

SCHEDULE 9

Regulation 62(3)

Enforcement powers of the Department under the 1978 Order

Enforcement powers under the 1978 Order

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

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

Modifications to the 1978 Order

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

- (v) in paragraph (3), for “enforcing authority which appointed him” there were substituted “ Department ”;
- (d) in Article 22—
 - (i) in paragraph (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
 - (ii) in sub-paragraph (2)(c)(i), for “his (the inspector's) enforcing authority” there were substituted “ the Department ”;
 - (iii) in sub-paragraph 2(h), for “him to have caused or to be likely to cause danger to health or safety”, there were substituted “ contravene the relevant statutory provisions or present a risk ”; and
 - (iv) paragraph (3) were omitted;
- (e) in Article 23—
 - (i) before paragraph (a), there were inserted—
 - “(za) is placing on the market a lift, or making available on the market a safety component for lifts, which presents a risk;”;
 - (ii) in paragraph (ii), after “specifying the”, there were inserted “ risk or ”; and
 - (iii) in paragraph (iv), after “requiring that person to”, there were inserted “ address the risk or ”;
- (f) for Article 24(2), for “of serious personal injury” there were substituted “ or a contravention of a relevant statutory provision ”;
- (g) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (h) in Article 27A(1)—
 - (i) for “any enforcing authority or inspector”, there were substituted “ the Department or an inspector ”;
 - (ii) for “the authority”, there were substituted “ the Department ”;
- (i) in Article 28, for each of the following references there were substituted “ the Department ”
 - (i) “the enforcing authority which appointed him”;
 - (ii) “that authority”; and
 - (iii) “the authority”;
- (j) in Article 29(1)—
 - (i) in subparagraph (b)—
 - (aa) for “an enforcing authority”, there were substituted “ the Department ”;
 - (bb) for “the authority's functions”, there were substituted “ its functions ”;
 - (ii) for “the Department concerned or the Executive”, there were substituted “ the Department ”; and
 - (iii) for “the Executive or, as the case may be, to the enforcing authority in question”, there were substituted “ the Department ”;
- (k) in Article 29A(2), for “an enforcing authority” there were substituted “ the Department ”;
- (l) in Article 30—
 - (i) for “Executive”, on each occasion that it appears, there were substituted “ Department ”;
 - (ii) in paragraph (3)(a), “or any enforcing authority” were omitted;

- (iii) in paragraph (4), “or an enforcing authority” were omitted;
- (iv) in paragraph (4), “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
- (v) in paragraph (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions as the case may be” were omitted;
- (vi) in paragraph (6), “16(4)(a) or” were omitted; and
- (vii) in paragraph (6), for paragraph (b), there were substituted---
 - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
- (m) in Article 31—
 - (i) in paragraph (1), the sub-paragraphs (a) to (i) and (k) to (m) were omitted;
 - (ii) for paragraph (2), there were substituted—
 - “(2) A person guilty of an offence under Article 31 is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.”; and
 - (iii) paragraph (3) were omitted;
- (n) in Article 32—
 - (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted;
 - (ii) in paragraph (1), for the words from “and it appears” to the end, there were substituted “ and it appears from the investigation at the inquest that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the inquest, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the inquest. ”; and
 - (iii) paragraphs (3) and (4) were omitted;
- (o) in Article 33, for “any enforcing authority”, there were substituted “ the Department ”;
- (p) in Article 36, for “enforcing authority which appointed him” there were substituted “ Department ”; and
- (q) in Article 39, paragraphs (3A), (4) and (5) were omitted.

Changes to legislation:

There are currently no known outstanding effects for the The Lifts Regulations 2016,
SCHEDULE 9.