

Supervisory Intervention Order

Incident date: Between January 2019 and November 2019

Party in the CoR: Operator

Offence: Breach of 26C *Primary Duty* (Vehicle Maintenance)

Background

Between January and November 2019, a Tasmanian heavy vehicle transport operator was issued forty-six (46) vehicle defect notices, and two (2) infringement notices for non-compliance with relevant vehicle standards. The same operator was then involved in a fatal crash, with the operator's trailers being used by another operator.



Investigation

The NHVR then commenced an investigation into the Tasmanian heavy vehicle transport operator as they are a party in the chain of responsibility (CoR). As a party in the CoR, the Heavy Vehicle National Law (HVNL) imposes a positive duty on the operator to ensure the safety of their transport activities, as per section 26C. The operator must do this in at least two (2) ways: by eliminating or minimising public risks; and by ensuring their conduct does not cause or encourage a driver or another person, directly or indirectly, to breach the HVNL.

During the course of the investigation, the NHVR executed a search warrant on the operator's premises. The entry under warrant was authorised under section 497 and executed in accordance with section 510. During the entry, relevant transport documentation and records were seized for further examination, and mobile devices and computers used for business purposes were searched with relevant data either extracted or photographed, as per section 500.

Due to the risk posed by the condition of the heavy vehicles, a section 522 Notice was issued to the defendant. The notice required the defendant to present twenty-seven (27) heavy vehicles for inspection at a pre-arranged time and date. The defendant failed to comply with the Notice and only presented eleven (11) vehicles. From the eleven (11) vehicles presented by the defendant, ten (10) were found to be defective with varying degrees of seriousness.

As the defendant failed to comply with the requirements of the section 522 Notice, the NHVR issued a Prohibition Notice under section 576A. The Notice required the defendant to present the remaining sixteen (16) un-inspected vehicles and trailers to an authorised vehicle examiner/inspector for a full roadworthiness inspection. The Notice further required the sixteen (16) un-inspected vehicles and trailers to be used, permit to be used, operate or otherwise deal with or dispose of the vehicles until all repairs of faults identified through the aforementioned roadworthiness inspection, were completed to the required standard.

Investigations outcome 003



The investigation conducted by the NHVR revealed the following:

- Vehicle maintenance records kept by the defendant showed the frequency for inspection of the heavy vehicles were varied and sporadic. In some instances, heavy vehicles remained uninspected and non-maintained for several years.
- Further records revealed the speedometer and odometer of a heavy vehicle was not working for approximately 3 weeks. The heavy vehicle was driven on roads during that time and the defendant directed an employed driver to drive the heavy vehicle.

Outcome

Upon completion of the investigation, a brief of evidence was prepared and referred to the NHVR Prosecutions unit.

The defendant plead guilty and was placed on a 12 month Supervisory Intervention Order (SIO). Further information and the conditions of the SIO can be found on our [Court outcomes page](#).

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