



**Guidelines for the administration of the Consumer and Industrial Goods Directorate's  
Responsibilities under the Lifts Regulations 2002,  
Schedule 1: Essential Health and Safety Requirement 2.2. (Hazards to persons outside the lift car:  
preventing the risk of crushing when the car is in one of the extreme positions)  
January 2006**

**Comments by the Directorate**

1. The context in which the Consumer and Industrial Goods Directorate of the MSA (CIGD-MSA) comments on the requirements of EHSR 2.2:

It is for the suppliers of products and, in the case of lifts, those persons taking responsibility for their installation to assess how the relevant legislation applies to their products/installation and to account, as necessary, for their decisions to the market surveillance/ enforcement authorities and, in appropriate cases, to the courts. The CIGD-MSA might have a view on the position but this would not have the force of law: the interpretation of legislation is a matter for the courts and, in respect of European Directives, ultimately the European Court of Justice.

**Structure of EHSR 2.2**

2. It is considered by the CIGD-MSA that the first sentence indicates the risk to be addressed and the second sentence specifies the principal manner in which that objective will be met. A *derogation* (from the requirements of the second sentence) is provided in the third sentence whereby, in *exceptional cases* where the objective cannot be met in accordance with the second sentence, other methods of meeting the objective might be used provided that prior approval has been obtained from the CIGD-MSA.

**The Requirement contained in the first two of the three sentences in EHSR 2.2:**

- ✓ **The lift must be designed and constructed to prevent the risk of crushing when the car is in one of the extreme positions.**
- ✓ **The objective will be achieved by means of free space or refuge beyond the extreme positions.**

3. The Directorate's interpretation of "free space or refuge beyond the extreme positions". In the view of the CIGD-MSA:

"The extreme positions" can only mean the highest and lowest positions which the lift car could reach in the event of inadvertent over travel (for whatever reason) and not some working position that can be established, ad hoc, on a temporary basis by means of mechanical or other intervention (see also Note D below). Such extreme positions might be established by physical bars, such as buffers or other physical barrier, scotches or some other restriction which would prevent the further movement of the lift car for example, in the case of a hydraulic lift, by the extremity of upper travel which can be achieved by the hydraulic jack which moves the lift car.

The dimensions of the “free space or refuge” must not be reduced because ascending lift cars supported by ropes and chains may continue to travel upwards momentarily, even though the counterweight buffers have been fully compressed or their hydraulic jacks have reached the extremities of their strokes.

4. In the opinion of the Directorate, persons taking responsibility for the installation of lifts need to undertake a three part analysis of how they can meet their obligations under the first two sentences of EHSR 2.2:

*(i) can the lift be made to comply with both the requirement in the first two sentences of EHSR 2.2 and the relevant provisions of transposed, published harmonized standards, considering particularly EN 81/1 part 1 Clause 5.7.1.1, 5.7.2 and 5.7.3 or EN 81/2 part 2 Clause 5.7.1 and 5.7.2?*

In such a case (all other necessary requirements having been met) the full range of conformity assessment options available under the Regulations is open to the person taking responsibility for the installation of the lift.

*(ii) can the lift be made to comply with the requirements in the first two sentences of EHSR 2.2 but not the relevant provisions of transposed, published harmonized standards?*

In this case there is no need to present the proposed solution to the CIGD-MSA for prior approval and the installer should not do so. He should place the lift on the market and into service in accordance with any of the conformity assessment procedures available for non-standard solutions (all of which have some form of Notified Body involvement). It is for the person taking responsibility for the installation of the lift to devise and take responsibility for any such solutions, and then to satisfy a Notified Body that his proposed solution conforms to the free space or refuge requirement.

*(iii) the person taking responsibility for the installation of the lift concludes that he cannot meet the requirement in the first two sentences by any means whether standard or non-standard. In such a case the person should consider the position specified in the third sentence of EHSR 2.2.*

**The Requirement (as contained in the third of the three sentences in EHSR 2.2):**

**However, in specific cases, in affording Member States the possibility of giving prior approval, particularly in existing buildings, where this solution is impossible to fulfil, other appropriate means may be provided to avoid this risk.**

5. It should be appreciated that this is “derogation” from the main provisions of the EHSR and should, accordingly, be construed narrowly. Therefore, if – but only if – the person taking responsibility for the installation of the lift concludes (on his own responsibility in law) that it is impossible to meet the Requirement by way of the means specified in the second sentence of EHSR 2.2, he may write to the CIGD-MSA with a proposal seeking prior approval to meeting it by other appropriate means.

