



Department of
**Health, Social Services
and Public Safety**

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SUNBEDS ACT (NORTHERN IRELAND) 2011

**GUIDANCE FOR SUNBED BUSINESSES
(INCLUDING THOSE WHO HIRE AND SELL SUNBEDS)
AND ENFORCEMENT OFFICERS**





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1. INTRODUCTION

1.1 On 1 May 2012, sunbed use in Northern Ireland will be regulated by new legislation:-

- Sunbeds Act (Northern Ireland) 2011;
- Sunbeds (Information) Regulations (Northern Ireland) 2012;
- Sunbeds (Fixed Penalty) (General) Regulations (Northern Ireland) 2012; and
- Sunbeds (Fixed Penalty) (Amount) Regulations (Northern Ireland) 2012.

1.2 The new law has been introduced because of the growing evidence of the health risks associated with sunbed use, including skin cancer, with young people at particular risk.

1.3 The aim of this non-statutory guidance is to help operators of sunbed premises and those who hire and sell sunbeds comply with the new law when it comes into effect on 1 May 2012. If you are in any doubt about your legal obligations, you should seek your own independent legal advice.

2. WHAT DOES THE NEW LAW DO?

2.1 The Sunbeds Act (Northern Ireland) 2011 (the Act):-

- I. prohibits an operator of sunbed premises from allowing a person under 18 to use a sunbed on those premises and prohibits a person who is under 18 to be present in a 'restricted zone' on those premises;
- II. prohibits the sale or hire of sunbeds to persons under 18;
- III. prohibits an operator of sunbed premises from allowing any person to use a sunbed without supervision;
- IV. places a duty on the operator of sunbed premises, including those who sell and hire sunbeds, to provide customers with information on the risks associated with sunbed use;
- V. places a duty on the operator of sunbed premises to display a public information notice on the risks associated with sunbed use;
- VI. prohibits an operator of sunbed premises to provide or display any material that claims health benefits of sunbed use;
- VII. places a duty on the operator of sunbed premises to ensure that protective eyewear is made available to those who propose to use a sunbed on their premises and as far as reasonably practicable, ensures that person wears the protective eyewear. The Act also places a duty on sunbed hirers and sellers to provide hirers and buyers of sunbeds with protective eyewear;
- VIII. places a duty on the operator of sunbed premises and those who hire or sell sunbeds to meet such training requirements as may be prescribed by Regulations, and for an operator to also secure that such employees and agents, as may be prescribed, also meet those training requirements;
- IX. places a duty on the operator of sunbed premises and those who hire or sell sunbeds to ensure that sunbeds used on those premises meet certain requirements, as may be prescribed by Regulations;
- X. enables the Department to make Regulations to provide for a registration and/or licensing scheme in respect of premises which are used, or proposed to be used, as sunbed premises and in respect of premises on which the sale or hire of sunbeds takes place, or is proposed to take place.

2.2 Provisions I-VII will be brought into effect by 1 May 2012. The Department may implement provisions VIII-X at a later date.

- 2.3** Operators of sunbed premises and those who hire and sell sunbeds who fail to comply with the law commit a criminal offence. It is also an offence:-
- to intentionally obstruct an authorised officer of a district council from entering and inspecting premises and from otherwise exercising his/her functions under the Act;
 - without reasonable cause, failing to comply with a requirement to give an authorised officer facilities, assistance or information which he reasonably requires for the performance of those functions.

2.4 The Act also identifies that the offence can be committed by a body corporate. This is an organisation or group of persons that is identified by a particular name and that acts, or may act, as a recognised entity or legal person. This includes companies, associations, institutions, non-profit enterprises and public bodies.

- 2.5** Under the Act, senior officials of companies and organisations, such as a director, general manager, secretary or other similar officer of that body corporate, can be held accountable where an offence by the body corporate has been proven. This applies where it can be shown that the offence has been committed with or through their:-
- consent;
 - connivance; or
 - neglect.

Definition of sunbed

2.6 The Act defines a sunbed as ‘an electrically-powered device designed to produce tanning of the human skin by the emission of ultraviolet radiation’.

- 2.7** Examples of sunbed are provided below, however, this is not an exhaustive list and any electrically powered model that emits UV radiation to produce a tan is caught by the definition:-
- lie-down sunbeds;
 - canopy sunbeds;
 - vertical stand-in sunbeds;
 - sun showers; and
 - portable sun lamps.

