
STATUTORY INSTRUMENTS

2018 No. 816

The Cableway Installations Regulations 2018

PART 3

Authorisation Procedures and Notified Bodies

Authorisation by the Secretary of State

8.—(1) The Secretary of State must authorise (or refuse to authorise) works for the construction or modification of a cableway installation in accordance with this Part.

(2) An authorisation given under paragraph (1) is a stage 1 authorisation.

(3) The Secretary of State must authorise (or refuse to authorise) the entry into service of a cableway installation in accordance with this Part.

(4) An authorisation given under paragraph (3) is a stage 2 authorisation.

Notifying authority

9. The Secretary of State is designated as the notifying authority for the United Kingdom for the purposes of Article 23 of Regulation 2016/424/EU.

Notification of conformity assessment bodies

10.—(1) For the purposes of Article 22 of Regulation 2016/424/EU, the Secretary of State must 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 conditions set out in paragraphs (3) and (4) are met.

(3) The first condition is that the conformity assessment body has submitted an application to the Secretary of State to be notified under Article 22 of Regulation 2016/424/EU, in accordance with Article 29 of Regulation 2016/424/EU.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the requirements of Article 26 of Regulation 2016/424/EU.

(5) 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 that appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet including such conditions that are to apply upon or following the restriction, suspension or withdrawal of its status as a notified body.

(6) Subject to paragraph (7), if at any time it appears to the Secretary of State—

- (a) that a notified body no longer meets the requirements laid down in Article 26 of Regulation 2016/424/EU; or

- (b) that it is failing to meet its obligations,

the Secretary of State may by written notice to that body specify a date on which its status as a notified body will be restricted, suspended or withdrawn, as appropriate depending on the seriousness of the failure to meet those requirements or obligations.

(7) Before the Secretary of State restricts, suspends or withdraws the status of a conformity assessment body as a notified body under paragraph (6) the Secretary of State must—

- (a) give notice in writing to the notified body that the Secretary of State intends to take such action;
- (b) give the notified body the opportunity to make representations within a period of 14 days beginning with the day on which such notice is given; and
- (c) consider any representation made within that period by the notified body before making a decision on whether to take such action.

(8) Where the Secretary of State has taken action in respect of a notified body under paragraph (6), or where a notified body has ceased its activity as a conformity assessment body, 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, to the Secretary of State, or to the Executive;
- (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 the Executive for a period of 10 years beginning on the day on which the relevant document was created.

United Kingdom Accreditation Service

11. The Secretary of State may authorise the United Kingdom Accreditation Service⁽¹⁾ to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the requirements of Article 26 of Regulation 2016/424/EU; and
- (b) monitoring notified bodies, in accordance with Article 23(1) of Regulation 2016/424/EU.

Fees

12.—(1) Subject to paragraph (2), a notified body may charge such fees in connection with, or incidental to, carrying out its duties in relation to its functions as it may determine.

(2) The fees charged pursuant to paragraph (1) must not exceed the sum of the following—

- (a) the sum of the costs incurred or to be incurred by the notified body in carrying out the relevant work on behalf of the person commissioning the work; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work done or to be done by the notified body on behalf of the person commissioning the work, and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(1) a company limited by guarantee incorporated in England and Wales under number 3076190 and appointed as the national accreditation body for the purposes of article 4(1) of RAMS under regulation 3 of the Accreditation Regulations 2009 (S.I. 2009/3155).

(3) The Secretary of State may charge such reasonable fee in connection with, or incidental to, carrying out the Secretary of State's functions under this Part as the Secretary of State may determine.

(4) The power in paragraphs (1) and (3) includes the power to require the payment of a fee or a reasonable estimate of the fee, in respect of the work commissioned in advance of carrying out that work.

Application for a stage 1 authorisation

13.—(1) An application for a stage 1 authorisation must be made by the main contractor.

(2) An application for a stage 1 authorisation must be made in writing to the Secretary of State and accompanied by—

- (a) the relevant fee determined in accordance with regulation 12(3); and
- (b) the cableway installation documentation and the safety report.

