

## Feedback specific to the draft Ministerial Guidelines for Heavy Vehicle Accreditation.

The NTC have asked for feedback in relation to the clarity of the requirements, suitability for operators of different size and complexity, and any technical or administrative issues that may affect implementation.

The items listed in this feedback are either unclear, technical or administrative issues, unsuitable for operators of different sizes, or overly complex.

1. The maintenance management module accreditation has not been given any consideration within the Ministerial Guidelines for Heavy Vehicle Accreditation.

### 2. Compliance evidence

*The Regulator must ensure the applicants SMS undergoes an audit between nine months and one month prior to expiry of the accreditation for an applicant seeking “renewal of accreditation” for any subsequent period.*

The current HVNL nor the amendment Bill have any provision for “renewing” an accreditation. Accreditation can only be granted for a maximum of three years and has an expiry date. Once expired the accreditation is no longer able to be recognised. Any further association to the accreditation is only by way of application for accreditation.

There is no provision to apply for a “renewed period” of accreditation.

### 3. Renewal of Accreditation –

*The Regulator must require renewal applications to be—*

The current HVNL nor the amendment Bill have any provision for “renewing” an accreditation. Accreditation can only be granted for a maximum of three years and has an expiry date. Once expired the accreditation is no longer able to be recognised. Any further association to the accreditation is only by way of application for accreditation.

There is no provision to apply for a “renewed period” of accreditation.

### 4. Vehicle Nomination

With the guidelines not including any consideration for the vehicles currently used in the maintenance management module the nomination of a vehicle when an applicant applies to maintain their accreditation consideration for evidence of roadworthiness will need to be accounted for.

Vehicles operating under maintenance management do not carry ongoing certificates of inspection from the relevant jurisdiction the vehicle is registered under.

### 5. Part 3 Transition

#### Transitional Arrangements

- (1) *Transitional arrangements for existing accreditations are provided for under the Heavy Vehicle National Law.*
- (2) *To support implementation the Regulator must ensure an orderly transition consistent with those provisions.*

The current HVNL nor the Amendment Bill do not contain any reference to “Transitional Arrangements”

## Feedback specific to the draft Safety Management System (SMS) Standard or the accompanying Schedule 1 – SMS Evidence Requirements?

The NTC have asked for feedback in relation to the clarity of the requirements, suitability for operators of different size and complexity, and any technical or administrative issues that may affect implementation.

The items listed in this feedback are either unclear, technical or administrative issues, unsuitable for operators of different sizes, or overly complex.

- 1. The purpose** states that Existing NHVAS accreditations continue to be recognised until their expiry. Operators must align their systems with this Standard upon “renewal.”

The current HVNL nor the amendment Bill have any provision for “renewing” an accreditation. Accreditation can only be granted for a maximum of three years and has an expiry date. Once expired the accreditation is no longer able to be recognised. Any further association to the accreditation is only by way of application for accreditation.

There is no provision to apply for a “renewed period” of accreditation.

- 2. The purpose** states Operators must align their systems with this Standard upon renewal, consistent with transitional arrangements issued by the Regulator.

The NHVR is unable provided any insight into what these transitional arrangements will be.

- 3. The SMS is described as being;**

*the operator’s group of policies, systems, and procedures relating to the safety of its transport activities and the driving of heavy vehicles. The SMS must identify public risks associated with those activities and driving, assess the identified public risks, and specify the controls to manage and mitigate the identified public risks.*

This level of complexity will require the depth of consideration equal to that as is covered by the “Master Code”. Such complexity will unduly burden small operators with respect to setup costs and ongoing audit costs with the level of auditing that will be required to cover all of the identified public risks associated with their transport activities and the specified controls to manage and mitigate the identified risks.

- 4. Part 2 Standards**

### **Responsibility and Accountability**

*Note - The form and detail of evidence required to demonstrate compliance will vary. For example, a 'documented procedure' for a small operator may be a simple checklist, whereas a large, complex operator may require a formal manual.*

The reference to “a small operator” is unclear in its meaning. What defines “a small operator”. Subjective opinion will give rise to the unequal treatment of affected businesses. When undertaking transition from existing standards to the new SMS standards without clear definition for guidance as to what constitutes a small operator unfair costs burdens will occur from differing opinions from those in the market place within the commercial regime of selling SMS systems.

- 5. Part 2 Standards**

### **Responsibility and Accountability**

*Note- The 'Examples of Evidence' provided are illustrative and not a mandatory checklist; operators may provide alternative evidence that is appropriate to their specific operations and risks.*

The reference to operators offering alternative evidence is without definition. What alternative evidence is acceptable.

## 6. Development and Implementation Evidence Expectations.

It is unclear what the “processes” are that identify the size, type, nature, and complexity of the operator’s transport activities.

It is stated that evidence of documented SMS policies and procedures addressing:

- heavy vehicle standards
- mass, dimension, and loading requirements
- driver fatigue and fitness-for-duty requirements

What “heavy vehicle standards” are being referred to?