2.8 Electrically powered devices that may produce the appearance of a tan but that do not emit UV radiation, for example chemical spray tans, are not caught by the definition.

Definition of sunbed premises

2.9 Sunbed premises are any land or building, tent or moveable structure, vehicle or vessel which has a sunbed available for use.

2.10 There is no requirement for payment to be made, either directly or indirectly, for the use of the sunbeds in order for the business to come under the definition of a sunbed business.

2.11 Examples of sunbed premises are provided below, however this list is not exhaustive:-

- sunbed parlours;
- beauty salons;
- gyms;
- hairdressers;
- video shops;
- sport and fitness clubs;
- hotels; and
- holiday camps.

Definition of sunbed operator

2.12 Sunbed operator means the person having management or control of those premises.

Exemptions for medical treatment

2.13 A person under the age of 18 can use a sunbed if:-

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

Information leaflet and display notice

2.14 The information to be provided to sunbed users, hirers and buyers (and the form and manner in which it is to be provided) and the display notice (and the form and

manner in which it is to be displayed) is contained in the Sunbeds (Information) Regulations (NI) 2012 and replicated in **Annexes A and B** of this guidance. The Department will initially make available supplies of information leaflets and display notices, which comply with the new law. They will be available for download on the Department's website thereafter.

Fixed penalties

- 2.15** The fixed penalties applied to particular offences are contained in the Sunbeds (Fixed Penalty) (Amount) Regulations (NI) 2012 and are provided in **Annex C** of this guidance.

3. RESTRICTED ZONE

- 3.1 The sunbed operator or employee must ensure that no person under the age of 18 is present in a restricted zone within the sunbed premises.

Definition of restricted zone

- 3.2 Restricted zone means a wholly or partly enclosed space on sunbed premises that contains a sunbed and that space is reserved for users of that sunbed or, if the sunbed is not in a wholly or partly enclosed space, every part of the room that contains the sunbed.

Exemptions

- 3.3 A person under the age of 18 is permitted to be present in a restricted zone where it is for the purpose of providing a service to the sunbed operator in relation to the sunbed business. These services may be provided by, for instance: a member of staff; or an agency employee; a self-employed person; an employee of a contractor carrying out work for the sunbed business; or a young person gaining work experience. If the person is under 18, they must not use the sunbed.

Examples

- 3.4 The wholly or partly enclosed space could be a private room, changing cubicle, booth, cabin or pod, but this is not an exhaustive list. The space does not have to be created by a permanent or fixed structure. For example, where a sunbed is located in a room but a screen is drawn around the sunbed, the screen creates a partly enclosed space for the sunbed so only this space would be the restricted zone. This provides a simple and inexpensive option for sunbed businesses to create restricted zones within larger rooms.

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 zone. 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 zone, only the sunbed cubicle.



