

**2016 No. 1093**

**CONSUMER PROTECTION**

**HEALTH AND SAFETY**

**The Lifts Regulations 2016**

*Made* - - - - *15th November 2016*

*Laid before Parliament* *16th November 2016*

*Coming into force* - - *8th December 2016*

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act<sup>(b)</sup> in relation to measures relating to lifts and safety components for use in lifts.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A<sup>(c)</sup> of Schedule 2 to, the European Communities Act 1972.

**PART 1**

**Preliminary**

**Citation and commencement**

**1.** These Regulations may be cited as the Lifts Regulations 2016 and come into force on 8th December 2016 (“the commencement date”).

**Interpretation**

**2.—**(1) In these Regulations—

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(a) S.I. 1996/1912.

(b) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1), and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule, Part 1.

the “1974 Act” means the Health and Safety at Work etc. Act 1974(a);

the “1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978(b);

the “1987 Act” means the Consumer Protection Act 1987(c);

the “1997 Regulations” means the Lifts Regulations 1997(d);

“accreditation” has the meaning set out in point 10 of Article 2 of RAMS;

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service or a national accreditation body in another member State, attesting that a conformity assessment body meets the notified body requirements;

“authorised representative” means a person established in the EU appointed in accordance with regulation 24(1);

“carrier” means the part of a lift by which persons or goods are supported in order to be lifted or lowered;

“CE marking” means a marking which takes the form set out Annex II to RAMS;

“competent national authority” means an authority having responsibility for enforcing the law of a member State which implements the Directive;

“conformity assessment” means the process demonstrating whether the essential health and safety requirements relating to a lift or a safety component for lifts have been fulfilled;

“conformity assessment body” means a person that performs conformity assessment activities, including calibration, testing, certification and inspection;

the “Department” means the Department for the Economy in Northern Ireland;

the “Directive” means 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)(e);

“distributor” means a person in the supply chain, other than the manufacturer or the importer, who makes a safety component for lifts available on the market;

“economic operator” means an installer, manufacturer, authorised representative, importer or distributor;

“enforcing authority” means any person enforcing these Regulations under regulation 61 (enforcement);

“essential health and safety requirements” means the requirements set out in Schedule 1 (essential health and safety requirements);

“European Commission” means the Commission of the European Union;

“EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with—

- (a) in relation to lifts, regulation 8(1)(a) (EU declaration of conformity and CE marking); and
- (b) in relation to safety components for lifts, regulation 17(1)(a) (EU declaration of conformity and CE marking);

“harmonised standard” has the meaning set out in point 1(c) of Article 2 of Regulation (EU) 1025/2012 of the European Parliament and of the Council on European standardisation(f) (as amended from time to time);

“importer” means a person who—

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(a) 1974 c.37.

(b) S.I. 1978/1039 (N.I. 9).

(c) 1987 c.43.

(d) S.I. 1997/831, amended by S.I. 2004/693, 2005/831, 2008/1597, 2011/1043, 2014/469 and 2015/1630.

(e) OJ L 96, 29.3.2014, p.251.

(f) OJ L 316, 14.11.2012, p.12.

- (a) is established in the EU; and
  - (b) places a safety component for lifts from a third country on the EU market;
- “installer” means a person who takes responsibility for the design, manufacture, installation and placing on the market of a lift;

“lift” means a lifting appliance—

- (a) serving specific levels,
- (b) having a carrier moving along guides which are rigid and inclined at an angle of more than 15 degrees to the horizontal, or along a fixed course even where it does not move along rigid guides, and,
- (c) intended for the transport of—
  - (i) persons,
  - (ii) persons and goods, or
  - (iii) goods alone, if the carrier is accessible, that is to say a person may enter it without difficulty, and fitted with controls situated inside the carrier or within reach of a person inside the carrier;

“make available on the market” means the supply of a safety component for lifts for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge, and related expressions must be construed accordingly;

“manufacturer” means a person who—

- (a) manufactures a safety component for lifts, or has such a safety component designed or manufactured; and
- (b) markets that safety component under that person’s name or trade mark;

“market surveillance authority” has the meaning set out in regulation 60 (designation of market surveillance authority);

“model lift” means a representative lift whose technical documentation shows the way in which the essential health and safety requirements will be met for lifts that conform to the model lift defined by objective parameters and which uses identical safety components for lifts;

“national accreditation body” has the meaning set out in point 11 of Article 2 of RAMS;

“notified body requirements” means the requirements set out in Schedule 4 (notified body requirements);

“Official Journal” means the Official Journal of the European Union;

“place on the market” means—

- (a) make a safety component for lifts available on the EU market for the first time; or
- (b) supply a lift for use on the EU market in the course of a commercial activity, whether in return for payment or free of charge,

and related expressions must be construed accordingly;

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(a);

“recall” means—

- (a) in relation to a lift, any measure aimed at achieving the dismantling and safe disposal of a lift; and

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(a) OJ L 218, 13.8.2008, p. 30.

- (b) in relation to a safety component for lifts, any measure aimed at achieving the return of a safety component for lifts that has already been made available to the installer or to the end-user,

and related expressions must be construed accordingly;

“relevant conformity assessment procedure” means—

- (c) in relation to lifts, a conformity assessment procedure referred to in regulation 47 (conformity assessment procedures for lifts); and
- (d) in relation to safety components for lifts, a conformity assessment procedure referred to in regulation 48 (conformity assessment procedures for safety components for lifts);

“relevant economic operator” means, in relation to a lift or a safety component for lifts, an economic operator who has obligations in respect of that lift or safety component under Part 2;

“safety component for lifts” means a component for lifts listed in Schedule 3 (list of safety components for lifts referred to in Article 1(1) of the Directive);

“technical documentation” has the meaning set out—

- (a) in relation to lifts, in regulation 7(b) (technical documentation and conformity assessment); or
- (b) in relation to safety components for lifts, regulation 16(b) (technical documentation and conformity assessment);

“technical specification” means a document that prescribes technical requirements to be fulfilled by a lift or a safety component for lifts;

“withdraw” means taking any measure aimed at preventing a safety component for lifts in the supply chain from being made available on the market and related expressions must be construed accordingly.

(2) In these Regulations, a reference to a lift or a safety component for lifts being “in conformity with Part 2” means that—

- (a) the lift or the safety component for lifts is in conformity with the essential health and safety requirements; and
- (b) each relevant economic operator has complied with the obligations imposed on them under Part 2 which must be satisfied at or before the time at which they place the lift on the market or make the safety component for lifts available on the market.

(3) In these Regulations (except in Part 4 (conformity assessment bodies) and Schedules 4 (notified body requirements) and 6 (operational obligations of notified bodies)), “notified body” means—

- (a) a notified body within the meaning set out in regulation 51 (notified bodies); or
- (b) a notified body under the laws of another member State which implements the Directive.

(4) In these Regulations, “risk” means a risk to the health and safety of persons and, where appropriate, to the safety of property, except in—

- (a) regulation 11 (monitoring of lifts placed on the market);
- (b) regulation 21 (monitoring of safety components for lifts made available on the market);
- (c) regulation 31 (monitoring of safety components for lifts made available on the market); and
- (d) Schedule 1 (essential health and safety requirements).

(5) In these Regulations, a reference to a Member State must be read as a reference to an EEA State and references to the EU must be read as references to the European Economic Area.

### **Scope and application**

3.—(1) Subject to paragraph (2), these Regulations apply to—

- (a) lifts permanently serving buildings or constructions; and

- (b) safety components for use in such lifts.
- (2) These Regulations do not apply to—
- (a) lifts and safety components for lifts which have been placed on the market on or after the commencement date;
  - (b) the lifts specified in Schedule 2 (excluded lifts); and
  - (c) safety components for the lifts referred to in paragraph (b).
- (3) Nothing in these Regulations regarding the installation of a lift affects the application of the Construction Products Regulations 2013(a).

#### **Exception for trade fairs, exhibitions or demonstrations**

4. Nothing in these Regulations prevents the showing of a lift or a safety component for lifts, which is not in conformity with Part 2, at a trade fair, exhibition or demonstration, provided that a visible sign clearly indicates that the lift or the safety component for lifts—
- (a) is not in conformity with Part 2; and
  - (b) will not be placed on the market or made available on the market until it is brought into conformity with Part 2.

#### **Lifts where risks are wholly or partly covered by other EU law**

5. These Regulations do not apply to a lift or a safety component for lifts insofar as and to the extent that the essential health and safety requirements relate to risks wholly or partly covered by other specific EU law applicable to that lift or safety component.

## **PART 2**

### **Obligations of economic operators**

#### **Installers**

#### **Design, manufacture, installation and testing in accordance with essential health and safety requirements**

6. Before placing a lift on the market, an installer must ensure that it has been designed, manufactured, installed and tested in accordance with the essential health and safety requirements.

#### **Technical documentation and conformity assessment**

7. Before placing a lift on the market, an installer must—
- (a) have a relevant conformity assessment procedure carried out; and
  - (b) draw up the technical documentation referred to—
    - (i) for a lift in respect of which the conformity assessment procedure in regulation 47(1)(a) is being carried out, in point 3 of Part B of Module B in Annex IV to the Directive (as amended from time to time);
    - (ii) for a lift in respect of which the conformity assessment procedure in regulation 47(1)(b) or 47(1)(d) is being carried out, in point 3.1(d) of Module H1 in Annex XI to the Directive (as amended from time to time);
    - (iii) for a lift in respect of which the conformity assessment procedure in regulation 47(1)(c) is being carried out, in point 3 of Module G in Annex VIII to the Directive (as amended from time to time).

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(a) S.I. 2013/1387.

## **EU declaration of conformity and CE marking**

**8.**—(1) Where the conformity of a lift with the essential health and safety requirements has been demonstrated by a relevant conformity assessment procedure, before placing the lift on the market, the installer must—

- (a) draw up a declaration of conformity in accordance with regulation 49 (EU declaration of conformity);
- (b) ensure that the declaration of conformity accompanies the lift; and
- (c) affix the CE marking in accordance with regulation 50 (CE marking).

(2) The installer must keep the EU declaration of conformity up-to-date.

(3) Where a lift is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the installer must draw up a single declaration of conformity, which—

- (a) identifies the EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal.

## **Retention of technical documentation and EU declaration of conformity**

**9.** An installer must keep the technical documentation, the EU declaration of conformity and, where applicable, any approval decision, drawn up in respect of a lift for a period of 10 years beginning on the day on which the lift is placed on the market.

## **Labelling and instructions**

**10.**—(1) Before placing a lift on the market, an installer must—

- (a) ensure that it is labelled with—
  - (i) the name, registered trade name or registered trade mark of the installer;
  - (ii) a single postal address at which the installer can be contacted; and
  - (iii) the type, batch or serial number of the lift or other element allowing the lift to be identified; and
- (b) ensure that it is accompanied by the instructions referred to in point 6.2 of Annex I to the Directive (as amended from time to time).

(2) The information referred to in paragraph (1) above must be—

- (a) in the case of the information referred to in paragraph (1)(a), in a language that can be easily understood by the end-users and the competent national authority in the member State in which the lift is to be placed on the market;
- (b) in the case of the information referred to in paragraph 1(b), in a language which can be easily understood by the end-users in the member State in which the lift is to be placed on the market; and
- (c) clear and understandable.

(3) Where the lift is to be placed on the market in the United Kingdom the language which can be easily understood by end-users is English.

## **Monitoring of lifts placed on the market**

**11.**—(1) When appropriate, having regard to the risks to the health and safety of end-users presented by a lift, the installer must investigate complaints that lifts installed by it are not in conformity with Part 2.

(2) An installer must keep a register and promptly make entries in that register of any—

- (i) complaints; and
- (ii) lifts that are not in conformity with Part 2.

(3) An installer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

### **Duty to take action in respect of lifts placed on the market which are considered not to be in conformity**

**12.**—(1) An installer who considers, or has reason to believe, that a lift which that installer has placed on the market is not in conformity with Part 2, must immediately take the corrective measures necessary to bring that lift into conformity.

(2) Where the lift presents a risk, the installer must immediately inform the market surveillance authority, and the competent national authorities of any other member State in which the installer placed the lift on the market, of the risk, giving details of—

- (a) the respect in which the lift is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

### **Provision of information and cooperation**

**13.**—(1) Following a reasoned request from the enforcing authority, and within such period as the enforcing authority may specify, an installer must provide the authority with all the information and documentation necessary to demonstrate that a lift is in conformity with Part 2—

- (a) in paper or electronic form; and
- (b) in a language that can be easily understood by the enforcing authority.

(2) An installer must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a lift in accordance with regulation 64 (evaluation of lifts or safety components for lifts presenting a risk); or
- (b) eliminate the risks posed by a lift which the installer has placed on the market.

### **Specific duties relating to buildings or constructions in which lifts are installed**

**14.** The person responsible for work on a building or construction where a lift is to be installed and the installer must—

- (a) provide each other with the necessary information, and
- (b) take the appropriate steps,

in order to ensure the proper operation and safe use of the lift, in particular they must take all necessary measures to ensure that shafts intended for lifts do not contain any piping or wiring or fittings other than that necessary for the operation and safety of the lift.

### **Manufacturers**

### **Design and manufacture in accordance with essential health and safety requirements**

**15.** Before placing a safety component for lifts on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the essential health and safety requirements.

