LN 346 of 2010

PRODUCT SAFETY ACT (CAP. 427)

Regularisation of non-CE Marked Lifts Regulations, 2010

IN exercise of the powers conferred by article 38 of the Product Safety Act, the Prime Minister, on the advice of the Malta Standards Authority, has made the following regulations:-

1. (1) The title of these regulations is the Regularisation of non-CE Marked Lifts Regulations, 2010. Citation, commencement and scope.

(2) These regulations shall enter into force on the 1st November 2010.

(3) These regulations shall apply to non-CE marked lifts as defined in regulation 2.

(4) The provisions in these regulations shall be applied in conformity with the Lifts Regulations, 2002, and the Inspection of Lifts Regulations, 2007, and the obligations and responsibilities arising thereof. L.N. 370 of 2002. L.N. 231 of 2007.

2. For the purposes of these regulations, the definitions contained in the Product Safety Act shall apply and, in addition, the following definitions shall also apply: Definitions. Cap.427.

"the Act" means the Product Safety Act;

"CE Marking" shall have the same meaning as defined in regulation 3 of the Lifts Regulations, 2002;

"condominium" shall have the same meaning as defined in the Condominium Act; Cap.398.

"installer" means any natural or legal person who first made available for use a non-CE marked lift;

"lift" shall have the same meaning as defined in regulation 3 of the Lifts Regulations, 2002;

L.N. 39 of 2008.

"Market Surveillance Directorate" means the Market Surveillance Directorate of the Malta Standards Authority as established in the Establishment of Directorates of the Malta Standards Authority Order, 2008;

"non-CE marked lift" shall mean any lift first made available for use by the installer, whether in return for payment or free of charge, as from 1st July 2002 until 31st October 2010, which is, in any way, not in compliance with the Lifts Regulations, 2002;

"Notified Body" shall have the same meaning as defined in regulation 3 of the Lifts Regulations, 2002;

"Regulatory Affairs Directorate" means the Regulatory Affairs Directorate of the Malta Standards Authority as established in the Establishment of Directorates of the Malta Standards Authority Order, 2008;

"responsible person" shall have the same meaning as defined in regulation 3 of the Inspection of Lifts Regulations, 2007;

"workplace" shall have the same meaning as defined in regulation 3 of the Inspection of Lifts Regulations, 2007.

General responsibilities.

3. (1) Subject to the provisions of these regulations, the installer shall be responsible for complying with these regulations.

(2) Without prejudice to the preceding sub-regulation, the responsible person shall ensure that the installer fulfils his obligations under these regulations within the specified time limits.

(3) By the 31st January 2011, the responsible person shall identify the installer and shall communicate with the installer in writing about his obligations under these regulations.

(4) Where the responsible person becomes aware

by the 31st January 2011 that the installer has ceased to legally exist or is prohibited from complying with these regulations, the responsibility to comply with these regulations shall fall on the responsible person. In such cases, any reference to the installer in these regulations, with the exclusion of the provisions of regulation 4(1), shall be deemed to be a reference to the responsible person.

(5) Where the installer is untraceable by the responsible person by the 31st December 2010, the responsible person is bound to comply with these regulations. In such cases, any reference to the installer in these regulations, with the exclusion of the provisions of regulation 4(1), shall be deemed to be a reference to the responsible person.

(6) In cases where sub-regulations 3(4) and 3(5) do not apply and the installer fails to notify the non-CE marked lift in accordance with regulations 4(1) and 4(2), the responsibility for complying with these regulations shall fall on the responsible person.

Notification of non-CE marked lifts.

4. (1) The installer shall notify all non-CE marked lifts to the Regulatory Affairs Directorate by 28th February 2011.

(2) The notification referred to in sub-regulation (1) shall be performed by sending to the Regulatory Affairs Directorate the designated duly-completed "Notification Form A" contained in Schedule I to these regulations. The installer shall also send a copy of this notification form to the responsible person.

