

OVERLOADING OF PASSENGERS

The National Road Traffic Act, 1996 gives clear guidelines as to the conveyance of persons in vehicles.

However what is important to note is that certain sections and regulations in the Act and Regulations **must not be read in isolation**.

Below are Certain sections, regulations in the Act pertaining to transportation of passengers.

The definition of a motor car

“motor car” means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle, designed or adapted solely or principally for the conveyance of not more than nine persons, including the driver.

“motor vehicle” means any self-propelled vehicle and includes –

- (a) a trailer; and*
- (b) a vehicle having pedals and an engine or an electrical motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include –*
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or*
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person.*

“operate on a public road” or any like expression, in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road.

“operator” means the person responsible for the use of a motor vehicle of any class contemplated in Chapter VI, and who has been registered as the operator of such vehicle.

“Owner” in relation to a vehicle, means –

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such a vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale, and who is registered as such in accordance with the regulations under Section 4, and “owned” or any like word has a corresponding meaning.

“gross vehicle mass” in relation to a motor vehicle, means the maximum mass of such a vehicle and its load as specified by the manufacturer thereof or, in the absence of such specification, as determined by the registering authority

NOTE: Gross vehicle mass and gross combination mass should not be confused with permissible vehicle mass and permissible combination mass.

The aforementioned terms refer to the physical carrying capacity of a vehicle or combination and is determined by the manufacturer. The latter terms refer to the allowed mass of a vehicle or combination as determined by the law

However there are other regulations in the Act which are applicable to the above definitions in relation to a motor car.

Regulation 231 of the NRTA determines the calculation of the number of persons and reads as follows:

“For the purposes of establishing the number of persons that may in terms of these regulations, other than regulation 263, be carried on any vehicle, other than a motor cycle, motor tricycle, motor quadrucycle or pedal cycle-

- (a) any child under the age of three years shall not be counted;**
- (b) two children of three years or over but under the age of six years shall be counted as one person; and**
- (c) three children of six years or over but under the age of 13 years shall be counted as two persons:**

Regulation 232 of the NRTA determines the maximum mass of persons and luggage to be conveyed in a motor vehicle and reads as follows:

- (a) “For the purposes of establishing the maximum mass of persons and luggage which may be conveyed on a motor vehicle-*
- (b) the mass of a person together with his or her personal effects shall, subject to the provisions of regulation 231 be taken as 68 kilograms; and*
- (c)*
- (d) Provided that where a motor vehicle is examined for the purpose of obtaining a roadworthy certificate as contemplated in regulation 142, the provisions of this paragraph shall not apply in the determination of the seating capacity of such motor vehicle. In order to determine the mass of the persons and their luggage which are conveyed in or on a motor vehicle each person together with his/her luggage is calculated as 68 kgs.*

Regulation 238 refers to the massload on the tyres of a motor vehicle. Tyres play a major role in the transportation of passengers and goods.

Regulation 233 determines the seating capacity in a motor car or motor vehicle and reads:

“1. Subject to the provisions of regulation 231, no person shall operate on a public road a motor vehicle, other than a mini-bus or bus which is used for hire or reward, motor cycle, motor tricycle, motor quadrucycle or pedal cycle if-

a) the number of persons on any seat of such vehicle exceeds the number of persons for whom seating accommodation is provided for on such seat, at the rate of 380 millimetres per person measured at the widest part of the seat with the doors closed; and

b)

2)

3).....

4)

5. The number of persons on any seat of a motor vehicle, other than a bus or mini-bus which is used for hire or reward, motor cycle, motor tricycle, motor quadrucycle or pedal cycle, shall not exceed the number of persons for whom seating accommodation is provided on such seat at the rate of 380 mm per person, measured at the widest part of the seat with the doors closed.

6. The total number of persons carried on such vehicle, excluding persons carried in the goods compartment, may not exceed the number of persons for whom seating accommodation (380 mm per person) is available in such vehicle:

Provided that one child over the age of 3 years but younger than 6 years, may be carried on each transverse seat in excess of the number of persons for whom seating accommodation is prescribed above (380 mm per person).

