



# Sunbeds (Regulation) Act 2010

## CHAPTER 20

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# Sunbeds (Regulation) Act 2010

## 2010 CHAPTER 20

An Act to make provision about the use or supply of tanning devices that use artificial ultra-violet radiation; and for connected purposes. [8th April 2010]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### 1 Main interpretative provisions

- (1) The following provisions apply for the interpretation of this Act.
- (2) “Sunbed” means an electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation.
- (3) A “sunbed business” is a business that involves making one or more sunbeds available for use on premises that are occupied by, or are to any extent under the management or control of, the person who carries on the business; and those sunbeds are the sunbeds to which the business relates.

### 2 Duty to prevent sunbed use by children

- (1) A person who carries on a sunbed business (“P”) must secure—
  - (a) that no person aged under 18 uses on relevant premises a sunbed to which the business relates;
  - (b) that no offer is made by P or on P's behalf to make a sunbed to which the business relates available for use on relevant premises by a person aged under 18;
  - (c) that no person aged under 18 is at any time present, otherwise than in the course of providing services to P for the purposes of the business, in a restricted zone.
- (2) In this section “relevant premises” means premises which—
  - (a) are occupied by P or are to any extent under P's management or control, and

- (b) are not domestic premises.
- (3) Subsections (4) and (5) have effect for determining what is for the purposes of subsection (1)(c) a “restricted zone”.
- (4) If a sunbed to which the business relates is in a wholly or partly enclosed space on relevant premises that is reserved for users of that sunbed, every part of that space is a restricted zone.
- (5) If a sunbed to which the business relates is in a room on relevant premises, but not in a space falling within subsection (4), every part of that room is a restricted zone.
- (6) If P fails to comply with subsection (1), P commits an offence and is liable on summary conviction to a fine not exceeding £20,000.
- (7) It is a defence for a person (“D”) charged with an offence under this section to show that D took all reasonable precautions and exercised all due diligence to avoid committing it.
- (8) This section is subject to section 3 (exemption for medical treatment).

### **3 Exemption for medical treatment**

- (1) 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.
- (2) Section 2(1)(a) does not apply to any use of a sunbed that falls within subsection (1).
- (3) Section 2(1)(b) does not apply to an offer to make a sunbed available for use in a case where the use of the sunbed would fall within subsection (1).
- (4) Section 2(1)(c) does not apply in a case where a person is present in a restricted zone for the purpose of any use of a sunbed in that zone that would fall within subsection (1).
- (5) In subsection (1)—
  - “dedicated sunbed” means a sunbed that is made available only for use for the purpose of medical treatment;
  - “healthcare establishment” means—
    - (a) in England, a hospital as defined by section 275 of the National Health Service Act 2006;
    - (b) in Wales, a hospital as defined by section 206 of the National Health Service (Wales) Act 2006 or an independent hospital, independent clinic, or independent medical agency within the meaning of the Care Standards Act 2000.

### **4 Power to make further provision restricting use, sale or hire of sunbeds**

- (1) Regulations may make provision requiring a person who carries on a sunbed business (“P”) to secure that—
  - (a) the use of sunbeds to which the business relates is supervised in such manner as the regulations may require;

- (b) no sunbed to which the business relates is used on domestic premises by a person aged under 18;
  - (c) no offer is made by P or on P's behalf to make a sunbed to which the business relates available for use on domestic premises by a person aged under 18.
- (2) Regulations may make provision prohibiting or restricting the sale or hire of sunbeds to persons aged under 18.
  - (3) Before making regulations under subsection (1)(a) or (2), the appropriate national authority must consult persons appearing to the appropriate national authority to have an interest in the subject-matter of the proposed regulations.
  - (4) Consultation undertaken by the appropriate national authority before the commencement of this section is as effective for the purposes of subsection (3) as consultation undertaken after that time.

## **5 Power to require information to be provided to sunbed users**

- (1) Regulations may make provision requiring any person who carries on a sunbed business—
  - (a) to provide, in prescribed circumstances and in a prescribed manner, prescribed health information to persons who are using or may seek to use a sunbed;
  - (b) to display prescribed health information in a prescribed manner and in a prescribed form.
- (2) In subsection (1) “health information” means information about the health risks associated with the use of sunbeds.
- (3) Regulations may make provision prohibiting any person who carries on a sunbed business from providing or displaying any material that contains statements relating to the health effects of sunbed use other than—
  - (a) statements containing information prescribed under subsection (1), or
  - (b) statements containing any other information prescribed for the purposes of this subsection.

## **6 Protective eyewear**

- Regulations may make provision requiring any person who carries on a sunbed business—
- (a) to secure that protective eyewear meeting prescribed requirements is made available in connection with any use of a sunbed to which the business relates, and
  - (b) to secure as far as reasonably practicable that persons who use a sunbed to which the business relates wear protective eyewear meeting those requirements.

## **7 Enforcement by local authorities**

- (1) It is the duty of a local authority to enforce in its area the provisions of section 2.
- (2) For that purpose it is the duty of every local authority to appoint officers (“authorised officers”).
- (3) The Schedule makes provision about powers of entry and related matters.

## **8 Obstruction etc. of authorised officers**

- (1) A person who without reasonable excuse obstructs an authorised officer, acting in the exercise of the officer's functions under this Act, commits an offence.
- (2) A person who without reasonable excuse fails to give to an authorised officer, acting in the exercise of the officer's functions under this Act, any facilities, assistance or information which the authorised officer reasonably requires of the person for the performance of those functions commits an offence.
- (3) A person ("P") commits an offence if, in purported compliance with any requirement of an authorised officer mentioned in subsection (2) –
  - (a) P makes a statement which is false or misleading in a material respect, and
  - (b) P either knows that it is false or misleading or is reckless as to whether it is false or misleading.
- (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.
- (5) In subsections (1) and (2) references to functions under this Act include references to functions under regulations made under this Act.

