



Implementation of Chain of Responsibility (CoR) Legislation in Western Australia

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Legislation



Chain of Responsibility – What is it?

CoR legislation extends the legal liability for breaches of transport law to all parties throughout the transport chain.



Chain of Responsibility – What does (CoR) mean?

If you use road transport as part of your business, you share the responsibility of preventing breaches under new CoR legislation.

This means anyone who has control in the transport chain (including the operator and manager) can be held legally accountable if, by their actions, inactions or demands, they cause or contribute to road safety breaches.



Chain of Responsibility – What vehicle types does this reform cover?

- In WA CoR laws will apply to all vehicle types, (including light vehicles <4.5 tonne).





Chain of Responsibility – What type of offences does it cover?

In WA CoR laws WILL ONLY extend to vehicle mass, dimension & load restraint breaches.



Not under CoR but don't forget

- Fatigue (Worksafe)
- Speeding
- Drugs & Alcohol & Health



Chain of Responsibility – Possible Breaches...



Another truck well stuck under the Bayswater train station [#perthtraffic](#) [#perthnews](#) [pic.twitter.com/ASky5aoqIQ](#)

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Chain of Responsibility – Load Restraint Guide

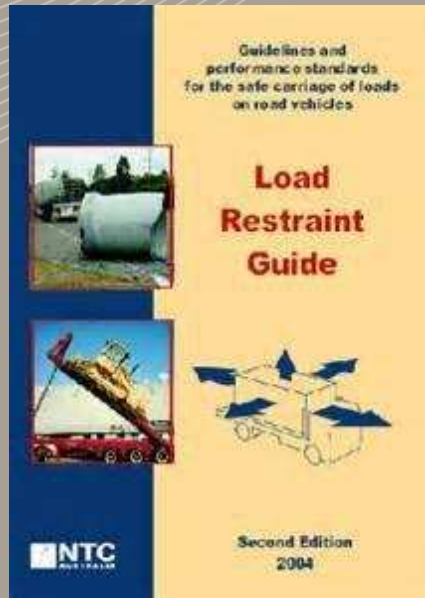


Fig. B.1

VEHICLE TOO SMALL

Figure B.2 shows the same long load on a longer vehicle with no rear overhang and good weight distribution.

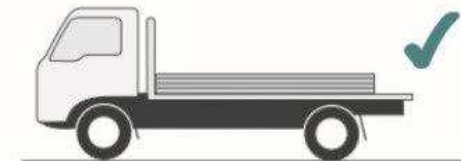


Fig. B.2

CORRECT CHOICE OF VEHICLE



Chain of Responsibility – Has CoR law commenced in WA?

- No.
- The CoR law is scheduled for commencement once the drafting of the supporting regulations has been finalised.
- This period will enable affected parties to become familiar with the new CoR requirements and provide time to modify business practices (if required).



Chain of Responsibility – Where can I find the CoR legislation?

- Road Traffic (Administration) Act 2008

http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrttitle_4471_homepage.html

- Road Traffic (Vehicles) Act 2012

http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrttitle_12926_homepage.html



Areas of Specific Coverage



Chain of Responsibility – Who is included in the Chain?

If you are involved in any of the following road transport activities, you are a party in the 'Chain of Responsibility' and may be deemed liable in the event of a breach of the road laws:

Consigning: a person or company commissioning the carrying of goods;

Packing: placing goods in packages, containers or pallets;

Loading: placing or restraining the load of the vehicle;

Driving: the physical act of driving a vehicle;

Operating: operating a business which controls the use of a vehicle;

Receiving: paying for the goods / taking possession of the load.



Chain of Responsibility – Also extends to...

