



Chain of Responsibility

Michael J Crellin

Manager, Chain of Responsibility



The contents of this presentation are intended to provide general guidance only, and should not be treated as legal advice. Specialist independent advice should be sought about your individual circumstances.

1995
Small beginnings (Qld)



1999
Executive Officers
& Representatives



2008
Extended Liability
(Parties)
Reasonable Steps



2014
Heavy Vehicle
National Law



2018
Primary Duty



Philosophy of CoR

*Chain of Responsibility (CoR) laws mean that any **party in the chain** who has **influence** over the transport activity is **responsible for safety** on the road.*



Who is accountable under the HVNL?

Scenario:

A transport company is contracted by a customer to pick up a shipping container from the Port. Upon arrival, the sealed container is loaded onto the heavy vehicle and the driver is provided with a container weight declaration. On exiting the port the load is weighed and it exceeds mass requirements.

Who is responsible?



What is coming – Primary Duties

Primary Duty: A new direction in legislation

Current Regime	2018
Deemed Liability	Primary Duty
Reasonable Steps	So Far as Reasonably Practicable
Onus on Defendant	Onus returns to Prosecution
Fatigue, Speed, MDL	Vehicle Standards added
Executive Officers after Corporation	Positive Duty
Focus upon driving breaches	Focus upon Business Practices

26C Primary duty - HVNL

- (1) Each party in the chain of responsibility for a heavy vehicle **must** ensure, so far as is reasonably practicable, the **safety** of the party's transport activities relating to the vehicle.
- (2) Without limiting subsection (1), each party **must**, so far as is reasonably practicable—
 - (a) eliminate public **risks** and, to the extent that is not reasonably practicable to eliminate public risks, minimise the public **risks**; and
 - (b) ensure the party's conduct does not directly or indirectly **cause** or **encourage**—
 - (i) the driver of the heavy vehicle to contravene this Law; or
 - (ii) the driver of the heavy vehicle to exceed a speed limit applying to the driver; or
 - (iii) another person, including another party in the chain of responsibility, to contravene this Law.
- (3) For subsection (2)(b), the party's conduct includes, for example—
 - (a) the party **asking, directing** or **requiring** another person to do, or not do, something; and
 - (b) the party entering into a contract—
 - (i) with another person for the other person to do, or not do, something; or
 - (ii) that purports to annul, exclude, restrict or otherwise change the effect of this Law.

CoR: New Primary Duty Penalties

- **Category 3** – breaches safety duty
 - \$50,000 Individual; \$500,000 Corporation
- **Category 2** – risk of death/injury
 - \$150,000 Individual; \$1.5m Corporation
- **Category 1** – recklessness
 - 5 years imprisonment, \$300,000 Individual
 - \$3m Corporation

So far as reasonably practicable

Reasonably practicable means something that is, or was at the time, reasonably able to be done to ensure health and safety, while taking into account and weighing up all relevant matters including:

The likelihood of the risk occurring

The degree of harm

What the person knows about the risk

Ways to remove or reduce the risk & whether they are feasible

Cost of modifying is proportional to the risk

CoR: Practical impacts of Primary Duty

- Proactive and preventative outlook
- Identify, assess and control risk
- Recognise obligations and requirements as 'risks'
- Manage requirements with best practice
- Develop an assurance regime to 'test effectiveness' of system
 1. Demonstration of compliance
 2. Monitoring, risk-based and interval audit regimes
 3. Consultation with partners and sub-contractors

Controls and practices

- Consider the entire system that ensures safety
- Apply risk management processes to HV operations
- Collaborate and engage with partners – support the freight operations
- Integrate technology
- Monitor operations and report continuously

The Future HVNL

Scenario:

Its late 2018, and word has spread that there are long queues at the Port and many of the heavy vehicles are waiting hours to load and unload.

Every day the Port has an average of 20 heavy vehicles waiting to load/unload at any given time.

There are no facilities for the drivers to wait in as they are required to progress in the queue.

