

Health and Safety Commission Paper		HSC/03/47	
Meeting Date:	8 April 2003	Open Gov. Status:	Fully Open
Type of Paper:	Below the line	Paper File Ref:	202/SPD/1000/2001
Exemptions:	None		

## HEALTH AND SAFETY COMMISSION

### Update on work to implement the Cableways Directive.

#### A Paper by Gwyneth Deakins

Advisor(s): Jason Cole

Cleared by Bill Gillan on 18 March 2003.

#### Issue

1. To update the Commission on work carried out by HSE since paper HSC/02/16, on assisting the Department for Transport (DfT) with their implementation of the Cableways Directive. To inform the Commission of the residual issues, including a response to the formal consultation exercise, and of arrangements made by HSE for enforcement of the Cableways Regulations.

#### Timing

2. Urgent. DfT are behind schedule in implementing the Directive, and are under pressure from the European Commission (EC) to introduce the UK implementing Regulations as soon as practicable.

#### Recommendation

3. The Commission is asked to:
  - Note the residual concerns HSE has with the draft Cableways Regulations, and agree to respond to the DfT consultation along the lines indicated in the draft letter at Annex F, and;
  - Note HSE arrangements for enforcement of the Cableways Regulations at Paragraphs 7 to 10.

#### Background

4. The Cableways Directive regulates the design and installation of new cableway installations, such as funicular railways, ski lifts and drag lifts on ski slopes. The aim of the Directive is to ensure that cableways are safe for use by the public. The Directive

(2000/9/EC) is a 'new approach' Directive under Art. 95 of the European Treaty, and will also cover cableway equipment that is already in use when such installations are upgraded to the extent that they can be considered new installations. DfT have the policy lead for this Directive, whilst HSE will lead on its enforcement.

5. The arrangements for enforcement of the Regulations are that any new installation would have to be referred to an Authorisation Body (AB), who would consider a safety report prepared by the constructor/installer. This AB would not be HSE, but an independent organisation nominated by UKAS (The UK Accreditation Service). If satisfied, the AB would issue an authorisation for the new installation. If there were any subsequent incident or complaint that the installation did not conform to the safety report, it would be for HSE as the enforcement authority to take any necessary enforcement action.
6. The Directive also provides that if any component with a CE mark is a danger to health and safety or to property, its use should be banned or restricted and the matter reported to the EC. The arrangements for doing this, and any subsequent action to determine whether the European standard is defective or if the manufacturer is in breach of their obligations is similar to the system already in place for the Machinery (98/37/EC) and Lifts (95/16/EC) Directives, where the Department for Trade and Industry have the policy lead and HSE has the enforcement lead.
7. Although the responsibility for making notifications to the EC would rest with DfT, experience with the Machinery and Lifts Directives suggests that the enforcing authority would undertake the bulk of the work in preparing any cases. It is also likely that the enforcing authority could become involved in the technical committees which the EC would set up to advise it on the operation of the Directive. On the basis of experience with the Lifts Directive committees, this would result in a maximum of about 3 days of meetings a year, together with time for preparatory work before the meetings. Such meetings would probably take place outside the UK.

## **Argument**

8. DfT have emphasised that the role envisaged for HSE would be one of inspection on a reactive basis, limited to new installations and not existing ones. DfT research indicates that there are some 80 installations in the UK, with 5 or so expected to be built over the next 5 years. As with the Lifts Directive, there is some uncertainty over at which point a major refit constitutes a new installation. This issue will have to be tackled on a case by case basis.
9. SPD and FOD have estimated the amount of resource that HSE will have to devote to this role. This work would fall to FOD (RI in the case of funicular railways) and specialist inspectors. In order to fulfil the basic function of carrying out reactive inspections to assess the conformity of an installation with the safety case provided, it would be necessary to devote approximately 5 inspector/specialist staff days at Band 3, together with a further 3 staff days at band 3 and 2 staff days at band 5/6 to provide support in FOD. In the first 12 months of enforcing the Regulations, this would rise to 10 and 20 days respectively to allow for familiarisation and training needs. There would also be some time spent providing advice to others new to the Regulations, such as insurance companies, local authorities and cableway operators. Responsibility for

coordinating cableways work within HSE would lie with FOD Scotland, with a network of engineers/inspectors who can be called on for specific work and advice as required. FOD HRU are of the opinion that the scale of work envisaged will not impact significantly on FOD or HSE operational plans.

10. As alluded to in Paragraph 7, HSE will also be involved in technical committees set up by the EC to advise it on the operation of the Directive. This work would take up approximately 3 days of staff time at Band 2/3. However, given the limited number of installations and reactive nature of the work, it should be possible to keep such committee work at arm's length by being 'papers only' members of the committees. If there are no incidents or complaints, this may well be the limit of the resource commitment. If issues were to arise however, SPD's experience of dealing with similar matters under the Machinery and Lifts Directives suggests that on average 10 days each of staff time at Bands 2, 3 and 4 would be necessary to deal with the matter.

### **Consultation**

11. With FOD SU, RI, Solicitors Office, PEFD and DfT/DTLR.

### **Presentation**

12. N/A

### **Costs and Benefits**

13. The Regulatory Impact Assessment, prepared by DfT, is attached at Annex D. Costs and benefits to HSE are as laid out in paragraphs 8 to 10. Previous Commission Papers (HSC/01/197 and HSC/02/16) have discussed in detail the costs and benefits to HSE of taking on this work. In November 2001, HSE received assurance from Alan Whitehead, PUSS at DTLR that any additional resource burden on HSE would be limited, and should it become apparent that additional resources are required these can be bid for in subsequent Spending Reviews.

### **Financial/Resource Implications for HSE**

14. The financial and resource implications are detailed in paragraphs 9 and 10.

### **Environmental Implications**

15. None.

### **Other Implications**

16. The UK is liable to face infraction proceedings should there be any further delays in implementing the Directive.

### **Action**

17. The Commission is recommended to agree the draft response to DfT at Annex F. A final version of the letter can be prepared for return to DfT in the light of the Commission's view.

## **Attachments**

- Annex A** Directive 2000/9/EC relating to cableway installations.
- Annex B** Consultation draft of the Cableway Installations Regulations 2003.
- Annex C** Background and comments on the consultation from DfT.
- Annex D** Draft partial Regulatory Impact Assessment from DfT.
- Annex E** Consultation circulation list.
- Annex F** Draft of letter to DfT commenting on their proposals for the regulations.

Document3