



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

PACIFIC HIRE WANGARATTA PTY LTD

ABN: 15 118 155 785

Part 1 Executive summary

Section 1 Agreed actions

1. Purchase of new float trucks to move specific equipment – (rectification)
2. To train all staff so they comply with the specific chain of responsibility provisions which relate to packing, loading and load restraint requirements according to the National Transport Commission (The Load Restraint Guide)
3. In house driver training booklet based on NHVR guidelines to be created, along with purchase of Load Restraint Guide 2018 for each truck, and publication of this driver training booklet for download from Pacific Hire's website, accompanied by social media posts.
4. To have all staff trained in operation and transport of high-risk equipment (Elevated Work Platform (EWP), yellow card and forklift training) for familiarisation of safe stowing for equipment
5. 6 monthly revisions of transport procedures and processes with amendments if and when required to be discussed at monthly toolbox meetings conducted by senior management

Section 2 Total cost of actions

6. Total costs of actions already taken
 - a) Approximate costs of new fleet purchases \$2,014,000.00
 - b) Approximate on going costs \$34,500.00
7. Total costs of additional strategies to implement \$54,362.00

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 Pacific Hire Wangaratta Pty. Ltd. (Pacific Hire).
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: | Suite 10, 856-860 Doncaster Road, Doncaster East Vic 3109 |
| Postal address: | 1948 Hume Hwy, Campbellfield, Vic, 3061 |
| Telephone: | [REDACTED] |
| Email address: | [REDACTED] |
| Legal structure: | Australian Proprietary Company, Limited by Shares |
| Type of business: | Equipment Hire |
| Commencement of entity: | 02/02/2006 |
| Number of workers: | 35 |
| Products and/or services: | Equipment Hire to the construction industry |

Details of the alleged contravention

11. On 29 September 2020 at Dandenong South Pacific Hire permitted another person to drive a heavy vehicle, namely a white 2017 Isuzu tilt tray, registration number 1KU8QU, on a road without ensuring that the vehicle, its components and load, complied with the applicable mass requirements, namely the twin steer axle group of the vehicle exceeded the prescribed mass limit of 11.0 ton, contrary to section 96(1) of the Heavy Vehicle National Law.
12. Particulars: Mass detected – 15.90 ton, taking into account the applicable mass adjustment the mass alleged – 15.40 ton, 140% of prescribed mass limit – severe risk breach.

Details of the events surrounding the alleged contravention

13. The position of the load on the truck caused the weight to be over limit on the front steer axles.
14. The jobsite did not permit the employee to access the deck of the truck in order to properly position the load. It is accepted, however, that it is the responsibility of the Pacific Hire to ensure that all vehicles are compliant with the Regulations, and that all drivers adhere to the regulations regardless of the conditions of the jobsite.

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

15. Nil

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

16. Pacific Hire has received a summons in respect of the alleged contravention that occurred on 29 September 2020 which is first listed for mention before the Dandenong Magistrates' Court of Victoria on 3 February 2022.

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

17. Pacific Hire has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance.
18. Pacific Hire's existing transport safety management system at the workplace is supported by the following procedures and documents:
 - a. All vehicles are inspected before they exit the property to ensure compliance with the regulations.
 - b. Software system Syrinx is used to document all elements of the hire job, including the inspection and photographs of the inspection including driver fatigue records.
 - c. Software system Destiny documents servicing of all vehicles including safety and vehicle services.
19. All vehicles exiting out of the property are inspected to ensure that they are compliant with the regulations.

For Subcontractors

- a. The process – on each occasion equipment is loaded onto a truck, the load must be inspected and photographs are taken of every load.
- b. The drivers must attend the main office to obtain details of their job, they are accompanied to the truck, photos are taken, and a check is undertaken.

For Employees

- c. Own drivers – inspected by Assistant Manager — as it is loaded from jobsites or in the yard
 - d. Random spot-checks on trucks
20. Monthly toolbox meetings conducted with all staff, these meetings are recorded and cover off on the following topics, inter alia:
 - a. New purchases or new equipment
 - b. Any OH&S issues that may have arisen
 - c. An update from the general manager about matters including safety
 21. Audits are conducted weekly by the service manager which involve cross-checking a randomly selected truck with the records that accompany the truck.
 22. A further audit is conducted once per fortnight to cross check servicing and safety inspection on trucks with the records.

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

23. Christian Grzankowski, operations manager, has discussed the proposal of an EU with the Director, Raimond Carlassare. Mr Carlassare is willing to enter the EU. Consultation has been taken regarding the proposed EU within Pacific Hire's management structure. This has been discussed at management level and has been communicated to all staff.

