

Primary Duty Matters - Comparative Sentencing Table

Primary Duty Matters Prosecuted under the *Heavy Vehicle National Law*

Citation/Court	Party in CoR	Category	Charge	Plea	Background Facts	Particulars of Offending	Injury	Sentencing Factors	Sentence/ Remarks
4111 New South Wales November 2023	Operator	3	The Company was charged with 1 offence under section 26H of the <i>Heavy Vehicle National Law</i>	The Company entered a plea of guilty to 1 offence under section 26H of the <i>Heavy Vehicle National Law</i>	During two separate periods, namely: - between 28 August 2020 and 22 September 2020; and - between 28 March 2022 and 6 April 2022. It was found that a total of 543 contraventions of the HVNL occurred by 4 drivers, namely: - 44 work and rest offences - 93 false or misleading offences - 406 speeding offences	The Company breached its duty to ensure the safety of its transport activities by failing to take reasonably practicable measures: - to ensure that drivers were not working longer and resting less than their permitted work and rest hours, - to ensure that drivers did not exceed the speed limit, - to ensure that work diaries were correctly recorded and did not contain false or misleading information	N/A	No prior convictions for primary duty offences, however, it did have a history of breaches of the HVNL described by the court as “not insignificant” Early plea of guilty entered and provided 25% discount on penalty. Objective seriousness assessed at lower end of the mid-range. Remedial steps taken after proceedings commenced.	Convicted and Fined \$65,000 Professional costs awarded to the NHVR in the sum of \$24,708.18 Supervisory Intervention Order made in terms proposed for 12 months (estimated costs in excess of \$22,000). Supervisory Intervention Order - Appoint a Chain of Responsibility Consultant - Develop a Speed Management Policy - Ensure drivers and staff undertake Fatigue Management Training - Ensure all drivers transition to BFM working conditions - Undertake regular drug and alcohol testing - Require all drivers to use Electronic Work Diaries
3837 Victoria September 2023	Operator	2	The Company was charged with 1 offence under section 26G of the <i>Heavy Vehicle National Law</i>	The Company entered a plea of guilty to 1 offence under section 26G of the <i>Heavy Vehicle National Law</i>	The Company permitted/directed a prospective employee to operate a fatigue-regulated heavy vehicle (FRHV) during a job interview. An individual attended at 9:30pm on 6 Feb for a job interview and to ride-along with a Supervisor to observe the driving job being	The Company failed to have systems and procedures in place to assess, monitor and manage drivers’ fitness for duty and failing to ensure Company staff, namely the Supervisor, were adequately trained to	Live chickens being transported were destroyed	Moderately serious example of s26G offence. Category 2 offences have at their heart a risk to the public.	Fined, with conviction, \$35,000 plus \$250 prosecution costs. But for early plea of guilty, would have been convicted and fined \$60,000.

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					<p>performed. Limited questions asked of the prospective employee. During the ride-along, the prospective employee slept in the sleeping cabin of a FRHV on 2 separate occasions for approximately 1 hour each.</p> <p>A separate driver for the Company called in sick and approximately 6.5 hours into the job interview ride-along (4:00am the next day on 7 Feb) the prospective employee was permitted by the Supervisor to operate a FRHV on his own and the Supervisor lead in another FRHV.</p> <p>At 7:30am on 7 Feb, the prospective employee rolled the FRHV on a road and killed a large number of live chickens they were transporting.</p> <p>The individual tested positive for methylamphetamine.</p>	<p>assess, monitor and manage drivers' fitness for duty.</p> <p>The Company also failed to have systems and procedures in place to ensure employees and prospective employees were adequately trained and inducted in the use of the Company's heavy vehicles and failing to ensure Company staff, namely the Supervisor, were adequately trained to provide adequate training and induction to drivers.</p>		<p>Specific deterrence to play limited role as Company spent in excess of \$200,000 improving policies, procedures and systems since offence.</p> <p>General deterrence remains a significant factor given public safety is at risk.</p> <p>Company found to have higher level of moral culpability than the supervisor as they've operated since the 1970's without the necessary practices and procedures that would significantly ameliorate or preclude this behaviour.</p>	
3719 Victoria September 2023	Operator	2	The Individual was charged with 1 offence under section 26G of the <i>Heavy Vehicle National Law</i>	The Individual entered a plea of guilty to 1 offence under section 26G of the <i>Heavy Vehicle National Law</i>	<p>The accused (the supervisor) permitted/directed a prospective employee to operate a fatigue-regulated heavy vehicle (FRHV) during a job interview.</p> <p>An individual attended at 9:30pm on 6 Feb for a job interview and to ride-along with the Supervisor to observe the driving job being performed. Limited questions asked of the prospective employee. During the ride-along, the prospective employee slept in the sleeping cabin of a FRHV on 2</p>	The accused failed to ensure the prospective employee was fit for duty and failed to adequately train and induct the prospective employee in the use of the Company's heavy vehicles	Live chickens being transported were destroyed	<p>Moderately serious example of s26G offence.</p> <p>Category 2 offences have at their heart a risk to the public.</p> <p>General deterrence remains a significant factor given public safety is at risk.</p>	<p>Fined, without conviction, \$6,500.</p> <p>But for early plea of guilty, would have been convicted and fined \$11,000</p>

