The Regulation of Sunbed Parlours Bill

A consultation

This document has been produced with the advice and support of:

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Foreword

I am deeply concerned about the link between cosmetic sunbed use and the rising incidence of skin cancer in Scotland. The issue was highlighted to me at the Scotland Against Cancer conference, a national cancer forum endorsed by the Cross Party Group on Cancer in the Scottish Parliament. A case was made for thorough regulation of sunbed operators. It was felt that tighter controls could have a positive impact on skin cancer prevention efforts.

I have subsequently received representations from many individuals and organisations with an interest in skin cancer prevention, expressing concern about rising sunbed use and the effect this may have on levels of skin cancer. I am grateful to those people for further drawing the issue to my attention.

Skin cancer is the fastest rising cancer in Scotland, and a particular problem in the West of Scotland. The risk of skin cancer is related to lifetime exposure to ultraviolet light and intense exposure to such light is the most dangerous to the skin. For example, too much time spent in the sun on holidays abroad or excessive time spent in the sun on the occasional hot day in Scotland, constitutes this type of exposure.

Sunbed use also provides a form of intense exposure to ultraviolet light. Just one session a month will double the average individual’s annual dose of ultraviolet radiation.¹

Sunbed use is on the rise in Scotland and there is now a significant body of evidence to suggest that the sunbed industry suffers from a lack of regulation. Cases of malpractice by operators have been documented in a survey by the Royal Environmental Health Institute of Scotland (REHIS).²

I am particularly concerned by evidence that children are using sunbeds as they are especially sensitive to ultraviolet light. Just one day of burning as a child increases the risk of getting skin cancer as an adult.

The lack of sunbed regulation in commercial premises and the damaging impact this can have, is best illustrated by example. In the summer of 2004, two young boys aged 11 and 13 years old used unsupervised sunbeds in Stirling and were so badly burnt, they had to be admitted to hospital.

Stirling Council environmental health officers were alerted to investigate the incident but because there was no legislation covering the regulation of sunbeds, action could not be taken against the salon for being unstaffed or for allowing young people under the age of 16 years to use a sunbed.

¹ NHS Scotland
² Survey of Sunbed Salons in Scotland. Information collated by Royal Environmental Health Institute of Scotland, 3 Manor Place, Edinburgh, EH3 7DH, November 2003.
It is increasingly clear that a voluntary regulation scheme is ineffective, and I am now convinced of the need for formal regulation in this area. Regulating sunbeds to ensure that children do not use them and to ensure that all users are aware of the risks associated with sunbed use, could be a major step forwards in the drive to control Scotland’s skin cancer epidemic.

This consultation document has two main aims. Firstly, the consultation seeks to identify the problem by highlighting rising incidences of skin cancer and the link between sunbed use and skin cancer. The document goes on to make the case for a sunbed licensing scheme. Secondly, the consultation seeks to garner responses and opinion on this issue that will add to existing knowledge and will help shape the legislation.

At the end of each section there will be a question to provide a focus for response. These questions are intended as a guide and respondents need not restrict themselves to answering the specific points but can provide a fuller answer on all the issues raised in this document.

The replies received will contribute to the contents of the Bill: the definitions of sunbeds and sunbed premises, the details of licences and associated regulation, the costs and benefits of regulation, enforcement and sanctions, and proposed monitoring and review of legislation.

I hope that this consultation document will help me to engage with as many people as possible concerned with future regulation. This consultation will be sent to a wide range of interested parties, including health boards, local authorities and representatives from the sunbed industry. Recipients should feel free to pass copies on to others, and I would particularly welcome responses from people with a disability or disability groups.

Please take the time to give this document your full consideration.

Kenneth Macintosh MSP
Co-Convener
Cross Party Group on Cancer in the Scottish Parliament
Responding to this consultation

Responses to this consultation should be returned to:

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A downloadable version of this document is available on my website at www.kenmacintoshmsp.co.uk and electronic responses can also be forwarded to kenneth.macintosh.msp@scottish.parliament.uk

The consultation will run for three months from 2 May 2006 and responses should be received by 2 August 2006.

To help inform debate on the matters covered by this paper and in the interests of openness, the responses submitted on this consultation document will be made public unless marked as confidential. However, confidential responses will nevertheless be included in any summary or statistical analysis, which does not identify individual responses.
1 The Proposal

1.1 The Member’s Bill that I am proposing would compel local authorities to issue licences regulating cosmetic sunbed premises, also known as sunbed parlours or salons.

