

Prosecution Bulletin no. 3/2021

Summary

- On 30 November 2020, Harideshwar Singh Hunjan (Hunjan) pleaded guilty to:
 - 119 charges of being a transporter of trackable waste and failing to record and give to the receiver prescribed information about the waste contrary to section 81J(2) of the Environmental Protection Regulation 2008 (EP Reg)
 - 15 charges of carrying out an environmentally relevant activity (ERA) without an environmental authority (EA) contrary to section 426 of the *Environmental Protection Act 1994* (EP Act)
 - Five charges of wilfully contravening a requirement of an environmental protection order (EPO) contrary to section 361(1) of the EP Act
 - One charge of contravening a requirement of an EPO contrary to section 361(2) of the EP Act.
- Hunjan was fined a total of \$87,000 and ordered to pay \$1,500 in legal costs and \$2,065.25 in investigation costs. A conviction was recorded.

Facts

Hunjan held an EA to carry out an ERA for regulated waste transport, namely tyres.

Between September 2016 and May 2017, Hunjan transported approximately 48,000 tyres (over 119 transportations) to locations in Beenleigh, Kingston and Redbank Plains. Hunjan was required to record and give to the receiver of the tyres the information required under Section 2, Schedule 2F of the EP Reg.

The information required included the generator and transporter's name, address and contact details; the relevant EA numbers; the date, type and amount of waste being transported.

Hunjan failed to record and provide the receivers with all of the required information and admitted that he

deliberately withheld the information to prevent his suppliers from being poached. Hunjan also admitted that he understood his obligations as a transporter of tyres to record and provide prescribed information.

Between 14 August 2017 and 12 December 2017, Hunjan's EA was suspended for non-payment of annual fees in the amount of \$630.

On 15 occasions during that period, Hunjan unlawfully transported 3,348 tyres and admitted it was his fault the annual fees were not paid by the required date.

On 19 April 2018, Hunjan was issued with an EPO in relation to a site at Clontarf to secure compliance with the general environmental duty (GED).

The EPO required, amongst other things, that Hunjan not bring any tyres onto the site, reduce the dimensions of tyre stockpiles on the site and provide weekly progress reports to the Department of Environment and Science (the department).

Hunjan failed to comply with those requirements when he knew he was required to do so.

On 30 August 2018, Hunjan was issued with an EPO in relation to a site in Wakerley to secure compliance with the GED.

The EPO required all tyres to be removed from the site by 28 September 2018. Hunjan admitted that he did not comply with the requirement.

Outcome

On 30 November 2020, Hunjan pleaded guilty to 140 charges in the Brisbane Magistrates Court relating to unlawfully transporting and storing tyres.

Hunjan was fined a total of \$87,000 and ordered to pay \$1,500 in legal costs and \$2,065.25 in investigation costs. A conviction was recorded.

In sentencing Hunjan, the magistrate took into account Hunjan's cooperation with the department, his guilty plea and his personal circumstances.

The magistrate also took into account the serious nature of the offences, particularly where the department had made orders against Hunjan that were brought to his attention and that he failed to comply with.

The court considered the importance of general deterrence and that breaches of environmental obligations should be denounced.

The magistrate commented that it was in the interests of society that those who wish to operate within the statutory scheme provided to protect the environment should operate within it.

The penalty is a reminder that waste industry operators must comply with their obligations under the EP Act and requirements imposed by the environmental regulator.

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