

Chain of Responsibility 101 Handbook for Livestock Saleyard and Transport Activities

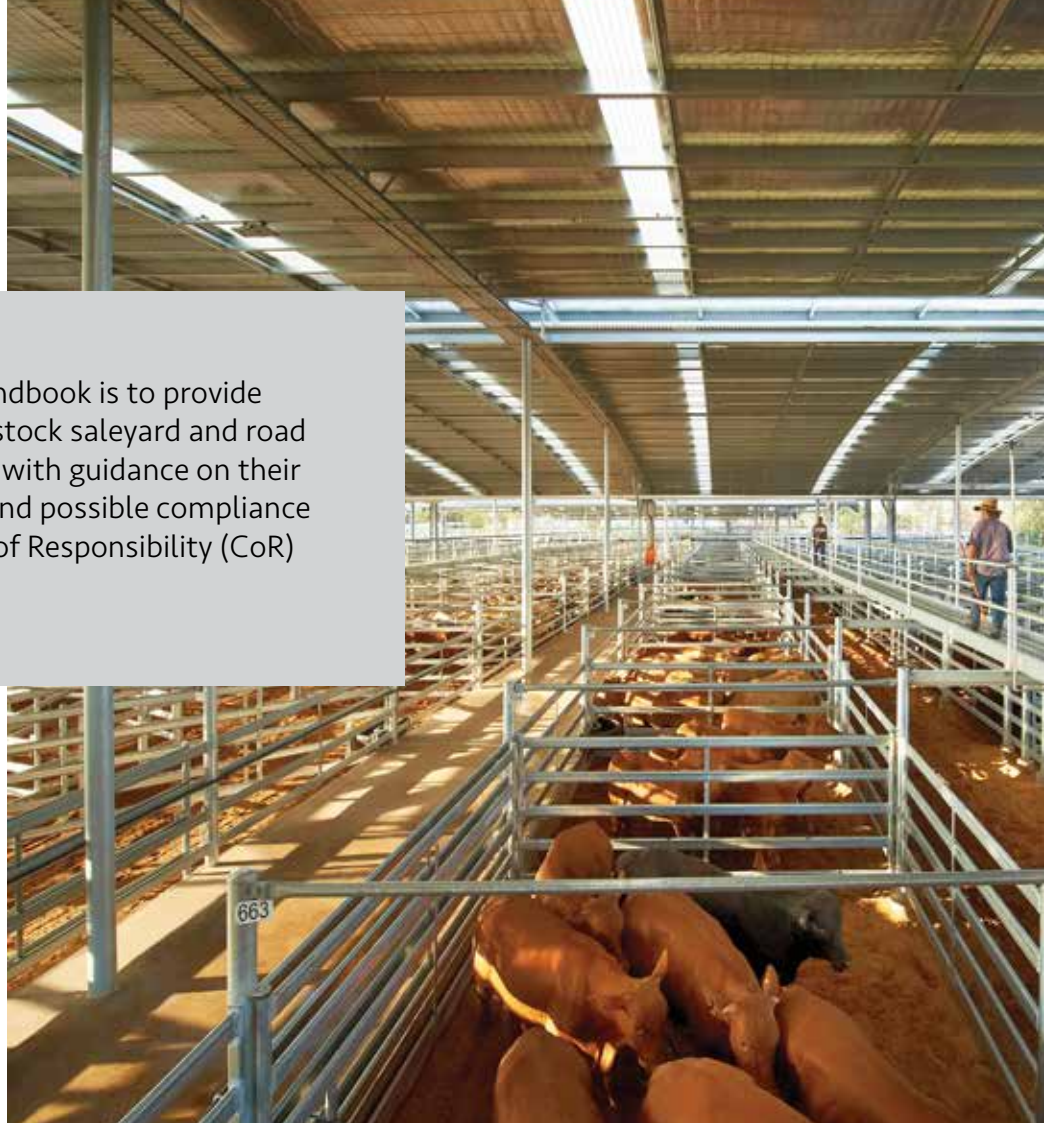
Australian Livestock Markets Association (ALMA)

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1. Purpose

The purpose of this handbook is to provide participants in the livestock saleyard and road transport supply chain with guidance on their roles, responsibilities and possible compliance steps under the Chain of Responsibility (CoR) laws.



