

2013 No. 108

HEALTH AND SAFETY

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

Made - - - - *18th April 2013*

Coming into operation - *11th May 2013*

The Department of Enterprise Trade and Investment(**a**), being the Department concerned(**b**) makes the following Regulations in exercise of the powers conferred by Articles 17(1) and (2)(**c**) and 55(2) of, and paragraphs 1(1), 7(1), 13, 14(1), 15 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**d**) (“the 1978 Order”).

The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(**e**) of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3)(**f**) of the 1978 Order.

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Sharp Instruments in Healthcare) Regulations (Northern Ireland) 2013 and shall come into operation 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;

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- (a) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services; *see* S.I. 1982/846 (N.I.11), Article 3
- (b) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
- (c) Article 17 shall be read with S.I. 1992/1728 (N.I.17), Articles 3(2) and 4(2)
- (d) S.I. 1978/1039 (N.I. 9); the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Articles 3(1) and 4(1). Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraph 19
- (e) Article 13(1A) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
- (f) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act^(a);

“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;

“territorial sea” means the territorial sea of the United Kingdom adjacent to Northern Ireland and “within the territorial sea” includes on, over and under it.

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 shall 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 (Northern Ireland) 2000^(b); 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.

(a) 1983 c.54

(b) S.R. 2000 No. 388, to which there are amendments not relevant to these Regulations.

(2) An employer shall 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.

Information and training

6.—(1) An employer shall 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 shall 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 (Northern Ireland) 1979(a); or
- (b) representatives of employee safety within the meaning of the Health and Safety (Consultation with Employees) Regulations (Northern Ireland) 1996(b).

(4) An employer shall 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 shall—

- (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 shall—

- (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, shall—

- (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

(a) S.R. 1979 No. 437, amended by S.R. 1996 No. 511; there are other amending instruments but none is relevant.

(b) S.R. 1996 No. 511, to which there are amendments not relevant to these Regulations.

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

Application within the territorial sea

9. Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which any of paragraphs 2 to 9 of Schedule 3 applies.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 18th April 2013.



J Kerr

A senior officer of the Department of Enterprise, Trade and Investment

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.

PREMISES AND ACTIVITIES WITHIN THE TERRITORIAL SEA

Interpretation

1.—(1) In this Schedule—

“activity” includes a diving project and standing a vessel by;

“designated area” means any area designated by Order under section 1(7) of the Continental Shelf Act 1964(a) and “within a designated area” includes over and under it;

“diving project” has the meaning assigned to it by regulation 2(1) of the Diving at Work Regulations (Northern Ireland) 2005(b) save that it includes an activity in which a person takes part as a diver wearing an atmospheric pressure suit and without breathing in air or other gas at a pressure greater than atmospheric pressure;

“gas importation and storage zone” has the meaning assigned to it by section 1(5) of the Energy Act 2008(c);

“offshore installation” shall be construed in accordance with paragraph 2(2) and (3);

“supplementary unit” means a fixed or floating structure, other than a vessel, for providing energy, information or substances to an offshore installation;

“vessel” includes a hovercraft and any floating structure which is capable of being navigated.

(2) For the purposes of this Schedule, any structures and devices on top of a well shall be treated as forming part of the well.

(3) Any reference in this Schedule to premises and activities includes a reference to any person, article or substance on those premises or engaged in, or, as the case may be, used or for use in connection with any such activity, but does not include a reference to an aircraft which is airborne.

Offshore installations

2.—(1) This paragraph shall apply to a designated area or a gas importation and storage zone to and in relation to—

(a) any offshore installation and any activity on it;

(b) any activity in connection with, or any activity immediately preparatory to an activity in connection with, an offshore installation, whether carried on from the installation itself, in or from a vessel or in any manner, other than an activity falling within sub-paragraph (4);

(c) a diving project involving—

(i) the survey and preparation of the sea bed for an offshore installation;

(ii) the survey and restoration of the sea bed consequent on the removal of an offshore installation.