(3) In cases where any of the provisions of regulations 3(4) to (6) of these regulations apply and in cases where the provisions of regulations 3(4) to (6) of these regulations do not apply but the responsible fails to receive the Notification Form A from the installer, the responsible person shall notify the non-CE marked lift as per sub-regulation 4 (2) above by the 30th April 2011.

(4) Notifications of non-CE marked lifts may also be voluntarily submitted by any other third party who is neither the installer of the non-CE marked lift nor the responsible person of the said lift. In such cases, the designated "Notification Form B", which is contained in Schedule II to these regulations, shall be used. The Regulatory Affairs Directorate shall make such Form available to any interested party.

(5) Notifications submitted through the procedure in sub-regulation (4) shall not prejudice or substitute the obligations on the installer to submit notifications as per sub-regulation (2).

(6) The installer shall not be allowed to notify non-CE marked lifts installed by himself through the procedure in sub-regulation (4).

(7) Completed notification forms A and B may be submitted by any means possible, including electronically or by post, to the addresses provided in the notification forms in Schedules I and II to these regulations.

Regularisation procedure and responsibilities.

5. (1) The installer shall comply with sub-regulation (2) hereunder within a period of not more than six months from the date of notification indicated in the notification form as per regulation 4 but not later than 31st October 2011, whichever is the earlier.

(2) The installer shall take all the necessary measures to ensure that the non-CE marked lift shall:

(a) comply with the provisions of the Lifts Regulations, 2002. Where applicable, any reference to the installer in the Lifts Regulations, 2002, shall mutatis mutandis be deemed to refer to the responsible person in terms of regulation 3 of these regulations.

(b) submit registration as a "new lift" in accordance with the Inspection of Lifts Regulations, 2007. In addition to the declaration of conformity, the registration form shall be accompanied by the Notified Body certificate issued in terms of the provisions of the Lifts Regulations, 2002. Where applicable, any reference to the installer in the Inspection of Lifts Regulations, 2007, shall mutatis mutandis be deemed to refer to the responsible person in terms of regulation 3 of these regulations.

(3) It shall be prohibited for the installer of the non-CE marked lift to apply for certification in terms of the provisions of the Lifts Regulations, 2002, simultaneously with more than one Notified Body.

(4) Where, due to justified or unforeseen circumstances,

as duly determined by the Director of the Regulatory Affairs, deviations from the provisions of sub-regulation (2) are inevitable, these shall only be permitted upon consultation with and following approval in writing from the Director of the Regulatory Affairs, who shall notify forthwith the Market Surveillance Directorate of such decisions.

(5) Non-CE marked lifts that duly fulfil the requirements of these regulations within the specified time limits of sub-regulation (1) shall be deemed to be compliant with the Lift Regulations, 2002, and shall no longer be considered as non-CE marked lifts in terms of the present regulations as from the date of their registration according to sub-regulation (2)(b) above.

Notifications by third parties.

6. (1) In cases where the non-CE marked lift was notified only through the procedure in regulation 4(5) by means of Notification Form B, the Regulatory Affairs Directorate shall contact in writing the installer, if known, to inform him that notice has been given to it in terms of regulation 4(5). If the installer is not known or no longer exists, then the Regulatory Affairs Directorate shall contact in writing the responsible person to inform him of his obligations under these regulations.

(2) In cases where sub-regulation (1) applies, the period of time for regularisation referred to in regulation 5(1) shall start running from the date on which the notification in writing by the Regulatory Affairs Directorate, as referred to in sub-regulation (1), is received by the installer or responsible person. To this end, any such communication sent by the Regulatory Affairs Directorate shall be sent by registered mail or by any other method from which the date of receipt by the addressee can be determined and recorded.

Administration fees and submission of forms.

7. (1) An administration fee of ten euro (€10) shall apply to notification forms submitted in accordance with regulation 4(2) by means of Notification Form A submitted after the time limit specified in regulation 4(1).

