

Public Health (Sunbeds) Act 2014 – FAQs

4 January 2016

The aim of these frequently asked questions (FAQs) is to provide the public with information regarding the Public Health (Sunbeds) Act 2014 (the Act). As interpretation of the law is a matter for the Courts, this document is intended to provide general information on sunbed legislation and should not be construed as legal advice. It is without prejudice to any other legal obligations under criminal or civil law.

What is the rationale behind this legislation?

The primary policy objectives of the Public Health (Sunbeds) Act 2014 are to:

- protect children and those under 18 years of age from the risk of skin damage, in view of their increased risk of developing skin cancer;
- regulate the use of sunbeds by those over 18 years of age so as to reduce their likelihood of developing skin cancer, premature ageing, damage to their eyes and other health risks from exposure to ultra-violet radiation (UVR); and
- generally promote a greater public awareness across all age groups, with a long term view to reduce the incidence of skin cancers.

What are the main provisions of the Act and when will they come into effect?

From 21 July 2014, it was an offence for an owner, manager or employee of a sunbed business to:

- sell or hire a sunbed to any person under 18 years of age;
- permit a person under 18 years of age to use a sunbed on a sunbed premises;
- sell the use of a sunbed on a sunbed premises to a person under 18 years of age ;
- permit a person under 18 years of age to be in a restricted area except where employed or providing services (e.g. maintenance).

Other provisions of the legislation will be implemented from 2 March 2015 including:

- prohibits the owner or manager of a sunbed business from permitting any person to use a sunbed on a sunbed premises without supervision;
- prohibits the owner or manager of a sunbed business from employing a person under 18 years of age to supervise the use of a sunbed on a sunbed premises;

- places a duty on the owner, manager or employee of a sunbed business to make protective eyewear, which complies with the European Standard, available to a person who proposes to use, purchase or hire a sunbed;
- places a duty on the owner or manager of a sunbed business to maintain a sunbed and sunbed premises in a clean and hygienic condition;
- prohibits a person from offering the use, sale, or hire of a sunbed free of charge;
- prohibits the use of certain marketing practices (for example, early bird or “two for the price of one” offers), as may be prescribed by the Minister for the purpose of protecting public health ;
- prohibits the publication of any material that promotes a health or other benefit from sunbed use other than information prescribed by the Minister;
- prohibits the owner or manager of a sunbed business (including websites or social media sites) from making available or displaying any material that promotes a health or other benefit from sunbed use other than information prescribed by the Minister;
- places a duty on the owner or manager of a sunbed business (including websites or social media sites) to display warning signs prescribed by the Minister. Prescribed signs may include information on the adverse health effects of the use of sunbeds and the prohibition on the use of sunbeds by persons under 18 years of age;
- places a duty on the owner, manager or employee of a sunbed business to ensure that a copy of the prescribed health information is provided to a person each time he or she proposes to use, hire or purchase a sunbed and a requirement that the person sign the form confirming that they have been provided with a copy of the health information and have had an opportunity to read and consider it;
- prohibits the owner, manager or employee of a sunbed business from allowing a person, to be in a “restricted area” unless -
 - the person concerned has signed the prescribed form,
 - they are in the course of their employment or providing a services;
- places a duty on the owner of a sunbed business to notify the Health Service Executive (HSE) and pay the required fee (to be prescribed by the Minister);
- provides that the HSE may serve fixed payment notices for offences under sections 8 to 11, 13 to 15 of the Act;
- provides for test purchasing and for the Minister to issue test purchasing guidelines.

Does the Act apply to the use of a sunbed in the home as well as in tanning shops?

The Act does not apply to the use of sunbeds in a private dwelling but applies to –

- the use of a sunbed on a ‘sunbed premises’ (*“premises where a sunbed business is carried on”*),
- the sale or hire of sunbeds (this will include it being an offence to sell or hire a sunbed to persons under 18 years of age for use in a private dwelling),
- the advertising or promotion of the use, sale or hire of sunbeds.

Does the Act apply to the remote sale or hire of sunbed?

Yes. See Section 12.

Can a person under 18 years of age be employed to supervise the use of a sunbed?

- No.

What is the required European Standard for protective eyewear?

The only standard acceptable in the EU for protective eyewear for sunbeds under the Low Voltage Directive is EN 60335-2-27 household and similar electrical appliances – Safety - Particular requirements for appliances for skin exposure to ultraviolet and infrared radiation. These standards have been in place since 1997 and have been updated on two occasions in 2010 and 2013 but any of the three versions are acceptable as there is no technical difference in the requirements of EN 60335-2-27: 1997, 2010, or 2013 relating to protective eyewear for use with UV appliances. Requirements for goggles are set out in Clause 32.102. The current required standards may be revised or revoked but compliance with the relevant European harmonised standards, as stated in the Act, is acceptable.

What about EN 170 standards – are these ok?

The National Standards Authority of Ireland (NSAI) have advised that CENELEC have confirmed that it is acceptable to allow EN 170 marked goggles to be supplied with EN 60335-2-27 sunbeds if the manufacturer provides a declaration that the goggles fulfil the requirements of EN 60335-2-27.

Should you have any queries in relation to the standards they should be referred to the NSAI for direct attention. The NSAI contact details are as follows:

National Standards Authority of Ireland
1 Swift Square, Northwood, Santry, Dublin 9, Ireland D09 A0E4
T: +353 1 807 3800 | F: +353 1 807 3838 | E: info@nsai.ie

Are promotions or offers for the free use, sale or hire of sunbeds prohibited?