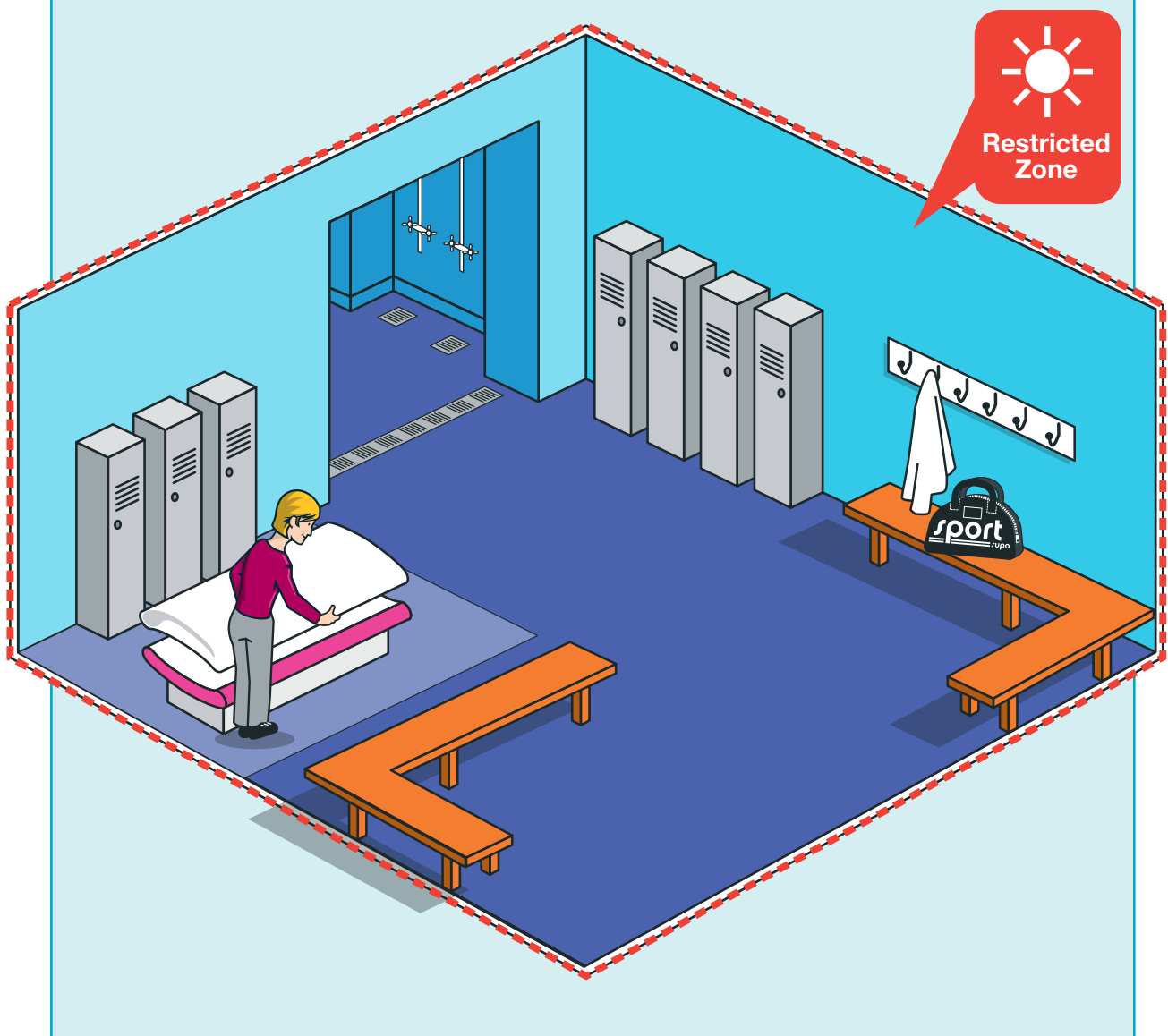
Scenario 2

A open canopy sunbed is in a private room reserved for users of the sunbed. The private room is an enclosed space reserved for users of that sunbed so the whole of the private room is a restricted zone. If two sisters, F who is 19 and G who is 17, both enter the private room, an offence would be committed as G should not be present in a restricted zone.



Scenario 3

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 zone. 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 zone.



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 zone. 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.

Scenario 4

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 zone. 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 5

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

Scenario 6

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 zone 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.

4. WHAT YOU NEED TO DO TO COMPLY

Sunbed operators

4.1 You are required to take the following minimum action:-

- take all reasonable precautions and exercise all due diligence to ensure that a person who intends to use a sunbed on your premises, or to be present in a restricted zone on those premises, (other than for the purpose of the exemption referred to in paragraph 3.3 of this guidance), is 18 years or over. Under the Act, you are to be treated as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence if you were shown any of the following documents and that document convinced a reasonable person:-
 - a passport; or
 - a European Union photocard driving licence;
- ensure that you, an employee, or agent is present on the sunbed premises at any time a person is using a sunbed on those premises;
- ensure that you, an employee, or agent provides the information in **Annex A** to a person each time he or she proposes to use a sunbed on your premises;
- ensure that the required information notice set out in **Annex B** is displayed on your premises in a position where it is readily visible to people proposing to use a sunbed on your premises other than that prescribed in the Information Regulations;
- ensure that you do not provide or display any material that contains information relating to the health effects/benefits of sunbed use other than that prescribed in the Information Regulations;
- ensure that you, an employee, or agent either makes available or ensures that a person who proposes to use a sunbed has in their possession sunbed goggles, and secures, as far as is reasonably practicable, that a user of a sunbed wears those goggles; and
- co-operate fully with authorised officers of the local authority who will be enforcing the new law.

