

Public Health (Sunbeds) Act 2014 – *(Number 12 of 2014)*

Guidance for Industry

June 2018 – REVISION 5



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Department of Health
Hawkins House
Hawkins Street
Dublin 2
Tel: 01 635 4403
E-mail: EHU@health.gov.ie
Website: www.health.gov.ie

Sunbed National Office
Environmental Health Services
Health Service Executive
Galway Business Park
Dangan
Galway
Tel: 091 737350
E-mail: sunbeds@hse.ie
Website: www.hse.ie

Introduction

Skin cancer is the most common type of cancer in Ireland and is a particular problem for Irish people because of their fair skin. Sunbeds and sunlamps used for tanning purposes are the main source of deliberate exposure to artificial ultra-violet radiation (UVR).

There has been a growing body of evidence over recent years that the use of sunbeds, especially by children, should be restricted because of the associated increased risk of skin cancer and other health problems.

In 2003, the World Health Organisation (WHO) published *Artificial Tanning Sunbeds Risks and Guidance* wherein it suggested that Governments should consider comprehensive legislation to govern the operation of sunbeds and this legislation “*should be legally binding and be capable of local enforcement*”.

In June 2006, *A Strategy for Cancer Control in Ireland* was published by the National Cancer Forum which recommended the regulation of sunbeds including restricting their use to adults only.

The WHO’s International Agency for Research on Cancer (IARC), is a recognised leading expert scientific body charged with providing evidence-based science to underpin global cancer control policies. In 2009 they reclassified sunbed use from a group 2A carcinogen (probably carcinogenic to humans) to a Group 1 carcinogen, (carcinogenic to humans), thereby placing it in the same category as environmental tobacco smoke.

In 2009, the Chief Medical Officer’s (CMO) Office conducted an international literature review of the health effects associated with the use of UV-emitting tanning devices. The review concluded that those who used sunbeds before the age of 30 had a 75% greater probability of contracting skin cancer. The CMO’s review concluded that the available medical evidence justified a complete prohibition on the use of sunbeds by those under 18 years of age, based on the significantly increased risks associated with UV exposure in early years.

Taking the above factors into consideration the Minister for Health has introduced the Public Health (Sunbeds) Act 2014 (the Act), the primary policy objectives of which 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.

Guidance Document

The aim of this publication is to provide guidance in relation to the measures introduced on **21 July 2014 and 2 March 2015** to persons who have responsibilities under this legislation, including the owner, manager or employee of a sunbed business.

As interpretation of the law is a matter for the Courts, this guidance 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.

The Department of Health would like to thank the Department of Health, Social Services and Public Safety, Northern Ireland for the use of images and text in this Guidance Document.

Data Protection

The Health Service Executive (HSE) fully respects your right to privacy. Any personal information relating to an applicant for sunbed business notification will be treated in accordance with the Data Protection Acts, 1988 and 2003 (and any amending or substituting legislation). Your personal information will be used only for the purposes for which it is provided, for example, for conducting regulatory checks or requirements or to comply with a legal process. You are entitled to access information that the HSE holds relating to you and can do so by applying to the HSE in writing and on payment of the prescribed statutory fee. The HSE reserve the right to charge a reasonable administration fee for each access request. The HSE are entitled to take reasonable steps to establish your identity in relation to any query, amendment, access or deletion request in respect of the Sunbed Notification List.

Freedom of Information

The Department of Health and the Health Service Executive are both prescribed as a 'Public Body' within the meaning of the Freedom of Information Act 2014. Pursuant to the provisions of the Freedom of Information Act 2014, certain information provided to either the Department of Health or the Health Service Executive may form the subject of a Freedom of Information request. Personal information concerning identifiable individuals is not disclosable under the Freedom of Information Act other than to the individual concerned except under limited circumstances provided for in the legislation.

What does the new law do?

The Act is being commenced on a phased basis and the provisions set out below (1 -7) were commenced on 21 July 2014.

The Public Health (Sunbeds) Act 2014:

1. prohibits the owner, manager or employee of a sunbed business from allowing a person under 18 years of age to use a sunbed on a sunbed premises;
2. prohibits the owner, manager or employee of a sunbed business from allowing a person under 18 years of age to be in a “restricted area” except where employed or providing services – see definition of “restricted area” on page 7 and examples of ‘restricted areas’ in Annexes I, II and III;
3. prohibits the owner, manager or employee of a sunbed business from selling the use of a sunbed on a sunbed premises to a person under 18 years of age;
4. prohibits the sale or hire of sunbeds to a person under 18 years of age;
5. deems transactions made outside the State to have taken place in the State where the despatch centre is in the State (remote sale or hire of a sunbed);
6. provides for an exemption for phototherapy provided under the supervision or direction of a specialist in dermatology or paediatrics in a healthcare establishment;
7. provides for an enforcement regime to enable inspections to be carried out by the Environmental Health Officers in the HSE and for offences and penalties.

The provisions set out below (8-21) were commenced on 2 March 2015.

The Act also:

8. prohibits the owner or manager of a sunbed business from permitting any person to use a sunbed on a sunbed premises without supervision;
9. 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;
10. 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;
11. 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;
12. prohibits a person from offering the use, sale, or hire of a sunbed free of charge;
13. 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 ;
14. prohibits the publication of any material that promotes a health or other benefit from sunbed use other than information prescribed by the Minister;
15. prohibits the owner or manger 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;
16. 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;
17. 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;
 18. prohibits the owner, manager or employee of a sunbed business from allowing a person, to be in a "restricted area" unless -
 - a. the person concerned has signed the prescribed form,
 - b. they are in the course of their employment or providing a service;
 19. 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);
 20. provides that the HSE may serve fixed payment notices for offences under sections 8 to 11, 13 to 15 of the Act.
 21. provides for test purchasing and for the Minister to issue test purchasing guidelines.

The provisions relating to training in Section 14 will be implemented later in the year.