(2) Subject to sub-paragraph (3), in this paragraph, “offshore installation” means a structure which is, or is to be, or has been, used while standing or stationed in water, or on the foreshore or other land intermittently covered with water—

(a) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;

(b) for undertaking activities falling within paragraph 6(2);

(c) for the conveyance of things by means of a pipe;

(a) 1964 c. 29; section 1 was amended by the Oil and Gas (Enterprise) Act 1982 (1982 c. 23), Schedule 3, paragraph 1

(b) S.R. 2005 No. 45, as amended by S.R. 2007 No. 247

(c) 2008 c.32; section 1(5) is prospectively amended by the Marine and Coastal Access Act 2009 (c.23), Schedule 4 Part 1, paragraph 5(1) and (2). Section 1(5) of the Energy Act 2008 would continue to define the term “gas importation and storage zone” after the amendment

- (d) for undertaking activities that involve mechanically entering the pressure containment boundary of a well: or
- (e) primarily for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of heads (a) to (d),

together with any supplementary unit which is ordinarily connected to it, and all the connections.

- (3) Any reference in sub-paragraph (2) to a structure or supplementary unit does not include—
 - (a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;
 - (b) a well;
 - (c) a mobile structure which has been taken out of use and is not yet being moved with a view to its being used for any of the purposes specified in sub-paragraph (2);
 - (d) any part of a pipeline; and
 - (e) a structure falling within paragraph 8(c).
- (4) Subject to sub-paragraph (5), the following activities fall within this paragraph—
 - (a) transporting, towing or navigating an installation;
 - (b) any of the following activities carried on in or from a vessel—
 - (i) giving assistance in the event of an emergency;
 - (ii) training in relation to the giving of assistance in the event of an emergency;
 - (iii) testing equipment for use in giving assistance in the event of an emergency.
 - (iv) putting or maintaining a vessel on stand-by ready for an activity referred to in any of sub-heads (i) to (iii).

(5) Sub-paragraph (4)(b) does not apply in respect of a vessel in or from which an activity is carried on in connection with, or any activity that is immediately preparatory to an activity in connection with, an offshore installation other than an activity falling within sub-paragraph 4(b).

Wells

- 3.—(1) Subject to sub-paragraph (2), this paragraph applies to and in relation to—
 - (a) a well and any activity in connection with it; and
 - (b) an activity which is immediately preparatory to any activity in head (a).

(2) Sub-paragraph (1) includes keeping a vessel on station for the purpose of working on a well but otherwise does not include navigation or an activity connected with navigation.

Pipelines

- 4.—(1) This paragraph applies to and in relation to—
 - (a) any pipeline;
 - (b) any pipeline works;
 - (c) the following activities in connection with pipeline works—
 - (i) the loading, unloading, fuelling or provisioning of a vessel;
 - (ii) the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel, being in either case a vessel which is engaged in pipeline works; or
 - (iii) the moving, supporting, laying or retrieving of anchors attached to a pipe-laying vessel including the supervision of those activities and giving of instruction in connection with them.

- (2) In this paragraph—

“pipeline” means a pipe or system of pipes for the conveyance of any thing, together with—

- (a) any apparatus for inducing or facilitating the flow of any thing through, or through part of, the pipe or system;
- (b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;
- (c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;
- (d) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in heads (a) to (c);
- (e) apparatus for the transmission of information for the operation of the pipe or system;
- (f) apparatus for the cathodic protection of the pipe or system; and
- (g) a structure used or to be used solely for the support of a part of the pipe or system;

but not including a pipeline of which no initial or terminal point is situated in the United Kingdom, within the territorial sea adjacent to the United Kingdom, or within a designated area;

“pipeline works” means—

- (h) assembling or placing a pipeline or length of pipeline including the provision of internal or external protection for it;
- (i) inspecting, testing, maintaining, adjusting, repairing, altering or renewing a pipeline or length of pipeline;
- (j) changing the position of or dismantling or removing a pipeline or length of pipeline;
- (k) opening the bed of the sea for the purposes of the works mentioned in heads (h) to (j), and tunnelling or boring for those purposes;
- (l) any activities incidental to the activities described in heads (h) to (k);
- (m) a diving project in connection with any of the works mentioned in heads (h) to (l) or for the purpose of determining whether a place is suitable as part of the site of a proposed pipeline and the carrying out of surveying operations for settling the route of a proposed pipeline.

Mines

5.—(1) This paragraph applies to and in relation to a mine within the territorial sea or extending beyond it, and any activity in connection with it, while it is being worked.

(2) In this paragraph “mine” has the same meaning as in the Mines Act (Northern Ireland) 1969(a).

Gas Importation and Storage

6.—(1) Subject to sub-paragraph (3), this paragraph applies within a gas importation and storage zone to and in relation to any activities connected with or immediately preparatory to the activities set out in sub-paragraph (2).