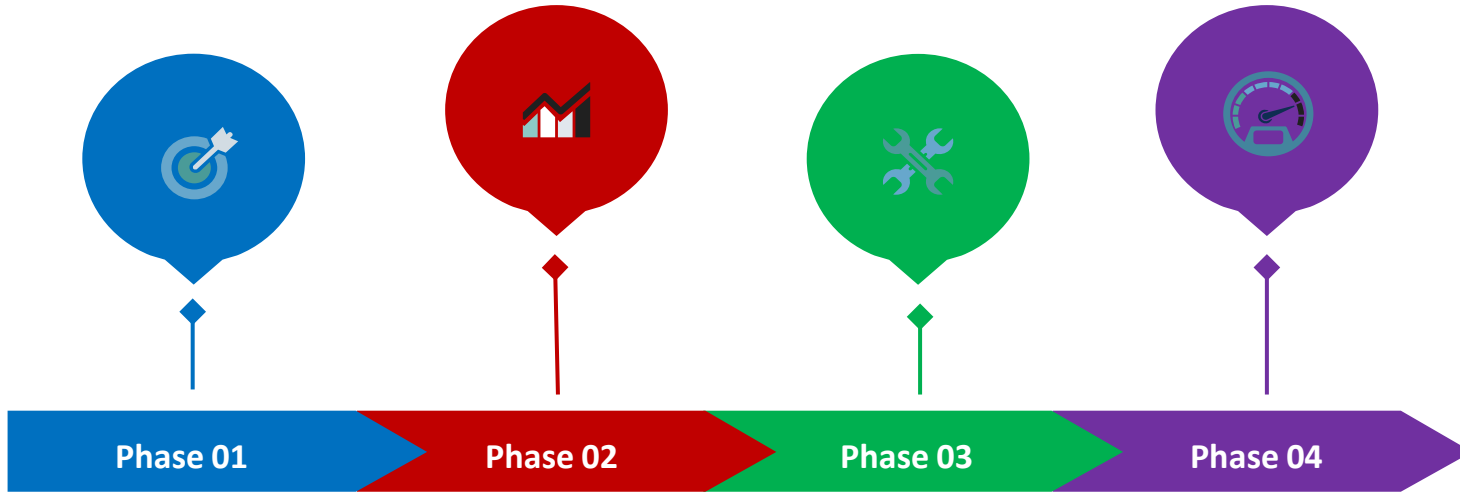
What is the approach now?



Three takeaways

- *CoR Laws will change for the road transport industry and supply chain in 2018 to focus on safety.*
- *CoR Parties will need to **proactively** manage the risks involved in their transport operations.*
- *Installing safety systems to reduce risks.*

The Education & Awareness Program



Awareness

Increase knowledge and understanding of CoR, Risk and Safe Systems

Capability

Build industry capability to design Safe Systems that address risk under the Primary Duty

Installation

Convert design capability to installation and testing system effectiveness

Enhance

Enable continuous improvement through review and assurance practices (Co-Regulation Model)

Codes of Practice

- Establishes *standards* and *procedures* for parties in the chain of responsibility to *identify, analyse, evaluate* and *mitigate* general *risks* associated with meeting obligations under the Heavy Vehicle National Law (HVNL).

**Industry
Codes of
Practice**



Codes of Practice

Heavy Vehicle National Law

The HVNL is the point of all truth in determining the requirements, conditions and responsibilities for transport operations.

Codes of Practice

Codes of Practice establish the higher order risks and the features of management systems or business practices that prompt ways of complying with the law.

Implementation Tools

Implementation tools are the forms, software, templates, policies, etc. that can be used to give effect to a Code of Practice. These are also the mechanisms that check systems controls are adequate and in place.

Operational Practice

Operational practice refers to the actual way in which an operator, or party in the supply chain, conducts their business. Such may include: risk management processes, operational processes, training regimes, etc.



