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Explanatory Memorandum](#)

**AN BILLE UM RIALÁIL LEAPACHA GRÉINE (UIMH. 2)
2010**

SUNBEDS REGULATION (NO. 2) BILL 2010

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
 2. Regulations.
 3. Duty to prevent sunbed use by children.
 4. Regulations relating to supervision of use of sunbeds, provision of information, etc.
 5. Enforcement: authorised officers.
 6. Offences and penalties.
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ACTS REFERRED TO

Data Protection Acts 1988 and 2003

Medical Practitioners Act 2007

Petty Sessions (Ireland) Act 1851

2007, No. 25

14 & 15 Vic., c.93



AN BILLE UM RIALÁIL LEAPACHA GRÉINE (UIMH. 2)
2010
SUNBEDS REGULATION (NO. 2) BILL 2010

BILL

5 *entitled*

AN ACT TO MAKE PROVISION ABOUT THE USE OF TANNING DEVICES THAT USE ARTIFICIAL ULTRA-VIOLET RADIATION; AND TO PROVIDE FOR CONNECTED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Interpretation.

“child” means a person under the age of 18 years;

“premises” includes any place, any vehicle or vessel and any tent or moveable structure;

15 “prescribed” means prescribed by regulations under *section 2*;

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

20 “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.

2.—(1) The Minister may make regulations for the general purpose of this Act and may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed. Regulations.

25 (2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

30 (3) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Duty to prevent
sunbed use by
children.

- 3.—(1) (a) A person who carries on a sunbed business shall secure that no offer is made to make a sunbed available for use on the premises of the business by a child.
- (b) A person who carries on, or is in any way concerned in the carrying on of, a sunbed business shall not allow a child— 5
- (i) to use a sunbed on the premises of the business, or
- (ii) to be at any time present, otherwise than in the course of providing services to the person for the purposes of the business, in a room or other wholly or partially enclosed space that is reserved for users of sunbeds. 10

(2) *Subsection (1)* does not apply to the use of a sunbed for the purpose of medical treatment provided under the supervision or direction of a registered medical practitioner (within the meaning of the Medical Practitioners Act 2007).

Regulations relating
to supervision of
use of sunbeds,
provision of
information, etc.

- 4.—(1) Regulations made under *section 2* may: 15
- (a) require a person who carries on a sunbed business—
- (i) to secure that the use of sunbeds is advertised and supervised in such manner as the regulations may require,
- (ii) to provide, in prescribed circumstances and in a pre- 20
scribed manner, prescribed health information to
persons who are using or may seek to use a sunbed,
- (iii) to display prescribed health information in a pre-
scribed manner and in a prescribed form,
- (iv) to secure that protective eyewear meeting prescribed 25
requirements is made available in connection with
the use of a sunbed, and
- (v) to secure as far as reasonably practicable that persons
who use a sunbed wear protective eyewear meeting 30
the prescribed requirements;
- and
- (b) prohibit a person who carries on a sunbed business from
providing or displaying material containing statements
relating to the health effects of sunbed use other than
prescribed health information. 35

(2) In *subsection (1)* “health information” means information about the health risks associated with the use of sunbeds.

Enforcement:
authorised officers.

- 5.—(1) The Health Services Executive may appoint such and so many officers as it thinks fit to be authorised officers for the purposes of this Act. 40
- (2) (a) An authorised officer shall be furnished with a warrant of his or her appointment.

(b) When exercising a power conferred by this section, an authorised officer shall, if required by a person thereby affected, produce the warrant to that person for inspection.

5 (3) Subject to *subsections (4) and (5)*, an authorised officer may for the purpose of ensuring that this Act is being complied with—

(a) at all reasonable times, enter and search a premises at which he or she has reasonable grounds for believing that a sunbed business is or has been carried on,

10 (b) require any person in charge at such premises, or connected with any equipment or device at such premises, to produce to him or her any books, documents or records relating to the business and, in the case of such information in a non-legible form, to produce it in permanent
15 legible form, and to give to him or her such information as he or she may reasonably require in relation to the business,

(c) inspect and take copies of, or take extracts from, any such books, documents or records relating to the business, including in the case of information in a non-legible form, a copy of or extract from such information in permanent
20 legible form,

(d) remove any such books, records or documents from such premises and detain them for such period as he or she reasonably considers to be necessary for the purposes of
25 his or her functions under this Act,

(e) inspect any equipment or device which is stored, or offered or kept for use at such premises,

(f) inspect and copy or extract information from any data within the meaning of the Data Protection Acts 1988 and 2003,
30

(g) seize and detain any equipment or device,

(h) secure for later inspection the premises or part of it.