### **Technical documentation and conformity assessment**

**16.** Before placing a safety component for lifts on the market, a manufacturer must—

- (a) have a relevant conformity assessment procedure carried out; and
- (b) draw up the technical documentation referred to—

- (i) for a safety component for lifts in respect of which the conformity assessment procedure in regulation 48(a) or 48(b) is being carried out, in point 3 of Part A of Module B in Annex IV to the Directive (as amended from time to time);
- (ii) for a safety component for lifts in respect of which the conformity assessment procedure in regulation 48(c) is being carried out, in point 3.1(d) of Module H in Annex VII to the Directive (as amended from time to time).

### **EU declaration of conformity and CE marking**

**17.**—(1) Where the conformity of a safety component for lifts with the essential health and safety requirements has been demonstrated by a relevant conformity assessment procedure, before placing the safety component for lifts on the market, the manufacturer must—

- (a) draw up a declaration of conformity in accordance with regulation 49 (EU declaration of conformity);
- (b) ensure that it accompanies the safety component for lifts; and
- (c) affix the CE marking in accordance with regulation 50 (CE marking).

(2) The manufacturer must keep the EU declaration of conformity up-to-date.

(3) Where a safety component for lifts is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the manufacturer must draw up a single declaration of conformity, which—

- (a) identifies the EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal.

### **Retention of technical documentation and EU declaration of conformity**

**18.** A manufacturer must keep the technical documentation, the EU declaration of conformity and, where appropriate, any approval decision, drawn up in respect of a safety component for lifts for a period of 10 years beginning on the day on which the safety component for lifts is placed on the market.

### **Labelling and instructions**

**19.**—(1) Before placing a safety component for lifts on the market, a manufacturer must—

- (a) ensure that it is labelled with—
  - (i) the name, registered trade name or registered trade mark of the manufacturer;
  - (ii) a single postal address at which the manufacturer can be contacted; and
  - (iii) the type, batch or serial number of the safety component for lifts or other element allowing the safety component to be identified;
- (b) ensure that it is accompanied by the instructions referred to in point 6.1 of Annex I to the Directive (as amended from time to time).

(2) The information referred to in paragraph (1) above must be—

- (a) in the case of the information referred to in paragraph (1)(a), in a language that can be easily understood by the end-users and the competent national authority in the member State in which the safety component for lifts is to be made available to end-users;
- (b) in the case of the information referred to in paragraph 1(b), in a language which can be easily understood by the end-users in the member State in which the safety component for lifts is to be made available to end-users; and
- (c) clear and understandable.

(3) Where the size or nature of the safety component for lifts does not allow the information referred to in paragraph (1)(a) to be indicated on the safety component for lifts, that information must be provided on the label referred to in regulation 50(2).



(4) Where the safety component for lifts is to be made available to end-users in the United Kingdom the language which can be easily understood by end-users is English.

#### **Compliance procedures for series production**

**20.**—(1) A manufacturer of safety components for lifts which are manufactured by series production must ensure that, before placing the safety component on the market, procedures are in place to ensure that any safety components so manufactured will be in conformity with Part 2.

(2) In doing so, the manufacturer must take adequate account of—

- (a) any change in safety component for lifts design or characteristics; and
- (b) any change in a harmonised standard or in another technical specification by reference to which the EU declaration of conformity was drawn up.

#### **Monitoring of safety components for lifts made available on the market**

**21.**—(1) When appropriate, having regard to the risks to the health and safety of end-users presented by a safety component for lifts, the manufacturer must—

- (a) carry out sample testing of safety components for lifts manufactured by it which are made available on the market;
- (b) investigate complaints that safety components for lifts manufactured by it are not in conformity with Part 2;
- (c) keep distributors and installers informed of actions carried out under sub-paragraphs (a) and (b).

(2) A manufacturer must keep a register and promptly make entries in that register of any—

- (i) complaints;
- (ii) safety components for lifts that are not in conformity with Part 2; and
- (iii) safety component for lifts recalls.

(3) A manufacturer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

#### **Duty to take action in respect of safety components for lifts placed on the market which are considered not to be in conformity**

**22.**—(1) A manufacturer who considers, or has reason to believe, that a safety component for lifts which that manufacturer has placed on the market is not in conformity with Part 2, must immediately take the corrective measures necessary to—

- (a) bring the safety component for lifts into conformity;
- (b) withdraw the safety component for lifts; or
- (c) recall the safety component for lifts.

(2) Where the safety component for lifts presents a risk, the manufacturer must immediately inform the market surveillance authority, and the competent national authorities of any other member State in which the manufacturer made the safety component for lifts available on the market, of the risk, giving details of—

- (a) the respect in which the safety components for lifts is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

#### **Provision of information and cooperation**

**23.**—(1) Following a reasoned request from the enforcing authority, and within such period as the enforcing authority may specify, a manufacturer must provide the authority with all the

information and documentation necessary to demonstrate that a safety component for lifts is in conformity with Part 2—

- (a) in paper or electronic form; and
- (b) in a language that can be easily understood by the enforcing authority.

(2) A manufacturer must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a safety component for lifts in accordance with regulation 64 (evaluation of lifts or safety components for lifts presenting a risk); or
- (b) eliminate the risks posed by a safety component for lifts which the manufacturer has placed on the market.

#### Authorised representatives

#### **Appointment of authorised representatives**

**24.**—(1) An installer or a manufacturer may, by written mandate, appoint a person as their authorised representative to perform specified tasks on the installer or the manufacturer's behalf.

(2) The mandate must allow the authorised representative to do at least the following—

- (a) in relation to lifts covered by the mandate, perform the installer's obligations under—
  - (i) regulation 9 (retention of technical documentation and EU declaration of conformity); and
  - (ii) regulation 13 (provision of information and cooperation);
- (b) in relation to safety components for lifts covered by the mandate, perform the manufacturer's obligations under—
  - (i) regulation 18 (retention of technical documentation and EU declaration of conformity); and
  - (ii) regulation 23 (provision of information and cooperation).

(3) An installer or manufacturer may not be appointed to perform the installer's or manufacturer's obligations—

- (a) in relation to lifts, under regulation 6 (design, manufacture, installation and testing in accordance with essential health and safety requirements), regulation 7 (technical documentation and conformity assessment) or regulation 8 (EU declaration of conformity and CE marking);
- (b) in relation to safety components for lifts, under regulation 15 (design and manufacture in accordance with essential health and safety requirements), regulation 16 (technical documentation and conformity assessment) or regulation 17 (EU declaration of conformity and CE marking).

(4) An authorised representative must comply with all the duties imposed on the installer or the manufacturer in relation to each obligation under these Regulations that the authorised representative is appointed by the installer or the manufacturer to perform.

(5) As far as those duties are concerned, as well as the penalties for failure to comply with those duties, references in these Regulations (except in this regulation) to the installer or to the manufacturer are to be taken as including a reference to the authorised representative.

(6) An installer or a manufacturer who has appointed an authorised representative to perform on their behalf an obligation under these Regulations remains responsible for the proper performance of that obligation.

## Importers

### **Prohibition on placing on the market a safety component for lifts which is not in conformity with the essential health and safety requirements**

**25.**—(1) An importer must not place a safety component for lifts on the market unless it is in conformity with the essential health and safety requirements.

### **Requirements which must be satisfied before an importer places a safety component for lifts on the market**

**26.**—(1) Before placing a safety component for lifts on the market, an importer must ensure that—

- (a) a relevant conformity assessment procedure has been carried out by the manufacturer;
- (b) the manufacturer has drawn up the technical documentation;
- (c) the safety component for lifts—
  - (i) bears the CE marking; and
  - (ii) is accompanied by the EU declaration of conformity and any required labels; and
- (d) the manufacturer has complied with the requirement in regulation 19 (labelling and instructions).

(2) In paragraph 1(c)(ii), “required labels” means any labels that are required to be attached to the safety component for lifts pursuant to regulation 19(3).

### **Prohibition on placing on the market safety components for lifts considered not to be in conformity with the essential health and safety requirements**

**27.**—(1) Where an importer considers, or has reason to believe, that a safety component for lifts is not in conformity with the essential health and safety requirements, the importer must not place the safety component for lifts on the market.

(2) Where the safety component for lifts presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.

### **Information identifying importer**

**28.**—(1) Before placing a safety component for lifts on the market, an importer must indicate on the safety component for lifts—

- (a) the name, registered trade name or registered trade mark of the importer; and
- (b) a postal address at which the importer can be contacted.

(2) The information specified in paragraph (1) must be in a language which can be easily understood by end-users and the competent national authority in the member State in which the safety component for lift is to be made available to such end-users.

(3) Where it is not possible to indicate the information specified in paragraph (1) on the safety component for lifts, the importer must indicate that information—

- (a) on the packaging; or
- (b) in a document accompanying the safety component for lifts.

### **Instructions**

**29.**—(1) When placing a safety component for lifts on the market, an importer must ensure that it is accompanied by the instructions referred to in point 6.1 of Annex I to the Directive (as amended from time to time) in a language which can be easily understood by end-users in the member State in which the safety component for lifts is to be made available to such end-users.

(2) Where the safety component for lifts is being made available to end-users in the United Kingdom, the language which can be easily understood by end-users is English.

### **Storage and transport**

**30.** Where an importer has responsibility for a safety component for lifts, the importer must ensure that the conditions under which the safety component for lifts is stored or transported do not jeopardise its conformity with the essential health and safety requirements.

### **Monitoring of safety components for lifts made available on the market**

**31.—**(1) When appropriate, having regard to the risks to the health and safety of end-users presented by a safety component for lifts, the importer must—

- (a) carry out sample testing of safety components for lifts made available on the market by the importer;
- (b) investigate complaints that safety components for lifts made available on the market by the importer are not in conformity with Part 2;
- (c) keep distributors and installers informed of any actions carried out under sub-paragraphs (a) and (b).

(2) An importer must keep a register and must promptly make entries in that register of any—

- (i) complaints;
- (ii) safety components for lifts that are not in conformity with Part 2; and
- (iii) safety components for lifts recalls.

(3) An importer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

### **Duty to take action in respect of safety components for lifts placed on the market which are considered not to be in conformity**

**32.—**(1) An importer who considers, or has reason to believe, that a safety component for lifts which that importer has placed on the market is not in conformity with Part 2, must immediately take the corrective measures necessary to—

- (a) bring the safety component for lifts into conformity;
- (b) withdraw the safety component for lifts; or
- (c) recall the safety component for lifts.

(2) Where the safety component for lifts presents a risk, the importer must immediately inform the market surveillance authority, and the competent national authorities of any other member State in which the importer made the safety component for lifts available on the market, of the risk, giving details of—

- (a) the respect in which the safety components for lifts is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

### **Retention of technical documentation and EU declaration of conformity**

**33.** An importer must, for a period of 10 years beginning on the day on which the safety component for lifts is placed on the market—

- (a) keep a copy of the EU declaration of conformity and, where applicable, any approval decision, at the disposal of enforcing authorities; and
- (b) ensure that the technical documentation can be made available to enforcing authorities, upon request.

### **Provision of information and cooperation**

**34.**—(1) Following a reasoned request from the enforcing authority, and within such period as the enforcing authority may specify, an importer must provide the authority with all the information and documentation necessary to demonstrate that a safety component for lifts is in conformity with Part 2—

- (a) in paper or electronic form; and
- (b) in a language that can be easily understood by the enforcing authority.

(2) An importer must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a safety component for lifts in accordance with regulation 64 (evaluation of lifts or safety components for lifts presenting a risk); or
- (b) eliminate the risks posed by a safety component for lifts which the importer has placed on the market.

### **Cases in which obligations of manufacturers apply to importers**

**35.**—(1) An economic operator who would, but for this regulation, be considered an importer (“A”), is to be considered a manufacturer for the purposes of these Regulations and is subject to the relevant obligations of the manufacturer under this Part, where A—

- (a) places a safety component for lifts on the market under A’s own name or trademark; or
- (b) modifies a safety component for lifts already placed on the market in such a way that it may affect whether the safety component for lifts is in conformity with Part 2.

### **Distributors**

#### **Duty to act with due care**

**36.** When making a safety component for lifts available on the market, a distributor must act with due care to ensure that it is in conformity with Part 2.

#### **Requirements which must be satisfied before a distributor makes a safety component for lifts available on the market**

**37.**—(1) Before making a safety component for lifts available on the market, the distributor must ensure that—

- (a) the safety component for lifts—
  - (i) bears the CE marking;
  - (ii) is accompanied by the EU declaration of conformity and the required documents; and
  - (iii) is accompanied by the instructions referred to in point 6.1 of Annex I to the Directive (as amended from time to time) in a language which can be easily understood by end-users in the member State in which the safety component for lifts is to be made available on the market;
- (b) the manufacturer has complied with the requirements set out in regulation 19 (labelling and instructions); and
- (c) the importer has complied with the requirements set out in regulation 28 (information identifying importer).

(2) Where the safety component for lifts is to be made available to end-users in the United Kingdom the language which can be easily understood by end-users is English.

(3) In paragraph 1(a)(ii), “required documents” means any labels or documents that are required to be provided with the safety component for lifts pursuant to—

- (a) regulation 19(3); and
- (b) regulation 28(3).

**Prohibition on making available on the market where the safety component for lifts is not considered to be in conformity with the essential health and safety requirements**

**38.**—(1) Where a distributor considers, or has reason to believe, that a safety component for lifts is not in conformity with the essential health and safety requirements, the distributor must not make the safety component for lifts available on the market.

(2) Where the safety component for lifts presents a risk, the distributor must inform the following persons of that risk—

- (a) the manufacturer or the importer; and
- (b) the market surveillance authority.

**Storage and transport**

**39.** Where a distributor has responsibility for a safety component for lifts, the distributor must ensure that the conditions under which the safety component for lifts is stored or transported do not jeopardise its conformity with the essential health and safety requirements.

