



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

Justin Lavers

Part 1 Executive summary

Section 1 Agreed actions

1. Engage [REDACTED] to deliver fatigue management training TLIF0005
2. Enter into a 12-month subscription with Hubfleet for an electronic work diary.
3. Make a \$2000.00 donation to the Australian Road Trauma Safety Foundation.

Section 2 Total cost of actions

4. Cost of the fatigue management training: \$150.
5. Cost of the 12-month subscription of the Electronic work diary: \$186.00.
6. The pledged amount of the donation to the Australian Road Trauma Safety Foundation: \$2000.00.
7. **The total costs of the undertaking: \$2336.00.**

Part 2 General information

Section 1 Purpose

8. 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

9. The commitments in this enforceable undertaking are offered to the NHVR by Justin Lavers.
10. 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:	As above
Telephone:	[REDACTED]
Email address:	[REDACTED]
[REDACTED] business:	Employed Driver

Details of the alleged contravention

11. **Between** 6:00pm on 17 May 2023 and 6:00pm on 18th May 2023 Justin lavers committed two contraventions of the Heavy Vehicle National Law.
12. Charge 1: solo-driver work more than the BFM maximum work time – critical risk breach.
13. Charge 2: Solo-driver rest list than the BFM minimum rest time – critical risk breach.

Details of the events surrounding the alleged contravention

14. On 19 May 2023, whilst driving a heavy vehicle Justin Lavers was stopped by Authorised officers on duty at the Marulan Heavy Vehicle Safety Station in the State of NSW. Officers inspected Mr Lavers' national work diary and

identified the contraventions of the Fatigue management regulations under the Heavy Vehicle National Law.

15. Mr Lavers recorded in his diary that:
 - a. In the 24-hour period between 6:00pm on 17 May 2023 and 6:00pm on 18th May 2023 the accused was a solo driver of fatigue regulated heavy vehicle bearing registration [REDACTED]. At the time accused was operating under the Basic Fatigue Management (BFM) option.
 - b. Charge 1: During that 24-hour period the prescribed maximum work time was 14-hours. Mr Lavers worked for a total of 19 hours and 15 minutes. Constituting a critical risk breach.
 - c. Charge 2: During that 24-hour period the prescribed minimum continuous rest time was 7-hours. The longest continuous rest achieved by the accused was 1 hour and 30 minutes. Constituting a critical risk breach.
16. Mr Lavers signed the diary pages declaring the entries that he made as being true and correct.

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

17. No injury or financial loss arose from the alleged contraventions.

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

18. Justin Lavers has received a Summons in respect of the alleged contravention that occurred on 18th May 2023 to attend Goulburn Local Court.

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

19. Justin Lavers is employed with [REDACTED] and has his BFM qualification.

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

20. Consultation has been taken regarding the proposed EU with Justin Lavers and his place of employment. The Safety & Compliance team along with company Directors agree to support Justin in the EU submission.

Section 3 Statements

Statement of assurance

21. Justin Lavers confirms that it is committed to complying with its obligations under the HVNL and ensuring, so far as is reasonably practicable, the health and safety of all workers and others that have the potential to be affected by its business or undertakings.

Statement of regret

22. Justin Lavers regrets that the incident on 18th May 2023 when the fatigue breaches occurred. Justin is committed to the development of his knowledge around BFM and the management of his logbook. His has committed to undertaking BFM schedulers course along with the AFM course as well as commencing a EWD (Electronic work diary) to assist in the management of his hours, which will be submitted with [REDACTED] along with the NHVR for period of the enforceable undertaking.

Statement of ability to comply

23. Justin Lavers confirms that he has the financial and operational capacity to comply with the terms of this enforceable undertaking

Statement granting permission to use

24. Justin Lavers grants the NHVR permission to use any documents, policies and procedures developed as a result of this enforceable undertaking for the purpose of training and development by the NHVR

Statement of prior undertakings

25. Justin Lavers has not been the subject of an undertaking from another statutory body (including but not limited to Work Health and Safety, local or state-based statutory bodies)

Section 4 Acknowledgement

26. Justin Lavers acknowledges that the NHVR alleges that he has contravened section 250(1)(a) and (b) of the HVNL
27. The alleged contraventions are taken very seriously Justin Lavers and 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 it operates

Section 5 Details of Injury or Illness

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

28. Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention.

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

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

Section 6 Rectifications made

30. Justin Lavers is committed to ensuring it has developed systems that identify, assess and control risks and are designed to promote continual improvement and as a result of the alleged contravention. No rectifications have been made to date.
31. Mr Lavers can indicate that he has not committed any further offences since the date of the intercept.

Section 7 Acknowledgement of publication

32. Justin Lavers 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 behavior that led to the alleged contravention has ceased and will not reoccur

33. Justin Lavers is committed to ensuring that the behavior 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

34. Justin Laver is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
35. Justin Lavers 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

- 36. Justin Lavers is committed to disseminating information about the enforceable undertaking to his fellow employed drivers 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 subcontractors. This information will be disseminated directly to the people concerned, if and when the need eventuates.

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

- 37. Justin Lavers is committed to participating constructively in all compliance monitoring activities of the EU.
- 38. Justin Lavers acknowledges that responsibility for demonstrating compliance with the undertaking rests with himself and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
- 39. 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

- 40. Justin Lavers 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

- 41. As part of this enforceable undertaking, Justin Lavers 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.
- 42. Justin Lavers intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among his co-workers and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

Activities

Activity 1 – TLIF0005 Fatigue Management Course
Scope
This course is designed to provide the necessary training in developing the skills and knowledge required to administer the implementation of fatigue management strategies, it involves the application of relevant regulations and the principles of fatigue management when administrating the implementation of an organisation’s fatigue management strategies during work operations in a defined workplace.
Details
TLIF0005 Fatigue Management to be delivered by [REDACTED] course is to be delivered online and can be completed at Justin's availability to work within his work schedule.

Activity 3 – Donation

The donation is to be made within 9 months of the commencement of the Enforceable undertaking.

Outcome

Benefit delivered to the community.

Costs

\$2000.00

Output

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

43. The total estimated value of the undertaking is \$2336.00.

Part 4 Offer of undertaking

Executed as an Undertaking

Executed by **Justin Lavers** pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

Signature of Justin Lavers		
Date: 12/02/2024		

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	
Raymond Hassall	
Name of Executive Director (print)	
Date: 29 Feb 2024	