Then Regulation 213 refers to the seatbelts fitted in a motor car or motor vehicle

213. Seatbelts

1) For the purpose of this regulation –

a) an adult is a person over the age of 14 years or taller than one comma five metres;
and

b) a child is a person between the age of three years and 14 years, except where such person is taller than one comma five metres.

2) Any reference to a safety belt in these regulations shall be construed as a reference to a seat belt.

3) a) Motor vehicles which are required to be fitted with seatbelts in terms of the relevant requirements as contemplated in regulation 216, shall be fitted with seatbelts in accordance therewith.

b) In addition to the requirements of paragraph (a),

no person shall operate a minibus the gross vehicle mass of which exceeds 2 500 kg, unless seatbelts are fitted to the space on the front seat occupied by the driver, and if such front seat has seating accommodation for passengers, unless seatbelts are fitted for the driver and at least one passenger

. c) No person shall operate a motor vehicle on a public road unless the seatbelts fitted to such motor vehicle are in good working order. d) Seatbelts fitted to a motor vehicle may only be removed for repair or replacement purposes and such motor vehicle may not be used on a public road while such seatbelts are being repaired or replaced.

4) No adult shall occupy a seat in a motor vehicle operated on a public road which is fitted with a seatbelt unless such person wears such seatbelt: Provided that the provisions of this regulation do not apply while reversing or moving in or out of a parking bay or area.

5) No adult shall occupy a seat on a row of seats in a motor vehicle operated on a public road which is not fitted with a seatbelt, unless all other seats on such row which are fitted with seatbelts, are already occupied.

6) The driver of a motor vehicle operated on a public road shall ensure that a child seated on a seat of the motor vehicle –

a) where it is available in the motor vehicle, uses an appropriate child restraint; or

b) if no child restraint is available, wears the seatbelt if an unoccupied seat which is fitted with a seatbelt is available.

7) If no seat, equipped with a seatbelt is available in a motor vehicle the driver of the motor vehicle operated on a public road shall ensure that a child shall, if such motor vehicle is equipped with a rear seat, be seated on such rear seat.

8) a) A seatbelt shall comply with the standard specification SABS 1080 "Restraining devices for occupants of adult build in motor vehicles (Revised requirements)" and bear a certification mark or approval mark.

b) A child restraint shall comply with the standard specification SABS 1340 "Child restraining devices in motor vehicles" and bear a certification mark or approval mark.

9) The MEC may exempt a person from the provisions of this regulation on such medical grounds and under such conditions he or she may deem expedient

10) An exemption from wearing a seatbelt in a prescribed territory shall be deemed to be an exemption in terms of subregulation (9) for the period of validity thereof

Regulations 36 of the Act stipulates that vehicles must be issued with a licence disk and on the licence disk the number of seated passengers, the GVM, the tare weight of the vehicle etc will be indicated as well.

Then when determining the massload of the vehicle Regulation 236 would be applicable. However this would be mainly in regard to *a mini-bus, bus, tractor or goods vehicle if the permissible maximum vehicle mass of such vehicle is exceeded.*

To determine the massload on a vehicle then Regulations 236- 241 are applicable.

Section 49 refers to the duties of a driver of a motorvehicle

What are the Risks of Overloading your Car?

- **Difficulty in steering and taking longer to stop the car:** Having unstable car is a major hassle.
- **Car acceleration won't be up to standard:** Overtaking another vehicle, to avoid any road safety risks, will be challenging.
- **Risk of driving without a seat belt:** With overloading, the driver's aim is to generally pack-in as much resources as possible. The seatbelt protects the passenger from the full force of the impact.
- **Vehicle control and operating space would be diminished:** Increasing the chances of an accident.
- **Tyre overheating and wear-and-tear:** This can ultimately result in an expensive tyre blow-out.
- **High maintenance costs:** Due to high fuel consumption caused by car overloading.
- **Rejection from insurance coverage:** Car overload is illegal.

- **Issues in the vehicle's suspension control system:** The vehicle's suspension won't be able to handle highway speeds appropriately. The suspension system may therefore come under stress, causing the control system's weakest points to give in.