## **9 Offences by bodies corporate**

- (1) This section applies where an offence under this Act, or under regulations made under this Act, is committed by a body corporate.
- (2) If the offence is proved to have been committed by, or with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) any director, manager or secretary of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,that director, manager, secretary or person purporting to act as such (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) The reference in subsection (2) to the director, manager or secretary of the body corporate includes a reference to any other similar officer of the body corporate.

## **10 Regulations: general**

- (1) The power to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations under this Act may –
  - (a) make different provision for different cases or different areas,
  - (b) include supplementary, incidental or consequential provision, and
  - (c) make transitional provisions or savings.
- (3) Regulations under this Act may –
  - (a) create offences punishable on summary conviction with a fine not exceeding –
    - (i) a prescribed level on the standard scale, or
    - (ii) a prescribed amount not exceeding £20,000;

- (b) provide for exceptions from any duty imposed by the regulations;
  - (c) provide for defences in relation to any offence created by the regulations.
- (4) Regulations under this Act may also—
- (a) require a local authority to enforce in its area the provisions of the regulations;
  - (b) require a local authority to appoint officers for that purpose;
  - (c) provide for any provision of the Schedule to apply with modifications in relation to an officer so appointed.

## 11 Regulations: control by Parliament or National Assembly for Wales

- (1) A statutory instrument containing regulations made under this Act, except one to which subsection (3) applies, is subject to annulment—
- (a) in the case of regulations made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
  - (b) in the case of regulations made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.
- (2) Subsection (3) applies to an instrument containing (whether alone or with other provisions)—
- (a) regulations under section 4, or
  - (b) regulations under section 5 or 6 which—
    - (i) create an offence or increase the penalty for an offence, or
    - (ii) make provision about any of the matters mentioned in section 10(4)(a) to (c).
- (3) A statutory instrument to which this subsection applies may not be made unless—
- (a) in the case of regulations made by the Secretary of State, a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament;
  - (b) in the case of regulations made by the Welsh Ministers, a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

## 12 Interpretation

- (1) In this Act—
- “the appropriate national authority” means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
- “domestic premises” means premises used wholly or mainly as a private dwelling;
- “local authority” means—
- (a) in relation to England—
    - (i) a district council;
    - (ii) a county council for an area for which there is no district council;
    - (iii) a London borough council;

- (iv) the Common Council of the City of London, in its capacity as a local authority;
  - (v) the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
  - (vi) the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or county borough council;
- “premises” includes any place and, in particular, includes –
- (a) any vehicle or vessel, and
  - (b) any tent or moveable structure;
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the appropriate national authority;
- “sunbed” has the meaning given by section 1(2);
- “sunbed business” has the meaning given by subsection (3) of section 1, and references to a sunbed to which a sunbed business relates are to be read in accordance with that subsection.
- (2) Where any functions of a local authority under this Act are assigned by an order under section 2 of the Public Health (Control of Disease) Act 1984 to a port health authority, any reference in this Act to a local authority is to be read, so far as relating to those functions, as a reference to the port health authority to which they are so assigned.

### **13 Financial provisions**

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

### **14 Short title, commencement and extent**

- (1) This Act may be cited as the Sunbeds (Regulation) Act 2010.
- (2) This Act comes into force at the end of the period of 12 months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales.



## SCHEDULE

Section 7

### POWERS OF ENTRY ETC.

- 1 In this Schedule “authorised officer” means an authorised officer of a local authority.
- 2 An authorised officer has the right, on production (if so required) of the officer’s written authority –
  - (a) to enter any premises (other than domestic premises) at which the officer has reason to believe that a sunbed business is being carried on;
  - (b) to carry out on those premises such inspections as the officer considers necessary for the purpose of the proper exercise of the officer’s functions under this Act;
  - (c) where the officer considers it necessary for that purpose, to require the production of any book, document or record (in whatever form it is held) and inspect it, and take copies of or extracts from it;
  - (d) to take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the officer considers necessary for that purpose;
  - (e) to require any person to give such information, or afford such facilities and assistance, as the officer considers necessary for that purpose.
- 3 An authorised officer may make such purchases and secure the provision of such services as the officer considers necessary for the purpose of the proper exercise of the officer’s functions under this Act.
- 4 A person may not be required under paragraph 2 to answer any question or to produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.
- 5 (1) A justice of the peace may by warrant signed by the justice authorise any authorised officer to enter any premises, other than domestic premises, if needs be by force if the justice is satisfied on sworn information in writing –
  - (a) that for the purpose of the proper exercise of the functions of a local authority under this Act there are reasonable grounds for entry into the premises, and
  - (b) of either or both of the matters mentioned in sub-paragraph (2).(2) Those matters are –
  - (a) that admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant under this Schedule has been given to the occupier or to a person who appears to the local authority to be concerned in the management of the premises;
  - (b) that an application for admission, or the giving of such notice, would defeat the object of the entry, or that the premises are unoccupied, or



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that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return.

- (3) A warrant under this paragraph continues in force until the end of the period of one month beginning with the date on which the justice signs it.
- 6 An authorised officer (“A”) entering any premises by virtue of paragraph 2, or of a warrant under paragraph 5, may take with A such other persons and such equipment as A considers necessary.
- 7 If premises which an authorised officer is authorised to enter by a warrant under paragraph 5 are unoccupied, or if the occupier is temporarily absent, then on leaving them the officer must leave the premises as effectively secured against trespassers as the officer found them.
- 8 If by virtue of paragraph 2(d) an authorised officer takes possession of anything, the officer must leave on the premises from which it was taken a statement giving particulars of what the officer has taken and stating that the officer has taken possession of it.
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