Safety



Safety Management Systems



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SMS Framework

Safety Policy

- Management commitment and responsibility
- Safety accountabilities of managers
- Appointment of key safety personnel
- SMS implementation plan
- Third party interfaces
- Documentation

Safety Risk Management

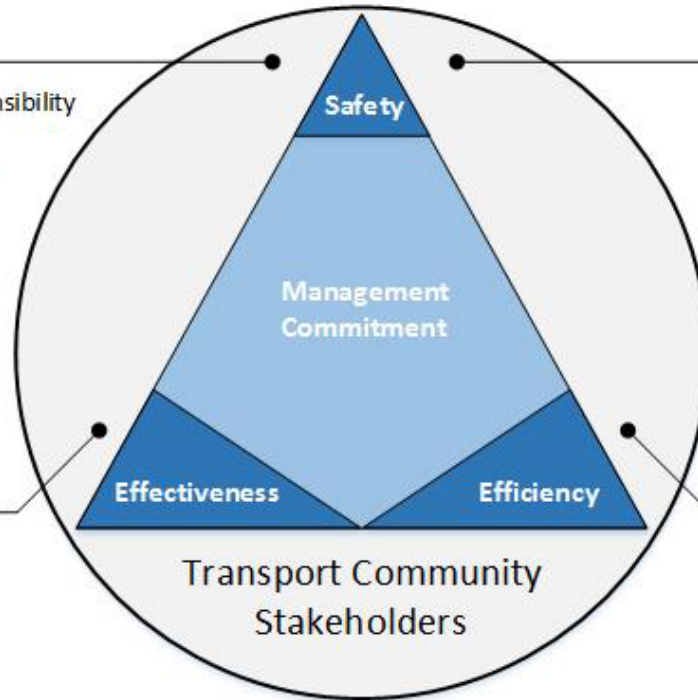
- Hazard identification process
- Risk assessment, mitigation and monitoring processes

Safety Promotion

- Training and education
- Safety communication
- Create positive safety culture

Safety Assurance

- Safety performance monitoring and measurement
- Internal safety investigations
- The management of change
- Continuous improvement of the safety system



Pillar 1 - Safety policy

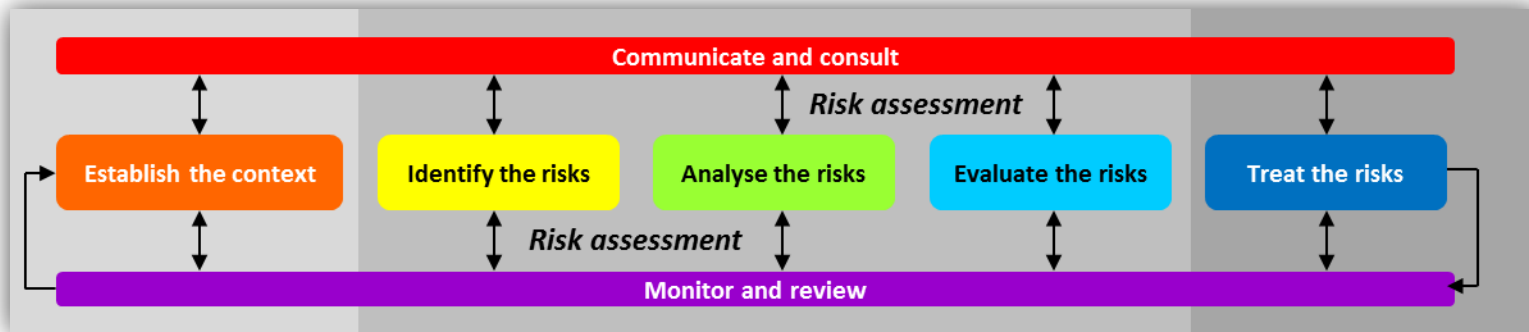
- *Management commitment*
- *Safety accountabilities*
- *Appointment of key safety personnel*
- *Documentation*



Pillar 2 - Safety risk management

Risk management allows you to:

- *identify risks*
- *understand risks*
- *make informed decisions*



Pillar 3 - Safety assurance

- *Monitoring* how the system operates
- *Measuring* safety performance
- *Managing* change

In order to:

- *continually improve the system*



Pillar 4 - Safety promotion

An SMS must include:

- *education and **processes for training personnel** in safety-critical areas*
- *effective **two-way communication** between managers and employees*



Why are SMS important?

Improves the safety performance

Key benefits include:

- *Increased Safety*
- *Informed Decisions*
- *Reduced Costs*
- *Defensible Position*
- *Legal Responsibilities*
- *Business Reputation.*

