Enforceable Undertaking

Chapter 10.1A

**Heavy Vehicle National Law**

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

**By**

[Company name]

**ABN:** [Enter ABN number]

**Instructions for using this template**

Paragraphs are numbered. When inserting new paragraphs, ensure the **Number1** or **Number2** styles available in the **Styles** gallery (**Home** tab) are being used.

Ensure only styles in **Styles** gallery are used (e.g. Heading 1, Heading 2, Heading 3, Bullet1 and Bullet 2).

If pasting text, ensure the text is pasted **unformatted**.

Delete instruction when no longer needed (click in text and then press **Delete)**

# Executive summary

## Agreed actions

1. [Enter details]
2. [Enter details]

## Total cost of actions

1. [Enter details]
2. [Enter details]

# General information

## Purpose

1. 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.

## Details

1. The commitments in this enforceable undertaking are offered to the NHVR by [Company name] (**[short form]**).
2. 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:** |  |
| **Postal address:** |  |
| **Telephone:** |  |
| **Email address:** |  |
| **Legal structure:** |  |
| **Type of business:** |  |
| **Commencement of entity:** |  |
| **Number of workers:** |  |
| **Products and/or services:** |  |

### Details of the alleged contravention

1. [Enter details]

### Details of the events surrounding the alleged contravention

1. [Enter details]
2. [Enter details]

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

1. Enter details – for example: There were no injuries or financial loss that arose as a result of the alleged contravention.]

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

1. Enter details – for example: defendant/corporate defendant has received a Summons in respect of the alleged contravention that occurred on 1 July 2020 in relation to a hearing before the Burnie Magistrates Court of Tasmania.]

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

1. [Entity] has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance.
2. [Describe system – for example: defendant/corporate defendant’s existing transport safety management system at the workplace is supported by the following procedures and documents]
	1. [component]
	2. [component]

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

1. [Describe any consultation, for example: Consultation has been taken regarding the proposed EU within defendant/corporate defendant’s leadership and management team and workforce through the following established mechanisms]

* 1. [mechanism]
	2. [mechanism]

## Statements

### Statement of assurance

1. [Statement – for example: defendant/corporate defendant 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

1. [Statement – for example: defendant/corporate defendant regrets that the incident on 1 July 2020 occurred]

### Statement of ability to comply

1. [Statement – for example, defendant/corporate defendant confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking]

### Statement granting permission to use

1. [Statement – for example, defendant/corporate defendant 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

1. [Statement – for example, has the defendant/corporate defendant 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)?]

## Acknowledgement

1. [Acknowledgement – for example: defendant/corporate defendant acknowledges that the NHVR alleges that defendant/corporate defendant has contravened section 96(1)(c) of the HVNL]
2. [Acknowledgement – for example: The alleged contraventions are taken very seriously by defendant/corporate defendant, 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]

## Details of Injury or Illness

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

1. Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention. [change if applicable]

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

1. Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention. [change if applicable]

## Rectifications made

1. [Entity] 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** |
| --- | --- |
|  |  |
|  |  |
|  |  |
| **Total cost p.a.** |  |

## Acknowledgement of publication

1. [Entity] acknowledges that the enforceable undertaking will be published on the NHVR's internet site and may be referenced in the NHVR's publications.

# Enforceable terms

## Commitments

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

1. [Entity] 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

1. [Entity] is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
2. [Entity] 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

1. [Entity] 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 [Entity]. This information will be disseminated through:
	1. [example] For internal employees: Records kept in dedicated workspace in M-Files; Toolbox talks by Distribution Supervisors and Production Managers.
	2. [example] For external contractors and sub-contractors: communication provided by Department Heads noted in paragraph 12(a).
	3. [example] All email correspondence captured through document management system CRM.

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

1. [Entity] is committed to participating constructively in all compliance monitoring activities of the EU.
2. [Entity] acknowledges that responsibility for demonstrating compliance with the undertaking rests with [Entity] and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
3. 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

1. [Entity] 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.

## Strategies that will deliver benefits

### Benefits to drivers and parties within the chain of responsibility

1. As part of this enforceable undertaking, [Entity] aims to deliver strategies that focus on benefits to:
	1. drivers and parties within the chain of responsibility
	2. the transport industry and the broader community.
2. [Entity] intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among [Entity] workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

### Activities

| **Activity 1 – [Brief description of activity]** |
| --- |
| **Scope** |
|  |
| **Details** |
|  |
| **Timeframe** |
|  |
| **Outcome** |
|  |
| **Costs** |
|  |
| **Output** |
|  |

| **Activity 2 – [Brief description of activity]** |
| --- |
| **Scope** |
|  |
| **Details** |
|  |
| **Timeframe** |
|  |
| **Outcome** |
|  |
| **Costs** |
|  |
| **Output** |
|  |

| **Activity 3 – [Brief description of activity]** |
| --- |
| **Scope** |
|  |
| **Details** |
|  |
| **Timeframe** |
|  |
| **Outcome** |
|  |
| **Costs** |
|  |
| **Output** |
|  |

| **Activity 4 – [Brief description of activity]** |
| --- |
| **Scope** |
|  |
| **Details** |
|  |
| **Timeframe** |
|  |
| **Outcome** |
|  |
| **Costs** |
|  |
| **Output** |
|  |

1. The total estimated value of the undertaking is [enter value].

# Offer of undertaking

**Executed as an Undertaking**

[Company name] **ABN:** [Enter ABN number]

Executed by [Company name] **ABN:** [Enter ABN number] pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

|  |  |
| --- | --- |
|  |  |
| **Signature of Director** | **Signature of Director/Company Secretary** |
|  |  |
| **Name of Director (print)** | **Name of Director/Company Secretary (print)** |
| **Date:** Click or tap to enter a date. | **Date:** Click or tap to enter a date. |

# 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** |
|  |
| **Name of Chief Executive Officer (print)** |
| **Date:** Click or tap to enter a date. |