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					<p>separate occasions for approximately 1 hour each.</p> <p>A separate driver for the Company called in sick and approximately 6.5 hours into the job interview ride-along (4:00am the next day on 7 Feb) the prospective employee was permitted by the Supervisor to operate a FRHV on his own and the Supervisor lead in another FRHV.</p> <p>At 7:30am on 7 Feb, the prospective employee rolled the FRHV on a road and killed a large number of live chickens they were transporting.</p> <p>The individual tested positive for methylamphetamine. It is believed he fell asleep behind the wheel.</p>			<p>Accused has been driving since he was a young man with no priors and that is a significant mitigating factor in his favour.</p> <p>Accept 2 character references to show this was out of character and that he was emboldened by the Company's decision previously to permit a prospective employee operate a heavy vehicle. Lapse in judgement.</p>	
6276 South Australia August 2023	Operator	1	The accused individual was charged with 1 count under section 26F and 1 count under section 189 of the <i>Heavy Vehicle National Law</i>	The accused entered a plea of guilty to 1 count under section 26F and 1 count under section 189 of the <i>Heavy Vehicle National Law</i>	South Australian Police attended the scene of a fatality where a driver was struck and killed by his own heavy vehicle after it rolled off the back of the tow truck that was retrieving it by the accused.	<p>The accused failed in his duty in that he foresaw the risk and was reckless to it.</p> <p>The risk was the operator: Failed to lower the tilt tray prior to securing the rear wheels;</p> <p>Failed to attach the winch cable to the axle or hanger springs; and</p> <p>Failed to keep the driver of the retrieved heavy vehicle in line of sight at all times or to exclude him completely from the area.</p>	Fatal injuries to the driver of the vehicle that the accused was retrieving	<p>No prior convictions.</p> <p>Early plea of guilty.</p> <p>Cooperated with investigators</p> <p>General and specific deterrence.</p> <p>Objectively serious offending in that most serious offence under the Heavy Vehicle National Law</p> <p>Ill health of the accused and limited capacity to</p>	<p>Imprisonment for 10 months reduced to 6 months for early guilty plea. Wholly suspended upon accused entering a bond to be of good behaviour for a 2-year period.</p> <p>Fine of \$900 reduced to \$300 under section 120 of Sentencing Act 2019 (SA)</p> <p>Prohibition Order To be prohibited from the loading of a heavy vehicle for a period of 12 months.</p>

