

2013 No. 645

HEALTH AND SAFETY

**The Health and Safety (Sharp Instruments in Healthcare)
Regulations 2013**

<i>Made</i> - - - -	<i>18th March 2013</i>
<i>Laid before Parliament</i>	<i>21st March 2013</i>
<i>Coming into force</i> - -	<i>11th May 2013</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 15(1) and (2) and 82(3)(a) of, and paragraphs 1(1), 8(1), 14, 15(1), 16 and 20 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) (“the 1974 Act”).

The Regulations give effect without modifications to proposals submitted to the Secretary of State by the Health and Safety Executive under section 11(3) of the 1974 Act.

Before submitting those proposals to the Secretary of State, the Health and Safety Executive consulted the bodies that appeared to it to be appropriate as required by section 50(3) of the 1974 Act.

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Sharp Instruments in Healthcare) Regulations 2013 and come into force on 11th May 2013.

Interpretation

2. In these Regulations—

“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 necessary for the exercise of specific healthcare activities, which is able to cut, prick or cause injury;

(a) 1974 c.37; sections 11(1) and 50(3) were amended by S.I. 2008/960; sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (c.71), section 125 and Schedule 15, paragraphs 6 and 16(3) respectively; section 50(3) was further amended by the Health Protection Agency Act 2004 (c.17), section 11(1), Schedule 3, paragraph 5(1) and (3).

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

Application of requirements to employers

3.—(1) The requirements imposed by these Regulations 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 these Regulations 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 that employer’s supervision and direction.

Application of requirements to healthcare contractors

4.—(1) The requirements imposed by these Regulations 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 these Regulations 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.

Use and disposal of medical sharps

5.—(1) An employer must ensure that—

- (a) the 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 at work unless—
 - (i) that act is required to control a risk identified by an assessment undertaken pursuant to regulation 3 of the Management of Health and Safety at Work Regulations 1999(a); and
 - (ii) the risk of injury to employees is effectively controlled by the use of a suitable appliance, tool or other equipment;
- (d) in relation to the safe disposal of medical sharps that are not designed for re-use—
 - (i) written instructions for employees, and
 - (ii) clearly marked and secure containers,are located close to areas 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 paragraph (1) so as to ensure that those policies and procedures remain up to date and effective.

(a) S.I. 1999/3242, to which there are amendments not relevant to these Regulations.

Information and training

6.—(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 matters specified in Schedule 1.

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

(3) In paragraph (2), "worker representatives" means any—

- (a) safety representatives within the meaning of the Safety Representatives and Safety Committees Regulations 1977(a); or
- (b) representatives of employee safety within the meaning of the Health and Safety (Consultation with Employees) Regulations 1996(b).

(4) An employer must provide each employee of that employer who is exposed to a risk of injury at work from medical sharps with training on the matters specified in Schedule 2 to the extent that those matters are relevant to the type of work carried out by that employee.

Arrangements in the event of injury

7.—(1) Where an employer is notified of any 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) Additionally, 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.

(3) In this regulation—

- (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; and
- (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

8.—(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 regulation 7.

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

(a) S.I. 1977/500, amended by S.I. 1996/1513; there are other amending instruments but none is relevant.

(b) S.I. 1996/1513, to which there are amendments not relevant to these Regulations.

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

Extension outside Great Britain

9. These Regulations apply to and in relation to the premises and activities outside Great Britain to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2013^(a) as they apply within Great Britain.

Review

10.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Council Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU^(b) (which is implemented in part by means of these Regulations) is implemented in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Work and Pensions.

Mark Hoban
Minister of State,
Department for Work and Pensions

18th March 2013

(a) S.I. 2013/240.
(b) OJ No L 134, 1.6.2010, p66.

SCHEDULE 1

Regulation 6(1) and (2)

INFORMATION TO BE PROVIDED TO EMPLOYEES

1. The risk of injury from medical sharps.
2. Legislative requirements relating to the protection of persons at work from the risks to health and safety from medical sharps, including duties on employers and employees.
3. Good practice in preventing injury from medical sharps.
4. The benefits and drawbacks of vaccination and non-vaccination in respect of blood-borne diseases.
5. The support provided by the employer to an employee who is injured at work by a medical sharp.

SCHEDULE 2

Regulation 6(4)

TRAINING TO BE PROVIDED TO EMPLOYEES

1. The safe use and disposal of medical sharps.
2. The correct use of safer sharps.
3. What employees should do if they are injured at work by a medical sharp.
4. The health surveillance and other procedures to be conducted by the employer where an employee is injured by a medical sharp.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations impose duties on employers in the healthcare sector to protect employees from injuries caused by medical sharps, implementing Council Directive 2010/32/EU (OJ No. L 134, 1.6.2010) p.66 of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU. Other requirements of that Directive are implemented by existing statutory provision.

2. Regulation 2 defines key concepts in the Regulations. “Healthcare contractors” are distinguished from “healthcare employers” to ensure that employers to whom the Regulations apply are only caught by one or other of the definitions.

3. Regulation 3 establishes which employers the Regulations apply to. It provides that the Regulations apply to both a healthcare employer and a healthcare contractor (i.e. a subcontractor of a healthcare employer).

4. Regulation 4(1) confines the application of requirements imposed by the Regulations on healthcare contractors to particular circumstances – i.e. work on the premises, or under the authority, of a healthcare employer. Regulation 4(2) establishes the extent to which the requirements imposed by the Regulations apply to a healthcare contractor, such that those requirements only apply insofar as the healthcare contractor is able to control the relevant activities of the relevant employee. A healthcare contractor is therefore not responsible for matters beyond the healthcare contractor’s control.

5. Regulation 5 concerns the use and disposal of medical sharps – in particular, it provides that the use of medical sharps should be avoided so far as is possible, otherwise that ‘safer sharps’ are used where possible. It prohibits the practice of ‘re-capping’ except where required to control risk and where the risk to the employee is controlled by means of special equipment.

6. Regulation 6 requires an employer to provide information developed in cooperation with representatives (concerning matters listed in Schedule 1) and training (on matters listed in Schedule 2) to employees at risk of injury caused by medical sharps.

7. Regulation 7 requires an employer to record, investigate and take measures to prevent the recurrence of an injury to an employee caused by a medical sharp where notified. Employers must also take immediate steps to ensure that employees who may have been exposed to a biological agent as a result of such an injury receive medical attention and treatment, and must consider providing the employee with counselling.

8. Regulation 8 requires employees to notify any incident at work which results in that employee suffering an injury from a medical sharp to their employer or person responsible for health and safety.

9. Regulation 10 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

10. A full impact assessment of the effect that these Regulations will have on the costs of business is available from the Health and Safety Executive, Redgrave Court, Merton Road, Bootle, Merseyside L20 7HS. A copy of the transposition note in relation to implementation of the Directive set out in paragraph 1 can be obtained from the Health and Safety Executive, International Branch, also at the Redgrave Court address. Copies of both these documents have been placed in the Library of each House of Parliament and are annexed to the Explanatory Memorandum which is available alongside these Regulations at www.legislation.gov.uk.

STATUTORY INSTRUMENTS

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