1.2 The Bill would require providers of cosmetic tanning facilities, or equipment, to obtain a licence to operate from the local authority. The conditions for granting a licence would be set in the Bill. The licensing conditions would be set so that local authorities could:

- Prevent the use of sunbeds by children
- Protect adults from over-exposure
- Ensure that sunbed users are supervised
- End the use of coin-operated machines
- Ensure that sunbed sessions are monitored and limited
- Provide health risk information in sunbed parlours
- Inspect premises

1.3 The proposal seeks to achieve a number of objectives. By providing health risk information, the Bill aims to ensure adults are equipped to make informed choices about the risks of sunbed use. The conditions of licensing would require staff to be on premises, which would help to prevent over-exposure to ultraviolet light, especially by those who are more sensitive such as users with fair skins. The hope is that the Bill would also reduce the number of burns and accidents currently attributed to the misuse of unsupervised equipment and would drive up standards amongst operators.

1.4 Premises not holding a licence would not be permitted to trade.

QUESTION:

Q1 What do you consider would be the benefits from regulation of cosmetic sunbed premises? What do you consider if any, would be the drawbacks?

2 Background - Scotland’s skin cancer epidemic

2.1 Scotland is experiencing a skin cancer epidemic. Incidence of skin cancer has tripled in the last thirty years. There were over 7,000 cases of skin cancer diagnosed in 2001, up from 2,200 in 1975. Higher rates of melanoma incidence have been reported in Scotland than in the rest of the UK. In the age group 20-39 years, malignant melanoma is the second most common cancer in the UK. This is an unusually young age distribution for an adult
cancer and emphasises the importance of its prevention and early treatment to avert the potential loss of many years of life. On average, about 20 years of life are lost for each melanoma death in the UK.3

2.2 The NHS and a number of cancer charities have most clearly linked the steep rise in incidence to changing cultural perceptions of a tan as desirable and the steep rise in the number of people taking holidays in the sun.

2.3 Tanning grew significantly in popularity through the 1960s, 1970s and 1980s and as skin cancer may take 20 or more years to develop, the high rates of skin cancer can be expected to continue for many years to come. Mortality from skin cancer, particularly melanoma its most aggressive form, has not fallen despite major public health initiatives to raise awareness of sun protection and skin cancer.

2.4 Attempts are being made by health promotion agencies to tackle this growing problem through encouraging people to change their behaviour on holiday and convincing Scots to take care on sunny days at home.

2.5 Another source of ultraviolet light is that derived from sunbed use and medical evidence on the risk of sunbeds to health is increasing. Sunbeds have been linked to a variety of negative health effects, including eye damage, photodermatosis, photosensitivity, premature skin ageing and skin cancer.4

2.6 Ultraviolet rays from sunbeds have been classified as Group 2A carcinogens by the International Association for Research into Cancer (IARC) that is, “probably causing cancer in humans.” 5

2.7 Recent analyses from studies in different countries over the last ten years have shown that the use of sunbeds increased the risk of cancer and the risk appears to be higher if use begins early in life. 6, 7 Furthermore, in the UK a significant study from the British Medical Association found that sunbed users were 2.5 times more likely to develop skin cancer. The risks appear to be higher in the young.8

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2.8 A model has been developed to estimate human ultraviolet exposure to both sunlight and sunbeds, and this information was used to predict the contribution of sunbeds to melanoma mortality in the UK. The results of this study indicate that sunbeds cause 100 deaths from melanomas each year in the UK.9

2.9 The World Health Organisation (WHO) recommended in 2005 that no one under 18 should use a sunbed and that there is a need for guidelines or legislation to reduce the risks associated with sunbed use. WHO argues that growth in the use of sunbeds, combined with the desire and fashion to have a tan, are considered to be the prime reasons behind the fast growth in skin cancers in developed countries. The highest rates are found predominantly in those countries where people are fairest-skinned and where the sun tanning culture is strongest: Australia, New Zealand, North America and northern Europe.10 The people of Scotland are particularly fair-skinned and therefore at relatively high risk of developing skin cancer.

QUESTION:

Q2 Is there any additional evidence of the risks, or otherwise, of sunbed use that you can provide?

