

EXPLANATORY MEMORANDUM TO
THE CABLEWAY INSTALLATIONS REGULATIONS 2018
2018 No. 816

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to make necessary and supplementary provision, and to provide for the enforcement, of Regulation (EU) 2016/426 of the European Parliament and of the Council on cableway installations (OJ No L81, 31.3.2016, p99) (“the EU Regulation”), repealing Directive 2000/9/EC.

2.2 This instrument is made to provide an enforcement and penalty regime in the United Kingdom (“UK”) for contraventions of the obligations contained in the regulatory framework, as required by Article 45 of the EU Regulation, and sets out the detailed procedures for the authorisation of construction, modification and entry into service of cableway installations.

2.3 The EU Regulation repeals and replaces Council Directive 2000/9/EC of the European Parliament and of the Council relating to cableway installations designed to carry persons (OJ L106, 3.5.2000, p. 21), which is implemented in the UK by the Cableway Installation Regulations 2004 as amended (S.I. 2004/129) (“the 2004 Regulations”). The EU Regulation broadly aims to regulate the introduction and sale on the market of subsystems and safety components to cableways, and to set rules on the design, construction and entry into service of new cableway installations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The House of Commons European Scrutiny Committee considered an EM dated 24 November 2014 and these were considered and cleared the draft EM by the Committee on 26 November 2014. (Report 22, November 2014). The House of Lords EU Internal Market, Infrastructure, and Employment Sub-Committee on 1st December 2014 gave clearance to clear the proposal from scrutiny.
- 6.2 This instrument implements the EU Regulation. It revokes the 2004 Regulations and the Cableway Installations (Amendment) Regulations 2004, which implemented the 2000 Directive (itself repealed by the EU Regulation). Whilst a number of the provisions in the EU Regulation are directly applicable in domestic law, the EU Regulation also contains provisions which require further implementation. In particular, this instrument sets out the detailed procedures for the authorisation of construction, modification and entry into service of cableway installations. This instrument also provides enforcement mechanisms for the EU Regulation, the instrument itself and Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/935, which is the European Regulation for the Accreditation and Market Surveillance.

7. Policy background

What is being done and why?

- 7.1 The aim of the EU Regulation is to regulate, across Member States, the introduction and sale on the market of subsystems and safety components to cableway installations, and to set rules on the design, construction and entry into service of new cableway installations.
- 7.2 The scope of the EU Regulation largely reflects the scope of the repealed 2000 Directive. It applies to cableway installations (which comprise mainly lift systems such as funicular railways, aerial ropeways (cable cars, gondolas, chairlifts) and drag lifts) designed to transport persons and used in particular in high-altitude tourist resorts, in urban transport facilities or in sports facilities.
- 7.3 This instrument applies to new cableway installations being brought into service, to modifications to existing cableway installations, and to subsystems and safety components of those installations that are placed on the market.
- 7.4 The Schedule to this instrument lists cableway installations which both entered service before 1st January 1986 and which have been determined to be historic, cultural or heritage installations which have not had any significant modifications in design or construction. These installations fall outside the scope of the EU Regulation and this instrument. However, the Health and Safety Act Work Act 1974, and in Northern Ireland the Health and Safety at Work (Northern Ireland) Order 1978 (S.I 1978/1039) (N.I.9) apply in relation to those installations.
- 7.5 This instrument supplement the EU Regulation where further detail is required, for example on the authorisation process for the construction or modification of and entry into service of cableway installations. In line with this instrument, the Department for Transport acting on behalf of the United Kingdom will ensure a Stage 1 and Stage 2 authorisation process is undertaken for the entry into service of cableway installations which are located within its territory. It is for the promoter or owner of the installation

to submit a full safety report prior to and after construction. The published guidance includes advice on what is required by the promoter.

- 7.6 This instrument also provide for the enforcement of the regulatory framework by the Health and Safety Executive in Great Britain, and the Health and Safety Executive for Northern Ireland in Northern Ireland.
- 7.7 The EU Regulation ensures the safety of cableway installations at the time of their construction and entry into service. Although neither the EU Regulation nor this instrument cover the actual operation of cableway installations, they provide a general framework intended to ensure that such installations are safe.
- 7.8 This instrument seeks to align national legislation with the New Legislative Framework (NLF) principles, which has also been done in other product safety legislation.
- 7.9 The NLF consists of Decision 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products (OJ No 218, 13.8.2008, p. 82) and Regulation (EC) No 765/2008 on requirements for accreditation and market surveillance relating to the marketing of products. It is a framework of general principles and rules which aims to make the legislation for goods in the Union market clearer, more consistent and more effective.
- 7.10 The NLF is designed to make it easier for economic operators from anywhere in the EU to comply with legislation by setting a consistent assessment and enforcement regime across a number of product areas.
- 7.11 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Department for Transport does not propose to consolidate any legislation in consequence of this instrument.

10. Consultation outcome

- 10.1 The Department for Transport undertook at targeted consultation with the cableways sector and the devolved administrations in January 2018. The consultation focussed on the key changes introduced by the EU Regulation, and the enforcement mechanisms in this instrument. Written responses to the consultation, of which there were 10, were supportive of the Government's approach. The consultation did however identify an issue in relation to scope, which affects the Scottish snow sports industry; specifically whether any installations in Scotland should fall outside the scope and be listed in the Schedule to this instrument. It has been agreed that the ski installations are in scope, and that the guidance will clarify the approach the Department for Transport will take in relation to proportionate fees, which was a

concern of the ski industry. This policy decision has been reached in liaison with Transport Scotland and Scottish Government. Anthony Boucher was Senior Civil Service lead at the Department for Transport for this consultation.

11. Guidance

- 11.1 The Department, in consultation with the Health and Safety Executive has produced guidance on the Cableways Regulations, in particular regarding the Stage 1 and 2 authorisation process which is required before a system can commence construction and prior to being put into passenger service operation. This is published on the Department for Transport pages on the Gov.uk website. Hard copies of guidance are available on request at the following address: Cableways Branch, Department for Transport, 33 Horseferry Road, London, SW1P 4DR.

12. Impact

- 12.1 There is no, or no significant impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument. The instrument and the EU Regulation which it supplements largely reflect the scope of the 2000 Directive and implementing regulations of 2004 which they replace and the very minor changes in regulatory provision made will have no significant impact on the cableways sector.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses. The Government considers that the legislation is not expected to impose a disproportionate cost to small businesses.

14. Monitoring & review

- 14.1 A statutory review clause is included in the Regulation.

15. Contact

- 15.1 Steve Berry at the Department for Transport, Telephone: 07771 345161 or email: steve.berry@dft.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Anthony Boucher at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Jesse Norman M.P. at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.