

## Document 1

Reference number: 25324

18 September 2009

Richard Joyce  
Dick Joyce Consultants Ltd  
P O Box 33072  
Petone  
Lower Hutt 5046

Dear Mr Joyce

<b>CERTIFICATION COMPLAINT:</b>	Heavy Vehicle Certification
<b>INVESTIGATION STATUS:</b>	Complaint Upheld
<b>Vehicle:</b>	2002 Isuzu EXZ390
<b>Registration:</b>	s 9(2)(a)
<b>Date inspection entered:</b>	19 December 2002

I wrote to you on 28 July 2008 advising you that the New Zealand Transport Agency (NZTA) had completed an investigation into the certification of the drawbeam on the above vehicle, and as a result, this complaint had been upheld.

I also advised you that the NZTA had not considered if any further action was required in relation to this certification, pending the result of an Institution of Professional Engineers New Zealand (IPENZ) investigation into this matter.

As you are aware, the investigation by IPENZ has now been completed, and as a result the NZTA will now consider if any further action is required as a result of this certification, pursuant to Section 3 of the Land Transport Rule: Vehicle Standards Compliance 2002.

This consideration will be undertaken by a group of senior managers from different NZTA business groups.

Once a determination is made regarding this matter, you will be advised accordingly.

Yours sincerely

Chris May  
Vehicle Certification Investigator  
NZ Transport Agency

## Document 2

Reference number: 25324

14 October 2009

Mr Richard Joyce  
Dick Joyce Consultants Ltd  
P O Box 33072  
Petone  
Lower Hutt 5046

Dear Mr Joyce

### NOTICE OF CONSIDERATION OF SUSPENSION AS A VEHICLE INSPECTOR AND AS AN INSPECTING ORGANISATION:

**Certification Complaint:**  
**Vehicle Certifier:**  
**Inspection Organisation:**

Heavy Vehicle Certifier  
Richard Joyce (RJJ)  
Richard Joyce (RJJ)

**Vehicle Details:**

s 9(2)(a)  
2003 Nissan CW380  
2004 Hino FM1  
2004 Mitsubishi FV350  
1997 Isuzu EXZ380  
1998 Hino FS1  
1999 Isuzu CXH380  
1999 Isuzu EXZ450  
2004 Isuzu EXZ400  
2002 Isuzu CXH450  
2002 Isuzu EXZ390

### Notification

The NZ Transport Agency (NZTA) has completed an investigation into a complaint regarding the issuing of Heavy Vehicle Certifications to the above vehicle between 2002 and 2005.

As a consequence, I am considering the suspension of your appointment as a Vehicle Certifier and as an Inspecting Organisation.

This notice advises you of the reasons for the action being considered and gives you 24 days to make submissions in response.

This notice is made under delegated authority in accordance with clause 3.2 of the *Land Transport Rule: Vehicle Standards Compliance 2002* ("the Rule").

## Summary of complaint

As you are aware, a complaint investigation was commenced as a result of an in-service failure of a drawbeam fitted to a 2002 Isuzu truck s 9(2)(a) in March 2007, which resulted in the trailer detaching from the towing vehicle and rolling backwards off the road.

## Findings

This investigation has revealed that there were deficiencies in the design of the drawbeam on this vehicle, and that drawbeams of this design were also fitted to the other nine vehicles listed above.

In 2005, as a result of cracks found in a drawbeam of this design, a design review was undertaken by you that identified deficiencies in the original design, and as a result the design was modified to address these deficiencies, and all drawbeams of this type built from that time have incorporated these modifications.

At this time a recall was not carried out to address these deficiencies, and the NZTA was not advised of these incorrect certifications, the owners and maintenance providers of these vehicles were not advised of this issue, and neither were the organisations that carry out periodic safety inspections on these vehicles.

## Concerns

The NZTA has concerns that the design of the original drawbeam upon which all future drawbeams of this type were based on was deficient, and that your processes were not sufficiently robust to identify these deficiencies at the time.

The NZTA also has concerns that when you discovered the deficiencies in the design of drawbeams of this type in 2005 you did not take any action to recall the vehicles that were fitted with drawbeams of this type.

In addition, you did not contact the NZTA to advise of this issue when you became aware of it, when it is a requirement of the HVS VIRM that you contact the NZTA as soon as practicable when you become aware of an incorrect certification, or of a quality control process that may affect the safety or performance of a vehicle that has been inspected and certified.