Director(s) of
a body
corporate

Partners in a
managed
partnership

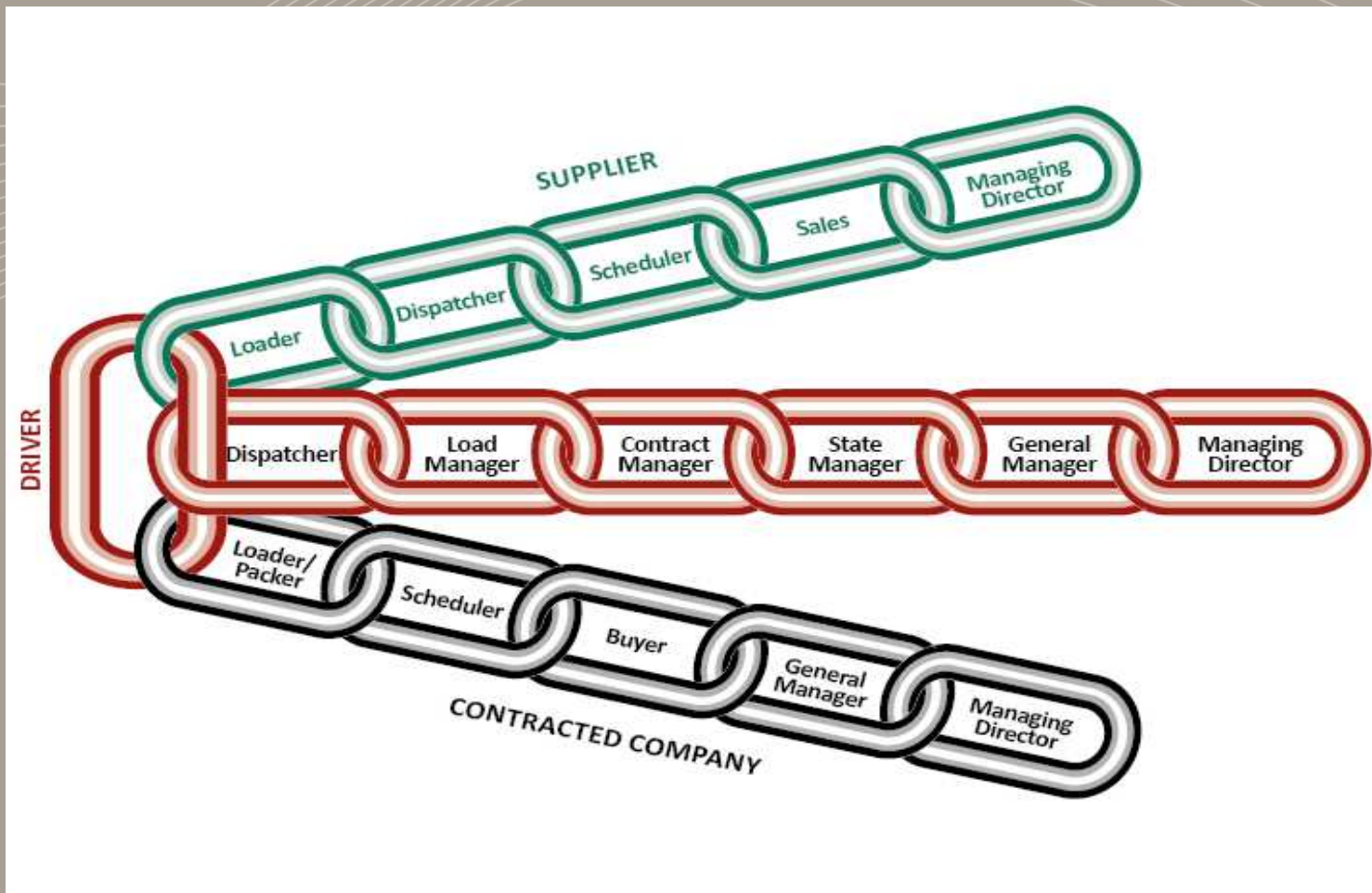
Unincorporated
associations

Employers

Any person who threatens,
intimidates, coerces, induces or
offers an incentive to another person
to commit an offence

