

**EXPLANATORY MEMORANDUM TO**  
**THE PUBLIC REGULATED SERVICE (GALILEO) REGULATIONS 2018**  
**2018 No. 230**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument implements Decision No 1104/2011/EU of the European Parliament and of the Council of 25 October 2011 (“the Decision”). The Decision sets out the rules for the access to the Public Regulated Service (PRS) provided by the global navigation satellite system established under the Galileo programme.
- 2.2 The instrument creates the legislative framework to regulate the development, manufacture and use of the Galileo Public Regulated Service (PRS) in the United Kingdom. It will also provide the mechanism to monitor compliance with the instrument and Decision. Access to PRS technology will be restricted to government-authorized users, and used for sensitive applications which require a high level of service continuity. These will include emergency services and critical national infrastructure.

**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 The PRS is a service entirely reliant on satellite technology. As space is a reserved matter, the territorial application of this instrument includes Scotland, Wales and Northern Ireland.
- 3.3 As this instrument is subject to the negative 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 Decision 1104/2011 sets out the rules for accessing PRS and states that a member State wishing to use PRS will need to designate a Competent PRS Authority (CPA) whose role will be to manage and monitor the development, manufacture and use of PRS technology in the UK. The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.
- 4.2 This instrument creates the authorisation mechanism for PRS use and for PRS technology development and manufacture. It also creates the monitoring and

enforcement capability to ensure compliance with the PRS Decision and Common Minimum Standards (CMS).

- 4.3 Decision 1104/2011/EU requires the Commission to adopt a technical document, the Galileo Common Minimum Standards (CMS), to outline the minimum requirements that must be adhered to by national oversight authorities (designated CPAs). The CMS was adopted on 15<sup>th</sup> September 2015 as a Commission Delegated Decision addressed to the Member States.
- 4.4 The Commission Delegated Decision was notified to the Member States but has not been published in the Official Journal of the European Union owing to the sensitive and confidential nature of the content. The main text of the Commission Delegated Decision is 'Limité' and therefore to be handled in confidence. The Commission Delegated Decision was the subject of an Explanatory Memorandum submitted by the Department for Business, Innovation and Skills on 27<sup>th</sup> October 2015 – attached at Annex A. The delay between the initial consultation in 2012 and finalising the Regulations is due to having to ensure that the Regulations and the Impact Assessment took full account of the CMS. Laying the instrument was subsequently delayed further due to the UK's decision to leave the European Union which meant that the Regulations and Impact Assessment required further review and updating to take account of that decision.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales, Scotland and Northern Ireland.
- 5.2 This instrument applies to all of the United Kingdom.
- 5.3 The PRS is a service entirely reliant on satellite technology. As space is a reserved matter, the territorial application of this instrument includes Scotland, Wales and Northern Ireland.

## **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 Galileo, the satellite navigation system currently being built by the European Union and the European Space Agency, will offer a number of services, one of which will be PRS. PRS will be restricted to government-authorized users, and used for sensitive applications which require a high level of service continuity. Other Galileo services include an open service, available without charge for use by anyone with appropriate mass market equipment, a commercial service which may be chargeable to users and a search and rescue service that adds functionality to existing satellite-based search & rescue capability.
- 7.2 The instrument creates the legal framework for the CPA to carry out its role to monitor compliance with the Decision. This includes providing the CPA with the ability to grant licenses for the manufacture and use of PRS technology. It also sets the conditions that will be applied to the licence and how the CPA will enforce

compliance with the Decision and the CMS by developers, manufacturers and users of PRS technology.

- 7.3 Following a consultation undertaken in 2012 (details set out in 8.1) there was strong support from respondents that the government should set up a CPA to enable the UK to take full advantage of this new technology.
- 7.4 The PRS technology is embryonic and will continue to develop over the coming years; it has been estimated that the future value of the PRS market could, in the longer term, be in the region of €7Bn. Without this legislation the UK and UK business would be unable to benefit from this new technology. As long as the UK retains access to Galileo as part of the negotiated agreement in respect of leaving the European Union, this legislation will be a pre-requisite for UK industry to capitalise on this potential market opportunity.