Commencement of Certain Provisions of the Public Health (Sunbeds) Act 2014

- Public Health (Sunbeds) Act 2014 (Commencement) Order 2014 (S.I. No. 299 of 2014) commenced Sections 1 to 5, 12, 16, 17 (except for (1)(l)), 19 and 22 to 25 of the Act on 21 July 2014.
- Public Health (Sunbeds) Act 2014 (Commencement) Order 2015 (S.I. No. 37 of 2015) commenced Sections 9(2) and (5), 11, 13, 15 and 20 on 9 February 2015 and Sections 6, 7, 8, 10, 17(1)(l), 18 and 21 on 2 March 2015.
- The remaining section 14 (Training) will be implemented at a later date.
- The following five regulations which came into operation on 2 March 2015 have also been introduced by the Minister.
 - Public Health (Sunbeds)(Health Information) Regulations 2015 (S.I. No. 50 of 2015) - amended by S.I. No. 168 of 2015
 - Public Health (Sunbeds)(Prohibition of Certain Marketing Practices) Regulations 2015 (S.I. No. 51 of 2015) - amended by S.I. No. 279 of 2015
 - Public Health (Sunbeds)(Notification) Regulations 2015 (S.I. No. 52 of 2015)
 - Public Health (Sunbeds)(Warning Signs) Regulations 2015 (S.I. No. 53 of 2015)
 - Public Health (Sunbeds)(Fixed Payment Notice) Regulations 2015 (S.I. No. 60 of 2015)

Definitions

The following definitions will apply for the purpose of this guidance document.

“authorised officer” means a person appointed under *section 16 of the Act*;

“age card” has the same meaning as it has in Part IV of the Intoxicating Liquor Act 1988;

“employee” means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and includes a fixed-term employee, a temporary employee, a person who is training for employment or receiving work experience and a member of the family of an employer and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

“employer”, in relation to an employee—

(a) means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment,

(b) includes a person (other than an employee of that person) under whose control and direction an employee works, and

(c) includes where appropriate, the successor of the employer or an associated employer of the employer;

“hire” includes to offer for hire or to hire or to supply, whether or not for profit, and cognate words shall be construed accordingly;

“Minister” means the Minister for Health;

“premises” includes a building, a dwelling or other structure, or part of a building, dwelling or other structure, a vessel, a vehicle, a tent, caravan or other temporary or movable structure;

“prescribed” means prescribed by regulations made by the Minister;

“restricted area” means—

(a) a wholly or partly enclosed space on a sunbed premises where there is a sunbed, or

(b) a room, other than a space referred to in *paragraph (a)*, in a sunbed premises where there is a sunbed;

“sale” includes to offer for sale or to sell or to supply, whether or not for profit, and cognate words shall be construed accordingly;

“sunbed” means an electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation;

“sunbed business” means, as the context requires, a business where one or more than one sunbed is made available for use or a business which sells or hires sunbeds or advertises or promotes the use, sale or hire of sunbeds;

“sunbed premises” means premises on which a sunbed business is carried on.

What does the Act apply to?

Relevant Legislation

Section 3 of the Public Health (Sunbeds) Act 2014 sets out what the legislation will apply to and provides for an exemption for the use of a source of ultra-violet radiation for phototherapy provided under the supervision or direction of a relevant medical practitioner in a healthcare establishment, or provided elsewhere by that establishment under such supervision or direction. *Subsection 3* provides for a definition for the terms used in this section.

The Act 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.

The Act also applies to remote sale or hire of sunbeds (Section 12).

The sale or hire of a sunbed takes place where the order for the sunbed is placed, **except** where the order is taken from a premises outside the State but is despatched from a premises within the State.

In such cases, the sale or hire is deemed to have taken place from the despatch centre. This brings despatch centres in the State within the scope of the legislation when the order is taken outside the State. For example, if a sunbed is ordered from Northern Ireland for delivery within the State and is dispatched from Dundalk, the sale or hire is deemed to have taken place at the Dundalk dispatch centre and therefore this legislation will apply to such transactions.

The Act does not apply to the use of artificial ultra-violet radiation (UVR) used in phototherapy under the supervision or direction of a specialist in dermatology or paediatrics or speciality as prescribed by the Minister ("*relevant medical practitioner*") in a "*healthcare establishment*".

The exemption for medical treatment does not include GP certification of sunbed use for under 18s.

Prohibition on permitting the use of sunbeds in sunbed premises by persons under 18 years of age.

Relevant Legislation

Section 4 of the Public Health (Sunbeds) Act 2014 provides for a prohibition on permitting the use of a sunbed by a person under 18 years of age on a sunbed premises; selling the use of a sunbed to such a person or on permitting such person in a restricted area (except in the course of employment in the business or the provision of services to the business). *Subsection (3)* provides for a defence for any person who contravenes these prohibitions.

What does this mean?

The owner, manager or employee of a sunbed business shall not:

- sell the use of 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 (for example, maintenance);
- permit a person under 18 years of age to use a sunbed on a sunbed premises.

A person who contravenes these prohibitions commits an offence.

Section 4 (3) provides for a defence in any proceedings for a person who contravenes these prohibitions to prove that the person under 18 years of age produced an “age card”, passport or driving license.

Prohibition on the sale or hire of sunbeds to persons under 18 years of age.

Relevant Legislation

Section 5 of the Public Health (Sunbeds) Act 2014 provides for a prohibition on the sale or hire of a sunbed to a person under 18 years of age. *Subsection (3)* provides for a defence for any person who contravenes these prohibitions.

What does this mean?

The owner, manager or employee of a sunbed business shall not:

- sell or hire;
- offer for sale or hire; or
- permit to be sold or hired or offered for sale or hire, a sunbed to a person under 18 years of age.

Section 5 (3) provides for a defence in any proceedings for a person who contravenes these prohibitions to prove that the person under 18 years of age produced an “*age card*”, passport or driving license.

A person who contravenes these prohibitions commits an offence.

