

Needle Stick Injury Bill

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Make provision about the protection from needle stick injury and resulting infections of persons employed in the health care sector and of other persons engaged in activities at work which carry a significant risk of such injuries and infections; to establish requirements relating to the recording and publication of information about such injuries and infections; to establish standards relating to the supply and use of certain equipment for work which carries a significant risk of such injury and infections; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Interpretation

1 Interpretation

(1) In this Act—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974 (c. 37);

“the Assembly” means the National Assembly for Wales;

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“the CHAI” means the Commission for Healthcare Audit and Inspection;

“the Commission” means the Health and Safety Commission;

“English NHS bodies” has the same meaning as in Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 00);

“equipment” includes devices which may be used in place of needle sticks in use and which are designed to reduce the risk of needle stick injury;

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“the Executive” means the Health and Safety Executive;

“independent hospitals”, “independent clinics” and “independent medical agencies” have the same meaning as in section 2 of the Care Standards Act 2000 (c. 14);

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“needle stick” means—

(a) a hypodermic syringe, or

- (b) such other type of needle for surgical or medical use as may be prescribed for the purposes of this section by order made by the Secretary of State;
- “needle stick injury” means a break in the skin of a person caused by a needle stick other than such a break which was caused for the purposes of surgical or medical treatment; 5
- “Welsh NHS bodies” has the same meaning as in Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 00).
- (2) For the purposes of this Act, “the health care sector” is composed of – 10
- (a) English NHS bodies,
 - (b) Welsh NHS bodies,
 - (c) bodies specified in section 5(4), and
 - (d) bodies specified in section 8(4).

Protection for work outside the health care sector

- 2 Regulations under the 1974 Act** 15
- (1) The 1974 Act shall be amended as follows.
- (2) After section 15 (health and safety regulations), there shall be inserted –
- “15A Regulations relating to needle stick injury**
- (1) For the purpose of protecting persons engaged in work other than in the health care sector which carries a significant risk of needle stick injury and resulting infections, the Commission may make regulations under subsections (2) to (4). 20
- (2) Regulations under this subsection may designate any trade, business or other undertaking (whether for profit or not) which is not in the health care sector as carrying a significant risk of needle stick injury and resulting infections. 25
- (3) Regulations under this subsection may require a responsible person in any trade, business or other undertaking designated by regulations under subsection (2) – 30
- (a) within a period of time specified in the regulations under this subsection, to report to the Executive any needle stick injury in respect of which they are the responsible person, including the circumstances of that injury;
 - (b) to keep a record of any infection which may have arisen from an injury reportable under regulations under this subsection; and 35
 - (c) to provide the Executive upon request with a report on the content of records kept in accordance with regulations under this subsection.
- (4) Regulations under this subsection may require a responsible person in any trade, business or other undertaking designated by regulations under subsection (2) to comply with standards specified in regulations under this subsection relating to – 40
- (a) the manufacture, distribution, storage and disposal of needle sticks; and

- (b) the use of equipment which may, in the opinion of the Commission, reduce the risk of needle stick injury.
- (5) For the purposes of this section “the responsible person” means –
- (a) in the case of an injury to an employee reportable under regulations under subsection (3), his employer; and 5
- (b) in any other case, the person for the time being having control of the premises in connection with the carrying on by him of any trade, business or other undertaking designated by regulations under subsection (2) at which, or in connection with the work at which, the injury reportable under regulations under subsection (3) happened. 10
- (6) For the purposes of this Act, regulations made under this section shall be treated as health and safety regulations within the meaning given in section 15(1).”
- (3) After section 50 (regulations under the relevant statutory provisions), there shall be inserted – 15

“50A Regulations made by the Commission under section 15A

- (1) This section applies to any power of the Commission to make regulations under section 15A.
- (2) The powers to which this section applies shall be exercisable by statutory instrument, and the Statutory Instruments Act 1946 (c. 36) is to apply in relation to those powers as if the Commission were a Minister of the Crown. 20
- (3) Where an instrument made under a power to which this section applies falls to be laid before Parliament, the Commission must, immediately after the instrument is made, send it to the Secretary of State for laying by him. 25
- (4) Before making any regulations under a power to which this section applies, the Commission must –
- (a) give a notice of their proposal to do so to – 30
- (i) the Secretary of State;
- (ii) the National Assembly for Wales;
- (iii) the CHAI;
- (iv) such other bodies or persons, if any, as the Commission is required to consult under this subsection by virtue of directions given to it by the Secretary of State; and 35
- (v) such other persons representative of the persons appearing to the Commission to be likely to be affected by the implementation of the proposal as the Commission thinks fit; 40
- (b) publish notice of the proposal in such manner as the Commission considers appropriate for bringing it to the attention of the persons who, in the Commission’s opinion, are likely to be affected by it and are not given notice by virtue of paragraph (a); and 45
- (c) consider any representations that are made to the Commission, before the time specified in the notice.

