



Public Health etc. (Scotland) Act 2008

2008 asp 5

PART 8 **S**

REGULATION OF PROVISION OF SUNBEDS

Offences

95 Prohibition on allowing use of sunbeds by persons under 18 **S**

- (1) An operator of sunbed premises who, without reasonable excuse, allows a person who is under 18 to use a sunbed on those premises commits an offence.
- (2) In proceedings for an offence under subsection (1), it is a defence for the operator to show that—
 - (a) the operator believed the person to be 18 or over; and
 - (b) the operator had taken reasonable steps to establish the person's age.
- (3) For the purposes of subsection (2)(b), the operator is to be treated as having taken reasonable steps to establish the person's age if (and only if)—
 - (a) the operator was shown any of the documents mentioned in subsection (4); and
 - (b) that document would have convinced a reasonable person.
- (4) The documents referred to in subsection (3)(a) are any document appearing to be—
 - (a) a passport;
 - [^{F1}(aa) a UK driving licence,]
 - (b) a European Union photocard driving licence; or
 - (c) such other document (or description of document) as may be prescribed.
- (5) In subsections (2)(a) and (b) and (3), references to the operator include an employee or agent of the operator.

Textual Amendments

- F1** S. 95(4)(aa) inserted (31.12.2020) by [The Public Health and Tobacco \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/142\)](#), regs. 1, **2(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Cross Heading: Offences. (See end of Document for details)

Commencement Information

I1 S. 95 in force at 1.12.2009 by [S.S.I. 2009/404](#), art. 2(1), [Sch. 1](#)

96 Prohibition on sale or hire of sunbeds to persons under 18 **S**

- (1) A person (the “seller”) who, without reasonable excuse, sells a sunbed to a person who is under 18 commits an offence.
- (2) A person (the “hirer”) who, without reasonable excuse, hires a sunbed to a person who is under 18 commits an offence.
- (3) In proceedings for an offence under subsection (1) or (2), it is a defence for the seller or hirer to show that—
 - (a) the seller or hirer believed the person to be 18 or over; and
 - (b) the seller or hirer had taken reasonable steps to establish the person's age.
- (4) For the purposes of subsection (3)(b), the seller or hirer is to be treated as having taken reasonable steps to establish the person's age if (and only if)—
 - (a) the seller or hirer was shown any of the documents mentioned in subsection (5); and
 - (b) that document would have convinced a reasonable person.
- (5) The documents referred to in subsection (4)(a) are any document appearing to be—
 - (a) a passport;
 - [^{F2}(aa) a UK driving licence,]
 - (b) a European Union photocard driving licence; or
 - (c) such other document (or description of document) as may be prescribed.
- (6) In subsections (3)(a) and (b) and (4), references to the seller or hirer include an employee or agent of the seller or hirer.

Textual Amendments

F2 S. 96(5)(aa) inserted (31.12.2020) by [The Public Health and Tobacco \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/142\)](#), regs. 1, **2(3)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Commencement Information

I2 S. 96 in force at 1.12.2009 by [S.S.I. 2009/404](#), art. 2(1), [Sch. 1](#)

97 Remote sale or hire of sunbeds **S**

- (1) This section applies where, in connection with the sale or hire of a sunbed, the premises where the order for the sunbed is taken are not the same as the premises from which the sunbed is despatched for delivery in pursuance of the sale or hire.
- (2) Subject to subsection (3), the sale or hire is to be treated, for the purposes of section 96, as taking place on the premises where the order was taken.
- (3) Where—
 - (a) the premises where the order for the sunbed is taken are not in Scotland; and
 - (b) the premises from which the sunbed is despatched are in Scotland,

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the sale or hire is to be treated, for the purposes of section 96, as taking place on the premises from which the sunbed is despatched.

Commencement Information

I3 [S. 97](#) in force at 1.12.2009 by [S.S.I. 2009/404](#), art. 2(1), [Sch. 1](#)

98 Prohibition on allowing unsupervised use of sunbeds **S**

- (1) An operator of sunbed premises who, without reasonable excuse, allows a person to use a sunbed on those premises without supervision commits an offence.
- (2) In subsection (1), the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises.
- (3) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) exercised all due diligence and took all reasonable steps to avoid committing the offence.

Commencement Information

I4 [S. 98](#) in force at 1.12.2009 by [S.S.I. 2009/404](#), art. 2(1), [Sch. 1](#)

99 Medical use of sunbeds **S**

- (1) The Scottish Ministers may, by regulations, make provision regarding the application of this Part to sunbeds used for medical purposes.
- (2) Regulations under subsection (1) may, in particular, make provision—
 - (a) as to what is (and is not) a sunbed;
 - (b) as to what are (and are not) sunbed premises;
 - (c) as to circumstances in which the provisions of this Part do (and do not) apply.
- (3) Regulations under subsection (1) may modify any enactment (including this Act).

Commencement Information

I5 [S. 99](#) in force at 1.12.2009 by [S.S.I. 2009/404](#), art. 2(1), [Sch. 1](#)

100 Duty to provide information to sunbed users **S**

- (1) An operator of sunbed premises who, without reasonable excuse, fails to comply with the requirement in subsections (2) and (3) commits an offence.
- (2) The operator must provide a person who proposes to use a sunbed on sunbed premises with such information regarding the effects on health of sunbed use as may be prescribed in accordance with subsection (5).
- (3) That information is to be provided each time the person proposes to use a sunbed on those premises.

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- (4) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) exercised all due diligence and took all reasonable steps to avoid committing the offence.
- (5) The Scottish Ministers may prescribe—
- (a) the information which is to be provided;
 - (b) the form and manner in which that information is to be provided.

Commencement Information

I6 S. 100 in force at 1.4.2009 for specified purposes by S.S.I. 2009/9, art. 2(b), Sch. 2

I7 S. 100 in force at 1.12.2009 in so far as not already in force by S.S.I. 2009/404, art. 2(1), Sch. 1

101 Duty to display information notice **S**

- (1) An operator of sunbed premises who, without reasonable excuse, fails to comply with the requirement in subsection (2) commits an offence.
- (2) That requirement is to display a notice—
- (a) containing such information as may be prescribed in accordance with subsection (4);
 - (b) in a position where it is readily visible to persons proposing to use a sunbed on the premises.
- (3) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) exercised all due diligence and took all reasonable steps to avoid committing the offence.
- (4) The Scottish Ministers may prescribe—
- (a) the information which the notice is to contain;
 - (b) the form and manner of display of the notice.

Commencement Information

I8 S. 101 in force at 1.4.2009 for specified purposes by S.S.I. 2009/9, art. 2(b), Sch. 2

I9 S. 101 in force at 1.12.2009 in so far as not already in force by S.S.I. 2009/404, art. 2(1), Sch. 1

Changes to legislation:

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