
STATUTORY INSTRUMENTS

2016 No. 1093

The Lifts Regulations 2016

PART 1

Preliminary

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

the “1974 Act” means the Health and Safety at Work etc. Act 1974 ^{M1};

the “1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978 ^{M2};

the “1987 Act” means the Consumer Protection Act 1987 ^{M3};

the “1997 Regulations” means the Lifts Regulations 1997 ^{M4};

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

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

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

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

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

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

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

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

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

the “Directive” means Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the member States relating to lifts and safety components for lifts (recast) ^{M5};

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

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

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

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

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

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

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

“harmonised standard” has the meaning set out in point 1(c) of Article 2 of Regulation (EU) 1025/2012 of the European Parliament and of the Council on European standardisation ^{M6} (as amended from time to time);

“importer” means a person who—

- (a) is established in the EU; and
- (b) places a safety component for lifts from a third country on the EU market;

“installer” means a person who takes responsibility for the design, manufacture, installation and placing on the market of a lift;

“lift” means a lifting appliance—

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

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

“manufacturer” means a person who—

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

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

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

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

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

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

“place on the market” means—

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

and related expressions must be construed accordingly;

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93^{M7};

“recall” means—

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

and related expressions must be construed accordingly;

“relevant conformity assessment procedure” means—

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

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

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

“technical documentation” has the meaning set out—

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

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

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

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

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

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

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

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

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

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

Marginal Citations

- M1** 1974 c.37.
- M2** S.I. 1978/1039 (N.I. 9).
- M3** 1987 c.43.
- M4** S.I. 1997/831, amended by S.I. 2004/693, 2005/831, 2008/1597, 2011/1043, 2014/469 and 2015/1630.
- M5** OJ L 96, 29.3.2014, p.251.
- M6** OJ L 316, 14.11.2012, p.12.
- M7** OJ L 218, 13.8.2008, p. 30.

Scope and application

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

- (a) lifts permanently serving buildings or constructions; and
- (b) safety components for use in such lifts.

(2) These Regulations do not apply to—

- (a) lifts and safety components for lifts which have been placed on the market [^{F1}before] the commencement date;
- (b) the lifts specified in Schedule 2 (excluded lifts); and
- (c) safety components for the lifts referred to in paragraph (b).

(3) Nothing in these Regulations regarding the installation of a lift affects the application of the Construction Products Regulations 2013 ^{M8}.

Textual Amendments

- F1** Word in reg. 3(2)(a) substituted (8.12.2016) by [The Lifts \(Amendment\) Regulations 2016 \(S.I. 2016/1186\)](#), regs. 1, 2

Marginal Citations

- M8** S.I. 2013/1387.

Exception for trade fairs, exhibitions or demonstrations

4. Nothing in these Regulations prevents the showing of a lift or a safety component for lifts, which is not in conformity with Part 2, at a trade fair, exhibition or demonstration, provided that a visible sign clearly indicates that the lift or the safety component for lifts—

- (a) is not in conformity with Part 2; and
- (b) will not be placed on the market or made available on the market until it is brought into conformity with Part 2.

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

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

PART 2

Obligations of economic operators

Installers

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

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

Technical documentation and conformity assessment

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

EU declaration of conformity and CE marking

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

- (a) draw up a declaration of conformity in accordance with regulation 49 (EU declaration of conformity);
- (b) ensure that the declaration of conformity accompanies the lift; and

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- (c) affix the CE marking in accordance with regulation 50 (CE marking).
- (2) The installer must keep the EU declaration of conformity up-to-date.
- (3) Where a lift is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the installer must draw up a single declaration of conformity, which—
 - (a) identifies the EU instruments; and
 - (b) includes references to the publication of those EU instruments in the Official Journal.

Retention of technical documentation and EU declaration of conformity

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

Labelling and instructions

- 10.**—(1) Before placing a lift on the market, an installer must—
- (a) ensure that it is labelled with—
 - (i) the name, registered trade name or registered trade mark of the installer;
 - (ii) a single postal address at which the installer can be contacted; and
 - (iii) the type, batch or serial number of the lift or other element allowing the lift to be identified; and
 - (b) ensure that it is accompanied by the instructions referred to in point 6.2 of Annex I to the Directive (as amended from time to time).
- (2) The information referred to in paragraph (1) above must be—
- (a) in the case of the information referred to in paragraph (1)(a), in a language that can be easily understood by the end-users and the competent national authority in the member State in which the lift is to be placed on the market;
 - (b) in the case of the information referred to in paragraph 1(b), in a language which can be easily understood by the end-users in the member State in which the lift is to be placed on the market; and
 - (c) clear and understandable.
- (3) Where the lift is to be placed on the market in the United Kingdom the language which can be easily understood by end-users is English.

