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TRANSPORT

The Cableway Installations Regulations 2004

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The Secretary of State for Transport, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to cableway installations designed to carry people and components of such installations, in exercise of the powers conferred upon him by that section, hereby makes the following Regulations:

PART I

Preliminary

Citation and commencement

1. These Regulations may be cited as the Cableway Installations Regulations 2004 and shall come into force on 3rd May 2004.

Interpretation etc.

2.—(1) In these Regulations the “Cableway Installations Directive” means Directive 2000/9/EC(c) of the European Parliament and Council relating to cableway installations designed to carry persons and any reference in the Schedules to “the Directive” and “this Directive” shall be construed accordingly.

(2) Except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a Member State includes a reference to an EEA State.

(3) For the purposes of paragraph (2)—

- (a) the “EEA” means the European Economic Area;
- (b) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
- (c) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(d).

(4) In these Regulations—

- (a) Annexes I to IX of the Cableway Installations Directive are respectively set out in Schedules 1 to 9 hereto;
- (b) a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations;
- (c) a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which that reference occurs; and
- (d) a reference to an Article is a reference to the Article so numbered in the Cableway Installations Directive and a reference to a paragraph of an Article shall be construed accordingly.

(5) In these Regulations [unless the context otherwise requires]—

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

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

“authorised cableway installation” means a cableway installation which has been given a stage 2 authorisation by the Secretary of State under regulation 13(3);

“cableway installation” means an installation made up of several components that—

- (a) is used or intended to be used for the purpose of providing an operational system for carrying persons in vehicles, on chairs or by towing devices;

(a) S.I. 2001/2555.

(b) 1972 c. 68.

(c) O.J. L 106, 3.5.2000, p. 21.

(d) Cmnd. 2972 and 2183. The application of the Cableways Directive was extended to the EEA from 29th September 2001 by virtue of Decision No. 115/2001 of the EEA Joint Committee (O.J. No. L 322, 6.12.2001, p. 27) which inserted a reference to the Cableways Directive after point 1a in Chapter XXIV of Annex II to the EEA Agreement.

(e) 1974 c. 37.

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

- (b) uses cables positioned along the line of travel to provide suspension or traction or both; and
- (c) is one of the following—
 - (i) cable car (including a gondola and chair lift) where the cabins or chairs are lifted or displaced by one or more carrier cables;
 - (ii) drag lift, where users with appropriate equipment are dragged by means of a cable; or
 - (iii) funicular railway or other installation with vehicles mounted on wheels or on other suspension devices where traction is provided by one or more cables;

“CE conformity marking” means a marking consisting of the initials “CE” in the form shown in Schedule 9 and reference in the Schedules to “CE marking” should be construed to a reference to “CE conformity marking”;

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

“conformity assessment procedure” means a process for assessing the conformity of safety components and subsystems with the provisions of these Regulations, undertaken—

- (a) in relation to a safety component, in accordance with regulation 9(1), and
- (b) in relation to a subsystem, in accordance with regulation 9(2);

“declaration of conformity” means—

- (a) in relation to a safety component, a declaration which contains the information set out in Schedule 4; and
- (b) in relation to a subsystem, a declaration which contains the information set out in Schedule 6,

and reference in Schedule 5 to a “certificate of conformity” should be construed as a reference to a “declaration of conformity”;

“EC examination certificate” means a certificate drawn up in accordance with Schedule 7 in relation to a subsystem, and reference in Schedule 7 to “the examination certificate” and reference in Schedule 6 to the “EC conformity certificate” should be construed as a reference to an “EC examination certificate”;

“EC type-examination certificate” means a certificate drawn up in accordance with Module B in Schedule 5 in relation to a safety component, and references in Schedules 4 and 5 to “EC type certificate” and “EC examination certificate” should be construed as references to an “EC type-examination certificate”;

“essential requirements” means such of the essential requirements set out in Schedule 2 as are relevant to a cableway installation, safety component or subsystem, (as the case may be);

“European specifications referred to in Article 2(2) of this Directive” means a common technical specification, a European technical approval or a national standard transposing a harmonised European standard;

“the Executive” means—

- (a) in Great Britain, the Health and Safety Executive^(a); and
- (b) in Northern Ireland, the Health and Safety Executive for Northern Ireland^(b);

“harmonised European standard” means a technical specification (a European standard or harmonisation document), adopted on a mandate from the European Commission, by the European Committee for Electrotechnical Standardisation, or European Committee for Standardisation or by both of those bodies, in accordance with Directive 98/34/EC of 22nd June 1998 of the European Parliament and of the Council^(c) laying down a procedure for the provision of information in the field of technical standards and regulations, and of which the reference number is published in the Official Journal of the European Communities;

(a) Established under section 10 of the 1974 Act.

(b) Formerly known as the Health and Safety Agency for Northern Ireland which was established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)). Article 3(1) of the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (S.I. 1998/2795 (N.I. 18)) changed its name to the Health and Safety Executive for Northern Ireland.

(c) O.J. L 204, 21.7.1998, p. 37 as amended by Directive 98/48/EC (O.J. L 217, 5.8.1998, p. 18).

“identification number” in relation to a notified body means the reference number allocated by the Commission for that notified body, and references in Schedule 5 to “identification symbol” should be construed as a reference to the identification number;

“infrastructure” means layout, system data, station structures and structures along the line needed for the construction and operation of the installation (including the foundations) that are designed specially for each installation and constructed on site;

“innovative approach” means an approach to the design or construction of a subsystem or safety component which does not involve the use of a standard or a specification that has been approved by a recognised standardising body;

“installation” means the whole on-site system consisting of infrastructure and subsystems;

“log book” means a book containing the documentation and information required by regulation 6(1);

“main contractor” means the person who:

(a) commissions the construction or modification of a cableway installation; or

(b) constructs or modifies a cableway installation for putting into service by him;

“modification” means any work in relation to a cableway installation (including any work in relation to the characteristics, subsystems or safety components of such installation) which could materially affect the capability, capacity or safety of the cableway installation, and cognate expressions shall be construed accordingly;

“notified body” shall have the meaning set out in regulation 14;

“operator” in relation to a cableway installation means the person who, for the time being has, or is intending to have the management of that installation;

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

“placing on the market” in relation to a safety component or subsystem shall occur when a person first makes that safety component or subsystem available on the community market with a view to its distribution or use in the Community; and cognate expressions shall be construed accordingly; and references in the Schedules to “put on the market” or cognate expressions, shall be construed as references to placing on the market;

“putting into service” means in respect of a cableway installation that has been constructed or modified under these Regulations, first use of that installation for the carriage of passengers and cognate expressions shall be construed accordingly;

“recognised standardising body” means a body listed in Annex I and Annex II of Directive 98/34/EC(a);

“responsible person” in relation to a subsystem or safety component means the manufacturer of the subsystem or safety component or his authorised representative established in the Community;

“safe” in relation to a cableway installation, subsystem and safety component means that the cableway installation, or in the case of a safety component or subsystem, the cableway installation into which it is to be installed, when properly installed and maintained and used for its intended purpose is not liable to endanger the health or safety of persons or, where appropriate, the safety of property, and cognate expressions shall be construed accordingly;

“safety analysis” means an analysis of factors relating to the safety of a cableway installation, which—

(a) complies with the requirements set out in Schedule 3; and

(b) covers all safety aspects of that installation and its surroundings taking into account the design, construction or modification and putting into service, and identifying risks to safety that could occur during operation of that installation;

“safety component” means any component, set of components, sub-assembly or complete assembly of equipment and any device incorporated in a cableway installation—

(a) for the purpose of ensuring a safety function; and

(b) which has been identified as a safety component in the safety analysis, the failure of which would endanger the health or safety of any person;

(a) O.J. No. L204, 21.07.1998, p. 37.

“safety report” means a report summarising the safety analysis and setting out the measures to be taken to deal with any risks to safety associated with the design, construction, modification, putting into service and operation of the cableway installation, and a list of the safety components and subsystems which are comprised in that installation;

“special conditions” means conditions imposed by the Executive pursuant to regulations 17(8) or 18(8);

“stage 1 authorisation” means the authorisation of work for the construction or modification of a cableway installation by the Secretary of State pursuant to regulation 13(1);

“stage 2 authorisation” means the authorisation of putting into service of a cableway installation by the Secretary of State pursuant to regulation 13(3);

“standard” means a technical specification approved by a recognised standardising body for repeated or continuous application, with which compliance is not compulsory;

“subsystem” means the subsystems of a cableway installation set out in Schedule 1;

“technical documentation” in relation to the EC type-examination of a safety component means the documentation described in paragraph 3 of Schedule 5;

“technical documentation” in relation to the EC examination of a subsystem means the documentation described in paragraph 3 of Schedule 7;

“technical file” means a file relating to a cableway installation which contains the matters required by regulation 4(3)(c);

“transposed European standard” means a national standard of a Member State which transposes a harmonised European standard; and

“writing” apart from its usual meaning includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent.

(6) For the purposes of satisfying the essential requirements, where a national standard transposing a harmonised European standard covers one or more of the relevant essential requirements, any cableway installation, its infrastructure, the subsystems and the safety components of any cableway installations; constructed or operated in accordance with that transposed European standard shall be presumed to comply with that or, as the case may be, those essential requirements.