**Duty to take action in respect of safety components for lifts made available on the market which are not in conformity with Part 2**

**40.**—(1) A distributor, who considers, or has reason to believe, that a safety component for lifts which the distributor has made available on the market is not in conformity with Part 2, must make sure that the necessary corrective measures are taken to—

- (a) bring that safety component for lifts into conformity;
- (b) withdraw the safety component for lifts; or
- (c) recall the safety component for lifts.

(2) Where the safety component for lifts presents a risk, the distributor must immediately inform the market surveillance authority, and the competent national authorities of the member States in which the distributor has made the safety component for lifts available on the market, of that risk, giving details of—

- (a) the respect in which the safety component for lifts is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

**Provision of information and cooperation**

**41.**—(1) Following a reasoned request from an enforcing authority, and within such period as the authority may specify, a distributor must provide the authority with all the information and documentation, in paper or electronic form, necessary to demonstrate that a safety component for lifts is in conformity with Part 2.

(2) A distributor must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a safety component for lifts in accordance with regulation 64 (evaluation of lifts or safety components for lifts presenting a risk); and
- (b) eliminate the risks posed by a safety component for lifts which the distributor has made available on the market.

### **Cases in which obligations of manufacturers apply to distributors**

**42.**—(1) An economic operator who would, but for this regulation, be considered a distributor (“A”), is to be considered a manufacturer for the purposes of these Regulations and is subject to the relevant obligations of the manufacturer under this Part, where A—

- (a) places a safety component for lifts on the market under A’s own name or trademark; or
- (b) modifies a safety component for lifts already placed on the market in such a way that it may affect whether the safety component for lifts is in conformity with Part 2.

All economic operators

### **Translation of declaration of conformity**

**43.**—(1) Before placing a lift on the market or making a safety component for lifts available on the market, an economic operator must ensure that the EU declaration of conformity is prepared in, or translated into, the language required by the member State in which the lift is to be placed on the market or the safety component for lifts is to be made available on the market.

(2) Where the lift is to be placed on the market or the safety component for lifts is to be made available on the market in the United Kingdom, the language required is English.

### **Identification of economic operators**

**44.**—(1) An economic operator (“E”), who receives a request in relation to a safety component for lifts from the market surveillance authority before the end of the relevant period, must, within such period as the authority may specify, identify to the authority—

- (a) any other economic operator who has supplied E with the safety component for lifts; and
- (b) any other economic operator to whom E has supplied the safety component for lifts.

(2) The relevant period is—

- (a) for the information in paragraph (1)(a), a period of 10 years beginning on the day on which E was supplied with the safety component for lifts;
- (b) for the information in paragraph (1)(b), a period of 10 years beginning on the day on which E supplied the safety component for lifts.

### **Prohibition on improper use of CE marking**

**45.**—(1) An economic operator must not affix the CE marking to a lift or a safety component for lifts unless—

- (a) that economic operator is the installer or the manufacturer; and
- (b) the conformity of the lift or the safety component for lifts with the essential health and safety requirements has been demonstrated by a relevant conformity assessment procedure.

(2) An economic operator must not affix a marking to a lift or a safety component for lifts (other than the CE marking) which purports to attest that the lift or the safety component for lifts is in conformity with the essential health and safety requirements.

(3) An economic operator must not affix to a lift or a safety component for lifts a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking.

(4) An economic operator must not affix to a lift or a safety component for lifts any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.

## PART 3

### Conformity assessment

#### Presumption of conformity

**46.**—(1) A lift or a safety component for lifts which is in conformity with a harmonised standard (or part of such a standard) the reference to which has been published in the Official Journal is to be presumed to be in conformity with the essential health and safety requirements covered by that standard (or that part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

#### Conformity assessment procedures for lifts

**47.**—(1) For the assessment of conformity of a lift, the installer must carry out one of the following procedures—

- (a) if the lift is designed and manufactured in accordance with a model lift that has undergone an EU-type examination set out in Part B of Annex IV to the Directive (as amended from time to time)—
  - (i) final inspection for lifts set out in Annex V to the Directive (as amended from time to time);
  - (ii) conformity to type based on product quality assurance for lifts set out in Annex X to the Directive (as amended from time to time);
  - (iii) conformity to type based on production quality assurance for lifts set out in Annex XII to the Directive (as amended from time to time);
- (b) if the lift is designed and manufactured under a quality assurance system approved in accordance with Annex XI to the Directive (as amended from time to time)—
  - (i) final inspection for lifts set out in Annex V to the Directive (as amended from time to time);
  - (ii) conformity to type based on product quality assurance for lifts set out in Annex X to the Directive (as amended from time to time);
  - (iii) conformity to type based on production quality assurance for lifts set out in Annex XII to the Directive (as amended from time to time);
- (c) conformity based on unit verification for lifts set out in Annex VIII to the Directive (as amended from time to time);
- (d) conformity based on full quality assurance plus design examination for lifts set out in Annex XI to the Directive (as amended from time to time).

(2) Where one of the procedures in paragraph (1)(a) or (1)(b) is carried out and the person responsible for the design and manufacture of the lift and the person responsible for the installation and testing of the lift are not the same person, the former must supply to the latter all the necessary documents and information to enable the latter to ensure the correct and safe installation and testing of the lift.

(3) Where one of the procedures in paragraph (1)(a) is carried out, the installer must ensure that all permitted variations between the model lift and the lifts derived from the model lift are clearly specified (with maximum and minimum values) in the technical documentation referred to in regulation 7(b).

(4) When using the procedure in paragraph 9(1)(a), in order to demonstrate the conformity of a lift with the essential health and safety requirements, the installer may demonstrate the similarity of a range of equipment—

- (a) by calculation;
- (b) on the basis of design plans; or
- (c) using both of the methods specified in sub-paragraphs (a) and (b).



## **Conformity assessment procedures for safety components for lifts**

**48.** For the assessment of conformity of a safety component for lifts, the manufacturer must carry out one of the following procedures—

- (a) the model of the safety component for lifts must be submitted for EU type examination set out in Part A of Annex IV to the Directive (as amended from time to time) and the conformity to type must be ensured with random checking of the safety component for lifts set out in Annex IX to the Directive (as amended from time to time);
- (b) the model of the safety component for lifts must be submitted for EU type examination set out in Part A of Annex IV to the Directive (as amended from time to time) and be subject to conformity to type based on product quality assurance in accordance with Annex VI to the Directive (as amended from time to time);
- (c) conformity based on full quality assurance set out in Annex VII to the Directive (as amended from time to time).

## **EU declaration of conformity**

**49.** The EU declaration of conformity for a lift or a safety component for lifts must—

- (a) state that the fulfilment of the essential health and safety requirements has been demonstrated in respect of the lift or the safety component for lifts;
- (b) contain the elements specified in Annexes V to XII to the Directive (as amended from time to time) for the relevant conformity assessment procedure carried out in respect of the lift or the safety component for lifts;
- (c) have the model structure set out—
  - (i) in relation to lifts, in Part 1 of Schedule 5 (EU declaration of conformity);
  - (ii) in relation to safety components for lifts, in Part 2 of Schedule 5.

## **CE marking**

**50.—(1)** The CE marking must be affixed visibly, legibly and indelibly to the lift carrier or the safety component for lifts.

(2) Where it is not possible, on account of the nature of a safety component for lifts, to affix the CE marking in accordance with paragraph (1), the CE marking must be affixed to a label inseparably attached to the safety component for lifts.

(3) The CE marking on a lift must be followed by the identification number of the notified body involved in any of the following conformity assessment procedures—

- (a) the final inspection referred to in Annex V to the Directive (as amended from time to time);
- (b) unit verification referred to in Annex VIII to the Directive (as amended from time to time);
- (c) quality assurance referred to in Annexes X, XI or XII to the Directive (as amended from time to time).

(4) The CE marking on a safety component for lifts must be followed by the identification number of the notified body involved in any of the following conformity assessment procedures—

- (a) product quality assurance referred to in Annex VI to the Directive (as amended from time to time);
- (b) full quality assurance referred to in Annex VII to the Directive (as amended from time to time);
- (c) conformity to type with random checking for safety components for lifts referred to in Annex IX to the Directive (as amended from time to time).

(5) The identification number of the notified body must be affixed—

- (a) by the notified body itself; or
- (b) under the instructions of the notified body, by the installer or the installer's authorised representative or by the manufacturer or the manufacturer's authorised representative.

## PART 4

### Notification of conformity assessment bodies

#### **Notified bodies**

- 51.**—(1) For the purposes of this Part, a notified body is a conformity assessment body—
- (a) which has been notified by the Secretary of State to the European Commission and the other member States—
    - (i) under regulation 52 (notification); or
    - (ii) by the Secretary of State, before the date that these Regulations come into force, in accordance with Article 28 of the Directive (as amended from time to time); and
  - (b) in respect of which no objections are raised by the European Commission or the other member States—
    - (i) within two weeks of the date of notification, where the notification is accompanied by an accreditation certificate; or
    - (ii) within two months of the date of notification, where the notification is not accompanied by an accreditation certificate.
- (2) Paragraph (1) has effect subject to regulation 57 (changes to notifications).

#### **Notification**

- 52.**—(1) The Secretary of State may notify to the European Commission and other member States only those conformity assessment bodies that qualify for notification.
- (2) A conformity assessment body qualifies for notification if the first and second conditions below are met.
- (3) The first condition is that the conformity assessment body has applied to the Secretary of State to become a notified body and the application is accompanied by—
- (a) a description of—
    - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
    - (ii) the conformity assessment procedures for which the conformity assessment body claims to be competent; and
    - (iii) the lift or safety component for lifts for which the conformity assessment body claims to be competent; and either
  - (b) an accreditation certificate; or
  - (c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.
- (4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the notified body requirements.
- (5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.
- (6) When deciding whether to notify a conformity assessment body that qualifies for notification to the European Commission and the other member States, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

(7) The Secretary of State must inform the European Commission of the United Kingdom's procedures for assessment and notification of conformity assessment bodies, and any changes to those procedures.

### **Presumption of conformity of notified bodies**

**53.**—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such a standard), the reference of which has been published in the Official Journal, the Secretary of State is to presume that the conformity assessment body meets the notified body requirements covered by that standard (or part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

### **Contents of notification**

**54.** A notification under regulation 52 must include—

- (a) details of—
  - (i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;
  - (ii) the conformity assessment procedures in respect of which the conformity assessment body has made its application for notification;
  - (iii) the lift or the safety component for lifts in respect of which the conformity assessment body has made its application for notification; and either
- (b) an accreditation certificate; or
- (c) documentary evidence which attests to—
  - (i) the conformity assessment body's competence; and
  - (ii) the arrangements in place to ensure that the conformity assessment body will be monitored regularly and will continue to meet the notified body requirements.

### **Monitoring**

**55.**—(1) The Secretary of State must monitor each notified body with a view to verifying that the notified body—

- (a) continues to meet the notified body requirements;
- (b) meets any conditions set in accordance with regulation 52(6)(b); and
- (c) carries out its functions in accordance with these Regulations.

(2) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the monitoring of notified bodies, and any changes to those procedures.

### **United Kingdom Accreditation Service**

**56.** The Secretary of State may authorise the United Kingdom Accreditation Service to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the notified body requirements; and
- (b) monitoring notified bodies (in accordance with regulation 55).

### **Changes to notifications**

**57.**—(1) Where the Secretary of State determines that a notified body—

- (a) no longer meets a notified body requirement, or
- (b) is failing to fulfil any of its obligations under these Regulations, other than conditions set in accordance with regulation 52(6),

the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation 51.

(2) Where the Secretary of State determines that a notified body no longer meets a condition set in accordance with regulation 52(6), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation 51.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the failure.

(4) Before taking action under paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing to the notified body that the Secretary of State intends to take such action and the reasons for taking such action; and
- (b) give the notified body an opportunity to make representations within a reasonable period from the date of that notice and consider any such representations.

(5) Where the Secretary of State takes action under paragraph (1) or (2), the Secretary of State must immediately inform the European Commission and the other member States.

(6) Where the Secretary of State has taken action in respect of a notified body under paragraph (1) or (2), or where a notified body has ceased its activity, the body must—

- (a) on the request of the Secretary of State, transfer its files relating to the activities it has undertaken as a notified body to another notified body or to the Secretary of State;
- (b) in the absence of a request under sub-paragraph (a), ensure that its files relating to the activities it has undertaken as a notified body are kept available for the Secretary of State and each enforcing authority for a period of 10 years beginning on the day on which the relevant document was created.

### **Operational obligations of notified bodies**

**58.** When a notified body carries out a relevant conformity assessment procedure, Schedule 6 has effect (operational obligations of notified bodies).

### **Subsidiaries and contractors**

**59.**—(1) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the activities are only to be treated as having been carried out by a notified body for the purposes of regulations 47 (conformity assessment procedures for lifts) and regulation 48 (conformity assessment procedures for safety components for lifts) where the conditions in paragraphs (2) and (3) are met.

(2) The notified body must—

- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
- (b) inform the Secretary of State accordingly.

(3) The notified body must have obtained the agreement of the client to the use of a subcontractor or subsidiary.

(4) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the notified body must for a period of at least 10 years beginning on the day on which the activities are carried out, keep available for inspection by the Secretary of State the documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and

(b) the conformity assessment activities carried out by the subcontractor or subsidiary.

(5) When monitoring a notified body in accordance with regulation 55, the Secretary of State must treat the notified body as responsible for the tasks performed by a subcontractor or subsidiary, wherever the subcontractor or subsidiary is established.