Prohibition on Unsupervised Use of a Sunbed

Relevant Legislation

Section 6 of the Public Health (Sunbeds) Act 2014 prohibits the owner or manager of a sunbed business from permitting any person to use a sunbed on a sunbed premises without supervision. It also 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.

Subsection (2) provides that a person who is supervising a sunbed must ensure that the person using the sunbed is over the age of 18 years; protective eyewear is made available; a copy of the prescribed information form has been provided to the person proposing to use the sunbed; that the person concerned has had an opportunity to read that information and the prescribed form has been signed by the person who proposes to use the sunbed.

What does this mean?

The owner or manager of a sunbed business must not:

- permit a person to use a sunbed on a sunbed premises except under the supervision of the owner or manager concerned or an employee of the sunbed business concerned;
- employ a person who is under 18 years of age to supervise the use of a sunbed on a sunbed premises.

A person who is supervising the use of a sunbed is required to:

- verify that the person proposing to use the sunbed is over the age of 18 years;
- ensure that protective eyewear is made available;
- provide a copy of the *'Health Warning - Information for Sunbed Users'* each time the person proposes to use the sunbed;
- ensure the person concerned has had an opportunity to read that information each time they propose using the sunbed; and
- ensure that the *'Health Information Form'* has been signed each time by the customer who will be using the sunbed.

A person who contravenes any of the above provisions commits an offence.

In summary

The use of a sunbed on a sunbed premises must be supervised at all times by a person who is 18 years of age or over.

A supervisor must be present on the sunbed premises any time a person is proposing to use or is using a sunbed.

'Coin operated', 'card operated' or remotely accessed pre-paid sunbeds must be supervised.

Verification of age

The following documents can be used by the supervisor to verify the age of the person proposing to use a sunbed -

- an age card,
- a passport, or
- a driving license,

relating to that person.

Protective Eyewear

Relevant Legislation

Section 7 of the Public Health (Sunbeds) Act 2014 provides that the owner, manager or employee of a sunbed business shall make protective eyewear available to a person who proposes to use, purchase or hire a sunbed. It also provides that the owner, manager or employee of a sunbed business shall ensure that a person who uses a sunbed on the sunbed premises concerned wears protective eyewear and that single use eyewear must be disposed of after use and multi-use eyewear must be appropriately sanitised before re-use.

Subsection (2) requires the owner or manager of a sunbed business to retain on the sunbed premises, for the purpose of inspection by an authorised officer, documentary evidence that the protective eyewear made available complies with the required standard for a period of not less than 2 years. It will be an offence to contravene the provisions relating to protective eyewear. Subsection (4) defines the terms used in this section.

What does this mean?

The owner, manager or employee of a sunbed business must:

- make protective eyewear available to a person who proposes to use, purchase or hire a sunbed;
- ensure that a person who uses a sunbed on the sunbed premises concerned wears protective eyewear;
- ensure that single-use eyewear is disposed of after use;
- ensure that multi-use eyewear is appropriately sanitised before re-use;
- ensure the protective eyewear complies with any of the three versions (1997, 2010 or 2013) of the standards in EN 60335 Part 2-27 Clause 32.102.

The owner or manager of a sunbed business shall:

- retain for such period as the protective eyewear concerned is available for use, and in any event for a period of not less than 2 years, on the sunbed premises for the purpose of inspection by an Environmental Health Officer, documentary evidence that protective eyewear made available complies with the required standard.

A person who contravenes these provisions commits an offence.

In this section:

“protective eyewear” means eyewear, designed to protect the eyes of a person using a sunbed from ultra-violet radiation, which complies with the required standard;

“required standard” means the standard for protective eyewear included in the European harmonised standards published from time to time by the European Committee for

Standardization (CEN) or the European Committee for Electrotechnical Standardization (CENELEC).

The required standards are:

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.

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.

It is the responsibility of the supplier of the sunbed into the market to ensure that the protective eyewear complies with the requirements of the above standards.

If suppliers wish to test compliance with the standard then they should use accredited labs.

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

Enforcement

In terms of enforcement, an Environmental Health Officer may examine protective eyewear on the premises and where the Environmental Health Officer reasonably considers such eyewear does not meet the standard required under *section 7* remove, without payment, such eyewear for further inspection, examination and testing and, where the protective eyewear concerned does not meet the standard required, destroy that eyewear, (Section 17(1)(l)).

Hygiene

Relevant Legislation

Section 8 of the Public Health (Sunbeds) Act 2014 places a duty on the owner or manager of a sunbed business to ensure that a sunbed provided for use on the sunbed premises is maintained at all times in a clean and hygienic condition. It also requires that the sunbed premises is maintained in good repair and in a clean and hygienic condition.

What does this mean?

The owner or manager of a sunbed business must:

- maintain a sunbed premises in good repair and in a clean and hygienic condition; and
- ensure that a sunbed provided for use on those premises is maintained at all times in a clean and hygienic condition.

A person who contravenes these provisions is guilty of an offence.

The owner or manager is responsible for cleaning the sunbed, not the person using the sunbed.

Prohibition of Certain Marketing Practices

Relevant Legislation

Section 9(1) of the Public Health (Sunbeds) Act 2014 prohibits a person from offering the use, sale, or hire of a sunbed free of charge. Section 9(2) prohibits the use of certain marketing practices which may be prescribed by the Minister for the purpose of protecting public health and in particular for the purpose of reducing the risk to health arising from the use of sunbeds.

Section 9(4) provides that the requirements in subsections (1) and (2) do not prevent a sunbed business offering the sale or hire of a sunbed at a reduced price or free of charge to another sunbed business.

The Public Health (Sunbeds) (Prohibition of Certain Marketing Practices) Regulations 2015 (S.I. No. 51 of 2015) prescribe the marketing practices which are prohibited.

These were amended by **the Public Health (Sunbeds) (Prohibition of Certain Marketing Practices) (Amendment) Regulations 2015 (S.I. No. 279 of 2015)**.

What does this mean?