Application of the Regulations

- 3.—(1) Subject to paragraphs (2) and (3) these Regulations apply in relation to—
- (a) any cableway installation—
 - (i) put into service, or
 - (ii) modified,after the date of the coming into force of these Regulations; and
 - (b) any subsystem or safety component placed on the market after the date of the coming into force of these Regulations.
- (2) These Regulations do not apply to—
- (a) lifts, within the meaning of the Lifts Regulations 1997^(a);
 - (b) cableway installations used wholly or mainly for agricultural purposes;
 - (c) cableway installations (on-site or mobile) in fairgrounds or amusement parks which are designed for leisure purposes and not as a means for transporting persons;
 - (d) mining installations or on-site cableway installations used wholly or mainly for industrial purposes;
 - (e) cable operated ferries;
 - (f) rack railways;
 - (g) cableway installations that are chain driven;
 - (h) cable-operated tramways of a traditional construction;
 - (i) subsystems and safety components for the installations referred to in sub-paragraphs (a) to (h) above.

(a) S.I. 1997/831.

(3) Subject to paragraph (4), these Regulations do not apply to a cableway installation constructed or put into service, or both, or a safety component or subsystem placed on the market in the United Kingdom before 3rd May 2004 which complies with all the provisions by or under any enactment with which it was required to comply on 3rd May 2000 before it could be put into service, or placed on the market.

(4) The exclusion provided for in paragraph (3) does not apply in the case of a cableway installation or safety component which—

- (a) unless required to bear the CE conformity marking pursuant to any other Community obligation, bears the CE conformity marking or an inscription liable to be confused with the CE conformity marking; or
- (b) bears or is accompanied by any other indication, howsoever expressed, that it complies with the Cableways Directive.

PART II

General Requirements

Cableway installations—duties on the main contractor

4.—(1) The main contractor shall not carry out or permit to be carried out works for the construction or modification of a cableway installation unless he has obtained a stage 1 authorisation under regulation 13(1) in respect of that cableway installation.

(2) Before making an application for a stage 1 authorisation in relation to the construction or modification of a cableway installation the main contractor shall ensure that:—

- (a) a safety analysis is undertaken; and
- (b) a safety report is prepared.

(3) The main contractor shall ensure, in relation to the construction or modification of a cableway installation that—

- (a) that installation complies with—
 - (i) any relevant measures specified in the safety report,
 - (ii) special conditions (if any) imposed by the Executive under regulation 17(8), and
 - (iii) conditions imposed (if any) by the Secretary of State under regulation 19(3) with the stage 1 authorisation;
- (b) that installation complies with such of the essential requirements as relate to that type of installation;
- (c) a technical file has been compiled which contains—
 - (i) the safety analysis;
 - (ii) the safety report; and
 - (iii) the declarations of conformity and the accompanying technical documentation relating to any safety component or subsystem which forms a part of the cableway installation.

(4) In relation to the modification of a cableway installation, references in this regulation to “safety analysis”, “safety report”, “technical file” and “essential requirements” shall be construed as applying only to the modification of the cableway installation and its repercussions on the installation as a whole.

Cableway installations—putting into service

5.—(1) No person shall put into service a cableway installation unless a stage 2 authorisation has been obtained in respect of that installation.

Cableway installations—operation

6.—(1) The operator of any authorised cableway installation that is in service shall compile a log book in relation to that installation containing documents or information which—

- (a) sets out any—
 - (i) special conditions imposed under regulation 18(8) with the stage 2 authorisation,
 - (ii) measures specified in the safety report, and

(iii) conditions imposed by the Secretary of State under regulation 19(3) with the stage 2 authorisation,

in respect of its putting into service or operation; and

(b) records evidence of its servicing, supervision, adjustment and maintenance.

(2) The operator of any authorised cableway installation that is in service shall ensure that while that installation remains in service—

(a) it complies with any measures specified in relation to its operation by the safety report;

(b) it complies with such conditions (if any) as are imposed in relation to its putting into service by the Secretary of State under regulation 19(3);

(c) the technical file is retained at the site of that installation; and

(d) the log book is retained and updated.

Safety components—placing on the market

7.—(1) Subject to regulation 11, no person who is a responsible person shall place on the market any safety component unless—

(a) the requirements of paragraph (2) have been complied with in relation to it; or

(b) the safety component that he places on the market is identical to a safety component that he has already placed on the market and in relation to which the provisions of paragraph (2) have been met.

(2) The requirements in respect of any safety component are that—

(a) it satisfies such of the essential requirements as relate to that component;

(b) it permits the construction or modification of a cableway installation which will satisfy the essential requirements;

(c) the appropriate conformity assessment procedure specified in regulation 9(1) has been carried out in respect of it by a notified body;

(d) the CE conformity marking has been properly affixed to it, or on a label inseparably attached to it; and

(e) it is accompanied by a declaration of conformity drawn up in respect of it.

(3) For the purposes of paragraph (2)(d) the CE conformity marking shall not be regarded as properly affixed to the safety component unless the person who has affixed the CE conformity marking—

(a) affixes the said marking in a distinct, visible, and legible manner; and

(b) in the case of safety components which are the subject of Community Directives other than the Cableways Directive which also provide for the affixing of the CE conformity marking, has complied with the requirements of those other Directives in respect to that safety component.

(4) No markings which—

(a) are likely to deceive any person as regards the meaning and form of the CE conformity marking; or

(b) reduce the visibility and legibility of the CE conformity marking, shall be affixed to the safety component.

(5) Any documentation or other information in relation to a safety component required to be retained under the conformity assessment procedure under paragraph (2)(c) shall be retained by the responsible person for any period specified in that procedure.

Subsystems—placing on the market

8.—(1) Subject to regulation 11, no person who is a responsible person shall place on the market any subsystem unless the requirements of paragraph (2) have been complied with in relation to it.

(2) The requirements in respect of any subsystem are that—

(a) it satisfies such of the essential requirements as relate to that subsystem;

(b) it permits the construction or modification of a cableway installation which will satisfy the essential requirements;

- (c) a notified body has—
 - (i) carried out the conformity assessment procedure specified in regulation 9(2); and
 - (ii) drawn up the EC examination certificate and the technical documentation, and
- (d) it is accompanied by—
 - (i) a declaration of conformity drawn up by the responsible person in respect of it, and
 - (ii) the technical documentation.

(3) Any documentation or other information in relation to a subsystem required to be retained under the conformity assessment procedure under paragraph (2)(c) shall be retained by the responsible person for any period specified in that procedure.

Subsystems and safety components—conformity assessment procedures

9.—(1) For the purposes of regulation 7(2)(c), the appropriate conformity assessment procedure shall be the procedure set out in Schedule 5.

(2) For the purposes of regulation 8(2)(c)(i), the appropriate conformity assessment procedure shall be the procedure set out in Schedule 7.

Subsystems and safety components—duties on persons other than the responsible person

10. Where in the case of a subsystem or safety component, any of the requirements of regulations 7 or 8 have not been met by the responsible person, such requirements shall be met by any person who—

- (a) places that subsystem or safety component on the market; or
- (b) manufactures that safety component for use in any cableway installation that he is constructing or modifying.

Subsystems and safety components—exceptions to placing on the market

11. For the purposes of regulations 7 or 8, a safety component or a subsystem shall not be regarded as being placed on the market where that safety component or subsystem—

- (a) will be put into service in a country outside the Community; or
- (b) is imported into the Community for re-export to a country outside the Community, but this paragraph shall not apply in relation to a safety component if the CE conformity marking, or any inscription liable to be confused therewith, is affixed to the component or its label.

Conformity of cableway installations, subsystems and safety components with the provisions of these Regulations

12.—(1) Subject to paragraph (2) an authorised cableway installation shall be taken to conform with the requirements of regulation 4 unless there are reasonable grounds for suspecting that it does not so conform.

(2) Paragraph (1) does not apply where a person fails or refuses to make available to the Executive the log book and technical file which he is required to retain pursuant to regulation 6.

- (3) Subject to paragraph (5), a safety component—
 - (a) which bears a CE conformity marking, or to which a label bearing the CE conformity marking has been inseparably attached; and
 - (b) which is accompanied by a declaration of conformity, in accordance with regulation 7;

shall be taken to conform with all of the provisions of these Regulations which apply to it unless there are reasonable grounds for suspecting that it does not so conform.

- (4) Subject to paragraph (5), a subsystem which is accompanied by—
 - (a) a declaration of conformity; and
 - (b) the technical documentation required by the EC examination of that subsystem,
 in accordance with regulation 8, shall be taken to conform with such of the essential requirements as relate to that subsystem unless there are reasonable grounds for suspecting that it does not so conform.

(5) Paragraphs (3) and (4) do not apply where a person fails or refuses to make available to the Executive the documentation which he is required to retain by any of the conformity assessment procedures which apply to the safety component or subsystem in question or a copy of that documentation.

PART III

Authorisation Procedures and Notified Bodies

Authorisation by the Secretary of State

13.—(1) The Secretary of State shall authorise (or refuse to authorise) works for the construction or modification of cableway installations in accordance with this Part.

(2) An authorisation given paragraph 1 shall be a stage 1 authorisation.

(3) The Secretary of State shall authorise (or refuse to authorise) the putting into service of cableway installations in accordance with this Part.

