

Draft Regulations laid before the National Assembly for Wales on 7 March 2011 under section 11(3) of the Sunbeds (Regulation) Act 2010, for approval by resolution of the National Assembly for Wales.

D R A F T W E L S H
S T A T U T O R Y I N S T R U M E N T S

2011 No. (W.)

PUBLIC HEALTH, WALES

**The Sunbeds (Regulation) Act 2010
(Wales) Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations make provisions relating to sunbed use. They impose: a duty on a person who carries on a sunbed business on domestic premises to prevent sunbed use on those premises by persons aged under 18; a requirement for a person who carries on a sunbed business to supervise the use of sunbeds on the business's premises; a prohibition on the sale or hire of sunbeds to persons aged under 18; requirements for the provision of information to sunbed users; and requirements relating to the use of protective eyewear by sunbed users. The Regulations are made pursuant to powers contained in the Sunbeds (Regulation) Act 2010 ("the Act"), they apply in relation to Wales and come into force on 31 October 2011. The terms "sunbed", "sunbed business", "domestic premises" and "premises" are defined in the Act.

2. Regulation 3 provides that a person who carries on a sunbed business must ensure that sunbeds are not used by, or offered for use to, a person aged under 18, where those sunbeds are those to which the business relates and are located on domestic premises. The regulation therefore extends to sunbed businesses operating from domestic premises the duty set out in section 2 of the Act to prevent sunbed use by children. A person who carries on a sunbed business and who fails to comply with the requirements of the regulation will commit a criminal offence.

3. Regulation 4 provides that a person who carries on a sunbed business must secure that the use of the business's sunbeds on the business's premises, defined in these Regulations as "sunbed premises", are supervised. Supervision means that a supervisor (which can be the

person who carries on the business or an employee or agent of that person) must be present on the premises when a sunbed is in use, and that the supervisor has fulfilled various requirements in relation to a person who may use or seek to use one of the business's sunbeds, for example assisting the person to assess their skin type and providing guidance on the use of the sunbed. A person who carries on a sunbed business must ensure that a supervisor is competent to fulfil the various supervisory requirements set out in regulation 4(2)(b). A person who carries on a sunbed business and who fails to comply with the requirements of the regulation will commit a criminal offence.

4. Regulation 5 prohibits the sale or hire of a sunbed to a person who is under 18. A seller or hirer who fails to comply with the requirements of the regulation commits an offence.

5. Regulation 6 provides for circumstances where premises at which an order for the sale or hire of a sunbed is placed are not the same as the premises from which the equipment is despatched. Generally, the sale or hire is to be treated as taking place on the premises at which the order was taken.

6. Regulation 7 provides that a person who carries on a sunbed business must provide to a person each time that person seeks to use or uses a sunbed on the business's premises health information about sunbed use, as prescribed in Schedule 1 to the Regulations. In addition, a notice must be displayed on the business's premises containing health information, as prescribed in Schedule 2 to the Regulations. A person who carries on a sunbed business must not provide or display any material containing statements relating to the health effects of sunbeds, other than the prescribed health information. A person who carries on a sunbed business and who fails to comply with the requirements of the regulation will commit a criminal offence.

7. Regulation 8 provides that a person who carries on a sunbed business must make appropriate protective eyewear available to a person seeking to use a sunbed on the business's premises, or ensure that such a person has with them appropriate protective eyewear; and must secure, as far as is reasonably practicable, that a person who uses a sunbed on the business's premises wears such protective eyewear. If the protective eyewear provided by the person who carries on a sunbed business is reusable, it must be appropriately sanitised before being made available for reuse. A person who carries on a sunbed business and who fails to comply with the requirements of the regulation will commit a criminal offence.

8. Regulation 9 makes it a duty of local authorities to enforce the Regulations in their respective areas and to appoint authorised officers for that purpose. Authorised officers have the enforcement powers available to them as

set out in the Schedule to the Act in relation to matters arising under the Regulations. The powers are modified to make provision for enforcement in relation to sunbed businesses located on domestic premises and an authorised officer will require the consent of the occupier or a warrant issued by a justice of the peace before entering such premises.

