

EXPLANATORY MEMORANDUM TO
THE CONTROL OF ELECTROMAGNETIC FIELDS AT WORK REGULATIONS
2016

2016 No. 588

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Control of Electromagnetic Fields at Work Regulations 2016 ('the Regulations' provide the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields (EMF)). The regulations will require employers to assess the levels of EMFs their workers are exposed to against specific sets of exposure levels.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Regulations transpose Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 ([the Directive](#)) on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC.
- 4.2 At present, there are no specific regulations covering worker exposure to EMFs in United Kingdom (UK) domestic health and safety law. EMF risks are managed through the general requirements of the [Health and Safety at Work etc. Act 1974](#) (HSWA) and the [Management of Health and Safety at Work Regulations 1999](#) (MHSWR 1999), and supported by a Public Health England recommendation that the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines be followed.
- 4.3 The Regulations have been drafted to cover only those elements of the Directive that go beyond or are more specific than are currently covered in existing legislation. The Regulations are made under powers conferred by the HSWA. A Transposition Note and Scrutiny History are submitted with this Explanatory Memorandum.

5. Extent and Territorial Application

- 5.1 The extent of the instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain and extends to premises and activities specified in the [Health and Safety etc. Act 1974 \(Application Outside Great Britain\) Order 2013](#).
- 5.3 The policy has been shared with Health and Safety Executive Northern Ireland and Gibraltar and they will transpose Regulations via their own legislative systems to complete the UK transposition of the Directive. The Maritime and Coastguard Agency intend to introduce a separate instrument to cover work carried out on ships as part of the ship's crew (and carried out under the direction of the Master).

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 As a European Union (EU) Member State the UK is required to transpose the requirements of the Directive 2013/35/EU by its implementation date, 1 July 2016.
- 7.2 The Directive lays down minimum requirements for the protection of workers from risks to their health and safety arising, or likely to arise, from exposure to electromagnetic fields (EMF). It covers EMFs with frequencies up to 300 gigahertz (GHz). The Directive requires that duty holders assess the levels of EMFs to which their workers may be exposed against a set of specific thresholds. In brief the Directive aims to ensure that:
 - the exposure of employees to EMFs is below specified limits, unless a relevant exception applies;
 - dutyholders minimise the risks to workers arising from their exposure to EMFs; and
 - where exposure is allowed to exceed the exposure limits, the risks posed by that exposure are adequately controlled.
- 7.3 The Regulations include only those elements of the Directive that are more prescriptive than exist in current health and safety legislation. It does not go beyond the minimum requirements of the Directive or gold-plate the requirements. In addition, the approach aligns the transposition of the Directive with current domestic regulation and health and safety policy, avoiding any overlap or contradiction.

8. Consultation outcome

- 8.1 HSE held a public consultation that ran for six weeks from 20 October to 3 December 2016. The [consultative document and response form](#) were available on the HSE website.
- 8.2 This consultative document built on extensive informal consultation carried out with a wide range of stakeholders throughout the transposition process. This network of stakeholders includes representatives from both large-scale enterprises and SMEs, covering a range of industry sectors such as the MRI community, manufacturing and

automotive industries, and the broadcast and mobile phone sector. Engagement with these stakeholders has helped to inform policy, enabling the proposed approach to be practical and proportionate, reducing as far as possible burdens on business while ensuring workers are protected.

- 8.3 HSE received 48 responses, 3 of which were in a narrative format. Analysis of the consultation responses identified the vast majority of respondents supported our burden-reducing transposition approach. They supported the introduction of additional legislation for those Directive requirements not already covered by existing legislation, recognised that EMF is a complex and technical subject and confirmed that the proposed regulations and supporting guidance were fit for purpose. We received some helpful comments on the regulations and guidance both in terms of structure, for example to further clarify an employer's duties and technical content and have taken these on board. Overall the Regulations and supporting guidance were seen as fit for purpose, with some comments received on their structure and technical content. Respondents considered the costings for the activity timings in the Impact Assessment (IA) too low and not reflective of the actual time required. The final stage IA was revised to include increased costs.
- 8.4 Respondents also agreed that HSE had clearly set out its intention to make use of the flexibility allowed in the Directive to exempt certain activities from the exposure limits as long as specified conditions are met.

9. Guidance

- 9.1 New guidance has been developed in consultation with stakeholders, to support and help employers comply with the Regulations. This will be available in a free, downloadable document on the HSE's website prior to the Regulations coming into force on 1 July 2016. The European Commission (EC) has also produced. [Non-binding guide to good practice for implementing Directive 2013/35/EU \(EC Guide\).](#)

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is estimated to be between £13.87m and £16.12m with a best estimate of £15.0m. The equivalent annual net cost to business has been calculated as £1.66m (2014 prices, 2015 present value).
- 10.2 The impact on the public sector is estimated to be between £0.05m and £0.06m with the best estimate rounded to £0.06m.
- 10.3 An IA is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), HSE has worked with SME's throughout the transposition period and involved them in the production of the guidance to support the Regulations to ensure it is accessible and useful to them. In addition the EC have published a Non-binding guide for implementing Directive 2013/35/EU Electromagnetic Fields – Guide for SMEs. [Non-binding guide for implementing Directive 2013/35/EU Electromagnetic Fields – Guide for SMEs.](#)

12. Monitoring & review

- 12.1 The Regulations include a review clause and will be reviewed in line with Government policy, i.e. before the fifth anniversary of the Regulations. Any exemptions to exposure limit values issued by HSE are time limited for a period of no more than 5 years and can be revoked or amended by HSE at any time.

13. Contact

- 13.1 Clare McNicholas at the Health and Safety Executive Tel: 0151 951 3972 email: clare.mcnicholas@hse.gsi.gov.uk can answer any questions regarding the instrument.