## **8. Consultation outcome**

- 8.1 On 12<sup>th</sup> October 2012 the UK Space Agency published a consultation document which considered a range of policy approaches which government could apply to setting up and administering a Competent PRS Authority. Over 60 organisations were actively approached during the formal consultation including government, industry, academia and industry bodies. Nine organisations provided written responses including from industry, an industry body and two government organisations. This feedback was followed by further discussions with stakeholders on the issues covered by the consultation.
- 8.2 The government response to the consultation was issued on 15<sup>th</sup> February 2013 (<http://webarchive.nationalarchives.gov.uk/20121031024951/http://www.bis.gov.uk/uk-spaceagency/news-and-events/2012/Oct/competent-prs-authority-regulating-prs-use-and-manufacture>) and set out the approach that would be taken to implement the Decision. There was overwhelming agreement that the UK should set up a CPA. There was strong support for the approach advocated by government in relation to the form and governance of the CPA. This approach means that government will undertake the core administrative and oversight functions directly within the CPA whilst devolving specialist tasks such as radio frequency interference monitoring and aspects of managing and distributing PRS cryptography to other parts of government.
- 8.3 All respondents agreed that the penalties regime should be based on the principle that sanctions should be reasonable and proportionate to the harm that had been caused. The compliance and enforcement regime set out in the instrument follows this principle and allows enforcement officers to impose a sanction that is appropriate to the harm caused. There are no financial or criminal penalties included in the regime.

## **9. Guidance**

- 9.1 Guidance on applying for a licence is being prepared; this includes an explanation of the main stages of the licence application process, with details of what information should accompany the licence request. Throughout this process applicants will need to comply with the Decision and CMS, and adhere to the conditions set out in the licence.
- 9.2 Guidance is also being developed for enforcement officers to ensure that they take the appropriate action to address any infringement of the licence conditions. This will allow them to take a stepped approach to enforcement, by imposing a sanction that

appropriately matches the harm caused by the behaviour, and where appropriate, range from advice and guidance to correct the licence infringement through to the eventual removal of user and/or manufacturer authorisation.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is nil. The regime is entirely dependent upon businesses deciding whether they wish to undertake the activities that are covered by the legislation. Charities and voluntary bodies would also not be mandated to undertake PRS activities but may elect to become prospective user communities.
- 10.2 The costs of setting up the CPA, including the costs of operations, licensing and a proportionate compliance regime will initially fall to government. Government will review whether a proportionate cost-recovery framework may be implemented in the future (details set out in 12.1).
- 10.3 The initial impact on the public sector is the cost of setting up, running and monitoring of initial PRS delivered by the CPA.
- 10.4 An Impact Assessment is submitted with this memorandum and is 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. Its impact is however considered to be negligible on the small business community because that community is likely to fall outside the intended use of PRS. Such use is defined in recital 1 of 1104/2011 EU as being restricted to “government Authorised users for sensitive applications which require effective access control and a high level of service continuity”.
- 11.2 Where a requirement for the use of the PRS by small business is identified, the same standards for PRS security would need to be maintained as set out under the Decision, CMS and licence conditions.

## **12. Monitoring & review**

- 12.1 In accordance with the provisions of the Small Business Enterprise and Employment Act 2015 Section 28(2)(a), the instrument will be reviewed and a report published no later than five years after its coming into force. The review will be carried out by the UK Space Agency on behalf of the Secretary of State for Business, Energy and Industrial Strategy.

## **13. Contact**

- 13.1 Chris Campbell at the UK Space Agency Telephone: 01793 418026 or email: [chris.campbell@ukspaceagency.bis.gsi.gov.uk](mailto:chris.campbell@ukspaceagency.bis.gsi.gov.uk)