## PART 5

### Market surveillance and enforcement

#### Designation of market surveillance authority

**60.**—(1) In Great Britain—

- (a) in relation to lifts for use in the workplace or safety components for such lifts, the Health and Safety Executive, and
- (b) in relation to lifts for private use and consumption or safety components for such lifts, the Secretary of State,

is the market surveillance authority.

(2) In Northern Ireland, the Department is the market surveillance authority.

(3) The Secretary of State and the Department may appoint a person to act on their behalf for the purposes of market surveillance under these Regulations and RAMS (in its application to lifts and safety components for lifts).

#### Enforcement

**61.**—(1) The market surveillance authority must enforce these Regulations, and RAMS in its application to lifts and safety components for lifts, or ensure that they are enforced.

(2) The Secretary of State and the Department may appoint a person to act on their behalf for the purposes of enforcing these Regulations and RAMS in its application to lifts and safety components for lifts.

(3) Where the enforcing authority is not also the market surveillance authority, the enforcing authority must notify the market surveillance authority of the proposed action.

(4) In Scotland, only the Lord Advocate may commence proceedings for an offence.

#### Enforcement powers

**62.**—(1) Schedule 7 (enforcement powers of the Secretary of State and the Department under the 1987 Act) is to have effect where the enforcing authority is the Secretary of State or in relation to lifts for private use and consumption or safety components for such lifts, the Department.

(2) Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act) is to have effect where the enforcing authority is the Health and Safety Executive.

(3) Schedule 9 (enforcement powers of the Department under the 1978 Order) is to have effect where the enforcing authority is the Department in relation to lifts for use in the work place or safety components for such lifts.

(4) In addition to the powers available to an enforcing authority under paragraph (1), (2) or (3), the authority may use the powers set out in Schedule 10 (compliance, withdrawal and recall notices).

#### Exercise of enforcement powers

**63.** When enforcing these Regulations, the enforcing authority must exercise its powers in a manner which is consistent with—

- (a) regulation 64 (evaluation of lifts or safety components for lifts presenting a risk);

- (b) regulation 65 (enforcement action in respect of lifts or safety components for lifts which are not in conformity and which present a risk);
- (c) regulation 66 (EU safeguard procedure);
- (d) regulation 67 (enforcement action in respect of lifts or safety components for lifts which are in conformity, but present a risk);
- (e) regulation 68 (enforcement action in respect of formal non-compliance); and
- (f) regulation 69 (restrictive measures).

#### **Evaluation of lifts or safety components for lifts presenting a risk**

**64.**—(1) Where the market surveillance authority has sufficient reason to believe that a lift or safety component for lifts presents a risk, the market surveillance authority must carry out an evaluation in relation to the lift or the safety component for lifts covering the relevant requirements of Part 2 applying in respect of that lift or safety component for lifts.

(2) Where an enforcing authority other than the market surveillance authority has sufficient reason to believe that a lift or safety component for lifts presents a risk, that enforcing authority must carry out an evaluation in relation to the lift or the safety component for lifts covering the relevant requirements of Part 2 applying in respect of that lift or safety component for lifts.

#### **Enforcement action in respect of lifts and safety components for lifts which are not in conformity and which present a risk**

**65.**—(1) Where, in the course of the evaluation referred to in regulation 64, an enforcing authority finds that—

- (a) the lift is not in conformity with Part 2, it must, without delay, require the installer to take appropriate corrective actions to bring the lift into conformity with those requirements within a prescribed period;
- (b) the safety component for lifts is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—
  - (i) take appropriate corrective actions to bring the safety component for lifts into conformity with those requirements within a prescribed period;
  - (ii) withdraw the safety component for lifts within a prescribed period; or
  - (iii) recall the safety component for lifts within a prescribed period.

(2) The enforcing authority must inform the notified body which carried out the conformity assessment procedure in respect of the lift or the safety component for lifts of—

- (a) the respect in which the lift or safety component for lifts is not in conformity with Part 2; and
- (b) the actions which the enforcing authority is requiring the relevant economic operator to take.

(3) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the actions which it has required the economic operator to take.

(4) Where the Secretary of State receives notification under paragraph (3), or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, the Secretary of State must inform the European Commission and the other member States of—

- (a) the results of the evaluation; and
- (b) the actions which the enforcing authority has required the economic operator to take.

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed period, the enforcing authority must take appropriate measures to—

- (a) in relation to a lift—
  - (i) prohibit or restrict the lift being placed on the market in the United Kingdom;
  - (ii) prohibit or restrict the use of the lift; or
  - (iii) recall the lift.
- (b) in relation to a safety component for lifts—
  - (i) prohibit or restrict the safety component for lifts being made available on the market in the United Kingdom;
  - (ii) withdraw the safety component for lifts from the United Kingdom market; or
  - (iii) recall the safety component for lifts.

(6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.

(7) Where the Secretary of State receives notification under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other member States of those measures without delay.

(8) The notifications in paragraphs (6) and (7) must include details about the lift or safety component for lifts and, in particular—

- (a) the data necessary for the identification of the lift or the safety component for lifts which is not in conformity with Part 2;
- (b) the origin of the lift or the safety component for lifts;
- (c) the nature of the lack of conformity alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the lack of conformity is due to either of the following—
  - (i) failure of the lift or the safety component for lifts to meet requirements relating to a risk;
  - (ii) shortcomings in a harmonised standards referred to in regulation 46 (presumption of conformity) conferring a presumption of conformity.

(9) In this regulation, “prescribed period” means a period which is—

- (a) prescribed by the enforcing authority; and
- (b) reasonable and commensurate with the nature of the risk presented by the lift or safety component for lifts.

### **EU safeguard procedure**

**66.**—(1) Where another member State has initiated the procedure under Article 38 of the Directive (as amended from time to time), each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—

- (a) any measures taken by the enforcing authority in respect of the lift or the safety component for lifts; and
- (b) any additional information which the enforcing authority has at its disposal relating to the lack of conformity of the lift or the safety component for lifts.

(2) Where another member State has initiated the procedure under Article 38 of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other member States of—

- (a) any measures taken by an enforcing authority in respect of the lift or the safety component for lifts;

- (b) any additional information which an enforcing authority has at its disposal relating to the lack of conformity of the lift or the safety component for lifts; and
- (c) any objections that the Secretary of State may have to the measure taken by the member State initiating the procedure.

(3) Where a measure taken by another member State in respect of a lift or a safety component for lifts is considered justified under Article 38(7) of the Directive (as amended from time to time), the market surveillance authority must ensure that appropriate measures, such as the withdrawal of a safety component for lifts are taken in respect of the lift or the safety component for lifts without delay.

(4) Where a measure taken by another member State in respect of a lift or a safety component for lifts is considered justified by the European Commission under Article 39(1) of the Directive (as amended from time to time), the market surveillance authority must take the necessary measures to ensure that—

- (a) the placing on the market or use of the lift is restricted or prohibited or that the lift is recalled; or
- (b) that safety component for lifts is withdrawn from the United Kingdom market.

(5) Where the market surveillance authority is not the Secretary of State and it has taken action under paragraph (3) or (4), it must inform the Secretary of State.

(6) Where the Secretary of State receives notification under paragraph (5), or has taken action under paragraphs (3) or (4), the Secretary of State must inform the European Commission of the action taken.

(7) If a measure taken by an enforcing authority pursuant to regulation 65 is considered unjustified by the European Commission under Article 39(1) of the Directive (as amended from time to time), the enforcing authority must withdraw that measure.

**Enforcement action in respect of lifts and safety components for lifts which are in conformity, but present a risk**

**67.**—(1) Where, having carried out an evaluation under regulation 64, an enforcing authority finds that although a lift or a safety component for lifts is in conformity with Part 2, it presents a risk, the enforcing authority must require a relevant economic operator to take appropriate measures to—

- (a) in relation to a lift—
  - (i) ensure that the lift concerned, when placed on the market, no longer presents a risk;
  - (ii) recall the lift within a prescribed period; or
  - (iii) prohibit or restrict the use of the lift within a prescribed period;
- (b) in relation to a safety component for lifts—
  - (i) ensure that the safety component for lifts concerned, when placed on the market, no longer presents a risk;
  - (ii) withdraw the safety component for lifts within a prescribed period; or
  - (iii) recall the safety component for lifts within a prescribed period.

(2) Where an enforcing authority is not the Secretary of State and it takes measures under paragraph (1), it must notify the Secretary of State immediately.

(3) Where the Secretary of State receives notification under paragraph (2), or takes measures under paragraph (1), the Secretary of State must notify the European Commission and the other member States immediately.

(4) The notices referred to in paragraphs (2) and (3) must include details about the lift or the safety component for lifts and, in particular—

- (a) the data necessary for the identification of the lift or the safety component for lifts concerned;



- (b) the origin and the supply chain of the lift or the safety component for lifts;
  - (c) the nature of the risk involved; and
  - (d) the nature and duration of the measures taken by the enforcing authority.
- (5) In this regulation, “prescribed period” means a period which is—
- (a) prescribed by the enforcing authority; and
  - (b) reasonable and commensurate with the nature of the risk presented by the lift or the safety component for lifts.

### **Enforcement action in respect of formal non-compliance**

**68.**—(1) Where an enforcing authority makes one of the following findings relating to a lift or the safety component for lifts, it must require a relevant economic operator to put an end to the non-compliance concerned within a specified period—

- (a) the CE marking—
  - (i) has not been affixed; or
  - (ii) has been affixed otherwise than in accordance with regulations 45 (prohibition on improper use of CE marking) and 50 (CE marking);
- (b) where a notified body is involved in the production control phase for the lift or the safety component for lifts, the identification number of the notified body—
  - (i) has not been affixed; or
  - (ii) has been affixed otherwise than in accordance with regulation 50;
- (c) the EU declaration of conformity—
  - (i) has not been drawn up; or
  - (ii) has been drawn up otherwise than in accordance with regulations 8 (EU declaration of conformity and CE marking) and 17 (EU declaration of conformity and CE marking) and 49 (EU declaration of conformity);
- (d) the technical documentation is either not available or not complete;
- (e) the following information that is required to be included in the labelling is absent, false or incomplete—
  - (i) in relation to lifts, the information specified in regulation 10(1);
  - (ii) in relation to safety components for lifts, the information specified in regulation 19(1) and 28(1); or
- (f) any other administrative requirement imposed on the manufacturer or importer under Part 2 has not been fulfilled.

(2) The enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned until the specified period has elapsed.

(3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—

- (a) in relation to a lift—
  - (i) restrict or prohibit the use of the lift; or
  - (ii) recall the lift;
- (b) in relation to a safety component for lifts—
  - (i) restrict or prohibit the safety component for lifts being made available on the market;
  - (ii) ensure that the safety component for lifts is withdrawn; or
  - (iii) ensure that the safety component for lifts is recalled.

(4) This regulation does not apply where a lift or a safety component for lifts presents a risk.

## **Restrictive measures**

**69.** When enforcing these Regulations, an enforcing authority must comply with the requirements of Article 21 of RAMS in relation to any measure to—

- (a) in relation to a lift—
  - (i) prohibit or restrict a lift being placed on the market;
  - (ii) prohibit or restrict the use of a lift; or
  - (iii) recall a lift;
- (b) in relation to a safety component for lifts—
  - (i) prohibit the safety component for lifts being made available on the market;
  - (ii) withdraw a safety component for lifts; or
  - (iii) recall a safety component for lifts.

## **Offences**

**70.**—(1) It is an offence for a person to contravene or fail to comply with any requirement of regulation 6 to 12, 13(2), 14 to 22, 23(2), 25 to 33, 34(2), 36 to 40, 41(2), 44 or 45.

(2) It is an offence for any person to contravene or fail to comply with any requirement of a withdrawal or recall notice served on that person by an enforcing authority under these Regulations.

## **Penalties**

**71.**—(1) Subject to paragraph (2), a person guilty of an offence under regulation 70 is liable on summary conviction—

- (a) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months or to both;
- (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 3 months or to both.

(2) A person guilty of an offence under regulation 9, 13(2), 18, 23(2), 34(2) or 41(2) is liable on summary conviction —

- (a) in England and Wales, to a fine;
- (b) in Scotland or Northern Ireland, to a fine not exceeding the level 5 on the standard scale.

## **Defence of due diligence**

**72.**—(1) Subject to paragraph (2), (4) and (6), in proceedings for an offence under regulation 70, it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served a notice in accordance with paragraph (3); or
- (b) obtained the leave of the court.

(3) The notice must—

- (a) give any information in P’s possession which identifies or assists in identifying the person who—
  - (i) committed the act or default; or
  - (ii) supplied the information on which P relied.
- (b) be served on the person bringing the proceedings not less than 7 clear days before—
  - (i) in England, Wales and Northern Ireland, the hearing of the proceedings;

(ii) in Scotland, the trial diet.

(4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable for P to have relied upon the information, having regard in particular—

- (a) to the steps that P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether P had any reason to disbelieve the information.

(5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due—

- (a) to the act or default of another person; or
- (b) to reliance on information supplied by another person.

### **Liability of persons other than principal offender**

**73.**—(1) Where the commission of an offence by one person (“A”) under regulation 70 is due to anything which another person (“B”) did or failed to do in the course of business, B is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against A.

(2) Where a body corporate commits an offence, a relevant person is also guilty of the offence where the body corporate’s offence was committed—

- (a) with the consent or connivance of the relevant person; or
- (b) as a result of the negligence of the relevant person.

(3) In paragraph (2), “relevant person” means—

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
- (c) in relation to a Scottish partnership, a partner; or
- (d) a person purporting to act as a person described in sub-paragraphs (a), (b) or (c).