Monitoring of lifts placed on the market

- 11.**—(1) When appropriate, having regard to the risks to the health and safety of end-users presented by a lift, the installer must investigate complaints that lifts installed by it are not in conformity with Part 2.
- (2) An installer must keep a register and promptly make entries in that register of any—
 - (i) complaints; and
 - (ii) lifts that are not in conformity with Part 2.
 - (3) An installer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

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

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

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

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

Provision of information and cooperation

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

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

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

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

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

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

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

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

Manufacturers

Design and manufacture in accordance with essential health and safety requirements

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

Technical documentation and conformity assessment

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

- (a) have a relevant conformity assessment procedure carried out; and
- (b) draw up the technical documentation referred to—
 - (i) for a safety component for lifts in respect of which the conformity assessment procedure in regulation 48(a) or 48(b) is being carried out, in point 3 of Part A of Module B in Annex IV to the Directive (as amended from time to time);

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

EU declaration of conformity and CE marking

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

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

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

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

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

Retention of technical documentation and EU declaration of conformity

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

Labelling and instructions

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

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

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

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

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

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

Compliance procedures for series production

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

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

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

Monitoring of safety components for lifts made available on the market

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

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

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

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

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

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

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

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

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

- (a) the respect in which the safety components for lifts is considered not to be in conformity with Part 2; and

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- (b) any corrective measures taken.

Provision of information and cooperation

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

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

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

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

Authorised representatives

Appointment of authorised representatives

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

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

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

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

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

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

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

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

Importers

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

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

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

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

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

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

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

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

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

Information identifying importer

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

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

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

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

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

Instructions

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

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

Storage and transport

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

Monitoring of safety components for lifts made available on the market

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

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

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

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

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

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

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

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

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

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

Retention of technical documentation and EU declaration of conformity

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

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

Provision of information and cooperation

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

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

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

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

Cases in which obligations of manufacturers apply to importers

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

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

Distributors

Duty to act with due care

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

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

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

- (a) the safety component for lifts—

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- (i) bears the CE marking;
 - (ii) is accompanied by the EU declaration of conformity and the required documents; and
 - (iii) is accompanied by the instructions referred to in point 6.1 of Annex I to the Directive (as amended from time to time) in a language which can be easily understood by end-users in the member State in which the safety component for lifts is to be made available on the market;
- (b) the manufacturer has complied with the requirements set out in regulation 19 (labelling and instructions); and
 - (c) the importer has complied with the requirements set out in regulation 28 (information identifying importer).
- (2) Where the safety component for lifts is to be made available to end-users in the United Kingdom the language which can be easily understood by end-users is English.
- (3) In paragraph 1(a)(ii), “required documents” means any labels or documents that are required to be provided with the safety component for lifts pursuant to—
- (a) regulation 19(3); and
 - (b) regulation 28(3).

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

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

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

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

Storage and transport

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

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

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

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

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

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

Provision of information and cooperation

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

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

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

Cases in which obligations of manufacturers apply to distributors

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

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

All economic operators

Translation of declaration of conformity

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

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

Identification of economic operators

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

- (a) any other economic operator who has supplied E with the safety component for lifts; and
 - (b) any other economic operator to whom E has supplied the safety component for lifts.
- (2) The relevant period is—
- (a) for the information in paragraph (1)(a), a period of 10 years beginning on the day on which E was supplied with the safety component for lifts;
 - (b) for the information in paragraph (1)(b), a period of 10 years beginning on the day on which E supplied the safety component for lifts.

