

# NHVR Prosecutions and Lessons Learnt From Recent Court Outcomes

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# WHO IS THE NHVR PROSECUTIONS TEAM?

NatRoad Connect 24

- Team of approximately 50 located across QLD, VIC, NSW, and SA
- Prescriptive and primary duty offences
- Focus on HVNL breaches that result in significant safety risks





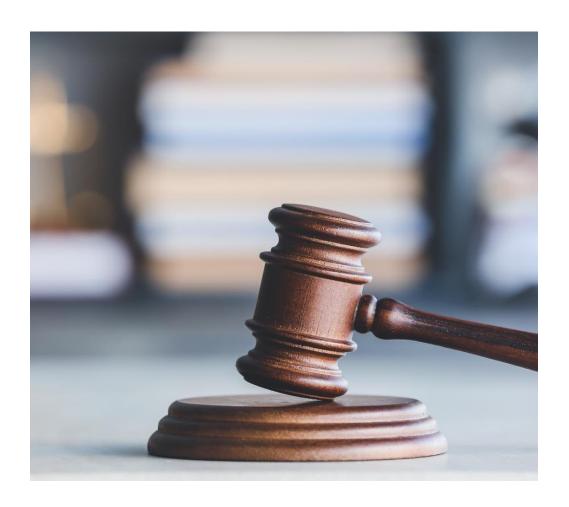


# PRIMARY DUTY OFFENCES



### PRIMARY DUTY OFFENCES





Section 26F (a 'Category 1 offence') – Reckless conduct that would expose another to a risk of death, serious injury, or illness, being reckless as to the risk.

• 5 years' imprisonment and/or \$377,639 (individual) / \$3,776,390 (company).

Section 26G (a 'Category 2 offence') – Contravention that exposed an individual to a risk of death, serious injury, or illness.

• \$189,321 (individual) / \$1,773,210 (company).

Section 26H (a 'Category 3 offence') – Contravened safety duty.

\$59,108 (individual) / \$591,080 (company).





# **CASE EXAMPLES**



### **CASE LEARNINGS**

#### Court outcomes

#### Court orders

Court orders made in respect of HVNL offences.

Expand all

- New South Wales
- Queensland
- South Australia
- Tasmania
- Victoria

#### Case learnings

- Case learnings July 2024 (PDF, 293KB)
- Case learnings April 2024 (PDF, 290KB)
- Case learnings February 2024 (PDF, 350KB)
- Case learnings January 2024 (PDF, 313KB)
- Case learnings December 2023 (PDF, 491KB)
- Case learnings November 2023 (b) (PDF, 330KB)
- Case learnings November 2023 (a) (PDF, 270KB)
- Case learnings October 2023 (PDF, 287KB)
- Case learnings September 2023 (b) (PDF, 351KB)
- Case learnings September 2023 (a) (PDF, 294KB)
- Case learnings August 2023 (PDF, 331KB)
- Case learnings July 2023 (b) (PDF, 321KB)
- Case learnings July 2023 (a) (PDF, 294KB)
- Case learnings June 2023 (PDF, 489KB)
- <u>Case learnings May 2023 (PDF, 386KB)</u>
   <u>Case learnings April 2023 (PDF, 431KB)</u>
- Case learnings February 2023 (PDF, 248KB)
- Case learnings rebradily 2023 (FDF, 246KE)

#### Primary duty court matters

Primary duty matters comparative sentencing schedule under the HVNL.

Comparative Sentencing Schedule HVNL - Primary Duty Matters (PDF, 356KB)



https://www.nhvr.gov.au/law-policies/prosecutions/court-outcomes



### MELBOURNE COMPANY AND EXECUTIVES



- A heavy vehicle driven by an executive of the Melbourne company was intercepted.
- A subsequent investigation revealed that over a two-year period, the company had committed 69 mass breaches, with a significant portion being classified as 'severe' risk breaches.
- The company had insufficient policies and practices to manage mass compliance, including inadequate induction and training for drivers.
- Three executives failed to discharge their due diligence obligations.





# MELBOURNE COMPANY AND EXECUTIVES CONTINUED...



#### **CHARGES:**

Melbourne Company: Category 1 offence (26F)

**Executives:** 3 x Due Diligence offence

(26D with a Category 3 penalty)

#### Remarks on sentence:

- 1. 69 breaches = significant public safety risk
- 2. Mass offences affect the performance of the heavy vehicle
- 3. Six further breaches after the initial intercept are an aggravating factor
- 4. It was fortunate that no one was killed

#### **SENTENCE:**

- Melbourne Company \$180,000 with conviction (\$240,000 but for a guilty plea)
- Executive 1: \$8,500 (\$10,500 but for a guilty plea)
- Executive 2: \$7,500 (\$9,000 but for a guilty plea)
- Executive 3: \$7,500 (\$9,000 but for a guilty plea)



## **CONSIGNOR CASE FROM VICTORIA**



Consignor

Engaged a Transport Company

Subcontractor

- The defendant was a consignor company that imported building materials from overseas.
- Inadequate checks were in place to ensure the overseas material was properly packed, resulting in a rollover.
- Outcome: Company convicted and fined \$75,000.

**Main takeaway:** Off-road parties remain in the Chain of Responsibility.

It is expected that there will be an increased focus on off-road parties in future investigations and prosecutions.





## **CHAPTER 10 SENTENCING ORDERS**

- Supervisory intervention order s600.
- Commercial benefits penalty order s597.
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- Ĵývř ឡੱsävửĂvýì ì ýźĂ6Ăźź-?-4 #?9
- Cử ky yết egu Á vớt i yớc viểu sử cá Á Á Ž z PÁ 4 PÆ







# THANK YOU!



O nhvrsocial



in National Heavy Vehicle Regulator