9. A regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

10. A draft of the Regulations was notified to the European Commission in accordance with Article 8 of Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations (OJ No. L204, 21.7.1998, p.37) last amended by Council Directive 2006/96/EC (OJ No. L363, 20.12.2006, p.81).

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S T A T U T O R Y I N S T R U M E N T S

2011 No. (W.)

PUBLIC HEALTH, WALES

**The Sunbeds (Regulation) Act 2010
(Wales) Regulations 2011**

Made

Coming into force

31 October 2011

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 4, 5, 6 and 10 of the Sunbeds (Regulation) Act 2010⁽¹⁾ and have consulted such persons as appear to them as having an interest in the subject matter of the Regulations.

A draft of these Regulations has been laid before, and approved by resolution of, the National Assembly for Wales before being made, as required by section 11 of the Sunbeds (Regulation) Act 2010.

Title, commencement and application

1.—(1) The title of these Regulations is the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011.

(2) These Regulations apply in relation to Wales and come into force on 31 October 2011.

Interpretation

2. In these Regulations—

“Act” (“*Deddf*”) means the Sunbeds (Regulation) Act 2010;

“restricted zone” (“*parth dan gyfyngiad*”) 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

(1) 2010 c.20.

wholly or partly enclosed space, every part of the room that contains the sunbed; and

“sunbed premises” (“*mangre gwelyau haul*”) means the premises occupied by, or to any extent under the control or management of, a person who carries on a sunbed business.

Duty to prevent sunbed use by children on domestic premises

3.—(1) A person who carries on a sunbed business on sunbed premises that are domestic premises must secure—

- (a) that no person aged under 18 uses on those premises a sunbed to which the business relates;
- (b) that no offer is made by him or her or on his or her behalf to make a sunbed to which the business relates available for use on those premises by a person aged under 18.

(2) A person who carries on a sunbed business who fails to comply with paragraph (1) commits an offence.

(3) In proceedings for an offence under this regulation, it is a defence for a person who carries on a sunbed business to prove that the person (or an employee or agent of the person) took all reasonable precautions and exercised all due diligence to avoid committing it.

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

Supervision of sunbed use

4.—(1) A person who carries on a sunbed business must secure that the use of sunbeds to which the business relates is supervised by a supervisor.

(2) In this regulation—

- (a) “supervised” (“*cael ei oruchwyllo*”) means that a supervisor is present on the sunbed premises at any time a person is seeking to use or is using a sunbed on those premises and, in relation to such a person, that the supervisor has fulfilled the requirements set out in sub-paragraph (b); and
- (b) “supervisor” (“*goruchwyllydd*”) means a person who carries on a sunbed business or an employee or agent of that person who, in relation to a person seeking to use a sunbed on the sunbed premises, is required to—
 - (i) verify that the person is aged 18 or over;
 - (ii) assist the person to assess their skin type;
 - (iii) provide guidance to the person on use of the sunbed taking into account the person’s assessment of their skin type and any skin

conditions or other relevant medical conditions apparent or disclosed to them;

- (iv) advise the person as to the safe operation of the sunbed;
- (v) provide the prescribed health information as required by regulation 7; and
- (vi) ensure the provision and use of protective eyewear as required by regulation 8.

(3) A person who carries on a sunbed business must ensure that a supervisor is competent and a supervisor is competent where he or she has sufficient training and experience or knowledge and other qualities to enable him or her properly to fulfil the requirements of paragraph (2).

(4) A person who carries on a sunbed business who fails to comply with paragraph (1) or paragraph (3) commits an offence.

(5) In proceedings for an offence under this regulation, it is a defence for a person who carries on a sunbed business to prove that the person (or an employee or agent of the person) took all reasonable precautions and exercised all due diligence to avoid committing it.

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

Sale or hire of sunbeds to persons aged under 18

5.—(1) A person (“seller”) must not sell a sunbed to a person who is under 18.

(2) A person (“hirer”) must not hire a sunbed to a person who is under 18.