### **Time limit for prosecution of offences**

**74.**—(1) In England and Wales, an information relating to an offence under regulation 70 may be so tried if it is laid within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(2) In Scotland—

- (a) summary proceedings for an offence under regulation 70 may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate’s opinion to justify the proceedings came to the Lord Advocate’s knowledge; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (a) (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(3) In Northern Ireland summary proceedings for an offence under regulation 70 may be instituted within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the knowledge of the prosecutor.

(4) No proceedings may be brought more than 3 years after the commission of the offence.

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(a) 1995 c.46.

(5) For the purposes of this regulation a certificate of the prosecutor (or in Scotland, the Lord Advocate) as to the date on which the evidence referred to paragraphs (1), (2) or (3) came to light, is conclusive evidence.

(6) This regulation has effect subject to—

- (a) in England and Wales and Scotland, paragraphs 1(o) and 2(n) of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act);
- (b) in Northern Ireland, paragraphs 1(o) and 2(n) of Schedule 9 (enforcement powers of the Department under the 1978 Order).

### **Service of documents**

**75.**—(1) Any document required or authorised by these Regulations to be served on a person may be served by—

- (a) delivering it to that person in person;
- (b) leaving it at that person’s proper address; or
- (c) sending it by post or electronic means to that person’s proper address.

(2) In the case of a body corporate, a document may be served on a director of that body.

(3) In the case of a partnership, a document may be served on a partner or a person having control or management of the partnership business.

(4) For the purposes of this regulation, “proper address” means—

- (a) in the case of a body corporate or its director—
  - (i) the registered or principal office of that body; or
  - (ii) the email address of the secretary or clerk of that body;
- (b) in the case of a partnership, a partner or person having control or management of the partnership business—
  - (i) the principal office of the partnership; or
  - (ii) the email address of a partner or person having that control or management;
- (c) in any other case, a person’s last known address, which includes an email address.

(5) If a person to be served with a document has specified an address in the United Kingdom (other than that person’s proper address) at which that person or someone on that person’s behalf will accept service, that address must also be treated as that person’s proper address.

(6) In this regulation, “partnership” includes a Scottish partnership.

### **Recovery of expenses of enforcement**

**76.**—(1) This regulation applies where a person commits an offence under regulation 70.

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person to reimburse the enforcing authority for any expenditure which the enforcing authority has incurred in investigating the offence.

### **Action by enforcing authority**

**77.**—(1) An enforcing authority may itself take action which an economic operator could have been required to take by a notice served under these Regulations where the conditions for serving such a notice are met and either—

- (a) the enforcing authority has been unable to identify any economic operator on whom to serve such a notice; or
- (b) the economic operator on whom such a notice has been served has failed to comply with it.

(2) If the enforcing authority has taken action as a result of the condition in paragraph (1)(b) being met, the authority may recover from the economic operator, as a civil debt, any costs or expenses reasonably incurred by the enforcing authority in taking the action.

(3) A civil debt recoverable under paragraph (2) may be recovered summarily—

- (a) in England and Wales by way of a complaint pursuant to section 58 of the Magistrates' Courts Act 1980(a);
- (b) in Northern Ireland in proceedings under article 62 of the Magistrates' Courts (Northern Ireland) Order 1981(b).

### **Appeals against notices**

**78.**—(1) An application for an order to vary or set aside the terms of a notice served under these Regulations may be made—

- (a) by the economic operator on whom the notice has been served; and
- (b) in the case of a notice other than a recall notice, by a person having an interest in the lift or safety component for lifts article in respect of which the notice has been served.

(2) An application must be made before the end of the period of 21 days beginning with the day on which the notice was served.

(3) The appropriate court may only make an order setting aside a notice served under these Regulations if satisfied—

- (a) that the lift or safety component for lifts to which the notice relates is in conformity with Part 2; or
- (b) that the enforcing authority failed to comply with regulation 63 (exercise of enforcement powers) when serving the notice.

(4) On an application to vary the terms of a notice served under these Regulations, the appropriate court may vary the terms of the notice as it considers appropriate.

(5) In this regulation—

- (a) the “appropriate court” is to be determined in accordance with regulation 79 (appropriate court for appeals against notices); and
- (b) “notice” means any of the following—
  - (i) a prohibition notice served in accordance with Schedule 7 (enforcement powers of the Secretary of State and the Department under the 1987 Act);
  - (ii) a notice to warn served in accordance with Schedule 7;
  - (iii) a suspension notice served in accordance with Schedule 7;
  - (iv) a compliance notice served in accordance with Schedule 10 (compliance, withdrawal and recall notices);
  - (v) a withdrawal notice served in accordance with Schedule 10;
  - (vi) a recall notice served in accordance with Schedule 10.

### **Appropriate court for appeals against notices**

**79.**—(1) In England and Wales or Northern Ireland, the appropriate court for the purposes of regulation 78 is—

- (a) the court in which proceedings have been brought in relation to the lift or the safety component for lifts for an offence under regulation 70 (offences);
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the lift or the safety component for lifts and which has been served under or by virtue of

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(a) 1980 c.43; section 58 was amended by the Crime and Courts Act 2013 (c.22), Schedule 10 paragraph 40.

(b) S.I. 1981/1675 (NI 26).

paragraph 1 of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act);

- (c) in Northern Ireland, an industrial tribunal seized of appeal proceedings against a notice which relates to the lift or the safety component for lifts and which has been served under or by virtue of paragraph 1 of Schedule 9 (enforcement powers of the Department under the 1978 Order);
- (d) in any other case, a magistrates' court.

(2) In Scotland, the appropriate court for the purposes of regulation 78 is—

- (a) the sheriff of a sheriffdom in which the person making the appeal resides or has a registered or principal office; or
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the lift or the safety component for lifts and which has been served under or by virtue of paragraph 1 of Schedule 8.

(3) A person aggrieved by an order made by a magistrates' court in England and Wales or Northern Ireland pursuant to an application under regulation 78, or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court.

### **Compensation**

**80.**—(1) When an enforcing authority, other than the Health and Safety Executive or, in relation to lifts for use in the workplace or safety components for such lifts, the Department, serves a relevant notice in respect of a lift or a safety component for lifts, that authority is liable to pay compensation to a person having an interest in the lift or the safety component for lifts for any loss or damage suffered by reason of the notice if both of the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) the lift or the safety component for lifts in respect of which the relevant notice was served neither—
  - (i) presents a risk; nor
  - (ii) contravenes any requirement of these Regulations; and
- (b) the relevant notice was not served because of neglect or default by a relevant economic operator.

(3) In this regulation, “relevant notice” means a suspension, withdrawal or recall notice (as referred to in regulation 78(5)(b)).

## **PART 6**

### **Miscellaneous**

#### **Review**

**81.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning on the commencement date.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

### **Transitional provisions**

**82.**—(1) For the purposes of these Regulations, a certificate or approval decision issued by a notified body under the 1997 Regulations, or any enactment of another member State which implemented the 1995 Directive, is to be treated as a certificate or approval decision issued under the Directive.

(2) In this regulation, “1995 Directive” means Directive 95/16/EC of the European Parliament and of the Council on the approximation of the laws of the member States relating to lifts(a).

### **Consequential revocations, savings and amendments**

**83.**—(1) Subject to paragraph (2), the 1997 Regulations are revoked.

(2) The 1997 Regulations continue to apply, as if they had not been revoked, to lifts and safety components for lifts placed on the market before the commencement date.

(3) Accordingly, despite their repeal by paragraph (1)—

- (a) the entry in paragraph 3(3) of Schedule 5 to the Consumer Rights Act 2015(b);
- (b) the entries in paragraph 9(3) of that Schedule; and
- (c) the entry in paragraph 10 of that Schedule relating to the 1997 Regulations,

relating to the 1997 Regulations, continue to have effect in relation to lifts and safety components for lifts placed on the market before the commencement date.

(4) In Schedule 1 to the Provision and Use of Work Equipment Regulations 1998(c)—

- (a) omit the entry relating to the 1997 Regulations; and
- (b) insert a new entry at the end, as follows—
  - (i) in the first column, add “The Lifts Regulations 2016”; and
  - (ii) in the second column, add “SI 2016/1093”.

(5) For the purposes of the enforcement of regulation 10 of the Provision and Use of Work Equipment Regulations 1998, those Regulations have effect as if the addition of the reference to the Lifts Regulations 2016 in Schedule 1 to those Regulations, effected by paragraph (4), had been made by means of regulations made under section 15 of the 1974 Act.

(6) Schedule 2 to the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(d) is amended as follows—

- (a) omit the entry relating to the 1997 Regulations; and
- (b) insert a new entry at the end, as follows—
  - (i) in the first column, add “The Lifts Regulations 2016”; and

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(a) OJ L 213, 7.9.1995, p.1; as last amended by Regulation (EU) No 1025/2012 of the European Parliament and of the council of 25 October 2012 (OJ L 316, 14.11.2012, p.12).

(b) 2015 c.15.

(c) S.I. 1998/2306, to which there are amendments not relevant to these Regulations.

(d) S.R. 1999/305, to which there are amendments not relevant to these Regulations.

(ii) in the second column, add “SI 2016/1093”.

(7) For the purposes of the enforcement of regulation 10 of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999, those Regulations have effect as if the addition of the reference to the Lifts Regulations 2016 in Schedule 2 to those Regulations, effected by paragraph (6), had been made by means of regulations made under Article 17 of the 1978 Order.

(8) The Lifting Operations and Lifting Equipment Regulations 1998(a) are amended as follows—

- (a) in regulation 2(1), in the definition of “EC declaration of conformity”, for “regulation 8(2)(d) of the Lifts Regulations 1997”, substitute “regulation 49 of the Lifts Regulations 2016”; and
- (b) in regulation 9(1)(b), for “the Lifts Regulations 1997”, substitute “the Lifts Regulations 2016”.

(9) The Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999(b) are amended as follows—

- (a) in regulation 2, in the definition of “EC declaration of conformity”, for “regulation 8(2)(d) of the Lifts Regulations 1997”, substitute “regulation 49 of the Lifts Regulations 2016”; and
- (b) in regulation 9(1)(b), for “the Lifts Regulations 1997”, substitute “the Lifts Regulations 2016”.

(10) In regulation 3(2)(a) of the Cableway Installations Regulations 2004(c), for “the Lifts Regulations 1997”, substitute “the Lifts Regulations 2016”.

(11) In Schedule 1 to the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information Specification) Order 2004(d), for “Lifts Regulations 1997”, substitute “Lifts Regulations 2016”.

(12) Subject to paragraph (3), Schedule 5 to the Consumer Rights Act 2015 is amended as follows—

- (a) in paragraph 3(3), for “paragraph 3(1) of Schedule 15 to the Lifts Regulations 1997 (SI 1997/831)”, substitute “regulation 61(1) and (2) of the Lifts Regulations 2016 (SI 2016/1093)”;
- (b) in paragraph 9(3)—
  - (i) for “Lifts Regulations 1997 (SI 1997/831)”, substitute “Lifts Regulations 2016 (SI 2016/1093)”;
  - (ii) for “relevant products (within the meaning of Schedule 15 to the Regulations) for private use and consumption”, substitute “lifts for private use and consumption and safety components for such lifts”;
- (c) in paragraph 10—
  - (i) omit the entry “paragraph 2(a) or 3(1) of Schedule 15 to the Lifts Regulations 1997 (SI 1997/831)”;
  - (ii) at the appropriate place, insert—

“regulation 61(1) or (2) of the Lifts Regulations 2016 (SI 2016/1093);”.

*Margot James*

Parliamentary Under Secretary of State,

Minister for Small Business, Consumers and Corporate Responsibility

Department for Business, Energy and Industrial Strategy

15th November 2016

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(a) S.I. 1998/2307, to which there are amendments not relevant to these Regulations.  
(b) S.R. 1999 No. 304, to which there are amendments not relevant to these Regulations.  
(c) S.I. 2004/129, to which there are amendments not relevant to these Regulations.  
(d) S.I. 2004/693, to which there are amendments not relevant to these Regulations.



## SCHEDULE 1

Regulation 2(1)

### Essential Health and Safety Requirements

#### **Preliminary remarks**

1.—(1) Obligations under essential health and safety requirements apply only where the corresponding risk exists for the lift or safety component for lifts in question when used as intended by the installer or the manufacturer.

(2) The essential health and safety requirements contained in the Directive are imperatives. However, given the present state of the art, the objectives which they lay down may not be attainable. In such cases, and to the greatest extent possible, the lift or safety components for lifts must be designed and constructed in such a way as to approximate to those objectives.

(3) The manufacturer and the installer are under an obligation to carry out a risk assessment in order to identify all the risks which apply to their products; they must then design and construct them taking account of the assessment.

#### **General**

2.—(1) The general requirements are as follows.

##### *Application of Directive 2006/42/EC*

(2) Where the relevant risk exists and is not dealt with in this Annex, the essential health and safety requirements of Annex I to Directive 2006/42/EC of the European Parliament and of the Council apply. The essential health and safety requirements of point 1.1.2 of Annex I to Directive 2006/42/EC apply in any event.

##### *Carrier*

(3) The carrier of each lift must be a car. This car must be designed and constructed to offer the space and strength corresponding to the maximum number of persons and the rated load of the lift set by the installer.

(4) Where the lift is intended for the transport of persons, and where its dimensions permit, the car must be designed and constructed in such a way that its structural features do not obstruct or impede access and use by disabled persons and so as to allow any appropriate adjustments intended to facilitate its use by them.

##### *Means of suspension and means of support*

(5) The means of suspension and/or support of the car, its attachments and any terminal parts thereof must be selected and designed so as to ensure an adequate level of overall safety and to minimise the risk of the car falling, taking into account the conditions of use, the materials used and the conditions of manufacture.