Those who sell or hire sunbeds

4.2 You are required to take the following minimum action:-

- take all reasonable precautions and exercise all due diligence to ensure that a person who intends to buy or hire a sunbed from you is 18 years or over. Under the Act, you are to be treated as having taken all reasonable

precautions and exercised all due diligence to avoid the commission of such an offence if you were shown any of the following documents and that document convinced a reasonable person:-

- a passport; or
- a European Union photocard driving licence;
- ensure that you, an employee, or agent provides the information in **Annex A** to a person each time he or she proposes to hire or buy a sunbed;
- ensure that you, an employee, or agent provide sunbed goggles to every hirer or buyer of a sunbed on each occasion; and
- co-operate fully with authorised officers of the local authority who will be enforcing the new law.

Remote sale or hire of sunbeds

- 4.3** If the premises (premises A) where the order for the hire or sale of a sunbed was taken are not the same as the premises (premises B) from which the sunbed is despatched for delivery, then the hire or sale is treated as taking place on the premises where the order was taken (premises A). If, however, the order was taken on premises (premises A) outside Northern Ireland, and the premises (premises B) from which the sunbed is despatched are in Northern Ireland, then the sale or hire is treated as having taken place on the premises from which the sunbed is despatched (premises B).

Protective eyewear

- 4.4** Sunbed goggles are protective eyewear designed to protect the eyes of a person using a sunbed from ultraviolet radiation. The eyewear has not been prescribed by the Department by Regulations at present. The Department may however, prescribe the minimum requirements of this eyewear at a future date. Sunbed businesses however must:-

- make appropriate eyewear available to a person who proposes to use a sunbed on their premises; or
- ensure that such a person has with them the appropriate protective eyewear; and
- secure, as far as is reasonably practicable, that a person who uses a sunbed on the businesses premises wears such protective eyewear.

- 4.5** If the protective eyewear provided by the sunbed business is reusable, it should be appropriately sanitised before being made available to reuse.

- 4.6** Businesses who hire and sell sunbeds must provide appropriate protective eyewear on each transaction.

Recommended management controls: sunbed premises

- 4.7** Whilst not a requirement of the law, it is recommended that you have the following management controls in place which will demonstrate how you are complying with the new law:-

- train and advise staff on how to check the age of users, including the types of document that can be used to prove age;
- have written procedures for staff for dealing with people who may be under 18 - train staff in these procedures and keep records of this training;
- keep a written record of any incident (and outcome) where a member of staff challenges a potential user about their age - this should include evidence that one of the prescribed proof of age documents has been provided by the user and verified by the operator;
- maintain written records for each user for each session including a signature from the user acknowledging they have been provided with the required information and will use appropriate protective eyewear;
- ensure checks are made that the required signage is displayed in a prominent position with the premises;
- have additional prominent and clear notices advising that it is against the law for anyone under 18 to use a sunbed on those premises;
- display prominent notices by the restricted zone advising that it is against the law for anyone under 18 to enter a restricted zone;
- ensure there are sufficient supplies of information sheets to be supplied to sunbed users;
- use till prompts for sunbed use transactions, if the facility is available;
- have a system in place to check that anyone under 18 has not entered the restricted zone;
- ensure that when sunbed facilities are provided as part of a membership package, such as at a fitness club, that access to sunbeds is excluded from the membership package for those under 18;
- train and advise staff who are under 18 that it is also against the law for them to use sunbeds, however, explain that they are allowed to be present in a restricted zone as part of their employment.

Recommended management controls: hire or sale

4.8 It is recommended that those who hire or sell sunbeds:-

- train and advise staff on how to check the age of users, including the types of document that can be used to prove age;
- have written procedures for staff checking the age of customers, including any who book via the telephone or the internet;
- train staff in these procedures and keep records of this training;
- maintain records to show that each hirer or buyer of a sunbed has been provided with the required information and protective eyewear; and
- maintain a record of these checks in retrievable form; this should include evidence that one of the prescribed proof of age documents has been provided by the user and verified by the seller or hirer, or an employee or agent. An agent may include a delivery agent in the case of the remote sale of goods.

Recommended procedures

4.9 It is recommended that operators and/or hirers and sellers prepare and implement written procedures to demonstrate their compliance with the new law. These procedures should contain:-

- a copy of the health warning notice to be displayed, together with an instruction of where it is to be located on the premises;
- a copy of the information to be provided to each user each time they propose to use a sunbed;
- advice to staff on challenging users who may be under 18, including details of the specific documents which a potential user can use to demonstrate their age;
- a detailed procedure for recording cases where potential users have been challenged and the outcome;
- a procedure for verifying that each user has been provided with the prescribed information each time they propose to use a sunbed; and
- a procedure for verifying that each user has been made available with appropriate protective eyewear and the procedure for securing, as far as reasonably practicable, that a person who uses a sunbed on the premises wears protective eyewear.

