

*Status: Point in time view as at 01/05/2012. This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Sunbeds Act (Northern Ireland) 2011, Cross Heading: Offences. (See end of Document for details)*



## 2011 CHAPTER 19

### *Offences*

#### **Prohibition on allowing use of sunbeds by persons under 18**

1.—(1) An operator of sunbed premises who—

- (a) allows a person who is under 18 to use a sunbed on those premises, or
- (b) allows a person who is under 18 to be present (except in the course of providing services to the operator for the purposes of the business of the sunbed premises) in a restricted zone on those premises,

commits an offence.

(2) 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(3) Without prejudice to any other means of proving the matters specified in subsection (2), for the purposes of subsection (2) the operator (or an employee or agent of the operator) is to be treated as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence if—

- (a) the operator (or an employee or agent of 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;
- (b) a European Union photocard driving licence; or

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(c) such other document (or description of document) as may be prescribed.

(5) Subsections (6) and (7) have effect for determining what is for the purposes of subsection (1)(b) a restricted zone.

(6) If a sunbed on the sunbed premises is in a wholly or partly enclosed space that is reserved for users of that sunbed, every part of that space is a restricted zone.

(7) If a sunbed is in a room on the sunbed premises but not in a space falling within subsection (6), every part of that room is a restricted zone.

(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Commencement Information**

II S. 1 in operation at 1.5.2012 by S.R. 2012/90, art. 2

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

2.—(1) A person (the “seller”) who sells a sunbed to a person who is under 18 commits an offence.

(2) A person (the “hirer”) who 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 prove that the seller or hirer (or an employee or agent of the seller or hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) Without prejudice to any other means of proving the matters specified in subsection (3), for the purposes of subsection (3) the seller or hirer (or an employee or agent of the seller or hirer) is to be treated as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence if—

(a) the seller or hirer (or an employee or agent of 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;

(b) a European Union photocard driving licence; or

(c) such other document (or description of document) as may be prescribed.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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#### Commencement Information

**I2** S. 2 in operation at 1.5.2012 by S.R. 2012/90, art. 2

### Prohibition on allowing unsupervised use of sunbeds

**3.—(1)** An operator of sunbed premises who 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I3** S. 3 in operation at 1.5.2012 by S.R. 2012/90, art. 2

### Duty to provide information to sunbed users, or buyers etc.

**4.—(1)** An operator of sunbed premises who fails to comply with a requirement in subsection (2) or (3) commits an offence.

(2) The operator must provide a person who proposes to use a sunbed on those premises with such health information and such other information as may be prescribed in accordance with subsection (11).

(3) That information is to be provided each time the person proposes to use a sunbed on those premises.

(4) A person (“the seller”) who sells a sunbed to a person and who fails to comply with the requirement in subsection (5) commits an offence.

(5) The seller must provide a person who is buying the sunbed with such health information and such other information as may be prescribed in accordance with subsection (11).

(6) A person (“the hirer”) who hires a sunbed to a person and who fails to comply with the requirement in subsection (7) commits an offence.

(7) The hirer must provide a person who is hiring the sunbed with such health information and such other information as may be prescribed in accordance with subsection (11).

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(8) 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(9) In proceedings for an offence under subsection (4), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(10) In proceedings for an offence under subsection (6), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(11) The Department may prescribe—

- (a) the health information and other information which is to be provided;
- (b) the form and manner in which that information is to be provided.

(12) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Commencement Information**

**I4** S. 4 in operation at 13.2.2012 for specified purposes by [S.R. 2012/41, art. 2](#)

**I5** S. 4 in operation at 1.5.2012 in so far as not already in operation by [S.R. 2012/90, art. 2](#)

#### **Duty to display information notice**

**5.—(1)** An operator of sunbed premises who fails to comply with the requirement in subsection (2) commits an offence.

(2) That requirement is to display a notice—

- (a) containing such health information and such other 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) The Department may prescribe—

- (a) the health information and other information which the notice is to contain;
- (b) the form and manner of display of the notice.

