



GOVERNMENT OF MALTA

Government response to the Consultation on
*[Inspection of Lifts Regulations (S.L. 427.63) 'fitness-
check' and proposal for legislative amendments]*

July 2022

*Malta Competition and Consumer Affairs Authority
Mizzi House, National Road,
Hamrun HMR 9010*

This publication (excluding Logos) may be re-used free of charge in any format or medium provided that it is re-used accurately and not used in a misleading context. This material must be acknowledged as Government of Malta and the title of the publication specified.

Any queries regarding this publication should be sent at: onlineconsultations@gov.mt.

Published by the Malta Competition and Consumer Affairs Authority

Contents

CONTENTS

Contents.....	3
Executive Summary.....	4
Introduction and overview	4
Responses to the consultation and process used to seek stakeholder views	5
Summary of responses and decisions.....	6
Implementation	9
Contact Details.....	9
Annex A: List of respondents (<i>optional</i>)	9

Executive Summary

Introduction and overview

1. A brief introduction about the subject.

The regulatory framework for lifts consists of two key pieces of legislation, namely the Lifts Regulations and the Inspection of Lifts Regulations.

The Lifts Regulations were introduced in 2002 and applied lock-stock-and-barrel the provisions of the first Lifts Directive (Directive 95/16/EC). Hence, even before Malta's accession to the EU, a regulatory framework was already in place to ensure that all lifts are installed in line with the latest regulatory developments.

In 2014, the Lifts Directive received an overhaul through Directive 2014/33/EU. This Directive was transposed locally in the Lifts Regulations, 2016 and regulates all aspects related to the placing on the market, installation and conformity assessment of lifts and their safety components.

The Inspection of Lifts Regulations were introduced in 2007 and represented Malta's endeavour to ensure that following their installation in line with the Lifts Regulations, lifts remain safe through preventive maintenance and periodic inspections/examinations conducted by Authorised Conformity Assessment Bodies.

Whilst the Lifts Regulations received an overhaul through the transposition of the Lifts Directive (Recast) in 2016, the Inspection of Lifts Regulations remained unchanged since their introduction in 2007. To ensure that the legal framework remains effective in ensuring that lifts remain safe throughout their lifetime, the Inspection of Lifts Regulations underwent a 'fitness-check' to identify rooms for improvement in terms of applicable safety standards, coherence with the Lifts Regulations and overall procedural efficacy.

2. The public consultation date.

Include the objective and purpose of the public consultation.

On 3rd February 2021, the Malta Competition and Consumer Affairs Authority published a consultation paper setting proposals for an overhaul of the Inspection of Lifts Regulations. The objective of the public consultation was to gauge the feedback of the main stake-holders in the lifts industry in order to identify rooms for improvement in terms of applicable safety standards, coherence with the Lifts Regulations and overall procedural efficacy.

3. This consultation sought views on the following matters:

- The dichotomy that currently exists between 'existing' and 'new' lifts;
- The scope and applicability of the Inspection of Lifts Regulations;
- Modifications and repairs of a lift after it has been put into service;
- Lifts installed in public spaces;

- Registration/Notification of a lift;
- Decommissioning of a lift;
- The point in time when a lift is deemed to have been 'delivered';
- Preventive and thorough examinations;
- Notification of ACAB (Authorised Conformity Assessment Bodies) reports to the competent authorities;
- Modernisation of lifts;
- Preventive maintenance;
- Regularisation following ACAB inspection/examination;
- Obligations of maintenance contractors;
- ACAB's safety during inspection/examination;
- Applicable EU and International Standards;
- Prescribed forms; and
- Fees for notification.

Responses to the consultation and process used to seek stakeholder views

This document is the Government Response to this consultation and sets out the Government's decisions on these matters.

4. The closing date of the public consultation. Which methods were used to receive the feedback. The total amount of responses. From whom you received the feedback.

The consultation closed on the 24th February 2021. The consultation document and the reply form were available online and responses were accepted electronically and on paper. In total, there were 9 responses. These were received from lift installers, maintenance contractors, authorised conformity assessment bodies, condominium administrators, private individuals and the Chamber of SMEs.

5. Include (if any) meetings with stakeholders and list who the stakeholders were.

A series of meetings have been convened with the following stake-holders:

- Chamber of SMEs;
- NB Engineering;
- S & A Quality Assurance Surveyors Ltd;
- TVI Services Ltd;
- TopServ Lift Solutions; and
- Advent Lifts
- OHSA
- MHRA

Summary of responses and decisions

The following is a summary of the consultation responses received. We would like to thank all those who took the time to respond to the consultation and participate in stakeholder meetings around the consultation exercise.

6. Statistics.

- Total feedback received: 9
- Total feedback received by individuals: 1
- Total feedback received by organisations: 8
- Total feedback received through email: 9
- Total feedback received through online form: 0
- Total feedback received by post: 0

7. Summary of feedback received.

Date of entry into force

All respondents were opposed to the proposal to apply the law as from 1st July 2021. In this regard, respondents held that the tentative date of 1st July 2021 does not allow time for software upgrades and testing and opined that more discussions should be held over a series of meetings, particularly in relation to technical aspects of the regulation. Respondents also suggested that there should be a sufficient time-period between publication date of the amendments and the entry into force of the amended regulations in view of pre-commitments with clients.