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Prohibition on improper use of CE marking

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

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

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

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

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

PART 3

Conformity assessment

Presumption of conformity

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

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

Conformity assessment procedures for lifts

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

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

- (iii) conformity to type based on production quality assurance for lifts set out in Annex XII to the Directive (as amended from time to time);
 - (c) conformity based on unit verification for lifts set out in Annex VIII to the Directive (as amended from time to time);
 - (d) conformity based on full quality assurance plus design examination for lifts set out in Annex XI to the Directive (as amended from time to time).
- (2) Where one of the procedures in paragraph (1)(a) or (1)(b) is carried out and the person responsible for the design and manufacture of the lift and the person responsible for the installation and testing of the lift are not the same person, the former must supply to the latter all the necessary documents and information to enable the latter to ensure the correct and safe installation and testing of the lift.
- (3) Where one of the procedures in paragraph (1)(a) is carried out, the installer must ensure that all permitted variations between the model lift and the lifts derived from the model lift are clearly specified (with maximum and minimum values) in the technical documentation referred to in regulation 7(b).
- (4) When using the procedure in paragraph 9(1)(a), in order to demonstrate the conformity of a lift with the essential health and safety requirements, the installer may demonstrate the similarity of a range of equipment—
- (a) by calculation;
 - (b) on the basis of design plans; or
 - (c) using both of the methods specified in sub-paragraphs (a) and (b).

Conformity assessment procedures for safety components for lifts

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

EU declaration of conformity

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

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(ii) in relation to safety components for lifts, in Part 2 of Schedule 5.

CE marking

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

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

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

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

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

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

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

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

PART 4

Notification of conformity assessment bodies

Notified bodies

51.—(1) For the purposes of this Part, a notified body is a conformity assessment body—

- (a) which has been notified by the Secretary of State to the European Commission and the other member States—
 - (i) under regulation 52 (notification); or
 - (ii) by the Secretary of State, before the date that these Regulations come into force, in accordance with Article 28 of the Directive (as amended from time to time); and
- (b) in respect of which no objections are raised by the European Commission or the other member States—
 - (i) within two weeks of the date of notification, where the notification is accompanied by an accreditation certificate; or
 - (ii) within two months of the date of notification, where the notification is not accompanied by an accreditation certificate.

(2) Paragraph (1) has effect subject to regulation 57 (changes to notifications).

Notification

52.—(1) The Secretary of State may notify to the European Commission and other member States only those conformity assessment bodies that qualify for notification.

(2) A conformity assessment body qualifies for notification if the first and second conditions below are met.

(3) The first condition is that the conformity assessment body has applied to the Secretary of State to become a notified body and the application is accompanied by—

(a) a description of—

(i) the conformity assessment activities that the conformity assessment body intends to carry out;

(ii) the conformity assessment procedures for which the conformity assessment body claims to be competent; and

(iii) the lift or safety component for lifts for which the conformity assessment body claims to be competent; and either

(b) an accreditation certificate; or

(c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the notified body requirements.

(5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.

(6) When deciding whether to notify a conformity assessment body that qualifies for notification to the European Commission and the other member States, the Secretary of State may—

(a) have regard to any other matter which appears to the Secretary of State to be relevant; and

(b) set conditions that the conformity assessment body must meet.

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

Presumption of conformity of notified bodies

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

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

Contents of notification

54. A notification under regulation 52 must include—

(a) details of—

(i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;

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

Monitoring

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

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

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

United Kingdom Accreditation Service

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

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

Changes to notifications

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

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

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

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

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

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

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

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

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

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

Operational obligations of notified bodies

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

Subsidiaries and contractors

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

(2) The notified body must—

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

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

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

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activities carried out by the subcontractor or subsidiary.

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

PART 5

Market surveillance and enforcement

Designation of market surveillance authority

60.—(1) In Great Britain—

- (a) in relation to lifts for use in the workplace or safety components for such lifts, the Health and Safety Executive, and

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(b) in relation to lifts for private use and consumption or safety components for such lifts, the Secretary of State,
is the market surveillance authority.

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

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

Enforcement

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

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

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

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

Enforcement powers

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

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

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

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

Exercise of enforcement powers

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

- (a) regulation 64 (evaluation of lifts or safety components for lifts presenting a risk);
- (b) regulation 65 (enforcement action in respect of lifts or safety components for lifts which are not in conformity and which present a risk);
- (c) regulation 66 (EU safeguard procedure);
- (d) regulation 67 (enforcement action in respect of lifts or safety components for lifts which are in conformity, but present a risk);
- (e) regulation 68 (enforcement action in respect of formal non-compliance); and
- (f) regulation 69 (restrictive measures).