- A person must not offer the use, sale or hire of a sunbed free of charge.
- A person must not advertise or promote or cause to be advertised or promoted the use, sale or hire of a sunbed free of charge.
- A person must not advertise or promote or cause to be advertised or promoted the use, sale or hire of a sunbed at a reduced price to a customer, where that customer or any other person-
 - buys a sunbed, sunbed session, or product or service, or
 - hires a sunbed.
- A person must not sell, or cause to be sold the use of a sunbed at a reduced price, to a customer, where that customer or any other person-
 - buys a sunbed, sunbed session, or product or service, or
 - hires a sunbed.
- A person must not make available, or cause to be made available, a sunbed for sale or hire, at a reduced price, to a customer, where that customer or any other person-
 - buys a sunbed, sunbed session, or product or service, or
 - hires a sunbed.
- A person must not—
 - advertise or promote, or cause to be advertised or promoted, the sale or hire of,

- sell, or cause to be sold,
- hire, or cause to be hired, or
- make available, or cause to be made available

a sunbed or the use of a sunbed at a reduced price to a customer for a defined period of time.

Note: In this provision “reduced price” means a price less than that normally charged for the use, sale or hire of the sunbed outside of the defined period of time.

- A person must not carry out, or cause to be carried out—
 - promotions for the purposes of promoting sunbed use, or
 - any event or activity that is likely to encourage persons to use sunbeds on premises where sunbeds are used, sold or hired.

A person who contravenes these provisions is guilty of an offence.

Summary

Free of Charge Offers, Advertisements and Promotions

Any offers, advertisements or promotions of the use, sale or hire of a sunbed free of charge are prohibited. No matter what the terms or conditions, or what it is linked to, the free use, sale or hire of sunbeds is prohibited. If any element of an offer involves free use, sale or hire of sunbeds it is prohibited. Marketing practices including “Happy Birthday – get 10 minutes free sunbed use”, “Free sunbed sessions for new members” or “Every tenth session free” are prohibited.

Reduced Price Offers, Advertisements and Promotions

There is **no** outright ban on offers, advertisements or promotions of the use, sale or hire of a sunbed at a reduced price. Sunbed business to sunbed business transactions are specifically excluded from these marketing prohibitions. The legislation does not prohibit an indefinite reduction in the standard price for the use, sale or hire of sunbeds, such as an across the board price reduction.

The use, sale or hire of a sunbed at a reduced price or free of charge includes the awarding and use of bonus points, loyalty cards or similar benefits.

The use, sale or hire of a sunbed at a reduced price includes the use or hire of a sunbed for an unlimited number of sessions in a certain period.

Certain specific instances of limited reduced price marketing, linked to other transactions or for promotional periods, are prohibited.

Prohibited reduced price offers linked to other transactions include-

- “Buy 1 session, get 20% off your next session”,
- “Buy €10 worth of lotion and get 20% off a sunbed session” or
- “Hire a sunbed for 2 weeks and get a third week at half price”.

Prohibited reduced price offers for a defined period of time include-

- “20% off every Monday”,
- “10% off for the month of January”,
- Happy Hours or Early Bird Offers.

Any event or activity at a sunbed premises promoting or encouraging sunbed use is prohibited, this includes customer promotional evenings.

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.

Prohibition on Health Claims

Relevant Legislation

Section 10 of the Public Health (Sunbeds) Act 2014 prohibits the publication of any material that promotes a health or other benefit resulting from the use of sunbeds other than the prescribed warning signs (section 11(1)), the prescribed health information (section 15(1)) or information prescribed by the Minister under subsection (4).

Section 10(2) prohibits the owner or manager of a sunbed business from making available or displaying any material that promotes a claim to any health or other benefit resulting from the use of sunbeds other than the prescribed warning signs (section 11(1)), the prescribed health information (section 15(1)) or information prescribed by the Minister under subsection (4).

Section 10(3) prohibits the owner or manager of a website or social media site that promotes the sale, use or hire of sunbeds from displaying any material that promotes a claim to any health or other benefit resulting from the use of sunbeds other than the prescribed health information (section 15(1)) or information prescribed under subsection (4).

Note: A statutory instrument has not been introduced to prescribe the permitted information on claims to any health or other benefit resulting from the use of sunbeds and the manner in which such information may be displayed.

What does this mean?

- A person must not publish any material that promotes a claim to any health or other benefit resulting from the use of sunbeds other than the warning signs and the *“HEALTH WARNING INFORMATION FOR SUNBED USERS”*.
- The owner or manager of a sunbed business must not make available or display any material that promotes a claim to any health or other benefit resulting from the use of sunbeds other than warning signs and the *“HEALTH WARNING INFORMATION FOR SUNBED USERS”*.
- The owner or manager of a website or social media site that promotes the sale, use or hire of sunbeds must not display any material that promotes a claim to any health or other benefit resulting from the use of sunbeds other than the warning signs.

A person who contravenes any of the above provisions commits an offence.

Summary

Beneficial health claims relating to the use of sunbeds are prohibited. Statements including *“Sunbeds boost Vitamin D levels, improve skin conditions and enhance the immune system”* are prohibited.

Permitted information on claims to any health or other benefit resulting from the use of sunbeds-

- Only the relevant warning sign and the “*HEALTH WARNING INFORMATION FOR SUNBED USERS*” can be made available or displayed on a sunbed premises,
- Only the warning sign and the “*HEALTH WARNING INFORMATION FOR SUNBED USERS*” can be published,
- Only the relevant warning sign can be displayed on a website or social media that promotes the sale, use or hire of sunbeds.

Warning Signs

Relevant Legislation

Section 11 of the Public Health (Sunbeds) Act 2014 places a duty on the owner or manager of a sunbed business to display prescribed warning signs on the sunbed premises and the website of the sunbed business in the manner prescribed. Subsection (2) requires that the owner or manager of a website or social media site that promotes the sale, use or hire of sunbeds display the prescribed warning sign on the website or social media site in the manner prescribed.