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								pay pecuniary penalty.	
X-0001 Queensland July 2023	Operator/Schedule r	3	The corporate accused was charged with 37 charges under section 26H of the <i>Heavy Vehicle National Law</i>	The corporate accused entered a plea of guilty to 37 charges of contravening section 26H HVNL	Over a 5 week period, 8 of the corporate accused's heavy vehicle drivers repeatedly committed a series of fatigue offences. In this period, the drivers committed 83 critical risk breaches, 15 severe risk breaches, 14 substantial risk breaches, and 81 minor risk breaches.	The corporate accused failed to monitor and address the regular fatigue breaches, despite the workbooks submitted by drivers obviously disclosing the risks and breaches. Drivers were paid an hourly rate and it was therefore beneficial for drivers to drive additional hours and it was incumbent on the accused to proactively monitor their hours. During the relevant period, of the 40 weekly worksheets submitted by drivers, at least 31 were modified by the accused's officers and therefore confirmed the corporate accused was aware of the offending conduct, however, failed to take proactive steps to reduce or eliminate the risk.	N/A	No prior convictions. Early plea of guilty. Cooperated with investigators General and specific deterrence. Objectively serious offending. Some steps to retrain drivers taken post offending Limited resources and assets to pay a large fine High degree of culpability	Fined \$1,200,000 with conviction.
3296 Tasmania July 2023	Scheduler	2	The accused was charged under s26G of the <i>Heavy Vehicle National Law</i> .	The accused pleaded guilty to s26G HVNL.	A driver sub-contractor scheduled by the accused was intercepted which resulted in an investigation into the transport activities of the Company the accused worked for. The investigation revealed a number of National Work Diary fatigue and other offences over a period of approximately 3 months. The fatigue offences had been committed by a number of drivers scheduled by the accused.	The accused failed to roster drivers taking into account fatigue risks, maximum work requirements and minimum rest requirements; and implement a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, or at risk of driving in breach of their work and rest hours	N/A.	No prior convictions. Rectifications made by the accused since the offending period. No early plea entered.	Fined \$1,500 without conviction.

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						option.		Objective seriousness of the offending.	
4126 & 4663 New South Wales June 2023	Company: Operator	3	The accused was charged under section s26H of the <i>Heavy Vehicle National Law</i> .	The accused pleaded guilty to s26H HVNL.	Over a 16 month period there were 20 mass breaches that occurred in heavy vehicles operated by the Company. In addition, there were 94 defect notices issued to heavy vehicles operated by the Company. The Company failed to ensure their vehicles were properly loaded to be in compliance with the HVNL. Also, as a result of their failures in relation to maintenance, the Company's heavy vehicles were being used in an unroadworthy state.	The charge can be broadly categorised as follows: (a) Mass breaches – a failure to implement effective systems and procedures to ensure that heavy vehicles operated by the company were not over their permissible mass limits. (b) Defects - a failure to implement effective systems and procedures to maintain, service and repair heavy vehicles.	N/A.	No prior convictions for primary duty offences. Early plea of guilty entered and provided 25% discount on penalty. Objective seriousness assessed at slightly below the mid-range. Some remedial steps taken after proceedings commenced.	Convicted and fined \$112,500 Supervisory Intervention Order made in terms proposed estimated costs in excess of \$260,000). Supervisory Intervention Order: <ul style="list-style-type: none"> To appoint/employ a compliance officer to monitor the Company's activities including compliance with mass, dimension and loading requirements and report to the Directors and NHVR every 90 days. To appoint a HVNL consultant to conduct an audit of company practices and procedure and the company is to implement all recommendations To undertake training of relevant staff as identified in the consultant's report. To instruct the consultant to develop an induction program for each new staff member to attend. To have a supervisor at each work site to

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									<p>ensure compliance with the Company's obligations under the HVNL.</p> <ul style="list-style-type: none"> To fit all vehicles with onboard mass devices for each axle group and undertake calibration and testing every 6 months . To ensure all scheduled servicing is carried out by a qualified mechanic and keep service records. To inspect each heavy vehicle and combination every 4 months.
2940 Tasmania May 2023	Company: Employer	2	The accused was charged under s26G of the Heavy Vehicle National Law	The accused pleaded guilty to s26G HVNL.	A driver sub-contractor to the accused was intercepted which resulted in an investigation into the transport activities of the accused. The investigation revealed a number of National Work Diary fatigue and other offences over a period of approximately 3 months. The fatigue offences had been committed by a number of drivers employed by the accused.	The accused failed to ensure its business practices prevented fatigue, provide its employees with up-to-date information on its fatigue management systems, provide regular instruction and/or training to its employees, develop and implement strategies to reduce risk of fatigue and implement and maintain appropriate systems.	N/A	<p>No prior convictions.</p> <p>Rectifications made by the company since offending.</p> <p>No early plea entered.</p> <p>Objective seriousness of the offending.</p>	<p>Convicted and fined \$80,000</p> <p>Supervisory Intervention Order made in terms proposed.</p> <p>Supervisory Intervention Order:</p> <ul style="list-style-type: none"> To provide training to all senior management, schedulers, compliance officers and drivers To install Teletrac Navman into all trucks with the Electronic Work Diary feature