4.10 These procedures may, of course, be incorporated into a more wide-ranging document addressing other relevant issues relating to the operation of sunbed premises and/or sale or hire businesses.



Staff training

- 4.11** Sunbed operators, sellers and hirers should ensure that all staff, including new members of staff, are trained in relation to the sunbed legislation. Regular staff training should reinforce the procedures on an on-going basis.

5. ENFORCING THE LAW AND PENALTIES

- 5.1** The law will be enforced by District Council officers who have been authorised to carry out this work. These officers are likely to be Environmental Health Officers who already work closely with businesses in areas like Health and Safety.
- 5.2** District Council teams aim to create a supportive environment where people are encouraged to comply with the new legislation. The approach to enforcement is expected to be non-confrontational and focused on raising awareness and understanding to ensure compliance. Authorised officers will work closely with local businesses to build compliance through education, advice and support. Enforcement action will be considered only when the seriousness of the situation warrants it and any action taken will be fair, proportional and consistent. Enforcement inspections will be based on risk and, where possible, combined with other regulatory inspections in order to minimise the burdens on businesses.
- 5.3** Authorised officers have the power to enter sunbed premises and the premises of those selling or hiring sunbeds to determine whether the law is being upheld. The power may only be used at a reasonable time.
- 5.4** Inspections carried out by authorised officers will either be pro-active (to advise businesses and to confirm compliance with the law), or re-active (in response to a complaint). Inspections may also be combined with inspections carried out under other legislation, for example, health and safety.
- 5.5** Authorised officers may carry out inspections in a number of different ways. This could include inspections:-
- where officers will announce themselves prior to assessing the situation within the premises; or
 - where officers will assess the situation by observation, before identifying themselves; or
 - by formal test purchase, where a person who is clearly under 18 is accompanied by authorised officers and is asked to attempt to procure use of a sunbed.

Penalties for committing an offence

- 5.6** Failure to comply with the law is a criminal offence. Sunbed operators and those who hire and sell sunbeds may be fined a fixed penalty of varying amounts for particular offences in the Act as shown in the table in **Annex C**.
- 5.7** Fixed penalties are an alternative to prosecution. Refusal or failure to pay the fixed penalty may result in prosecution and a fine of up to £5,000. Fixed penalty fines are not available for the following offences:-
- allowing unsupervised use of sunbeds;
 - intentionally obstructing an authorised officer exercising his/her functions under the Act; and
 - without reasonable cause, failing to comply with a requirement to give an authorised officer facilities, assistance or information which he reasonably requires for the performance of those functions.

6. USEFUL LINKS

- DHSSPS Sunbeds Legislation Information:
<http://www.dhsspsni.gov.uk/index/phealth/php/sunbeds-policy.htm>
- Cancer Research UK:
<http://info.cancerresearchuk.org/cancerstats/types/skin/sunbeds>
- Chartered Institute of Environmental Health, 'Skin cancer and sunbeds':
http://www.cieh.org/policy/skin_cancer_sunbeds.html
- Committee on Medical Aspects of Radiation in the Environment, *The Health Effects and Risks Arising from Exposure to Ultraviolet Radiation from Artificial Tanning Devices*:
<http://www.comare.org.uk/documents/COMARE13thReport.pdf>
- Health and Safety Executive, *Reducing Health Risks from the Use of Ultraviolet (UV) Tanning Equipment* and accompanying poster:
<http://www.hse.gov.uk/pubns/indg209.pdf>
<http://www.hse.gov.uk/pubns/misc869.pdf>
- International Agency for Research on Cancer Working Group:
http://www.iarc.fr/en/media-centre/iarcnews/2009/sunbeds_uvradiation.php
- Scientific Committee on Consumer Products to the European Commission *Opinion on Biological Effects of Ultraviolet Radiation Relevant to Health with Particular Reference to Sunbeds for Cosmetic Purposes*:
http://ec.europa.eu/health/ph_risk/committees/04_sccp/docs/sccp_o_031b.pdf
- South West Public Health Observatory, *Sunbed Outlets and Area Deprivation in the UK*:
<http://www.swpho.nhs.uk/resource/item.aspx?RID=68377>
- World Health Organization, *Artificial Tanning Sunbeds: Risks and Guidance*:
<http://www.who.int/uv/publications/en/sunbeds.pdf>