2. What is the Chain of Responsibility and what are the main duties under it?

The aim of the CoR laws is to ensure that heavy vehicles, their loads and drivers are safe and do not pose a risk to themselves, other road users, the public, public infrastructure or the environment. The concept of the *Chain of Responsibility* recognises that heavy vehicle safety is not only a matter for transport operators and drivers. The conduct, business practices, actions, inactions and demands of other off-road parties in the Chain can equally contribute to or detract from on-road safety.

If you are a party in the Chain, in respect of any transport activities that you perform, control or over which you have influence, you must:

Ensure, so far as reasonably practicable, the safety of your transport activities relating to the use of a heavy vehicle on a road;

Ensure that your actions/inactions, requests, requirements or business practices do not directly or indirectly cause, encourage or provide a reward for any other party in the Chain to breach the CoR laws; and

The CoR laws require you to adopt a risk-based approach to the safety of your transport activities. That is, you must identify the safety risks that arise for your transport activities and develop and implement measures that are aimed at eliminating or, where not possible, minimising those risks. The measures that you may be required to take are commensurate with the risks involved.

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In addition, the Executive (director or person concerned in the management of a corporation; partner in a partnership or management member of an unincorporated body) of any party in the Chain must:

Exercise due diligence to ensure the safety of the business' transport activities.

This means that Executives have to understand what transport activities are conducted and the risks that arise; have knowledge of how such activities can be conducted safely; deploy appropriate resources and implement practices to address and monitor those risks; receive and respond to information about hazards and risks; and verify that the resources and practices are being used, implemented and are effective.



3. Who in the livestock saleyard and road transport supply chain is a party in the Chain?

Parties in the Chain can be corporations, partnerships, unincorporated bodies or individuals who are self-employed or sole operators.

You are a party in the Chain and subject to the above safety duties if you or your company does any of the following:

Consigning (e.g. livestock seller)

Packing/preparing (e.g. feedstock seller)

Scheduling (e.g. transport operator)

Loading (e.g. driver, drover, livestock seller)

Carrying (e.g. transport operator)

Unloading (e.g. driver, drover, livestock agent)

Receiving (e.g. livestock agent, buyer),
goods transported by heavy vehicle by road,

or operating:

A heavy vehicle (e.g. transport operator)

Premises at which heavy vehicles regularly load/unload (e.g. livestock seller, saleyard, livestock buyer).

It doesn't matter that you don't identify yourself or your actions as falling within one of the above terms or if another person also performs such activities. If you perform, control or have influence over any of the above functions, you are a party in the Chain and must discharge your safety duties in relation to those activities.

4. What does the CoR cover?

The CoR laws are not entirely consistent throughout Australia.

In Qld, NSW, ACT, Vic, SA and Tas, the CoR provisions in the Heavy Vehicle National Law (HVNL) apply to any heavy vehicle, which is any vehicle or combination with a gross vehicle mass (that is, maximum loaded mass) of 4.5 tonnes or more. The road transport safety risks covered by the CoR laws in those jurisdictions and which parties in the Chain must manage include:



Mass (both GVM and axle mass)



Dimension



Load restraint



Speed management



Fatigue management



Vehicle standards and maintenance

In Western Australia, the CoR laws also apply to the commercial use of any light vehicle. However, the CoR laws in Western Australia do not extend to speed, fatigue or vehicle standards/roadworthiness. That is, parties up and down the Chain in Western Australia are not responsible for these risks.

The Northern Territory does not have equivalent CoR laws.