NZTA have never been advised of the identity of the vehicle in which the cracks were first discovered in 2005, and at the IPENZ hearing of 29 July 2009, the NZTA became aware of four additional unmodified vehicles with drawbeams of the affected design, and the NZTA has also never received any notification from you of the existence of these vehicles.

You have also stated that you considered a recall of vehicles fitted with drawbeams of this type, but decided that it was not necessary, as the progression of cracks would be relatively slow, and operator or Certificate of Fitness (CoF) checks would identify cracks, well before they progressed to the stage that a catastrophic failure might result. Despite this fact, there is no evidence that you have advised the relevant vehicle owners, vehicle maintenance facilities, or CoF inspection agencies of this possibility, and the need for extra vigilance in this area.

These actions present a significant risk to land transport safety, and suggest that you do not have an acceptable understanding of the principles of your authorisation, and the responsibilities incumbent on you as an HVS Certifier.

#### **Action being considered**

The NZTA is considering a three month suspension of the authority of Richard Joyce.

This suspension shall be for a minimum of three months, and then continue until such time you can obtain a PRS Review score of 3.0, and additionally can display through a unique audit, that your tracking processes are to an acceptable standard, and that you can satisfy the NZTA that you understand the principles of your authorisation and responsibilities, assuming that you have not been able to do this by the expiry of the three month period.

If your authority is suspended, this will be applied from Monday 14 December 2009.

#### **Submissions invited**

No decision will be made until we have had an opportunity to consider any submissions you may wish to make on this matter. Such submissions may include unusual circumstances, a justification of decisions made, dispute of facts or interpretations, remedial actions already undertaken, a disproportionate effect of any penalty on your business, or any other matter you wish me to take into account.

In order to give consideration to your submissions, I require them to be supplied by Monday 16 November 2009.

Yours sincerely

Dave Robson  
Manager Certification and Compliance  
NZ Transport Agency

## Document 3



NZ TRANSPORT AGENCY  
WAKA KOTAHI

MEMO

**To** Dave Robson  
**Cc**  
**From** Chris May  
**Date** 18 November 2009  
**Subject** Consideration of Suspension submissions Richard Joyce

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On 14 October 2009 a letter of consideration of suspension was sent to Richard Joyce as he designed a drawbeam that was used as the basis for several drawbeams which were a variation of this type.

A drawbeam based on this design failed in-service, resulting in the trailer separating from the towing vehicle. A review of this drawbeam revealed deficiencies in the design of the original Richard Joyce designed drawbeam.

In 2005 Dick Joyce became aware of cracks in a drawbeam that was based on this design and a review identified deficiencies in the original Joyce design, which resulted in modifications being made to the design to address excessive stresses on the attachment of the dropper plate to the main beam.

Joyce stated that he contemplated a recall of all drawbeams of this design at this time, but considered that because he felt that any cracking as a result of the design deficiencies would occur slowly, there was no justification for a recall at that time. No evidence has been produced confirming that Joyce advised operators, repair and servicing facilities, or inspection centres of this potential defect, and the need for vigilance in this area.

Joyce also did not advise the NZTA of this deficiency, or of any affected vehicles. s 9(2)(a) who certified at least 10 vehicles with drawbeams of this design has stated that he was never advised by Joyce of the cracking found in the drawbeam in 2005, and Joyce has not denied s 9(2)(a) assertions regarding this.

A summary of Mr Joyce's submission follows:

Paragraph 1- No comment required

Paragraph 2- This statement is may be technically correct, (legal opinion required) however Joyce's actions in not advising s 9(2)(a) or anyone else, of a potential issue with certifications based on his own design can only considered as negligence and most likely conduct unbecoming.

Paragraph 3 to 6- In all our correspondence we have stated that the trailer has separated from the towing vehicle, and while the fact that the drawbeam failure has caused the trailer to separate from the towing vehicle and roll backwards off the road has not been mentioned specifically in all correspondence, our position has always been that of the CVIU and driver, that the trailer detached from the towing vehicle due to the drawbeam failing in tension, as opposed to s 9(2)(a) and Joyce's position that the drawbeam failed in compression due to the combination running off the road backwards and the stop causing the drawbeam to suffer an impact fracture from the drawbar, causing the trailer to separate from the towing vehicle when the towing vehicle was driven away. There appears to be a considerable measure of perceived self aggrandisement in these statements.

