

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3992 of 4 April, 2013

LEGAL NOTICE NO. 58 OF 2013.

INTERPRETATION AND GENERAL CLAUSES ACT

**MEDICAL AND HEALTH ACT, 1997 (AMENDMENT)
REGULATIONS 2013**

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and in order to transpose into the law of Gibraltar Council Directive 2010/32/EC of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Medical and Health Act, 1997 (Amendment) Regulations 2013 and come into operation on 11 May 2013.

Amendment of Act.

2.(1) The Medical and Health Act, 1997 is amended by inserting the following Part after section 59—

**“PART VIA
PREVENTION OF SHARP INJURIES**

Interpretation.

59A. In this Part—

“employee” has the meaning assigned to it by section 2 of the Employment Act;

“healthcare contractor” means an employer whose main activity is not the management, organisation or provision of healthcare, but who provides services under contract to a healthcare employer;

“healthcare employer” means an employer whose main activity is the management, organisation and provision of healthcare;

“injury” includes infection;

“medical sharp” means an object or instrument used for the exercise of healthcare activities and which are able to cut, prick or cause injury and is considered as work equipment as defined in regulation 2 of the Factories (Provision and Use of Work Equipment) Regulations, 1999;

“safer sharp” means a medical sharp that is designed and constructed to incorporate a feature or mechanism which prevents or minimizes the risk of accidental injury from cutting or pricking the skin.

Application of requirements to employers.

59B. (1) The requirements imposed by this Part on an employer apply to—

- (a) a healthcare employer; and
- (b) a healthcare contractor whose employees, or other persons who work under the healthcare contractor’s supervision and direction, are exposed to a risk of injury from medical sharps in relation to the provision of services to a healthcare employer.

(2) A requirement imposed by this Part on an employer that applies in relation to that employer’s employees also applies, so far as is reasonably practicable, in relation to any other person who is not an employee of that employer but who works under than employer’s supervision and direction.

Application of requirements to healthcare contractors.

59C.(1) The requirements imposed by this Part on a healthcare contractor apply only in relation to work—

- (a) on a healthcare employer’s premises; or

(b) under the authority of a healthcare employer.

(2) The requirements imposed by this Part on a healthcare contractor apply only to the extent that the healthcare contractor controls—

- (a) a person who uses, supervises or manages the use or disposal of medical sharps; and
- (b) the activities which give rise to the risk of injury from medical sharps.

Risk Assessments.

59D.(1) The procedure for risk assessments under this Part shall be conducted in accordance with regulation 7 of the Management of Health and Safety at Work Regulations, 1996, and regulation 4 of the Factories (Protection of workers from risks related to exposure to biological agents at work) Regulations 2006.

(2) Risk assessments referred to in subsection (1) shall—

- (a) include an exposure determination, understanding the importance of a well resourced and organized working environment;
- (b) cover all situations where there is injury, blood or other potentially infectious material; and
- (c) take into account technology, organization of work, working conditions, level of qualifications, work related psycho-social factors and the influence of factors related to the working environment in order to—
 - (i) identify how exposure could be eliminated; and
 - (ii) consider possible alternative systems;
- (d) consider the use of personal protective equipment.

Use and disposal of medical sharps.

59E.(1) An employer must ensure that—

- (a) use of medical sharps at work is avoided so far as is reasonably practicable;
- (b) when medical sharps are used at work, safer sharps are used so far as is reasonably practicable;
- (c) needles that are medical sharps are not capped after use;
- (d) in relation to the safe disposal of medical sharps that are not designed for reuse—
 - (i) written instructions for employees; and
 - (ii) clearly marked and secure containers,

are located close to where medical sharps are used at work.

(2) An employer must review at suitable intervals the policies and procedures in place to meet the requirements of subsection (1) so as to ensure that those policies and procedures remain up to date and effective.

Information and training.

59F. (1) An employer must provide each employee of that employer who is exposed to a risk of injury at work from medical sharps with information on the following matters—

- (a) the risk of injury from medical sharps;
- (b) legislative requirements relating to the protection of persons at work from the risk to health and safety from medical sharps, including duties on employers and employees;
- (c) good practice in preventing and reporting injury from medical sharps;

- (d) the benefits and drawbacks of vaccination and non-vaccination in respect of blood-borne diseases; and
- (e) the support provided by the employer to an employee who is injured at work by a medical sharp;

(2) In complying with subsection (1) the employer must cooperate with representatives in that employer's undertaking in developing and promoting the information specified in that subsection.

(3) In subsection (2), "representative" shall be interpreted in accordance with regulation 2 of the Management of Health and Safety at Work Regulations, 1996.

(4) In addition to any provision in any other enactment requiring an employer to train its employees, an employer must provide each employee who is exposed to a risk of injury at work from medical sharps with training on the following matters to the extent that those matters are relevant to the type of work carried out by that employee—

- (a) the safe use and disposal of medical sharps;
- (b) the correct use of safer sharps;
- (c) induction for all new and temporary staff;
- (d) the risk associated with blood and body fluid exposures;
- (e) preventive measures including standard precautions, safe systems of work, the correct use and disposal procedures, the importance of immunisation, according to the procedures at the workplace;
- (f) the reporting, response and monitoring procedures and their importance;
- (g) what employees should do if they are injured at work by a medical sharp; and

- (h) the health surveillance and other procedures to be conducted by the employer where an employee is injured by a medical sharp.

Arrangements in the event of injury.

59G. (1) Where an employer is notified of an incident at work in which an employee has suffered an injury from a medical sharp, the employer must—

- (a) record the incident;
- (b) investigate the circumstances and cause of the incident; and
- (c) take any necessary action to prevent a recurrence.

(2) Where an employer is notified of any incident at work in which an employee has suffered an injury caused by a medical sharp that exposed, or may have exposed, the employee to a biological agent, the employer must—

- (a) take immediate steps to ensure that the employee receives medical advice;
- (b) ensure that any treatment advised by a registered medical practitioner, including post-exposure prophylaxis, is made available to the employee; and
- (c) consider providing the employee with counselling and guaranteed medical treatment.

(3) An employer must, in addition to any other duty imposed by law, respect the employee's confidentiality regarding the injury, diagnosis and treatment.

(4) In this section—

- (a) “biological agent” means a micro-organism, cell culture or human endoparasite, whether or not genetically modified, which may cause infection, allergy, toxicity or otherwise create a hazard to human health;
- (b) “post-exposure prophylaxis” means a course of treatment of medicine administered to a person after

exposure or suspected exposure, to a biological agent in order to prevent infection or development of disease caused by that biological agent.

Notification of injuries.

59H.(1) Person “A”, who is an employee or other person working under the supervision and direction of a healthcare employer or a healthcare contractor, must—

- (a) as soon as practicable, notify A’s employer, or any other employee of that employer with specific responsibility for the health and safety of persons at work, of any incident at work in which A has suffered an injury from a medical sharp; and
- (b) provide when requested by that employer sufficient information as to the circumstances of the incident to enable the employer to comply with section 59G.

(2) In the case of an employee or other person working under the supervision and direction of a healthcare contractor, this section only applies to incidents which take place—

- (a) on a healthcare employer’s premises; or
- (b) under the authority of a healthcare employer.”.

Dated 4th April, 2013.

DR J CORTES,
Minister with responsibility for Health,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations transpose into the law of Gibraltar Council Directive 2010/32/EU of 10 May 2010 implementing Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU.

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