

REGULATORY IMPACT ANALYSIS (RIA)

European Union (Lifts and Safety Components for Lifts) Regulations, 2016

(S.I. No. ... of 2016)

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1. Foreword

The Health and Safety Authority, herein after referred to as ‘the Authority’, has prepared this Regulatory Impact Analysis (RIA) in line with the Revised RIA Guidelines, (Department of the Taoiseach, 2009).

This RIA considers the options and assesses the impacts of the requirement to transpose the Directive 2014 /33/EU relating to lifts and safety components for lifts.

2. Policy context

This RIA assesses the legislative proposal to transpose Council Directive 2014/33/EU. The Directive sets out the essential health and safety requirements relating to the design and installation of lifts and the manufacture of and making available on the market of safety components for lifts. The Directive also places duties on Member States to have proper market surveillance procedures consistent with EU Regulation 765/2008 on Accreditation and Market Surveillance. The deadline for Member States to comply with the Directive is 19th April 2016.

The Authority is already the agency with responsibility for enforcing Directive 95/16/EC which is repealed by Directive 2014/33/EU.

The Directive is one of a package of nine technical harmonisation Directives that are being harmonised and aligned with the New Legislative Framework (NLF) on product safety and market surveillance. The New Legislative Framework (NLF) is a common set of principles which aims to make legislation on the Single Market for Goods clearer, more consistent and more understandable. The market surveillance provisions contained within these Directives are very similar and the impact of transposing them will also be very similar across the relevant parts of industry. The Authority is currently conducting a parallel public consultation on another technical harmonisation directive¹

3. Objectives

The primary objective of the proposed legislation is to increase the level of protection for lift users by ensuring the provision of appropriate equipment. Such provision shall be assisted by better product traceability and improved market surveillance. Furthermore these Regulations will remove some of the legal uncertainty in current legislation concerning a permissioning regime for reduced headroom

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Equipment for Use in Explosive Atmospheres (“ATEX”) 2014/34 EU

lifts. A “reduced headroom” lift is one where the free space or refuge at the top and/or bottom of the lift travel route is not sufficient to prevent the risk of crushing when the lift car is in one of its extreme positions.

4. Options

The options for addressing the transposition of Directive 2014/33/EU are as follows:

Option 1 Do nothing

Option 1, do nothing, would leave Ireland in breach of the requirement for member states to transpose the Directive by 19th April 2016. The Commission could proceed to take legal action with potentially significant financial penalties arising for the state. It could further create a situation where lift users in Ireland are afforded a lower level of protection than those in other member states. The current legal uncertainty would remain in place concerning the status of reduced headroom lifts which are installed in the absence of a permissioning regime as required in section 2.2 of Annex 1 to Directive 96/16/EC and which provision has been replicated in Directive 2014/33/EU.

Option 2 Introduce new Regulations

Option 2; introduce new Regulations on the basis that Option1 is not viable. It is recommended to transpose Directive 2014/33/EU into Irish law by way of the proposed Regulations. The impact of this option is assessed in more detail in the following section.

5. Impact analysis

The impact of transposing the Directive through the proposed new Regulations is expected to be minimal for the majority of employers because this Directive deals with the installation of new lifts and the making available on the market of lift safety components. The same is true for others who are responsible for lifts outside the framework of the 2005 Safety, Health and Welfare at Work Act.

However there will be compliance costs for importers of lift safety components because they will have to indicate their contact details on these products. There are also new record keeping requirements on both importers and distributors.

Lift safety products are a niche product where specialist knowledge is required. To date there have been few product recalls in this business sector. Importers and distributors would be expected to have good technical knowledge about their products.

The intention of the Directive was to align the Directive with EU Regulation 765/2008 on Accreditation and Market Surveillance rather than introduce new technical requirements. Accordingly in the normal course of business the Directive should not lead to extra costs for manufacturers of lift safety components but there will be some extra small administrative costs for importers and distributors.

There should not be any significant increase in costs for lift installers because of technical requirements, but for reduced headroom lifts there may be an increase in administrative overheads associated with the regime for applying for prior approval to install a lift. Analogously, there may be cost implications for Government Departments and Agencies associated with the processing of these applications. At this time the nature of this regime and associated costs are not known.

In the case of faulty products there could be significant costs for all economic operators in the event of a product recall, withdrawal from the market or product destruction. Clearly these costs will depend on the nature and quantity of the product, and if any of the economic operators have experience of such situations the Authority would welcome receipt of their feedback.

Benefits of introducing proposed Regulations

Health and safety benefits: The introduction of the proposed Regulations should further reduce the risk of defective lifts being installed or defective lift safety components being made available on the market through having better traceability and market surveillance.

Business benefits: the reduced risk downtime due to defective lifts; more level playing ground for economic operators in the supply chain.

Costs of introducing proposed Regulations

Compliance costs: Generic costs

- A. Sectoral or activity specific costs;
Additional printing costs for importers as they make their contact details available on products.
- B. Training costs
Employees in these affected sectors should already have a good knowledge of lift products so significant training costs are not expected.

Enforcement costs:

As the Authority is already a market surveillance authority for these products, no exceptional costs are expected for normal surveillance activity.

However should the Authority come across a lift safety component which it prohibits being made available on the market and the economic operator becomes “unavailable” then it could be faced with the costs of product destruction. Because this is situation specific and the Authority has no experience in this area, it is impossible to put a cost on this.

In the case of non-compliant lift installers, the situation for the Authority is similar to that where it becomes aware of a problem with an existing lift under the 2007 Safety, Health and Welfare at Work (General Application) Regulations and no exceptional costs are foreseen.

6. Consultation

The proposed Regulations and a draft RIA will be made available on the Authority’s website for a period of 1 month in October/November 2015. Key stakeholders will also be consulted directly, including the following:

- Department of Jobs, Enterprise and Innovation
- Department of Arts, Heritage and the Gaeltacht
- Department of Environment, Community and Local Government
- Office of Public Works (OPW)
- The Heritage Council
- An Taisce
- Irish Business and Employers’ Confederation (IBEC)
- Irish Congress of Trade Unions (ICTU)
- The Royal Institute of the Architects of Ireland (RIAI)
- Engineers Ireland
- SAFED
- Irish lift and Escalator Association.

The Legislation and Guidance Sub-Committee of the Board will initially consider the draft Regulations at a meeting on 01 October 2015 for submission to the Board meeting on 16 October 2015.

Arising from the consultation phase, a number of amendments may be made to the draft Regulations and these will be brought to the attention of the Legislation and Guidance Sub-Committee of the Board for consideration later in 2015. Subject to these amendments being approved, it is proposed the draft Regulations will be cleared to go to a later Board meeting. At this meeting the draft Regulations will be cleared for submission to the Department of Jobs, Enterprise and Innovation for consideration with a view to formal legal settlement.

The timely launch of this consultation process is intended to ensure that Ireland complies with the Directive by the deadline of 19th April 2016 and thereby avoids the consequences of breaching EU laws

The Authority is actively involved in the Market Surveillance Forum established by the Department of Jobs Enterprise and innovation and is collaborating with the other Market Surveillance Authorities in ensuring a coordinated and consistent approach to transposing the requirements of the Directives into Irish law.

7. Enforcement and Compliance

The Authority, based on the hazard profile to date, will carry out market surveillance on lift safety components on a reactive basis for the next few years.

The Authority is planning to continue proactive market surveillance of lift installers in 2016.

8. Review

In early 2018, the Authority will review the impact of the proposed Regulations through monitoring of enforcement statistics, requests for information, and reviewing progress with stakeholders in the sector.

References: See dedicated Commission website for Lift Directive under DG GROW.