The warning signs are intended to inform the public of the health risks associated with the use of sunbeds and may contain such other information including the adverse health effects of the use of sunbeds and the prohibition on the use of sunbeds by persons under 18 years of age. The Section enables the Minister to prescribe the warning signs and the manner in which the signs are displayed.

The warning signs and the manner of their display are prescribed in the **Public Health (Sunbeds) (Warning Signs) Regulations 2015 (S.I. No. 53 of 2015)**.

What does this mean?

On a sunbed premises:

- The owner or manager of a sunbed business must ensure that the prescribed warning sign is displayed in all prominent positions on the sunbed premises;
- The warning signs must be displayed on white paper or white cardboard in all prominent positions on a sunbed premises to;
 - inform the public of the health risks associated with the use of sunbeds,
 - inform the public of the prohibition on the use of sunbeds by persons under 18 years of age, and
 - display the notification number assigned to the sunbed premises concerned (Section 13(10))
- The Regulations provide that a warning sign is displayed in a prominent position where it is readily visible to a person each time that person seeks to use or uses a sunbed in the sunbed premises and is placed so as to be within their immediate view on entering the premises and on entering each restricted area in the premises;
- More than one warning sign must be displayed on the sunbed premises as both the entrance and each restricted area in the premises must have signage;

- The prescribed warning sign is available to download from www.health.gov.ie or www.hse.ie. The downloaded sign must be printed on white paper or white cardboard and conform to the dimensions, type-face colour, font and point size of the sign prescribed in the Schedule 1 to the Regulations (S.I. No. 53 of 2015) – see Annex IV;
- The notification number assigned to the sunbed premises will be available following notification to the HSE – the notification number should be inserted in the prescribed warning sign where indicated.

On a website or social media site:

- The owner or manager of a sunbed business must display the website warning sign on the website of the sunbed business;
- The owner or manager of a website or social media site that promotes the use, sale or hire of sunbeds must display the website or social media warning sign on the website or social media site;
- The website or social media site warning sign informs the public of the health risks associated with the use of sunbeds and the prohibition on the use of sunbeds by persons under 18 years of age. The display of the notification number is not required for the warning signs on websites or social media sites;
- The website or social media site warning sign must;
 - contain the information and symbol set out in Schedule 2 to the Regulations (S.I. No. 53 of 2015),
 - be displayed in clear legible script, in black font, with a red border, and
 - be placed in a conspicuous place on the webpage, such that it is easily visible to a person proposing to use, hire, or purchase a sunbed
- The prescribed website or social media site warning sign is available to download from www.health.gov.ie or www.hse.ie – see Annex V;
- The website or social media warning sign must be displayed;
 - on the homepage of the website of the sunbed business concerned,
 - on any page of the website of the sunbed business which enables online booking of the use, sale or hire of a sunbed, and
 - on any website or social media site that promotes, on behalf of the sunbed business, the sale, use or hire of sunbeds.

Note: The warning sign for use in a sunbed premises must be exactly the same as that shown in Schedule 1 to S.I. No. 53 of 2015. However, the warning sign on a website or social media page does not have to be of specific dimensions but must provide the information in the manner shown in Schedule 2 to S.I. No. 53 of 2015.

A person who contravenes any provisions on either a sunbed premises, website or social media site commits an offence.

Notification

Relevant Legislation

Section 13 of the Public Health (Sunbeds) Act 2014 places a duty on the owner of a sunbed business to notify the Health Service Executive and pay the prescribed fee at the intervals prescribed. It also provides for the compilation and maintenance by the **Health Service Executive of list of all persons who own a sunbed business (“Sunbed Notification List”)**.

The Public Health (Sunbeds) (Notification) Regulations 2015 (S.I. No. 52 of 2015) prescribe the notification fee, how often it must be paid and the notification form to be submitted to the Health Service Executive.

The above regulations were amended by the **Public Health (Sunbeds) (Notification) (Amendment) Regulations (S.I. 395 of 2017)** to allow for online notification to the HSE.

What does this mean?

With effect from 2 March 2015

- The owner of a sunbed business, a person who intends to carry on a sunbed business or a new owner to whom a sunbed business has been transferred must notify the HSE by submitting the Sunbed Business Notification Form and a fee of €120 for each sunbed premises. The €120 fee must accompany the Sunbed Business Notification Form.
- The fee of €120 is payable for each sunbed premises and after first notification is renewable annually on or before 1 March.
- The timelines for notification to the HSE are-
 - Owners operating an existing sunbed business on or before 2 March 2015 and which continues to operate must notify the HSE on or before 2 September 2015,
 - After 2 March 2015, a person who intends to carry on a new sunbed business must notify the HSE 30 days prior to commencing the business,
 - After 2 March 2015, where there is a change of ownership of a sunbed business, the new owner must notify within 30 days of the transfer of the business.
- Owners must also notify the HSE of changes to the information on their Notification Form within 30 days of such a change.

Sunbed Premises Notification Number

- Once the completed notification form and fee are processed by the HSE a notification number will be assigned to the sunbed premises by the HSE.
- A notification confirmation letter will be sent to the sunbed business owner assigning the notification number.
- This notification number must be displayed on all prescribed warning signs displayed in the sunbed premises.
- It is the responsibility of the owner or manager of a sunbed business to display the notification number assigned to the sunbed premises on the prescribed warning signs displayed in the sunbed premises concerned.

A person who contravenes the provisions relating to notification or who provides false or misleading information to the HSE will be guilty of an offence.

How to Notify?

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.

Any questions relating to notification should be directed to that Office.

Contact Details are as follows:-

Email – sunbeds@hse.ie

Telephone - 091 737350

You may notify your business by

- Using the secure HSE On-Line Portal by clicking here www.ehonline.hse.ie
- Credit/Debit Card over the phone or,
- Cheque
- Cash is NOT accepted

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.