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									<ul style="list-style-type: none"> To ensure all drivers are to use an Electronic Work Diary To provide to the NHVR the work diary pages for all drivers for the term of the order.
3295 Tasmania May 2023	Director Scheduler and Executive (failing to exercise due diligence)	2	The accused was charged under section 26G and 26D of the <i>Heavy Vehicle National Law</i>	The accused pleaded guilty to s26G and s26D HVNL.	A driver sub-contractor to the accused was intercepted which resulted in an investigation into the transport activities of the accused's company. The investigation revealed a number of National Work Diary fatigue and other offences over a period of approximately 3 months. The fatigue offences had been committed by a number of drivers employed by the accused's company.	The accused failed to exercise due diligence to ensure the company's practices prevented fatigue, provide its employees with up-to-date information on its fatigue management systems, provide regular instruction and/or training to its employees, develop and implement strategies to reduce risk of fatigue and implement and maintain appropriate systems.	N/A	<p>No prior convictions</p> <p>Rectifications made by the company since offending</p> <p>No early plea entered</p> <p>Objective seriousness of the offending</p>	<p>Convicted and fined \$8,000</p> <p>Supervisory Intervention Order made in terms proposed</p> <p>Supervisory Intervention Order:</p> <ul style="list-style-type: none"> To engage in training as a scheduler To not engage in activities as a scheduler until the NHVR has confirmed in writing that is has received the certificates of completion for the training.
2944 Victoria April 2023	Company: Consignor.	2	Company charged under s26G Heavy Vehicle National Law.	Company: Plea of guilty to a single Category 2 offence under s26G.	<p>The accused was a consignor.</p> <p>Investigations revealed that the accused breached its primary safety duty by failing to implement effective systems and procedures to ensure heavy vehicles consigned by it were adequately loaded and restrained.</p> <p>In November 2019, a heavy vehicle, being a prime mover</p>	<p>The NHVR's investigation revealed that the consignor had failed to:</p> <ul style="list-style-type: none"> Comply with its own Chain of Responsibility policy; Ensure that Australian safety regulations 	N/A.	<p>The accused had priors however they were not relevant.</p> <p>The offending is risk based.</p> <p>Incredibly fortunate and sheer luck no one was killed.</p>	<p>Finced \$75,000 with Conviction.</p>

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					<p>towing a skeletal semi-trailer, loaded with a 40-foot shipping container (containing 26 tonnes of timber plywood) rolled over. There was no injury or death as a result of the rollover.</p>	<p>were complied with by:</p> <ul style="list-style-type: none"> • Fill gaps and void spaces with empty pallets, rated inflatable dunnage, foam, custom framing or other suitable material; • Use lashings, webbing nets or gates to prevent the load falling out when the doors opened; • Use shoring/blocking bars to stabilise the load; and • Use non-slip surface material to prevent the load from shifting; • Provide overseas suppliers with instructions regarding compliance with Australian safety regulations; • Require records and photographs of the container's load and restraint to be 		<p>The company has significantly improved its policies and procedures since the rollover and has spent approximately \$150,000 to implement these.</p> <p>General deterrence is the most significant sentencing factor.</p> <p>This involved a single incident.</p> <p>Significant sentencing discount for the Plea.</p>	

