



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

J.J. Richards & Sons Pty Ltd

ABN: 40 000 805 425

Part 1 Executive summary

Section 1 Agreed actions

1. Commitment to ongoing compliance with loading requirements under the Heavy Vehicle National Law.
2. Identification and assessment of current load restraint processes across the business, and implementation of guidelines and training for all persons in the chain of responsibility regarding load restraint requirements.

Section 2 Total cost of actions

3. Total costs of rectifications already made are \$11,000.00.
4. Total costs of additional strategies to implement to ensure compliance with loading requirements are \$11,550.00 (excluding GST).

Part 2 General information

Section 1 Purpose

5. 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

6. The commitments in this enforceable undertaking are offered to the NHVR by J.J. Richards & Sons Pty Ltd ("JJR").
7. 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:	Kaitlin Tierney, Company Secretary and General Counsel
Postal address:	PO Box 235 Cleveland QLD 4163
Telephone:	(07) 3488 9600
Email address:	[REDACTED]
Legal structure:	Privately Held Company
Type of business:	Waste Management Services
Commencement of entity:	1932
Number of workers:	2,286
Products and/or services:	J.J. Richards & Sons Pty Ltd is a waste management business which provides complete waste management services to commercial and domestic customers throughout Australia.

Details of the alleged contravention

8. It is alleged by Transport for New South Wales that on 9th March 2021 JJR failed to comply with loading requirements as required by section 111(1) of the HVNL.

Details of the events surrounding the alleged contravention

9. On 9th March 2021 at 10:23am a JJR Driver was operating a JJR Roll-On-Roll-Off heavy vehicle ("RORO"), registration CQ94GC, and was required to service a JJR customer located at Swaffham Road, Minto, New South Wales ("the

Customer”).

10. The Driver was required to attend the Customer’s site, load the customer’s JJR skip bin onto the back of the RORO, and transport the bin to a disposal facility (“Disposal Facility”).
11. The Driver loaded the Customer’s skip bin onto the RORO and began route to the Disposal Facility however was intercepted by Roads & Maritime Services New South Wales (“RMS”) along Northern Road, Penrith New South Wales, for an alleged failure to comply with loading requirements whereby the JJR skip bin was allegedly leaking water onto the road.

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

12. 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

13. JJR received a Court Attendance Notice (CAN ID 275320) on 23rd April 2021 in respect of the alleged contravention on 9th March 2021 listing the matter before the Penrith Local Court of NSW.
14. JJR also received a Breach Report from Transport for New South Wales (“TfNSW”) (Report number TBR00160617) in respect of the alleged contravention on 13th May 2021, upon request.

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

15. JJR has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance (“The COR Systems”).
16. The system is based on a process of continuous development to improve JJR’s compliance with the Heavy Vehicle National Law.
17. Aside from the rectifications provided at 2.7 below, to ensure appropriate load restraint, JJR has in place the following protocols:
 - a) Comprehensive training on safety systems and requirements for drivers in a Driver Handbook. This includes specific load restraint training;
 - b) Drivers are provided extensive in field training regarding load restraint requirements;
 - c) Numerous Guidelines accessible for drivers regarding how to properly restrain a load; and
 - d) Engineering controls on our skips to assist with compliance of load restraint requirements.

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

18. Consultation has been taken regarding the proposed EU within the following departments at JJR:
 - a. Corporate governance who are responsible for developing and auditing compliance with the COR systems;
 - b. Local Management Team within NSW who are responsible for implementing the COR policies; and
 - c. The executive managers of JJR.

Section 3 Statements

Statement of assurance

19. JJR 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 impacted by its business or undertakings.

Statement of regret

20. JJR regrets that the incident on 9th March 2021 occurred.

Statement of ability to comply

21. JJR confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement granting permission to use

22. JJR grants NHVR a permanent, irrevocable, royalty-free, world-wide non exclusive licence to use, reproduce, distribute, electrically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking.

Section 4 Acknowledgement

23. JJR acknowledges that TfNSW alleges that JJR has contravened section 111(1) of the HVNL.
24. The alleged contraventions are taken very seriously by JJR, its Directors and Senior Management, who are committed to providing a safe and healthy workplace to conduct its business in a way that helps 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. JJR 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
<p>Development of the Skip Truck Operator Handbook, which provides JJR drivers, who operate a Skip Truck, with a uniform set of safe operating instructions and rules, on-road incident response protocols and vehicle-specific Emergency Procedure Guide's.</p> <p>The Skip Truck Operator Handbook outlines a series of general rules and will assist Skip Truck drivers to manage key hazards and risks associated with Skip Truck activities (such as loading, unloading and restraining skips), as well as helping them to navigate basic troubleshooting of common issues. It also provides detailed information regarding inspection of skips and ancillary equipment, such as lifting lugs, chains and hooks, along with engineer approved load configurations and restraint applications.</p> <p>All drivers who operate a Skip Truck have been briefed about the Skip Truck Operator Handbook and provided a copy for easy reference. A copy is also maintained in the cab of every JJR Skip Truck.</p>	\$2,500.00
Development of a training module within JJR's Learning Management System with a strong focus on the inspection of skips and lifting equipment. This package supports the Skip Truck Operator Handbook and provides practical education on	\$6,000.00

