



*Referendum deadline: 5 October 2017*

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

of 16 June 2017

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*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 Constitution<sup>1</sup>, and having considered the Federal Council Dispatch dated 11 December 2015<sup>2</sup>,  
*decrees:*

## **Art. 1** Purpose and scope

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

<sup>2</sup> 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.

<sup>3</sup> 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;

<sup>1</sup> SR 101

<sup>2</sup> 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

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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

<sup>1</sup> 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.

<sup>2</sup> 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

<sup>1</sup> Without prejudice to Article 8, the federal authorities shall enforce this Act.

<sup>2</sup> 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

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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

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

<sup>2</sup> 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

<sup>1</sup> 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.

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

<sup>3</sup> 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.

<sup>4</sup> Articles 6 and 7 of the Federal Act of 22 March 1974<sup>3</sup> 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.

<sup>3</sup> SR 313.0

**Art. 15** Referendum and commencement

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> 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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Referendum deadline: 5 October 2017

<sup>4</sup> BBl 2017 421

