
STATUTORY INSTRUMENTS

2016 No. 1093

The Lifts Regulations 2016

PART 5

Market surveillance and enforcement

Designation of market surveillance authority

60.—(1) In Great Britain—

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

is the market surveillance authority.

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

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

Enforcement

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

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

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

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

Enforcement powers

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

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

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

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

Exercise of enforcement powers **E+W+S**

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);
- ^{F1}(c)
- (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).

Extent Information

E1 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F1 [Reg. 63\(c\)](#) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 22 para. 32](#) (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Exercise of enforcement powers **N.I.**

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).

Extent Information

E6 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

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 E+W+S

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 [^{F2}approved] 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.

^{F3}(4)

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

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

- (ii) withdraw the safety component for lifts from the United Kingdom market; or
- (iii) recall the safety component for lifts.

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

^{F4}(7)

(8) The notifications in [^{F5}paragraph (6)] 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.

Extent Information

E2 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

- F2** Word in reg. 65(2) substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 22 para. 33(a)** (with Sch. 22 para. 37) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 65(4) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 22 para. 33(b)** (with Sch. 22 para. 37) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Reg. 65(7) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 22 para. 33(b)** (with Sch. 22 para. 37) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 65(8) substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 22 para. 33(c)** (with Sch. 22 para. 37) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

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

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 [^{F25}from the market in Northern Ireland] into conformity with those requirements within a prescribed period;
 - (ii) withdraw the safety component for lifts [^{F26}from the market in Northern Ireland] 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 [^{F27}Northern Ireland], 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) [^{F28}Subject to paragraph (4A),] 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 [^{F29}Northern Ireland], the Secretary of State must inform the European Commission and the other [^{F30}relevant states] of—

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

[^{F31}(4A) Paragraph (4) does not require the Secretary of State to inform the Commission or the other relevant states where the lack of conformity extends only to any of England or Wales or Scotland.]

(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 [^{F32}Northern Ireland];
 - (ii) prohibit or restrict the use of the lift; or
 - (iii) recall the lift.
- (b) in relation to a safety component for lifts—
 - (i) prohibit or restrict the safety component for lifts being made available on the market in [^{F33}Northern Ireland];

- (ii) withdraw the safety component for lifts from the [^{F34}market in Northern Ireland]; 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 [^{F35}relevant 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.

Extent Information

- E7** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only
-

Textual Amendments

- F25** Words in [reg. 65\(1\)\(b\)\(ii\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 10 para. 5\(1\)\(a\)\(i\)](#)
- F26** Words in [reg. 65\(1\)\(b\)\(iii\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 10 para. 5\(1\)\(a\)\(ii\)](#)
- F27** Words in [reg. 65\(3\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 10 para. 5\(1\)\(b\)](#)
- F28** Words in [reg. 65\(4\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 10 para. 5\(1\)\(c\)\(i\)](#)
- F29** Words in [reg. 65\(4\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 10 para. 5\(1\)\(c\)\(ii\)](#)

- F30** Words in reg. 65(4) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(1)(c)(iii)**
- F31** Reg. 65(4A) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(1)(d)**
- F32** Words in reg. 65(5)(a)(i) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(1)(e)(i)**
- F33** Words in reg. 65(5)(b)(i) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(1)(e)(i)**
- F34** Words in reg. 65(5)(b)(ii) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(1)(e)(ii)**
- F35** Words in reg. 65(7) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(1)(f)**

EU safeguard procedure

66.—^{F6}(1) Where another ^{F7}[relevant 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 ^{F8}[relevant 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 ^{F9}[relevant states] of—

- (a) any measures taken by an enforcing authority ^{F10}[in Northern Ireland] 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 ^{F11}lifts.]

^{F12}(c)

(3) Where a measure taken by another ^{F13}[relevant 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 ^{F14}[in Northern Ireland] in respect of the lift or the safety component for lifts without delay.

(4) Where a measure taken by another ^{F15}[relevant 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 ^{F16}[market in Northern Ireland].

(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 [^{F17} in respect of Northern Ireland].

^{F18}(7)]

Textual Amendments

- F6** Reg. 66 omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 22 para. 34** (with Sch. 22 para. 37) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 66(1) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(a)**
- F8** Words in reg. 66(2) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(b)(i)**
- F9** Words in reg. 66(2) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(b)(ii)**
- F10** Words in reg. 66(2)(a) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(b)(iii)**
- F11** Word in reg. 66(2)(b) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(b)(iv)**
- F12** Reg. 66(2)(c) omitted (N.I.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(b)(v)**
- F13** Words in reg. 66(3) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(c)(i)**
- F14** Words in reg. 66(3) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(c)(ii)**
- F15** Words in reg. 66(4) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(d)(i)**
- F16** Words in reg. 66(4) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(d)(ii)**
- F17** Words in reg. 66(6) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(e)**
- F18** Reg. 66(7) omitted (N.I.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 10 para. 5(2)(f)**

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

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.

