

## **EXECUTIVE NOTE**

### **THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008 (SUNBED) REGULATIONS 2009 SSI 2009/388**

The above instrument was made in exercise of the powers conferred by sections 95(4)(c), 96(5)(c), 100(5) and 101(4) of the Public Health etc. (Scotland) Act 2008 (“the Act”). The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

The policy objective is to help to protect the public from the risk of skin damage and the increased risk of developing skin cancer as a result of sunbed use by ensuring that those who intend to use a sunbed are fully informed of these risks.

The measure is part of comprehensive legislation contained in Part 8 of the Act, which regulates the use, sale and hire of sunbeds. The Act prohibits operators from allowing use of sunbeds on their premises by persons under 18; from allowing unsupervised use of sunbeds on their premises; prohibits the sale or hire of sunbeds to persons under 18; places a duty upon operators of sunbed premises to display a public information notice; and requires operators to provide customers with information on the health risks associated with sunbed use each time they intend to use a sunbed. The information to be provided to customers (and the form and manner in which it is to be provided) and the information to be displayed in sunbed premises (and the form and manner of display of the notice) are prescribed by Scottish Ministers in these Regulations.

#### Prescribed Documents

The Regulations also prescribe a form of identification which may be used as proof of age to use a sunbed, in addition to a passport or European driving licence, which are set out in the Act. The Proof of Age Standards Scheme (PASS) is the UK’s national guarantee scheme for proof-of-age cards and is commonly used in legislation covering age-related products. It is easily recognisable and the PASS hologram on the card indicates that the card issuer has passed a stringent and rigorous audit process carried out by Trading Standards Officers and that the card may be relied upon.

#### Provision of health information

In line with the terms of the Act, the prescribed information to be provided to a person each time he/she intends to use a sunbed can only refer to the health effects of sunbed use. The information set out in Schedule 1 of the Regulations is scientifically robust, and is in line with evidence presented and the recommendations made in the report of the Committee of Medical Aspects of Radiation in the Environment (COMARE), published in June. It is also

broadly consistent with the advice provided by the Health and Safety Executive.

### Display notice

The intention is to provide a simple clear message on the health risks associated with sunbed use, which can be easily seen by those intending to use a sunbed on sunbed premises. The recent reclassification of UV-tanning devices as Group 1 carcinogens by the International Agency for Research on Cancer (IARC) has re-enforced the COMARE evidence and supports the health warning set out in Schedule 2, to be displayed in a statutory notice on sunbed premises.

### **Consultation**

The content of the instrument was drawn from the COMARE findings and with assistance from stakeholders, including interests from the NHS, local authorities, the voluntary sector and the sunbed industry. A draft of the instrument was the subject of public consultation between 24 June 2009 and 17 September 2009, including to approximately 650 sunbed operators. A total of 28 responses were received.

There was broad support for the proposals apart from the majority of sunbed businesses and their trade representatives, who questioned the validity of the scientific evidence and felt that the health risk messages were too strong.

The Scottish Government has reviewed the evidence post-consultation and is confident that the information set out in the Regulations, which is to be provided to potential users of sunbeds and to be displayed on sunbed premises, is supported by scientific evidence.

### **Financial Effects**

#### Costs to Scottish Government

The notices which sunbed operators are to display and the information materials to be provided to potential sunbed users, as prescribed in the Regulations, will be developed by the Scottish Government and stocks will be issued to operators. This will cost approximately £10,000. After the initial distribution, information materials will be available on the Scottish Government web-site to download.

In addition, the Scottish Government will carry out an awareness-raising campaign, in partnership with Cancer Research UK, on the implementation of the Act and the Regulations. This will cost around £50,000. The full cost of the development, production and distribution of the information materials and the awareness-raising campaign will be met from existing budgets and will not be an additional cost to the Scottish Government.

### Costs to local authorities

There will be minimum financial impact on local authorities. Although local authority officers (Environmental Health Officers (EHOs) and Trading Standards Officers) will enforce the legislation, it does not require an additional timetable of inspections of premises. EHOs already have duties in respect of sunbed premises under health and safety at work legislation and it is anticipated that inspection of premises to ensure compliance with the new legislation will be incorporated within this existing work, without any significant additional costs being incurred by local authorities.

### Costs on other bodies, individuals and businesses

There will be minimal cost to sunbed operators from these Regulations as significant supplies of materials will be provided, free of charge, by the Scottish Government. Thereafter, materials will be available to download from the Scottish Government web-site.

Scottish Government  
CMO and Public Health Directorate  
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