(2) The following administration fees shall be applicable to registration forms submitted in accordance with regulation 5(2)(b):

(a) a ten euro (€10) administration fee is applicable for registration forms submitted by the installer or by the

responsible person where sub-regulations 3(4) and (5) apply within the time limit specified in regulation 5(1) unless the non-CE marked lift was only notified via the procedure as specified in regulation 4(5) by means of Notification Form B, in which case a thirty euro (€30) administration fee is applicable for registration;

(b) a forty euro (€40) administration fee shall apply to registration forms submitted by the responsible person where sub-regulation 3(6) applies;

(c) a ten euro (€10) administration fee shall apply in addition to sub-regulations (2)(a) and (b) above for registration forms submitted after the time limit specified in regulation 5(1).

(3) Administration fees shall be paid upon submission of the notification or registration form by any means of payment accepted by the Regulatory Affairs Directorate.

(4) The installer or, where applicable, the responsible person shall ensure that the forms submitted in accordance with sub-regulations 4(2) and 5(2)(b) are received by the Regulatory Affairs Directorate within the applicable time limits.

Rejection of forms.

8. (1) For notification forms submitted in accordance with regulation 4 and registration forms submitted in accordance with regulation 5(2)(b), the following rules shall apply:

(a) in case of illegible forms, improperly filled in forms or where payment has not been effected in accordance with regulations 7(1) or (2), if applicable, the forms shall not be deemed to have been submitted within the deadlines specified in regulation 4 or regulation 5, as applicable, and they shall have to be re-submitted;

(b) incomplete forms shall only be accepted if lack of data is due to justified or unforeseen circumstances, as duly determined by the Regulatory Affairs Directorate, and if the data submitted is still sufficient to clearly identify the non-CE marked lift in question or to comply with the provisions of regulation 5 of the Inspection of Lifts Regulations, 2007, as applicable.

(2) Where the forms would not have been validly submitted in terms of sub-regulation (1), they shall only be deemed to be submitted upon their valid resubmission. Regulation 11 shall be applicable in cases of failure to submit a valid Form within the stipulated deadlines established by these regulations.

Inspection of non-CE marked lift.

9. Within the meaning of the Inspection of Lifts Regulations, 2007, the date of "putting into service" of formerly non-CE marked lifts shall be taken to be the date on which the Notified Body certificate issued in terms of the provisions of the Lifts Regulations, 2002.

Prohibition from market.

10. (1) The Regulatory Affairs Directorate shall immediately inform the Market Surveillance Directorate of any non-CE marked lift which fails to comply with any provision of these regulations.

(2) Where it is ascertained that a non-CE marked lift used in accordance with its intended purpose might endanger the safety of persons and, where appropriate, of property, the Market Surveillance Directorate shall take all appropriate measures to prohibit the use of such non-CE marked lift.

Liabilities.

11. (1) Any installer who:

(a) fails to comply with any applicable provision of these regulations; or,

(b) provides the Regulatory Affairs Directorate with any misleading information; or,

(c) prohibits in any manner the Market Surveillance Directorate from taking any appropriate measure to prohibit the use of any non-CE marked lift,

shall be guilty of an offence under these regulations.

(2) Any responsible person who:

(a) fails to comply with any applicable provision of these regulations; or,

(b) provides the Regulatory Affairs Directorate with any misleading information; or,

(c) prohibits in any manner the Market Surveillance Directorate from taking any appropriate measure to prohibit the use of any non-CE marked lift,

shall be guilty of an offence under these regulations.

(3) Any person who:

(a) provides the Regulatory Affairs Directorate with any misleading information; or,

(b) prohibits in any manner the Market Surveillance Directorate from taking any appropriate measure to prohibit the use of any non-CE marked lift,

shall be guilty of an offence under these regulations.

Penalties.

12. Any person found guilty of an offence under regulation 11 shall, upon conviction, be liable to a fine (multa) of not less than four hundred and sixty-five euro and eight seven cents (€465.87) and not exceeding two thousand three hundred and twenty-nine euro and thirty seven cents (€2,329.37).

