

Case learnings – July 2023

Between 3 July 2020 and 22 October 2021, a company that undertook excavation and civil works operated heavy vehicles that were involved in 20 individual mass breaches and received 94 defect notices.

The mass breaches were committed by 14 different truck and trailer combinations which were all fitted with weight scales. However, the company could only provide records for 6 of the vehicles to have had the weight scales calibrated.

Of the 20 mass breaches, it was found that on 14 occasions the heavy vehicles also had defects resulting in defect notices being issued.

The 94 defect notices were issued for a variety of faults including, but not limited to, insufficient tread on tyres, oil leaks from differentials, oil leaks from the transmission and couplings, brake imbalances, air leaks in tyres and hoses and on one instance the subframe of the heavy vehicle was cracked.

While the company had mature and robust policies, they were not adequately enforced, followed, administered, monitored or reviewed.

The offence

The company pleaded guilty to one offence contrary to section 26H (Category 3) of the *Heavy Vehicle National Law*. The offending can be broadly categorised as:

- The company breached its primary safety duty by failing to implement effective systems and procedures to ensure that heavy vehicles operated by the company were not over their permissible mass limits.
- The company failed to implement effective systems and procedures to maintain, service and repair its heavy vehicles.

Key takeaways

Considering the potentially significant consequences of non-compliance with your primary duty, it is important that you review your safety systems and ensure you are doing everything reasonably practicable to eliminate or minimise the risks in your transport activities.

Below are some takeaways from this case:

- It is not enough to simply have policies and procedures in place to manage risk, you must ensure that you comply with those policies and

procedures, as well as continue to monitor and review them.

- If a heavy vehicle is fitted with weight scales, you need to have them regularly calibrated and maintained so that they are accurate and working effectively.
- It is important to have systems and procedures in place to ensure your loads are within the legal permissible limit.
- It is vital that you have adequate systems to properly service, maintain and repair your heavy vehicles and for any faults to be promptly reported and addressed.
- The Heavy Vehicle National Law is concerned with potential harm, not actual harm. **An accident or fatality does not have to occur for charges to be brought.**



Guidance for operators

The case provides some reasonably practicable measures operators can take to reduce or minimise the risks associated with mass management and maintenance of heavy vehicles, including:

- Ensure all loaded heavy vehicles are weighed prior to undertaking any journey to ensure the weight complies with the prescribed weight limits;
- Where necessary, develop and implement policies with respect to the regular and effective maintenance, calibration, service and repair of weight scales;
- Keep accurate records of fault reports, calibrations, audits, repairs, services, and maintenance of weight scales;

- Provide adequate information, training, instruction, and/or supervision of mass and loading requirements and procedures to drivers and other parties in the chain of responsibility;
- Develop and implement systems and processes, including disciplinary practices, to ensure adherence by all employees to policies and procedures to manage prescribed mass limits;
- Develop and implement a policy with respect to the regular and effective maintenance, service and repair of heavy vehicles;
- Develop, implement, and enforce systems and procedures to ensure drivers complete pre-check procedures on heavy vehicles and that any reported faults are appropriately rectified prior to undertaking any journey;
- Keep accurate records of fault reports, repairs, services, and maintenance of heavy vehicles;
- Act promptly and appropriately on fault reports made by workers with respect to heavy vehicles; and
- Monitor and review all policies and procedures to ensure they still meet the needs of the company.

These reasonably practicable measures are just examples of potential controls that you can implement and should be read in conjunction with those outlined in the registered industry [Master Code](#).



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