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						<ul style="list-style-type: none"> provided prior to shipping; Advise the driver and operator of the vehicle on how the load was restrained. 			
X-0002 Queensland March 2023	Company: Operator	3	Company charged under s26H of the <i>Heavy Vehicle National Law</i> .	Company pleaded guilty to 4 x offences under the <i>Heavy Vehicle National Law</i> .	<p>The operator failed to provide adequate fatigue management procedures.</p> <p>Employed drivers of the company were found to have not taken their required rest breaks by not taking 24 hours of continuous rest within a 7 day period.</p> <p>Offending concerned 2 drivers over a period of about 1 month.</p>	The company failed to provide adequate monitoring of driver fatigue and failed to provide appropriate scheduling of drivers.	N/A	<p>Antecedents consisting of speeding and red-light offences.</p> <p>Timely plea of guilty.</p>	<p>Company fined \$75,000.</p> <p>No conviction recorded.</p>
3711 Victoria February 2023 7173 (appeal) Victoria July 2023	Individual Owner: Operator and Scheduler	3	The accused was charged under s 26H of the <i>Heavy Vehicle National Law</i> .	Plea of guilty to offences under s 26H of the HVNL.	<p>Drivers not monitored for compliance with fatigue management requirements and regulations. Did not monitor drivers for compliance with the HVNL regulations and requirements. Investigation commenced when the driver of a utility died when the truck that Spiteri's employee was driving collided with him. Driver of the truck also received serious injuries to his legs and spine.</p> <p>The period of risk was over 5 weeks. The company owned 3 vehicles and operated only two.</p>	Failure of the owner to maintain adequate systems and proper training guides. Failed to discharge his positive duty to ensure insofar as is reasonably practicable the safety of his transport activities. Drivers were left to manage fatigue themselves without guidance or training.	N/A	<p>The accused pleaded guilty at the earliest opportunity.</p> <p>No prior convictions.</p>	<p>Fined \$2,000.00 without conviction.</p> <p>Director's appeal against sentence was dismissed. The original fine of \$2,000 without conviction to remain.</p>
3949, 3950 & 3951 New South Wales December 2022	Company: Operator and Employer. Director: Sole director and	2 & 3	Company charged under s26G <i>Heavy Vehicle National Law</i> .	Company: Plea of guilty to a single Category 2 offence under s26G.	<p>The operator failed to provide adequate fatigue awareness and management training to drivers (see judgment paragraph 6).</p> <p>The operator failed to maintain</p>	Failure of the company and its executive and employee to maintain adequate systems and proper training, which exposed drivers and the	N/A	The company had taken fatigue management steps, which they accepted were inadequate. At the	<p>Company (on appeal): convicted & fined \$180,000.00,</p>

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	shareholder of company (charged <u>only</u> as a Scheduler). Employee: Scheduler.		George and Jonathan De Paoli charged under s26H of the Heavy Vehicle National Law , being that they had a duty under s26C of the Act.	George De Paoli and Jonathan De Paoli each entered a plea of guilty to a single Category 3 offence under s26H . Plea entered before the start of trial.	adequate systems to assess and review risk management practices (see judgment paragraph 6). The schedulers failed to discharge duties of a scheduler by, for example: assessing driver fatigue, including inquiring as to secondary employment, ensuring that scheduling took into account delays, use of GPS to ascertain driver working hours (see judgment paragraph 10). The period of risk was for 22 months, continuous between 21 May 2019 and 30 March 2021. The Company operated 32 vehicles and operated long distance routes.	public to a risk of death or serious injury as a result of drivers losing control of their heavy vehicle.		time of sentence, they had implemented new safety and training guidelines, installing machinery to monitor fatigue, engaging a health and safety expert to provide a report and make recommendations and requiring drivers to undergo further training. The scheduler also to undertake further study including on fatigue management. Early plea 25% discount. Director and employee showed contrition. Limited prior offending: Company has been guilty of five prior offences under the Road Transport Act 2013 (NSW) , Road Transport (Vehicle and Driver Management) Act 2005 (NSW) and Road Transport (Vehicle Registration)	Individuals (on appeal) were each convicted and fined \$15,000.00. <i>"It is not necessary for the prosecutor to establish that anyone was actually killed or injured as a result of the conduct of the respondent. Categories 1 and 2 are risk-based offences. Category 3 only requires the prosecutor to establish non-compliance with a primary duty" (44)</i> <i>"In my view, his Honour's approach to the HVNL was erroneous. His Honour's emphasis on the absence of any accidents rather than the assessment of risk caused by the offending conduct was erroneous. His failure to have any proper regard to deterrence was erroneous. His Honour failed to consider the nature and extent of the failures of the primary duty. Further, the sentences were manifestly inadequate. The level of penalty was affected by both his Honour's own views as to the risks associated with heavy vehicles and whether reasonably practicable steps could have been taken to eliminate or reduce the risks" (68).</i>

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								<p><i>Regulation 2005 (NSW).</i></p>	<p><i>“Integral to the responsibility of an operator of a heavy vehicle is the obligation to take steps to ensure that its drivers are properly trained in managing driver fatigue. This does not merely involve training drivers how to fill out their logbooks but ensuring that drivers understand how to manage fatigue. Again, this necessarily must involve having adequate systems in place to ensure that drivers were both not speeding and were properly managing fatigue issues. Again, any such systems must ensure that drivers were not driving in breach of their work/rest hours.</i></p> <p><i>These obligations are fundamental to ensuring the safety of the public because, as is well-known, speed and fatigue are major contributors to accidents, injuries and death on our roads. Although the Company vehicles had not been involved in any accidents or caused any deaths or injuries during the period, that is not a factor to which I give any significant weight in the circumstances of this matter...” (77 & 78).</i></p>

