1987/414

THE HEALTH (NEEDLES AND SYRINGES) REGULATIONS 1987

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 17th day of December 1987

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT,—

(a) In the case of regulation 7 of the regulations, to section 37 of the Misuse of Drugs Act 1975; and

(b) In the case of the other provisions of the regulations, to section 117 of the Health Act 1956,—

His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Health (Needles and Syringes) Regulations 1987.

(2) These regulations shall come into force on the 1st day of February 1988.

2. Interpretation—In these regulations, unless the context otherwise requires,—

"Approved by the Director-General" means approved by the Director-General under and for the purposes of these regulations:

"Authorised representative", in relation to any agency, association, or body approved by the Director-General, means any person recognised by the Director-General as a representative of that agency, association, or body for the purposes of these regulations:

"Director-General" means the Director-General of Health:

"Needle" means a needle forming part of, or attached to, or designed for attachment to and use with, a syringe:

"New", in relation to a needle or syringe, means unused:

"Public place" has the meaning assigned to that term by section 2 of the Summary Offences Act 1981:

"Registered pharmacy" means a pharmacy within the meaning of, and registered under, the Pharmacy Act 1970; and includes a pharmacy conducted by an area health board or a hospital board.

3. Sale or supply of needles and syringes by pharmacists, medical practitioners, and authorised representatives—(1) Any pharmacist or medical practitioner or authorised representative, approved by the Director-General, may sell any new needle or new syringe, in accordance with the succeeding provisions of this regulation, to any person.

(2) No needle or syringe may be sold pursuant to this regulation unless it is—

(a) Of a kind approved by the Director-General; and

(b) Contained in a container of a kind, and labelled in a manner, approved by the Director-General.

(3) The price charged to the purchaser of any needle or syringe sold pursuant to this regulation shall be the sum of the following amounts:

(a) A service fee fixed by the Director-General in accordance with regulation 5 of these regulations; and

(b) The cost of the needle or syringe (whether or not including the cost of packaging) fixed by the Director-General in accordance with that regulation.

(4) A pharmacist may sell a needle or syringe pursuant to this regulation from a registered pharmacy to—

(a) Any person who has attained the age of 16 years; or

(b) Any person under that age in accordance with a prescription from a medical practitioner authorising the dispensing of such a needle or syringe to that person.

(5) A medical practitioner may sell a needle or syringe pursuant to this regulation from any place to any person.

(6) An authorised representative may, pursuant to this regulation, sell a needle or syringe from his or her usual place of business, or the usual place of business of the agency, association, or body by whom the representative is employed, to—

(a) Any person who has attained the age of 16 years; or

(b) Any person under that age in accordance with a prescription from a medical practitioner authorising the dispensing of such a needle or syringe to that person.

4. Director-General may approve needles, syringes, and containers—The Director-General may from time to time approve for the purposes of these regulations—

(a) Any kind of needle or syringe; and

(b) Any kind of container, and the labelling of any container, intended to contain any needle or syringe for the purposes of sale.

5. Director-General to fix fees and costs—(1) The Director-General shall from time to time, in accordance with the succeeding provisions of this regulation, fix—

(a) The amount of the service fee to be paid to any pharmacist, medical practitioner, or authorised representative for the sale of any needle or syringe pursuant to regulation 3 of these regulations; and

(b) The amount of the cost of any such needle or syringe (whether or not including the cost of packaging) sold pursuant to that regulation to be borne by the purchaser.

(2) Different costs may be so fixed according to whether the purchaser is or is not returning any used needle or used syringe at the time of purchase.

(3) Before fixing any fee or cost under subclause (1) of this regulation the Director-General shall give a reasonable opportunity to comment on the proposed amounts to, and consider any such comments made by, the following bodies:

(a) The Pharmacy Guild of New Zealand Incorporated:

(b) The New Zealand Medical Association:

(c) The Pharmaceutical Society of New Zealand:

(d) Any other agency, association, or body approved by the Director-General.

(4) The fees and costs fixed by the Director-General under this regulation shall be published in the *Gazette*, and shall have effect from a date (not being earlier than the date of such publication) specified in that behalf in the notice.

(5) Any fee or cost charged in accordance with regulation 3 of these regulations and this regulation shall be deemed for the purposes of section 43 of the Commerce Act 1986 to be specifically authorised by these regulations.

