



Referendum deadline: 5 October 2017

Federal Act on Protection Against Hazards Arising from Non-Ionising Radiation and Sound (NIRSA)

of 16 June 2017

The Federal Assembly of the Swiss Confederation,

based on Article 95 paragraph 1 and Article 118 paragraph 2 letters a and b of the Federal Constitution¹, and having considered the Federal Council Dispatch dated 11 December 2015²,
decrees:

Art. 1 Purpose and scope

¹ The purpose of this Act is to protect people against hazards arising from non-ionising radiation and sound.

² To this end, it contains provisions concerning:

- a. the use of products;
- b. measures to mitigate hazardous exposures to non-ionising radiation and sound;
- c. public information.

³ It is applicable in those cases where protection in accordance with paragraph 1 is not assured by other provisions of federal legislation.

Art. 2 Definitions

In this Act:

- a. *non-ionising radiation* means electromagnetic fields with wavelengths greater than 100 nanometres;

¹ SR 101

² BBI 2016 465

- b. *sound* means audible sound, infrasound and ultrasound;
- c. *product* means a ready-to-use movable item which generates non-ionising radiation or sound, even if it forms part of another movable item or of an immovable item.

Art. 3 Use of products

¹ Anyone who installs, uses or maintains a product must comply with the manufacturer's safety instructions and ensure that human health is not, or not seriously, endangered.

² For commercial or professional use of potentially hazardous products, the Federal Council may require that:

- a. a certificate of competence is to be obtained;
- b. a suitable specialist is to be involved.

³ It may define requirements for training for the certificate of competence as specified in paragraph 2 letter a.

Art. 4 Measures to mitigate hazardous exposures

¹ The Federal Council may issue provisions concerning measures whereby the risks of hazardous exposures to non-ionising radiation and sound can be reduced and harmful effects can be prevented.

² It may, in particular:

- a. define exposure limits and regulate the monitoring thereof;
- b. specify information requirements;
- c. provide for protective measures;
- d. provide for mandatory notification of events.

Art. 5 Prohibitions

If human health cannot be adequately protected by any other means, the Federal Council may:

- a. prohibit the import, transit, supply or possession of products with a substantial hazard potential;
- b. prohibit commercial or professional uses of products with a substantial hazard potential.

Art. 6 Public information

The Federal Office of Public Health shall inform the public about health effects and risks of non-ionising radiation and sound.

Art. 7 Federal enforcement

¹ Without prejudice to Article 8, the federal authorities shall enforce this Act.

² The Federal Council may assign responsibility to the federal authorities for controls of specific aspects of the measures specified in Article 4.

Art. 8 Cantonal enforcement

The cantons shall monitor, by means of spot checks, compliance with:

- a. the manufacturer's safety instructions, as specified in Article 3 paragraph 1, for the commercial or professional installation, use and maintenance of potentially hazardous products;
- b. the requirement, as specified in Article 3 paragraph 2, to obtain a certificate of competence or to involve a specialist;
- c. the measures defined in accordance with Article 4;
- d. prohibitions on supply and possession, in accordance with Article 5 letter a;
- e. prohibitions on use, in accordance with Article 5 letter b.

Art. 9 Administrative measures

¹ The enforcement bodies may carry out on-site checks on the installation, use and maintenance of products, and the implementation of measures in accordance with Article 4.

² They may order, subsequently or while on the premises, that appropriate measures be taken if an inspection reveals that regulations or the manufacturer's safety instructions are not being complied with.

³ Should it be necessary, in order to protect the health of the user or of third parties, they may, in particular:

- a. order that the public be warned about the hazards of use;
- b. if a prohibition on possession, supply or use is disregarded, seize and destroy the product or render it unusable;
- c. if the manufacturer's safety instructions are not complied with in commercial or professional installation, use and maintenance, seize and destroy the product or render it unusable;
- d. order the immediate discontinuation of hazardous exposures;
- e. in the event of repeated inappropriate commercial or professional use of potentially hazardous products, have the certificate of competence revoked.

⁴ They shall warn the public about hazardous uses if the user fails to take effective measures, or to do so in good time.

Art. 10 Fees

¹ The Federal Council shall regulate the fees for monitoring and measures undertaken by federal enforcement bodies.

² No fees shall be charged for monitoring which does not reveal any non-compliance.

Art. 11 Data protection

The enforcement bodies are entitled to process and exchange personal data insofar as this is necessary to ensure consistent enforcement of this Act.

Art. 12 Misdemeanours

Any person who wilfully imports, transits, supplies, holds or uses a product which is subject to a prohibition under Article 5 shall be liable to a custodial sentence not exceeding one year or to a monetary penalty.

Art. 13 Contraventions

¹ Any person who wilfully:

- a. fails to comply with the manufacturer's safety instructions in commercial or professional installation, use or maintenance;
- b. breaches the duty to obtain a certificate of competence or to involve a specialist in accordance with Article 3 paragraph 2;
- c. infringes the measures defined by the Federal Council in accordance with Article 4 paragraph 2;
- d. contravenes an implementing provision, the contravention of which is an offence, or fails to comply with a ruling against him which refers to the penalties provided for in this Article

shall be liable to a fine not exceeding 40,000 Swiss francs.

² If the person concerned acts through negligence, the penalty shall be a fine not exceeding 20,000 Swiss francs.

³ Any person who, through negligence, imports, transits, supplies, holds or uses a product which is subject to a prohibition under Article 5 shall be liable to a fine not exceeding 40,000 Swiss francs.

⁴ Articles 6 and 7 of the Federal Act of 22 March 1974³ on Administrative Criminal Law apply.

Art. 14 Evaluation

The Federal Council shall report to Parliament on the effectiveness of and need for this Act no later than 8 years after it comes into force.

³ SR 313.0

Art. 15 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the date of commencement.

Council of States, 16 June 2017

President: Ivo Bischofberger

Secretary: Martina Buol

National Council, 16 June 2017

President: Jürg Stahl

Secretary: Pierre-Hervé Freléchoz

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⁴ BBl 2017 421