^{F19}(3)

(4) The [^{F20}notice referred to in paragraph (2)] must include details about the lift or the safety component for lifts and, in particular—

- (a) the data necessary for the identification of the lift or the safety component for lifts concerned;
- (b) the origin and the supply chain of the lift or the safety component for lifts;
- (c) the nature of the risk involved; and
- (d) the nature and duration of the measures taken by the enforcing authority.

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

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

Extent Information

E3 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F19 Reg. 67(3) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 22 para. 35(a)** (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F20 Words in reg. 67(4) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 22 para. 35(b)** (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

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

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 [^{F36}from Northern Ireland] within a prescribed period; or
 - (iii) prohibit or restrict the use of the lift [^{F37}from Northern Ireland] 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 [^{F38}from Northern Ireland] within a prescribed period; or
 - (iii) recall the safety component for lifts [^{F39}from Northern Ireland] 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 [^{F40}relevant states] immediately.

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

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

Extent Information

E8 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

F36 Words in [reg. 67\(1\)\(a\)\(ii\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 10 para. 5\(3\)\(a\)](#)

- F37** Words in reg. 67(1)(a)(iii) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(3)(a)**
- F38** Words in reg. 67(2)(b)(ii) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(3)(b)**
- F39** Words in reg. 67(2)(b)(iii) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(3)(b)**
- F40** Words in reg. 67(3) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 10 para. 5(3)(c)**

Enforcement action in respect of formal non-compliance **E+W+S**

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 [^{F21}UK] marking—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulations 45 (prohibition on improper use of [^{F21}UK] marking) and 50 ([^{F21}UK] marking);
- (b) where [^{F22}an approved] body is involved in the production control phase for the lift or the safety component for lifts, the identification number of [^{F23}the approved] body—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulation 50;
- (c) the ^{F24}... declaration of conformity—
 - (i) has not been drawn up; or
 - (ii) has been drawn up otherwise than in accordance with regulations 8 (^{F24}... declaration of conformity and [^{F21}UK] marking) and 17 (^{F24}... declaration of conformity and [^{F21}UK] marking) and 49 (^{F24}... 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.

Extent Information

- E4** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

- F21** Word in [reg. 68](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 22 para. 36\(a\)](#) (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F22** Words in [reg. 68\(1\)\(b\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 22 para. 36\(b\)\(i\)](#) (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F23** Words in [reg. 68\(1\)\(b\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 22 para. 36\(b\)\(ii\)](#) (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F24** Word in [reg. 68\(1\)\(c\)](#) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 22 para. 36\(c\)](#) (with [Sch. 22 para. 37](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Enforcement action in respect of formal non-compliance **N.I.**

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);
- [^{F41}(aa) the UK(NI) indication—
 - (i) has not been affixed, in contravention of regulation 50A; or
 - (ii) has been affixed other than in accordance with regulation 50A;]
- (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.

Extent Information

E9 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

F41 [Reg. 68\(1\)\(aa\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 9\(4\)](#)

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 **E+W+S**

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.

Extent Information

E5 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Penalties **N.I.**

71.—(1) Subject to paragraph (2) [^{F42}and (3)], 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.

[^{F43}(3) A person guilty of an offence under regulation 70(2) insofar as the requirement relates to a UK(NI) indication is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

Extent Information

- E10** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

- F42** Words in [reg. 71\(1\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 9\(5\)\(a\)](#)
- F43** [Reg. 71\(3\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 9\(5\)\(b\)](#)

Defence of due diligence

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

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

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

(3) The notice must—

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

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

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

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

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

Liability of persons other than principal offender

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

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

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

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

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

Time limit for prosecution of offences

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

(2) In Scotland—

- (a) summary proceedings for an offence under regulation 70 may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 ^{M1} (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

M1 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.

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 ^{M2};
 - (b) in Northern Ireland in proceedings under article 62 of the Magistrates' Courts (Northern Ireland) Order 1981 ^{M3}.

Marginal Citations

M2 1980 c.43; section 58 was amended by the [Crime and Courts Act 2013 \(c.22\)](#), [Schedule 10 paragraph 40](#).

M3 [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—

- (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—
 - (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)).

Changes to legislation:

There are currently no known outstanding effects for the The Lifts Regulations 2016, PART 5.