



A GUIDE TO CONTAINER WEIGHT DECLARATIONS

FREMANTLE PORT SEA FREIGHT CONTAINER SUPPLY CHAIN (LOADED CONTAINERS) VERSION 1

(This document is to be referred to as a guide only and is not to be referred to as a comprehensive process for “Reasonable Steps Defence” purposes).

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Introduction

New legislation due to be implemented in Western Australia during 2014, dealing with Compliance and Enforcement (C&E) but also commonly known as “Chain of Responsibility” (COR), introduces a new term and new provisions for a “Container Weight Declaration” (CWD). CWD information must be provided whenever a loaded container is transported by road.

The aim of this document is to complement the work done by others, including, in particular Main Roads WA, to:

- explain what a CWD is;
- provide examples of a CWD as possible templates; and
- provide a guide to risk mitigation to comply with legislation and some possible “reasonable steps” in defence of a breach charge for non-compliance.

**Please note that all information provided in this document is only to be viewed as a guide and further detailed advice should be gained when assessing risk management strategies.*

Chain of Responsibility

Chain of Responsibility has been introduced by the Western Australian Government in the interests of national consistency to replicate the provisions of the *National Road Transport Reform (Compliance and Enforcement) Bill* and recognises the responsibilities that others have in the transportation of goods by road, beyond that of the driver and operator. In the event of a breach, consignors, drivers, vehicle owners, packers, management and company directors, may be held responsible under the legislation. All reasonable steps must be taken by all participants (within their roles) to ensure compliance with the law.

For a more detailed explanation of COR, the reader should refer to the Main Roads WA website under the following reference:

<https://www.mainroads.wa.gov.au/UsingRoads/HeavyVehicles/Compliance/Pages/CoR.aspx>

Container Weight Declaration Description

A CWD for a freight container is a declaration that accurately states or purports to state the weight of the freight container and its contents. All **loaded** freight containers travelling by road, whether originating from land or ship, must carry a CWD. Definitions of a CWD are set out below:

A CWD complies with the legislation if it contains the following information:

1. the weight of the freight container recorded on the CWD, which must include:
 - a. the weight of the goods being transported in the container;
 - b. the weight of any packaging in the container; and
 - c. the weight of the container itself.
2. the container number and other particulars of the freight container necessary to identify the container;
3. the name, home or business address in Australia of the “responsible entity” (see Appendix 1); and
4. the date of the declaration.

As an example, a Bill of Lading/Delivery Order for Imports and a Pre-Receipt Advice (PRA) for Exports suffices as a CWD if it contains all of the information noted above. For further details see the Fact Sheet produced by Main Roads WA (“Chain of Responsibility” Legislation Fact Sheet 7 – Container Weight Declarations) contained in Appendix 1. A possible CWD template is contained in Appendix 2. An example of a CWD currently used is contained in Appendix 3.

*Note: A CWD may be provided **electronically** (e.g. smart phone, tablet, etc.).*

While a CWD will assist in identifying container gross weights, many vehicle overloads involve issues with excessive weights over individual axles or axle groups. The Western Australian Port Operations Task Force (WAPOTF) recommends those arranging CWDs provide an **indication of the centre of mass of the container** (i.e. uneven load distribution) for reasons of safety.



Risk Mitigation Guide

Parties in the transport and logistics chain will need to ensure they have compliance systems and programs (e.g. training) in place to manage the risks associated with road transport.

The legislation allows a person charged with an offence the benefit of a “reasonable steps defence”. You will need to demonstrate that, within your role:

- you have taken all reasonable steps to prevent the breach;
- there were no steps that you could have taken; and
- you could not reasonably have been expected to know about the breach.

The following matrix shows the identified risks and the reasonable measures each responsible entity may take to mitigate the risk.

