



LOLER with special reference to THOROUGH EXAMINATIONS

BACKGROUND

LOLER and PUWER Regulations 1998

The 1998 LOLER and PUWER Regulations were introduced in order to bring British law in line with European Directives, in particular with AUWED (Amended Use of Work Equipment Directive 1995).

LOLER – Lifting Operations and Lifting Equipment Regulations 1998 – came into force on 5th December 1998. The Regulations apply to all forms of lifting equipment in all premises and work situations that are subject to Health and Safety Regulations.

LOLER 98 replaces most of the previous legislation relating to the use of lifting equipment. Unlike the 'CE' marking legislation, LOLER and PUWER focus on the user of the equipment rather than the manufacturer.

LOLER 98 builds on the more general requirements of PUWER 98 – the Provision and Use of Work Equipment Regulations 1998. PUWER 98 also came into force on 5th December 1998, and replaced PUWER 1992 (which itself came into force in compliance with the Use of Work Equipment Directive (UWED)).

PUWER covers every sort of work equipment, whereas LOLER applies specifically to lifting equipment. Tail Lifts are both work equipment and lifting equipment and users must comply with both sets of Regulations.

Non-compliance with LOLER and PUWER legislation constitutes a breach of UK Criminal Law and carries penalties of substantial fines or periods of imprisonment.

In the UK the enforcement authority for these Regulations is the Health and Safety Executive (HSE).

PUWER – Key Requirements

- PUWER applies to the provision of all work equipment, including lifting equipment, in all work place situations where the Health and Safety at Work Act applies.
- The scope of equipment, described as “work equipment”, is wide and covers for example:

“Tool Box Tools”, such as hammers, knives, hacksaws, meat cleavers etc.

“Lifting Equipment”, such as hoists, lift trucks, elevating work platforms, lifting slings etc. and, of course, tail lifts.

“Other Equipment” such as ladders, pressure water cleaners etc.

- The employer (where individual, partnership or company) has a duty to ensure that items of work equipment provided for employees, and self-employed working for him, comply with PUWER (see PUWER Regulation 4, HSE Book L113, page 12).
- All employers must make sure that work equipment is suitable for the purpose for which it is used and that any risks associated with its use have been carefully considered. Risk Assessment as such is covered by the Management of Health and Safety at Work Regulations 1992.
- A risk assessment will help the employer in his efforts to comply with PUWER and it should include the following five steps:
 - 1) Look for the hazards
 - 2) Decide who might be harmed and how
 - 3) Evaluate the risks and decide whether existing precautions are adequate or more should be done
 - 4) Record the findings
 - 5) Review the assessment and revise if necessary
- Employers must ensure that any work equipment provided to carry out a job is suitable for both the place where it will be used and for its purpose.
- Ergonomics should be taken into account. (Consider, for example, the size and shape of the human dimensions to avoid strain due to un-natural operations).
- Employers must only allow competent (and trained) people to operate, repair and service the equipment.
- Employers must ensure that all work equipment is maintained and in a good state of repair. Maintenance frequency should be decided by taking into account any part of the equipment that is likely to become dangerous due to wear or malfunction, or failure. It is not a requirement to keep a maintenance log, but if one is kept it must be up to date.
- PUWER 98 also contains information on controls, such as emergency stop controls, operating controls and control systems. There are also sections on markings, warning notices and the guarding of machinery and mobile work equipment, such as, fork lift trucks.

LOLER – Key Requirements

- LOLER 98 replaced previous legal requirements relating to the use of lifting equipment and extended the scope to cover equipment and operations that had not been covered by previous regulations. “Traditional” lifting equipment, such as, fork lift trucks and vehicle inspection hoists had been covered by earlier legislation, but the 1998 Regulations include a much broader range of lifting equipment, including tail lifts (see Regulation 2, HSE Book L113, pages 7 & 8).
- Employers must ensure that the lifting equipment and its mountings are adequately strong. Also that the load is secure. (see Regulation 4, HSE Book L113, page 18).
- Lifting Equipment used for lifting persons must be operated in a way that avoids risks to operators and passengers. (see Regulation 5, HSE Book L113, page 21).
- Users should be satisfied that the lift has been installed properly and that in use vehicles and tail lift are positioned so as to ensure safe working conditions for operators and bystanders. (see Regulation 6, HSE Book L113, page 26).

- Lifting equipment must be clearly marked to show maximum safe working loads. Where lifting equipment is designed for lifting persons, it must be appropriately and clearly marked to show that it is for lifting persons. Any carrier should show the maximum number of persons that it is designed to carry. (see Regulation 7, HSE Book L113, page 29).
- Lifting operations must be properly planned by a competent person to address the hazards identified by the risk assessment. Resources needed should be identified, as well as the procedures and the responsibilities, so that lifting operations are carried out safely. Lifting operations should be appropriately supervised and carried out safely. (see Regulation 8, HSE Book L113, page 32).
- Regulation 9 of LOLER (see Regulation 9, HSE Book L113, page 43), requires the user of the equipment to have it "Thoroughly Examined" by a 'competent person', at various stages in the life of the equipment. This is to ensure that the equipment remains safe to operate and that any deterioration can be detected and remedied in good time.
- The way in which the reports of a "Thorough Examination" are recorded and communicated is covered under Regulation 10 of LOLER (See HSE Book L113, page 51).
- The Regulations also define the format of the written report which must accompany a Thorough Examination (see "Information to be contained in a report of a Thorough Examination", HSE Book L113, page 56).
- The Keeping of Information is covered under LOLER Regulation 11 (see, HSE Book L113, page 53).