Health Information

Relevant Legislation

Section 15 of the Public Health (Sunbeds) Act 2014 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 proposing to use, hire or purchase a sunbed and a requirement that the person sign the prescribed form confirming that they have been provided with a copy of the health information and have had an opportunity to read and consider it. Completed forms must be retained on the sunbed premises for 2 years.

Section 15 also prohibits the owner, manager or employee of a sunbed business from allowing a person, to be in a “restricted area” (except in the course of employment in the business or the provision of services to the business) unless the person concerned has signed the prescribed form.

The Public Health (Sunbeds) (Health Information) Regulations 2015 (S.I. No. 50 of 2015) prescribe the information on the health effects and other information relating to the use of sunbeds to be provided to a person each time he or she proposes to use, hire or purchase a sunbed (HEALTH WARNING INFORMATION FOR SUNBED USERS). These Regulations also prescribe the form to be signed by such person in order to confirm he or she has been provided with a copy of the prescribed information and has had an opportunity to read and consider it (HEALTH INFORMATION FORM).

These were amended by **the Public Health (Sunbeds) (Health Information) (Amendment) Regulations 2015 (S.I. No. 168 of 2015)** to allow for the multiple use of the HEALTH INFORMATION FORM and provides a new HEALTH INFORMATION FORM for use by persons with sight or literacy problems.

What does this mean?

- The owner, manager or employee of a sunbed business must:
 - ensure that a copy of the “*HEALTH WARNING INFORMATION FOR SUNBED USERS*” is provided to a person each time he or she proposes to use, hire or purchase a sunbed;
 - take reasonable steps to ensure that the person reads and understands the information;
 - require the person concerned to sign the HEALTH INFORMATION FORM at Annex VII, confirming that they have been provided with a copy of the “*HEALTH WARNING INFORMATION FOR SUNBED USERS*” and have had an opportunity to read and consider that information each time he or she proposes to use, hire or purchase a sunbed;
 - in cases where the person has literacy or sight problems, read the “*HEALTH WARNING INFORMATION FOR SUNBED USERS*” to these persons and allows them an opportunity to consider that information each time he or she proposes to use, hire or purchase a sunbed;

- ensure that the person with literacy or sight problems either signs or marks the “HEALTH INFORMATION FORM” at Annex VIII confirming the information has been read to them;
 - not permit a person to be in a restricted area unless the person concerned has signed the HEALTH INFORMATION FORM, except where employed or providing services (for example, maintenance).
- The owner or manager of a sunbed business must retain completed HEALTH INFORMATION FORMS on the sunbed premises for a period of 2 years.

A person who contravenes any of the above provisions commits an offence.

The HEALTH WARNING INFORMATION FOR SUNBED USERS must contain the information set out in Schedule 1 to S.I. No. 50 of 2015. See copy of “*HEALTH WARNING INFORMATION FOR SUNBED USERS*” at Annex VI.

The HEALTH INFORMATION FORMS must-

- contain the text set out in Schedules 2 & 3 as amended by S.I. No. 168 of 2015,
- be printed on white paper or white cardboard, and
- be printed in black indelible ink, verdana typeface and a font size of at least 14.

See copy of Health Information Forms at Annex VII and Annex VIII.

Appointment of authorised officers and enforcement.

Relevant Legislation

Section 16 of the Public Health (Sunbeds) Act 2014 provides that the Health Service Executive (HSE) may appoint persons, including members of its staff, as authorised officers for the purposes of the Act. *Subsection (2)* provides that authorised officers appointed by the HSE shall be given a warrant of appointment and shall produce the warrant or copy of it if requested when exercising any power conferred on him or her under the Act.

Section 17 sets out the powers of authorised officers.

What does this mean?

- The authorised officers for the purposes of enforcing this legislation will be the Environmental Health Officers (EHOs) of the HSE.
- An EHO will produce a warrant of appointment or copy of it, if requested, when carrying out an inspection or when exercising any power conferred on him or her under the Act.

The owner, manager or employee of a sunbed business shall:

- allow authorised officers entry into their sunbed premises to facilitate an inspection to verify compliance with the Public Health (Sunbeds) Act 2014;
- allow authorised officers entry into a private dwelling if they have a warrant obtained by a judge of the District Court;
- co-operate with authorised officers in the course of their duties and provide information to the authorised officer.

It will be an offence for a person to obstruct or impede an authorised officer or without reasonable excuse, to refuse to comply with an officer's request or to give false or misleading information to an officer.

Fixed Payment Notice for Offences

Relevant Legislation

Section 20 of the Public Health (Sunbeds) Act 2014 provides that the Health Service Executive may serve a fixed payment notice for “relevant offences”. “Relevant offences” are offences under sections 8 to 11, 13 to 15 of the Act.

The fixed payment notice and the amount of the payment for offences are prescribed in the **Public Health (Sunbeds) (Fixed Payment Notice) Regulations 2015 (S.I. No. 60 of 2015)**.

The amount of the fixed payment to be paid to the HSE is €300 for each offence for which a fixed payment notice is issued.

What does this mean?

- Fixed payment notices (FPN) may be served for “relevant offences” concerning hygiene, marketing practices, health claims, warning signs, notification and health information.
- Fixed payment notices do not apply to any offences concerning the prohibitions on people under 18 years of age using, hiring or purchasing a sunbed, protective eyewear, unsupervised use, obstruction or failure to comply with an Environmental Health Officer’s request.
- An Environmental Health Officer who has reasonable grounds for believing that a person is committing, or has committed, a “relevant offence” may serve a FPN on that person-
 - where a person is served with a FPN he or she may pay €300 electronically to the HSE Sunbed National Office (see details below) within 28 days, beginning on the date of the Notice, accompanied by the Fixed Payment Notice or a copy of the Notice;
 - **where a payment is made within the 28 days no prosecution will be initiated;**
 - the HSE will issue a receipt of payment to the person served with the FPN;
 - where a payment is made the name and address of the person, details of the offence and the amount of the payment will be included on the *Sunbed Non-Compliance List*;
 - any fixed payment received by the HSE will not be refundable;
 - where more than one FPN is served a payment of €300 is payable in respect of each offence – for example, where 3 FPNs are served a payment of €900 must be paid to the HSE accompanied by the 3 FPNs or copies of the notice.
- **Payment and queries relating to Fixed Payment Notices should be made to the Sunbed National Office, Environmental Health Service, HSE, Galway Business Park, Dangan, Galway.** Email – sunbeds@hse.ie Telephone - 091 737350.
- Where the person served with a FPN fails or refuses to pay the fixed payment he or she will be prosecuted for the alleged offence.
- A person served with a FPN is entitled to disregard the Notice and defend the prosecution of the alleged offence in court.