Proceedings.

13. The provisions of articles 30, 31, 33 and 34 of the Act shall apply to the provisions of regulations 11 and 12 of these regulations..

Schedule I – Notification Form A
(Regulation 4)

REGULATORY AFFAIRS DIRECTORATE
MALTA STANDARDS AUTHORITY

NOTIFICATION (FORM A) OF NON-CE MARKED LIFTS

CONFIDENTIAL

Complete in typeface or block letters.

Please tick (✓) the appropriate boxes in the sections below where applicable

AUTHORITY USE ONLY
Date received | Reference No:

This form is derived from the Regularisation of non-CE Marked Lifts Regulations, 2010, L.N. 346 of 2010 and applies only to lifts first made available for use between 1st July 2002 and 31st October 2010, which are not in compliance with the Lifts Regulations, 2002, L.N. 370 of 2002.	**For Office Use only**
Date of notification (DD/MM/YYYY):	
Full address of lift location:	
Please indicate if the lift is installed in a: ☐ workplace ☐ condominium ☐ domestic residence	
Date when lift was first made available for use: *(If first made available in 2002, specify day and month. For all other years, indication of year only is sufficient)*	
Installer:	
Address of the installer:	
Telephone/Mobile number of installer:	

Serial number of lift:	
Lift Manufacturer/Make of Lift:	
Name of person/entity filling out this notification:	
Address of person/entity filling out this notification:	
Telephone/Mobile number of person/entity filling out this notification:	
Email of person/entity filling out this notification:	

DECLARATION

I, the undersigned, the installer / responsible person (*delete as appropriate*) in terms of regulation 2 of the Regularisation of non-CE Marked Lifts Regulations, 2010, L.N. 346 of 2010, hereby declare that all information submitted in this document is accurate to the best of my knowledge and undertake to ensure that the lift is regularised according to the same regulations as soon as possible but not later than 6 months of the date of this notification.

Signature:

For further details, please refer to Legal Notice 346 of 2010 or contact the Malta Standards Authority on 2395 2000.

***This document shall not affect liability, obligations, responsibility and rights of any party arising out of legislation currently in force*.**

Please post the completed form to:
Head – Regulatory Affairs Directorate,
Malta Standards Authority, Second Floor, Evans Building,
Merchants Street,
Valletta, VLT 1179

Or via email to:
helpdesk.msa@msa.org.mt

All personal information about the notifying entity in this form will be held by the Malta Standards Authority in accordance with the Data Protection Act, 2001.

Schedule II – Notification Form B
(Regulation 4)

REGULATORY AFFAIRS DIRECTORATE
MALTA STANDARDS AUTHORITY

NOTIFICATION (FORM B) OF NON-CE MARKED LIFTS

CONFIDENTIAL

Complete in typeface or block letters.

Please tick (✓) the appropriate boxes in the sections below where applicable

AUTHORITY USE ONLY	
Date received	Reference No:

This form is derived from the Regularisation of non-CE Marked Lifts Regulations, 2010, L.N. 346 of 2010 and applies only to lifts first made available for use between 1st July 2002 and 31st October 2010, which are not in compliance with the Lifts Regulations, 2002, L.N. 370 of 2002.	**For Office Use only**
Full address of lift location:	
Please indicate if the lift is installed in a: ☐ workplace ☐ condominium ☐ domestic residence	
Indication of date when lift was first made available for use: *(If first made available in 2002, specify day and month.* *For all other years, indication of year only is sufficient)*	
Installer, if known:	
Manufacturer/Make of Lift, if known:	

Please post the completed form to:
Head – Regulatory Affairs Directorate,
Malta Standards Authority, Second Floor, Evans Building,
Merchants Street,
Valletta, VLT 1179

Or via email to:
helpdesk.msa@msa.org.mt

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VERŻJONI ELETTRONIKA

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