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(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

- I6** S. 5 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, art. 2  
**I7** S. 5 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, art. 2

#### Prohibition on provision or display of other information

6.—(1) An operator of sunbed premises who provides or displays any material that contains statements relating to the health effects of sunbed use other than—

- (a) statements containing information prescribed under section 4(11) or 5(4), or
- (b) statements containing any other information prescribed for the purposes of this subsection,

commits an offence.

(2) 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

#### Commencement Information

- I8** S. 6 in operation at 1.5.2012 by S.R. 2012/90, art. 2

#### Protective eyewear

7.—(1) An operator of sunbed premises who fails to comply with a requirement in subsection (2) or (3) commits an offence.

(2) The operator must make available protective eyewear for a person who proposes to use a sunbed on those premises.

(3) The operator must secure as far as reasonably practicable that a person who uses a sunbed on those premises wears protective eyewear.

(4) A person (the “seller”) who sells a sunbed to a person and who fails to comply with the requirement in subsection (5) commits an offence.

(5) The seller must provide a person who is buying the sunbed with protective eyewear.

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(6) A person (the “hirer”) who hires a sunbed to a person and who fails to comply with the requirement in subsection (7) commits an offence.

(7) The hirer must provide a person who is hiring the sunbed with protective eyewear.

(8) Regulations may provide that the protective eyewear referred to in this section must meet such requirements as may be prescribed.

(9) 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(10) In proceedings for an offence under subsection (4), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(11) In proceedings for an offence under subsection (6), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(12) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(13) In this section “protective eyewear” means eyewear designed to protect the eyes of a person using a sunbed from ultraviolet radiation.

#### Commencement Information

**19** S. 7 in operation at 1.5.2012 by S.R. 2012/90, art. 2

PROSPECTIVE

#### Requirements in relation to training

**8.—(1)** An operator of sunbed premises who fails to comply with a requirement in subsection (2) commits an offence.

(2) The operator must—

- (a) meet such requirements in relation to training as may be prescribed; and
- (b) secure that such employees or agents of the operator as may be prescribed meet such requirements in relation to training as may be prescribed.

(3) A person (the “seller”) who sells a sunbed to any person and who fails to meet such requirements in relation to training as may be prescribed commits an offence.

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(4) A person (the “hirer”) who hires a sunbed to any person and who fails to meet such requirements in relation to training as may be prescribed commits an offence.

(5) 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(6) In proceedings for an offence under subsection (3), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(7) In proceedings for an offence under subsection (4), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PROSPECTIVE

### **Requirements in relation to sunbeds**

**9.—(1)** An operator of sunbed premises who fails to comply with the requirement in subsection (2) commits an offence.

(2) The operator must secure that each sunbed which the operator makes available for use on those premises meets such requirements as may be prescribed.

(3) A person (the “seller”) who sells a sunbed to a person and who fails to comply with the requirement in subsection (4) commits an offence.

(4) The seller must secure that a sunbed referred to in subsection (3) meets such requirements as may be prescribed.

(5) A person (the “hirer”) who hires a sunbed to a person and who fails to comply with the requirement in subsection (6) commits an offence.

(6) The hirer must secure that a sunbed referred to in subsection (5) meets such requirements as may be prescribed.

(7) 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) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

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(8) In proceedings for an offence under subsection (3), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(9) In proceedings for an offence under subsection (5), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(10) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Exemption for medical treatment**

**10.—**(1) No offence is committed under this Act in respect of any use of a sunbed that falls within subsection (2).

(2) The use of a sunbed falls within this subsection if—

- (a) the use is for the purpose of medical treatment provided under the supervision or direction of a registered medical practitioner; and
- (b) the sunbed is a dedicated sunbed in, or provided by, a healthcare establishment.

(3) In subsection (2)—

“dedicated sunbed” means a sunbed that is made available only for use for the purpose of medical treatment;

“healthcare establishment” means a hospital, an independent hospital, independent clinic or independent medical agency within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (NI 9);

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 (c. 54) who holds a licence to practise under that Act.

#### **Commencement Information**

**I10** S. 10 in operation at 1.5.2012 by S.R. 2012/90, art. 2



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