Responsible Entity	Declared weight of container appears to be incorrect	Declared weight of container is ambiguous (tare, gross or net)	Declaration weight has been altered	No correct declaration of weight is provided to responsible entity (RE)
Australian Consignee (Importer)	The consignee is to advise all suppliers and agents in writing of the requirements of the Australian law in relation to declaration of container weights. Shipper to provide details of weight estimation method.	The consignee is to stipulate that tare and gross weights are to be shown on all documentation as part of contract to buy. Contract conditions to require basis of weight estimates.	The consignee is to maintain an electronic or fax copy of original consignment information from shipper. This should be compared to delivery and, if different, assess impact and mitigation. Consignee to consider contractual steps available e.g. should payment be withheld?	If any RE in the chain does not receive a correct declaration of weight, a copy should be provided by the consignee, who should supply from original receipt of consignment information.
Australian Customs Broker/ Freight Forwarder/ Export Agent	The agent is to advise the consignor of Australian law and weight estimation method. Agent to maintain register of shipments and shippers known to be in breach.	In the absence of tare and gross weights, the agent is to seek clarification from shipper and/or consignee.	The agent to compare transport documentation with commercial documentation advice for every transaction. The agent to treat any discrepancy as a breach, inform consignee and request action.	The agent immediately seeks to rectify by reference to earlier records and/or shipper/consignee. Agent records help identify and track repeat instances.
Australian Consignor (Exporter)	Either has control of the means to carry out a weight estimation or, if not, should advise the freight owner of requirements of law at regular intervals.	Establish unambiguous reporting formats. Gross, tare and net mass recorded and computer verified adding on a spreadsheet. <i>(Note: it is recommended that the exporter provide an indication of the load distribution within the container, particularly where this is uneven)</i>	Reissue or request clean substitute paperwork. Compare documentation with commercial documentation.	In the absence of documentation, the consignor should refuse to order road transport.

Responsible Entity	Declared weight of container appears to be incorrect	Declared weight of container is ambiguous (tare, gross or net)	Declaration weight has been altered	No correct declaration of weight is provided to responsible entity (RE)
Shipping lines - Imports	Where detected, the shipping company should advise the overseas agent of the legislation in Australia.	The shipping company should advise overseas agents that all documentation provide tare and gross weights. Agents and staff to be informed that incomplete documentation could result in delays.	Shipping companies should provide instructions that any obvious alteration of a declaration should be advised immediately to the agent and the consignee. Shipping company records help identify and track repeat instances.	The line should advise the stevedore that the container should not be offered for road transport.
Shipping lines - Exports	Where detected, the shipping line should advise the Australian exporter or its agent of the legislation in Western Australia.	Where detected, the container weight information should be checked before accepting cargo for shipment.	Where detected, the container weight information should be checked before accepting cargo for shipment.	The container should not be offered for road transport
Stevedore	The stevedore is the loader/unloader of the freight. When incorrect weight is detected or suspected by operators the container must be identified and the sending or receival party agent/ consignee/truck operator notified.	See left hand column	Where detected, the container weight information should be checked before accepting cargo for shipment.	The stevedore must hold container and advise agent or consignee the container cannot be released without accurate declaration.
Rail operator	Where the container is weighed on receival and the declared weight appears inaccurate the consignment will be refused and the consignee/agent advised. Where the container is identified as overweight in transit by rail, the consignee/agent will be advised. The container may be detached en-route pending transshipment to another wagon or transfer to another transport mode.	See left hand column	See left hand column	See left hand column

Although the transport operator is the recipient of the CWD, and is not usually a “responsible entity”, the scenarios depicted above will likely affect the transport operator. The matrix below provides potential mitigating strategies transport operators can take to reduce the risk of a breach.