(6) Where ropes or chains are used to suspend the car, there must be at least two independent cables or chains, each with its own anchorage system. Such ropes and chains must have no joins or splices except where necessary for fixing or forming a loop.

##### *Control of loading (including overspeed)*

(7) Lifts must be so designed, constructed and installed as to prevent normal starting if the rated load is exceeded.

(8) Lifts must be equipped with an overspeed governor.

(9) These requirements do not apply to lifts in which the design of the drive system prevents overspeed.

(10) Fast lifts must be equipped with a speed-monitoring and speed-limiting device.

(11) Lifts driven by friction pulleys must be designed so as to ensure stability of the traction cables on the pulley.

#### *Machinery*

(12) All passenger lifts must have their own individual lift machinery. This requirement does not apply to lifts in which the counterweights are replaced by a second car.

(13) The installer must ensure that the lift machinery and the associated devices of a lift are not accessible except for maintenance and in emergencies.

#### *Controls*

(14) The controls of lifts intended for use by unaccompanied disabled persons must be designed and located accordingly.

(15) The function of the controls must be clearly indicated.

(16) The call circuits of a group of lifts may be shared or interconnected.

(17) Electrical equipment must be so installed and connected that—

- (a) there can be no possible confusion with circuits which do not have any direct connection with the lift;
- (b) the power supply can be switched while on load;
- (c) movements of the lift are dependent on electrical safety devices in a separate electrical safety circuit;
- (d) a fault in the electrical installation does not give rise to a dangerous situation.

### **Risks for persons outside the car**

**3.**—(1) The lift must be designed and constructed to ensure that the space in which the car travels is inaccessible except for maintenance or in emergencies. Before a person enters that space, normal use of the lift must be made impossible.

(2) The lift must be designed and constructed to prevent the risk of crushing when the car is in one of its extreme positions.

(3) The objective will be achieved by means of free space or refuge beyond the extreme positions.

(4) However, in specific cases, in affording member States the possibility of giving prior approval, particularly in existing buildings, where this solution is impossible to fulfil, other appropriate means may be provided to avoid this risk.

(5) The landings at the entrance and exit of the car must be equipped with landing doors of adequate mechanical resistance for the conditions of use envisaged.

(6) An interlocking device must prevent during normal operation—

- (a) starting movement of the car, whether or not deliberately activated, unless all landing doors are shut and locked;
- (b) the opening of a landing door when the car is still moving and outside a prescribed landing zone.

(7) However, all landing movements with the doors open are allowed in specified zones on condition that the levelling speed is controlled.

### **Risks for persons in the car**

**4.**—(1) Lift cars must be completely enclosed by full-length walls, fitted floors and ceilings included, with the exception of ventilation apertures, and with full-length doors. These doors must be so designed and installed that the car cannot move, except for the landing movements referred to in the third sub-paragraph of point 2.3, unless the doors are closed, and comes to a halt if the doors are opened.

(2) The doors of the car must remain closed and interlocked if the lift stops between two levels where there is a risk of a fall between the car and the shaft or if there is no shaft.

(3) In the event of a power cut or failure of components the lift must have devices to prevent free fall or uncontrolled movements of the car.

(4) The device preventing the free fall of the car must be independent of the means of suspension of the car.

(5) This device must be able to stop the car at its rated load and at the maximum speed anticipated by the installer. Any stop occasioned by this device must not cause deceleration harmful to the occupants whatever the load conditions.

(6) Buffers must be installed between the bottom of the shaft and the floor of the car.

(7) In this case, the free space referred to in point 2.2 must be measured with the buffers totally compressed.

(8) This requirement does not apply to lifts in which the car cannot enter the free space referred to in point 2.2 by reason of the design of the drive system.

(9) Lifts must be so designed and constructed as to make it impossible for them to be set in motion if the device provided for in point 3.2 is not in an operational position.

### **Other risks**

**5.**—(1) The landing doors and car doors or the two doors together, where motorised, must be fitted with a device to prevent the risk of crushing when they are moving.

(2) Landing doors, where they have to contribute to the protection of the building against fire, including those with glass parts, must be suitably resistant to fire in terms of their integrity and their properties with regard to insulation (containment of flames) and the transmission of heat (thermal radiation).

(3) Counterweights must be so installed as to avoid any risk of colliding with or falling on to the car.

(4) Lifts must be equipped with means enabling people trapped in the car to be released and evacuated.

(5) Cars must be fitted with two-way means of communication allowing permanent contact with a rescue service.

(6) Lifts must be so designed and constructed that, in the event of the temperature in the lift machine exceeding the maximum set by the installer, they can complete movements in progress but refuse new commands.

(7) Cars must be designed and constructed to ensure sufficient ventilation for passengers, even in the event of a prolonged stoppage.

(8) The car should be adequately lit whenever in use or whenever a door is opened; there must also be emergency lighting.

(9) The means of communication referred to in point 4.5 and the emergency lighting referred to in point 4.8 must be designed and constructed so as to function even without the normal power supply. Their period of operation should be long enough to allow normal operation of the rescue procedure.

(10) The control circuits of lifts which may be used in the event of fire must be designed and manufactured so that lifts may be prevented from stopping at certain levels and allow for priority control of the lift by rescue teams.

### **Marking**

**6.**—(1) In addition to the minimum particulars required for any machine pursuant to point 1.7.3 of Annex I to Directive 2006/42/EC, each car must bear an easily visible plate clearly showing the rated load in kilograms and the maximum number of passengers which may be carried.

(2) If the lift is designed to allow people trapped in the car to escape without outside help, the relevant instructions must be clear and visible in the car.

### **Instructions**

7.—(1) The safety components for lifts listed in Schedule 3 must be accompanied by instructions, so the following can be carried out effectively and without danger—

- (a) assembly;
- (b) connection;
- (c) adjustment;
- (d) maintenance.

(2) Each lift must be accompanied by instructions. The instructions must contain at least the following documents—

- (a) instructions containing the plans and diagrams necessary for normal use and relating to maintenance, inspection, repair, periodic checks and the rescue operations referred to in point 4.4;
- (b) a logbook in which repairs and, where appropriate, periodic checks can be noted.

## **SCHEDULE 2**

Regulation 3(2)(b)

### **Excluded lifts**

1. Lifting appliances whose speed is not greater than 0.15m/s.
2. Construction site hoists.
3. Cableways, including funicular railways.
4. Lifts specially designed and constructed for military or police purposes.
5. Lifting appliances from which work can be carried out.
6. Mine winding gear.
7. Lifting appliances intended for lifting performers during artistic performances.
8. Lifting appliances fitted in means of transport.
9. Lifting appliances connected to machinery and intended exclusively for access to workstations including maintenance and inspection points on the machinery.
10. Rack and pinion trains.
11. Escalators and mechanical walkways.

## **SCHEDULE 3**

Regulation 2(1)

### **List of safety components referred to in Article 1(1) of the Directive**

1. Devices for locking landing doors.
2. Devices to prevent falls referred to in point 3.2 of Schedule 1 to prevent the car from falling or uncontrolled movements.
3. Overspeed limitation devices.
4. (a) Energy-accumulating buffers:

- (i) non-linear, or
  - (ii) with damping of the return movement.
- (b) Energy-dissipating buffers.

**5.** Safety devices fitted to jacks of hydraulic power circuits where these are used as devices to prevent falls.

**6.** Electric safety devices in the form of safety circuits containing electric components.

## SCHEDULE 4

Regulation 2(1)

### Notified body requirements

**1.** A conformity assessment body must be established in the United Kingdom and have legal personality.

**2.—(1)** A conformity assessment body must be a third party body independent of the organisation or the lift or safety component for lifts it assesses.

(2) A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of lifts or safety components for lifts which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered to be independent under sub-paragraph (1).

**3.—(1)** A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of lifts or safety components for lifts, nor the representative of any of those parties.

(2) Sub-paragraph (1) does not preclude the use of assessed lifts or safety components for lifts that are necessary for the operations of the conformity assessment body or the use of such lifts or safety components for lifts for personal purposes.

(3) Sub-paragraph (1) does not preclude the possibility of exchange of technical information between the manufacturer or the installer and the conformity assessment body.

**4.** A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of lifts or safety components for lifts, or represent the parties engaged in those activities.

**5.** A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not engage in activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified (including consultancy services).

**6.** A conformity assessment body must ensure that the activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

**7.** A conformity assessment body and its personnel must carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons who have an interest in those activities.

**8.** A conformity assessment body must be capable of carrying out all of the conformity assessment activities in relation to which it has been, or is to be, notified, whether those activities are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

- 9.** A conformity assessment body must have at its disposal—
- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;
  - (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures, and have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
  - (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.
- 10.** A conformity assessment body must have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to the necessary equipment or facilities.
- 11.** The personnel responsible for carrying out conformity assessment activities must have—
- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
  - (b) satisfactory knowledge of the requirements of the assessments which the personnel carry out and adequate authority to carry out those assessments;
  - (c) appropriate knowledge and understanding of the essential health and safety requirements, the applicable harmonised standards, the Directive and these Regulations;
  - (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.
- 12.** A conformity assessment body must be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.
- 13.** The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities must not depend on the number of assessments carried out or on the results of those assessments.
- 14.** A conformity assessment body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.
- 15.** A conformity assessment body must ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations and that proprietary rights are protected.
- 16.** Paragraph 15 does not prevent the personnel from providing information to the Secretary of State or an enforcing authority.
- 17.** A conformity assessment body must participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of the Coordination Group of Notified Bodies for Lifts established under the Directive and must apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

## SCHEDULE 5

Regulation 49(c)

### EU declaration of conformity

#### PART 1

##### EU declaration of conformity for lifts

**1.** The EU declaration of conformity for lifts must be drafted in the same language as the instructions referred to in point 6.2 of Schedule 1 and contain the following information—

- (a) business name and address of the installer;
- (b) where appropriate, business name and address of the authorised representative;
- (c) description of the lift, details of the type or series, serial number and address where the lift is installed;
- (d) year of installation of the lift;
- (e) all relevant provisions to which the lift conforms;
- (f) a statement that the lift is in conformity with the Directive;
- (g) where appropriate, reference(s) to harmonised standard(s) used;
- (h) where appropriate, the name, address and identification number of the notified body which carried out the EU-type examination of lifts set out in Part B of Annex IV to the Directive (as amended from time to time) and the reference of the EU-type examination certificate issued by that notified body;
- (i) where appropriate, the name, address and identification number of the notified body which carried out the unit verification for lifts set out in Annex VIII to the Directive (as amended from time to time);
- (j) where appropriate, the name, address and identification number of the notified body which carried out the final inspection for lifts set out in Annex V to the Directive (as amended from time to time);
- (k) where appropriate, the name, address, and identification number of the notified body which approved the quality assurance system operated by the installer in accordance with the conformity assessment procedure set out in Annex X, XI or XII to the Directive (as amended from time to time);
- (l) the name and function of the person empowered to sign the declaration on behalf of the installer or the installer's authorised representative;
- (m) place and date of signature;
- (n) signature.

#### PART 2

##### EU declaration of conformity for safety components for lifts

**2.** The EU declaration of conformity for safety components for lifts must contain the following information—

- (a) business name and address of the manufacturer;
- (b) where appropriate, business name and address of the authorised representative;
- (c) description of the safety component for lifts, details of type or series and serial number (if any); it may, where necessary for the identification of the safety component for lifts, include an image;
- (d) safety function of the safety component for lifts, if not obvious from the description;
- (e) year of manufacture of the safety component for lifts;

- (f) all relevant provisions with which the safety component for lifts complies;
- (g) a statement that the safety component for lifts is in conformity with the relevant Union harmonisation legislation;
- (h) where appropriate, reference(s) to harmonised standard(s) used;
- (i) where appropriate, the name, address and identification number of the notified body which carried out the EU-type examination of safety components for lifts set out in Part A of Annex IV and Annex VI to the Directive (as amended from time to time), and the reference of the EU- type examination certificate issued by that notified body;
- (j) where appropriate, the name, address and identification number of the notified body which carried out the conformity to type with random checking for safety components for lifts set out in Annex IX to the Directive (as amended from time to time);
- (k) where appropriate, the name, address and identification number of the notified body which approved the quality system operated by the manufacturer in accordance with the conformity assessment procedure set out in Annex VI or VII to the Directive (as amended from time to time);
- (l) the name and function of the person empowered to sign the declaration on behalf of the manufacturer or the manufacturer's authorised representative;
- (m) place and date of signature;
- (n) signature.

## SCHEDULE 6

Regulation 58

### Operational obligations of notified bodies

**1.** A notified body must carry out conformity assessments in accordance with the relevant conformity assessment procedures.

**2.** A notified body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

**3.** A notified body must perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

**4.** A notified body must respect the degree of rigour and the level of protection required to ensure that the lift or the safety component for lifts is in conformity with the requirements of these Regulations.

**5.** Where a notified body finds that essential health and safety requirements or corresponding harmonised standards or other technical specifications have not been met by an installer or a manufacturer, it must require the installer or the manufacturer to take appropriate corrective measures and must not issue a certificate of conformity or an approval decision.

**6.** Where, in the course of the monitoring of conformity following the issue of a certificate or an approval decision, a notified body finds that a lift or safety component for lifts is no longer in conformity with the essential health and safety requirements, it must require the installer or the manufacturer to take appropriate corrective measures and must suspend or withdraw the certificate of conformity or approval decision (if necessary).