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

Notified bodies

14. For the purpose of these Regulations a notified body is a body which has been appointed to carry out one or more of the conformity assessment procedures and which has been—

- (a) appointed by the Secretary of State as a notified body for the purpose of these Regulations and notified to the Commission and other Member States pursuant to regulation 15; or
- (b) appointed by a Member State other than the United Kingdom and notified by the Member State concerned to the Commission and the other Member States pursuant to Article 16(1) of the Cableway Installations Directive;

Notified bodies appointed by the Secretary of State

15.—(1) The Secretary of State may from time to time appoint such persons as he thinks fit to be notified bodies for the purposes of these Regulations.

(2) The Secretary of State shall not appoint any person as a notified body unless he is satisfied that that person will be capable of meeting the minimum criteria for such persons specified in Schedule 8.

(3) The appointment of a notified body—

- (a) may relate to all descriptions of cableway installations, subsystems or safety components or such descriptions (which may be framed by reference to any circumstances whatsoever) of cableway installations, subsystems or safety components as the Secretary of State may from time to time determine; and
- (b) may be made subject to such conditions as the Secretary of State may from time to time determine, and such conditions may include conditions which are to apply upon or following termination of the appointment.

(4) Subject to paragraphs (5) and (6) below, the appointment of a notified body may be for such period as may be specified in the appointment.

(5) The appointment of a notified body shall terminate—

- (a) at the expiry of any period specified in the appointment pursuant to paragraph (4);
- (b) upon the expiry of 90 days' notice in writing given by the notified body to the Secretary of State, or
- (c) on any date specified for the termination of the appointment in accordance with paragraph (6), whichever is the earliest.

- (6) If at any time it appears to the Secretary of State that—
- (a) any of the conditions of the appointment of a notified body are not being complied with; or
 - (b) a notified body is no longer meeting the minimum criteria specified in Schedule 8, the Secretary of State may, by notice in writing to that body, specify a date on which the appointment of that person as a notified body shall terminate.
- (7) Where the Secretary of State is minded to terminate the appointment of a person as a notified body pursuant to paragraph (6) he shall—
- (a) give notice in writing to the notified body of the reasons why he is minded to do so;
 - (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 his decision.
- (8) If for any reason the appointment of a notified body is terminated under this regulation, the Secretary of State may—
- (a) give such directions as the Secretary of State shall consider appropriate, either to the notified body whose appointment is to be terminated or to another notified body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from termination, have fallen to be determined by the body whose appointment is to be terminated; and
 - (b) without prejudice to the generality of the foregoing, authorise another notified body or any person carrying out the functions of a notified body in another Member State, to take over the functions of the body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.
- (9) The Secretary of State shall notify in writing the Commission and other Member States of the appointment or termination of appointment, as the case may be, of a notified body.

Fees

- 16.—**(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) shall 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.
- (3) The Secretary of State may charge such reasonable fee in connection with, or incidental to, carrying out its functions under regulations 17 and 18 as he 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

- 17.—**(1) An application for a stage 1 authorisation in respect of the construction or modification of a cableway installation shall be made by the main contractor.
- (2) An application for a stage 1 authorisation shall be—
- (a) made in writing to the Secretary of State;
 - (b) accompanied by—
 - (i) the safety report;
 - (ii) the safety analysis; and
 - (iii) if applicable, a notification under paragraph (3).

(3) If the main contractor intends to incorporate into a cableway installation that he is constructing or modifying, a subsystem or safety component that has been designed or constructed using an innovative approach, the main contractor shall notify the Secretary of State of that intention with his application for a stage 1 authorisation.

(4) The notification made pursuant to paragraph (3) shall be accompanied by—

- (a) a description of the innovative approach;
- (b) a description of how the design is to be tested to ensure that the subsystem or safety component, as the case may be, is fit for its purpose; and
- (c) information demonstrating that the incorporation of a subsystem or safety component designed or constructed using the innovative approach will achieve the same level of safety as a subsystem or safety component designed or constructed using a conventional approach.

(5) On receiving a notification under paragraph (3) the Secretary of State shall submit the information contained in that notification to the Executive.

(6) If the Executive considers that the information provided under paragraph (5) is insufficient to enable it to decide whether or not special conditions should be imposed under paragraph (8) the Executive shall notify the main contractor in writing of the additional information that is required in order for it to undertake that decision.

(7) On receiving a notification under paragraph (6), the main contractor shall provide the Executive with such of the additional information specified in that notification as the main contractor is reasonably able to supply and, where any of the additional information so specified is not provided, a written explanation as to why the main contractor is unable to provide that information.

(8) If the Executive considers that the incorporation into a cableway installation that is being constructed of a subsystem or safety component that has been designed or constructed using an innovative approach is likely to affect adversely the safety of that installation when it is in operation, the Executive may impose special conditions in relation to—

- (a) the incorporation of that subsystem or safety component into that installation; or
- (b) the construction of that installation.

(9) In relation to the modification of a cableway installation, references in this regulation to the “safety analysis” and “safety report” shall be construed as applying only to the modification of the cableway installation and its repercussions on the installation as a whole.

Application for a stage 2 authorisation

18.—(1) An application for a stage 2 authorisation in respect of the putting into service of a cableway installation shall be made by the operator.

(2) An application for a stage 2 authorisation shall be—

- (a) made in writing to the Secretary of State; and
- (b) accompanied by—
 - (i) the technical file, and
 - (ii) if applicable, a notification under paragraph (3).

(3) If the operator intends to put into service a cableway installation which contains a subsystem or safety component that has been designed or constructed using an innovative approach, the operator shall notify the Secretary of State of that intention.

(4) The notification under paragraph (3) shall be accompanied by the following information—

- (a) a description of the innovative approach;
- (b) a description of how the design is to be tested to ensure that the subsystem or safety component as the case may be is fit for its purpose; and
- (c) information demonstrating that the incorporation of a subsystem or safety component designed or constructed using the innovative approach will achieve the same level of safety as a subsystem or safety component designed or constructed using a conventional approach.

(5) On receiving a notification under paragraph (4) the Secretary of State shall submit the information contained in the notification under paragraph (4) to the Executive.

(6) If the Executive considers that the information provided under paragraph (5) is insufficient to enable it to decide whether or not special conditions should be imposed under paragraph (8) the Executive shall notify the operator in writing of the additional information that it requires in order for it to undertake that decision.

(7) On receiving a notification under paragraph (6), the operator shall provide the Executive with such of the additional information specified in that notification as he is reasonably able to supply and, where any of the additional information so specified is not provided, a written explanation as to why he is unable to provide that information.

(8) If the Executive considers that the incorporation into a cableway installation of a subsystem or safety component that has been designed or constructed using an innovative approach, is likely to affect adversely the safety of that installation when it is in operation, the Executive may impose special conditions in relation to the putting into service of that installation.

Granting of stage 1 and stage 2 authorisations

19.—(1) The Secretary of State may only give a stage 1 authorisation in respect of works for the construction or modification of a cableway installation if he is satisfied that when constructed or modified that installation is likely to comply with the essential requirements and to be safe.

(2) The Secretary of State may only give a stage 2 authorisation in respect of the putting into service of a cableway installation if he is satisfied that—

- (a) the installation has been designed and constructed in such a way as to comply with the essential requirements;
- (b) the installation into which the subsystems and safety components have been incorporated will be safe;
- (c) the technical file is complete;
- (d) any special conditions imposed in relation to its construction under regulation 17(8) have been complied with; and
- (e) it complies with any measures specified in the safety report regarding risks to safety.

(3) The Secretary of State may give a stage 1 authorisation in respect of the construction or modification of an installation or a stage 2 authorisation in respect of the putting into service of that installation, subject to compliance with such conditions as appear to that body to be appropriate for the purposes of securing that the installation complies with the essential requirements and is safe.

(4) The Secretary of State shall 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 17(2), or
 - (ii) a stage 2 authorisation that complies with regulation 18(2);
- (b) he reasonably considers that the documents submitted to him in relation to carrying out his functions are not in a language appropriate for him to discharge his functions;
- (c) the person making the application has not submitted with its application the amount of the fee which the Secretary of State requires to be submitted pursuant to regulation 16(3).

(5) In relation to the modification of a cableway installation, references in this regulation to the “essential requirements” shall be construed as applying only to the modification of the cableway installation and its repercussions on the installation as a whole.

Secretary of State’s refusal to give an authorisation

20. Where the Secretary of State is minded to refuse to give a stage 1 authorisation in respect of the construction or modification of a cableway installation or a stage 2 authorisation for the putting into service of a cableway installation he shall—

- (a) give notice in writing to the applicant of the reasons why he is minded to do so; and
- (b) give the applicant the opportunity to make representations within a period of 28 days of that notice being given and consider any such representations made by the applicant.

Notified body's refusal to indicate conformity

21. Where a notified body is minded to refuse to take the appropriate action under the conformity assessment procedure to confirm that a safety component or subsystem is in conformity with the provisions of these Regulations it shall—

- (a) give notice in writing to the applicant of the reasons why it is minded to do so; and
- (b) give the applicant the opportunity to make representations within a period of 28 days of that notice being given and consider any such representations made by the applicant.

