



# Enforceable Undertaking

## Chapter 10.1A

### Heavy Vehicle National Law

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

**By**

**HD Logistics Pty Ltd**

**ABN: 96 638 778 444**

## Part 1 Executive summary

### Section 1 Agreed actions

1. Initiative 1: HD Logistics will arrange and complete, within 3 months of the date of acceptance of this enforceable undertaking, full-day load restraint training by [REDACTED] for the Director, Managers and all drivers of the company.
2. Initiative 2: HD Logistics will complete and permanently maintain, (but for the purposes of auditing by the NHVR, for at least 12 months from the date of acceptance of this enforceable undertaking, and 12 months post the end of this enforceable undertaking) a new staff onboarding process that requires any new employee to complete the full-day load restraint training by [REDACTED].  
The company has and will maintain a procedure of checking all references provided by new employees. The company will create within 9 months an internal form for management to check all new employee licences and driving records to ensure they are compliant and introduce all new employees to safety procedures such as SWMS and signing of employee contract stipulating that they will adhere to all internal procedures and road rules.
3. Initiative 3: A donation of \$5,000 to the Australian Road Safety Foundation.
4. Initiative 4: The Transport Manager or Director of HG Logistics will provide internal training sessions to all employees every 6 months in relation to HVNL compliance.
5. Initiative 5: HD Logistics will create, within 9 months, a load restraint inspections check list for all drivers to have at hand for use prior to commencing each journey.

### Section 2 Total cost of actions

6. \$15,740.00

## Part 2 General information

### Section 1 Purpose

7. 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

8. The commitments in this enforceable undertaking are offered to the NHVR by HD Logistics.
9. 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]
Legal structure:	Australian Private Company
Type of business:	Logistics Business
Commencement of entity:	30 January 2020
Number of workers:	10
Products and/or services:	Logistics

**Details of the alleged contravention**

10. On 10 September 2022 it is alleged that HG Logistics Pty Ltd, permitted its employee [REDACTED] to drive a heavy vehicle (White Isuzu rigid, ACT registration [REDACTED] along the Hume Highway with a load that failed to comply with width dimension requirements at a "severe risk" level (s102(1)(b) (iii) *Heavy Vehicle National Law (NSW)*).

**Details of the events surrounding the alleged contravention**

- 11. In the afternoon of 10 September 2022 it is alleged that [REDACTED] was permitted, as an employee of HD Logistics Pty Ltd, to transport a heavy vehicle (White Isuzu rigid, ACT registration [REDACTED] containing a load of insulation from Revesby NSW, to the HD Logistics Pty Ltd yard in Fyshwick, ACT. At around 6:05pm the vehicle was subjected to a routine compliance check by authorised NHVR officers at the Marulan Heavy Vehicle Safety Station. The width of the vehicle's load allegedly exceeded the permitted width by 45.5 cm, falling in the "severe risk" category.
- 12. It is alleged [REDACTED] told authorised officers that he was not involved in loading the vehicle, which was done by [REDACTED]. He said he had been a professional driver in that year only and had not had any training in regards to dimensions and loading. He was not aware of the dimension width limit of 2.5 metres, that exceeding it was an offence and that it was exceeded on this occasion. He said he noticed bulges in the curtains before leaving but did not discuss this fact with anyone.

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

13. There were no injuries or financial loss that arose from the alleged contravention.

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

14. On 12 April 2023 HD Logistics Pty Ltd was served with a Court Attendance Notice to appear in the Goulburn Local Court on 19 May 2023 for an offence of permitted another person to drive a heavy vehicle that failed to comply with width dimension requirements at a "severe risk" level, contrary to s102(1)(b)(iii) of the *Heavy Vehicle National Law 2013*. On 19 May 2023 a solicitor of [REDACTED] who represent the company, appeared in the Goulburn Local Court when the matter was adjourned to 9 June 2023. At that time, the matter was again adjourned to 11 August 2023 to allow time for the proposed enforceable undertaking to be sent and considered by the NHVR. The matter has again been adjourned to 22 September 2023 and now to 20 October 2023 for amended versions of the proposed EU to be considered by the NHVR. As a result of the EU process, this matter will have been before the



court for approximately 5 months. No plea has been entered at this time.

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

15. HD Logistics Pty Ltd has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance.
16. The company has a procedure of checking all references provided by new employees and ensures all new employees have undertaken the relevant training with [REDACTED]. The company checks all new employee licences and driving records to ensure they are compliant and introduces all new employees to safety procedures such as SWMS and signing of employee contract stipulating that they will adhere to all internal procedures and road rules.