STATUTORY THOROUGH EXAMINATION

Description

A Statutory Thorough Examination is **not the same** as a weight test or a service inspection, nor it is an M.o.T Test, although in many respects it is very similar. Many users wrongly believe that a service inspection and weight test is sufficient to satisfy the Regulations.

What constitutes a Thorough Examination has been broadly defined by the Regulations. Guidance has also been taken from the Health and Safety Executive and insurance companies.

Thorough Examination Key Requirements

- It must be carried out by a 'competent person'.
- A Thorough Examination determines the *overall condition* of an item.
- It requires an in-depth investigation and should ensure the safety of operators, passengers and bystanders.
- It may well include inspection and testing.
- It requires an understanding of the correct function of the lift and of possible fault conditions. It therefore requires an understanding of how the equipment works.
- It requires an ability to recognise the signs of common forms of product misuse and its possible effect on lift safety.

- It needs the ability to diagnose early signs of failure.
- It might require an investigation of internal parts.
- It should be carried out as a separate exercise and must not be combined with any remedial work. (HSE Book L113, page 52, Section 348).
- The results of a Thorough Examination must be fully documented, in line with the requirements laid down in Schedule 1 of the Regulations. (Regulation 11, HSE Book L113).

Certain parallels may be drawn between a Statutory Thorough Examination and the Statutory M.o.T Test for a motor vehicle. It is useful to consider the two forms of examination and their similarities and differences.

Similarities :

- They must both be thorough
- A principal objective of the examination is to ensure continued safe operation of the equipment.
- Neither test is concerned with reliability, e.g. a burnt out alternator will not be an M.o.T. failure.
- They are not concerned with subsequent rectification which may be carried out by any workshop of the owner's choosing.
- Both are legal obligations

Differences :

- There is no pass or fail with a Thorough Examination.
- An M.o.T. Test does not provide guidance on future corrective actions to ensure safety. The M.o.T. examiner, for example, will not say that a part is worn and that it may become a danger in three months time and that it should be replaced within that period.

Thorough Examination Intervals

Tail lift users need to ensure that Thorough Examinations are carried out on a lift at various stages during the life of the equipment :-

- When put into service for the first time.
- When there have been exceptional circumstances that may have affected the safety of the lift, for example, if the lift has been involved in an accident.
- On a regular basis throughout the life of the lift (see HSE Book L113, page 48, Section 316).

There are two ways that the user can approach this –

He can either :

- Have a thorough examination programme drawn up for the tail lifts in use. The programme must be drawn up by a person with the necessary competence and it should identify and specify those parts of the lifting equipment that should be thoroughly examined.

Or

- Follow what is referred to as the “specified period approach” and have the lifts thoroughly examined at the intervals specified in the Regulations. This specified period is at least every 6 months for lifts that carry persons and at least every 12 months for all other lifts. Tail lifts should be regarded as “lifting equipment for lifting persons” since the operator invariably stands on the platform during its operation. This ruling has been endorsed by the HSE.

If the user or owner of the equipment cannot produce a written thorough examination programme, it will be assumed the “specified period approach” has been adopted. A current examination report must be produced when requested by an enforcing officer.

In practice, very few tail lift operators have written thorough examination programmes and most will be following the “specified period approach”.

The ‘Competent Person’

The Regulations state that Thorough Examinations should only be carried out by ‘competent persons’.

The expression ‘competent person’ appears throughout the Regulations and, put in simple terms, a competent person is one who has sufficient ability and knowledge to carry out a given task.

Regulations however go into more detail concerning the requirements of a competent person as far as Thorough Examination is concerned (see HSE Book L113, page 45).

It is important to note that the Regulations describe two different sorts of ‘competent persons’.

- There will be a competent person working for the operator or owner of the tail lift. This person is responsible for planning and supervising the actual lifting operations and will ensure that the lifting equipment is properly maintained and that Thorough Examinations are carried out.

It is unlikely that this person will have the necessary independence, impartiality, objectivity or the technical skills necessary to actually carry out a Thorough Examination. There must therefore be another ‘competent person’ who will actually carry out a Statutory Thorough Examination.

- The second ‘competent person’ responsible for carrying out a Statutory Thorough Examination must have in depth practical knowledge, experience and theoretical knowledge of the equipment.

This person must have independence and impartiality.

WHO WILL ACT AS “COMPETENT PERSONS” FOR TAIL LIFTS ?

