

Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (recast) (Text with EEA relevance)

## CHAPTER V

### **UNION MARKET SURVEILLANCE CONTROL OF LIFTS OR SAFETY COMPONENTS FOR LIFTS ENTERING THE UNION MARKET AND UNION SAFEGUARD PROCEDURE**

#### *Article 38*

#### **Procedure for dealing with lifts or safety components for lifts presenting a risk at national level**

1 Where the market surveillance authorities of one Member State have sufficient reason to believe that a lift or a safety component for lifts covered by this Directive presents a risk to the health or safety of persons or, where appropriate, to the safety of property, they shall carry out an evaluation in relation to the lift or the safety component for lifts concerned covering all relevant requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose.

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that a lift does not comply with the requirements laid down in this Directive, they shall, without delay, require the installer to take all appropriate corrective actions to bring the lift into compliance with those requirements within a reasonable period commensurate with the nature of the risk, as they may prescribe.

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that a safety component for lifts does not comply with the requirements laid down in this Directive, they shall, without delay, require the relevant economic operator to take all appropriate corrective actions to bring the safety component for lifts into compliance with those requirements, to withdraw the safety component for lifts from the market or to recall it within a reasonable period commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second and third subparagraph of this paragraph.

2 Where the market surveillance authorities consider that the non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operators to take.

3 The economic operator shall ensure that all appropriate corrective action is taken in respect of all the lifts and safety components for lifts concerned that it has placed or made available on the market throughout the Union.

---

**Status:** EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

---

4 Where the installer does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to restrict or prohibit the placing on their national market or the use of the lift concerned, or to recall it.

Where the relevant economic operator does not take adequate corrective action within the period referred to in the third subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the safety component for lifts being made available on their national market, to withdraw the safety component for lifts from that market or to recall it.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5 The information referred to in the third subparagraph of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant lift or safety component for lifts, their origin, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operators. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

- a failure of the lift or the safety component for lifts to meet the essential health and safety requirements of this Directive; or
- b shortcomings in the harmonised standards referred to in Article 14 conferring a presumption of conformity.

6 Member States other than the Member State initiating the procedure under this Article shall, without delay, inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the lift or the safety component for lifts concerned and, in the event of disagreement with the adopted national measure, of their objections.

7 Where, within three months of receipt of the information referred to in the third subparagraph of paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

8 Member States shall ensure that appropriate restrictive measures, such as withdrawal of a safety component for lifts from the market, are taken, in respect of the lift or the safety component for lifts concerned, without delay.