- Yes.

Can I display a price list?

- Yes, consumers need to be clear on the prices charged. However, reduced price offers linked to other transactions or for a defined period of time are prohibited. See further information below regarding the need to also show the price per minute if advertising for a block of time greater than one minute.

Can I reduce my prices?

- Yes, sunbed operators are entitled to reduce their prices provided the reduction is a set standard price and not for a specified period of time. For example you could drop your price from €1 per minute to 70c per minute across the board.

Can I sell a block session at a cheaper rate than the per minute rate. E.g. Block session of 60 minutes for €50 when my per minute price is €1 per minute?

- No. In this instance the block session would work out at 83c per minute which is less than the set standard rate of €1 per minute and is therefore prohibited

Can I set different prices for different types of sunbeds e.g. lie-down sunbeds, canopy sunbeds, sun showers or vertical stand-in sunbeds?

- Yes, provided it is a set standard price for each type of bed and is for an indefinite period of time and is not associated with any other transaction, promotion or offer relating to a reduced price of a sunbed session.

Can I give away lotions/creams free of charge or at a reduced price?

- Yes, provided the giveaway or reduction is linked to the lotion/cream and not the sunbed use. For example, if you have an offer of “Buy 10 sunbed sessions and get a bottle of lotion free or half price” this is acceptable as the free or half price refers to lotion only. However, if you have an offer of “Buy 2 bottles of lotion and get a sunbed session free or half price” then this will be prohibited as the offer relates to the sunbed.

Can I advertise the use of a sunbed on condition that it must be used for a minimum period of time?

- No. S.I. No. 279 of 2015 prohibits:
 - The use of a sunbed on a sunbed premises from being advertised, promoted or made available on condition that it is used for a **minimum period of time greater than one minute;**
 - The advertisement or promotion of a sunbed or the use of a sunbed on a sunbed premises, for a block of time unless the price per minute is also displayed in the advertisement or promotion;
 - The advertisement or promotion of a sunbed or the use of a sunbed on a sunbed premises unless the price per minute is shown in the advertisement in the same font, colour and size as the price that applies in respect of any other promotion in the same advertisement.
- Basically this means that sunbed operators can only advertise for a block of time provided the cost of the block of time reflects the same per minute price e.g. €60 per hour would have to be accompanied by a €1 per minute in the same advertisement and in the same font, colour and size. In this instance the price per minute is consistent whether you buy 60 minutes or 1 minute so there is no reduced price being offered.

Do I have to use a single page each time a customer signs the Health Information Form?

- No. The Health Information Form was amended in S.I. No. 168 of 2015 to allow that the form can be used for multiple visits by an individual patron or by multiple patrons over a period of time.

How do I satisfy the Health Warning Information requirements that persons must sign a form saying they understand the warnings relating to sunbed use in cases where my customer has sight or literacy problems and can't read the warning information?

- We have provided for this scenario in S.I. No. 168 of 2015 with the inclusion of a new Health Information Form (B) which provides that a person who is illiterate or blind must have the health information read to them by the owner, manager or employee of the sunbed business and has had an opportunity to consider the information. The customer then either signs or marks the form confirming the health warning information has been read to them.

How do I notify the Health Service Executive?

- To obtain a Notification Form and information on the notification process please contact the Environmental Health Service of the HSE at the **Sunbed National Office, Environmental Health Service, HSE, Galway Business Park, Dangan, Galway** or email sunbeds@hse.ie. Telephone - 091 737350

What is the notification fee?

- The notification fee is €120 for each sunbed premises. The fee must be paid with the initial application and thereafter on or before 1 March each year.

What is the amount of the fixed payment for relevant offences?

- €300 in respect of each relevant offence for which a fixed payment notice issues.

Who will enforce the legislation?

- The Environmental Health Officers (EHO) of the Health Service Executive are responsible for the enforcement of the legislation.

Where can I contact the EHO to make a complaint?

For further information or enquiries regarding enforcement or to make a complaint please contact the HSE at **The Sunbed National Office, Environmental Health Service, HSE, Galway Business Park, Dangan, Galway**

Email – sunbeds@hse.ie
Telephone - 091 737350

For further information regarding the Act please contact the Environmental Health Unit of the Department of Health at EHU@health.gov.ie, phone +353(0)1 635 4403.

What are the offences for non-compliance?

A person who commits an offence under the Act is liable on summary conviction for:

- a first offence to a Class B fine (not exceeding €4,000) or imprisonment for up to 6 months, or both;
- a second or subsequent offence is a Class A fine (not exceeding €5,000) or imprisonment for up to 12 months, or both.

Statistics

- According to figures produced by the National Cancer Registry there were over 10,000 cases of skin cancer in 2011 in Ireland.
- There are over 850 new cases of melanoma in Ireland each year.
- Over 150 Irish people die each year from melanoma.
- There were over 7,000 people alive with this type of cancer in 2011.
- Data from the HSE indicates that the cost of treating skin cancer ranges from €6,000 to €10,000 per patient depending on the complexity of the disease. Recently new high oncology drugs such as Ipilimumab and Vemurafenib (an oral BRAF inhibitor) have become available for patients with progressive melanoma. The cost of these treatments can range from €50,000 to €100,000 per patient. There are around 60-80 patients per year with such advanced melanomas.
- The incidence of cancer in Ireland is expected to double by 2040 and the fastest growing number of cancers are expected to be skin cancers.