- (5) A notice for the purposes of subsection (4) must –
- (a) state that the Commission propose to make the regulations in question;
 - (b) set out the general effect of the regulations;
 - (c) specify an address from which a copy of the proposed regulations may be obtained; and
 - (d) specify a time before which any representations with respect to the proposal must be made to the Commission.
- (6) The time specified for the purposes of subsection (5)(d) must be a time before the end of the period of one month beginning with the day after the latest day on which the notice is given or published for the purposes of subsection (4).
- (7) Every power of the Commission to which this section applies includes power –
- (a) to make provision subject to such exemptions and exceptions as the Commission thinks fit; and
 - (b) to make such incidental, supplemental, consequential and transitional provision as the Commission thinks fit.
- (8) The Documentary Evidence Act 1868 (c. 37) (proof of orders and regulations etc.) shall have effect as if –
- (a) the Commission were included in the first column of the Schedule to that Act;
 - (b) the Commission and persons authorised to act on the Commission’s behalf were mentioned in the second column of that Schedule.”

3 Annual report under the 1974 Act

- (1) The 1974 Act shall be amended as follows.
- (2) After section 50A (which is inserted by section 2 of this Act), there shall be inserted –

“50B Annual report of the Commission relating to needle stick injury

- (1) It shall be the duty of the Commission to make an annual report to the Secretary of State relating to the performance of the functions of the Commission and of the Executive under sections 15A and 50A of this Act.
- (2) Each report under this section shall contain an account of –
- (a) the incidence of needle stick injuries and infections arising from such injuries derived from information provided to the Executive in accordance with regulations under section 15A(3);
 - (b) compliance with regulations made under section 15A;
 - (c) any investigations or inquiries conducted under section 14 relating to needle stick injury;
 - (d) measures taken by the Commission and the Executive to reduce the risk and incidence of needle stick injuries and infections arising from such injuries.
- (3) In preparing each report under this section, the Commission shall consult the CHAI and the National Assembly for Wales and shall

endeavour, so far as is practicable, to co-ordinate the preparation of the Commission's report with the preparation of the reports to be made by the CHAI under section 6 of the Needle Stick Injury Act 2003 and by the National Assembly for Wales under section 9 of that Act.

- (4) The first report under this section shall relate to the period beginning with the date on which the first regulations made under section 15A(3) come into force and ending on 31 March thereafter. 5
- (5) Each subsequent report under this section shall relate to a period of twelve months beginning on 1 April.
- (6) The Secretary of State shall lay before each House of Parliament a copy of each report made to him in pursuance of this section." 10
- (3) In paragraph 15 of Schedule 2 (annual report of the Commission), after the word "functions" there shall be inserted the words "(other than the Commission's functions under sections 15A, 50A and 50B of this Act)".
- 4 Minor and consequential amendments of the 1974 Act** 15
- (1) The 1974 Act shall be amended as follows.
- (2) In section 53(1) of the 1974 Act (general interpretation of Part 1), at the appropriate place in alphabetical order, there shall be inserted –
- "the CHAI" means the Commission for Healthcare Audit and Inspection;
- "equipment" includes devices which may be used in place of needle sticks in use and which are designed to reduce the risk of needle stick injury; 20
- "the health care sector" shall have the same meaning as in section 1 of the Needle Stick Injury Act 2003;
- "needle stick" means –
- (a) a hypodermic syringe, or 25
- (b) such other type of needle for surgical or medical use as may be prescribed for the purposes by order made under section 1 of the Needle Stick Injury Act 2003;
- "needle stick injury" means a break in the skin of a person caused by a needle stick which was not caused for surgical or medical treatment;" 30
- (3) After section 84(1) of the 1974 Act (extent), there shall be inserted –
- "(1A) Sections 15A, 50A and 50B extend to England and Wales only."

