



Australian Government

Australian Transport Safety Bureau

safe transport

**The Maritime Law Association of
Australia & New Zealand
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Marine Safety Investigation In Australia

The Past

- In the past the only response to an accident was a regulatory/legal one. In some places that is still the case.
- It salved the community expectation for 'guilty people' to be punished.
- The main problem with this approach was that it frequently did not prevent a reoccurrence.

The present

- It is now commonly accepted that a dual and parallel response is the most beneficial.
- The traditional regulatory type response and a newer safety type investigation designed to address the need to improve the system so as to prevent a reoccurrence. This is the area in which ATSB operates.



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ATSB Vision and Mission

The aim of the Australian Transport Safety Bureau is to maintain and improve transport safety and public confidence through excellence in

- independent investigation of transport accidents and other safety occurrences;
- safety data research and analysis; and
- safety communication and education.

Legislation

- Locally, TSI Act 2003 and Regulations
- Internationally, the Code for the investigation of Marine casualties and incidents (A849(20) as amended by A884(21)) and others.
- Guidelines on the fair treatment of seafarers in the event of a maritime accident (LEG.3(91))



Australian “No Blame” Transport Safety Investigation

- ***Transport Safety Investigation Act 2003* reflects current international ‘best practice’ in safety investigations**
 - ❑ **Involves transport vehicles (aircraft, ship or rail vehicles) s. 3**
 - ❑ **Objective is to improve safety. s. 7**
 - ❑ **Powers are limited by the Constitution – but includes any operator that is a constitutional corporation or Commonwealth entity . s.11**
 - ❑ **The Executive Director is not subject to directions from the Minister or Secretary in respect of the exercise of powers under the *Act*. s.15**



Australian “No Blame” Transport Safety Investigation

- ❑ All powers vested in the Executive Director who reports directly to the public. s.12**
- ❑ Executive Director’s powers delegated. s.13**
- ❑ Obligation on a responsible person (reg 3.4) to report an immediately reportable matter (regs 3.3) s.18 & s.19**
- ❑ Reports made to a responsible official s.20 (regs 3.6, 3.7)**