Sunbed Non-Compliance List

Relevant Legislation

Section 21 of the Public Health (Sunbeds) Act 2014 provides that the HSE may publish information respecting certain persons in the *Sunbed Non-Compliance List*.

Sunbed Non-Compliance List

- The HSE must keep and maintain the *Sunbed Non-Compliance List*.
- Where convictions are secured, the *Sunbed Non-Compliance List* will set out the name and address of the person concerned, details of the offence and the amount of the fine or other penalty.
- Where a payment is made to the HSE pursuant to a fixed payment notice, the *Sunbed Non-Compliance List* will set out the name and address of the person who has made the payment, details of the offence and the amount of the payment.
- The HSE may publish, all or any part, of the Sunbed Non-Compliance List at any time, in any form or manner, it considers appropriate.

Offences.

Relevant Legislation

Section 22(1) of the Public Health (Sunbeds) Act 2014 empowers the Health Service Executive to prosecute summary offences under the Act. *Section 22(2)* provides that notwithstanding section 10(4) of the Petty Session (Ireland) Act 1851, a prosecution for an offence under the Act may be brought within 12 months from the date of the alleged commission of the offence. *Section 22(3)* provides that a person who commits an offence under the Act is liable on summary conviction for a first offence to a Class B fine or imprisonment for up to 6 months, or both. The penalty for a second or subsequent offence is a Class A fine or imprisonment for up to 12 months, or both. *Section 22(4)* deals with offences under the Act committed by a body corporate and provides for the prosecution of executive officers of a body corporate where an offence is proved to have been committed with their consent, connivance or approval or to have been attributable to any neglect on their part.

What does this mean?

Summary proceedings for offences may be brought by the HSE. 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 to a Class A fine (not exceeding €5,000) or imprisonment for up to 12 months, or both.

The classes of fines are set out in the Fines Act 2010 (*Number 8 of 2010*) which may be revised.

Contact Details

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.

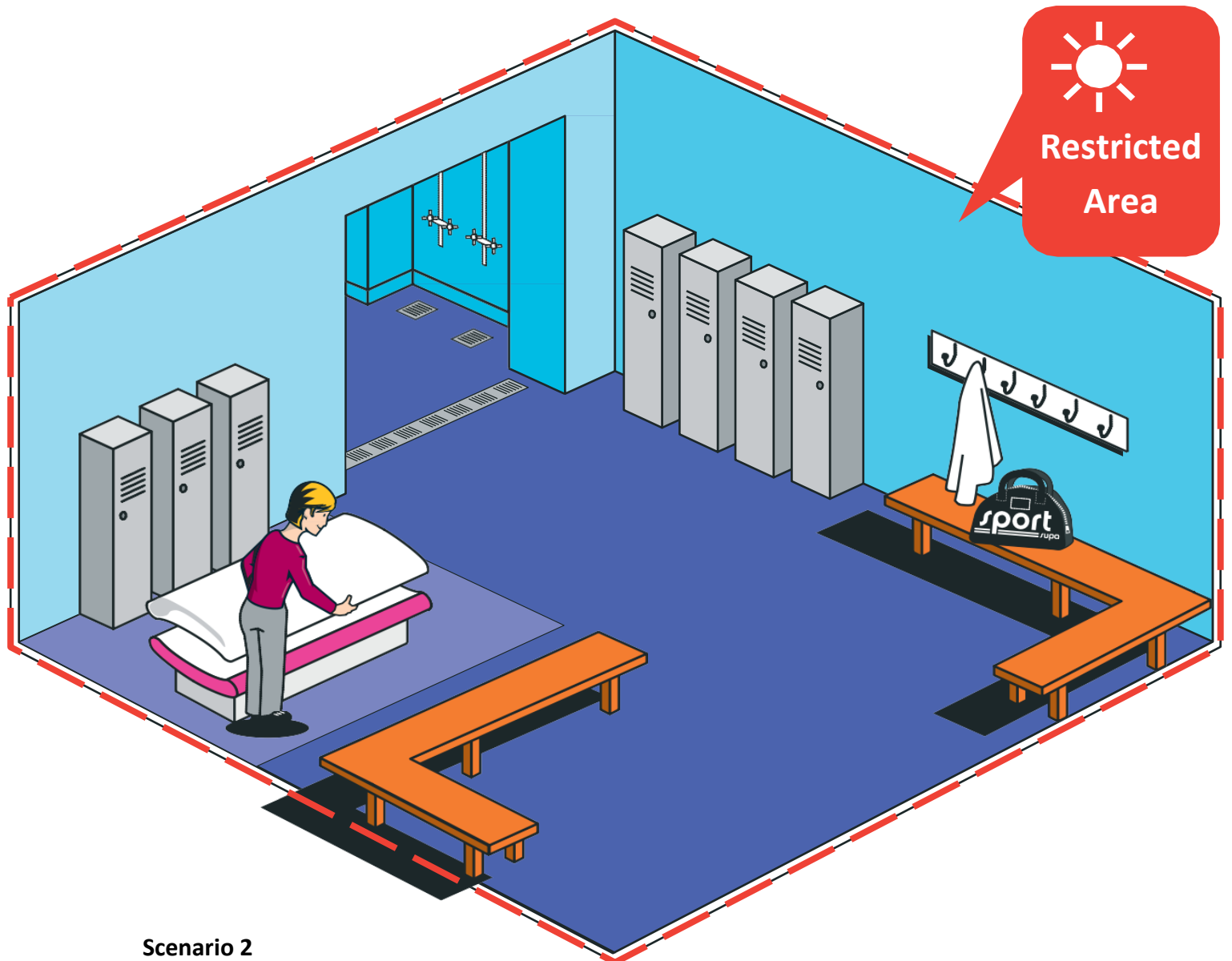
Annex I



Scenario 1

A health club keeps a cubicle-type sunbed in the corner of its canteen. The cubicle is fully enclosed and has a lockable door. It has space for disrobing and hanging clothes. The canteen is for use by all health club users. The cubicle sunbed is a wholly or partly enclosed space within the canteen and is therefore a restricted area. If a father entered the canteen with his son, who is 10 years old, no offence would be committed as the canteen is not a restricted area, only the sunbed cubicle.