Evaluation of lifts or safety components for lifts presenting a risk

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

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

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

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

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

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

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

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

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

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

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

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

- (a) in relation to a lift—
 - (i) prohibit or restrict the lift being placed on the market in the United Kingdom;
 - (ii) prohibit or restrict the use of the lift; or
 - (iii) recall the lift.

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- (b) in relation to a safety component for lifts—
 - (i) prohibit or restrict the safety component for lifts being made available on the market in the United Kingdom;
 - (ii) withdraw the safety component for lifts from the United Kingdom market; or
 - (iii) recall the safety component for lifts.
- (6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.
- (7) Where the Secretary of State receives notification under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other member States of those measures without delay.
- (8) The notifications in paragraphs (6) and (7) must include details about the lift or safety component for lifts and, in particular—
 - (a) the data necessary for the identification of the lift or the safety component for lifts which is not in conformity with Part 2;
 - (b) the origin of the lift or the safety component for lifts;
 - (c) the nature of the lack of conformity alleged and the risk involved;
 - (d) the nature and duration of the measures taken;
 - (e) the arguments put forward by the relevant economic operator; and
 - (f) whether the lack of conformity is due to either of the following—
 - (i) failure of the lift or the safety component for lifts to meet requirements relating to a risk;
 - (ii) shortcomings in a harmonised standards referred to in regulation 46 (presumption of conformity) conferring a presumption of conformity.
- (9) In this regulation, “prescribed period” means a period which is—
 - (a) prescribed by the enforcing authority; and
 - (b) reasonable and commensurate with the nature of the risk presented by the lift or safety component for lifts.

EU safeguard procedure

- 66.**—(1) Where another member State has initiated the procedure under Article 38 of the Directive (as amended from time to time), each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—
- (a) any measures taken by the enforcing authority in respect of the lift or the safety component for lifts; and
 - (b) any additional information which the enforcing authority has at its disposal relating to the lack of conformity of the lift or the safety component for lifts.
- (2) Where another member State has initiated the procedure under Article 38 of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other member States of—
- (a) any measures taken by an enforcing authority in respect of the lift or the safety component for lifts;
 - (b) any additional information which an enforcing authority has at its disposal relating to the lack of conformity of the lift or the safety component for lifts; and

- (c) any objections that the Secretary of State may have to the measure taken by the member State initiating the procedure.
- (3) Where a measure taken by another member State in respect of a lift or a safety component for lifts is considered justified under Article 38(7) of the Directive (as amended from time to time), the market surveillance authority must ensure that appropriate measures, such as the withdrawal of a safety component for lifts are taken in respect of the lift or the safety component for lifts without delay.
- (4) Where a measure taken by another member State in respect of a lift or a safety component for lifts is considered justified by the European Commission under Article 39(1) of the Directive (as amended from time to time), the market surveillance authority must take the necessary measures to ensure that—
 - (a) the placing on the market or use of the lift is restricted or prohibited or that the lift is recalled; or
 - (b) that safety component for lifts is withdrawn from the United Kingdom market.
- (5) Where the market surveillance authority is not the Secretary of State and it has taken action under paragraph (3) or (4), it must inform the Secretary of State.
- (6) Where the Secretary of State receives notification under paragraph (5), or has taken action under paragraphs (3) or (4), the Secretary of State must inform the European Commission of the action taken.
- (7) If a measure taken by an enforcing authority pursuant to regulation 65 is considered unjustified by the European Commission under Article 39(1) of the Directive (as amended from time to time), the enforcing authority must withdraw that measure.

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

- 67.**—(1) Where, having carried out an evaluation under regulation 64, an enforcing authority finds that although a lift or a safety component for lifts is in conformity with Part 2, it presents a risk, the enforcing authority must require a relevant economic operator to take appropriate measures to—
- (a) in relation to a lift—
 - (i) ensure that the lift concerned, when placed on the market, no longer presents a risk;
 - (ii) recall the lift within a prescribed period; or
 - (iii) prohibit or restrict the use of the lift within a prescribed period;
 - (b) in relation to a safety component for lifts—
 - (i) ensure that the safety component for lifts concerned, when placed on the market, no longer presents a risk;
 - (ii) withdraw the safety component for lifts within a prescribed period; or
 - (iii) recall the safety component for lifts within a prescribed period.
- (2) Where an enforcing authority is not the Secretary of State and it takes measures under paragraph (1), it must notify the Secretary of State immediately.
- (3) Where the Secretary of State receives notification under paragraph (2), or takes measures under paragraph (1), the Secretary of State must notify the European Commission and the other member States immediately.
- (4) The notices referred to in paragraphs (2) and (3) must include details about the lift or the safety component for lifts and, in particular—
- (a) the data necessary for the identification of the lift or the safety component for lifts concerned;

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

Enforcement action in respect of formal non-compliance

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

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

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

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

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

- (ii) ensure that the safety component for lifts is withdrawn; or
 - (iii) ensure that the safety component for lifts is recalled.
- (4) This regulation does not apply where a lift or a safety component for lifts presents a risk.