Requirement on notified bodies to carry out functions

22.—(1) Save as provided for in paragraph (2), where the responsible person or other interested person so requests in writing, a notified body shall carry out, in relation to a safety component or subsystem, the procedures and checks (including, where so provided as part of those procedures and checks, surveillance) required to ensure that the responsible person fulfils the obligations arising from the appropriate conformity assessment procedure.

(2) A notified body shall not be required to carry out the functions referred to in paragraph (1) above if—

- (a) the request relates to a safety component or subsystem of a description to which the appointment of that body under regulation 15 does not relate;
- (b) to do so would put that body in breach of a condition of appointment;
- (c) it reasonably considers that the documents submitted to it in relation to carrying out its functions are not in a language appropriate for it to discharge these functions;
- (d) the person making the application has not submitted with its application the amount of the fee which the body requires to be submitted pursuant to regulation 16(1); or
- (e) the body reasonably believes that, having regard to the number of applications made to it in relation to its appointment under these Regulations which are outstanding, it will be unable to commence the required work within three months of receiving the application.

PART IV

Enforcement

Enforcement in Great Britain

23.—(1) It shall be the duty of the Executive to make adequate arrangements for the enforcement of these Regulations in Great Britain and accordingly a reference to an “enforcing authority” in the provisions applied for the purposes of such enforcement by paragraph (3) shall be construed as a reference to the Executive.

(2) Subject to paragraph (4), the provisions of the 1974 Act specified in paragraph (3) shall apply for the purposes of the enforcement in Great Britain of these Regulations as if they were health and safety regulations for the purposes of that Act, and any function of the Health and Safety Commission under any other provisions of the 1974 Act which is exercisable in relation to any function of the Executive under or in respect of health and safety regulations (including their enforcement) shall be exercisable as if these Regulations were health and safety regulations for the purposes of that Act.

(3) The provisions of the 1974 Act are—

- (a) sections 19 to 22 (enforcement);
- (b) sections 23 (provisions supplementary to 21 and 22) and 24 (appeal against improvement or prohibition notice);
- (c) sections 25A (power of customs officers to detain articles and substances) and 26 (power to indemnify inspectors);
- (d) section 27 (obtaining of information) and section 27A (information communicated by the Commissioners of Customs and Excise);

- (e) sections 33 to 42 (provisions as to offences); and
- (f) Section 48(1) to (3) (application to the Crown).

(4) A failure to discharge a duty placed on the Executive by these Regulations shall not be an offence, and section 33(1)(c) of the 1974 Act shall have effect accordingly.

Enforcement in Northern Ireland

24.—(1) It shall be the duty of the Executive to make adequate arrangements for the enforcement of these Regulations in Northern Ireland and accordingly a reference to an “enforcing authority” in the provisions applied for the purposes of such enforcement by paragraph (3) shall be construed as a reference to the Executive.

(2) Subject to paragraph (4), the provisions of the 1978 Order specified in paragraph (3) shall apply for the purposes of the enforcement in Northern Ireland of these Regulations as if they were health and safety regulations for the purposes of that Order, and any function of the Health and Safety Executive for Northern Ireland under any other provisions of that Order which is exercisable in relation to any function of the Executive under or in respect of health and safety regulations (including their enforcement) shall be exercisable as if these Regulations were health and safety regulations for the purposes of that Order.

(3) The provisions of the 1978 Order referred to in paragraph (2) are—

- (a) articles 21 to 24 (enforcement);
- (b) articles 25 (provisions supplementary to articles 23 and 24) and 26 (appeal against improvement or prohibition notice);
- (c) article 27A (power of customs officers to detain articles and substances);
- (d) article 28 (power to indemnify inspectors);
- (e) article 29 (obtaining of information) and article 29A (information communicated by the Commissioners of Customs and Excise);
- (f) articles 31 to 39 (provisions as to offences); and
- (g) article 44(1) to (3) (application to Crown).

(4) A failure to discharge a duty placed on the Executive by these Regulations shall not be an offence under article 31(1)(c) of the 1978 Order.

Notices in relation to a safety component or subsystem that is not safe

25.—(1) If the Executive is of the opinion that a—

- (a) safety component bearing a CE conformity marking; or
- (b) subsystem with a declaration of conformity, that has been placed on the market and put into service in accordance with its intended purpose, is not safe, the Executive may serve a notice on the operator to prohibit the use of or restrict the conditions of use of that safety component or subsystem.

(2) A notice served under paragraph (1) shall contain the following information—

- (a) a statement that the Executive is of that opinion;
- (b) the reasons for that opinion;
- (c) a direction that the safety component or subsystem to which the notice relates shall not be used, or that its conditions of use shall be restricted; and
- (d) the date by which the operator shall comply with the notice.

(3) Any notice served under paragraph (1) may be withdrawn by the Executive serving written notice of the withdrawal on the operator.

(4) Where a notice has been served on the operator under paragraph (1) the operator shall comply with it.

(5) This regulation shall not apply to any safety component or subsystem in respect of which the Executive has served an improvement notice or prohibition notice under section 21 or 22 of the 1974 Act or the equivalent provision in the 1978 Order, and that notice remains in force.

Notices in relation to a safety component or subsystem that is not safe—notification to the Commission

26. Where it appears to the Executive that a—

- (a) safety component bearing a CE conformity marking; or
- (b) subsystem accompanied by a declaration of conformity,

that has been placed on the market and put into service in accordance with its intended purpose, is not safe, the Executive shall notify in writing the Commission, and where appropriate other Member States, of that fact forthwith.

Notices in relation to a cableway installation that is not safe

27.—(1) If the Executive is of the opinion that an authorised cableway installation that has been put into service in accordance with its intended purpose, is not safe, the Executive may serve a notice on the operator to prohibit the use of or to impose conditions of operation in relation to that cableway installation.

(2) A notice served under paragraph (1) shall contain the following information—

- (a) a statement that the Executive is of that opinion;
- (b) the reasons for that opinion;
- (c) a direction that the cableway installation to which the notice relates—
 - (i) shall not be operated, or
 - (ii) that it may only be operated provided certain conditions are met; and
- (d) the date by which the operator shall comply with the notice.

(3) Any notice served under paragraph (1) may be withdrawn by the Executive serving written notice of the withdrawal on the operator.

(4) Where a notice has been served on the operator under paragraph (1) the operator shall comply with it.

(5) This regulation does not apply to any cableway installation in respect of which the Executive has served an improvement notice or prohibition notice or both under section 21 or 22, as the case may be, of the 1974 Act or the equivalent provisions in the 1978 Order, and that notice remains in force.

Safety components—Notice of improper fixation of the CE conformity marking

28.—(1) Where the Executive has reasonable grounds for considering that the CE conformity marking has not been properly affixed to a safety component, or to a label inseparably attached to a safety component, by the responsible person in accordance with regulation 7, it may give notice in writing to that person.

(2) A notice which is given under paragraph (1) shall—

- (a) state that the Executive considers that the CE conformity marking has not been properly affixed to the relevant safety component or label, as the case may be, in accordance with regulation 7;
- (b) specify the respect in which it is so considered and give particulars thereof;
- (c) require the responsible person—
 - (i) to secure that any safety component to which the notice relates conforms as regards the provisions concerning the proper affixation of the CE conformity marking within such period as may be specified in the notice, or
 - (ii) to provide evidence within that period, to the satisfaction of the Executive that the CE conformity marking has been properly affixed; and
- (d) inform the responsible person that if the non-conformity continues (or if satisfactory evidence has not been provided) within the period specified in the notice, further action may be taken under the Regulations.

(3) Where a notice has been served on the person responsible in accordance with this regulation, the responsible person shall comply with that notice.

Defence of Due Diligence

29.—(1) Subject to the following provisions of this regulation, in any proceedings against any person for an offence under these Regulations it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided in paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) the act or default of another; or
- (b) reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing of the proceedings (or in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying, or assisting in the identification of, the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

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

Liability of persons other than the principal offender

30.—(1) Where the commission by any person of an offence under these Regulations is due to the act or default of some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

PART V

Supplementary provisions

Amendment of the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994

31.—(1) In regulation 4 of the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994(a)—

- (a) after paragraph (2A) there shall be inserted the following paragraph—

“(2B) Approval shall not be required in relation to any safety component, subsystem or cableway installation to the extent that the safety component, subsystem or cableway installation, as the case may be, is subject to the requirements of regulations 4 to 12 of the Cableway Installations Regulations 2004.”;

- (b) In paragraph (5) substitute “In paragraph 2A” for “In this regulation”;

(a) S.I. 1994/157.

- (c) After paragraph (5) there shall be added the following paragraph—
“(6) In paragraph (2B), “safety component”, “subsystem” and “cableway installation” shall have the same meanings as they have in the Cableway Installations Regulations 2004.”.

Consequential amendments

32.—(1) In the Provision and Use of Work Equipment Regulations 1998^(a), at the end of column (1) of Schedule 1, there shall be added the words “The Cableway Installations Regulations 2004” at the end of column (2) the words “S.I. 2004/129”.

(2) In the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999^(b), at the end of column (1) of Schedule 2, there shall be added the words “The Cableway Installations Regulations 2004” at the end of column (2) the words “S.I. 2004/129”.

Signed by authority of the Secretary of State for Transport

28th January 2004

David Jamieson
Parliamentary Under Secretary
Department for Transport

(a) S.I. 1998/2306.
(b) S.R. 1999/305.