**7.** Where the notified body has required an installer or a manufacturer to take corrective measures and the installer or the manufacturer has failed to take such measures, or those measures have not had the required effect, the notified body must restrict, suspend or withdraw any certificate of conformity or approval decision.

**8.** Paragraph 9 applies where a notified body is minded to—

- (a) refuse to issue a certificate of conformity or approval decision; or



(b) restrict, suspend or withdraw a certificate of conformity or approval decision.

**9.** Where this paragraph applies, the notified body must—

- (a) give the person applying for the certificate or approval decision, or the person to whom the certificate or approval decision was given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;
- (b) give the person applying for the certificate or approval decision, or the person to whom the certificate or approval decision was given, an opportunity to make representations within a reasonable period from the date of the notice; and
- (c) take account of any such representations before taking its decision.

**10.** A notified body must inform the Secretary of State of—

- (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity or approval decision;
- (b) any circumstances affecting the scope of, or conditions for, notification under regulation 52 (notification);
- (c) any request for information which it has received from an enforcing authority regarding conformity assessment activities; and
- (d) on request, conformity assessment activities performed within the scope of its notification under regulation 52 and any other activity performed, including cross-border activities and subcontracting.

**11.** A notified body must make provision in its contracts with its clients enabling such clients to appeal against a decision—

- (a) to refuse to issue a certificate of conformity or approval decision; or
- (b) to restrict, suspend or withdraw a certificate of conformity or approval decision.

**12.** A notified body must provide other bodies notified under the Directive carrying out similar conformity assessment activities covering the same type of lifts or the same safety components for lifts with relevant information on issues relating to negative and, on request, positive conformity assessment results.

**13.** A notified body must participate in the work of the Coordination Group of Notified Bodies for Lifts established under the Directive, directly or by means of its designated representatives.

## SCHEDULE 7

Regulation 62(1)

### Enforcement powers of the Secretary of State and the Department under the 1987 Act

#### Enforcement powers under the 1987 Act

**1.** For the purposes of enforcing these Regulations, the following sections of the 1987 Act apply subject to the modifications in paragraph 2—

- (a) section 13 (prohibition notices and notices to warn);
- (b) section 14 (suspension notices);
- (c) section 16 (forfeiture: England and Wales and Northern Ireland);
- (d) section 17 (forfeiture: Scotland);
- (e) section 18 (power to obtain information);
- (f) section 29 (powers of search etc);
- (g) section 30 (provisions supplemental to s 29);

- (h) section 31 (powers of customs officer to detain goods);
- (i) section 33 (appeals against detention of goods);
- (j) section 34 (compensation for seizure and detention);
- (k) section 35 (recovery of expenses of enforcement);
- (l) section 37 (power of Commissioners for Revenue and Customs to disclose information);
- (m) section 45 (interpretation);
- (n) section 46(1) (meaning of “supply”); and
- (o) Schedule 2 (prohibition notices and notices to warn).

### **Modifications to the 1987 Act**

2. The sections of the 1987 Act referred to in paragraph 1 are to apply as if—

- (a) in section 13—
  - (i) in subsection (1), “relevant” were omitted on each occasion that it appears;
  - (ii) in subsection (1), for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”;
  - (iii) in subsection (2), the words from “; and the Secretary of State may” to the end were omitted; and
  - (iv) subsections (4) to (7) were omitted;
- (b) in section 14—
  - (i) in subsection (1), after “any safety provision has been contravened in relation to any goods”, there were inserted “or that any goods present a risk”;
  - (ii) in subsection (2)(b), after “a safety provision has been contravened in relation to the goods”, there were inserted “or that the goods present a risk”;
  - (iii) in subsection (2)(c), “under section 15 below” were omitted; and
  - (iv) subsections (6) to (8) were omitted;
- (c) in section 16—
  - (i) in subsection (1), after “a contravention in relation to the goods of a safety provision”, there were inserted “or that the goods present a risk”;
  - (ii) for subsection (2)(b) there were substituted—
    - “(b) where an application with respect to some or all of the goods has been made to a magistrates’ court under regulation 78 (appeals against notices) of the Lifts Regulations 2016 or section 33, to that court; and”;
  - (iii) in subsection (3), after “a contravention in relation to the goods of a safety provision”, there were inserted “or that the goods present a risk”;
  - (iv) after subsection (4) there were inserted —
    - “(4A) A court may infer for the purposes of this section that any goods present a risk if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
  - (v) in subsection (6), for “Subject to subsection (7) below, where” there were substituted “Where”; and
  - (vi) subsection (7) were omitted;
- (d) in section 17—
  - (i) in subsection (1), after “a contravention of a safety provision”, there were inserted “or where the goods present a risk”;
  - (ii) in subsection (6), after “a contravention in relation to those goods of a safety provision”, there were inserted “or that those goods present a risk”; and

- (iii) after subsection (7), there were inserted—
  - “(7A) The sheriff may infer for the purposes of this section that any goods present a risk if satisfied that such risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
- (e) in section 18, subsections (3) and (4) were omitted;
- (f) in section 29—
  - (i) in subsection (4)(a), after “any contravention of any safety provision in relation to the goods”, there were inserted “or whether the goods present a risk”;
  - (ii) in subsection (4)(b), after “any such contravention”, there were inserted “or whether the goods present a risk”; and
  - (iii) in subsection (7), after “a contravention of any safety provision”, there were inserted “or prevent goods from presenting risk”;
- (g) in section 30—
  - (i) after subsection (2)(a)(ii), for “and”, there were substituted—
    - “or
    - (iii) that any goods which any officer has power to inspect under section 29(4) are on any premises and their inspection is likely to demonstrate that they present a risk; and”;
  - (ii) subsections (5), (7) and (8) were omitted;
- (h) in section 31(1), for “Part II of this Act, or by section 29(4) of this Act”, there were substituted “the Lifts Regulations 2016”;
- (i) in section 34(1)—
  - (i) at the end of paragraph (a), “and” were omitted;
  - (ii) after paragraph (a), there were inserted—
    - “(aa) the goods do not present a risk; and”;
- (j) in section 37(1), for “Part II of this Act”, there were substituted “the Lifts Regulations 2016”;
- (k) in section 45(1)—
  - (i) the definitions of “conditional sale agreement”, “credit-sale agreement”, “gas”, “motor vehicle”, “personal injury”, “subordinate legislation” and “substance” were omitted;
  - (ii) for the definition of “enforcement authority” there were substituted—
    - ““enforcement authority” means an enforcing authority within the meaning of regulation 2(1) of the Lifts Regulations 2016;”;
  - (iii) for the definition of “goods” there were substituted—
    - ““goods” means a lift or safety component for lifts within the meaning of regulation 2(1) of the Lifts Regulations 2016;”;
  - (iv) after the definition of “modifications”, there were inserted—
    - ““non-compliant”, in relation to any goods, means that—
    - (a) a safety provision has been contravened in relation to the goods; or
    - (a) the goods present a risk;”
  - (v) after the definition of “premises”, there were inserted—
    - ““present a risk” means present a risk within the meaning set out in regulation 2(4) of the Lifts Regulations 2016;”;
  - (vi) for the definition of “safety provision” there were substituted—
    - ““safety provision” means any provision of the Lifts Regulations 2016;” and

- (vii) for the definition of “safety regulations” there were inserted—
  - ““safety regulations” means the Lifts Regulations 2016;”
- (l) in section 46(1), the words “and, in relation to gas or water, those references are to be construed as including references to providing the service by which the gas or water is made available for use” were omitted; and
- (m) in Schedule 2—
  - (i) for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”; and
  - (ii) for “safe”, on each occasion that it appears, there were substituted “not non-compliant”.

## SCHEDULE 8

Regulation 62(2)

### Enforcement powers of the Health and Safety Executive under the 1974 Act

#### **Enforcement powers under the 1974 Act**

**1.** For the purposes of enforcing these Regulations, the following sections of the 1974 Act apply subject to the modifications in paragraph 2—

- (a) Section 10(1) (establishment of the Executive);
- (b) section 19 (appointment of inspectors);
- (c) section 20 (powers of inspectors);
- (d) section 21 (improvement notices);
- (e) section 22 (prohibition notices);
- (f) section 23 (provisions supplementary to ss 21 and 22);
- (g) section 24 (appeal against improvement or prohibition notice);
- (h) section 25 (power to deal with cause of imminent danger);
- (i) section 25A (power of customs officer to detain articles and substances);
- (j) section 26 (power of enforcing authorities to indemnify inspectors);
- (k) section 27 (obtaining of information by the Executive, enforcing authorities etc);
- (l) section 27A (information communicated by Commissioners for Revenue and Customs);
- (m) section 28 (restrictions on disclosure of information);
- (n) section 33 (offences);
- (o) section 34 (extension of time for bringing summary proceedings);
- (p) section 35 (venue);
- (q) section 39 (prosecution by inspectors);
- (r) section 41 (evidence); and
- (s) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

#### **Modifications to the 1974 Act**

**2.** The sections of the 1974 Act referred to in paragraph 1 are to apply as if—

- (a) references to “relevant statutory provisions” were references to—
  - (i) the provisions of the 1974 Act set out in paragraph 1, as modified by this paragraph; and

- (ii) these Regulations;
- (b) references to “risk” were references to “risk” within the meaning of regulation 2(4) of these Regulations;
- (c) in section 19—
  - (i) in subsection (1), for “Every enforcing authority” there were substituted “The Executive”;
  - (ii) in subsection (1), “within its field of responsibility” were omitted;
  - (iii) in subsection (2)(a), for “specified; and” there were substituted “so specified.”;
  - (iv) in subsection (2), paragraph (b) were omitted; and
  - (v) in subsection (3), for “enforcing authority which appointed him” there were substituted “Executive”;
- (d) in section 20—
  - (i) in subsection (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
  - (ii) in subsection (2)(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Executive”;
  - (iii) in subsection 2(h), for “him to have caused or to be likely to cause danger to health or safety”, there were substituted “contravene the relevant statutory provisions or present a risk; and
  - (iv) subsection (3) were omitted;
- (e) in section 21—
  - (i) before paragraph (a), there were inserted—
    - “(za) is placing on the market a lift, or making available on the market a safety component for lifts, which presents a risk;”;
  - (ii) after “specifying the”, there were inserted “risk, or”; and
  - (iii) after “requiring that person to”, there were inserted “address the risk or”;
- (f) for section 22(2) there were substituted—
  - “(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this section applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
    - (a) a risk; or
    - (b) a contravention of a relevant statutory provision.”;
- (g) in section 23, subsections (3), (4) and (6) were omitted;
- (h) in section 25A(1)—
  - (i) for “any enforcing authority or inspector”, there were substituted “the Executive or an inspector”; and
  - (ii) for “the authority”, there were substituted “the Executive”;
- (i) in section 26, for each of the following references there were substituted “the Executive”—
  - (i) “the enforcing authority which appointed him”;
  - (ii) “that authority”; and
  - (iii) “the authority”;
- (j) in section 27—
  - (i) in subsection (1)(a), “or” were omitted;
  - (ii) in subsection (1)(b) were omitted;

- (iii) in subsection (1), “or, as the case may be, to the enforcing authority in question” were omitted;
- (iv) subsection (3)(a) were omitted; and
- (v) in subsection (3)(b) for “functions; and” there were substituted “functions.”;
- (k) in section 27A(2)—
  - (i) for “an enforcing authority” there were substituted “the Executive”; and
  - (ii) the words from “, other than the Office for Nuclear Regulation” to the end were omitted;
- (l) in section 28—
  - (i) in subsection (1)(a), “, other than the Officer for Nuclear Regulation (or an inspector appointed by it),” were omitted;
  - (ii) in subsection (1)(a), “, by virtue of section 43A(6) below” were omitted;
  - (iii) in subsection (3)(a), “or any enforcing authority” were omitted;
  - (iv) in subsection (4), “or an enforcing authority” were omitted;
  - (v) in subsection (4), “(including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
  - (vi) in subsection (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions” were omitted;
  - (vii) in subsection (7), “14(4)(a) or” were omitted;
  - (viii) in subsection (7), for paragraph (b), there were substituted—
    - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
    - and
  - (ix) subsection (9B) were omitted;
- (m) in section 33—
  - (i) in subsection (1), paragraphs (a) to (i) and (k) to (m) were omitted;
  - (ii) for subsection (2), there were substituted—
    - “(2) A person guilty of an offence under section 33 is liable on summary conviction—
    - (i) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months, or to both;
    - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 3 months, or to both;” and
  - (iii) subsection (3) were omitted;
- (n) in section 34—
  - (i) in subsection (1), paragraphs (a) and (b) were omitted;
  - (ii) in subsection (1), for the words from “and it appears” to the end, there were substituted “and it appears from the investigation or, in a case falling within paragraph (d), from the proceedings at the inquiry, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the investigation or inquiry, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the investigation or inquiry.”; and
  - (iii) subsections (3) to (6) were omitted;
- (o) in section 35, for “any enforcing authority”, there were substituted “the Executive”;
- (p) in section 39(1), for “enforcing authority which appointed him” there were substituted “Executive”; and
- (q) in section 42, subsections (3A), (4) and (5) were omitted.