This is implementing that all operators regardless of the accreditation they are seeking must account for mass, dimension, and loading requirements and driver fatigue and fitness-for-duty requirements.

This is overly complex for any current accreditation holder that only wishes to continue to use the benefits of the maintenance management accreditation module.

## 7. Resource Allocation Evidence Expectations

- *financial resources specifically allocated to training, auditing, monitoring, and corrective actions.*
- *human resources sufficient and competent to safely perform the operator’s transport activities, including appointment of competent persons to safety-critical roles.*

These expectations do not align to operators with a very limited number of vehicles, drivers or staff.

## 8. Risk Assessment Evidence Expectations

The draft document states the outcome to be “*that the safety management system is effective in managing public risk and achieving safe operations, not merely on the existence of documents.*”

The listed evidence for Risk assessment of

- Documented risk assessment procedures, risk matrices, or scoring systems
- Completed risk assessments showing likelihood, consequence, and control ratings

For the majority of accreditation holders both fall into the category of documents created and being nothing more than just the existence of a document, which highlights that the outcome stated has not been achieved.

## 9. Decision Rule

*The Regulator must be satisfied that—*

- *risk assessments are consistent, documented, and proportionate to the scale of the operator’s activities.*

How is the regulator making the decision on what is acceptable for the scale of the operator’s activities? Presumably based on an audit outcome where the responsibility for decision making falls back unduly onto auditors that are not provided a clear set of rules to what each type and size of business must provide.

This type of decision making is flawed as without a clear set of rules subjective opinion will be the norm.

## **10. Standard 3 People**

### **3.1 Fitness to Drive**

#### **Evidence Expectations**

The inclusion of this evidence for current and future maintenance and mass management accreditation holders is an unjust burden on operating costs, to maintain driver medical status equal to that of an operator in the fatigue module.

Given that vast majority of transport operators operate outside of any accreditation an operator that wishes to take advantage of the alternate compliance for vehicle inspections is now at a commercial disadvantage with additional policies, procedures and matters that do not relate to vehicle safety to the vast majority operating outside of any accreditation.

## **11. Performance targets and indicators**

### **Evidence Expectations**

Operators are asked to defined key safety performance indicators (KPIs) linked to SMS outcomes (e.g. fatigue breaches, speeding incidents, maintenance defects, incident frequency rates).

It would seem counter intuitive to be setting KPIs for fatigue breaches, speeding incidents, maintenance defects or incident frequency rates. Setting a KPI against such occurrences is saying that there is an acceptance for some level of speeding, overloading, having a defective vehicle or a crash.

It ought to be that operators have zero of these occurrences not selecting some amount that is acceptable.

The transport industry cannot be linked to other industry SMS where KPIs might be set against loss time injuries. These occurrences are a result of failings with workplace methods and procedures where transport industry transgressions and risks are directly related to breaches of law.

## **12. 4.4 Evidence**

All of the detail in this section has previously been stated throughout the previous sections.

## **13. Standard 5**

### **System Coordination**

All of this evidence expectation revolves around large corporate style operations it is not seen how this is suitable or flexible for all sizes of operators to comply with.

## Feedback specific to the draft National Audit Standard (NAS)

The NTC have asked for feedback in relation to the clarity of the requirements, suitability for operators of different size and complexity, and any technical or administrative issues that may affect implementation.

The items listed in this feedback are either unclear, technical or administrative issues, unsuitable for operators of different sizes, or overly complex.

### 1. 2 NHVAS Accreditation

*Accreditation will be granted for a period of two (2) years.*

The NAS has no jurisdiction to make the determination for the length of time an accreditation is granted for. The standard covers auditing and its processes not the determination of time setting for granting an accreditation. The control of time setting lies in the ACT or Regulations

### 2. 2.1 Safety Management System (SMS)

Espousing that Safety Management Systems provide for efficiencies is an over reach and not inline with a safety focus. Any thought that the additional administration and operational burdens that implementing SMS brings to an operator improves efficiencies is misguided.

### 3. Audit Types & Frequency

*Whilst General Safety Accreditation must be approved prior to Alternative Compliance Accreditation, if an operator is applying for the accreditations at the same time, the audits can be conducted at the same time.*

The introduction of this 2-tiered system will add additional auditing costs to operators not otherwise seen.

It will only be an operator that wishes to gain alternate mass or fatigue accreditation that will undertake the implementation of the General Safety Accreditation Level. This therefore will impose the costs for a minimum of two audits where prior, only one audit was needed.

The statement “*If the operator already holds General Safety Accreditation*”, - shows some level of naivety that operators will voluntarily seek the GSA level of accreditation on its own.