(ANNEX 1 TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

SUBSYSTEMS OF AN INSTALLATION

For the purposes of this directive, an installation is divided up into infrastructure and the subsystems listed below, with exploitability and maintainability having to be taken into account in each case:

1. Cables and cable connections
2. Drives and brakes
3. Mechanical equipment
 - 3.1. Cable winding gear
 - 3.2. Station machinery
 - 3.3. Line engineering
4. Vehicles
 - 4.1. Cabins, seats or drag devices
 - 4.2. Suspension gear
 - 4.3. Driving gear
 - 4.4. Connections to the cable
5. Electrotechnical devices
 - 5.1. Monitoring, control and safety devices
 - 5.2. Communication and information equipment
 - 5.3. Lightning protection equipment
6. Rescue equipment
 - 6.1. Fixed rescue equipment
 - 6.2. Mobile rescue equipment

(ANNEX II TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

ESSENTIAL REQUIREMENTS

1. Purpose

This Annex sets out the essential requirements, including maintainability and operability, applicable to the design, construction and entry into service of installations referred to in Article 1(5) of this Directive.

2. General requirements

2.1. Safety of persons

The safety of users, workers and third parties is a fundamental requirement for the design, construction and operation of installations.

2.2. Principles of safety

All installations must be designed, operated and serviced in accordance with the following principles, which are to be applied in the order given:

- eliminate or, if that is not possible, reduce risks by means of design and construction features,
- define and implement all necessary measures to protect against risks which cannot be eliminated by the design and construction features,
- define and state the precautions which should be taken to avoid the risks which it has not been possible to eliminate completely by means of the provisions and measures referred to in the first and second indents.

2.3. Consideration of external factors

Installations must be so designed and constructed as to make it possible to operate them safely, taking into account the type of installation, the nature and physical features of the terrain on which it is installed, its surroundings and atmospheric and meteorological factors, as well as possible structures and obstacles located in the vicinity either on the ground or in the air.

2.4. Dimensions

The installation, the subsystems and all its safety components must be dimensioned, designed and constructed to withstand, with a sufficient degree of safety, all stresses encountered under all foreseeable conditions, including those which occur when not in operation, and taking account in particular of outside influences, dynamic effects and fatigue phenomena, while complying with the acknowledged rules of the art, in particular with regard to the choice of materials.

2.5. Assembly

2.5.1. The installation, the subsystems and all the safety components must be designed and constructed in such a way as to ensure that they can be safely assembled and put into place.

2.5.2. The safety components must be so designed as to make assembly mistakes impossible, either as a result of construction or by means of appropriate markings on the components themselves.

2.6. Integrity of the installation

2.6.1. The safety components must be designed and constructed and be usable in such a way as to ensure that, in every case, their own operational integrity and/or the safety of the installation is ensured, as defined in the safety analysis in Annex III, so that their failure is highly improbable and with an adequate safety margin.

2.6.2. The installation must be designed and constructed in such a way as to ensure that, during its operation, any failure of a component which might affect safety, even indirectly, is met by an appropriate measure being taken in good time.

2.6.3. The safeguards referred to in points 2.6.1 and 2.6.2 must apply throughout the period between two scheduled inspections of the component concerned. The time period for the scheduled inspection of the safety components must be clearly indicated in the instruction manual.

2.6.4. Safety components which are incorporated into installations as spare parts must satisfy the essential requirements of this Directive and the conditions relating to the smooth interaction with the other parts of the installations.

2.6.5. Measures must be taken to ensure that the effects of a fire in the installation do not endanger the safety of persons being transported and workers.

2.6.6. Special measures must be taken to protect installations and persons from the effects of lightning.

2.7. Safety devices

2.7.1. Any defect in the installation which could result in a failure endangering safety must, where practicable, be detected, reported and processed by a safety device. The same applies to any normally foreseeable external event which may endanger safety.

2.7.2. It must be possible at all times to shut down the installation manually.

2.7.3. After the installation has been shut down by a safety device, it must not be possible to restart it unless appropriate action has been taken.

2.8. Maintainability

The installation must be designed and constructed so as to enable routine or special maintenance and repair operations and procedures to be carried out safely.

2.9. Nuisance

The installation must be designed and constructed in such a way as to ensure that any internal or external nuisance resulting from noxious gases, noise emissions or vibrations falls within the prescribed limits.

3. Infrastructure requirements

3.1. Layout, speed, distance between vehicles

3.1.1. The installation must be designed to operate safely taking into account the characteristics of the terrain and its surroundings, atmospheric and meteorological conditions, any possible structures and obstacles located in the vicinity either on the ground or in the air in such a way as to cause no nuisance or pose no danger under any operational or servicing conditions or in the event of an operation to rescue persons.

3.1.2. Sufficient distance must be maintained laterally and vertically between vehicles, towing devices, tracks, cables, etc., and possible structures and obstacles located in the vicinity either on the ground or in the air, taking account of the vertical, longitudinal and lateral movement of the cables and vehicles or of the towing devices under the most adverse foreseeable operating conditions.

3.1.3. The maximum distance between vehicles and ground must take account of the nature of the installation, the type of vehicles and the rescue procedures. In the case of open cars it must also take account of the risk of fall as well as the psychological aspects associated with the distance between vehicles and ground.

3.1.4. The maximum speed of the vehicles or towing devices, the minimum distance between them and their acceleration and braking performance must be chosen to ensure the safety of persons and the safe operation of the installation.

3.2. Stations and structures along the line

3.2.1. Stations and structures along the line must be designed, installed and equipped so as to ensure stability. They shall permit safe guidance of the cables, vehicles and the towing devices, and enable maintenance to be safely carried out, under all operating conditions.

3.2.2. The entry and exit areas of the installation must be designed so as to guarantee the safety of the traffic of vehicles, towing devices and persons. The movement of vehicles and towing devices in the stations must be capable of taking place without risk to persons, taking into account their possible active collaboration to their movement.

4. Requirements relating to cables, drives and brakes and to mechanical and electrical installations

4.1. Cables and their supports

4.1.1. All measures must be taken in line with the latest technological developments:

- to avoid cables or their attachments breaking,
- to cover their minimum and maximum stress values,
- to ensure that they are safely mounted on their supports and prevent derailment,
- to enable them to be monitored.

4.1.2. It is not possible to prevent all risk of cable derailment, measures must be taken to ensure that cables can be retrieved and the installations shut down without risk to persons in the event of derailment.

4.2. Mechanical installations

4.2.1. Drives

The drive system of an installation must be of a suitable performance and capability, adapted to the various operating systems and modes.

4.2.2. Standby drive

The installation must have a standby drive with an energy supply which is independent of that of the main drive system. A standby drive is not, however, necessary if the safety analysis shows that people can leave the vehicles and, in particular, towing devices easily, quickly and safely even if a standby drive is not available.

4.2.3. Braking

4.2.3.1. In an emergency, it must be possible to shut down the installation and/or the vehicles at any moment, under the most unfavourable conditions in terms of authorised load and pulley adhesion during operation. The stopping distance must be as short as the security of the installation dictates.

4.2.3.2. Deceleration values must be within adequate limits fixed in such a way to ensure both the safety of the persons and the satisfactory behaviour of the vehicles, cables and other parts of the installation.

4.2.3.3. In all installations there must be two or more braking systems, each capable of bringing the installation to a halt, and co-ordinated in such a way that they automatically replace the active system when its efficiency becomes inadequate. The traction cable's last braking system must act directly on the driving pulley. These provisions do not apply to drag lifts.

4.2.3.4. The installation must be fitted with an effective clamp and locking mechanism to guard against premature restarts.

4.3. Control devices

The control devices must be designed and constructed so as to be safe and reliable, to withstand normal operating stresses and external factors such as humidity, extreme temperatures or electromagnetic interference and so as not to cause dangerous situations, even in the event of operational error.

4.4. Communication devices

Suitable facilities must be provided to enable operational staff to communicate with one another at all times and to inform users in case of emergency.

5. Vehicles and towing devices

5.1. Vehicles and/or towing devices must be designed and fitted out in such a way that under foreseeable operating conditions no person can fall out or encounter any other risks.

- 5.2. The fittings of vehicles and towing devices must be dimensioned and constructed so as not to:
- damage the cable, or
 - slip, except where slippage does not significantly affect the safety of the vehicle, the towing device or the installation

under the most unfavourable conditions.

5.3. Vehicle doors (on cars, cabins) must be designed and constructed in such a way as to make it possible to close and lock them. The vehicle floor and walls must be designed and constructed so as to withstand pressure and loads exerted by users under any circumstances.

5.4. If for reasons of operational safety an operator is required on board the vehicle, the vehicle must be fitted with the equipment required for him to carry out his tasks.

5.5. Vehicles and/or towing devices and, in particular, their suspension mechanisms must be designed and fitted so as to ensure the safety of workers servicing them in accordance with appropriate rules and instructions.

5.6. In the case of vehicles equipped with disconnectable fittings, all measures must be taken to bring to a halt, without risk to users, at the moment of departure, any vehicle whose fitting has been incorrectly connected to the cable and, at the moment of arrival, any vehicle whose fitting has not been disconnected, and to prevent the vehicle from falling.

5.7. Funicular vehicles and, in so far as the configuration of the installation so permits, bi-cable cable cars must be equipped with an automatic braking device on the track, when the possibility of carrier cable breaking cannot reasonably be excluded.

