

SUNBEDS ACT (NORTHERN IRELAND) 2011

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Sunbeds Act (Northern Ireland) 2011 which received Royal Assent on 3 May 2011. They have been prepared by the Department of Health, Social Services and Public Safety in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. There has been expert advice available for many years to the effect that the cosmetic use of sunbeds, especially by children, should be discouraged because of the associated increased risk of skin cancer and other health problems. Over a 25 year period, malignant melanoma skin cancer cases have nearly trebled. Skin cancer is now the most common cancer in Northern Ireland and accounts for 28% of all individuals diagnosed with cancer.
4. The increased skin cancer rate is not entirely due to the use of sunbeds, but also to direct exposure to the sun's ultraviolet rays. However, there is now substantial evidence of the increased risks caused by sunbed use. Research shows that using sunbeds before the age of 35 can increase the risk of developing melanoma skin cancer by up to 75% and the mortality from melanoma due to sunbed use alone is estimated to be about 100 deaths per year in the UK.
5. The primary policy objective of the Department which underpins the Sunbed Act is the prevention of the use of sunbeds by persons under 18 years of age. The Act is also intended to ensure that those over 18 years of age who intend to use sunbeds are better informed about the health risks of using sunbeds. The purpose of the Sunbeds Act is to provide a clear legislative framework to which all sunbed premises will be required to adhere.

CONSULTATION

6. A formal consultation on the policy proposals informing the Act was carried out during the period from 19 November 2009 until 19 February 2010. The purpose of the consultation was to seek the views on whether and by what means the sunbed industry should be regulated in Northern Ireland. It provided background and information on the recognised risks factors linking sunbed usage and skin cancer and invited views on a range of possible measures for regulating the industry.
7. A total of 46 consultation responses were received. In general, there were many positive comments that welcomed the proposals. A range of issues and suggestions were also highlighted and have been extremely helpful in informing consideration of the detail of the proposals.

OVERVIEW

8. The Act has 19 sections and 2 Schedules. It comprises 3 headings:-

Offences – consists of 10 sections and covers the prohibition of the use, sale or hire of a sunbed to persons under the age of 18 with an exemption for medical treatment. It places a duty on operators of sunbed premises to display an information notice. It places a duty on sunbed operators and those who hire or sell sunbeds to provide sunbed users, hirers and buyers with information about the risks associated with sunbed use. It places a duty on operators of sunbed premises and those who hire or sell sunbeds to make protective eyewear available to sunbed users. It also places a duty on sunbed operators and those who hire or sell sunbeds to secure that those who allow people to use sunbeds are trained to a required standard and that all sunbeds for use in sunbeds premises, for hire or for sale meet required standards.

Enforcement – comprises 4 sections and relates to the enforcement of provisions of the Act, outlines fixed penalties for particular offences, deals with the obstruction of officers in exercise of their functions under the Act and provides for the registration or licensing of sunbed premises.

General – consists of 5 sections and deals with offences committed by corporate bodies and makes provisions in respect of subordinate legislation. It also sets out the title, commencement dates and includes interpretation provisions.

9. *Schedule 1* sets out the enforcement powers available to authorised officers and *Schedule 2* deals with fixed penalties.

COMMENTARY ON SECTIONS

10. A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

Section 1: Prohibition on allowing use of sunbeds by persons under 18

Provides that is an offence for an operator of sunbed premises to allow a person under the age of 18 to use a sunbed on the sunbed operator's premises or to allow a person who is under 18 to be present in a 'restricted zone' on those premises. It also describes circumstances which would constitute the operator of sunbed premises as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence and describes a 'restricted zone'.

Section 2: Prohibition on sale or hire of sunbeds to persons under 18

Provides that is an offence for a person to sell or hire a sunbed to a person under the age of 18. It also describes circumstances which would constitute the seller or hirer as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Section 3: Prohibition on allowing unsupervised use of sunbeds

Provides that is an offence for an operator of sunbed premises to allow a person under the age of 18 to use a sunbed without supervision on the sunbed operator's premises. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Section 4: Duty to provide information to sunbed users, or buyers etc

Places a duty on operators of sunbed premises and hirers/sellers of sunbeds to provide prescribed information to those who seek to use, buy or hire a sunbed. It also provides that failure to provide such information is an offence.