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

17. HD Logistics Pty has consulted internally between the company's director [REDACTED] and managers [REDACTED] and Executive Assistance [REDACTED] and externally [REDACTED] and [REDACTED] in agreeing to propose this enforceable undertaking.

## **Section 3 Statements**

### **Statement of assurance**

18. HD Logistics Pty Ltd confirms that it is committed to ensuring all company employees fully comply with its obligations under the HVNL. The company is committed to ensuring it upholds the highest levels of workplace health and safety in relation to its employees and also anyone else that may be involved or impacted by the work of the company, including the general public as road users.

### **Statement of regret**

19. HD Logistics Pty Ltd wholeheartedly regrets the alleged offence of 10 September 2022. The Director and Managers of the company were distressed to hear that its employee apparently had little understanding of the strict laws relating to safe load dimensions. The company is immensely grateful the alleged load contravention did not result in any serious accident of injury on this occasion. The company is determined to ensure none of its employees engage in any future contravention of NHVL.

### **Statement of ability to comply**

20. HD Logistics Pty Ltd confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

### **Statement granting permission to use**

21. HD Logistics Pty Ltd 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**

22. To the best of its knowledge, HD Logistics Pty Ltd has not been subject to an undertaking from another statutory body (including but not limited to Work Health and Safety, local or any state or territory-based statutory bodies).

## **Section 4 Acknowledgement**

23. HD Logistics Pty Ltd acknowledges that the NHVR alleges that it has contravened s102(1)(b)(iii) of the *Heavy Vehicle National Law*.

24. The alleged contravention is taken very seriously by Director and Managers of HD Logistics Pty Ltd, who are committed to providing a safe and healthy workplace to conduct its business in a way that contributes to keeping all road users safe and helping to 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)

25. 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

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

## Section 6 Rectifications made

27. The work to be completed by HD Logistics will be in the form of the above 5 initiatives rather than rectifications.

## Section 7 Acknowledgement of publication

28. HD Logistics Pty Ltd 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

29. HD Logistics Pty Ltd 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

30. HD Logistics Pty Ltd is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
31. HD Logistics 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

32. HD Logistics Pty Ltd 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 subcontractors working for HD Logistics Pty Ltd. For internal employees this information will be disseminated through Friday morning toolbox talks with the company's transport supervisor [REDACTED]

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

33. HD Logistics Pty Ltd is committed to participating constructively in all compliance monitoring activities of the EU.



- 34. HD Logistics acknowledges that responsibility for demonstrating compliance with the undertaking rests with the company and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
- 35. 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**

- 36. HD Logistics Pty Ltd 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**

- 37. As part of this enforceable undertaking, HD Logistics 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.
- 38. HD Logistics Pty Ltd intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among the company’s workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

**Activities**

<b>Activity 1 – Upfront load restraint training</b>
<b>Scope</b>
Compulsory full-day load safety training for the company’s director, managers, drivers, loaders and all employees (other than staff with a basic secretarial or administrative role only)
<b>Details</b>
Training to be conducted by [REDACTED] The company has and will maintain a procedure of checking all references provided by new employees. The company will check all new employee licences and driving records to ensure they are compliant and introduces all new employees to safety procedures such as SWMS and signing of employee contract stipulating that they will adhere to all internal procedures and road rules.
<b>Timeframe</b>
To be completed by the company’s director, managers and all drivers within 3 months of the date of acceptance of this enforceable undertaking.
<b>Outcome</b>
The company will have successfully completed the load safety training with each relevant employee.
<b>Costs</b>
\$660 per person with a total cost of \$6,600 (10 current relevant employees).



**Activity 1 – Upfront load restraint training**

**Output**

The company will provide to the NHVR training certificates and records, and course content information, demonstrating that each relevant employee has completed the training along with the full company employee list to compare.

**Activity 2 – Compulsory load restraint training – onboarding for new staff**

**Scope**

Establishing as a new compulsory onboarding process for all newly employed drivers of the company, completion of a full-day load safety training course.

