



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

**The commitments in this enforceable undertaking are offered
to the National Heavy Vehicle Regulator**

By

Kharaud Singh Kharaud('Mr Kharaud')

Part 1 Executive summary

Section 1 Agreed actions

- 1- The terms mentioned within this Enforceable Undertaking are accepted and agreed to be complied with by Mr Kharaud.
2. The National Heavy Vehicle Regulator consents to the Enforceable Undertaking and agrees to withdraw the charges against Mr Kharaud listed within Cases [REDACTED].

Section 2 Total cost of actions

- 3- Cost to Enrol and complete Fatigue For Schedulers Course TLIF0005 \$200
 - 4- -----
 - 5- Donation to Road Trauma Support Group NSW - Australia \$500
 - 6- Implement an EWD with Log Master Australia for 12 months - \$100
 - 7- The cost of a tailored course- \$ 2,500.00
 - 8- ----
- Total Cost of the Actions: \$3,300.00

Part 2 General information

Section 1 Purpose

- 9- The purpose of this enforceable undertaking is to document the undertakings offered to the National Heavy Vehicle Regulator (NHVR) pursuant to Chapter 10.1A of the Heavy Vehicle National Law (HVNL) in connection with a matter relating to an alleged contravention of the HVNL.

Section 2 Details

- 10- The commitments in this enforceable undertaking are offered to the NHVR by Mr Kharaud.
- 11- This enforceable undertaking is given on the day and date that it is accepted and signed by the NHVR. The undertaking and its enforceable terms will operate as a legally binding commitment on the part of the person from

the date it is given.

Details of the person proposing the undertaking:

Registered address:	[REDACTED]
Postal address:	[REDACTED]
Telephone:	[REDACTED]
Email address:	[REDACTED]
[REDACTED]	Individual
Type of business:	Employed Truck Driver
Commencement of entity:	November 2022
Number of workers:	Nil
Products and/or services:	General Freight and Refrigerated Transport

Details of the alleged contravention

12- Offence 1: Mr Kharaud did without reasonable excuse drive a heavy vehicle on a road and did fail to ensure that the heavy vehicle and the load complied with the prescribed mass requirements.

13- Offence 2: Mr Kharaud being the solo driver of a fatigue regulated heavy vehicle failed to rest the prescribed BFM minimum period of continuous rest time.

Details of the events surrounding the alleged contravention

14- Offence 1:

On 1st September 2023 the Accused drove a Volvo FH13 prime mover bearing QLD registration [REDACTED] on Pacific Highway Pine Creek. The prescribed 3rd axle mass limit applicable to the vehicle was 21 tons. The assessed 3rd axle mass of the heavy vehicle was 22.2 tons or 108 percent of the maximum mass permitted. The offence constituted a substantial risk breach.

15- Offence 2:

Between 6pm on 1st August 2023 and 6pm on 2nd August 2023 the Accused was the driver of a Volvo FH13 prime mover bearing QLD registration [REDACTED]. The heavy vehicle had a gross vehicle mass exceeding 12 tons constituting a fatigue regulated heavy vehicle. The Accused was intercepted by authorized officers on 1 September 2023 at Pine Creek NSW. In a 24-hour period the prescribed BFM minimum period of continuous rest was 7 hours. The longest period of continuous rest achieved by the Accused was 4 hours. The offence constituted a critical risk breach.

The details of any injury or financial loss that arose from the alleged contravention

16- There was no injury or financial loss that arose as a result of the alleged contravention.

The details of any notices issued that relate to the alleged contravention

17- Defendant had received Summons in respect of the alleged contravention that occurred on 2nd August 2023 and 1st September 2023 in relation to a hearing listed on 20th February 2024 before the Coffs Harbour Local Court, New South Wales.

18- The matter was adjourned to 19th March 2024 in order to allow the parties to negotiate an outcome.

The details of any existing transport safety management systems at the workplace including the level of auditing currently undertaken

19- Mr Kharaud is an individual and has not consulted any company regarding this Enforceable Undertaking.

Any consultation undertaken within the company regarding the proposal of an EU

20- Company is aware of the legal proceedings, and I have notified them about EU.