24/7 Rescue Service

The majority of respondents suggested that a mandatory requirement to provide a 24/7 rescue service should be included to ensure that, at any time, trapped passengers can be safely rescued.

Modifications requiring a conformity assessment

Majority of stake holders expressed concern regarding the requirement to subject the lift to a fresh conformity assessment following certain modifications which alter the risk profile of the lift, given that for most brands, in the absence of 'upgrade kits', this would entail an extensive lift modernisation project; including the replacement of all landing doors and would not be commercially viable when compared to the cost of a full replacement.

Serious defect

Authorised conformity assessment bodies (ACABs) suggested that a set of guidelines should be established between the competent authorities and the ACABs establishing uniform technical criteria to be used when establishing whether a defect should be considered sufficiently 'serious' to warrant preventing the use of the lift.

Notification

Installers opined that lifts should be notified by the responsible person rather than by the installer

Technical competence of maintenance contractors

Majority of respondents opined that technical competence should be further qualified, including by requiring that maintenance contractors be competent to repair/maintain a lift of the particular brand on which it is being engaged by the responsible person to work on.

Delivery of a lift

Installers opined that delivery should equate to the physical delivery of the lift components to the client's site, or to the installer's stores if so agreed with the client rather than notification as proposed.

ACAB to refrain from conducting inspection/examination on a lift without Declaration of Conformity (DOC)

ACABs responded that the ACAB should not be prevented from carrying out a preventive inspection/thorough examination on a lift which does not have a DOC but the lack of a DOC should be included as a finding in the report.

Compulsory maintenance agreements

Majority of respondents proposed that a maintenance agreement with a recognised maintenance contractor be made compulsory.

Maintenance Contractors to report a lift which does not have a declaration of conformity.

Majority of respondents opined that maintenance contractors should not be burdened by such responsibility and that maintenance contractors should only go as far as reporting such finding to the responsible person.

Periodicity of Preventive Inspections

ACABs opined that preventive inspections on lifts installed in a workplace should continue to be conducted every 6 months rather than annually as proposed.

Fees

The majority of respondents opined that there should be a transitory period for the new fees, since installers would have already agreed on a price with their clients.

8. Your assessment and the Government's decision (list the Government's decisions).

Having reviewed all response and following a series of meetings with stakeholders, it was decided that:

Date of entry into force

- the entry into force of this regulation shall be postponed to Q1 2023.

24/7 Rescue Service

- a provision on 24/7 rescue service should be included

Modifications requiring a conformity assessment

- Provisions requiring conformity assessment following certain modifications should be deleted from the draft since this is regulated via the European Commission's "Guide to Application of Lifts Directive 2014/33/EU (Par. 37)

Serious defect

- Guidelines on the defects which ought to be considered 'serious' shall be established.

Notification

- Current obligation on installers to register/notify a lift should be retained.

Technical competence of maintenance contractors

- Definition of technically competent person should be further qualified in terms of competence to work on the particular brand of lift.

Delivery of a lift

- For the purpose of the Consumer Affairs Act, delivery should equate to the moment in time when a lift is installed, put into service and notified, rather than to the mere physical delivery of components.

ACAB to refrain from conducting inspection/examination on a lift without Declaration of Conformity (DOC)

- ACABs should be allowed to conduct inspection/examination on a lift which has no DOC, subject to such finding being included in the report as a serious defect.

Compulsory maintenance agreements

- With respect to compulsory maintenance agreements, it was considered that the responsible person has a legal obligation to maintain lift in good working order and it is up to the responsible person to do whatever is necessary to honour this obligation. This may include entering into a maintenance agreement with a lift maintenance contractor but the responsible person should not be barred from engaging different maintenance contractors on a non-contractual basis.

Maintenance Contractors to report a lift which does not have a declaration of conformity.

- Maintenance contractors should not be overburdened with reporting obligations.

Periodicity of Preventive Inspections

- Following discussions with OHSA, it was decided that the proposed 1-year period for preventive inspections should be retained.

Fees

- A transitory period will be included for new fees. In this regard new fees will apply as from 1st January 2024.

Implementation

9. When you intend to implement the decisions

Subject to cabinet approval, the legal notice is set to be published by end of October 2022 with the changes coming into force on 1st January 2023.

Contact Details

If you have any questions regarding this response, please contact:

Malta Competition and Consumer Affairs Authority

info@mcca.org.mt

Annex A: List of respondents

Organisation
- Chamber of SMEs;
- NB Engineering;
- S & A Quality Assurance Surveyors Ltd;
- TVI Services Ltd
- Mekanika Ltd
- Panta Marketing & Services Ltd
- High Rise Co Ltd
- ejcS Condominium & Property Services Ltd
- Private Individual