March 24\textsuperscript{th} 2011

The Environmental Health Commercial Team welcomes you to a training session for owners and managers of UV Tanning outlets.
UV Tanning
Changes in Legislation

A session providing information on the possible impact on existing and new UV tanning premises following changes in legislation.
Existing Legislation

- The Health and Safety at Work etc. Act 1974.
- The Workplace (Health, Safety and Welfare) Regulations 1992
- The Provision and Use of Work Equipment Regulations 1998
- The Management of Health and Safety at Work Regulations 1999
New Legislation

- Sunbeds (Regulation) Act 2010.
- Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011

- The Act comes into force on the 8th April 2011
- The Regulations come into force on 31st October 2011
● Sunbeds (Regulation) Act 2010
● 2010 CHAPTER 20
Why is it necessary?

Graphic pictures removed due to copyright
KIDS’ TAN CANCER PERIL AT ARCADES

35p and no age check

ARCADE bosses are putting kids at risk of cancer with 35p-a-minute sunbeds, an investigation revealed.

Teenagers were not asked for identification at any of the amusement venues that hire out the high-powered machines.

Some owners say they don’t check young people’s ages.

The Sun said it had seen three youngsters, aged just 12, 13 and 14, strolling into a Sunbeds venue at Tynemouth and Cardiff.

A man in a floral shirt and a pair of blue jeans was asked to produce an ID that had been ‘lost’.

One staple of shop芫er charity shake-downs was that the cash for product money sums must be collected.

Carver Beresford, 84, was this week found guilty of stealing £120 from a Sunbeds company.

SCHOOLgirl Kayleigh Davies, 13, worked Leisure Time Casino in Liverpool. The food venue had a popular beach-themed Sunbeds.

The name of the wearer didn’t ask her age before directing her to the high-powered UV beds machine. When Kayleigh said she wanted a bed for three minutes he said, “If that’s 12 years, then number 4.” No one was surprised.

Asked about their use, which Kayleigh did not think, she said, “I don’t know. A tea and six. A cup of tea and six. I don’t know.”

Although Kayleigh denied going to a same bed, she said, “I don’t know. A tea and six. I don’t know.”

The Sun asked if Kayleigh had gone to a same bed, she said, “I don’t know.”

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What were the problems

- Unmanned salons
- No supervision of clients
- No age restriction
- Too long a session
- Too many sessions
- No goggles provided
- Wrong skin type
- Incorrect or No information provided

Picture removed due to copyright
Not a good advert

Graphic picture removed due to copyright
Will there be more inspections

- **NO.**
- Current inspection rate will remain, but any inspection will now consider the changes in legislation and how compliant a premises is.
- No extra inspections, no extra burden on business.
- **ALL WORKPLACE PREMISES WITH UV TANNING EQUIPMENT WILL BE INSPECTED DURING THIS COMING YEAR**
Current Inspections

- **Proactive Health and Safety inspections looking at health and safety issues**
- **Reactive visits following customer complaints**
- **Accident investigations following notification of accidents to staff, contractors or members of the public.**

**Future**

- Programmed inspections
- No additional inspections
- H&S inclusive of checking that the requirements of the new legislation are being met.

- Your future inspections will be based upon the assessed risk at your premises.
A breakdown of new requirements

- There always was a requirement for good health and safety however it has now been spelt out.
- Previous “guidance” is now mandatory
- Offences have penalties punishable by fines and **if the offence is under the Health and Safety at Work etc. Act 1974**, fines and/or imprisonment
- No “grey areas” e.g. guidance, recommendations, advice.
Section 1
Main interpretative provisions

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

- A “sunbed business” is a business that involves making one or more sunbeds available for use on premises that are occupied by, or are to any extent under the management or control of, the person who carries on the business; and those sunbeds are the sunbeds to which the business relates.
Is this you?

- Do you provide sunbeds at your premises for use by the public?
- Do you have any control over the use of the equipment at the premises?

Answer **yes** to either of the above and the legislation applies to you.
Explanations

- The size of the device or the precise mechanism it uses for emitting the UV radiation does not matter.
- Traditional lie-down sunbeds are caught as well as those in which a person receives UV radiation whilst standing up.
- Portable devices such as UV sun lamps are also caught.
- Electrically-powered devices which spray the skin with a substance that gives the appearance of a tan without the use of UV radiation are not “sunbeds” for the purposes of the Act.
“Sunbed business” is a business which offers sunbeds for use on the business premises. The business may be exclusively about providing sunbeds for use on the premises (such as a tanning salon) or it may provide sunbeds for use as a complementary or peripheral activity (such as gyms or hotels offering sunbeds for use by members or guests).

