

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4341 of 09 February, 2017

LEGAL NOTICE NO. 21 OF 2017.

INTERPRETATION AND GENERAL CLAUSES ACT

**MEDICAL AND HEALTH ACT, 1997 (AMENDMENT)
REGULATIONS 2017**

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and in order to further transpose into the law of Gibraltar, 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, the Government has made the following Regulations-

Title.

1. These Regulations may be cited as the Medical and Health Act, 1997 (Amendment) Regulations 2017.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of Act.

3.(1) The Medical and Health Act, 1997 is amended in accordance with this Regulation.

(2) In the long title, after “A SYSTEM OF LIMITED REGISTRATION” insert “; AND OTHER RELATED MATTERS”.

(3) In section 59A, -

(a) before the definition of “employee”, insert-

“Council Directive 91/383/EEC” means Council Directive
of 25 June 1991 supplementing the measures to
encourage improvements in the safety and health at
work of workers with a fixed-duration employment

relationship or a temporary employment relationship (91/282/EEC) as amended from time to time;”;

- (b) in the definition of “employee”, after “Employment Act” insert—

“and for the purposes of this Part, “employee” includes-

- (a) trainees and apprentices in the hospital and healthcare sector and directly related services and activities; and
- (b) workers who are employed by temporary employment business within the meaning of Council Directive 91/383/EEC”.

- (4) In section 59H, after subsection (2), insert-

“(3) An person who wilfully-

- (a) withholds information in respect of an injury required to be notified under this section; or
- (b) makes any notification under this section or provides information in respect of such a notification that he knows to be untrue in any material respect;

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.

- (5) After section 59H, insert the following –

“Penalties.

59I.(1) An employer who-

- (a) fails to discharge a duty to which he is subject by virtue of this Part;
- (b) contravenes a requirement or prohibition imposed under this Part;

commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where an offence is committed by an employer and it is proved-

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the part of an officer,

the officer as well as the employer commits the offence and is liable to be proceeded against and punished accordingly.

(3) In subsection (2) “officer”, in relation to an employer, means a director, manager, secretary or other similar officer of the employer, or a person purporting to act in any such capacity.

(4) If the affairs of the employer are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the employer.”.

Dated 9th February, 2017.

N F COSTA,
Minister with responsibility for Health,
For the Government

EXPLANATORY MEMORANDUM

These Regulations further transpose into the law of Gibraltar, 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.

