

**SECTION 45: WEIGHING****SECTION 7: ENFORCEMENT ACTION IN THE EVENT OF AN OVERLOAD**

1. If the weight recorded is above the permitted limit, the driver, or any other person who uses, causes or permits the use of the vehicle (which could include the consignor), may be liable for prosecution.

2. Examiners may prohibit movement of a vehicle if it is overweight. If this occurs, a prohibition notice, which may contain particular conditions, will be presented to the driver of the vehicle. For more detailed guidance on the appropriate action to take, Examiners should refer **to the flow charts in [appendix a](#)**

3. While a prohibition notice is in force it is an offence for the vehicle to travel on a road. A prohibition notice must be cleared in writing by an Examiner or authorised officer before the vehicle can be proceed. The vehicle may have to be re weighed to establish that it is within the legal weight limits. Examiners and authorised officers have discretion to give a written direction for a prohibited vehicle to be moved to a safe place where it can be parked or where off loading of excess weight may safely be carried out. Conditions may be imposed on this movement.

**A. Non-commercial drivers.**

4. In genuine cases of ignorance e.g. moving house, and where there would be no gain in taking a prosecution, a prohibition should be issued and an overloading guidance leaflet handed to the driver. No prosecution should be taken for overloading.

**B. First time offenders under 30%.**

5. Government policy dictates that prosecution should be the last resort and that the 'Public Interest Test' should be applied when decided whether or not to take a prosecution. Examiners should apply the following policy to first time overloading offenders where the overload is less than 30% or 5 tonnes. The ministry plate should be used whenever one is available and the manufacturers plate on all others. The threshold is the same for both ministry and manufacturers plate for first time offenders.

6. At the roadside the driver should receive a prohibition notice and be interviewed for every overload over 5%. Checks should be made at a later date with LACORS for any history of overloading for both the driver and operator. If there is no record of previous offending, then no prosecution should be taken and an advisory letter should be sent. If the operator has previous history and the driver doesn't (or vice versa) then a prosecution should be taken against the repeat offender and an advisory letter sent to the other. **In all cases a prohibition should be issued at the roadside, the driver interviewed and then LACORS informed for every overload in excess of 5%.**

**SECTION 45: WEIGHING****LACORS**

7. In the case of repeat offenders, if the LACORS check indicates that the driver and/or the operator has previously received a prohibition for overloading, then a prosecution should be taken for any infringement over 5%.

**8. Advisory Letters**

**DRIVER** – If there is no previous overloading history for the driver then letter C should be sent to the drivers home address.

**OPERATOR** – If there is no previous history for the operator, then letter A should be sent seeking confirmation that the vehicle was indeed being used by the operator and requesting further comments on the circumstances. A B/F should be created for reply. Once a reply has been received letter C can be sent, if no reply received then the matter should be followed up and advice provided.

9. The letters can be sent out by either admin staff or examiners. The letters and/or replies must never be used as evidence in court.

**Education and Advice**

10. In an effort to educate drivers and operators in the dangers of overloading and how to take preventative measures against it, guidance sheets have been produced for both drivers and operators. The OPERATOR guidance sheet is a fold out sheet covering all types of road user and should be sent out in the post with the relevant advisory letter. This sheet should also be **given out at all new operator visits**.

11. The DRIVER sheet is a one page, double sided sheet. It should be handed out to every driver where the vehicle is weighed regardless of whether the vehicle is found to be overloaded or not. It should also be included with the operator guidance sheets so that it can be photocopied and circulated further. These leaflets will be available from Welcombe House.

**Performance Gain Points**

12. Performance gain points will be given for the education and advice that is being provided. The new codes will be GOAL (goods overloading advisory letter), LGOAL (Light goods overloading advisory letter) and POAL (passenger overloading advisory letter) and have a PG value of 10 points. These codes should only be used when the educational leaflet/letter has been sent out and be claimed by the person sending the information i.e. either admin staff or examiners.

The PG points tariff for weighing a vehicle will be increased by 1 point to accommodate the handing out of the driver guidance sheet at the roadside.

**Travel - GAS case June 1988**

13. More than one overloading offence should only be prosecuted where there are overriding reasons which justify such action. Several of VOSAs contracted solicitors have confirmed that there is no reason way examiners should not give full details in

**SECTION 45: WEIGHING**

the Statement of Facts (SPR in Scotland) of all the overload offences committed in addition to the one being prosecuted as they are all relevant. This should also remove the opportunity of the defence claiming that it was only over on the axle! This inclusion will only be done at the examiners specific request. **N.B. Although stated cases such as Travel Gas are not authoritative in Scotland, this is also VOSA policy.**