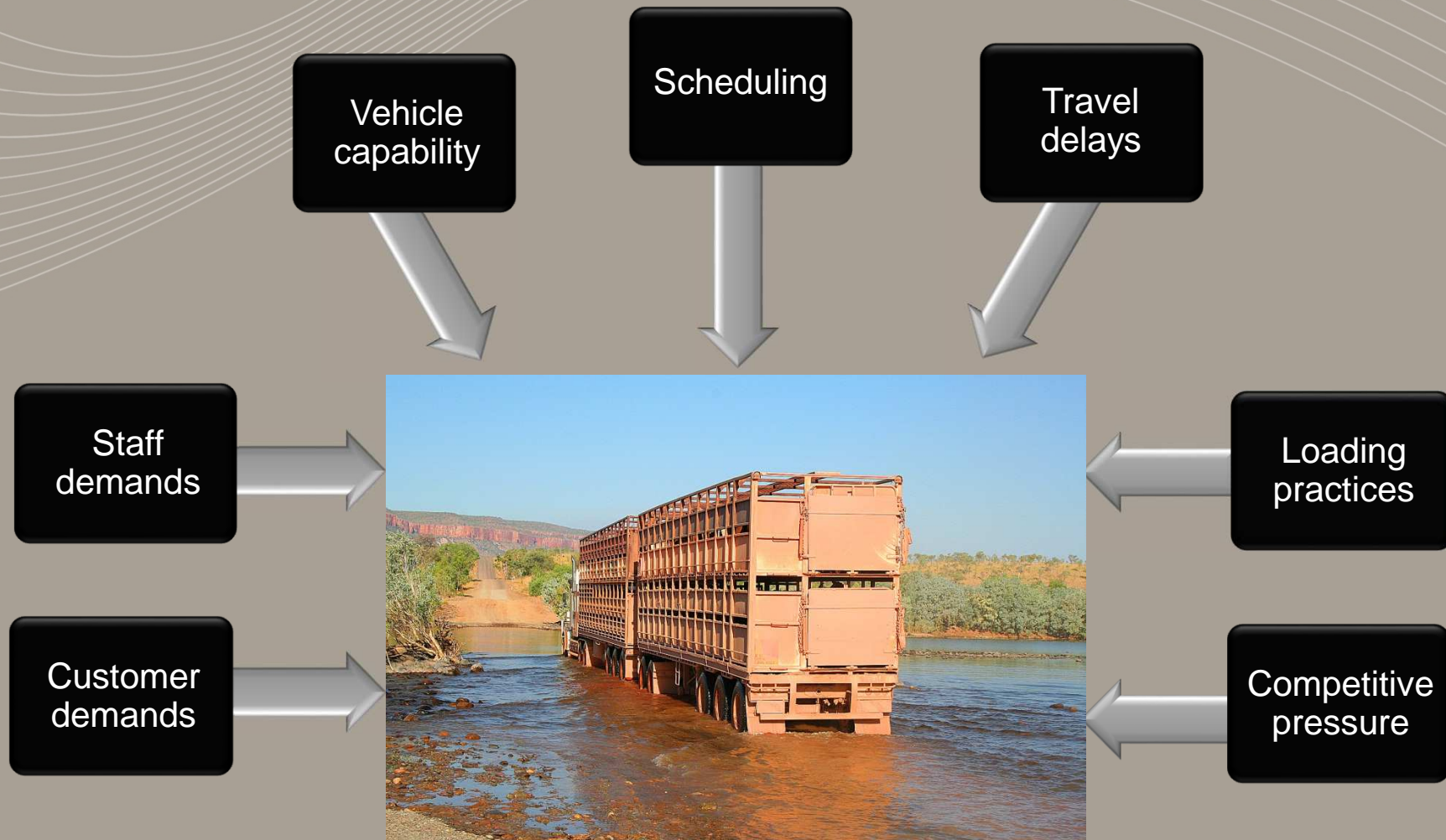


Chain of Responsibility – Who influences the Chain?





Chain of Responsibility – What influences vehicle compliance?





Compliance and Enforcement



Chain of Responsibility – Enforcement

Main Roads are the key enforcement agency via:

- Transport Inspectors;
- Intelligence Unit;
- Dedicated Investigators.

WA Police will also have the authority to enforce CoR.



Chain of Responsibility – What may prompt an investigation?

- Number (and type) of offences detected over a defined period of time
- Fatal or serious crashes
- Complaints
- Informants
- Intelligence





Chain of Responsibility – What you need to do?

Whichever activity you perform in the ‘chain’, it is important that you take reasonable steps to manage the risk and ensure road safety is not compromised.

There are no limits to the ways in which you can do this. What constitutes reasonable steps will vary according to each individual’s circumstances.



Chain of Responsibility – What is 'reasonable steps' defence?

Must Prove:

- Did not know of the breach, and
- Could not be reasonably expected to have known, and
- Took all reasonable steps to prevent the breach



Chain of Responsibility – How do you take ‘reasonable steps’?