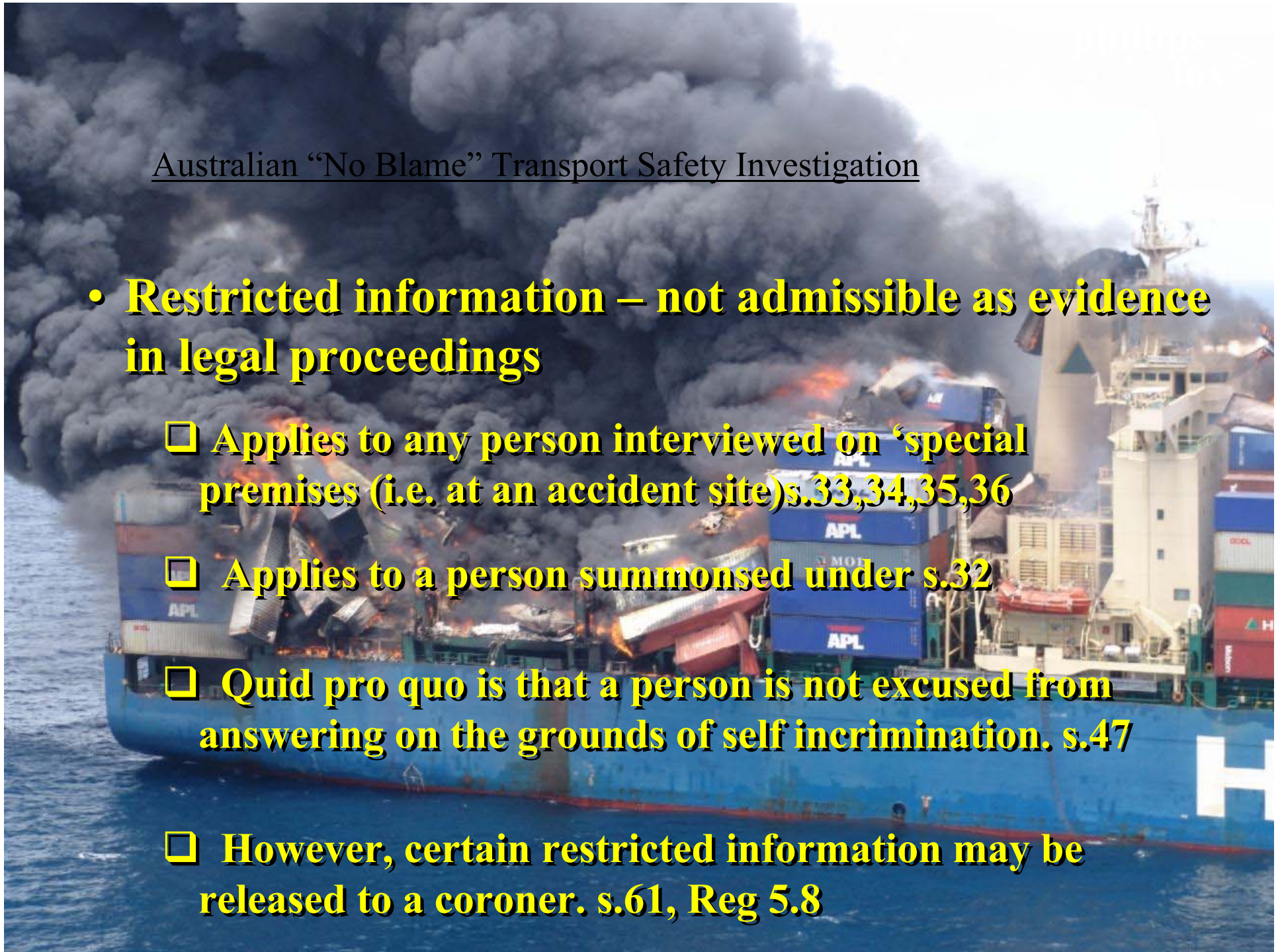
Australian “No Blame” Transport Safety Investigation

- Executive director must issue a report. s.25
- Reports are not admissible as evidence. s.27
- Directly interested party process. Draft reports. s.26
- Executive Director may require somebody to attend and answer questions. s.32

Australian “No Blame” Transport Safety Investigation

• **Restricted information – not admissible as evidence in legal proceedings**

- Applies to any person interviewed on ‘special premises (i.e. at an accident site)s.33,34,35,36**
- Applies to a person summonsed under s.32**
- Quid pro quo is that a person is not excused from answering on the grounds of self incrimination. s.47**
- However, certain restricted information may be released to a coroner. s.61, Reg 5.8**