3 Perceptions of risk associated with sunbed use

3.1 Despite common claims, radiation from sunbeds is no safer than exposure to the sun itself. The emission from many sunbeds is greater than that from the midday sun in the Mediterranean. The UVA portion of the emission spectrum can be 10-15 times higher than that of the midday sun.11, 12

3.2 A 1986 survey found that people believed that sunbeds cause less damage to skin than outdoor tanning. This is partly because of the marketing of sunbeds as a way of getting a ‘safer’, ‘controlled’ tan. 13

3.3 Positive health claims are still being used to market cosmetic sunbeds. In 2005 the action of ultraviolet light on skin to synthesise Vitamin D in the body was used in an advertisement funded by The Sunbed Association to promote the use of sunbeds as healthy. When a consumer complained about

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the inference, the Advertising Standards Authority upheld the complaint, in recognition of the fact that health professionals do not recommend sunbeds as the main source of Vitamin D, because of the risk associated with skin damage and cancer.14

3.4 This was also the conclusion of the recent American Academy of Dermatology conference in May 2005. This conference reviewed evidence and recommended that Vitamin D supplements are a safer, cheaper and better alternative to raise Vitamin D levels than ultraviolet light, especially for the frail elderly and possibly for dark-skinned people with low sun exposure. 15

3.5 Because of the documented causal relationship between skin cancer and sunbeds, many international and UK health organizations have publicly recommended that sunbeds should not be used, or their use should be limited and regulated to protect public health.

4 The current situation- a lack of regulation

4.1 There exists no relevant legislation other than general Health and Safety guidance to control the use of sunbeds.

4.2 The Health and Safety Executive (HSE) advocates that sunbeds should be avoided by people:

- Who are under 16 years of age
- Who have very fair skin
- Who burn easily or tan poorly
- Who have a lot of freckles or moles
- Who have had a skin cancer or have a family history of the disease
- Who are using medication that could make their skin more sensitive to ultraviolet radiation (UVR)
- Who already have extensive UVR damage16

4.3 The HSE has issued guidelines and cosmetic sunbed premises and machines are subject to the requirements of health and safety legislation in Scotland. Control of exposure is governed by the general provisions of the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulation 1999.

4.4 To comply with this legislation, duty holders are required to assess the health and safety risks caused by their work activities which will include the risks to employees and customers from exposure to ultraviolet radiation and put in place measures to control these risks as far as is reasonably

15 Lim HW, Sunlight, tanning booths and Vitamin D, J Am Acad Dermatol 2005;52;868-76
16 British Medical Association- www.bma.org.uk
practicable. Specific guidance has been issued by the HSE on Controlling the Risks from the Use of Ultraviolet Tanning Equipment and can be found at: http://www.hse.gov.uk/pubns/indg209.pdf.

4.5 Some businesses operate under a voluntary code of conduct agreed by the Sunbed Association. The Sunbed Association claims 20-25% of cosmetic sunbed premises are in membership. Consequently, with those numbers, voluntary arrangements can only have limited effect. Although the Sunbed Association provides training schedules, there appears to be no requirement for training associated with the use of non-therapeutic UV radiation. The responsibility is on the provider to supply appropriate information that will allow potential clients to make an informed decision about whether or not sunbeds are suitable for their use.17

4.6 International legislation is diverse but it is significant that the need for regulation is recognized in France, Belgium, Sweden, Canada and the USA. European standards exist to regulate ultraviolet lamp emission strength and sunbed products.

QUESTION:

Q3 How would licensing of salons help to change users’ perceptions of the risks involved? What other methods could be used to affect perceptions?

5 Why lack of regulation is a problem: The case for sunbed salon licensing

5.1 It is only within the last decade that public health authorities in Scotland have begun to highlight the health risks associated with sunbed use and in particular, the increased risk of developing skin cancer.

5.2 In the past, many local authorities provided tanning facilities within their own leisure centres. The association of sunbeds with leisure facilities reinforced the perception that a tan is a sign of good health. Fortunately, over the last decade most sunbeds have been removed from local authority premises. In the main, this has been done because local authorities perceive this to be an action they can take to discourage the use of sunbeds for cosmetic tanning purposes, and to highlight the dangers associated with use. In addition, the problem of skin cancer has often been viewed as a local community issue, with the subsequent onus on local authorities to take action.