5.8. Where all risk of derailment of the vehicle cannot be eliminated by other measures, the vehicle must be fitted with an anti-derailment device which enables the vehicle to be brought to a halt without risk to persons.

6. Equipment for users

The access to embarkation areas and exit from disembarkation areas and the embarkation and disembarkation of users must be organised with regard to the movement and stopping of vehicles in such a way as to ensure the safety of persons, in particular in areas where there is a risk of falling.

It must be possible for children and persons with reduced mobility to use the installation safely if the installation is designed for the transport of such persons.

7. Operability

7.1. Safety

7.1.1. All technical provisions and measures must be taken to ensure that the installation is used for its intended purpose according to its technical specification and to the specified operating conditions and that the instructions on safe operation and maintenance can be complied with. The instruction manual and the corresponding notes shall be drawn up in an official language or languages of the Community which may be determined in accordance with the Treaty by the Member State in the territory of which the installation is constructed.

7.1.2. The persons responsible for operating the installation must be provided with the appropriate material resources and must be qualified to carry out the task in hand.

7.2. Safety in the event of immobilisation of the installation

All technical provisions and measures must be adopted to ensure that users can be brought to safety within a set time appropriate to the type of installation and its surroundings when the installation is immobilised and cannot be restarted quickly.

7.3. Other special provisions concerning safety

7.3.1. Operators' stands and workplaces

Movable parts which are normally accessible in the stations must be designed, constructed and installed in such a way as to preclude any risks or, where such risks exist, be fitted with protective devices so as to prevent any contact with parts of the installation which may cause accidents. These devices must be of a type that cannot easily be removed or rendered inoperative.

7.3.2. Risk of falling

Workplaces and working areas, including those used only occasionally, and the access to them, must be designed and constructed in such a way as to prevent persons required to work or move in them from falling. Should the construction not be adequate, they must also be provided with anchorage points for personal protective equipment to prevent falls.

SCHEDULE 3

Regulation 2(5)

(ANNEX III TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

SAFETY ANALYSIS

The safety analysis required for every cableway installation referred to in Article 1(5) of this Directive must take into account every mode of operation envisaged. The analysis must follow a recognised or established method and take into account the current state of the art and the complexity of the installation in question. The aim is also to ensure that the design and configuration of the installation should take account of the local surroundings and the most adverse situations in order to ensure satisfactory safety conditions.

The analysis must also cover the safety devices and their effect on the installation and related subsystems that they bring into action so that either:

- they are capable of reacting to an initial breakdown or failure detected so as to remain either in a state that guarantees safety, in a lower operating mode or in a fail-safe state,
- they are redundant and are monitored, or
- they are such that the probability of their failure can be evaluated and they are of a standard equivalent to that achieved by safety devices that meet the criteria in the first and second indents.

Safety analysis must be used to draw up the inventory of risks and dangerous situations in accordance with Article 4(1) of this Directive and to determine the list of safety components referred to in Article 4(2) thereof. The result of the safety analysis must be summarised in a safety report.

SCHEDULE 4

Regulation 2(5)

(ANNEX IV TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

SAFETY COMPONENTS: EC DECLARATION OF CONFORMITY

This Annex applies to the safety components referred to in Article 1(5) of this Directive with a view to establishing their compliance with the essential requirements which concern them referred to in Article 3(1) of the Directive and defined in Annex II.

The EC declaration of conformity and the accompanying documentation must be dated and signed. It must be drawn up in the same language or languages as the instruction manual referred to in point 7.1.1 of Annex II.

The declaration must state the following particulars:

- the references of this Directive,
- name, business name and full address of the manufacturer or his authorised representative established in the Community. An authorised representative must also give the name, business name and full address of the manufacturer,
- description of the component (make, type, etc.),
- details of the conformity declaration procedure used (Article 7 of this Directive),
- all relevant provisions with which the component must comply and, in particular, the conditions of use,
- the name and address of any body notified, involved in the conformity procedure and the date of the EC examination certificate with details, where appropriate, of the duration and conditions of validity of the certificate,
- where appropriate, the reference of the harmonised standards applicable,
- identification of the person empowered to sign on behalf of the manufacturer or his authorised representative established in the Community.

(ANNEX V TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

SAFETY COMPONENTS : ASSESSMENT OF CONFORMITY

1. Scope

This Annex applies to safety components with a view to checking compliance with the essential requirements referred to in Article 3(1) of this Directive and defined in Annex II. It concerns the assessment by one or more notified bodies of the intrinsic conformity of a component, considered in isolation, with the prescribed technical specifications.

2. Procedures

The assessment procedures implemented by the notified bodies both at the design and production stage are based on the modules defined in Council Decision 93/465/EEC along the lines indicated in the following table. The solutions in this table are considered to be equivalent and can be used at the manufacturer's discretion.

ASSESSMENT OF THE CONFORMITY OF SAFETY COMPONENTS

<i>Design</i>	<i>Production</i>
1. EC type-examination Module "B"	1(a) Production quality assurance Module "D"
	1(b) Product verification Module "F"
2. Full quality assurance Module "H"	2. Full quality assurance Module "H"
3. Unit verification Module "G"	3. Unit verification Module "G"

Modules must be applied taking into account the specific supplementary conditions in each module.

MODULE B: EC TYPE-EXAMINATION

1. This module describes that part of the procedure by which a notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of this Directive.

2. The application for EC type-examination must be lodged by the manufacturer or by his authorised representative established within the Community with a notified body of his choice.

The application must include:

- the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address as well,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant must place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called "type". The notified body may request further specimens if needed for carrying out the test programme.

3. The technical documentation must enable the conformity of the component with the requirements of this Directive to be assessed. It must, as far as is relevant for such assessment, cover the design, manufacture and operation of the component.

The documentation must contain as far as is relevant to assessment:

- a general type-description,
- conceptual design and manufacturing drawings and schemes of components, subassemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of the said drawings and schemes and the operation of the product,

- the list of the European specifications referred to in Article 2(2) of this Directive, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements where the European specifications referred to in Article 2(2) of this Directive do not exist,
- the results of design calculations made, examinations carried out, etc.,
- test reports.

It must also indicate the field of use of the component.

4. The notified body:

4.1. must examine the technical documentation, verify that the type has been manufactured in conformity with the technical documentation and identify the components which have been designed in accordance with the relevant provisions of the European specifications referred to in Article 2(2) of this Directive as well as those which have been designed without applying the relevant provisions of those European specifications;

4.2. must perform or have performed the appropriate examinations and necessary tests to check whether, where the European specifications referred to in Article 2(2) of this Directive have not been applied, the solutions adopted by the manufacturer meet the essential requirements of this Directive;

4.3. must perform or have performed the appropriate examinations and necessary tests to check whether, where the manufacturer has chosen to apply the relevant European specifications, these have actually been applied;

4.4. must agree with the applicant the location where the examinations and necessary tests are to be carried out.

5. Where the type meets the provisions of this Directive, the notified body must issue an EC type-examination certificate to the applicant. The certificate must state the name and address of the manufacturer, the conclusions of the examination, the conditions for its validity, the duration thereof and give the necessary data for identification of the approved type.

A list of the relevant parts of the technical documentation must be annexed to the certificate and a copy kept by the notified body. If the notified body refuses to issue an EC-type certificate to the manufacturer, the former must provide detailed reasons for such refusal. Provision must be made for an appeals procedure.

6. The applicant must inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications of the approved component which must receive additional approval where such changes may affect the conformity of the component with the essential requirements for the prescribed conditions for its use. This additional approval is given in the form of an addition to the original EC type-examination certificate.

7. Each notified body must communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.

8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The Annexes to the certificates must be kept at the disposal of the other notified bodies.

9. The manufacturer or his authorised representative must keep with the technical documentation copies of EC type-examination certificates and their additions for at least 30 years after the last component has been manufactured.

Where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available is the responsibility of the person who places the component on the Community market.

MODULE D: PRODUCTION QUALITY ASSURANCE

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the components concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of this Directive. The manufacturer or his authorised representative established within the Community must affix the CE marking to each component and must draw up a written declaration of conformity. The CE marking must be accompanied by the identification symbol of the notified body responsible for monitoring as specified in point 4.

2. The manufacturer must operate an approved quality system for production, final component inspection and testing as specified in point 3, and is subject to monitoring as specified in section 4.

3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body of his choice, for the components concerned.

The application must include:

- all relevant information for the component category envisaged,
- the documentation concerning the quality system,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

3.2. The quality system must ensure compliance with the type as described in the EC type-examination certificate and with the requirements of this Directive.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plans, manuals and records.

It must in particular contain an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to competent quality,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required component quality and the effective operation of the quality system.

3.3. The notified body must assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It presumes conformity with these requirements in respect of quality systems that implement the relevant harmonised standards.

The auditing team must have at least one member with experience of evaluating in the component technology concerned. The evaluation procedure must include an inspection visit to the manufacturer's premises.

The decision must be notified to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer must undertake to discharge the obligations arising from the quality system as approved and to maintain it in an appropriate and efficient manner at a proper and efficient level.