Annex II



Scenario 2

A fitness centre keeps a freestanding, open tanning canopy sunbed in the corner of its changing room. The changing room is for use by all fitness centre users. The sunbed is not within a wholly or partly enclosed space within the changing room so the whole changing room is a restricted area. If a mother entered the changing room with her daughter, who is 3 years old, an offence would be committed, as the whole of the changing room is a restricted area.

There is a simple remedy to prevent an offence from being committed in Scenario 3. The sunbed operator could erect a partition between the sunbed and the rest of the changing room. The space enclosed by the partition would be a restricted area. A person under 18 could then enter the changing room without an offence being committed as long as they did not go beyond the partition. The partition would not have to be a fixed structure, but its design should be sufficient to provide an enclosed space reserved for the sunbed user and the entrance should be signposted to indicate that those under 18 are not permitted to enter.

Annex III

Scenario 3

A hotel keeps its sunbed in a room. The room also contains vending machines and toilets. The sunbed is not within a wholly or partly enclosed space within the room so the whole room is a restricted area. The hotel must ensure that no person under the age of 18 enters the room, even if their intention is to use the toilets or buy from the vending machines.

Scenario 4

H, who is 16, has been hired by a sunbed operator to paint the premises. This requires H to enter a restricted area. The sunbed operator would not have committed an offence since H's presence in the restricted area is in the course of providing a service to the sunbed business.

Scenario 5

A sunbed operator asks J, an employee who is under 18, to use the sunbed to test that it works. An offence would not be committed by virtue of J entering the restricted area as he does so in the course of providing a service to the sunbed operator. However, an offence would be committed if J uses the sunbed.



**Persons under 18 years
will not be allowed use
sunbeds here.**

**Sunbed use increases
the risk of skin and eye
cancer.**

Name and Address of Premises:

Sunbed Business Notification Number:



**Persons under 18 years
will not be allowed to use,
hire or purchase sunbeds.**

**Sunbed use increases the
risk of skin and eye
cancer.**

Annex VI

Public Health (Sunbeds) (Health Information) Regulations 2015

HEALTH WARNING INFORMATION FOR SUNBED USERS

Using sunbeds can seriously harm your health and lead to melanoma skin cancer. Sunbeds have been linked to:—

- a higher risk of skin cancer — people who use sunbeds for the first time before the age of 35 years increase their risk of developing malignant melanoma (the most serious form of skin cancer) by 75 per cent;
- anyone who has ever used a sunbed is at least 20 per cent more likely to develop malignant melanoma;
- eye damage including melanoma of the eye and a higher risk of cataracts; and
- premature skin ageing which means that your skin becomes coarse, leathery and wrinkled at a younger age.

Your risk of developing skin cancer increases each time you use a sunbed.

There are also short term health effects:—

- sunburnt skin, which may become red, painful and blister;
- skin dryness;
- an itchy “heat” rash; and
- itchy eyes, conjunctivitis or more serious eye conditions if appropriate eye protection is not worn.

You should never use a sunbed if you:—

- have had skin cancer in the past;
- have a family history of skin cancer;
- have sunburn/skin damage or have a history of sunburn especially in childhood;
- burn easily in sunlight;
- have skin that never tans or does so with difficulty;
- have fair or sensitive skin;
- have a large number of freckles and/or red hair;
- have a large number of moles;
- are using medication or creams that make your skin more sensitive to sunlight;
- have a medical condition that is made worse by sunlight;
- have a suppressed or weakened immune system;
- fail to protect your eyes — never use a sunbed without wearing eye protection that meets the required standard; or
- are under 18 years (no person under 18 years may use a sunbed on these premises or purchase or hire a sunbed).

Skin is more sensitive to UV rays during pregnancy and sunburn is more common. Therefore, the risk of skin cancer is increased. Sunbeds should never be used during pregnancy.

IT IS AGAINST THE LAW TO ALLOW A PERSON UNDER 18 YEARS USE A SUNBED ON SUNBED PREMISES OR TO HIRE OR SELL A SUNBED TO A PERSON UNDER 18 YEARS.

Annex VII

Public Health (Sunbeds) (Health Information) Regulations 2015

HEALTH INFORMATION FORM B²

This form must be signed or marked each time by the person proposing to use, hire or purchase a sunbed, and each time must be completed by the owner, manager or employee of the sunbed business in whose presence the signature or mark of such person is made

I confirm that I have been provided with a copy of the prescribed information, have had that information read to me by the owner, manager or employee of the sunbed business and have had an opportunity to consider it.

Signature or mark of person proposing to use, hire or purchase a sunbed:	Name in block capitals:	Date:
Signature of owner, manager or employee:	Name in block capitals:	Date:

Signature or mark of person proposing to use, hire or purchase a sunbed:	Name in block capitals:	Date:
Signature of owner, manager or employee:	Name in block capitals:	Date:

Signature or mark of person proposing to use, hire or purchase a sunbed:	Name in block capitals:	Date:
Signature of owner, manager or employee:	Name in block capitals:	Date:

² This form can be used for multiple visits by an individual patron or by multiple patrons over a period of time.”