

Control of Electromagnetic Fields at Work Regulations 2016 - PIR

Lead department	Health and Safety Executive (HSE)
Summary of measure	A review of Control of Electromagnetic Fields at Work Regulations 2016 (the Regulations) which transposed the EU Directive 2013/35/EU (the Directive) on the minimum health and safety requirements with respect to assessing and controlling workers' exposure to physical agents (electromagnetic fields).
Submission type	Post-implementation review
Implementation date	1 July 2016
Department recommendation	Retain
RPC reference	RPC-HSE-5068(1)
Opinion type	Formal
Date of issue	27 May 2021

RPC opinion

Rating¹	RPC opinion
Fit for purpose	The PIR provides proportionate evidence and analysis to justify the recommendation to retain the Regulations. However, the PIR would benefit from further justification that “retain” is the appropriate recommendation at this stage of the policy. The regulator should consider how to improve its management information to monitor incidents and the ongoing implementation costs of the Regulations.

¹ The RPC opinion rating is based on whether the evidence in the PIR is sufficiently robust to support the departmental recommendation, as set out in the [better regulation framework](#). The RPC rating will be fit for purpose or not fit for purpose.

RPC summary

Category	Quality	RPC comments
Recommendation	Green	The PIR demonstrates that the Regulations are working as intended and is supported by proportionate evidence. The PIR would benefit from further justification to make it clear why retaining the Regulations is recommended at this stage.
Monitoring and implementation	Satisfactory	The PIR gathers evidence from affected stakeholders in an online survey. The RPC commends the regulator's attempts to improve the data to include more responses from small and micro businesses (SMBs) and affected groups. However, the PIR could have included a discussion on how monitoring may be improved to increase the survey sample size and make it more representative when the Regulations are next reviewed.
Evaluation	Satisfactory	The PIR has provided a clear discussion of its evaluation. It includes an updated cost-benefit analysis, based on outturn figures. The PIR could be improved by including a more explicit evaluation of the impacts of the measures on SMBs. The PIR should provide further justification as to why changing the guidance or Regulations is not appropriate, in view of survey responses indicating difficulty in understanding the Regulations. Future evaluations can and should consider this issue.

Summary of proposal

The Regulations transposed the Directive to provide minimum health and safety requirements with respect to assessing and controlling the risks associated with workers' exposures to electromagnetic fields (EMFs). EMFs are created whenever electrical energy is used and are present in all workplaces; high levels of exposure can give rise to effects that may be irritating or unpleasant, or even harmful (e.g. causing burns).

The Regulations were introduced on 1 July 2016 and included a statutory requirement to publish a PIR by 30 June 2021.

The 2016 impact assessment for the regulations (the IA) expected the Regulations to have a net present value (NPV) of -£15.1 million (2015 prices, 2016 base year) and an equivalent annual net direct cost to business (EANDCB) of £1.7m. The majority of the costs, arising from scoping, familiarisation and assessment, were expected to fall directly on SMBs. As aspects of the Directive were already implemented in the UK legislative framework, the regulator noted that there would be few or no additional benefits. This PIR revises the cost-benefit analysis materially to reflect outturn data; this now indicates higher costs, with an adjusted NPV of -£52.1m and an EANDCB of £6.0m (both in 2015 prices, 2016 base year).

Recommendation

The RPC believes that the regulator's recommendation to retain the Regulations in their current form despite these cost increases is supported appropriately by evidence and analysis in the PIR. The recommendation is based on survey evidence gathered from a range of stakeholders, which suggests that the Regulations are working as intended.

The PIR would benefit from further justification to support the recommendation, given the evidence (reflected in the adjusted NPV) of more significant costs to business than expected. It could be improved by exploring whether relaxation of the requirements would lead to greater levels of workplace exposure and/or impair employer and employee decision-making, and whether the potential disbenefits of relaxation outweigh the costs savings.

Monitoring and implementation

The RPC believes that the evidence informing the PIR is proportionate given the scale of the impacts. The PIR outlines the light touch approach employed; an online survey was used to gather qualitative and quantitative evidence from stakeholders, including those who participated at consultation and who are part of HSE radiation web communities. The PIR also draws upon HSE's enforcement database.

The PIR notes that the regulator took a targeted approach by reissuing the survey to ensure that the evidence fairly represents SMBs and the occupation groups – welders - anticipated to be most affected by the Regulations. The PIR acknowledges

the limitations of the data; the small sample size may under-represent the SMBs on which the majority of the costs fall.

The PIR should consider expanding the range of evidence. For example, additional evidence on the number of reported incidents associated with EMF exposure might supplement or reinforce the extent to which the Regulations have achieved the policy objectives and have demonstrated any reduction in exposure.

For future PIRs, the regulator should consider how the survey design and distribution may be improved to increase participation and the sample size. It could also consider what other data could be collected to further support the evidence base.

Evaluation

The PIR contains a clear and adequate discussion of whether the Regulations have achieved their objectives. The PIR draws upon the survey results to demonstrate that the Regulations have met their first objective by helping companies to assess and control EMF exposure risks to workers. As such, the PIR does not consider any changes to the measure or alternatives to regulation.

The PIR acknowledges the underestimation of costs to business in the IA and outlines possible explanations for the difference in anticipated and actual costs, including the difficulty stakeholders experienced in understanding the Regulations. To fully assess if the objective on minimising burdens to business has been met or not, the PIR should offer clear conclusions on whether the costs could have reduced and if the policy continues to be effective as is.

As a result, the PIR provides an updated cost-benefit analysis to take into account outturn data, collected from the survey, which indicated longer times for scoping and familiarisation than initially anticipated, revising the EANDCB upwards, by a factor of 3.5, from £1.7 million to £6.0 million (2015 prices, 2016 base year). The PIR suggests the original lower estimates were partly due to optimism bias. The PIR also notes a high degree of uncertainty around these new figures due to COVID-19 and its impact on business 'births'; the actual numbers should be clarified during future ongoing evaluations beyond this light-touch piece.

The PIR concludes that there were no major unintended consequences from the increased cost burden; some survey respondents reported an increased awareness around EMF and the need to replace equipment. The PIR could analyse this further, to see whether the need to replace equipment goes beyond the modelled ongoing replacement costs and whether the costs borne by SMBs are disproportionate.

As noted previously, the survey results may be skewed towards to larger firms. The PIR should specifically consider drawing out evaluation evidence on the impact on SMBs. The regulator should compare the responses from SMBs to those of larger firms, and where appropriate, reweight the responses for evaluation.

The PIR notes opportunities to simplify the Regulations or improve the guidance, based on the survey evidence suggesting that businesses' costs increased due to

the difficulty in understanding the Regulations. This is welcome, especially in a light-touch evaluation. However, the PIR could have been improved by justifying why the regulator has decided to retain the measure in its current form despite this evidence.

Regulatory Policy Committee

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