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									<i>"Persons who offend must know that such offending will be treated seriously by the Courts, particularly in respect of Category 1 and Category 2 offending which has, at its heart, the exposure of persons to the risk of serious injury or death caused by the operation of a heavy vehicle. Those in the industry must know that failure to comply with obligations under the HVNL will result in the imposition of sentences reflective of the general danger to the users of roads caused by speed and fatigue-related issue" (90).</i>
2746 & 2744 South Australia October 2022	Company: Operator Individual Owner: Operator	2	The company was charged under 26H of the HVNL , and the owner was charged under s 26D of the Heavy Vehicle National Law .	Company: plea of guilty to two offences under s 26H of the HVNL . Owner: plea of guilty to two offences under s 26D (26H penalty) of the HVNL .	Investigation commenced by the SA police, after a crash, requested records. The records were destroyed by the company in a chemical bath of weed killer. Investigation detected significant failures by the company to manage and audit work diaries of drivers for compliance. There were systems and policies in place, but were mostly ignored by the company. There were also no policies or procedures to review and manage risk. The period of risk was January 2019 to May 2019.	Failure of the company and the owner to maintain adequate systems and procedures to manage fatigue. Company failed to discharge its duty to ensure insofar as is reasonably practicable the safety of its transport activities. Owner failed to discharge his positive duty to exercise due diligence to ensure company complied with its safety duty.	N/A	The accused entered an early plea of guilty. No prior convictions.	Company: convicted and \$84,000.00. Director: convicted and fined \$14,000 & Prohibition Order for 12 months.
X-0003 Victoria July 2022	Individual: Operator	2	The accused was charged under section 26G of the Heavy Vehicle National Law .	The accused pleaded guilty to s26G HVNL.	The accused engaged a driver, but failed to check the driver's NDWD, did not attend upon the driver at any time to assess his suitability to drive or to provide relevant prompts to the driver about his fitness to drive. The keys to the	The accused failed to apply the necessary induction and vetting processes relating to the driver of a heavy vehicle prior to him being engaged to drive the	Fatal injuries to driver and passenger in light vehicle.	The accused was committed on a charge under section 26F, however negotiations led to a guilty plea to the	Convicted and fined \$50,000. The plea in mitigation indicated the remorse felt by the accused over the offending conduct and

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					truck were simply left available for collection by the driver so he could commence his journey.	heavy vehicle on 2 November 2018.		<p>lesser section 26G charge.</p> <p>No prior convictions.</p> <p>Relatively early plea.</p>	the resulting fatality. He has spent 30 years in the transport industry with no criminal or regulatory matters against him. The accused has since downsized his operations and no longer has any employees or contractors.
1464 South Australia March 2022	<p>Company: Employer.</p> <p>Director: Charged as an executive failing to exercise due diligence.</p>	2 & 3	<p>The company was charged under s 26G and s 26H of the Heavy Vehicle National Law.</p> <p>The Director was charged under 26D of the Heavy Vehicle National Law.</p>	<p>Company Plea of 2 x 26G and 1 x 26H</p> <p>Director: Charges withdrawn upon him entering into a deed to exclude himself from transport activities for a period of 12 months.</p>	Driver applied brakes at traffic lights which caused a shift in load (2t steel beam). The load smashed the rear window of the vehicle which caused a serious injury to the driver. Failed to fit a headboard to the trailer of the vehicle. Failed to provide training and supervision to employees. Failed to prevent load shift. Failed to comply with NHVL.	Contravened the primary duty imposed by the HVNL by conduct which put both the drivers and the public at risk of serious injury or death. Failed to discharge positive duty to ensure insofar as is reasonably practicable the safety of transport activities.	Injury to driver.	<p>Company was insolvent.</p> <p>Significant financial losses. Company in liquidation.</p> <p>Post- collision actions: load and restraint training for all truck and forklift drivers and an inspection checklist was created.</p> <p>No prior convictions.</p> <p>Early plea.</p>	<p>The company was fined with conviction and a Supervisory Intervention Order was imposed:</p> <p>1x s26G- \$100,000.00;</p> <p>1x s26G- \$100,000.00;</p> <p>1x s26H- \$17,000.00; and</p> <p>Total- \$217,000.00,</p> <p>The penalty was reduced to zero dollars due to an incapacity to pay.</p> <p>Suspended from registering a heavy vehicle and trailer for 12 months.</p> <p>If company re-commences trading, must provide load restraint and safety training, appoint properly qualified person to improve compliance and provide compliance reports.</p>
2475 & 3576 Victoria February 2022	<p>Company: Operator and Scheduler</p> <p>Director: Charged as an executive</p>	2	The company was charged under s 26G of the Heavy Vehicle National Law .	Company: plea of guilty to s26G of the HVNL.	Failed to have adequate business practices in place for driver fatigue management. Did not provide any training for fatigue management and reporting, relying on drivers to do the work. Failed to address this	Contravened the primary duty imposed by the HVNL by failing to ensure that they had practices in place to prevent drivers from driving whilst fatigued and	N/A	The company sold the heavy vehicles and is now using freight companies to conduct its business, removing	<p>Company: fined \$50,000 without conviction.</p> <p>Director: fined \$30,000 without conviction.</p>