6. Return of used needles and syringes—(1) Every pharmacist, medical practitioner, or authorised representative who sells any needle or syringe pursuant to regulation 3 of these regulations shall accept for disposal any needle or syringe of a kind approved by the Director-General if it is returned to him or her—

(a) In a container of a kind approved by the Director-General; and

(b) In accordance with any directions printed on the container.

(2) The Medical Officer of Health shall arrange the collection and disposal of every such needle or syringe so returned to any pharmacist, medical practitioner, or authorised representative.

7. Exemptions from liability under Misuse of Drugs Act 1975—(1) No person shall be guilty of an offence against section 13 (1) (aa) of the Misuse of Drugs Act 1975 in respect of the possession of any needle or syringe if that person shows that the needle or syringe was purchased by or on behalf of that person from any pharmacist, medical practitioner, or authorised representative in accordance with regulation 3 of these regulations.

(2) No pharmacist, medical practitioner, or authorised representative shall be liable in any proceedings under the Misuse of Drugs Act 1975 in respect of the sale or supply of any needle or syringe to any person in accordance with regulation 3 of these regulations.

8. Offences relating to use or disposal—(1) Every person commits an offence who—

(a) Offers to any other person, for use by that person, any used needle or used syringe; or

(b) Accepts for use any used needle or used syringe; or

(c) Disposes of any needle or syringe in any public place.

(2) Every person who commits an offence against any of the provisions of subclause (1) of this regulation is liable on summary conviction to a fine not exceeding $500.

9. Offences relating to sale or importation—(1) Every person commits an offence who, not being a pharmacist or a medical practitioner or an authorised representative, approved by the Director-General, sells or supplies or attempts to sell or supply any needle or syringe to any other person who is not a pharmacist or a medical practitioner or an authorised representative, approved by the Director-General.

(2) Every person commits an offence who, being a pharmacist or a medical practitioner or an authorised representative, approved by the Director-General, sells or supplies or attempts to sell or supply any needle or syringe to any other person otherwise than in accordance with regulation 3 of these regulations.

(3) Every person commits an offence who imports into New Zealand—

(a) Any used needle or used syringe; or

(b) Any new needle or new syringe other than of a kind approved by the Director-General.

(4) Nothing in subclause (1) or subclause (2) or subclause (3) (b) of this regulation shall apply to the sale, supply, or importation of any needle or syringe—

(a) For any therapeutic purpose specified in section 4 of the Medicines Act 1981; or

(b) To or by a dentist in the course of practise; or

(c) For the purpose of administering to any animal any animal remedy within the meaning of the Animal Remedies Act 1967.

(5) Every person who commits an offence against any of the preceding provisions of this regulation is liable on summary conviction to a fine not exceeding $500.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

The primary purpose of these regulations is to provide for the sale and supply of new (and therefore clean) needles and syringes by pharmacists, medical practitioners, and authorised representatives of certain bodies, approved by the Director-General of Health, and the return for safe disposal of used needles and syringes, so as to minimise the risk of the spread of infection through the shared use of needles and syringes.

The principal "at risk" group are intravenous drug users. The starting point for these regulations, therefore, is section 13 of the Misuse of Drugs Act 1975. This makes it an offence to possess needles and syringes for the purposes of any other offence against that Act. Regulation 7 of these regulations provides a defence where it can be shown that the needle or syringe was obtained in accordance with the scheme set out in regulation 3.

That regulation broadly sets out the conditions under which pharmacists, medical practitioners, and others may sell or supply needles and syringes. These must be of a kind, and packaged and labelled in a manner, approved by the Director-General of Health. The Director-General is also empowered to fix the fee that may be charged for selling or supplying the needle or syringe, and the cost that may be charged for the needle or syringe.

Regulation 6 is very important. It requires pharmacists, medical practitioners, and others who sell or supply needles or syringes under these regulations to accept for disposal any such needles or syringes, after use, if they are returned in the appropriate package and in accordance with the directions on the package.

Regulation 8 prohibits the use, or offer for use, of used needles and syringes.

Regulation 9 prohibits the importation, sale, or supply of needles and syringes otherwise than in accordance with these regulations, except for any therapeutic purpose, or in the course of practise of dentistry, or for administering animal remedies to animals.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette:* 18 December 1987.
These regulations are administered in the Department of Health.