### 4. Entry Audit

It is unclear as to how an audit report is to be submitted when Section 4.13 identifies that it is the auditor that must submit the report via the NHVR Portal (Shown below), however section 3.2.1 identifies, *The entry audit is submitted by the operator as part of the accreditation application process*”. but provides no other standard for how an initial compliance or compliance audit is to be submitted.

#### 4.13 Issuing the Audit Report

Upon completing the audit report, the auditor must submit it through the NHVR Portal. The operator will receive a notification, allowing them to review and accept the audit conclusion. Once the conclusion is accepted, the timeline for completing any required corrective actions will commence.

### 5. 3.6 Conflict of Interest

It is unclear as to how and to what extent the definition of the word affiliated is to be interpreted as. If a standard is to be complied with then the standard must be clearly defined. The word affiliated can take many depths of meaning from business associate to a member of an organisation. Putting up an umbrella statement as a catch all does not provide clear definition for a standard.

### 6. Strengthening Auditor Independence

*An auditor associated with, or operating across multiple entities, must not audit an SMS or framework that has been developed, implemented, or influenced by any business or consultancy service with which they are linked, either directly or indirectly.*

What constitutes an auditor operating across multiple entities? What are the entities that are being referred to. The previous standard was using affiliation; this has now been moved to “linked” to.

These arbitrary terms do not provide a clear definition for a clear standard to be met.

How is the level of indirect linking to be measured?

While the attempt to strengthen auditor independence has merit the use of open-ended interpretive descriptions is not a clear standard. The question has to be asked how is such a standard to be enforced in a way that those of innocent connection are not swept up in the attempt to strengthen independence nor deplete the possible number of auditors needed to complete the work required.

## 7. Completing the Report

Requiring the Audit Criteria Report to be submitted into the NHVR-approved system retrospectively, within 28 days removes the commercial safe guard auditors have against operators failing to pay for the audit services provided. The only hold over operators that ensures payment for audit services is the withholding of the completed report until full payment has been received.

Moving to this unreasonable process will again be at the damage to operators and auditor relationships where full payment will be required BEFORE any audit is commenced. Not withstanding the level of increase in fees this new audit regime will bring the likely result is more operators withdrawing from the scheme.

## 8. One Period Rule

How does the selection of auditors for the Entry, Initial compliance and end of accreditation Compliance audits fit with the term “Each accreditation period”. Presumably these are all in the same accreditation period so the same auditor can be used for all 3 audits.

Again, the use of affiliated causes confusion. How is the term to be applied to the relationship between auditors?

The statement “*repeatedly alternating between two auditors across multiple accreditation periods may be deemed a noncompliance*” is an indeterminate description that has no defined basis. If such a circumstance is a problem, then a standard should be set, not just a set of words that may be used if they can be made to fit the circumstance at hand.

## 9. Minor Nonconformance

Examples of minor nonconformances are listed and then a statement that says “*minor nonconformances do not pose an immediate threat to compliance*”, it has to be asked how can a system that is found to have noncompliance’s is still deemed to be compliant?

## 10. Corrective Action Requests (CARs)

The flaw in using the major and minor CAR scenario as included in the standard is borne out by the words used to illustrate how they are to be used.

**Minor CARs apply when systems exist but are not consistently followed. These do not pose immediate safety risks but still breach documented procedures.**

So, it is to be accepted that when a vehicle servicing system is documented but not followed, that no **immediate safety** risk is apparent and only constitutes issuing a minor CAR. Which is to be interpreted as the failure to service vehicles as per the adopted procedure does not pose any safety risks.!!!

The use of categorising non-conformances leads to subjective opinion-based decisions relying on personal experience, which if this NAS is trying to achieve the desired outcomes as stated “*The National Audit Standard (NAS) provides a consistent and impartial framework for auditing heavy vehicle operators*”, it does not meet.

## 11. Auditor Compliance Rules

There appears to be some inconsistency with the dot point referring to auditors who are systems providers. Under section 5.2 auditors are permitted to audit a participant's system that they have designed and/or implemented **after** these three (3) audits have been conducted. Notwithstanding, what three audits are being referred to, as they are not identified.

This is in contradiction with the wording used in section 3.6

*Auditors must not audit any SMS or management framework that they, or the consultancy or organisation they are affiliated with, have developed, implemented, or significantly influenced.*

And further contradiction with the wording used in section 3.6.1

*An auditor associated with, or operating across multiple entities, must not audit an SMS or framework that has been developed, implemented, or influenced by any business or consultancy service with which they are linked, either directly or indirectly.*

## 12. Triggers for Performance Review or Investigation

To deem repeatedly using identical findings/wording across different operators' audit reports as a reason for a performance review highlights the lack of knowledge that the NAS writers have on the NHVAS.

The circumstance is that a single entity that produces systems for operators to use, may well have a vast number of operators using the same system. The policies and procedures used to comply with many of the standards will be exactly the same and therefore when auditing the findings **MUST** reflect this or it would need to be explained how all the operators comply in a different way when they all have the same procedures.