Either way it is a “sunbed business”.

A business can be a “sunbed business” irrespective of whether the sunbed is made available for use in return for payment.
Possibly the most important one and the most contentious

- The under 18 issue:
- Changes from guidance and recommendation to mandatory requirement.
Section 2
Duty to prevent sunbed use by children

- 1(a) that no person aged under 18 uses on relevant premises a sunbed to which the business relates;
- 1(b) that no offer is made by you or on your behalf to make a sunbed to which the business relates available for use on relevant premises by a person aged under 18;
- 1(c) that no person aged under 18 is at any time present, otherwise than in the course of providing services to you for the purposes of the business, in a restricted zone.
Relevant Premises

- Section 2(2)(a) Are occupied by you or are to any extent under your management or control, and
- Section 2(2)(b) Are not domestic premises.
RESTRICTED ZONE

- Section 2(4) If a sunbed to which the business relates is in a wholly or partly enclosed space on relevant premises that is reserved for users of that sunbed, every part of that space is a restricted zone.
- Section 2(5) If a sunbed to which the business relates is in a room on relevant premises, but not in a space falling within subsection (4), every part of that room is a restricted zone.
Explanation

- If the sunbed is in an enclosed booth, all the booth area is a restricted zone.
- If the sunbed is in the main area of the premises but not within an enclosed booth then the whole premises is a restricted zone.
- Persons under the age of 18 can only enter the zone as part of any work activity being undertaken.
RESTRICTED AREAS

Booth 1  Booth 2  Booth 3  Booth 4

RZ = ALL THE PREMISES

Seating
Restricted Zones
Restricted Zones
Restricted Zone
Explanation

- A person aged under 18 is allowed to be present in a restricted zone where the person is there for the purposes of providing a service to you which relates to the sunbed business.
- So, for example, you would not commit an offence under subsection (1)(c) if a person aged under 18 entered a restricted zone in order to clean or repair the sunbed, or to put fresh towels out, or paint the room in which the sunbed is kept.
- Any such service could be provided by one of your employees, but they could also be provided by a self-employed person contracted to work for you, or a member of staff from an agency or a person gaining unpaid work experience with the business.
Explanation

- By imposing criminal liability on the person carrying on the business if a person aged under 18 is present in a restricted zone, the section enables a prosecution to be brought in a case where a person aged under 18 enters the zone with an adult, but it is not possible to show which person actually used the sunbed.

- For example, if Emma (aged 19) and her friend Elizabeth (aged 17) both enter a private cubicle containing a sunbed, it would be difficult to know which of them used the sunbed.

- By making it an offence for an offer of use to be made to a person aged under 18, prosecutions are able to be brought even where the person aged under 18 did not go on to use the sunbed because, for example, the sunbed failed to work or the person changed their mind.
Advice

- Keeping records of customers
- Photographic proof of age; passport, driving licence.
- Don’t look 25 prove you are 18
- CAN’T, NO TANNING SESSION
- This isn’t about stopping you trade, it’s about keeping to the law, and saving you a potential £20,000 fine.
Penalties

- If it is proven that persons under the age of 18 are permitted to use the sunbeds, or are within the restricted zone you are liable on summary conviction to a fine not exceeding £20,000.
Section 3
Medical Exemptions

- 3(1) The use of a sunbed falls within this subsection if—
  - 3(1)(a) the use is for the purpose of medical treatment provided under the supervision or direction of a registered medical practitioner, and
  - 3(1)(b) the sunbed is a dedicated sunbed in, or provided by, a healthcare establishment.
Healthcare Establishment

- In Wales, a hospital as defined by section 206 of the National Health Service (Wales) Act 2006 or an independent hospital, independent clinic, or independent medical agency within the meaning of the Care Standards Act 2000.
Section 3 provides for an exemption from the duties in section 2(1) where a sunbed is used for the purposes of medical treatment under the supervision or direction of a registered medical practitioner, the sunbed is in, or provided by, a healthcare establishment (as defined) and the sunbed is made available only for the purpose of medical treatment. Where the conditions for the exemption are met, a person aged under 18 may be allowed to use, or be offered the use of the sunbed, or be present in a restricted zone containing the sunbed, without an offence being committed by you.
Section 3

- Relating to the sale and hire of sunbeds

More information available should anyone require it.
Section 5
Power to require information to be given to sunbed users

