loading and balance control, accurate CWD, compliant vehicles arriving and departing from your premises, etc).

#### Step 4: Implement any changes required (could be inclusions in OH&S procedures, ongoing training programs, etc).

- Training – what is needed to ensure all staff understand compliance? Document all training.
  - Start with management first, then functional managers.
  - Use scenarios from 'real life'.
  - Communicate areas of further information, ie. Websites.
- Ensure your policies and procedures conform. Ensure full process information is included in job instruction manuals. (ie. how to pack and load, supervise this procedure, inspect containers, etc).
- Empowerment/decision making - make sure your staff are comfortable to question what they see, (ie. a potential breach) and to take action to correct this.

- Implement process for what to do if something goes wrong (support from project champion aids this).
- Push for industry participation in following the legislation – codes of conduct.
- Have good work design practices (ie. Good packing).
- Management support is crucial.

*Step 5: Review your suppliers.*

- Communicate with your suppliers; are your vendors reliable? What are the policies of your transport providers?
- Pass on your requirements to your overseas suppliers (and document). This is also part of the ‘reasonable steps’ process. Education of your suppliers to ensure your compliance. This should be part of your company’s’ risk mitigation process.
- Make demonstration of adherence to the Chain of Responsibility specifically outlined in commercial agreements.

*Step 6: Control/Monitor.*

- Part of ongoing operations.
- Randomly check work practices and CWDs.
- Conduct refresher training.
- Observe ongoing behaviours to develop a broader awareness.
- Monitor your suppliers commitment to Chain of Responsibility.

### **INFORMATION FOR IMPORTERS/EXPORTERS DEALING WITH CONTAINER LOADS**

The legislation is looking for synchronisation within the supply chain. Ensure you have compliant procedures for ‘reasonable steps defence.’

### **QUEENSLAND TRANSPORT PRESENTATION – Transport Inspectors**

- Container Weight Declaration (CWD)
  - A legal declaration of the weight of a container and its contents. It must accompany a container whenever all or part of the container’s journey is on the road.
  - There are currently no exemptions (ie. empty containers also require a CWD).
  - Can be an electronically generated form, information written on company letterhead, or handwritten and filled in as you go.
  - Standard information is required (outlined below). This does not have to be on the one piece of paper, can be from multiple documents from paperwork already in place.
- A CWD must include:
  - The weight of the container including its contents. You may estimate the mass, however you will be liable if your estimate is under, subject to the reasonable steps defence.
  - The container number and other details necessary to identify the container.
  - The name, home address or business in Australia of the responsibility making the declaration.
  - The date of the declaration.
  - Any other information declared by the regulations.
- There are no signature requirements for a CWD.
- If an instance of non-compliance is found, inspectors will ask the driver who they got the CWD from and progress down the chain to find the source of the offense.
- Drivers need to be aware of information required on the CWD. Driver must ask for CWD if not presented. If refused he needs to take the name of the person who refused (this is an example of ‘taking reasonable steps’).
- The date on the CWD is OK (for example, if a few days delayed) if the contents of the container have not changed. If unloaded at anytime a new date needs to be recorded.
- You cannot sign away liability with a ‘conditions’ clause at the bottom of a CWD.

- If you have multiple collections the driver will need to recalculate the weight as he travels. There is no penalty for an over-declaration and as such the driver will not have to re-calculate weight with multiple drop offs.
- The Port of Brisbane has “Guide to CWDs” available to download for free on their website; <http://www.portbris.com.au/operations/road/cor>. On this same page there is a ‘Sea Freight Code of Conduct’ that is also available to download for free.
- Communicate with transport companies what your company policies and requirements are.

### **SUPPLY CHAIN – General Obligations**

- Ensure your information is correct – don’t guess! Make sure all your kept records are accurate. Have a process to check/confirm documents to identify the source of information if required. This should be easy if you have good relationships with your suppliers/importers.
- If a discrepancy is found, you need to show reasonable steps taken to resolve the issue.
- Information flow should be smooth and transparent.

### **TRANSPORT OPERATORS – Deluxe Freight Systems**

Transport authorities hold databases on non-compliant consignors – this is a good step to stamp out ‘cowboys’ moving from company to company.

#### *Why is correct information important?*

- Fines and court sanctions.
- Transport companies use information to choose appropriate handling equipment for weight requirements.
- It is difficult to visually identify an overloaded truck with modern airbag suspension systems and powerful prime movers.
- Inconsistencies in information cause confusion and delays.
- Goods may need to be left at the dock to arrange alternate transport which increases costs and delays.
- DFS runs containers over weigh bridges on a semi-regular basis to check CWDs for accuracy.

#### *Why are even loads important?*

- VIP for road safety.
- Transport companies cannot open a container at the port to check without express permission.
- Overloading on a single axel is against regulation and can cause major accidents.
- Needs to be braced properly in the centre to avoid tipping over.

#### *Restrained inside the container accurately is really important!*

- Unsecured loads create dangerous situations with load movement.
- The load restraint guide is available to download from <http://www.ntc.gov.au/viewpage.aspx?documentid=00862>
- If find an issue of non-conformance to the regulations, document (photo) and demonstrate corrective action taken.
- Ensure your overseas suppliers are aware of compliance requirements.
- Non-compliant containers add delays and costs to the supply chain.

#### *How to choose your carrier:*

- Are they part of an industry Association?
- Do they participate in improvements to industry safety outcomes?
- Do they engage other parties in the supply chain to enhance compliance?
- Do they have externally audited certification systems? (ie. Trucksafe/NHVAS).
- Are they a signatory to a code?
- Verify your carriers’ credentials!

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**Resources Used:**

1. Notes taken at Chain of Responsibility Forum hosted by the Port of Brisbane.
2. DVD Information Kit from QLD Transport.
3. Queensland Transport website;  
[http://www.transport.qld.gov.au/Home/Industry/Freight\\_and\\_heavy\\_vehicles/Heavy\\_vehicles/National\\_compliance\\_and\\_enforcement\\_bill/Chain\\_of\\_responsibility/](http://www.transport.qld.gov.au/Home/Industry/Freight_and_heavy_vehicles/Heavy_vehicles/National_compliance_and_enforcement_bill/Chain_of_responsibility/)
4. Worksheets Available for download from Queensland transport; [www.transport.qld.gov.au](http://www.transport.qld.gov.au)