

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

Dáil Éireann - Post Enactment Review

Policy Background

Skin cancer is the most common type of cancer in Ireland and is a particular problem for Irish people because of their fair skin. For most, the main source of exposure to ultra-violet radiation (UVR) is the sun. However, many people are exposed to high doses of UVR through artificial sources. Sunbeds and sunlamps used for tanning purposes are the main source of deliberate exposure to artificial UVR. The National Cancer Registry Ireland, reports that nearly 8,000 people are living with melanoma and 140 people die each year from this disease.

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 2009, the WHO’s International Agency for Research on Cancer (IARC), 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. This 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.

Key Information on skin cancer (National Cancer Registry Ireland 1994 - 2012)

- there are over 880 new cases of melanoma in Ireland each year;
- over 140 Irish people die each year from melanoma; and
- the incidence of cancer in Ireland is expected to double by 2040 and the fastest growing number of cancers are expected to be skin cancers.

Enactment and policy objectives of the Public Health (Sunbeds) Act 2014

It was against the above background that the Public Health (Sunbeds) Act 2014 (Number 12 of 2014) was enacted on 24 June 2014. The primary policy objectives of this legislation 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.

Commencement of the Public Health (Sunbeds) Act 2014

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;
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 (EHOs) in the HSE and for offences and penalties.

The provisions set out below (8-21) were commenced on 2 March 2015 and 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 manager of a sunbed business (including websites or social media sites) from making available or displaying any material that promotes a health or other benefit from sunbed use other than information prescribed by the Minister;
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.

It is proposed that the one remaining section i.e. section 14 on training of operators will be implemented later in the year.

Legislation introduced under the Act

- 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)(I)), 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)(I), 18 and 21 on 2 March 2015.
- 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)

Enforcement of the Public Health (Sunbeds) Act 2014

The legislation is being enforced by the EHOs in the Health Service Executive who are currently involved in a compliance building phase with sunbed businesses. This entails EHOs visiting individual sunbed premises and alerting the owners and managers of the requirements of the legislation – this phase will continue up until the 2 September which is the cut-off date for all sunbed businesses to notify their premises to the Sunbeds National Office of the HSE.

To underpin an effective enforcement and compliance programme, comprehensive powers are set out in the Act such as a regime for fixed payment notices for a range of offences. As well as fixed payment notices, there are penalties in place for failure to comply with the legislation. These are considered both proportionate and sufficient to encourage compliance and provide that on summary conviction, in the case of a first offence, the fine will be up to €4,000 (a class B fine) or imprisonment for up to six months, or both, and for second or subsequent offences, a fine of up to €5,000 (a class A fine) or imprisonment for up to 12 months, or both.

Stakeholder Engagement

Sunbeds National Implementation Group

An implementation group comprising members of the Department of Health, the HSE and the Environmental Health Association of Ireland (EHAI) has been established. This group usually meets on a monthly basis to address any issues relating to the roll out and implementation of the legislation. The Group has also developed information to inform consumers and guidance to facilitate compliance by industry.

Communications Group

The Department also established a Communications Group (DoH, HSE, Irish Cancer Society (ICS), Marie Keating Foundation (MKF) and EHAI) to ensure that a focus is continually placed on the message highlighting the dangers of using sunbeds and the importance of protecting our skin. Social media advertising campaigns organised by ICS were rolled out following the commencement of both phases of the legislation. These campaigns communicated the introduction of the under 18s ban on using sunbeds on sunbed premises and the overall dangers of sunbed use. These were part funded by the Department.

As well as engaging with the above stakeholders the Department continues its engagement with Department of Jobs, Enterprise and Innovation, National Consumer Agency, National Standard Authority of Ireland, and the Quality and Qualifications Ireland and the Sunbed Association of Ireland (representative of sunbed distributors).

Implementation by the Environmental Health Services of the HSE

Activity from 2 March 2015 to 1 July 2015

Number of sunbed premises issued with a notification number	126
Number of inspections of sunbed premises by the Environmental Health Service	307
Number of sunbed premises inspected	257
Number of complaints actionable by the HSE received to the Environmental Health Service	89
Complaints on underage restriction (4 premises in total)	5

Environmental Health Unit
Department of Health
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