ANNEX A

INFORMATION TO BE PROVIDED TO SUNBED USERS, HIRERS AND SELLERS AND THE FORM AND MANNER IN WHICH IT IS TO BE PROVIDED

The Sunbed (Information) Regulations (NI) 2012, “the Information Regulations” specify the information to be provided and the format in which it is to be provided, as follows:-

- contains the information set out below;
- be provided on a flat and rectangular document;
- be at least A4 in size; and
- be printed in black characters, which can be easily read, on a yellow background.

Copies of this information leaflet can be found at <http://www.dhsspsni.gov.uk/index/phealth/php/sunbeds-policy.htm>

HEALTH WARNING

INFORMATION FOR SUNBED USERS

Using sunbeds can harm your health in the long term. Sunbeds have been linked to:—

- a higher risk of skin cancer – people who use sunbeds for the first time before the age of 35 increase their risk of developing malignant melanoma (the most serious form of skin cancer) by 75%;
- eye damage including a higher risk of cataracts (an eye disease in which the lens of the eye becomes covered in an opaque film that affects sight and may eventually cause total loss of sight) – if appropriate eye protection is not worn; and
- premature skin ageing which means that your skin becomes coarse, leathery and wrinkled at a younger age.

The health risks of using a sunbed are greater than any possible benefits they might provide in helping the body create Vitamin D.

There are also short term health effects:—

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

You should not use a sunbed if you:—

- have had skin cancer in the past;
- have a family history of skin cancer;
- have fair or sensitive skin;
- burn easily in sunlight;
- have sunburn/skin damage or have a history of sunburn especially in childhood;
- have a large number of freckles and/or red hair;
- have a large number of moles;
- have a medical condition that is made worse by sunlight;
- are using medication or creams that make your skin more sensitive to sunlight;
- have a weakened immune system;
- fail to protect your eyes – never use a sunbed without wearing suitable eye protection;
- are under 18.

Some women find their skin is more sensitive during pregnancy. This could mean that your skin may be more likely to burn in the sun or if you use a sunbed.

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

ANNEX B

INFORMATION TO BE DISPLAYED IN SUNBED PREMISES AND THE FORM AND MANNER OF DISPLAY

The Sunbed (Information) Regulations (NI) 2012, “the Information Regulations” require that a notice displayed in sunbed premises:-

- contains the information set out below;
- be at least A3 in size; and
- be printed in black characters, at least 20 millimetres in size, on a yellow background.

Copies of this information notice can be found at <http://www.dhsspsni.gov.uk/index/phealth/php/sunbeds-policy.htm>

HEALTH WARNING

Sunbed use will increase your risk of getting skin cancer.
Sunbed use can damage your skin and eyesight.

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

ANNEX C

Offence	Fixed Penalty
An operator of sunbed premises who allows a person who is under 18 to use a sunbed on those premises.	£250
An operator of sunbed premises who 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.	£250
A person who sells a sunbed to a person who is under 18.	£250
A person who hires a sunbed to a person who is under 18.	£250
An operator of sunbed premises who fails to provide a person who proposes to use a sunbed on those premises with such information as is prescribed by the Information Regulations on every occasion.	£250
A person who sells a sunbed to a person and who fails to provide a person who is buying the sunbed with such information as is prescribed by the Information Regulations.	£250
A person who hires a sunbed to a person and who fails to provide a person who is hiring the sunbed with such information as is prescribed by the Information Regulations.	£250
An operator of sunbed premises who fails to display a notice containing such information as is prescribed by the Information Regulations in a position where it is readily visible to persons proposing to use a sunbed on the premises.	£250
An operator of sunbed premises who provides or displays any material that contains statements relating to the health effects of sunbed use other than that prescribed by the Information Regulations or otherwise prescribed under the Act.	£50
An operator of sunbed premises who fails to make available protective eyewear for a person who proposes to use a sunbed on those premises and/or fails to secure as far as reasonably practicable that a person who uses a sunbed on those premises wears protective eyewear.	£250
A person who sells a sunbed to a person and who fails to provide a person who is buying the sunbed with protective eyewear.	£250
A person who hires a sunbed to a person and who fails provide a person who is hiring the sunbed with protective eyewear.	£250



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