

PROSECUTING GUIDELINES FOR VEHICLE MASS MEASURING

1. INTRODUCTION:

1.1 The provisions in this document are guidelines only and non-compliance does not exclude prosecution. The decision whether or not to prosecute, remains in the discretion of the prosecutor, who will be guided by the degree and nature of non-compliance. Law enforcement officers must however assume that prosecution will only be proceeded with if these guidelines have been complied with.

1.2 Sections 49 to 51, 70 and 71, and 89 of the National Road Traffic Act (NRTA) no. 93 of 1996, and Regulations 234 to 248 are applicable to overloading cases.

1.3 Offenders must be charged with contravening Section 89 read with Reg 333 and Regulations 234 to 237 read with the relevant regulation pertaining to the overload.

1.4 The prosecution will rely on the presumptions in the NRTA. Care must therefor be taken by prosecutors not to present unnecessary evidence on issues which are not clearly in dispute, e.g. by handing in calibration certificates, etc.

2. GENERAL:

2.1 Operators of overloaded vehicles should also be prosecuted for the overload in terms of section 49 if the overload exceeds the maximum permissible admission of guilt.

2.2 Operators must be prosecuted for contravening section 49(g) of the NRTA as the main charge and contravening section 49(c) as the alternative charge.

2.3 Owners of buses must also be prosecuted if the overload exceeds the maximum permissible admission of guilt. Operator registration is required for minibuses, midibuses and buses as from July 2007 after the month in which their licence discs expire

2.4 Correction of the load of buses is required, if the limits in paragraph 2.5 and 2.6 below are exceeded.

2.5 Offences where axles and axle units of vehicles are overloaded or the bridge formula is exceeded, must be treated in the same manner as offences where the vehicle or combination is overloaded. They are *not* less serious offences.

2.6 Prosecution is instituted if the overload on the permissible maximum vehicle and combination mass is more than 2% in excess of the permissible mass. If the overload is 2% or less, no adjustment of the load is required before the vehicle may proceed with its journey. No tolerance is allowed for abnormal load vehicles.

2.7 Prosecution is instituted if the overload on any axle or axle unit is more than 5% in excess of the permissible mass. If the overload is 5% or

less, no adjustment of the load is required before the vehicle may proceed with its journey. A tolerance of 2% is allowed for abnormal load vehicles.

2.8 An offender must be charged for all overload contraventions on a vehicle, e.g. overloading of an axle, under loading of the steering axle and overloading on the vehicle or combination mass.

2.9 A copy of -

- a valid verification certificate for the mass measuring bridge in terms of SANS 10343;
- the type approval certificate issued in terms of SANS 1838;
- the operator's certificate of competence;
- the calibration certificate of the measuring tape
- shall be available on site at all times.

2.10 A faxed copy of an abnormal load permit is not acceptable and only original signed and dated abnormal load permits are acceptable.

2.11 In the event of an abnormal load using an unauthorised route, an expired permit, or in other respects failing to comply with the conditions of the permit, such permit must be regarded as null and void and prosecution must be based on the normal permissible masses. In addition, charges regarding the contravention of the permit conditions should be considered.

2.12 A standardised list of admissions of guilt is attached as **Annexure A** and must be recommended to all Magistrates for confirmation in terms of Section 57(5) of the Criminal Procedure Act, 1977 in order to promote national consistency. The list must be reviewed by a working group of the TCSP at least every two years.

2.13 A list of suggested fines to be imposed by the prosecutors in the event of conviction after a trial is attached as **Annexure B**. These are

suggested guidelines only, but should be proposed by prosecutors to promote nationwide consistency.

2.14 A list of suggested fines to be imposed by the courts in the event of conviction after a trial is attached as **Annexure C**. These are suggested guidelines only, but should be proposed by prosecutors to promote nationwide consistency.

3. EQUIPMENT:

3.1 Only mass measuring equipment that is approved by a conformity assessment body in terms of SANS 1838-1 may be used for law enforcement. Equipment installed before *(date of acceptance of these guidelines)* need however not be approved in terms of SANS 1838-1 before it may be used for law enforcement.

3.2 Only permanently installed weighing equipment (i.e. with permanent recesses and scale decks) may be used to conduct law enforcement for prosecuting purposes. Mobile instruments may be used for screening purposes only.

3.3 All measuring tapes shall be calibrated.

3.4 A file must be kept in respect of each weighbridge, and must contain all verification certificates and full details of all maintenance records, malfunctions and breakdowns. It is not essential to have the file available on site, but it must be readily available for inspection by offenders.

4. THE OPERATOR:

4.1 The operator must have attended a training course on the use of the specific mass measuring equipment.

4.2 The operator must have his / her operator's certificate to use the equipment available on site at all times.

4.3 The manufacturer's instructions for use of the equipment must be complied with.

4.4 Every operator / officer taking part in mass measuring shall record the particulars of his / her actions for evidence purposes.

5. VERIFICATION AND MAINTENANCE:

5.1 An accredited laboratory must verify the accuracy of the weighbridge every six months in terms of SANS 10343. No more than 7 days' grace is allowed, where after the use of such mass measuring equipment must be suspended until the verification has taken place.