5. What do I have to do to comply with the CoR laws?

5.1 If you are operator/driver/scheduler:

As discussed in section 2 above, the CoR laws require you to adopt a risk-based approach to safety. That is, you must identify the safety risks that arise from your transport activities and develop and implement measures that are aimed at eliminating or, where not possible, minimising those risks. The measures that you may be required to take are commensurate with the risks involved. Where available, industry codes of practice registered under the HVNL are a good resource to cross-check your assessment of risk and control measures against those that are considered generally applicable in your sector. Role-based guidance provided by the NHVR and state regulators includes the following suggestions:

- Rosters and schedules do not require drivers to exceed driving hours regulations or speed limits
- Records of drivers' activities, including work and rest times, are kept
- Do everything that is reasonably practicable to ensure drivers do not work while impaired by fatigue or drive in breach of their work or rest options
- Vehicles are regularly maintained, and if speed limiters are fitted they are functioning properly
- Vehicles are not loaded in a way which exceeds mass or dimension limits

For example, vehicles are fitted with on board mass scales, or use portable mass pads, or use on-site weighbridges, or calculate load sizes based on livestock numbers and feed/water conditions (with a margin for error) and regularly check that those calculations hold up (e.g. by using on-site or public weighbridges).

- Drivers moving freight containers (if applicable) have a valid Container Weight Declaration
- Loads (e.g. feedstock) are appropriately restrained with appropriate restraint equipment.

5.2. If you are a loading manager/loader/packer

Loading managers must ensure that:

- Reasonable arrangements are in place in relation to any loading/unloading slots
- Loading/unloading activities are managed to ensure that they are completed as quickly as possible
- Systems are in place to deal with unexpected delays or interruptions to loading/unloading activities
- General compliance observations are made to ensure that the transport activities being carried out on site are being done safely.

Loaders must ensure that the load:

- Does not exceed vehicle mass or dimension limits
- Is placed in a way so it does not become unstable, move or fall off the vehicle
- Is correctly restrained (in accordance with the performance standards set out in the Load Restraint Guide) on completion of loading.

Packers (e.g. of containerised or palletised goods, such as feedstock) must ensure that:

- Documentation about the vehicle's load is not false or misleading
- Any goods packed in a freight container do not cause the container's gross weight or safety approval rating to be exceeded.

5.3. If you are a consignor/consignee

Consignors and consignees must ensure that:

- Loads do not exceed vehicle mass or dimension limits
- Goods (e.g. feedstock) carried on your behalf are able to be appropriately secured
- Operators carrying freight containers (if applicable) have a valid Container Weight Declaration
- Your delivery requirements do not require or encourage drivers to:
 - Exceed the speed limits
 - Exceed regulated driving hours
 - Fail to meet the minimum rest requirements
 - Drive while impaired by fatigue
 - Carry goods that exceed vehicle mass or dimension limits
 - Carry goods that are not appropriately secured.



6. Am I responsible for the safety conduct of third parties?

Whether or not you have any responsibility to manage or monitor the compliance conduct of third parties will depend on how you structure your transport activities and the extent to which you control or have influence over how they are conducted.

For activities carried out wholly by another party in the Chain for their own purposes/benefit and over which you do not exercise any control, you will likely not have any responsibility. However, where the performance of their transport activities links up with yours (e.g. they transport livestock which is unloaded at your saleyard), you should still ensure that your conduct does not contribute to them breaching the law (e.g. you manage your saleyard so that transport operators are not unreasonably delayed in loading/unloading) and be alert to obvious compliance breaches (e.g. if their trucks repeatedly arrive very obviously overloaded or in an obvious externally visible state of disrepair).



6. continued

When considering your responsibility for managing or monitoring the compliance conduct of contractors, the same considerations apply.

If you have less control and influence over how they perform the subcontracted transport activities, it is more likely that your responsibility will be one of periodically monitoring their performance. This would be the case where, for example:

- The contractor has expertise that you do not have
- The transport activity occurs outside of your geographical control (e.g. a load is loaded and/or restrained by others, prior to being delivered to you)
- You have limited control of the transport activity (commercial feedstock packed and transported to your saleyard by third party supplier).