Description	\$ Amount
how to examine all associated equipment and the signs of unserviceable gear that operators must check for prior to each use. Additionally, it reinforces the application of correct methods for restraining skips and existing JJR training and policy providing that where a defect is identified, this must be alerted to the drivers Manager immediately and prior to use of the defected equipment for further instructions, and that an Equipment Defect Notice ("EDN") must be completed by the driver and provided to his Manager for review and rectification. This training module has been assigned to all Skip Truck drivers at JJR and will be assigned to as a mandatory training module for any future Skip Truck drivers upon commencement of their employment. The module has also been assigned to all Managers who manage Skip Truck drivers. The training module is required to be re-completed every three (3) years.	
Development of a container maintenance program which requires that all skips and containers are registered in a JJR asset management system called GateKeeper. This program introduces a formal process for tracking skips with unique identifiers in order to establish the exact number of containers in circulation and to ensure a consistent maintenance and auditing regime for same, including major 5-yearly inspections to determine suitability for refurbishment or otherwise scrapping.	\$2,500.00
Total cost p.a.	\$11,000.00

Section 7 Acknowledgement of publication

28. JJR 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. JJR 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. JJR is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
31. JJR 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. JJR is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including JJR's executive, senior and operational management, workers, and all relevant subcontractors working for JJR. This information will be disseminated through JJR's website which is accessible for all employees, clients, and partners within two (2) months from the date of acceptance of the EU for a period of one (1) month.

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

33. JJR is committed to participating constructively in all compliance monitoring activities of the EU.
34. JJR acknowledges that responsibility for demonstrating compliance with the undertaking rests with JJR 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. JJR 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, JJR aims to deliver strategies that focus on benefits to:
- drivers and parties within the chain of responsibility;
 - the transport industry and the broader community; and
 - the broader community.
38. JJR intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among JJR's workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

Activities

Activity 1 – Development of Load Restraint Guideline	
Scope	Engaging a specialist third party consultant, Zenenergy Group, to initiate a project to identify, test and certify the load restraint requirements of various container types within the business, such as steel industrial bins to meet national transport standards.
Details	<p>Zenenergy Group will:</p> <ul style="list-style-type: none"> Review current loading and restraining methods; Perform calculations to verify load configurations are restrained in accordance with the Loading Performance Standards outlined in the HVNL; Develop and supply a load restraint guideline to meet the requirements of the Loading Performance Standards for each load configuration; and

Activity 1 – Development of Load Restraint Guideline

- Develop and supply an audit sheet for each of the load configurations that supports the implementation and ongoing load restraint compliance practices.

Timeframe

Upon acceptance of this enforceable undertaking, this deliverable is expected to take approximately 12 months to implement and roll out.

Outcome

Identification of additional enhancements to existing load restraint practices and education for all persons in the chain of responsibility on business and industry specific load restraint, ensuring compliance with HVNL.

This activity will allow operators to implement a certified system to ensure the safety and security of all loads, while providing all interested parties confidence in JJR's loading and restraint practices.

Costs

\$9,050 (excluding GST).

Output

The output of this project will include an internal load restraint guideline specifying load configurations, container stacking parameters, as well as the number and type of restraint equipment to be used.

Activity 2 – Delivery of Load Restraint Training

Scope

To support Activity 1 above, a training package will be developed directed at operators and their supervisors detailing specific requirements for the different container types.

Details

Zenergy Group will:

- Develop and supply a training package that covers load restraint principals as well as specific requirements applicable to each of the load configurations. This will be provided in the form of a slide pack covering the content and an assessment to verify competency; and
- Delivery of training sessions to assist with implementation and an assessment to verify competency.

Timeframe

Upon acceptance of this enforceable undertaking, this deliverable is expected to take approximately 12 months to implement and roll out.

Outcome

Further education for all persons in chain of responsibility on load restraint requirements and compliance.

Activity 2 – Delivery of Load Restraint Training

Costs

\$2,500 (excluding GST).

Output

The output for this activity will be a training package, published on the Company's internal Learning Management System.



39. The total estimated value of the undertaking is \$11,550.00.

Part 4 Offer of undertaking

Executed as an Undertaking


J.J. Richards & Sons Pty Ltd ABN: 40 000 805 425

Executed by J.J. Richards & Sons Pty Ltd ABN: 40 000 805 425 pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

	
Signature of Director	Signature of Director/Company Secretary
John Richards – Director	Kaitlin Tierney – Company Secretary
Date: <u>22/09/2021</u>	Date: <u>22/09/2021</u>

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
<u>SAL PETROCCHETTI</u>
Name of Chief Executive Officer (print)
Date: <u>27/9/2021</u>