(4) An authorised officer shall not other than with the consent of
35 the occupier enter a private dwelling unless he or she has obtained a warrant from the District Court under *subsection (7)* authorising such entry.

(5) An authorised officer, for the purpose of exercising any of the powers conferred by *subsection (3)*, may require any other person,
40 having authority to do so, to break open any container or package, or to permit him or her to do so.

(6) Where an authorised officer seizes any equipment or device or document in the exercise of a power conferred by *subsection (3)*, he or she shall inform the person from whom it is seized of that fact.

45 (7) If a judge of the District Court is satisfied, on the sworn information of an authorised officer, that there are reasonable grounds to authorise entry into any premises referred to in *subsection (4)*, the judge may issue a warrant authorising such an authorised officer, accompanied, if appropriate, by other authorised officers and by a
50 member or members of the Garda Síochána, at any time or times

within one month from the date of issue of the warrant, on production of the warrant requested, to enter those premises or part thereof and to exercise any of the powers conferred on such an authorised officer under this Act.

(8) A person shall not without reasonable excuse fail to comply with any requirement made by an authorised officer under this section or, in purported compliance with such a requirement, give the authorised officer information which is false or misleading in a material respect. 5

(9) A person shall not obstruct or interfere with an authorised officer in the exercise of his or her powers under this section. 10

Offences and penalties.

6.—(1) A person who contravenes any provision of this Act or of regulations made under this Act is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding six months, or both. 15

(2) It is a defence for a person charged with an offence under this section to show that he or she took all reasonable precautions and exercised all due diligence to avoid committing it.

(3) Where an offence under this Act or under regulations made under this Act is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she was guilty of the first mentioned offence. 20 25

(4) For the purposes of this Act, every contravention of a provision of this Act, of a regulation under this Act and of a paragraph or a subparagraph of such a regulation shall be deemed a separate contravention and shall carry the same penalty as for a single contravention of any such provision. 30

(5) (a) Proceedings for an offence under this Part may be brought and prosecuted by the Health Service Executive.

(b) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Part may be instituted— 35

(i) within 2 years from the date on which the offence was committed, and

(ii) if at the end of that period, the person to be charged is outside the State, within 2 months of the date on which he or she next enters the State. 40

Short title and commencement.

7.—(1) This Act may be cited as the Sunbeds Regulation (No. 2) Act 2010.

(2) This Act comes into operation 6 months after its passing. 45



AN BILLE UM RIALÁIL LEAPACHA GRÉINE (UIMH. 2) 2010
SUNBEDS REGULATION (NO. 2) BILL 2010

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of this Bill is to provide for the regulation of sunbeds and to ban the use of sunbeds by children under the age of 18 years. The Bill outlines the methods of regulation, inspection and liability for those found to be in breach of the Bill and makes an exception for sunbed usage for medical purposes in the appropriate medical setting.

Provisions of the Bill

Section 1 is the short title and interpretation section and defines certain words and terms used in the Bill.

Section 2 provides the Minister with the authority to make and revise regulations, provided the regulations are laid before each House of the Oireachtas and that such regulations are subject to repeal by either House.

Section 3 requires that a person who carries on a sunbed business shall not allow a child to use a sunbed or make a sunbed available for use by a child on the premises. Subsection 2 makes an exception to the use of sunbeds for medical purposes under the supervision of a registered medical practitioner as defined by the Medical Practitioners Act 2007.

Section 4 provides that regulations made under *Section 2* may provide health information about the health risks associated with sunbeds and may require a person who carries on a sunbed business to secure the use of sunbeds, and provide and display health information to those who seek to use a sunbed.

Section 5 gives the Health Service Executive authority to appoint officers to ensure compliance with the Bill and requires persons to comply with any requirement made by authorised officers. Subsection 3 provides officers with authority to enter and search premises where a sunbed business is carried on and the business is obliged to produce records and information as required. The officers have the authority to inspect, seize or detain any equipment or device as required.

Section 6 defines the penalty for persons found in contravention of the Bill as a fine not exceeding €5,000 or to imprisonment for a period not exceeding six months, defines the liabilities of individuals and bodies corporate and defines the statute of limitations from which proceedings for an offence may be instituted.

Section 7 provides for the short title, and that the Bill shall come into operation six months after its passing.

*An Teachta Jan O'Sullivan,
Meitheamh, 2010.*