Section 3 Statements

Statement of assurance

24. Pacific Hire 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

25. Pacific Hire regrets the incident on 29 September 2020.

Statement of ability to comply

26. Pacific Hire confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement of prior undertakings

27. Nil.

Section 4 Acknowledgement

28. Pacific Hire acknowledges that it is alleged to have contravened section 96(1)(c) of the HVNL.
29. The alleged contravention is taken very seriously by Pacific Hire, its Directors and Senior Management, who are committed to providing a safe and healthy workplace to conduct its 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)

30. 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

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

Section 6 Rectifications made

32. Pacific Hire 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, the following opportunities for enhancement of processes have been undertaken:

| Description | \$ Amount |
|---|---|
| No longer use Tilt Tray trucks transport of 66ft boom lift — have eliminated the issue as Pacific Hire have invested significant capital on new float trucks to move this equipment which are well within weight limitations. | Detailed in line items below |
| 2 x Tri Axle float trailers, made by OPHEE 3x4 Axle set up for better weight distribution | \$340,000 per trailer = \$680,000 |
| 2 x Prime movers to suit the tri axles trailers above | Mack Anthem model prime mover = \$249,000 Mack Granite model prime mover = \$225,000 |
| Specialist Truck and trailer for heavy loads | |
| 1 x Mack Super Liner Prime mover | \$340,000 |
| 1 x Drake Quad Axle float trailer 4x4 Axle set up | \$410,000 for float trailer |
| 1 x Drake Dolly (to suit above 4 x 4 trailer) | \$110,000 |
| Total vehicle and trailer purchase | \$2,014,000.00 |
| Maintenance and operational cost p.a. | \$34,500.00 |
| \$2500,00 per Prime Mover each service (Approx 2-3 per year) trailers \$2000,00 per service (Approx 1-2 per year or as required) | |
| Total cost p.a. \$34,500.00 on top of initial capital outlay of \$2,014,000.00 | |

Section 7 Acknowledgement of publication

33. Pacific Hire 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

34. Pacific Hire 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

35. Pacific Hire is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
36. Pacific Hire 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

37. Pacific Hire 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 Pacific Hire. This information will be disseminated through:
 - a. For internal employees: Monthly toolbox meetings, regular spot audits by Supervisors and Managers. Driver training program handbooks to be placed in each truck.
 - b. For external contractors and sub-contractors: communication provided by Department Heads noted in paragraph 12(a).
 - c. All email correspondence captured through document management system CRM.

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

38. Pacific Hire is committed to participating constructively in all compliance monitoring activities of the EU.
39. Pacific Hire acknowledges that responsibility for demonstrating compliance with the undertaking rests with Pacific Hire and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
40. 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

41. Pacific Hire 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

42. As part of this enforceable undertaking, Pacific Hire 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.
43. Pacific Hire intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Pacific Hire workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

Activities

Activity 1 – Load Restraint Training

Scope

To train all staff so they comply to the specific chain of responsibility provisions which relate to packing, loading and load restraint requirements according to the National Transport Commission (The Load Restraint Guide)

Details

Staff Training:

Load Restraint Training –delivered by Driver Development Australia, Tony Haritonos.

This training provider is not accredited by the NHVR, however the training is particularly relevant and tailored towards Pacific Hire's industry. The training will involve demonstrations using Pacific Hire's own equipment. Pacific Hire was not able to find a NHVR certified trainer in Load Restraint Training who delivers course material relevant to the equipment hire industry. The mainstream Load Restraint Training focuses on securing cargo and pallets rather than equipment. Pacific Hire does not transport cargo and pallets.

Course description:

"Loads that aren't restrained properly can injure and cause significant property damage. Your corporate reputation and your financial reputation can suffer if your involved in a load restraint incident. This course is designed to comply to the specific chain of responsibility provisions which relate to packing, loading and load restraint requirements according to the National Transport Commission (The load Restraint guide) The program provides drivers, owners, operators with the basic safety principals that should be followed to ensure the safe carriage of loads. The course starts with a classroom component which covers the Law, the general principals of load restraint, Load restraint methods, selecting the vehicle, Do's and Don'ts. Followed by a practical at the vehicle session."

"Driver Development Australia is one of Australia's leading and most respected Driver Training Organisations. With over 20 years in the industry, we have been designing and delivering customised training to corporate and government partners nation wide."

COURSE SUBJECTS:

- Load shift
- How to carry a load safely
- Load restraint methods
- Positioning the load and recognising unstable loads
- Using dunnage
- How much restraint?
- Vehicles and load restraint equipment
- Using load restraint equipment
- Wear and damage
- Do's and don'ts
- Vehicle dynamics
- Checking the load

Timeframe

Activity 1 – Load Restraint Training

Training booked to occur on 15 January 2022

Outcome

All staff to be competent and confident in complying with safety regulations regarding load restraints

Costs

\$4500.00

Output

As described above.