The manufacturer or his authorised representative must keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body must evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It must notify its decision to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2. The manufacturer must allow the notified body entrance for inspection purposes to the places of manufacture, inspection and testing, and storage, and must provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

4.3. The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and must provide an audit report to the manufacturer.

4.4. Additionally the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body must provide the manufacturer with a visit report and, if a test has taken place, a test report.

5. The manufacturer must, for period ending at least 30 years after the last component has been manufactured, keep at the disposal of the national authorities:
 - the documentation referred to in the second indent of the second subparagraph of point 3.1,
 - the updating referred to in the second paragraph of point 3.4,
 - the decisions and reports from the notified body which are referred to in points 3.4, 4.3 and 4.4.
6. Each notified body must give the other notified bodies the relevant information concerning all quality system approvals issued and withdrawn.

MODULE F: PRODUCT VERIFICATION

1. This module describes the procedure whereby a manufacturer or his authorised representative established within the Community checks and attests that the components subject to the provisions of point 3 are in conformity with the type described in the EC type-examination certificate and satisfy the requirements of this Directive.

2. The manufacturer must take all measures necessary in order that the manufacturing process ensures conformity of the components with the type as described in the EC type-examination certificate and with the requirements of this Directive. He shall affix the CE marking to each component and shall draw up a declaration of conformity.

3. The notified body must carry out the appropriate examinations and tests in order to check the conformity of the components to the requirements of this Directive either by examination and testing of every component as specified in point 4 or by examination and testing of components on a statistical basis, as specified in point 5, at the choice of the manufacturer.

The manufacturer or his authorised representative resident within the Community must keep a copy of the declaration of conformity for a period ending at least 30 years after the last component has been manufactured.

4. Verification by examination and testing of every component

4.1. All components must be individually examined and appropriate tests as set out in the relevant European specification(s) referred to in Article 2 or equivalent tests shall be carried out in order to verify their conformity with the type described in the EC type-examination certificate and to the requirements of this Directive.

4.2. The notified body must affix or cause to be affixed, its identification symbol to each approved component and draw up a written certificate of conformity relating to the tests carried out.

4.3. The manufacturer or his authorised representative must ensure that he is able to supply the notified body's certificates of conformity on request.

5. Statistical verification

5.1. The manufacturer must present his components in the form of homogeneous lots and shall take all measures necessary in order that the manufacturing process ensures the homogeneity of each lot produced.

5.2. All components must be available for verification in the form of homogeneous lots. A random sample must be drawn from each lot. Components in a sample must be individually examined and appropriate tests as set out in the European specification(s) referred to in Article 2(2) of this Directive, or equivalent tests, shall be carried out to ensure their conformity with the requirements of this Directive and to determine whether the lot is accepted or rejected.

5.3. The statistical procedure must use the following elements:

- a statistical method,
- a sampling plan with its operational characteristics.

5.4. In the case of accepted lots, the notified body must affix, or cause to be affixed, its identification number to each component, and shall draw up a written certificate of conformity relating to the tests carried out. All components in the lot may be put on the market, except those components from the sample which were found not to be in conformity.

If a lot is rejected, the notified body or the competent authority must take appropriate measures to prevent the putting on the market of that lot. In the event of the frequent rejection of lots the notified body may suspend statistical verification.

The manufacturer may, under the responsibility of the notified body, affix the latter's identification number during the manufacturing process.

5.5. The manufacturer or his authorised representative must ensure that he is able to supply the notified body's certificates of conformity on request.

MODULE G: UNIT VERIFICATION

1. This module describes the procedure whereby the manufacturer ensures and declares that the component concerned, which has been issued with the certificate referred to in point 2, conforms to the requirements of this Directive that apply to it. The manufacturer or his authorised representative established within the Community must affix the CE marking to the component and must draw up a declaration of conformity.

2. The notified body must examine the component and must carry out the appropriate tests as set out in the relevant European specifications referred to in Article 2(2) of this Directive, or equivalent tests, to ensure its conformity with the relevant requirements of this Directive.

The notified body must affix, or cause to be affixed, its identification number on the approved component and shall draw up a certificate of conformity concerning the tests carried out.

3. The aim of the technical documentation is to enable conformity with the requirements of this Directive to be assessed and the design, manufacture and operation of the component to be understood.

For the purposes of assessment, the documentation must include the following:

- a general description of the type,
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the component,
- a list of the relevant European specifications applied in total or partially referred to in Article 2(2) of this Directive, as well as a description of the solutions adopted by the manufacturer to meet the essential requirements of the Directive, where the European specifications referred to in Article 2(2) have not been applied,
- the results of the design calculations made, examinations carried out, etc.,
- test reports,
- fields of use of components.

MODULE H: FULL QUALITY ASSURANCE

1. This module describes the procedure whereby a manufacturer who satisfies the obligations of paragraph 2 must ensure and declare that the components concerned satisfy the relevant requirements of this Directive. The manufacturer or his authorised representative established within the Community must affix the CE marking to the component and must draw up a written declaration of conformity. The CE marking must be accompanied by the identification symbol of the notified body responsible for the surveillance as specified in point 4.

2. The manufacturer must operate an approved quality system for design, manufacture and final component inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body.

The application must include:

- all relevant information for the category of component envisaged,
- the documentation relating to the quality system.

3.2. The quality system must ensure compliance of the components with the relevant requirements of this Directive.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It must in particular include an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to design and component quality,
- the technical design specifications, including the European specifications referred to in Article 2(2) of this Directive, that will be applied and, where the European specifications will not be applied in full, the means that will be used to ensure that the essential requirements of this Directive that apply to the products will be met,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the components pertaining to the category of components covered,

- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and component quality and the effective operation of the quality assurance system.

3.3. The notified body must assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonised standard.

The auditing team must have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision must be notified to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer must undertake to fulfil the obligations arising from the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorised representative must keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body must evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It must notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2. The manufacturer must allow the notified body entrance for inspection purposes to the places of design, manufacture, inspection and testing, and storage, and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records as provided for by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
- the quality records as provided for by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

4.3. The notified body must periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer must, for a period ending at least 30 years after the last component has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of the second subparagraph of point 3.1,
- the updating referred to in the second subparagraph of point 3.4,
- the decisions and reports from the notified body which are referred to in points 3.4, 4.3 and 4.4.

6. Each notified body must forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

7. Supplementary requirements; design examination

7.1. The manufacturer must lodge an application for examination of the design with a single notified body.

7.2. The application must enable the design, manufacture and operation of the component to be understood, and shall enable conformity with the requirements of this Directive to be assessed.

It must include:

- the technical design specifications, including the European specifications referred to in Article 2(2) of this Directive that have been applied,
- the necessary supporting evidence for their adequacy, in particular where the European specifications referred to in Article 2(2) of this Directive have not been applied in full. This supporting evidence must include the results of tests carried out by the appropriate laboratory of the manufacturer or on his behalf.

7.3. The notified body must examine the application and where the design meets the provisions of this Directive, must issue an EC design examination certificate to the applicant. The certificate shall contain the conclusions of the examination, conditions for its validity, the necessary data for identification of the approved design and, if relevant, a description of the component's functioning.

7.4. The applicant must keep the notified body that issued the EC design examination certificate informed of any modification to the approved design. Modifications to the approved design must receive additional approval from the notified body that issued the EC design examination certificate where such changes may affect conformity to the essential requirements referred to in Article 3(1) of this Directive or the prescribed conditions for use of the component. This additional approval is given in the form of an addition to the original EC design examination certificate.

7.5 The notified bodies must forward to the other notified bodies the relevant information concerning:

- the EC design examination certificates and additions issued,
- the EC design approvals and additional approvals withdrawn,
- the EC design examination certificates and additions refused.

SCHEDULE 6

Regulation 2(5)

(ANNEX VI TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

SUBSYSTEMS: EC DECLARATION OF CONFORMITY

This Annex applies to the subsystems referred to in Article 9 of this Directive in order to ensure that they fulfil the essential requirements concerning them referred to in Article 3(1) of this Directive.

The EC declaration of conformity must be drawn up by the manufacturer, or his authorised representative established in the Community, or, where such a person is not available, any natural or legal person, who places the subsystem on the market; the declaration and the accompanying technical documentation must be dated and signed.

This EC declaration of conformity and the technical documentation must be drawn up in the same language or languages as the instruction manual, referred to in point 7.1.1 of Annex II and must contain the following information:

- the reference of this Directive,
- the name and address of the person who ordered EC examination,
- a description of the subsystem,
- the name and address of the notified body which carried out the EC examination, referred to in Article 11 of this Directive,
- all relevant provisions with which the subsystem must comply, in particular any operating restrictions or operating conditions,
- the outcome of EC examination referred to in Annex VII (EC conformity certificate),
- particulars of the person who is authorised to sign a legally binding declaration for the manufacturer, or his authorised representative or, where such a person is not available, the natural or legal person, who places the subsystem on the market.

(ANNEX VII TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

SUBSYSTEMS : ASSESSMENT OF CONFORMITY

1. EC examination is the procedure whereby, at the request of the manufacturer or his authorised representative established in the Community or, where such a person is not available, any natural or legal person who assumes responsibility for placing the subsystem on the market, a notified body checks and attests that a subsystem is:

- in conformity with the provisions of the Directive and other relevant provisions in compliance with the Treaty,
- in conformity with the technical documentation, and
- completed.

2. The examination of the subsystem is carried out at each of the following stages:

- design,
- construction and acceptance trials once the subsystem has been completed.

