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Our Ref:  
Your Ref:

27 September 2019

*Dear Richard,*

### **The Cableway Installations (Amendment) (EU Exit) Regulations 2019**

I am responding to your question in the House of Lords debate on Thursday 26 September regarding the Statutory Instrument the Cableway Installations (Amendment) (EU Exit) Regulations 2019 (“the 2019 Regulations”).

You noted that the Explanatory Memorandum refers to the distinction between cableways that entered into service after 1 January 1986 and those that entered into service prior to that date, with those entering into service before that date classed as historic, cultural or heritage installations. You asked what legislation covers these, and how it varied from the 2018 Regulations and the directly applicable Regulation 2016/424/EU (“the EU Regulation”).

The cut-off date of 1 January 1986 is set out in the EU Regulation and included in the Cableway Installations Regulations 2018, SI 2018 No 816 (“the 2018 Regulations”) which implemented the EU Regulation. This date is unchanged by the 2019 Regulations.

The EU Regulation provides that cableway installations that are categorised by Member States as historic, cultural or heritage installations, that entered into service before 1 January 1986 and are still in operation, and that have not had any significant changes in design or construction, should be excluded from the scope of the EU Regulation. This exclusion also applies to subsystems and safety components specifically designed for such cableway installations. The EU Regulation, however, requires Member States to ensure a high level of protection of the health and safety of persons and of property concerning such cableway installations. The Health and Safety Executive inspects such cableway installations at routine intervals to ensure they are maintained to a safe standard. The Health and Safety at Work etc. Act 1974 applies to such cableway installations.

In 2014, when negotiations were ongoing regarding the EU Regulation, the Department for Transport obtained agreement that those cableway installations which are older than thirty years and which are designated as cultural, historic, or heritage by a Member State would be exempt from the EU Regulation. This was considered important for funiculars and cliff lift railways still in operation that entered into service between 1875 and 1974, to ensure the future of those non-commercial but important cultural and heritage systems.

Not all cableway installations in the UK that entered into service before 1 January 1986 are categorised as cultural, historic or heritage. There are 17 cableway installations that have been categorised in that way and they are listed in the Schedule to the 2018 Regulations. The cableway installations categorised as cultural, historic or heritage are mostly cliff railways, cliff lifts, funiculars and tramways built in the Victorian period. Their construction may not be compatible with modern cableway installations and they may require bespoke components to be made for their maintenance and repair. In the main they are run by charitable bodies rather than by commercial operators. In general, they do not make any profit for their owners, which in many cases are local authorities.

The EU Regulation revoked and replaced, with some limited changes, an earlier EU Directive, Council Directive 2000/9/EC on cableway installations designed to carry persons. The EU Regulation, and the Directive which it revoked were adopted as part of the European Union's programme to eliminate technical barriers to trade. The primary purpose of this approach was to harmonise national laws regarding the design and manufacture of cableways equipment to be used in installations designed to carry passengers.

I am placing a copy of this letter in the Library of both Houses.

Yours,  
Charlotte

**BARONESS VERE OF NORBITON**