(3) Where an application is made for a stage 1 authorisation for the modification of an authorised cableway installation, the content of the cableway installation documentation required to be submitted under paragraph (2) may be limited to matters relating to the modification and its repercussions on the cableway installation as a whole.

Application for a stage 2 authorisation

14.—(1) An application for a stage 2 authorisation must be made by the operator.

(2) An application for a stage 2 authorisation must be made in writing to the Secretary of State and accompanied by—

- (a) the relevant fee determined in accordance with regulation 12(3); and
- (b) the technical file.

(3) Where an application is made for a stage 2 authorisation for a cableway installation to enter into service following a modification for which a stage 1 authorisation has been required, the content of the technical file required to be submitted under paragraph (2) may be limited to matters relating to the modification and its repercussions on the cableway installation as a whole.

Granting of stage 1 and stage 2 authorisations

15.—(1) The Secretary of State must grant a stage 1 authorisation if satisfied that—

- (a) the requirements of Regulation 2016/424/EU are likely to be complied with both as regards the construction or modification of the cableway installation itself and as regards the subsystems or safety components incorporated into it; and
- (b) the cableway installation, when constructed or modified, including such subsystems or safety components, is likely to meet the essential requirements applicable to them and be safe.

(2) The Secretary of State must grant a stage 2 authorisation if satisfied that—

- (a) the cableway installation has been designed and constructed in such a way as to comply with the requirements of Regulation 2016/424/EU;
- (b) the cableway installation and the subsystem and safety components incorporated into it are not liable to endanger the health or safety of persons or property when properly maintained and operated in accordance with their intended purpose; and
- (c) the cableway installation has been constructed or modified in accordance with any measures specified in the safety report.

(3) The Secretary of State may grant a stage 1 authorisation or a stage 2 authorisation subject to compliance with such conditions as appear to the Secretary of State to be appropriate for the purposes of ensuring that the cableway installation complies with the essential requirements and is safe.

(4) The conditions referred to in paragraph (3) must include conditions specified in the safety report imposing restrictions on the operation of the cableway installation and conditions with regard to its servicing, supervision, adjustment and maintenance.

(5) The Secretary of State must consider any application for a stage 1 or stage 2 authorisation except where—

- (a) the applicant has failed to make an application in relation to—
 - (i) a stage 1 authorisation that complies with regulation 13, or
 - (ii) a stage 2 authorisation that complies with regulation 14;
- (b) the documents submitted to the Secretary of State are not in English; or
- (c) the applicant has not submitted the fee which the Secretary of State requires to be submitted pursuant to regulation 12(3).

(6) In relation to the modification of a cableway installation, references in this regulation to compliance with Regulation 2016/424/EU or meeting the “essential requirements” are to be construed as applying only in respect of the modification of the cableway installation and its repercussions on the installation as a whole.

Secretary of State’s refusal to give an authorisation

16. Where the Secretary of State is minded to refuse to grant a stage 1 authorisation or a stage 2 authorisation the Secretary of State must—

- (a) give notice in writing to the applicant of the reasons for being so minded; and
- (b) give the applicant the opportunity to make representations within a period of 28 days beginning with the day that notice is given, and consider any such representations made by the applicant within that period before taking a decision on whether to refuse the authorisation.

Obligations of manufacturers

17. A manufacturer must ensure, for the purposes of Article 11(7) of Regulation 2016/424/EU, that any subsystem or safety component which it places on the market is accompanied by copies, in English, of the EU declaration of conformity and instructions and safety information.

Obligations of importers

18. An importer must ensure, for the purposes of Article 13(4) of Regulation 2016/424/EU that any subsystem or safety component which it places on the market is accompanied by instructions and safety information in English.

Obligations of distributors

19. Before making any subsystem or safety component available on the market a distributor must ensure, for the purposes of Article 14(2) of Regulation 2016/424/EU, that the following accompanying documents are in English: the copy of the EU declaration of conformity, the instructions and safety information, and, where appropriate, any other required documents.