Protection for the health care sector in England

- 5 Regulations relating to needle stick injury in the health care sector in England**
- (1) For the purpose of protecting persons engaged in work in the health care sector in England from needle stick injury and resulting infections, the Secretary of State may make regulations under subsections (2) and (3). 35
- (2) Regulations under this subsection may require English NHS bodies and bodies specified in subsection (4) –
- (a) within a period of time specified in the regulations under this subsection, to report to the CHAI any needle stick injury for which they are the responsible body, including the circumstances of that injury; 40

- (b) to keep a record of any infection which may have arisen from an injury reportable under regulations under this subsection; and
- (c) to provide the CHAI upon request with a report on the content of records kept in accordance with regulations under this subsection.
- (3) Regulations under this subsection may require English NHS bodies and bodies specified in subsection (4) to comply with standards specified in regulations under this subsection relating to—
- (a) the manufacture, distribution, storage and disposal of needle sticks; and
- (b) the use of equipment which may, in the opinion of the Secretary of State, reduce the risk of needle stick injury.
- (4) The bodies specified in this subsection are—
- (a) independent hospitals;
- (b) independent clinics; and
- (c) independent medical agencies
- for whom the CHAI is the registration authority under the Care Standards Act 2000 (c. 14).
- (5) In this section “the responsible body” means—
- (a) the body within whose premises the injury occurred, or
- (b) (in the case of an injury which occurred in the health care sector in England outside premises of a body subject to regulations under subsection (2)), the body having control of the work in connection with which the injury occurred.
- (6) Before making regulations under this section, the Secretary of State shall consult—
- (a) the Assembly,
- (b) the CHAI, and
- (c) the Commission.
- 6 Annual report of the CHAI relating to needle stick injury**
- (1) It shall be the duty of the CHAI to make an annual report to the Secretary of State relating to the performance of the functions of the CHAI under this Act.
- (2) Each report under this section shall contain—
- (a) an account of the incidence of needle stick injuries and infections arising from such injuries derived from information provided to the CHAI in accordance with regulations under section 5(2);
- (b) an account of compliance with regulations made under section 5;
- (c) any recommendations of the CHAI relating to measures that might be taken to reduce the risk and incidence of needle stick injuries and infections arising from such injuries.
- (3) In preparing each report under this section, the CHAI shall consult the Commission and the Assembly and shall endeavour, so far as is practicable, to co-ordinate the preparation of the CHAI’s report with the preparation of the reports to be made by the Commission under section 50B of the 1974 Act and by the Assembly under section 9 of this Act.

- (4) The first report under this section shall relate to the period beginning with the date on which the first regulations made under section 5(2) come into force and ending on 31 March thereafter.
- (5) Each subsequent report under this section shall relate to a period of twelve months beginning on 1 April. 5
- (6) The Secretary of State shall lay before each House of Parliament a copy of each report made to him in pursuance of this section.

7 Enforcement of regulations in England

- (1) The provisions of sections 31 and 32 of the Care Standards Act 2000 (c. 14) (inspection by persons authorised by registration authority) shall apply to functions of the CHAI under regulations made under section 5 of this Act in respect of the bodies specified in subsection (4) of that section as if those functions were functions under Part 2 of that Act. 10
- (2) The provisions of Chapter 2 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 00) (NHS health care: functions of CHAI) shall apply to functions of the CHAI under regulations made under section 5 in respect of English NHS bodies. 15
- (3) Regulations under section 5 may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence.
- (4) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale. 20
- (5) Proceedings in respect of an offence under regulations under section 5 shall not, without the written consent of the Attorney General, be taken by any person other than the CHAI.
- (6) The provisions of section 30 of the Care Standards Act 2000 (offences by bodies corporate) shall apply to offences committed by a body corporate under regulations under section 5 of this Act. 25

Protection for the health care sector in Wales

8 Regulations relating to needle stick injury in the health care sector in Wales

- (1) For the purpose of protecting persons engaged in work in the health care sector in England from needle stick injury and resulting infections, the Assembly may make regulations under subsections (2) and (3). 30
- (2) Regulations under this subsection may require Welsh NHS bodies and bodies specified in subsection (4) –
 - (a) within a period of time specified in the regulations under this subsection, to report to the Assembly any needle stick injury for which they are the responsible body, including the circumstances of that injury; 35
 - (b) to keep a record of any infection which may have arisen from an injury reportable under regulations under this subsection; and 40
 - (c) to provide the Assembly upon request with a report on the content of records kept in accordance with regulations under this subsection.