Responsible Entity	Declared weight of container appears to be incorrect	Declared weight of container is ambiguous (tare, gross or net)	Declaration weight has been altered	No correct declaration of weight is provided to responsible entity (RE)
Transport operator - Exports and Imports	Understated Weight a. Refuse to load. b. If possible, weigh the truck and the container. If overweight, change trailers or arrange with the consignor for the container to be repacked.	a. Refuse to load. b. Advise the consignor that tare and gross weights are to be shown on documentation. Contract conditions to require basis of weight estimates.	a. Refuse to load. b. If possible, weigh the truck and the container. If overweight, change trailers, or arrange with the consignor for the container to be repacked.	Refuse to load (transporting the container without a CWD would be a breach of the law).

Note: These tables are not comprehensive and cannot be applied to all companies in all sectors without an individual assessment of business processes, identifying risks and developing a methodology to mitigate.

Acknowledgements

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Appendix I - Main Roads Fact Sheet

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“Chain of Responsibility” Legislation Fact Sheet 7 – Container Weight Declarations

WHAT IS CHAIN OF RESPONSIBILITY?

If you use road transport as part of your business, you share the responsibility of managing the risk.

This means anyone who has control in the transport chain – including the consignor, loader and receiver – can be held legally accountable if, by their actions, inactions or decisions, they cause or contribute to a breach of the road laws.

Put Simply This Means:
Control = Responsibility
= Legal Liability



What is a freight container?

The legislation defines a freight container as:

“a re-usable container of the kind mentioned in *Australian / New Zealand Standard AS/NZS 3711.1:2000, Freight containers – Classification, dimensions and ratings*, that is designed for repeated use for the transport of goods by one or more modes of transport.”

Container Weight Declaration

A ‘Container Weight Declaration’ for a freight container is one that states the weight of the freight container and its contents.

Subject to the regulations, a Container Weight Declaration:

- may be comprised in one or more documents or other formats, including being in electronic form; or
- without limiting the above, may be comprised wholly or partly in a placard attached or affixed to the freight container.

Complying Container Weight Declaration

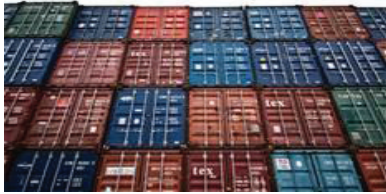
There is no specific format for a Container Weight Declaration. It does not even have to be a single document, but it must contain certain core information.

A Container Weight Declaration complies with the legislation if it contains the following information:

- the weight of the freight container and its contents;
- the number and other particulars of the freight container necessary to identify the container;
- the name, home address or business address in Australia of the ‘responsible entity’;
- the date of the declaration;

The Container Weight Declaration is to be made available to an authorised officer who may seek to verify the information contained in the declaration there and then in the presence of the consigned freight container, whether by examining documents located in or on the vehicle or by obtaining the information by other means.

“Chain of Responsibility” Legislation Fact Sheet 7 – Container Weight Declarations



Who is responsible?

The responsible entity must provide the operator or driver with a complying Container Weight Declaration before transport of the container begins. In relation to a freight container, a 'responsible entity' is:

- (a) the person who consigned the container for transport by road in the relevant jurisdiction if the person was in Australia at the time of consignment; or
- (b) if there is no person as described in paragraph (a) above, the person who (being in Australia) on behalf of the consignor, arranged for the transport of the container by road in the relevant jurisdiction; or
- (c) if there is no person as described in paragraphs (a) and (b) above, the person who (being in Australia) physically offered the container for transport by road in the relevant jurisdiction.
 - **Consignor** – The consignor (e.g. importer, freight forwarder, shipping agent, etc.) must prepare a complying Container Weight Declaration (electronically or printed) and provide a copy for the road transport operator or driver before the container can be transported by road. For imported containers, the consignor is the person who imports the container into Australia.
 - **Drivers** – A person must not drive a vehicle loaded with a freight container in Western Australia unless the driver has been provided with a complying Container Weight Declaration. While on the road, drivers must keep a copy of the Container Weight Declaration with the container at all times and produce the declaration to an authorised officer when requested.
 - **Operators** – An operator who arranges for a freight container to be transported in Western Australia must make sure the driver of a vehicle is given a complying Container Weight Declaration before commencing the journey. If another road (or rail) carrier is to further transport the container, then the operator must provide a declaration to that carrier by the time the container is received.
 - **Consignee** – A consignee (e.g. buyer, purchaser, receiver, etc.) must not induce or reward a breach of mass, dimension or load restraint requirement. A consignee will be regarded as participating in such behaviour if they knew or ought reasonably to have known that:
 - A complying Container Weight Declaration was not provided; or
 - Information about the container's weight and contents provided in the Container Weight Declaration was false or misleading.

