

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 8

Regulation of Provision of Sunbeds

Offences

Section 95 Prohibition on allowing use of sunbeds by persons under 18

189. This section bans allowing the use of sunbeds by under 18s on commercial premises. An operator who allows a person who is under 18 to use a sunbed on sunbed premises commits an offence.
190. Subsections (2) and (3) provide a defence for the operator. Subsection (4) lists the documents that may be used to demonstrate proof of age. Subsection (5) allows the operator to rely on steps taken by an employee or agent.

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

191. This section bans the sale or hire of sunbeds to persons under 18.
192. Subsection (1) sets out the offence of sale and subsection (2) sets out the offence of hire. Subsection (3) provides a defence for a seller or hirer, if the seller or hirer believed a person to be 18 or over and had taken reasonable steps to establish a person's age.
193. Subsection (5) provides a list of documents that can be used to demonstrate proof of age. Subsection (6) allows the operator to rely on steps taken by an employee or agent.

Section 97 Remote sale or hire of sunbeds

194. This section concerns the situation where a sale or hire of a sunbed takes place in circumstances where the premises that receive an order are not the same as the premises from which the sunbed is despatched for sale or hire. Subject to subsection (3), the sale or hire is to be treated as taking place on the premises where the order was taken. Subsection (3) provides that, whereas the premises where the order is taken are not in Scotland but the premises from which the sunbed is despatched are in Scotland, the sale or hire is to be treated as taking place on the premises from which the sunbed is despatched.

Section 98 Prohibition on allowing unsupervised use of sunbeds

195. This section prohibits allowing the unsupervised use of sunbeds. It is an offence for an operator of a sunbed premises to allow a person to use a sunbed on those premises without supervision, unless the operator can provide a reasonable excuse.

196. Under subsection (2) sunbed premises are regarded as being supervised 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.

Section 99 Medical use of sunbeds

197. This section allows the Scottish Ministers to make regulations in relation to sunbeds used for medical purposes. This future proofs the legislation against the possibility that operators may try to circumvent the provisions by offering ‘medical devices’, which produce tanning of the skin, rather than ‘sunbeds’. Subsection (2) sets out that the regulations may make provision regarding what is to be considered a sunbed or sunbed premises as well as the circumstances in which the provisions of this Part do and do not apply. Regulations will be made by affirmative procedure.

Section 100 Duty to provide information to sunbed users

198. Under this section sunbed operators must provide sunbed users with information on the effects on health of sunbed use. It is an offence to fail to provide the information but subsection (4) provides a defence. Subsection (2) states that the information to be provided must be the information prescribed by the Scottish Ministers in regulations. This information is to be provided on each occasion a person uses a sunbed on sunbed premises. Under subsection (5), the Scottish Ministers may prescribe the information that is to be provided and the form and manner in which it is to be provided.

Section 101 Duty to display information notice

199. This section requires sunbed operators to display an information notice on sunbed use in a position which is clearly visible to anyone proposing to use a sunbed on the premises. The notice must contain the information prescribed by the Scottish Ministers in accordance with subsection (4). It is an offence to fail to display the notice but subsection (3) provides a defence. Under subsection (4), the Scottish Ministers may prescribe the information that the notice is to contain and the form and manner in which the information is to be provided.