Section 3 Statements

Statement of assurance

21- Defendant confirms that he is committed to complying with his obligations under the HVNL and ensuring, so far as is reasonably practicable, the health and safety of others that have the potential to be affected by his undertakings.

Statement of regret

22- The defendant regrets that the incidents on 2nd August 2023 and 1st September 2023 occurred.

23- The defendant is remorseful and promise not to commit any such offence in future.

Statement of ability to comply

24- Mr Kharaud confirms that he has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement granting permission to use

25- Mr Kharaud grants the NHVR permission to use any document, policy and procedure developed as a result of this enforceable undertaking for the purpose of training and development by the NHVR.

Statement of prior undertakings

26- Mr Kharaud confirms that he is not the subject of an enforceable undertaking from any other statutory body.

Section 4 Acknowledgement

27- The defendant acknowledges that the NHVR alleges that defendant has contravened sections 254(1)(b) and 96(1)(b) of the HVNL.

28- The alleged contravention is taken very seriously by the defendant who is committed to providing a safe and healthy workplace to conduct his business in a way that helps protect the environment and the communities in which he operates.

Section 5 Details of Injury or Illness

Types of workers compensation provided (if the injured person is a worker of the person)

29- Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention. [REDACTED]

Support provided, and proposed to be provided, to the injured person to overcome injury/illness

30- Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention. [REDACTED]

Section 6 Rectifications made

Section 7 Acknowledgement of publication

- 31- Mr Kharaud acknowledges that the enforceable undertaking will be published on the NHVR's internet site and may be referenced in the NHVR's publications.

Part 3 Enforceable terms

Section 1 Commitments

Commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

- 32- Mr Kharaud is committed to ensuring that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence.

Commitment to the ongoing effective management of public risk associated with transport activities

- 33- Mr Kharaud is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
- 34- Mr Kharaud has a commitment to ongoing continuous improvement in how it manages risks associated with its business operations, including the review of new technology when made available.

Commitment to disseminate information about the EU to workers and other relevant parties in the chain of responsibility

- 35- Mr Kharaud is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including senior and operational management, health and safety management team, Health and Safety Committees and Health and Safety Representatives, workers, and all relevant contractors and sub-contractors working for Mr Kharaud. This information will be disseminated directly to the people concerned.

Commitment to participating constructively in all compliance monitoring activities of the EU

- 36- Mr Kharaud is committed to participating constructively in all compliance monitoring activities of the EU.
- 37- Mr Kharaud acknowledges that responsibility for demonstrating compliance with the undertaking rests with Mr Kharaud and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
- 38- It is acknowledged that the NHVR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to the NHVR including providing details of workshops and training conducted for industry and community benefit.

Commitment that any promotion of a benefit arising from the EU will clearly link the benefit to the undertaking and make it clear that the undertaking was entered into as a result of an alleged contravention

- 39- Mr Kharaud is committed to ensuring that any promotion of a benefit arising from this enforceable undertaking will clearly link the benefit to the undertaking and that the undertaking was entered into as a result of the alleged contravention.

Section 2 Strategies that will deliver benefits

Benefits to drivers and parties within the chain of responsibility

- 40- As part of this enforceable undertaking, Mr Kharaud aims to deliver strategies that focus on benefits to:

- (a) drivers and parties within the chain of responsibility
- (b) the transport industry and the broader community.

41- Mr Kharaud intends to achieve these outcomes through the implementation of the strategies set out below that will provide him with the knowledge and raise awareness that will assist him in continuing his work within the transport industry and providing an exceptional example for the relevant personnel and highlighting the importance of complying with Chain of Responsibility laws.

Activities

Activity 1 – Completion of fatigue risk management course -TLIF 0005

Scope

1. This unit involves the skills and knowledge required to administer the implementation of fatigue management strategies during work operations in a defined workplace in accordance with national and state/territory legislation and relevant regulations.
2. It includes monitoring the implementation of fatigue management strategies, recognising breaches of fatigue management policies, procedures and regulations, and developing and assessing staff competence in fatigue management.

Details

Course Title- Fatigue Risk Management System. Course Code- TLIF0005

Course Duration- 5 to 6 Hours

Natwide Training Australia RTO

Timeframe

To be completed within 6 months

Outcome

Issued with a statement of attainment (Nationally Recognised Training)

Costs

Course Fee \$200 for online and \$250 for onsite

Output

A copy of the Certificate of Completion will be submitted to the NHVR as evidence of this deliverable.