5.2 A verification certificate must be issued after each verification, reflecting all the information required in terms of SANS 10343.

5.3 Maintenance and repairs which may affect the type approval of the equipment may only be conducted by the manufacturer, distributor or appointed agent of such equipment. Equipment must be re-verified if repairs necessitate a verification seal to be broken.

5.4 The results of any tests carried out at the commencement of a shift (see OPERATION infra) shall be retained in hard copy for a period of no less than 3 years.

5.5 The field document / data which were fed into the computer for calculations must be retained until the case has been disposed of or for 3 years, whichever is the shorter period.

6. OPERATION:

6.1 The operator of the weighbridge shall check the operation of the equipment at the start of each shift of mass measuring. For this purpose the operator shall perform all tests as required by the manufacturer of the equipment.

6.2 If any error which may affect the accuracy of the readings is detected, the mass measuring exercise shall be aborted or discontinued until such error has been rectified. If the error cannot be rectified within less than 1 hour, all vehicles detained for weighing shall be allowed to proceed, unless clearly and substantially overloaded.

6.3 When the system is ready to weigh -

- the driver must be instructed to approach the scale slowly and that no sudden acceleration or hard braking is allowed
- the vehicle must be directed onto the scale, ensuring that all wheels and axles are on the decks and are not touching any edges or gaps
- the vehicle must be in neutral with the engine running
- the brakes or hand brakes may not be activated during weighing
- the driver and all passengers must remain in the vehicle during weighing

6.4 Mobile screening devices shall be placed and operated in such a way as not to endanger the safety of other traffic.

7. REASONABLENESS:

7.1 Every mass measuring facility (excluding mobile weighbridges) shall have at least basic ablution facilities available at all times. (Water, toilet and wash basin.)

7.2 There shall be clear notice of the identity of the person in charge of the mass measuring operation. All complaints and problems experienced by offenders or operators shall be directed to such official for appropriate action.

7.3 If a mass measuring site does not operate 24 hours, all measuring activities and related actions for the day / shift must have been finalised before the responsible person in charge goes off duty. Any person wishing to adjust their load to within the legal limits must be allowed to do so until at least 1 hour after completion of the shift.

7.4 Preference shall at the weigh station be given to vehicles carrying animals, passengers and perishables, in that sequence, allowing such vehicles to jump the queue if necessary. The discretion in this regard shall be that of the person in charge of the mass measuring operation.

7.5 Vehicles carrying livestock must also be inspected to ensure that the overloading does not cause injury, undue stress or cruelty to the animals. Vehicles must otherwise only be detained if it is deemed to be unsafe to continue, e.g. due to ineffective brakes.

8. BREAKDOWN VEHICLES:

8.1 Due to its particular construction, no prosecution for overloading on the steering axle/s should be instituted in respect of empty breakdown

vehicles intended for the recovery of vehicles with a GVM of more than 10 000kg.

8.2 An overloaded vehicle which has broken down may only be towed to the nearest reasonable place where safe storage is available and / or where the load can be transferred, whichever is closest to the point of breakdown.

8.3 The breakdown operator shall not be held responsible for any overload of an axle or axle-unit of a towed vehicle. The breakdown vehicle driver/operator shall be held responsible for overloaded axles and axle-units of the breakdown vehicle and if the permissible maximum combination mass is exceeded.

8.4 Breakdown vehicles transporting goods other than a broken down vehicle is limited to an axle and axle-unit mass of 9 000 and 18 000 kg, respectively.

9. DANGEROUS GOODS:

9.1 The driver or operator of a vehicle that conveys dangerous goods shall, on being informed that his vehicle has been detained because it is overloaded,

- make arrangements for his vehicle to proceed under official escort to a designated area in terms of the provisions of the NRTA, and
- transfer the excess load to another vehicle that complies with the loading / unloading provisions of this standard. On no account shall he dump any excess cargo or decant any liquid load on the premises of the weighbridge.

9.2 After the load has been corrected, the vehicle must be escorted back to the weighbridge where it must be re-weighed to ensure that it is within legal limits.

ANNEXURE A:**ADMISSION OF GUILT FINES IN TERMS OF SECTION 57(5) OF THE
CRIMINAL PROCEDURE ACT, 1977**

<u>OVERLOAD</u>	<u>FINE</u>
2% - 3.99%	R 500
4% - 5.99%	R 750
6% - 7.99%	R 1 000
8% - 9.99%	R 1 500
10% - 11.99%	R 2 000
12% - 13.99%	R 2 500
14% +	No admission of guilt

ANNEXURE B:**ADMISSION OF GUILT FINES WHICH MAY BE DETERMINED BY THE
PUBLIC PROSECUTOR IN TERMS OF SECTION OF THE CRIMINAL
PROCEDURE ACT, 1977**

<u>OVERLOAD</u>	<u>FINE</u>
14%	R 3 000
15%	R 3 500
16%	R 4 000
17%	R 5 000
18% +	No admission of guilt