- Ss 1(a) to provide, in prescribed circumstances and in a prescribed manner, prescribed health information to persons who are using or may seek to use a sunbed;
- Ss 1(b) to display prescribed health information in a prescribed manner and in a prescribed form.
- Ss 2 In subsection (1) “health information” means information about the health risks associated with the use of sunbeds.
- Ss (3) Regulations may make provision prohibiting any person who carries on a sunbed business from providing or displaying any material that contains statements relating to the health effects of sunbed use other than—
  - (a) statements containing information prescribed under subsection (1), or
  - (b) statements containing any other information prescribed for the purposes of this subsection
Explanation

- Regulations under subsection (1) may require any person carrying on a sunbed business to provide and display information about the health risks of using sunbeds to those who use or may seek to use a sunbed.
- The nature of the information to be provided or displayed and the manner and circumstances in which it has to be provided or displayed will be set out in the regulations (see the definition of “prescribed” in section 12).
- Regulations under subsection (3) may ban a person carrying on a sunbed business from providing or displaying any material containing statements relating to the health effects of sunbed use, other than information that is required or authorised by regulations made under this section.
Information
Type I
"Always burns; never tans."

Type II
"Burns easily; tans minimally."

Type III
"Burns moderately; tans gradually to light brown."

Type IV
"Burns minimally; always tans well to moderately brown."

Type V
"Rarely burns; tans profusely to dark brown."

Type VI
"Never burns; deeply pigmented; insensitive."
Supervision of Sunbed Use

- (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.
Staff should be able to:

- The supervisor must be competent enough and be trained to ensure the following;
- Ascertain and verify that the age of the person seeking to use a sunbed is over 18;
- Assist the person to determine their skin type;
- Provide guidance to the person on the use of the sunbed, taking into account the person’s assessment of their skin type and any skin conditions, or medical, or other relevant conditions, such as pregnancy, apparent or disclosed to them;
- Advise the person as to the safe operation of the sunbed;
- Provide to the person the prescribed health information; and
- Ensure the provision and use of protective eyewear.
Section 6
Protective Eyewear

- Regulations may make provision requiring any person who carries on a sunbed business—
  
  6(a) to secure that protective eyewear meeting prescribed requirements is made available in connection with any use of a sunbed to which the business relates, and
  
  6(b) to secure as far as reasonably practicable that persons who use a sunbed to which the business relates wear protective eyewear meeting those requirements.
Eyewear.
Explanation

- Regulations under section 6 may place a duty on a person carrying on a sunbed business to ensure that protective eyewear is made available to users of the business’s sunbeds, and to ensure, so far as reasonably practicable, that protective eyewear is worn by users of those sunbeds.
Advice

- If the customer prefers to use their own eye protection, insist on seeing it before they enter the restricted area.
- NO EYE PROTECTION, NO TANNING SESSION
Section 7
Enforcement by Local Authorities

- 7(1) It is the duty of a local authority to enforce the provisions of section 2.
- 7(2) For that purpose it is the duty of every local authority to appoint officers (“authorised officers”).
- 7(3) The Schedule makes provision about powers of entry and related matters.
Paragraph 3 enables the authorised officer to carry out ‘test-purchasing’ exercises.

Similar to test purchases of alcohol, knives, solvents etc in Pubs, Supermarkets, Convenience stores etc.

“IF YOU DON’T LOOK 21, PROVE YOU ARE 18”
Section 8
Obstruction of Authorised Officers

- 8(1) A person who without reasonable excuse obstructs an authorised officer, acting in the exercise of the officer's functions under this Act, commits an offence.

- 8(2) A person who without reasonable excuse fails to give to an authorised officer, acting in the exercise of the officer's functions under this Act, any facilities, assistance or information which the authorised officer reasonably requires of the person for the performance of those functions commits an offence.

- 8(3)(a) you make a statement which is false or misleading in a material respect, and

- 8(3)(b) you either know that it is false or misleading or is reckless as to whether it is false or misleading.

- 8(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
Explanation

- Section 8 provides that any person who without reasonable excuse obstructs an authorised officer acting in the exercise of the officer’s functions under this act commits an offence. By subsection (2), a person who fails to give to an authorised officer any facilities, assistance or information which the authorised officer reasonably requires for the purposes of enforcement commits an offence. By subsection (3), a person commits an offence if the person makes a statement which is false or misleading, and either the person knows that it is false or misleading or is reckless as to whether it is false or misleading.
Section 9
Offences by bodies corporate

- This section applies where an offence under this act, or under regulations made under this act, is committed by a body corporate.
- If the offence is proved to have been committed by, or with the consent or connivance of, or to be attributable to any neglect on the part of—
  - any director, manager or secretary of the body corporate, or
  - any person who was purporting to act in any such capacity,
- That director, manager, secretary or person purporting to act as such (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- The reference in subsection (2) to the director, manager or secretary of the body corporate includes a reference to any other similar officer of the body corporate.
Explanation

- Section 9 provides that, if an offence under this act, or any regulations made under it, which is committed by a body corporate is committed with the consent or connivance of, or is attributable to the neglect of, an officer of a body corporate, then that officer as well as the body corporate is guilty of the offence.