3. The technical documentation accompanying the examination certificate must comprise the following:

- construction plans and calculations, electrical and hydraulic diagrams, control circuit diagrams, description of computer and automatic systems, operating and servicing instructions, etc.,
- a list of the safety components referred to in Article 4(2) of this Directive which are used in the subsystem,
- copies of the EC declaration of conformity as provided for in Annex IV for these safety components together with the corresponding construction plans and a copy of the reports on any other tests and trials carried out.

4. Documentation and correspondence in connection with EC examination procedures must be drawn up in the same language or languages as the instruction manual referred to in point 7.1.1 of Annex II.

5. Surveillance

5.1. It shall be ensured by means of surveillance that during construction of the subsystem the obligations arising from the technical documentation are fulfilled.

5.2. The notified body responsible for EC examination must have permanent access to the production shops, storage areas and, where necessary, to prefabrication areas, testing plants and more generally to any locations it feels it needs to visit in order to perform its task. The manufacturer or his authorised representative or, where such a person is not available, the natural or legal person who places the subsystem on the market must provide it with, or arrange for it to be provided with, any documents required to that end, notably the plans and technical documentation relating to the subsystem.

5.3. The notified body responsible for EC examination must periodically carry out audits to ensure compliance with the provisions of this Directive. On each visit it must provide the site supervisor responsible with an audit report. It may ask to be brought in to inspect various stages of the work.

5.4. In addition, the notified body may pay unexpected visits to the production shops. During such visits it may carry out full or partial audits. The notified body must draw up a report on the visit and, where necessary, submit an audit report to the site supervisor responsible.

6. Each notified body must publish periodically the relevant information concerning:

- all applications for EC examination received,
- all EC examination certificates issued,
- all EC examination certificates refused.

(ANNEX VIII TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

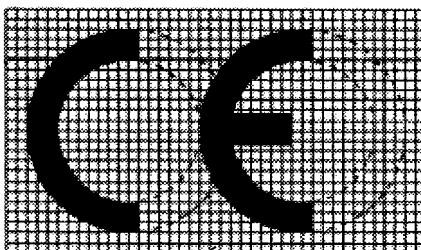
MINIMUM CRITERIA TO BE TAKEN INTO ACCOUNT BY THE MEMBER STATE FOR
THE APPOINTMENT OF NOTIFICATION BODIES

1. The notified body, its director and the staff responsible for carrying out the verification operations may not be either the designer, manufacturer supplier or installer of the safety components or subsystems which they inspect or the authorised representative of any of those parties or the natural or legal person, who places these safety components or subsystems on the market. They may not become involved, either directly or as authorised representatives, in the design, manufacture, construction, marketing, servicing or operation of these safety components or subsystems. This does not preclude the possibility of exchanges of technical information between the manufacturer and the notified body.
2. The notified body and its inspection staff must carry out the verification operations with the highest degree of professional integrity and technical competence and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of the inspection, especially from persons or groups of persons with an interest in the result of the verifications.
3. The notified body must have at its disposal the necessary staff and possess the necessary facilities to enable it to perform properly the administrative and technical tasks connected with the verification operations, it must also have access to the equipment required for special verification.
4. The staff responsible for inspection must have:
 - sound technical and professional training,
 - satisfactory knowledge of the requirements of the tests they carry out and adequate experience of such tests,
 - the ability required to draw up the certificates, records and reports required to authenticate the performance of the tests.
5. The impartiality of inspection staff must be guaranteed. Their remuneration must not depend on the number of tests carried out or on the results of such tests.
6. The notified body must take out civil liability insurance unless its liability is assumed by the State in accordance with national law or the Member State itself is directly responsible for the inspections.
7. The staff of the body must be bound by professional secrecy (except vis-à-vis the competent administrative authorities of the State in which its activities are carried out) with regard to all information it acquires in carrying out its tasks under this Directive or any provision of national law giving effect to it.

(ANNEX IX TO THE CABLEWAY INSTALLATIONS DIRECTIVE)

CE CONFORMITY MARKING

The CE conformity marking shall consist of the letters “CE” taking the following form:



If the CE marking is reduced or enlarged, the proportions given in the above drawing must be respected.

The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm. This minimum dimension may be waived for small-scale safety components.

The CE marking shall be followed by the last two figures of the year in which it was affixed and by the identification number of the notified body that deals with the procedures referred to in Article 7(3) of this Directive.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations implement in relation to the whole of the United Kingdom, Council Directive 2000/9/EC of 20th March 2000 relating to cableway installations designed to carry persons (OJ No L106 3.5.2000 p 21). The purpose of that Directive is to introduce common standards for the construction and putting into service of cableway installations, including safety components and subsystems incorporated into cableway installations.

In *Part I*, *Regulation 1* provides for the Regulations to come into force on 3rd May 2004. *Regulation 2* (together with Schedules 1 to 9) deals with interpretation and definitions.

Regulation 3 provides for the Regulations to apply to cableway installations put into service or modified after the date of coming into force of the Regulations, and to subsystems or safety components placed on the market after the date of coming into force of the Regulations. Cableway installations and safety components that were put into service, or placed on the market before 3rd May 2004 are excluded from the Regulations if they comply with all relevant legislative provisions applicable on 3rd May 2000.

Part II sets out the main requirements of the Regulations. *Regulation 4* prohibits works for the construction or modification of a cableway installation without a Stage 1 authorisation from the Secretary of State. The Stage 1 authorisation can only be sought if a safety analysis and report have been undertaken. The works must comply with the relevant essential requirements set out in Schedule 2 and there must be compliance with the technical file (comprising the safety analysis and report, and declarations of conformity of safety components and subsystems).

Regulation 5 prohibits a cableway installation from being put into service without a Stage 2 authorisation from the Secretary of State.

Regulation 6 requires operators of cableway installations to compile and maintain log books, and to comply with specified measures and conditions.

Regulation 7 prohibits the placing on the market of a safety component unless it meets the essential requirements (set out in Schedule 3). This is evidenced by a declaration of conformity following assessment by a notified body of the safety component against European or notified standards. The CE marking (set out in Schedule 9) must also be attached to the safety component.

Regulation 8 prohibits the placing on the market of a subsystem unless it meets the essential requirements, evidenced by a declaration of conformity. The declaration is drawn up following an assessment of the safety component by a notified body against European or notified standards and is accompanied by an EC examination certificate as set out in Schedule 7.

Regulation 9 provides that the assessment procedure for safety components and subsystems are those set out in Schedules 5 and 7 respectively. *Regulation 10* imposes requirements on others to comply with Regulations 8 and 9 where the person responsible has not done so. *Regulation 11* exempts safety components and subsystems from Regulations 7 and 8 if they are to be used or exported outside of the Community. *Regulation 12* describes the circumstances under which the safety components, subsystems and cableway installations are to be taken to meet the requirements of the Regulations.

Part III sets out the authorisation procedures and notified bodies. *Regulation 13* provides for the Secretary of State to issue Stage 1 and 2 authorisations. *Regulation 14* defines notified bodies, and *Regulation 15* and *Schedule 8* provide for the appointment and termination of appointment of notified bodies in the United Kingdom. *Regulation 16* provides for fees to be charged by the notified bodies and the Secretary of State.

Regulations 17 and 18 set out the conditions to be met to apply for a Stage 1 and Stage 2 authorisation. *Regulation 19* provides that a Stage 1 authorisation will only be granted if the cableway installation is likely to meet the essential requirements and is safe. A Stage 2 authorisation will only be granted if the cableway installation meets the essential requirements, is safe, the technical file is complete and specified measures and conditions have been complied with.

Regulations 20 and 21 set out the procedure where the Secretary of State or a notified body is minded to refuse authorisation or refuse to issue a declaration of conformity. *Regulation 22* requires notified bodies to carry out their functions.

Part IV relates to enforcement. *Regulations 23 and 24* provide for the Regulations to be enforced by the Health and Safety Executive in Great Britain and the Health and Safety Executive for Northern Ireland. *Regulations 25 and 27* enable the HSE to serve notices on an operator if a safety component, subsystem or cableway installation is not safe. *Regulation 26* directs the HSE to notify the Commission of notices served regarding safety components and subsystems. *Regulation 28* enables the HSE to serve notice where a safety component does not bear the CE marking. A defence of due diligence is provided in *Regulation 29* and the liabilities on persons other than the principal offender are imposed by *Regulation 30*.

Part V relates to supplementary provisions. *Regulation 31* amends the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994, and *Regulation 32* makes consequential amendments to those Regulations.

A list of notified standards applying in Great Britain can be obtained from www.dft.gov.uk or The Cableways Regulations, LTP2, Zone 3/18 Great Minster House, 76 Marsham Street, London, SW1P 4DR. A list of notified standards applying in Northern Ireland can be obtained from The Cableways Regulations, LTP2, Zone 3/18 Great Minster House, 76 Marsham Street, London, SW1P 4DR.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from The Cableways Regulations, LTP2, Zone 3/18 Great Minster House, 76 Marsham Street, London, SW1P 4DR. A copy has been placed in the library of each House of Parliament.

A copy of the Transposition Note is available from The Cableways Regulations, LTP2, Zone 3/18 Great Minster House, 76 Marsham Street, London, SW1P 4DR.