If you have more control and influence over how they perform their subcontracted transport activities, it is more likely that your responsibility will be to more actively manage their performance. This would be the case where, for example:

- You possess the relevant expertise as to the conduct of the transport activity, albeit that you are contracting some or all of its performance to a third party (e.g. your saleyard staff unloads some trucks, but engages a contractor to assist unloading out of hours)
- The transport activity occurs within your geographical control (i.e. unloading livestock at your saleyard, by your contractor)
- You have a high level on control of transport activity.

7. What things should livestock saleyards be doing to manage compliance?

For 'public' saleyards that are largely operated as infrastructure assets and made available for other parties (e.g. livestock agents, buyers and sellers) to conduct their business, saleyard operators could consider the following measures:

- Ensure you manage your saleyard so that transport operators are not unreasonably delayed in loading/unloading
- Include CoR compliance assurance terms in agent deeds/licences of access, requiring agents and their invitees to comply with CoR laws and report instances of breach and allowing for the suspension/termination of access rights for persons persistently breaching the CoR laws
- Deliver induction program, including CoR awareness elements for all agents and transport operators
- Issue CoR advisory material (e.g. this handbook) to Agents and other users of the saleyards outlining the CoR obligations arising from the use of the saleyards
- Ensure that all livestock weighing equipment at the saleyards is appropriately classed, calibrated and certified as required under the National Measurement Institute rules and available for use by livestock agents, buyers and sellers to assist them to manage mass compliance

7. continued



- Train saleyard staff in the observation/detection of observable CoR breaches and implement a process for them to report instances of breach and failure to comply with saleyard access conditions
- Report instances of non-compliance to relevant parties and engage with them in relation to their response/remediation and, where necessary, sanction unremedied noncompliance
- Report serious repeat non-compliance to the State/Territory road safety authority or the NHVR Heavy Vehicle Confidential Reporting Line (HVCRL) - 1800 931 785
- Ensure a saleyard officer is charged with the duty to manage and monitor the implementation of your CoR compliance program and related policies, systems and procedures
- Circulate quarterly CoR compliance reports to management, for their consideration and escalation/further action, if necessary
- Keep documentary records of the above measures, observations, report and outcomes for three years
- Develop written procedures to give effect to the above measures.

8. Further information

This handbook is provided by way of general guidance and suggestion only. It is not a complete and exhaustive statement as to your role, responsibilities or the steps that you may be required to take under the CoR laws. You must consider your own individual circumstances – as the extent of your obligations will depend on the ‘transport activities’ performed by you and/or over which you have control or influence. Further information can be found at:

NHVR CoR landing page -

www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility

NHVR ‘roles and responsibilities’ outline –

www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/roles-and-responsibilities

NHVR ‘safety management systems’ landing page, which includes template

CoR management documentation -

www.nhvr.gov.au/safety-accreditation-compliance/safety-management-systems

NHVR CoR compliance gap assessment tool -

www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/cor-gap-assessment-tool

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You may also need to seek individual advice on your own personal circumstances.

ALMA has recently engaged Holding Redlich lawyers' expert Transport, Shipping & Logistics team to provide general CoR compliance advice and recommendations for the benefit of ALMA's members. As part of that engagement, Holding Redlich has agreed to provide a 10% discount on their fees for providing any individual advice/assistance required by ALMA members in relation to CoR compliance. In this way, ALMA members can be assured that they are getting cost-effective expert advice on CoR compliance.

Any ALMA member wishing to take up this offer can contact Nathan Cecil, Partner – Transport, Shipping & Logistics on 02 8083 0429 / nathan.cecil@holdingredlich.com and quote **your ALMA discount code**. To obtain your discount code contact ALMA at info@australiansaleyards.com.au.





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