(3) A seller or a hirer who fails to comply with paragraph (1) or paragraph (2) commits an offence.

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

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

Remote sale or hire of sunbeds

6.—(1) This regulation applies where, in connection with the sale or hire of a sunbed, the premises where the order for the sunbed is taken are not the same as the premises from which the sunbed is despatched for delivery in pursuance of the sale or hire.

(2) Subject to paragraph (3), the sale or hire is to be treated, for the purposes of regulation 5, as taking place on the premises where the order was taken.

- (3) Where—
- (a) the premises where the order for the sunbed is taken are not in Wales; and
 - (b) the premises from which the sunbed is despatched are in Wales,
- the sale or hire is to be treated as taking place on the premises from which the sunbed is despatched.

Provision and display of prescribed health information

7.—(1) A person who carries on a sunbed business must provide to a person each time that person seeks to use or uses a sunbed on sunbed premises the prescribed health information set out in Schedule 1 which must be contained in a document that is flat and rectangular and at least A4 in size and is printed in black characters, which can be easily read, on a yellow background.

(2) A person who carries on a sunbed business must display in a prominent position where it is readily visible to a person each time that person seeks to use or uses a sunbed on sunbed premises a notice which—

- (a) contains the prescribed health information set out in Schedule 2;
- (b) is at least A3 in size; and
- (c) is printed in black characters, at least 20 millimetres in size, on a yellow background.

(3) A notice 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 on sunbed premises if it is placed so as to be within their immediate view on entering the sunbed premises and on entering each restricted zone on those premises.

(4) A person who carries on a sunbed business must not provide or display any material that contains statements relating to the health effects of sunbeds other than the prescribed health information under paragraphs (1) and (2).

(5) But paragraph (4) does not apply to the provision or display of any relevant health and safety information.

(6) A person who carries on a sunbed business who fails to comply with paragraph (1), paragraph (2) or paragraph (4) commits an offence.

(7) In proceedings for an offence under this regulation, it is a defence for a person who carries on a sunbed business to prove that the person (or an employee or agent of the person) took all reasonable precautions and exercised all due diligence to avoid committing it.

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

Protective eyewear

8.—(1) A person who carries on a sunbed business must—

- (a) make protective eyewear available to a person each time that person seeks to use a sunbed on sunbed premises; or
- (b) ensure that a person has with them protective eyewear each time they seek to use a sunbed on sunbed premises,

and must secure as far as reasonably practicable that a person who uses a sunbed on sunbed premises wears such protective eyewear.

(2) In this regulation “protective eyewear” (*“offer amddiffyn llygaid”*) means eyewear that is safe and appropriate for use with the sunbed and which protects the eyes of a person using the sunbed from the effects of exposure to radiation emitted by the sunbed.

(3) Protective eyewear made available in accordance with paragraph (1)(a) may be single-use eyewear, which must be disposed after use; or multi-use eyewear which must be appropriately sanitised before reuse.

(4) A person who carries on a sunbed business who fails to comply with the requirements of paragraph (1) or paragraph (3) commits an offence.

(5) In proceedings for an offence under this regulation, it is a defence for a person who carries on a sunbed business to prove that the person (or an employee or agent of the person) took all reasonable precautions and exercised all due diligence to avoid committing it.

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

Enforcement

9.—(1) It is the duty of a local authority to enforce in its area the provisions of these Regulations.

(2) For that purpose it is the duty of every local authority to appoint authorised officers.

(3) Subject to the modifications in paragraph (4) the provisions of the Schedule to the Act apply to authorised officers in relation to matters arising under these Regulations.

(4) The Schedule to the Act will have effect as if—

- (a) after paragraph 2(a) there is inserted—

“(aa) to enter with the consent of the occupier any domestic premises at which the officer has reason to believe that a sunbed business is being carried on;”;

- (b) the phrase “, other than domestic premises,” is omitted from paragraph 5(1);

- (c) in paragraph 5(1)(b) before the words “of either” there is inserted—
 - “in the case of a warrant to enter non domestic premises,”;
- (d) at the end of paragraph 5(1)(b) for “.” there is substituted “; or”; and
- (e) after paragraph 5(1)(b) there is inserted—
 - “(c) in the case of a warrant to enter domestic premises, that admission to the premises has been refused and that notice of the intention to apply for a warrant under this Schedule has been given to the occupier.”.