In the UK there are some 120,000 tail lifts in current use. Given that each of these require a Thorough Examination every six months, almost a quarter of a million Thorough Examinations per year are necessary.

Ratcliff's view was that the only resource available to tackle a task of this magnitude is the national network of service agents who maintain, inspect and test these lifts. But would service engineers be seen to be capable of acting a 'competent persons' ? Ratcliff asked the HSE for guidance.

The Executive advised that there were no fundamental reasons why a Service Engineer should not act as a 'competent person', but they had a number of reservations :-

HSE Concerns

- Do service mechanics have adequate *theoretical* understanding of the lift?
- Do service mechanics have adequate understanding of Statutory Examination procedures?
- Might they be put in a position of being asked to criticise their own work?
- Could they be getting the customer to write out 'blank' cheques?
- Would they really be prepared to report a customer to the HSE?
- Would the engineer not be tempted to fix the faults instead of recording them?

THE RATCLIFF APPROACH

The 24-365 Network

In January 2001 Ratcliff launched its 24-365 Service Network offering all tail lift users a guaranteed quality and standard of service and workmanship from all member agents throughout the UK.

From 1 July 2003 the 24-365 Network has offered all tail lift users 'Statutory Thorough Examinations' that fully meet the requirements of LOLER and that are endorsed by the HSE.

'Competent Person' Training

Ratcliff are currently running in-depth training courses for tail lift engineers from the 24-365 Network who meet the necessary qualifications to become 'competent persons' qualified to carry out Statutory Thorough Examinations. Before being accepted on a course, an engineer must have :

- **Practical Knowledge** - ONC or equivalent level in an engineering subject or practical tail lift repair/maintenance experience of around five years. Also gained knowledge by attending manufacturers' technical training courses as well as in-house courses and 'on the job' training.
- **Experience** – After a period of around two years of practical working on tail lifts an engineer will have worked on breakdowns, service inspections, repairs and routine lift maintenance. They will have become skilled in adjustment, trouble shooting, fault finding, lubrication etc., will have built up a good working knowledge and understanding of tail lifts and be familiar with their strengths and weaknesses.

Before carrying out a Thorough Examination an engineer will need:

- **Theoretical Knowledge** – A good understanding of the Regulations is required, including the procedures and obligations involved. Also a knowledge of formal examination techniques and an understanding of the mechanical principles involved which may affect the safety of the equipment that he is examining.
- **Independence** – Examinations and recommendations arising from them should be made without fear or favour. In other words, there should be nothing which might persuade an engineer to understate or overstate a fault because of influence imposed upon him. The engineer should not be concerned about the reactions from either his employer or lift operator to his Thorough Examination report.
- **Impartiality** – It is most important that a fair, accurate and impartial report of Thorough Examination is provided to the lift operator. Engineers should not provide an unnecessarily poor report in order to generate work for their own company. They must always make it clear to the customer that any faults found may be repaired by an engineer of the customer's choosing. An engineer should not normally examine a lift on which he has carried out the most recent work.

STATUTORY THOROUGH EXAMINATIONS THE 24-365 RULES

- Statutory Thorough Examinations will only be carried out by 24-365 Service Engineers who have attended a dedicated Ratcliff training course and attained the pass mark in the examination to register them as a 'competent person'.
- Ratcliff will maintain a record of all 'registered' 24-365 engineers qualified to undertake Statutory Thorough Examinations.
- The scope of competence of persons trained by Ratcliff to carry out Statutory Thorough Examinations will be restricted to vehicle mounted passenger lifts and tail lifts.
- Wherever practicable, the engineer allocated to carry out a Thorough Examination will be someone other than the person to have most recently serviced the lift.
- The Thorough Examination procedure must be carried out on the tail lift as submitted by the user. No rectification will be done as part of the Examination and any faults found during the Examination will be recorded.
- (This rule will not preclude Service, Maintenance or Remedial Work being carried out after the Thorough Examination has been concluded and the report filed).
- The Service Engineer will make it clear to the customer that any engineer of the customer's choosing may carry out correction of any defects identified during the examination.
- A formal report based on Schedule 1 of LOLER will be completed in full at the end of the Examination. Reports are to be completed using the 24-365 Statutory Thorough Examination Report Forms. Completed copies to be sent to the customer and copies to be retained on file by the agent.
- Only branded 24-365 report forms will be used for Thorough Examination, Inspection/Service and Weight Testing.

- Agents will not carry out Thorough Examinations unless they have satisfied themselves that they have adequate insurance cover.
- Audit of the records of Thorough Examinations and operating procedures will be included in Ratcliff's agent auditing procedures.

WOULD YOU LIKE FURTHER INFORMATION ?

Stone Hardy have qualified engineers trained by Ratcliff as 'competent persons' able to carry out Statutory Thorough Examinations and all other 24-365 services nationwide.

If you would like further information, or we can be of assistance, please contact your nearest Stone Hardy Depot – or telephone 0800 443334.