- It is you, personally as the owner or “officer” of the business that can be prosecuted, not just legal action taken against the limited company.
Section 10
Regulations: general

- The power to make regulations under this act is exercisable by statutory instrument.
- 10(2) regulations under this act may—
  - (a) make Different provision for different cases or different areas,
  - (b) include Supplementary, incidental or consequential provision, and
  - (c) make Transitional provisions or savings.

- 10(3) Regulations under this act may—
  - (a) create offences punishable on summary conviction with a fine not exceeding—
    - (i) A prescribed level on the standard scale, or
    - (ii) A prescribed amount not exceeding £20,000;
  - (b) provide for exceptions from any duty imposed by the regulations;
  - (c) provide for defences in relation to any offence created by the regulations.
Section 10

- 10(4) regulations under this act may also—
- (a) require a local authority to enforce in its area the provisions of the regulations;
- (b) require a local authority to appoint officers for that purpose;
- (c) provide for any provision of the schedule to apply with modifications in relation to an officer so appointed.
The Sunbeds (Regulation) Act 2010 Wales (Regulations) 2011

- Require sunbed businesses to ensure the supervision of sunbed use
- Extend to businesses that operate from domestic premises the requirement that sunbeds are not used, or offered for use, to under 18s on those premises
- Prohibit the sale or hire of sunbeds to under 18s
- Require the provision of specified health information to users
- Prohibit the provision or display of any material relating to the health effects of sunbed use, other than material containing health information that has been prescribed; and
- Mandate the availability and use of appropriate protective eyewear by customers.
HEALTH WARNING

INFORMATION FOR SUNBED USERS

You should be aware that using sunbeds can harm your health in the long term. They have been linked to:

- a significantly higher risk of skin cancer including malignant melanoma (the most serious form of skin cancer) and classified as “carcinogenic to humans” by the International Agency for Research on Cancer;
- eye damage including a higher risk of cataracts – if appropriate eye protection is not worn; and
- accelerated skin damage, including premature ageing of the skin.

These health risks outweigh any potential benefits in using sunbeds to supplement Vitamin D.
Short term effects

- There are also short term health effects:—
  - sunburnt skin, which may become red, painful and blister;
  - skin dryness;
  - an itchy “heat” rash; and
  - eye irritation or conjunctivitis if appropriate eye protection is not worn.
You may be at increased risk from sunbed use if you:

- are under 18 (and no person under 18 may use a sunbed on these premises);
- have fair or sensitive skin that burns easily in sunlight;
- have a history of sunburn, especially in childhood;
- have a large number of freckles and/or red hair;
- have a large number of moles;
- without wearing suitable eye protection.

- are taking medication or using creams that sensitise the skin to sunlight;
- have a medical condition that is made worse by sunlight;
- have a history of skin cancer or someone in your close family has had skin cancer in the past;
- already have skin damage due to sunlight;
- have an immune system which is suppressed; are, or believe you may be, pregnant; or
- fail to protect your eyes.
Prescribed Health Information to be Displayed

RHYBUDD IECHYD

Gall defnyddio gwely haul niweidio'ch croen a'ch golwg. Bydd yn cynyddu'r risg y byddwch yn dioddef gan ganser y croen.

HEALTH WARNING

Sunbed use can damage your skin and eyesight. It will increase your risk of suffering from skin cancer.
Examples of health claims that cannot be used

- 'Sunbed sessions ARE good for you'
- A useful way of getting healthy doses of Vitamin D.
- An effective, quick and harmless alternative to natural sunlight.
- Using a sunbed will offer good skin protection against sunburn for holiday in sunny locations.
In a nut shell

- Don’t allow anyone under the age of 18 into the booths, the restricted areas or use the tanning equipment
- Provide the required safety and health information
- Provide eye protection or ensure you see that eye protection is available
- Don’t make health claims about the benefits of UV tanning
- Ensure you have the required health notices on display
- Ensure you have the premises is supervised at all times.
- Keep adequate records to show you are complying.
Diolch yn fawr
Thank you

- Contact Details
- Commercial Section
- Vale of Glamorgan Council
- Legal, Public Protection and Housing Services. Civic Offices, Holton Road, Barry. CF63 4RU
- 01446 709105