Taking reasonable steps means you must:

- regularly identify and assess the risks associated with your activities; and
- manage those risks.

You can manage those risks by:

- doing all you can to eliminate the risk; or
- if you can't - do everything you can to reduce or minimise the likelihood of the risk occurring.

Doing nothing is not an option



Chain of Responsibility – What is ‘reasonable’?

Things to consider:

- Nature of transport task
- Expertise / experience / training
- Risk management approaches
- Policies
- Procedures
- Monitoring / auditing



Chain of Responsibility – How do you take ‘reasonable steps’?

Taking reasonable steps could include:

- reviewing business practices,
- changing commercial arrangements,
- adopting a risk management approach,
- appropriate training policies,
- appropriate supervision,
- ensuring responsibilities are known



NOTICE

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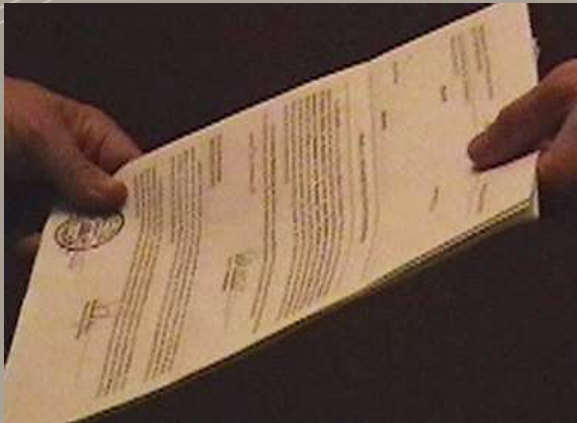


Chain of Responsibility – Questions for you to consider?

- Have you taken all reasonable steps to comply with the CoR legislation?
- Are you loading your vehicles correctly?
- Are you satisfied that your contractors are able to take the loads they say they can, *legally*?



Actions and Consequences





Chain of Responsibility – Penalties?

Priors: Nil.
Costs: Nil.

Summary

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- 1- RSA 1910 100 penalty Units x33 = \$386,100
- 2 -RSA 1910 250 penalty Units x12 = \$351,000
- 3- RSA 1910 500 penalty Units x7 = \$409,500
- 4- RSA 1910 100 penalty Units x 2 = 23,400
- 5 -RSA 1910 50 penalty Units x 2 = \$11,500
- 6 -RSA 1910 500 penalty Units x3 = \$175,500
- 7 -RSA 1910 500 penalty Units x7 = \$409,500
- 8 -RSA 191ZB 500 penalty Units x19 = \$1,111,500
-
- **Total 85 Charges**
- **Total maximum for all offences = \$2,787,500**



Chain of Responsibility – Actions

- Companies/Employers need to have a system for their own compliance
- Companies/Employers need a system to ensure provider complies
- Know where you are and where you should be – Gap Analysis
- System must be auditable and preferably certifiable
- Do not be fooled by false compliance



Case Studies





Chain of Responsibility – Case Studies

Potato Harvest

- Daily overloads
 - 5% to 15% over
- Cubic line marked on truck
- Mass per cubic metre variable
 - Water content
 - Variety
 - Potato size



Chain of Responsibility – Case Studies

Western Freight Management

- Driver did not check that vehicle had been loaded correctly.
- Freight carrier prosecuted for breach of mass.
- Did the driver take all reasonable steps?
- Forklift driver did not distribute load according to truck drivers instructions.
- Prosecution not required to specify reasonable steps the driver should have taken.
- Driver failed to check that the truck had been loaded as he instructed.
- \$3000- Penalty imposed (\$22,000- maximum).



Chain of Responsibility – Summary

- Know & comply with the law – ignorance is no excuse
- Identify, assess and manage risks
- Liability for both in-actions / actions
- Documented, Auditable process

Influence = Control = Accountability = Liability



Chain of Responsibility – Need more information?

- Industry associations
- Legal practitioner (transport law)
- Consultancies specialising in CoR
- Transport South Australia Youtube video
- Main Roads website - www.mainroads.wa.gov.au
- Dedicated phone support via our HVS Help Desk
138 HVO (486)



Questions?