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	failing to exercise due diligence.		The Director was charged under s 26D of the <i>Heavy Vehicle National Law</i> .	Director: plea of guilty to s 26G of the HVNL.	breach when it was pointed out before in 2018 and continued to operate. The period of risk was one week and there were three heavy vehicles owned by the company.	failed to monitor which put both the drivers and the public at risk of serious injury or death. Failed to discharge their positive duty to ensure insofar as is reasonably practicable the safety of their transport activities.		themselves as an operator/employer . The accused entered an early plea of guilty. However, Victoria Police had undertaken a company inspection in 2018 and identified the issues that are the focus of this case. The company and the director were aware of the existing risks and failed to rectify them. This was considered an aggravating factor. No prior convictions.	
2407 Tasmania November 2021	Director: Operator	2	The accused was charged under s 26G of the <i>Heavy Vehicle National Law</i> .	The accused entered a plea of guilty for offence under s 26G of the HVNL.	Failed to implement adequate systems for the inspection, fault finding, recording, maintenance and repair of its heavy vehicles. Continued to operate heavy vehicle whilst they were in a defective state. The period of risk was between March 2019 and November 2019. A total of 49 vehicles, of which 46 were issued with defect notices.	Failure as an operator to implement adequate systems for the maintenance and repair of its heavy vehicles which exposed drivers and the public to a risk of serious injury or death. Failed to discharge his positive duty to ensure insofar as is reasonably practicable the safety of his transport activities.	N/A	The accused pleaded guilty at the earliest opportunity. A mitigating factor was his cooperation with the investigation and the admission made by him. No prior convictions.	The accused was fined \$25,000 with conviction and was placed on a 12-month Supervisory Intervention Order. <ul style="list-style-type: none"> • To engage in education regarding vehicle standards and maintenance at own expense; • Provide details of heavy vehicle fleet and pass inspections within 6 weeks

Primary Duty Matters - Comparative Sentencing Table

Citation/Court	Party in CoR	Category	Charge	Plea	Background Facts	Particulars of Offending	Injury	Sentencing Factors	Sentence/ Remarks
									of the Order and for the heavy vehicle fleet to be re-inspected at least 2 weeks prior to the end of the Order.
X-0004 Queensland August 2020	Company: Operator	3	The accused was charged with 2 x offences under s 26H of the <i>Heavy Vehicle National Law</i> .		<p>An investigation revealed that the two main drivers for the company had committed a number of fatigue offences driving between Wagga Wagga and Brisbane. The company breached its duty as it failed to schedule trips in a way that enabled drivers to comply with the HVNL. One of the drivers had a total of 22 breaches of his work diary obligations, either by working more than the maximum work time or resting for less than the minimum rest time.</p> <p>Another driver had a total of 14 breaches of his work diary obligations, either by working more than the maximum work time or resting less than the minimum rest time.</p> <p>The Work Diary offences occurred over the span of a month between November to December 2018</p>		N/A	<p>Operated and owned 2 prime movers.</p> <p>The company has changed their practices by moving premises to reduce driving hours to complete necessary journey. Also now require driver change.</p> <p>Early plea of guilty, took steps to address issues prior to coming under notice, cooperation with authorities.</p>	Convicted and fined \$60,000 (total) with conviction.