Name

Minister for Health and Social Services, one of the Welsh Ministers

Date

SCHEDULE 1

(Regulation 7(1))

Prescribed Health Information to be Provided

“GWYBODAETH IECHYD I DDEFNYDDWYR GWELYAU HAUL

Gall defnyddio gwelyau haul niweidio'ch iechyd yn y tymor hir. Maent wedi eu cysylltu â'r canlynol:—

- risg uwch o ganser y croen – mae pobl sy'n defnyddio gwelyau haul am y tro cyntaf cyn iddynt fod yn 35 oed yn cynyddu eu risg o ddatblygu melanoma malaen (y ffurf fwyaf difrifol ar ganser y croen) 75 y cant;
- niwed i'r llygaid gan gynnwys risg uwch o gael cataractau – os na fydd offer priodol i amddiffyn y llygaid yn cael eu gwisgo; a
- heneiddio'r croen cyn pryd sy'n golygu y bydd eich croen yn mynd yn arw, fel lledr ac yn grychiog mewn oedran iau.

Mae'r risgiau iechyd o ddefnyddio gwely haul yn uwch nag unrhyw fuddion posibl y gallent eu rhoi o ran cynorthwyo'r corff i greu Fitamin D.

Mae effeithiau iechyd byrdymor hefyd, sef:—

- croen sydd wedi llosgi yn yr haul, ac a all fynd yn goch, yn boenus ac yn bothellog;
- sychder croen;
- brech “wres” goslyd; a
- cosi yn y llygaid neu lid pilen y llygad os na wisgir offer priodol i amddiffyn y llygaid.

Ni ddylech ddefnyddio gwely haul:

- os ydych wedi cael canser y croen yn y gorffennol;
- os oes gennych hanes teuluol o ganser y croen;
- os oes gennych groen golau neu sensitif;
- os ydych yn llosgi'n hawdd yng ngolau'r haul;
- os oes gennych lawer o frychau haul a/neu wallt coch;
- os oes gennych lawer o fannau duon;
- os ydych yn defnyddio meddyginiaeth neu elïau sy'n gwneud eich croen yn fwy sensitif i olau'r haul;

- os oes gennych gyflwr meddygol sy'n cael ei waethygu gan olau'r haul;
- os oes gennych system imiwnedd sydd wedi ei gwanhau;
- os methwch ag amddiffyn eich llygaid – peidiwch byth â defnyddio gwely haul heb wisgo offer priodol i amddiffyn eich llygaid; neu
- os ydych o dan 18 oed (ac ni chaiff neb o dan 18 oed ddefnyddio gwely haul yn y fangre hon).

Mae rhai menywod yn canfod bod eu croen yn fwy sensitif yn ystod beichiogrwydd. Gallai hyn olygu bod eich croen chi yn fwy tebygol o losgi yn yr haul neu os byddwch yn defnyddio gwely haul.

HEALTH INFORMATION FOR SUNBED USERS

Using sunbeds can harm your health in the long term. They 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 per cent;
- eye damage including a higher risk of cataracts – 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, painful and blister;
- skin dryness;
- an itchy “heat” rash; and
- itchy eyes or conjunctivitis 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 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 an immune system which is weakened;
- fail to protect your eyes – never use a sunbed without wearing appropriate eye protection; or
- are under 18 (and no person under 18 may use a sunbed on these premises).

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.”

SCHEDULE 2

(Regulation 7(2))

Prescribed Health Information to be Displayed

“GWYBODAETH IECHYD

Gall defnyddio gwely haul niweidio'ch croen a'ch golwg a chynyddu eich risg o ddiodef gan ganser y croen.

HEALTH INFORMATION

Sunbed use can damage your skin and eyesight and increase your risk of suffering from skin cancer.”