



JULY 2016

Welcome to your industry newsletter



Welcome to the fifth LEIA newsletter which comes at a busy, and crucial time for the industry.

With so much uncertainty around the result of the EU referendum, many of you are concerned about its impact on standards and regulations. Technical Director Nick Mellor offers LEIA's view.

As the dust begins to settle after our LIFTEX 2016 event, we bring you a brief roundup of this year's show. If you missed it, our short **film** will give you the highlights.

And finally, often a confusing area in relation to contracts and sub-contracts, Terry Potter offers guidance around the Public Contracts Regulations 2015.

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The implications of the EU referendum result for standards and regulations

Publication of new Lifts Regulations enacting the recast Lifts Directive 2014/33/EU was postponed in April. The result of the referendum on EU membership makes it uncertain whether they will now be published. There are many questions which will need to be answered as negotiations unfold. What is clear is that the current regime of regulations and standards will stay in place for the foreseeable future, says Nick Mellor, Technical Director at LEIA.

While the implications of the vote to leave the EU will take some time to unfold, we look at the implications for standards and regulations for new equipment of interest to you and your clients in the UK. Negotiations with the EU, which might take two years when the UK will still be part of the EU, would determine the UK's future trade relationship. This in turn will partly determine the regulatory environment for new products.

Regulations for new equipment

The regulations for new equipment are a vital part of establishing the free market in goods by ensuring a minimum level of safety which is accepted by all EU member states. New equipment is subject to UK regulations, such as the Supply of Machinery (Safety) Regulations 2008 (SMSR), enacting the EC Machinery Directive and the Lifts Regulations enacting the Lifts Directive.

Guidance on delayed Lifts Regulations

For the delayed new Lifts Regulations to enact the recast Lifts Directive 2014/33/EU, it is hard to see how BIS (the UK Government's Department for Business, Innovation and Skills), with its huge new workload, would prioritise its publication. So we expect that the existing regulations will remain in place.

Our guidance in relation to the recast Lifts Directive 2014/33/EU is currently as follows.

- Lift installers and manufacturers of products (lifts or safety components) for supply in the EU should continue as though Directive 2014/33/EU is implemented in UK law.
- Lift installers and manufacturers of products for supply solely within the UK should also seek to be compliant with the requirements of the new Directive as if it was now implemented in UK law. There is an alternative for companies whose products are sold solely within the UK of continuing according to the current Lifts Regulations 1997. Declarations of Conformity (DoC) should reference the Lifts Regulations 1997.

Lift companies are advised to discuss this with their Notified Bodies to agree their approach.

Harmonised standards

Various harmonised standards in the EN 81 and EN 115 families are used to give a presumption of conformity with the safety requirements of these regulations. Harmonised standards are produced by CEN, the European Committee for Standardisation, under a mandate from the EU. So these regulations and standards have an

important role in supporting the single market and the free movement of goods. As a CEN member, the British Standards Institution (BSI) is obliged to publish CEN standards and to withdraw any conflicting standards. We see no change to BSI's status and obligations as a full member of CEN, and so BSI will continue to publish standards such as the BS EN 81 and BS EN 115 families and others relevant to our industry.

There has been a suggestion that, following an exit from the EU, the UK will adopt its own standards (not based on the current EN 81 and EN 115 families). This is extremely misguided as these standards have seen the development of the state of the art for the safety of users and workers, and are standards to which BSI delegates have contributed so much. These standards would remain the main ones required for projects within the EU. Globally, EN 81-20 and EN 81-50 are on track to be adopted as standards by ISO (international standards organization). For all these reasons, it is almost inconceivable that the UK would not continue with such standards.

So, for the foreseeable future, we expect to work with the current range of standards and to implement CEN standards as they are published.



LIFTEX 2016 is the best yet

2016 **liftex**
INTERNATIONAL
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The results are in, LIFTEX 2016 was the best yet in the show's 28-year history. That's according to feedback from exhibitors; 97% agreed that they would exhibit at the next event, and rated exhibitor quality as the highest ever.

The show also saw a 20% increase in exhibitors, and a 15% increase in visitors. Held only once every three years, and organised by LEIA, LIFTEX took place in May at London's ExCeL. Over 100 exhibitors attended, and this year's CPD certified seminar programme featured lunchtime sessions from leading industry experts.

Here's what some of the exhibitors had to say:

Helen Roberts, Managing Director at Global Lift Equipment said: *"We thought the last event in 2013 was a great success. We knew it was going to be a tough act to follow, but I would say that 2016 has exceeded expectations and this is certainly the best event yet."*

Kirstie Horsler, Managing Director at Horsler Lift Services Ltd added: *"This was our first time exhibiting at any kind of exhibition and I would certainly recommend it. We will be booking up again as it has been really successful."*

Craig Pilkington, Managing Director at Wessex Lifts concluded: *"This show is up there with the best international lift events in terms of visitor quality and standards."*

If you missed the show and would like to catch up on the seminar presentations, each session is now available for you to view [online](#).

LIFTEX 2019 is planned for May 2019 at ExCeL, London. For more information, please visit www.liftex2016.com



Public Contracts Regulations 2015

Many of you ask us what the regulations stipulate, and what impact they have on construction contracts. Here is a LEIA guide.

Public Contracts Regulations

Regulation 113 of the Public Contracts Regulations 2015: Obligation to pay within 30 days, states:

- Contracting authorities (i.e. all public bodies except maintained schools and academies) must have in their contracts an obligation to pay their contractors within 30 days from the date on which an invoice is “regarded as valid and undisputed”.
- Verification of invoices must be done in a “timely fashion”;
- Undue delay is no excuse for failing to regard an invoice as valid and undisputed.
- The 30-day payment obligation must be included in sub-contracts and sub-subcontracts.
- Regulation 113 does not affect any statutory/contractual obligation to pay within a shorter period.
- If the 30-day obligation is not expressed in contracts/sub-contracts the Regulations state that it will be an implied obligation.

Construction contracts and sub-contracts

The Regulations apply to all construction contracts, sub-contracts and sub-subcontracts involving the carrying out of any works, supplying any products or providing any services.

Unfortunately, the Regulations do not easily relate to the payment procedures in Part II of the Housing Grants, Construction and Regeneration Act 1996 (as amended) in the Construction Act.

Payment timing and entitlement in construction contracts depends on the statutory payment notice procedure, and not by a process of determining that an invoice is “valid and undisputed.” The payment process usually begins with a payment application, rather than an invoice.

The Construction Act requires that construction contracts have:

- a payment due date
- a final date for payment

Therefore, a payment notice must be issued with five days of the due date (either by the payer or the payee). This

defines the amount to be paid by the final payment date. This amount must be paid, unless a pay less notice has been issued before the final date. In which case, the amount in that notice must be paid. All notices have to be valid and issued to the correct party, containing the basis of the calculation and are issued on time.

If the paying party fails to issue a payment notice a statutory default procedure kicks in. If the party carrying out the work has generally issued a payment application that becomes the payment notice itself.

Late payment

If payment is late (i.e. after 30 days), statutory interest will be added. Also, late payment can be reported to the Mystery Shopper service run by the Cabinet Office which will name and shame any suppliers that are proved to be late payers.

Paragraph 4 in Annex 2 to the guidance also states “The Regulations require public bodies to report annually – via the internet – on their payment performance to tier 1 suppliers.”

For more information, see the **statutory guidance** published by the Cabinet Office.