- (3) Regulations under this subsection may require Welsh NHS bodies and bodies specified in subsection (4) to comply with standards specified in regulations under this subsection relating to –
- (a) the manufacture, distribution, storage and disposal of needle sticks; and 5
 - (b) the use of equipment which may, in the opinion of the Assembly, reduce the risk of needle stick injury.
- (4) The bodies specified in this subsection are –
- (a) independent hospitals;
 - (b) independent clinics; and 10
 - (c) independent medical agencies
- for whom the Assembly is the registration authority under the Care Standards Act 2000 (c. 14).
- (5) In this section “the responsible body” means –
- (a) the body within whose premises the injury occurred, or 15
 - (b) (in the case of an injury which occurred in the health care sector in Wales outside premises of a body subject to regulations under subsection (2)), the body having control of the work in connection with which the injury occurred.
- (6) Before making regulations under this section, the Assembly shall consult – 20
- (a) the Secretary of State,
 - (b) the CHAI, and
 - (c) the Commission.
- 9 Annual report of the Assembly relating to needle stick injury**
- (1) It shall be the duty of the Assembly to prepare and publish an annual report relating to the performance of the functions of the Assembly under this Act. 25
- (2) Each report under this section shall contain –
- (a) an account of the incidence of needle stick injuries and infections arising from such injuries derived from information provided to the Assembly in accordance with regulations under section 8(2); 30
 - (b) an account of compliance with regulations made under section 8;
 - (c) measures taken by the Assembly to reduce the risk and incidence of needle stick injuries and infections arising from such injuries.
- (3) In preparing each report under this section, the Assembly shall consult the Commission and the CHAI and shall endeavour, so far as is practicable, to co-ordinate the preparation of the Assembly’s report with the preparation of the reports to be made by the Commission under section 50B of the 1974 Act and by the CHAI under section 6 of this Act. 35
- (4) The first report under this section shall relate to the period beginning with the date on which the first regulations made under section 8(2) come into force and ending on 31 March thereafter. 40
- (5) Each subsequent report under this section shall relate to a period of twelve months beginning on 1 April.

10 Enforcement of regulations in Wales

- (1) The provisions of sections 31 and 32 of the Care Standards Act 2000 (c. 14) (inspection by persons authorised by registration authority) shall apply to functions of the Assembly under regulations made under section 8 of this Act in respect of the bodies specified in subsection (4) of that section as if those functions were functions under Part 2 of that Act. 5
- (2) The Assembly may by regulations prescribe arrangements for inspection and review of compliance by Welsh NHS bodies with regulations made under section 8.
- (3) Regulations under section 8 may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence. 10
- (4) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) Proceedings in respect of an offence under regulations under section 8 shall not, without the written consent of the Attorney General, be taken by any person other than the Assembly. 15
- (6) The provisions of section 30 of the Care Standards Act 2000 (offences by bodies corporate) shall apply to offences committed by a body corporate under regulations under section 8 of this Act.

Miscellaneous and final provisions 20

11 Orders and regulations

- (1) Any power to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any order or regulations under this Act –
 - (a) may make different provision for different purposes; and 25
 - (b) may make incidental, supplementary, consequential or transitional provision.
- (3) A statutory instrument containing an order or regulations under this Act made by the Secretary of State (apart from an order under section 13) is subject to annulment in pursuance of a resolution of either House of Parliament. 30

12 Expenses

There shall be paid out of money provided by Parliament –

- (a) *any expenditure incurred by the Secretary of State under this Act; and*
- (b) *any increase attributable to this Act in the sums payable out of money so provided under any other Act.* 35

13 Short title, commencement and extent

- (1) This Act may be cited as the Needle Stick Injury Act 2003.
- (2) Sections 2 to 7 shall come into force on such day as the Secretary of State may by order appoint.

- (3) Sections 8 to 10 shall come into force on such day as the Assembly may by order appoint.
- (4) An order made under subsection (2) or (3) may appoint different days for different purposes.
- (5) Sections 3(3) and 4 do not extend to Northern Ireland.
- (6) This Act (other than sections 3(3) and 4) extends to England and Wales only.

Needle Stick Injury Bill

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To make provision about the protection from needle stick injury and resulting infections of persons employed in the health care sector and of other persons engaged in activities at work which carry a significant risk of such injuries and infections; to establish requirements relating to the recording and publication of information about such injuries and infections; to establish standards relating to the supply and use of certain equipment for work which carries a significant risk of such injury and infections; and for connected purposes.

*Ordered to be brought in by Laura Moffatt,
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*Ordered by The House of Commons
to be Printed, 26th February 2003.*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net