**Details**

Training to be conducted by [REDACTED]

**Timeframe**

Completion of the full-day load safety training course is intended to be a compulsory onboarding process for all new drivers and to continue indefinitely. This will become a permanent procedure. For the purposes of certainty for this enforceable undertaking, this process must remain in place and be available to be subjected to review or audit by the NHVR at a time during the 12 months from the date of acceptance of this enforceable undertaking and a further 12 months after the period of the enforceable undertaking ends. Within 9 months the company will complete an internal form for management to check all new employee licences and driving records to ensure they are compliant and introduce all new employees to safety procedures such as SWMS and signing of employee contract stipulating that they will adhere to all internal procedures and road rules.

**Outcome**

The company will have successfully completed the load safety training with each relevant employee.

**Costs**

\$660 per person with a total estimated cost of \$2,640 over the next 12 months. This cost is estimated on the assumption that the company will likely engage 4 new employees over the next 12 months.

**Output**

12 months after the date of acceptance of this enforceable undertaking, the company will provide to the NHVR evidence of the training certificates and records, and course content information, demonstrating that each new employee has completed the training along with the full company employee list from the past 12 months to compare.

**Activity 3 – Donation to Australian Road Safety Foundation**

**Scope**

A donation of \$5,000 to the Australian Road Safety Foundation.



<b>Activity 3 – Donation to Australian Road Safety Foundation</b>
<b>Details</b>
A donation of \$5,000 to the Australian Road Safety Foundation which is dedicated to reducing the impacts of road trauma and saving lives.
<b>Timeframe</b>
On 19/09/2023
<b>Outcome</b>
The company will have made the \$5,000 donation.
<b>Costs</b>
\$5,000.00
<b>Output</b>
The company providing to NHVR evidence of the donation of \$5,000

<b>Activity 4 –Ongoing internal NHVL compliance training</b>
<b>Scope</b>
The company’s Transport Manager or Director will provide, every 6 months, an internal training session about NHVL compliance of approximately an hour in duration to all employees.
<b>Details</b>
Each internal training session will cover different aspects of National Heavy Vehicle Law compliance training to ensure employees are reminded of their ongoing obligations.
<b>Timeframe</b>
The first training session will be completed within 6 months after the period of accepting this enforceable undertaking. The second session will be completed within 6 months after the first session and further sessions will continue indefinitely every 6 months. For the purposes of certainty for this enforceable undertaking, this process must remain in place and be available to be subjected to review or audit by the NHVR at a time during the 12 months from the date of acceptance of this enforceable undertaking and a further 12 months after the period of the enforceable undertaking ends.
<b>Outcome</b>
The company will have successfully held two internal training sessions within 12 months of acceptance of his enforceable undertaking.
<b>Costs</b>
Roughly \$1000 of internal time spent on preparing and delivering training.



**Activity 4 – Ongoing internal NHVL compliance training**

**Output**

12 months after the date of acceptance of this enforceable undertaking, the company will provide to the NHVR evidence of the two completed internal NHVL compliance sessions having been conducted.

**Activity 5 – Creating load restraint inspections check list**

**Scope**

The company will draw up a load restraints inspections check list for all drivers to have at hand for use prior to commencing each journey.

**Details**

The inspections check list will be available electronically and physically for every driver in the company and it will be part of company policy that every driver must refer to their check list prior to commencing every journey.

**Timeframe**

The inspections check list will be completed and distributed to all drivers within 9 months of the date of acceptance of this enforceable undertaking.

**Outcome**

The company will have successfully prepared and distributed to all employees the check list.

**Costs**

Roughly \$500 of time to create and distribute the check list.

**Output**

9 months after the date of acceptance of this undertaking the company will provide to the NHVR evidence a copy of the checklist that has been distributed to all drivers.

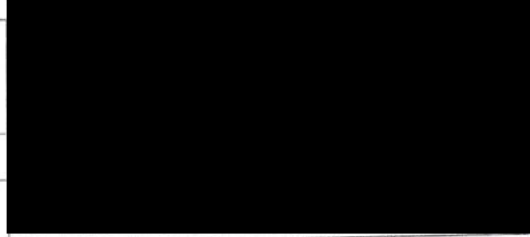
39. The total estimated value of the undertaking is \$15,740.00.

## Part 4 Offer of undertaking

Executed as an Undertaking



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



<b>Name of Director</b>	<b>Name of Director/Company Secretary (print)</b>
Date: 6/10/2023	06/10/23 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:



<b>Signature of Chief Executive Officer</b>
Sal Petrocchio
<b>Name of Chief Executive Officer (print)</b>
10/10/2023 Date: Click or tap to enter a date.