Activity 2 – Donation to the Road Trauma Support Group NSW Australia

Scope

The Road Trauma Support Group NSW provides free counselling and support for people who have been affected by road trauma, whether directly or indirectly.

This may include but not be limited to, vehicle occupants, family members, friends, work colleagues, witnesses, bystanders and emergency service personnel.

Details

The Road Trauma Support Group- NSW. Counselling Coordinator

A donation of \$500 to their bank account.

<https://www.roadtraumasupportnsw.org>

A donation of \$500 will be made to their account details given below:

Road Trauma Support Group

██████████ ██████████

Activity 2 – Donation to the Road Trauma Support Group NSW Australia

Timeframe

Within 2 weeks of this Enforceable Undertaking being accepted.

Outcome

This will assist the organisation to continue noble work.

Costs

Donation of \$500

Output

A copy of the receipt will be submitted to the NHVR as evidence of this deliverable.

Activity 3 – Register and Implement an electronic Work Diary

Scope

Sign up with LOG MASTER Australia for 1 year and implement the use of an electronic diary via mobile phone.

Details

The Electronic Diary will allow the electronic recording will keep a record of my work time and thus preventing future breaches:

- a. Provide a sampler means to record work and risk hours for Mr Kharaud.
- b. Provide a sampler means to review past work and risk hours to ensure compliance.
- c. Reduce the Administrator burden on Mr Kharaud of record keeping.
- d. Assist Mr Kharaud in monitoring his driving and to prevent breaches of fatigue management.

A NHVR approved EWD from LOG MASTER Australia will be implemented for 12 months.

After the 12-month period expires the NHVR will be notified if reverting back to paper based National Work Diary.

Timeframe

EWD will be implemented within 2 months of acceptance of this undertaking and will be implemented for a period of 10 months. After the 12 months expires the NHVR will be notified if reverting back to paper based NWD.

Outcome

EWD will assist in ensuring compliance with fatigue management and prevent further breaches

Costs

1 year subscription of \$100.

Output

A copy of the tax invoice will be submitted to the NHVR as evidence of this deliverable.

Implement EWD with in 2 months of acceptance of the EU proposal.

Commencing from the date that Mr Kharaud commences using an EWD for a period of 10 months Mr Kharaud must:

- a. Record his driving hours and rest breaks in the EWD as required by NHVR, and
- b. Provide to the NHVR on the first business day of each month a copy of the records of the usage of EWD for the preceding month. A total of 10 Monthly report will be provided.

Activity 3 – Register and Implement an electronic Work Diary
Activity 4 – Tailored Compliance Management Course run by LP & JJ NEEDS Pty Ltd T/A JOELAN CONSULTANCY.
Scope
Personalised face to face of course by [REDACTED].
Details
The training course will be tailored and personalised for Mr. Kharaud and will include an understanding of gross weight, axle group weights, interpreting max payloads, tare, GVM and GCM definitions. The Training Course will also cover Load Restraint, the NTC Load Restraint Guide, the NHVR National Heavy Vehicle Inspection Manual , driver and vehicle safety.
Timeframe
To be completed within 6 Months of the acceptance of this undertaking.
Outcome
Mr Kharaud will have a better understanding of the knowledge of mass management and operation of heavy vehicles.
Costs
\$2500.00 to complete the Course.
Output
Mr Kharaud will submit certificate of completion with in 3 weeks of the Tailored Compliance Management Course run by [REDACTED].

42- The total estimated value of the undertaking is \$3300.00.

Part 4 Offer of undertaking

Executed as an Undertaking

Mr Kharaud:

[REDACTED]	
Signature	
Name: Mr Kharaud	
Date: Click or tap to enter a date.	Date: Click or tap to enter a date.

Part 5 Acceptance of undertaking

Accepted by the National Heavy Vehicle Regulator pursuant to sections 590A(2) and 661(1)(b) of the Heavy Vehicle

National Law by:


Signature of Executive Director
Ray Hassall
Name of Executive Director (print)
Date: 21 May 2024