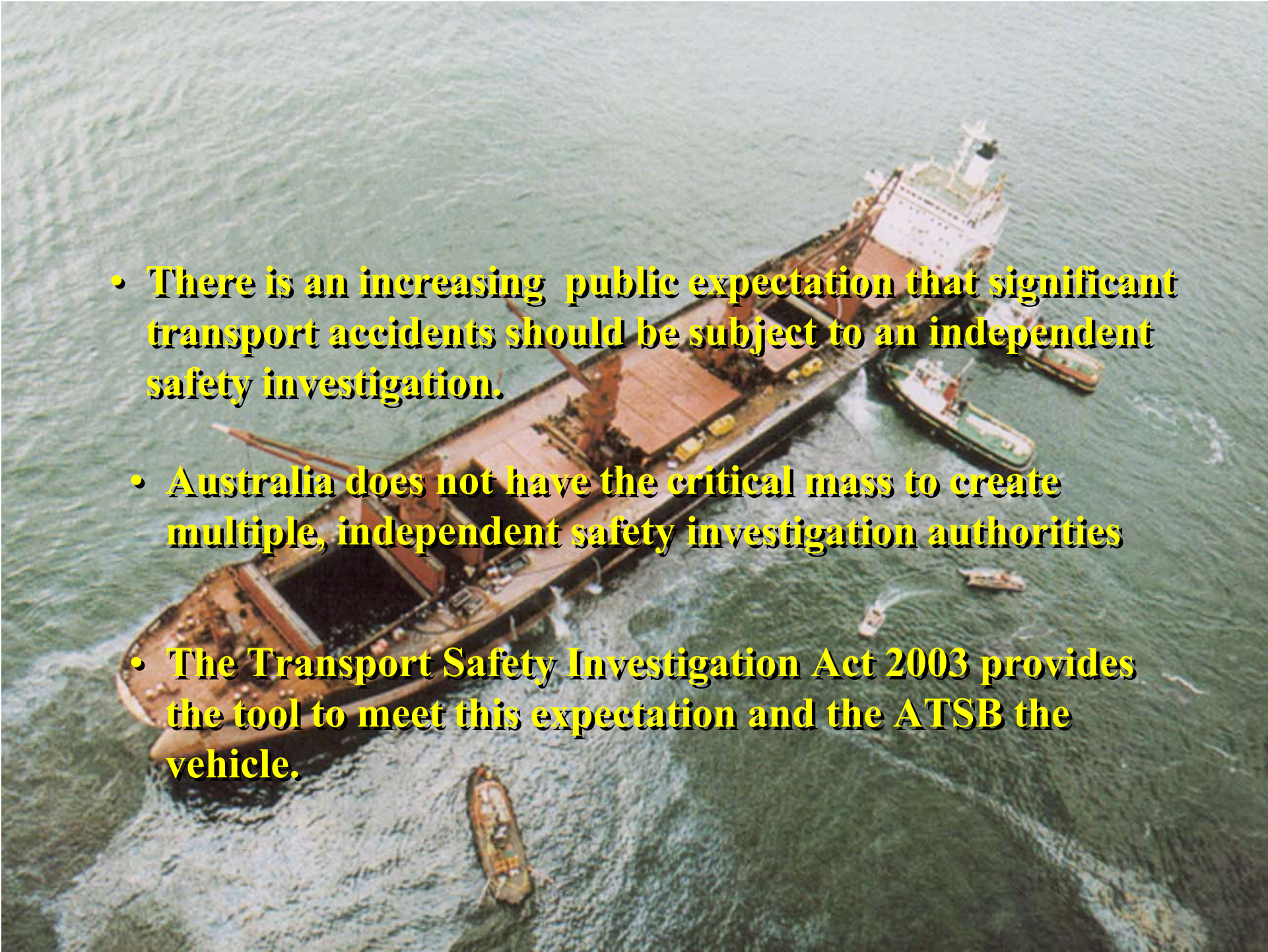


Australian “No Blame” Transport Safety Investigation

- **Restricted information – not admissible as evidence in legal proceedings s.3 & s.60**
 - all statements obtained from persons by staff member**
 - all information recorded by staff member**
 - all communications with a person involved in the operation of a ship**
 - medical or private information regarding a person**
 - information recorded for monitoring or directing the progress of a ship**
 - records of the analysis of information or evidential material acquired during the investigation**
 - information contained in a document produced to a staff member**

Australian “No Blame” Transport Safety Investigation

- ❑ A protection order is issued to cover accident site evidence S.43
- ❑ An investigator has the power to enter a ‘special premises’ without a warrant. S.33
- ❑ An investigator may only enter any other premises with permission or with a warrant. s.34
- ❑ At the premises an investigator may make recordings and operate or remove evidential material. s.34
- ❑ An investigator has the power to stop and detain a transport vehicle. s.39

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- An aerial photograph of a large cargo ship, likely a container ship, sailing on a body of water. The ship is dark-colored with a white superstructure. Several smaller boats, including tugboats and barges, are positioned around the larger ship, suggesting a maritime operation or incident. The water is a deep blue-green color.
- **There is an increasing public expectation that significant transport accidents should be subject to an independent safety investigation.**
 - **Australia does not have the critical mass to create multiple, independent safety investigation authorities**
 - **The Transport Safety Investigation Act 2003 provides the tool to meet this expectation and the ATSB the vehicle.**