Activity 2 – In house driver handbook creation

Scope

In house driver training booklet based on NHVR guidelines to be created.

In addition, Invest in NHVR – Load restraint Guide 2018 for each truck.

Details

This handbook will be tailored to Pacific Hire to complement the existing third party training to provide additional company specific information. It will include items such as;

- NHVR guidelines, drivers handbook
- Safety charter,
- Restraints,

This book will be kept in each truck. Currently being written by the Operations manager.

An electronic version of this publication will be made available to industry, available for download from Pacific Hire's website. This will be accompanied by a post on Pacific Hire's Facebook and Instagram pages sharing a link to the publication for download, thereby promoting safety and benefiting the broader transport community.

Timeframe

March 2022

Outcome

Each driver will have their own reference manual accessible in each truck. Publishing a link to an electronic version of the handbook will promote safety in the broader transport community.

Costs

\$500 – printing

\$8,580 - Development of content -

\$300 – NHVR load restraint guide book

Total : \$9380.00

Output

As described above.

Activity 2 – In house driver handbook creation

Activity 3 – Elevated Work Platform (EWP), Forklift and Yellow Card Training

Scope

To have all staff trained in operation and transport of high risk equipment (EWP, yellow card and forklift training) for familiarisation of safe stowing for equipment

Details

To ensure all staff truck drivers can safely and legally operate the hire equipment they are transporting to enable safe loading and unloading.

EWP Training

Boom Lift over 11m

Course Code TLILIC0005 (Plan B Training/Seton Training RTO 22279)

Course Covers the below:

- Planning work including hazard identification and controls
- EWP components and dynamics
- Pre-Operational and Post start checks
- EWP Safe Positioning
- Operating the EWP for operation and transport
- Emergency procedures
- Shutdown and secure the EWP

Yellow Card Training

Covers small vertical lifts, boom lifts under 11m and scissor lifts

Course Code TLILIC0003 (Plan B Training/Seton Training RTO 22279)

Course Covers the below:

- Planning work including hazard identification and controls
- EWP components and dynamics
- Pre-Operational and Post start checks
- EWP Safe Positioning
- Operating the EWP for operation and transport
- Emergency procedures
- Shutdown and secure the EWP

Forklift Training

Covers Forklifts to be operated when loading, unloading or using them in the yard

Course Code TLILIC0003 as well (Plan B Training/Seton Training RTO 22279)

- Planning work including hazard identification and controls
 - Forklift Truck components and dynamics
 - Pre Start Checks
 - Shifting Loads
 - Transportation of Forklift
 - Shutdown and secure of Forklift
 - Emergency procedures
-

Activity 3 – Elevated Work Platform (EWP), Forklift and Yellow Card Training

- Operational checks

Timeframe

January 2022

Outcome

All staff will be trained in operation and basic transport procedures – booms, scissors, fork lifts – all drivers will then hold the high risk licenses and be competent at loading and unloading their trucks.

Costs

EWP – 900pp
 Yellow card – 450pp
 Forklift – 899pp
 Number of staff – 18
 Total training cost \$40,482.00

Output

As described above.

Activity 4 – Safety Management System Audit

Scope

6 monthly audit and review of transport procedures and processes with amendments if and when required to be discussed at monthly toolbox meetings conducted by senior management.

Details

Monthly toolbox meetings are recorded, and transport procedures and processes will be discussed with staff. Senior management of Pacific Hire will review transport procedures and processes and amend if necessary, on a 6 monthly basis.

Timeframe

Next review to occur in March 2022, with remainder to occur 6 monthly thereafter

Outcome

To ensure that all transport procedures and processes are updated and reviewed by senior management in a regular and documented fashion.

Costs

Will be absorbed into existing costs of senior management wages.

Activity 4 – Safety Management System Audit

Output

As described above

44. The total estimated value of the undertaking is \$54,362.00.

Part 4 Offer of undertaking

Executed as an Undertaking


PACIFIC HIRE WANGARATTA PTY LTD ABN: 15 118 155 785

Executed by PACIFIC HIRE WANGARATTA PTY LTD ABN: 15 118 155 785 pursuant to section 127(1) of the Corporations Act 2001 (Cth) by:

| | |
|---|--|
|  |  |
| Signature of Director | Signature of Director/Company Secretary |
| Raimond Carlassare | Deanne Carlassare |
| Name of Director (print) | Name of Director/Company Secretary (print) |
| Date: 20/12/2021 | Date: 20/12/2021 |

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 Chief Executive Officer |
| SAL PETROCCHIO |
| Name of Chief Executive Officer (print) |
| Date: 9/2/2022 |