Further information

For more information about the Chain of Responsibility, call Main Roads, Heavy Vehicle Operations on 138 HVO (138 486), or visit www.mainroads.wa.gov.au.



Appendix 2 - Possible CWD Template

CONTAINER WEIGHT DECLARATION (CWD)

CONTAINER NUMBER:

WEIGHT: Container Tare: _____ KG
Cargo Weight: _____ KG
Gross Container Weight: _____ KG

INDICATE IF UNEVEN LOAD DISTRIBUTION:
(Mark X for Centre of Mass)

	Doors this side
--	-----------------------

**EXPORTER/PACKER
or
CONSIGNEE:**
(Responsible Entity
in Australia
making declaration)


Name:
Address:

NAME OF PERSON MAKING DECLARATION:

Signature: _____ Date: ___ / ___ / _____

Appendix 3 - Example of CWDs used currently

Example 1

	<p>INDIAN OCEAN SHIPPING AGENCIES</p> <p>SUITE 5 / 330, SOUTH TERRACE SOUTH FREMANTLE, W.A. 6162 (P.O. BOX 637, FREMANTLE 6959)</p> <p>SHIPPING AGENTS & FREIGHT FORWARDERS</p>
<p>A.C.N. 009 439 525 TELEPHONE: 61-8-9430 6266 EMAIL: ops@iosa.com.au A.B.N. 91 009 439 525 FACSIMILE: 61-8-9430 8321 WEB: www.iosa.com.au</p>	
<p>No: 1360 FCL Delivery Docket & Container Weight Declaration 25-Mar-14</p>	
<p>CARTAGE COMPANY: CONTAINER CARGO SPECIALIST PTY LTD LOT 42 PORT BEACH ROAD FREMANTLE WA 6959 AUSTRALIA</p>	<p>Job No : PER IS 22591 / 1 CLIENT REF : 011682-1 PART 1</p>
<p>PICKUP FROM: PATRICK FREMANTLE RUDDERHAM DRIVE NORTH FREMANTLE WA 6159</p>	<p>MT RETURN: CONTAINER(S): / Seal / Type / Net / Tare / Gross Weight APZU4877018 / N151312 / 40GC / 21791 / 3830 / 25621 FSCU4563418 / N151315 / 40GC / 21911 / 3830 / 25741 TCLU8646680 / N151311 / 40HC / 21739 / 3980 / 25719 TCNU7535020 / N150418 / 40HC / 21783 / 3980 / 25763 TCNU7542570 / N150414 / 40HC / 21746 / 3980 / 25726 TGHU9739684 / N150419 / 40HC / 21734 / 3980 / 25714 REFERENCE & MARKS: 011682-1 PART 1 N/M</p>
<p>DELIVER TO: MONDIAL ENTERPRISES 35 Jackson St Bassendean</p>	
<p>GOODS KRAFT PAPERBOARD PACKAGES 120 PK VESSEL/VOY MAXINE/353S MASTER APLU 802170100 SUPPLIER GRAPHIC PACKAGING INTERNATIONAL HOUSE BILL GPIA REF. 011682-1 PART 1 E.T.A 15/03/14 Available from Storage starts</p>	<p>M3 300 WEIGHT(KG) 130704 TIME SLOT</p> <p>Printed By :</p>



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