Paragraph 7- This is also the position of the NZTA

Paragraph 8- This is also the position of the NZTA

Paragraph 9- This is also the position of the NZTA

Paragraph 10- This statement is consistent with Joyce's position on this matter throughout the investigation, however the subsequent failure and IPENZ findings suggest that this position was somewhat flawed

Paragraph 11- Despite requests from the NZTA we have never been presented with photographic evidence confirming this, however we have no evidence refuting to this position. However the cracks evident in the failed drawbeam were estimated by IPENZ to have been in the order of 35mm in length prior to failure

Paragraph 12- Given the subsequent failure, it is difficult to see how there is any basis to support this position, and the IPENZ hearing found that the stresses in the toe of the dropper plate welds were 180MPa, which is three time the maximum allowable stresses, and that Joyce's actions fell short of the duty of care required of a professional engineer

Paragraph 13- This statement is correct, but the IPENZ committee also found that in not taking any action to recall these vehicles or to advise owners, repairers or inspection organisations of this issue, Joyce failed to take reasonable steps to safeguard the health and safety of people

Paragraph 14 & 15- These statements are fairly self explanatory

Paragraph 16- This statement is conveniently true. However a review of Joyce was carried out on 16/07/2008 in which Joyce scored a 2.0, which was dropped to 1.4 as documentation requested as a follow up to the review was not sent by Joyce. This score would normally result in a review after 2 months, but because of the implementation of the heavy brake rule, a moratorium was placed on all HVS reviews, in order to allow the HVS certifiers to have a period to get to grips with the rule, this follow up did not happen until 15/07/2009. In the review of 16/07/2008 Joyce scored zeros for correct technical decisions for Drawbeams and Chassis frame as a result of his calculations.

In his follow up review of 15/07/2009 Joyce scored a 2.8, and told the reviewer who reviewed him that he had only given him a poor score at the last review because he (the reviewer) was in a bad mood on the day.

Copies of both reviews are attached.



## Document 4

Reference number: 25324

9 December 2009

Mr Richard Joyce  
Dick Joyce Consultants Ltd  
P O Box 33072  
Petone  
Lower Hutt 5046

Dear Mr Joyce

### NOTICE OF SUSPENSION AS A VEHICLE INSPECTOR AND AS AN INSPECTING ORGANISATION

**Vehicle Certifier:** Richard Joyce (RJJ)  
**Inspecting Organisation:** Richard Joyce (RJJ)

This letter confirms the grounds upon which the suspension of your appointment as a Vehicle Certifier and as an Inspecting Organisation is to occur.

On 14 October 2009 you were issued with a Notice of Consideration of Suspension in which you were provided with the grounds for the action being considered and invited to make any submissions which you wanted to be taken into account.

I have received your submission dated 16 November 2009 and have given careful consideration to the points you raise.

Acting under powers duly delegated to me by the NZ Transport Agency (NZTA), and in accordance with subclause 3.2(2) of *Land Transport Rule: Vehicle Standards Compliance 2002*, I now believe that the most appropriate outcome to this matter is that your authorisations as a Vehicle Inspector and as an Inspecting Organisation be suspended. With consideration of your letter, it has been determined that your authorisations will be suspended for three months.

In addition, before this suspension can be lifted, you are required to successfully undergo an NZTA audit where you will be required to demonstrate that your certifications are of the standard required by the NZTA.

At this audit you will be required to demonstrate how you have already, or intend to address the shortcomings identified in the IPENZ judgement. You will also be required to provide a complete file, or files, from certifications carried out within the past 12 months which demonstrate compliance with NZTA requirements relating to design analysis, fabricator instructions, material specifications, and include both general arrangement and component specific drawings.

This suspension will be applied from 8.30am Monday 14 December 2009, and will remain in place until 8.30am Monday 15 March 2010, or until such time as the audit requirements listed above have been satisfied, in the event that this has not occurred by the end of the suspension period.

You have the right to appeal this decision to the District Court pursuant to section 106 of the *Land Transport Act 1998*. The procedures to be followed in such an appeal are contained in section 111 of that Act.

Yours sincerely

Alex Sims  
National Manager Regional Operations  
NZ Transport Agency

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