(2) The activities are—

- (a) the unloading of gas to an installation or pipeline;
- (b) the storage of gas, whether temporary or permanent, in or under the shore or bed of any water;
- (c) the conversion of any natural feature for the purpose of storing gas, whether temporarily or permanently;
- (d) the recovery of gas stored;

(a) 1969 c. 6 (N.I.)

(e) exploration with a view to, or in connection with, the carrying on of activities within heads (a) to (d).

(3) Sub-paragraph (1) does not apply to an activity falling within sub-paragraph (2) if the provisions of this Schedule apply to or in relation to that activity by virtue of paragraph 2(1).

(4) In this paragraph—

“gas” means any substance which is gaseous at a temperature of 15°C and a pressure of 101.325 kPa (1013.25 mb); and

“installation” includes any floating structure or device maintained on a station by whatever means.

(5) For the purposes of sub-paragraphs (2) and (4), references to gas include any substance which consists wholly or mainly of gas.

Production of Energy from Water or Wind

7.—(1) This paragraph applies within a renewable energy zone to and in relation to any energy structure or activities connected with or preparatory to—

- (a) the exploitation of those areas for the production of energy from water or wind,
- (b) the exploration of such areas with a view to, or in connection with, the production of energy from water or wind, or
- (c) the operation of a cable for transmitting electricity from an energy structure.

(2) In this paragraph—

“energy structure” means a fixed or floating structure or machine, other than a vessel, which is, or is to be, or has been, used for producing energy from water or wind; and

“renewable energy zone” has the meaning given by section 84(4) of the Energy Act 2004(a) and “within a renewable energy zone” includes over and under it.

Underground Coal Gasification

8. This paragraph applies within a designated area to and in relation to—

- (a) underground coal gasification and any activity in connection with it;
- (b) any activity which is immediately preparatory to any activity in sub-paragraph (a); and
- (c) any fixed or floating structure which is, or is to be, or has been, used in connection with the carrying on of activities within sub-paragraphs (a) and (b).

Other activities

9.—(1) Subject to sub-paragraph (2), this paragraph applies to and in relation to—

- (a) the construction, reconstruction, alteration, repair, maintenance, cleaning, use, operation, demolition and dismantling of any building, or other structure, not being in any case a vessel, or any preparation for any such activity;
- (b) the transfer of people or goods between a vessel or aircraft and a structure (including a building) mentioned in head (a);
- (c) the loading, unloading, fuelling or provisioning of a vessel;
- (d) a diving project;
- (e) the laying, installation, inspection, maintenance, operation, recovery or repair of a cable;

(a) 2004 c.20; section 84(4) is prospectively amended by the Marine and Coastal Access Act 2009 (c. 23), Schedule 4, Part 1, paragraph 4. Section 84(4) of the Energy Act 2004 would continue to define the term “renewable energy zone” after the amendment.

- (f) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of a vessel except when carried out by the master or any officer or member of the crew of that vessel;
 - (g) the maintaining on a station of a vessel which would be an offshore installation were it not a structure to which paragraph 2(3)(c) applies;
 - (h) the transfer of people or goods between a vessel or aircraft and a structure mentioned in head (g).
- (2) This paragraph does not apply—
- (a) to a case where paragraph 2, 3, 4, 5, 6, 7 or 8 applies; or
 - (b) to vessels which are registered outside the United Kingdom and are on passage through the territorial sea.

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 9 provides for specification of an activity within the territorial sea of the United Kingdom adjacent to Northern Ireland to which the Regulations apply.

10. In Great Britain the corresponding legislation is the Health and Safety (Sharp Instruments in Healthcare) Regulations 2013 (S.I. 2013/645). The Great Britain Health and Safety Executive has prepared a full impact assessment of the effect that the Regulations will have on business. A copy of that assessment is available from the Health and Safety Executive for Northern Ireland, 83 Ladas Drive, Belfast, BT6 9FR. A copy of the transposition note in relation to implementation of the Directives set out in paragraph 1 can also be obtained from the Health and Safety Executive for Northern Ireland at the above address. Copies of both documents have been placed in the library of the Northern Ireland Assembly and are annexed to the Explanatory Memorandum which is available alongside these Regulations at www.legislation.gov.uk.

STATUTORY RULES OF NORTHERN IRELAND

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