WELSH STATUTORY INSTRUMENTS

2011 No. 1130 (W.156)

PUBLIC HEALTH, WALES

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

Made - - - -	*14 April 2011*
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 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;

(**1**) 2010 c. 20.

(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 oruchwylio*") 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" ("*goruchwylydd*") 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.".