Section 5: Duty to display information notice

Places a duty on operators of sunbed premises to display a prescribed information notice in a position which is readily visible to anyone proposing to use a sunbed on the premises. It also provides that failure to display such an information notice is an offence.

Section 6: Prohibition on provision or display of other information

Provides that it is an offence for an operator of sunbed premises from providing or displaying any material containing statements relating to the health effects of sunbed use other than information that may be prescribed by the Department.

Section 7: Protective eyewear

Places a duty on operators of sunbed premises and hirers/sellers of sunbeds to ensure that protective eyewear is made available to those who seek to use, hire or buy a sunbed and that failure to do so is an offence.

Section 8: Requirements in relation to training

Places a duty on operators of sunbed premises and hirers /sellers of sunbeds to secure that those who allow people to use sunbeds are trained to a required standard as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of sunbed premises, hirers and sellers of sunbeds to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Section 9: Requirements in relation to sunbeds

Places a duty on operators of sunbed premises and hirers /sellers of sunbeds to only make available for use, hire or sale sunbeds which meet such requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of sunbed premises, hirers and sellers of sunbeds to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Section 10: Exemption for medical treatment

Provides for an exemption for offences under this Act where a sunbed is used for the purposes of medical treatment under the supervision or direction of a registered medical practitioner and the sunbed is in, or provided by, a healthcare establishment (as defined) and the sunbed is made available only for the purpose of medical treatment.

Section 11: Enforcement by district councils

Places a duty on district councils to enforce the provisions of the Act in their area. It also introduces Schedule 1 which makes provision about the powers of authorised officers.

Section 12: Fixed penalties for certain offences

Provides that authorised officers may give a fixed penalty notice to persons they have reason to believe have committed an offence. It also introduces Schedule 2 which makes further provision about fixed penalties.

Section 13: Obstruction of officers

Provides that anyone who intentionally obstructs an authorised officer acting in the exercise of the officer's function under this Act commits an offence.

Section 14: Registration or licensing of sunbed premises or operators, etc.

Provides that regulations may allow district councils to register or licence premises which are being used, or which it is the intention to use, as sunbed premises; or to licence operators of such premises. It also provides for registration or licensing of premises to be used for the hire or sale of sunbeds, or of the persons who hire or sell sunbeds. Regulations would furthermore allow district councils to prohibit the use of premises which are not registered or licensed in compliance with regulations.

Section 15: Offences by bodies corporate, etc.

Provides that, if an offence under this Act is committed with the consent of, connivance of, or is attributable to the neglect of a partner of a body corporate then that partner, as well as the partnership, is guilty of the offence.

Section 16: Regulations

Contains provision about the required procedures for making subordinate legislation under the Act.

Section 17: Interpretation

Self explanatory.

Section 18: Commencement

Provides that the main provisions of the Act come into operation on a later day as appointed by the Department.

Section 19: Short title

Self explanatory.

HANSARD REPORTS

11. The following table sets out the dates of the Hansard Reports for each stage of the Act's passage through the Assembly.

STAGE	DATE
Introduction to the Assembly	11 May 2010
Second Stage debate	25 May 2010
Committee Stage - Departmental briefing on the provisions of the Act	3 June 2010
Committee Stage – Evidence sessions with the Royal College of Nursing, Ulster Cancer Foundation and Northern Ireland Melanoma Strategy Implementation Group	10 June 2010
Committee Stage – Evidence sessions with Sunbed Association and Chief Environmental Health Officers Group	17 June 2010
Committee Stage – Evidence session with Departmental Officials to discuss sections of the Act	24 June 2010
Committee Stage – Formal consideration of sections	14 September 2010
Committee's report on the Act – Report number 77/09/10R	12 October 2010
Consideration Stage in the Assembly	8 February 2011
Further Consideration Stage	21 February 2011
Final Stage	1 March 2011
Royal Assent	3 May 2011

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