



# NHVR Prosecutions and Lessons Learnt From Recent Court Outcomes

Iain Macdonald

A/Practice Manager, Major Prosecutions





# WHO IS THE NHVR PROSECUTIONS TEAM?

- 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 \(PDF, 489KB\)](#)
- [Case learnings - May 2023 \(PDF, 386KB\)](#)
- [Case learnings - April 2023 \(PDF, 431KB\)](#)
- [Case learnings - February 2023 \(PDF, 248KB\)](#)

### 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.
- $\hat{J}v\hat{E}\hat{i}\hat{y}\hat{A}\hat{v}\hat{A}\hat{g}\hat{e}\hat{u}\hat{g}\hat{i}\hat{u}\hat{A}\hat{y}\hat{A}\hat{o}\hat{z}\hat{y}\hat{i}\hat{u}\hat{f}\hat{A}\hat{E}\hat{i}\hat{r}\hat{g}\hat{u}\hat{A}\hat{i}\hat{o}\hat{s}\hat{o}\hat{y}\hat{e}\hat{a}\hat{v}\hat{u}\hat{A}\hat{A}\hat{z}-\text{---}9$
- $\hat{J}\hat{y}\hat{r}\hat{g}\hat{s}\hat{i}\hat{v}\hat{u}\hat{A}\hat{y}\hat{i}\hat{i}\hat{y}\hat{z}\hat{A}\hat{A}\hat{z}-\text{?}-4\#?9$
- $\hat{O}\hat{u}\hat{k}\hat{v}\hat{y}\hat{g}\hat{i}\hat{e}\hat{g}\hat{u}\hat{A}\hat{u}\hat{i}\hat{i}\hat{y}\hat{o}\hat{e}\hat{u}\hat{s}\hat{o}\hat{z}\hat{A}\hat{A}\hat{z}-\text{---?}\hat{A}4-\text{---?}\hat{A}9$





# THANK YOU!



nhvrsocial



nhvrsocial



NHVR



National Heavy Vehicle Regulator