## Enforcement powers of the Department under the 1978 Order

**Enforcement powers under the 1978 Order**

1. For the purposes of enforcing these Regulations, the following sections of the 1978 Order apply subject to the modifications in paragraph 2—

- (a) Article 12(1) (establishment of the Executive)
- (b) Article 21 (appointment of inspectors);
- (c) Article 22 (powers of inspectors);
- (d) Article 23 (improvement notices);
- (e) Article 24 (prohibition notices);
- (f) Article 25 (provisions supplementary to Articles 23 and 24);
- (g) Article 26 (appeal against improvement or prohibition notice);
- (h) Article 27 (power to deal with cause of imminent danger);
- (i) Article 27A (power of customs officer to detain articles and substances);
- (j) Article 28 (power of enforcing authorities to indemnify their inspectors);
- (k) Article 29 (obtaining of information);
- (l) Article 29A (information communicated by Commissioners for Revenue and Customs);
- (m) Article 30 (restrictions on disclosure of information);
- (n) Article 31 (offences);
- (o) Article 32 (extension of time for bringing summary proceedings);
- (p) Article 33 (venue);
- (q) Article 36 (prosecutions by inspectors);
- (r) Article 38 (evidence); and
- (s) Article 39 (power of court to order cause of offence to be remedied and, in certain cases, forfeiture).

**Modifications to the 1978 Order**

2. The sections referred to in paragraph 1 apply as if—

- (a) references to “relevant statutory provisions” were references to—
  - (i) the provisions of the 1978 Order set out in paragraph 1, as modified by this paragraph; and
  - (ii) these Regulations;
- (b) references to “risk” were references to “risk” within the meaning of regulation 2(4) of these Regulations;
- (c) in Article 21—
  - (i) in paragraph (1), for “Every enforcing authority” there were substituted “the Department”;
  - (ii) in paragraph (1), “within its field of responsibility” were omitted;
  - (iii) in sub-paragraph (2)(a), for “specified; and” there were substituted “so specified.”;
  - (iv) sub-paragraph 2(b) were omitted; and
  - (v) in paragraph (3), for “enforcing authority which appointed him” there were substituted “Department”;
- (d) in Article 22—

- (i) in paragraph (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
- (ii) in sub-paragraph (2)(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Department”;
- (iii) in sub-paragraph 2(h), for “him to have caused or to be likely to cause danger to health or safety”, there were substituted “contravene the relevant statutory provisions or present a risk”; and
- (iv) paragraph (3) were omitted;
- (e) in Article 23—
  - (i) before paragraph (a), there were inserted—
    - “(za) is placing on the market a lift, or making available on the market a safety component for lifts, which presents a risk;”;
  - (ii) in paragraph (ii), after “specifying the”, there were inserted “risk or”; and
  - (iii) in paragraph (iv), after “requiring that person to”, there were inserted “address the risk or”;
- (f) for Article 24(2), for “of serious personal injury” there were substituted “or a contravention of a relevant statutory provision”;
- (g) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (h) in Article 27A(1)—
  - (i) for “any enforcing authority or inspector”, there were substituted “the Department or an inspector”;
  - (ii) for “the authority”, there were substituted “the Department”;
- (i) in Article 28, for each of the following references there were substituted “the Department”—
  - (i) “the enforcing authority which appointed him”;
  - (ii) “that authority”; and
  - (iii) “the authority”;
- (j) in Article 29(1)—
  - (i) in subparagraph (b)—
    - (aa) for “an enforcing authority”, there were substituted “the Department”;
    - (bb) for “the authority’s functions”, there were substituted “its functions”;
  - (ii) for “the Department concerned or the Executive”, there were substituted “the Department”; and
  - (iii) for “the Executive or, as the case may be, to the enforcing authority in question”, there were substituted “the Department”;
- (k) in Article 29A(2), for “an enforcing authority” there were substituted “the Department”;
- (l) in Article 30—
  - (i) for “Executive”, on each occasion that it appears, there were substituted “Department”;
  - (ii) in paragraph (3)(a), “or any enforcing authority” were omitted;
  - (iii) in paragraph (4), “or an enforcing authority” were omitted;
  - (iv) in paragraph (4), “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
  - (v) in paragraph (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions as the case may be” were omitted;
  - (vi) in paragraph (6), “16(4)(a) or” were omitted; and
  - (vii) in paragraph (6), for paragraph (b), there were substituted---



- “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
- (m) in Article 31—
- (i) in paragraph (1), the sub-paragraphs (a) to (i) and (k) to (m) were omitted;
  - (ii) for paragraph (2), there were substituted—
 

“(2) A person guilty of an offence under Article 31 is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.”; and
  - (iii) paragraph (3) were omitted;
- (n) in Article 32—
- (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted;
  - (ii) in paragraph (1), for the words from “and it appears” to the end, there were substituted “and it appears from the investigation at the inquest that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the inquest, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the inquest.”; and
  - (iii) paragraphs (3) and (4) were omitted;
- (o) in Article 33, for “any enforcing authority”, there were substituted “the Department”;
- (p) in Article 36, for “enforcing authority which appointed him” there were substituted “Department”; and
- (q) in Article 39, paragraphs (3A), (4) and (5) were omitted.

## SCHEDULE 10

Regulation 62(4)

### Compliance, withdrawal and recall notices

#### **Compliance notice**

**1.**—(1) An enforcing authority may serve a compliance notice on a relevant economic operator in respect of a lift or a safety component for lifts if the authority has reasonable grounds for believing that there is non-compliance.

(2) A compliance notice must—

- (a) require the relevant economic operator on which it is served to—
  - (i) end the non-compliance within such period as may be specified in the notice; or
  - (ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the enforcing authority that the non-compliance has not in fact occurred; and
- (b) warn the economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under sub-paragraph (a) within the period specified in the notice, further action may be taken in respect of—
  - (i) the lift or lifts of the same type placed on the market by the relevant economic operator;
  - (ii) the safety component for lifts or safety components for lifts of the same type made available on the market by the relevant economic operator.

(3) A compliance notice may include directions as to the measures to be taken by the economic operator to secure compliance, including different ways of securing compliance.

(4) Subject to paragraph (5), an enforcing authority may revoke or vary a compliance notice by serving a notification on the economic operator.

(5) An enforcing authority may not vary a compliance notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

### **Withdrawal notice**

**2.**—(1) An enforcing authority may serve a withdrawal notice on a relevant economic operator in respect of a safety component for lifts if the authority has reasonable grounds for believing that—

- (a) the safety component for lifts has been made available on the market; and
- (b) there is non-compliance.

(2) A withdrawal notice must prohibit the relevant economic operator from making the safety component for lifts available on the market without the consent of the enforcing authority.

(3) A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the safety component for lifts.

(4) A withdrawal notice may require the relevant economic operator to keep the enforcing authority informed of the whereabouts of any safety component for lifts referred to in the notice.

(5) A consent given by the enforcing authority pursuant to a withdrawal notice, may impose such conditions on the making available on the market as the enforcing authority considers appropriate.

(6) Subject to paragraph (7), an enforcing authority may revoke or vary a withdrawal notice by serving a notification on the economic operator.

(7) An enforcing authority may not vary a withdrawal notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

(8) A withdrawal notice has effect throughout the United Kingdom.

### **Recall notice**

**3.**—(1) The enforcing authority may serve a recall notice on a relevant economic operator in respect of a lift or a safety component for lifts if the authority has reasonable grounds for believing that—

- (a) the lift has been placed on the market or the safety component for lifts has been made available to end-users; and
- (b) there is non-compliance.

(2) A recall notice must require the relevant economic operator to use reasonable endeavours to organise the dismantling and safe disposal of the lift or the return of the safety component for lifts from end-users to the relevant economic operator or another person specified in the notice.

(3) A recall notice may—

- (a) require the recall to be effected in accordance with a code of practice;
- (b) require the relevant economic operator to—
  - (i) contact end-users in order to inform them of the recall, to the extent that it is practicable to do so;
  - (ii) publish a notice in such form and such manner as is likely to bring to the attention of end-users any risk the lift or the safety component for lifts poses and the fact of the recall; or
  - (iii) make arrangements for the collection or return of the safety component for lifts from end-users or its disposal; or
- (c) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the dismantling and safe disposal of a lift or the return of the safety component for lifts.

(4) In determining what requirements to include in a recall notice, the enforcing authority must take into consideration the need to encourage distributors and end-users to contribute to its implementation.

(5) A recall notice may only be issued by the enforcing authority where—

- (a) other action which it may require under these Regulations would not suffice to address the non-compliance;
- (b) the action being undertaken by the relevant economic operator is unsatisfactory or insufficient to address the non-compliance;
- (c) the enforcing authority has given not less than 10 days' notice to the relevant economic operator of its intention to serve such a notice; and
- (d) the enforcing authority has taken account of any advice obtained under sub-paragraph (6).

(6) A relevant economic operator which has received notice from the enforcing authority of an intention to serve a recall notice may at any time prior to the service of the recall notice require the authority to seek the advice of such person as the Institute determines on the questions of—

- (a) whether there is non-compliance; and
- (b) whether the issue of a recall notice would be proportionate.

(7) Sub-paragraphs (5)(b), (c) and (d) do not apply in the case of a lift or safety component for lifts presenting a serious risk requiring, in the view of the enforcing authority, urgent action.

(8) Where a relevant economic operator requires the enforcing authority to seek advice under sub-paragraph (6), that relevant economic operator is to be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the enforcing authority.

(9) In this regulation, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

(10) A recall notice served by the enforcing authority may require the relevant economic operator to keep the authority informed of the whereabouts of a safety component for lifts to which the recall notice relates, so far as the relevant economic operator is able to do so.

(11) Subject to paragraph (12), an enforcing authority may revoke or vary a recall notice by serving a notification on the economic operator.

(12) An enforcing authority may not vary a recall notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

(13) A recall notice has effect throughout the United Kingdom.

## **Interpretation**

4. In this Schedule, “non-compliance” means that the lift or safety component for lifts—

- (a) presents a risk; or
- (b) is not in conformity with Part 2 or RAMS in its application to lifts or safety components for lifts.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations transpose Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of member States relating to lifts and safety components for lifts (recast) (OJ L 96, 29.3.2014, p.251) (“the Directive”).

The Directive repeals and replaces Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the member States relating to lifts (OJ L 213, 7.9.1995, p.1) which was implemented in the United Kingdom by the Lifts Regulations 1997 (S.I. 1997/831 (as amended)). These Regulations revoke and replace S.I. 1997/831.

Regulation 3 defines the scope of these Regulations. Regulation 4 provides an exception allowing the use of lifts and safety components for lifts which are not in conformity with Part 2 of the Regulations for the purposes of trade fairs, exhibitions and demonstrations. Regulation 5 provides an exception where the essential health and safety requirements relate to risks wholly or partly covered by other specific EU legislation.

Part 2 sets out the obligations of economic operators. Regulations 6 to 14 set out the obligations that are specific to installers of lifts. These obligations include ensuring that a lift has been designed, manufactured, installed and tested in accordance with the essential health and safety requirements set out in Schedule 1, having a relevant conformity assessment procedure carried out before the lift is placed on the market, affixing the CE marking, labelling the lift, monitoring safety components for lifts that have been placed on the market and a duty to take action in respect of lifts which are considered not to be in conformity with Part 2.

Regulations 15 to 23 set out the obligations that are specific to manufacturers of safety components for lifts. These obligations include ensuring that a safety component for lifts has been designed and manufactured in accordance with the essential health and safety requirements set out in Schedule 1, having a relevant conformity assessment procedure carried out before the safety component for lifts is placed on the market, affixing the CE marking, labelling the safety component for lifts, monitoring safety components for lifts that have been placed on the market and a duty to take action in respect of safety components which are considered not to be in conformity with Part 2.

Regulation 24 provides that an installer or a manufacturer may appoint a person as their authorised representative and sets out the tasks that an authorised representative can perform on the installer's or the manufacturer's behalf.

Regulations 25 to 35 set out the obligations that are specific to importers. These obligations include ensuring that they are not placing on the market safety components for lifts which are not in conformity with the essential health and safety requirements, checking that the manufacturer has carried out a relevant conformity assessment procedure and labelled the safety component for lifts correctly, indicating on the safety component the name and address of the importer, monitoring safety components for lifts that have been placed on the market and ensuring that the storage and transport of a safety component for lifts do not jeopardise its conformity with the essential health and safety requirements.

Regulations 36 to 42 set out the obligations that apply to distributors. These obligations include acting with due care to ensure that safety components for lifts that they place on the market are in conformity with Part 2, checking that the safety component for lifts bears the CE marking and is labelled correctly, ensuring that the storage and transport of a safety component for lifts do not jeopardise its conformity with the essential health and safety requirements and a duty to take action in respect of safety components which are considered not to be in conformity with Part 2.

Regulations 43 to 45 set out the obligations that apply to all economic operators. These obligations include ensuring that the EU declaration of conformity is prepared in or translated into the language required by the relevant member State and identifying economic operators.

Part 3 sets out provisions concerning the conformity assessment procedure, declarations of conformity and CE marking.

Part 4 sets out provisions concerning the bodies which carry out conformity assessment procedures under the Regulations.

Part 5 sets out provisions for market surveillance and enforcement. Regulation 60 identifies the market surveillance authority which has an obligation to enforce the Regulations in respect of lifts and safety components for such lifts for use in the workplace or for private use. Regulation 62 and Schedules 7 to 10 provide for the enforcement powers which the enforcing authorities are to have. Regulation 70 provides for the contravention of provisions of these Regulations to be an offence. Regulation 71 sets out the penalties that are to apply for offences under these Regulations.

Part 6 sets out transitional provisions and consequential amendments. Regulation 83 makes consequential amendments. Regulation 81 contains a provision requiring the Secretary of State to review these Regulations to consider whether the objectives intended to be achieved could be achieved by way of a system which imposes less regulation, and to make a report about this at least every five years.

A transposition note and full impact assessment of the impact that these Regulations will have on the costs of business, the voluntary sector and the public sector are available from the Single Market Product Safety Team, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET and are also published with the Explanatory Memorandum alongside these Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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