**6. The following requirements must be met:**

The application must address **specific cases** of lift installation. No blanket approvals will be given.

**Prior approval** only will be given. Approvals sought subsequent to construction / installation will not meet the requirement in EHSR 2.2 and will not be issued (see also Note E below). Not only are such approvals meant to be given only in exceptional circumstances whatever the kind of building concerned, they are intended **particularly** for lifts to be installed in **existing buildings**. Only very rarely will a proposed lift for a new building be eligible for consideration.

**The solution** based on free space or refuge beyond the extreme positions must be **impossible to fulfil**. We take “impossible” to mean either physically impossible i.e. due to constraints such as those imposed

by factors such as the presence of major electric cables or tunnels, or legal constraints such as those imposed by preservation orders. It is not an economic concept; so it follows that applications based on differential costs between providing free space or refuge beyond the extreme positions and providing another solution cannot be approved. The person seeking the Directorate's prior approval must explain to the Directorate's satisfaction why his conclusion that the solution, based on free space or refuge at the extreme positions being impossible to fulfil, is a well-founded one.

**Other appropriate means to avoid the risk** - the Directorate's preference is for means which have the two following characteristics:

- ✓ there should be a device which physically prevents the movement of a lift car (both downwards and upwards) to the extreme positions, creating in the process enough space to prevent persons inside the shaft (whether authorized persons or not) from being crushed by the car.
- ✓ that device should be automatically activated whenever a person enters the lift shaft (see also EHSR 2.1)

The Directorate is very unlikely to be persuaded that any proposed solution that lacks either of those features would be appropriate means or avoid the risk.

## Notes

### Please also note the following:

A. If it would assist the person taking responsibility for the installation of the lift, the Directorate is willing to consider whether it agrees with his conclusion that it is impossible to meet the free space requirement separately from and before the appropriateness of other proposed means to avoid the risk. This should help to avoid unnecessary expenditure of time and other resources in circumstances where the Directorate cannot agree that the argument as regards "impossibility" is well founded.

B. It is always the responsibility of the person taking responsibility for the installation of the lift to devise solutions that constitute other appropriate means for avoiding the risk.

C. Currently no charge is made for considering such applications, but the position on this is under review and installers should study the Directorate's web site and its other publications for possible changes in this respect in the future.

D. Nothing in EHSR 2.2 should be interpreted as preventing the provision of automatically activated mechanical intervention to create a protected working position **in addition to** such free space or refuge – as distinct from its provision **instead of** it. In many cases this may well be very desirable.

E. The Lifts Regulations 2002 were issued by virtue of the Product Safety Act, Cap 427; the latter clearly states (in its Part III: Product Control and Enforcement) that the Director of Consumer Affairs is the enforcing authority for the Lifts Regulations, but has no statutory powers to issue approvals. If the Director of Consumer Affairs is approached about approvals under EHSR 2.2, it will refer the enquirer to the CIGD-MSA. In any instance where CIGD-MSA's approval is necessary but the person taking responsibility for the installation of the lift has failed to obtain it PRIOR to installation, the Director of Consumer Affairs makes the following request of that person to assist it in deciding what enforcement action to take under the Regulations. The person should, at his own expense, obtain a detailed written statement from a Notified Body explaining why it supports his conclusions that the provision of free space or refuge beyond the extreme positions was impossible and that the other means used to prevent the risk of crushing when the car is in one of its extreme positions are appropriate – if, in fact, the Notified Body does support those conclusions.

**Proposals for the Directorate's consideration under the third sentence of the Lifts Regulations 2002 Schedule 1 EHSR 2.2 should be addressed to:**

The Head – Consumer and Industrial Goods Directorate  
Malta Standards Authority  
Second Floor, Evans Building,  
Merchants Street,  
Valletta, VLT 03.

**any enquiries should be made via:**

fax: 2124 2406 or

email to: [anthony.camilleri@msa.org.mt](mailto:anthony.camilleri@msa.org.mt)