Restrictive measures

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

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

Offences

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

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

Penalties

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

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

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

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

Defence of due diligence

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

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

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

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- (3) The notice must—
- (a) give any information in P's possession which identifies or assists in identifying the person who—
 - (i) committed the act or default; or
 - (ii) supplied the information on which P relied.
 - (b) be served on the person bringing the proceedings not less than 7 clear days before—
 - (i) in England, Wales and Northern Ireland, the hearing of the proceedings;
 - (ii) in Scotland, the trial diet.
- (4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable for P to have relied upon the information, having regard in particular—
- (a) to the steps that P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
 - (b) to whether P had any reason to disbelieve the information.
- (5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due—
- (a) to the act or default of another person; or
 - (b) to reliance on information supplied by another person.

Liability of persons other than principal offender

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

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

- (a) with the consent or connivance of the relevant person; or
 - (b) as a result of the negligence of the relevant person.
- (3) In paragraph (2), “relevant person” means—
- (a) a director, manager, secretary or other similar officer of the body corporate;
 - (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
 - (c) in relation to a Scottish partnership, a partner; or
 - (d) a person purporting to act as a person described in sub-paragraphs (a), (b) or (c).

Time limit for prosecution of offences

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

- (2) In Scotland—
- (a) summary proceedings for an offence under regulation 70 may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge; and

- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 ^{M9} (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

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

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

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

(6) This regulation has effect subject to—

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

Marginal Citations

M9 1995 c.46.

Service of documents

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

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

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

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

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

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

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

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

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Recovery of expenses of enforcement

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

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

Action by enforcing authority

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

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

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

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

- (a) in England and Wales by way of a complaint pursuant to section 58 of the Magistrates' Courts Act 1980 ^{M10};
- (b) in Northern Ireland in proceedings under article 62 of the Magistrates' Courts (Northern Ireland) Order 1981 ^{M11}.

Marginal Citations

M10 1980 c.43; section 58 was amended by the [Crime and Courts Act 2013 \(c.22\)](#), [Schedule 10 paragraph 40](#).

M11 [S.I. 1981/1675 \(NI 26\)](#).

Appeals against notices

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

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

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

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

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

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

(5) In this regulation—

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

Appropriate court for appeals against notices

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

- (a) the court in which proceedings have been brought in relation to the lift or the safety component for lifts for an offence under regulation 70 (offences);
 - (b) an employment tribunal seized of appeal proceedings against a notice which relates to the lift or the safety component for lifts and which has been served under or by virtue of paragraph 1 of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act);
 - (c) in Northern Ireland, an industrial tribunal seized of appeal proceedings against a notice which relates to the lift or the safety component for lifts and which has been served under or by virtue of paragraph 1 of Schedule 9 (enforcement powers of the Department under the 1978 Order);
 - (d) in any other case, a magistrates' court.
- (2) In Scotland, the appropriate court for the purposes of regulation 78 is—
- (a) the sheriff of a sheriffdom in which the person making the appeal resides or has a registered or principal office; or
 - (b) an employment tribunal seized of appeal proceedings against a notice which relates to the lift or the safety component for lifts and which has been served under or by virtue of paragraph 1 of Schedule 8.

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

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

Compensation

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

- (2) The conditions are that—

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- (a) the lift or the safety component for lifts in respect of which the relevant notice was served neither—
 - (i) presents a risk; nor
 - (ii) contravenes any requirement of these Regulations; and
 - (b) the relevant notice was not served because of neglect or default by a relevant economic operator.
- (3) In this regulation, “relevant notice” means a suspension, withdrawal or recall notice (as referred to in regulation 78(5)(b)).

PART 6

Miscellaneous

Review

- 81.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.
- (3) The report must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning on the commencement date.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

Transitional provisions

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

(2) In this regulation, “1995 Directive” means Directive [95/16/EC](#) of the European Parliament and of the Council on the approximation of the laws of the member States relating to lifts ^{M12}.

Marginal Citations

M12 OJ L 213, 7.9.1995, p.1; as last amended by Regulation (EU) No 1025/2012 of the European Parliament and of the council of 25 October 2012 (OJ L 316, 14.11.2012, p.12).

Consequential revocations, savings and amendments

- 83.—(1) Subject to paragraph (2), the 1997 Regulations are revoked.
- (2) The 1997 Regulations continue to apply, as if they had not been revoked, to lifts and safety components for lifts placed on the market before the commencement date.
- (3) Accordingly, despite their repeal by paragraph (12)—
- (a) the entry in paragraph 3(3) of Schedule 5 to the Consumer Rights Act 2015 ^{M13};
 - (b) the entries in paragraph 9(3) of that Schedule; and
 - (c) the entry in paragraph 10 of that Schedule relating to the 1997 Regulations,
- relating to the 1997 Regulations, continue to have effect in relation to lifts and safety components for lifts placed on the market before the commencement date.
- (4) In Schedule 1 to the Provision and Use of Work Equipment Regulations 1998 ^{M14}—
- (a) omit the entry relating to the 1997 Regulations; and
 - (b) insert a new entry at the end, as follows—
 - (i) in the first column, add “ The Lifts Regulations 2016 ”; and
 - (ii) in the second column, add “ SI 2016/1093 ”.
- (5) For the purposes of the enforcement of regulation 10 of the Provision and Use of Work Equipment Regulations 1998, those Regulations have effect as if the addition of the reference to the Lifts Regulations 2016 in Schedule 1 to those Regulations, effected by paragraph (4), had been made by means of regulations made under section 15 of the 1974 Act.
- (6) Schedule 2 to the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999 ^{M15} is amended as follows—
- (a) omit the entry relating to the 1997 Regulations; and
 - (b) insert a new entry at the end, as follows—
 - (i) in the first column, add “ The Lifts Regulations 2016 ”; and
 - (ii) in the second column, add “ SI 2016/1093 ”.
- (7) For the purposes of the enforcement of regulation 10 of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999, those Regulations have effect as if the addition of the reference to the Lifts Regulations 2016 in Schedule 2 to those Regulations, effected by paragraph (6), had been made by means of regulations made under Article 17 of the 1978 Order.
- (8) The Lifting Operations and Lifting Equipment Regulations 1998 ^{M16} are amended as follows—
- (a) in regulation 2(1), in the definition of “EC declaration of conformity”, for “regulation 8(2) (d) of the Lifts Regulations 1997”, substitute “ regulation 49 of the Lifts Regulations 2016 ”; and
 - (b) in regulation 9(1)(b), for “the Lifts Regulations 1997”, substitute “ the Lifts Regulations 2016 ”.
- (9) The Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999 ^{M17} are amended as follows—
- (a) in regulation 2, in the definition of “EC declaration of conformity”, for “regulation 8(2) (d) of the Lifts Regulations 1997”, substitute “ regulation 49 of the Lifts Regulations 2016 ”; and
 - (b) in regulation 9(1)(b), for “the Lifts Regulations 1997”, substitute “ the Lifts Regulations 2016 ”.

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(10) In regulation 3(2)(a) of the Cableway Installations Regulations 2004 ^{M18}, for “the Lifts Regulations 1997”, substitute “ the Lifts Regulations 2016 ”.

(11) In Schedule 1 to the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information Specification) Order 2004 ^{M19}, for “Lifts Regulations 1997”, substitute “ Lifts Regulations 2016 ”.

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

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

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

Marginal Citations

M13 2015 c.15.

M14 S.I. 1998/2306, to which there are amendments not relevant to these Regulations.

M15 S.R. 1999/305, to which there are amendments not relevant to these Regulations.

M16 S.I. 1998/2307, to which there are amendments not relevant to these Regulations.

M17 S.R. 1999 No. 304, to which there are amendments not relevant to these Regulations.

M18 S.I. 2004/129, to which there are amendments not relevant to these Regulations.

M19 S.I. 2004/693, to which there are amendments not relevant to these Regulations.

Department for Business, Energy and Industrial
Strategy

Margot James
Parliamentary Under Secretary of State, Minister
for Small Business, Consumers and Corporate
Responsibility

Status:

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