5.3 However, while the provision of sunbeds in local authority facilities has decreased, the number of commercial sunbed premises has increased.18 Furthermore, there are growing concerns that some cosmetic sunbed

17 British Medical Association- www.bma.org.uk
18 According to REHIS, the national body for local government health and safety officers.
premises are poorly run and offer little advice on the health risks associated with sunbed use.

5.4 A 2003 REHIS survey of 794 cosmetic sunbed premises in all 32 Scottish local authority areas identified a number of unstaffed and unsupervised premises and salons that were failing to check the age of customers or enquire about skin type or medical conditions which may deem sunbed use particularly ill advisable. In addition, the survey highlighted a number of salons that were failing to offer customers adequate eye protection.19

5.5 Surveys in the UK and North America show that tanning salon operators typically show ignorance of sunbed risks and fail to enforce rules for using sunbeds.20-21,22

5.6 The University of Dundee and Perth and Kinross Council in a joint study of privately operated premises in Tayside revealed the following major incidences of poor practice:

- 89% exercised no form of administrative control on the number of sessions per customer
- 81% failed to give adequate advice to customers
- 59% maintained no customer records
- 33% displayed no guidance to users

5.7 The recent change by many commercial operators to adopt more powerful UV lamps using shorter wavelengths has led to even greater concern amongst health professionals. An assessment by the Photobiology Unit at the University of Dundee Ninewells Hospital concluded that “all tanning units are potentially harmful and that the newer stand-up type has a much greater risk than has been generally appreciated.”23

5.8 However, greater awareness - from a variety of media and health campaigners in the 1980s - of the increasing levels of skin cancer in this country, coupled with a number of incidents involving the misuse of cosmetic sunbeds, has encouraged five local authorities to introduce a licensing regime.24

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19 REHIS calls for Executive Action on Sunbeds, poor standards putting Scots at risk, November 2003
24Royal Environmental Health Institute survey, November 2003 [cited in note 2].
5.9 Using the existing powers of the Civic Government (Scotland) Act to license “places of public entertainment”, these councils introduced conditions which licensed operators would have to observe if they wished to remain in business. These conditions vary from prescribing recommended temperature controls and sunbed exposure limits, to regulations on record keeping and the provision of information. All have had the intention of raising health awareness and promoting sensible sunbed use amongst customers.

5.10 Although five local authorities have sought to license cosmetic sunbed premises using the existing powers of the Civic Government (Scotland Act), there are concerns that the legislation as currently drafted does not help them do so. It is unclear whether sunbed salons can be included in the definition of places of ‘entertainment’ in the Act and at least one legal challenge to a licensing regime has been threatened.

5.11 Not only does the existing legislation make it difficult for local authorities to implement effective controls, it does nothing to encourage them to do so. The proposed Sunbeds Bill would require Councils to impose a standard regulatory regime across Scotland.

6 Potential impact of a sunbed licensing scheme

6.1 It is anticipated that those businesses which do not meet the licensing requirements would be required to either invest in their businesses or be forced to cease trading. This would also eliminate the existence of coin-operated sunbed machines as well as the presence of un-staffed locations.

6.2 The cost of a licensing scheme must be balanced against the cost of reducing the harm caused by sunbeds. Although there would also be an administrative charge to operators of premises, in the long run the regulations would reduce the number of Scots – presently around 7,000 per year - who are being treated for skin cancer by the National Health Service.

QUESTIONS:

Q4 If cosmetic sunbed premises were to be regulated, what body or bodies would be best placed to do so? What degree of flexibility should a regulator have?

Q5 How should the costs on the enforcing body be covered?

Q6 What costs and savings do you think will arise as a consequence of this proposal?

Q7 Can you suggest any equal opportunity impacts that you envisage arising from this proposal, either positive or negative?
7 Conclusion

7.1 Scotland needs to take action to tackle skin cancer and the public health message that sunbeds are potentially dangerous needs to be heard loud and clear. I believe a system of licensing for sunbed salons could do for skin cancer what the health warning on packs of cigarettes has done for lung cancer. It would introduce health controls in an otherwise very unregulated area, it would protect our young people and children from harm and it would raise public awareness of the dangers of skin cancer.

7.2 Can I thank you for taking the time to read this consultation and I look forward in turn to reading your response.

8 Summary of Questions

Q1 What do you consider would be the benefits from regulation of cosmetic sunbed premises? What do you consider if any, would be the drawbacks?

Q2 Is there any additional evidence of the risks, or otherwise, of sunbed use that you can provide?

Q3 How would licensing of salons help to change users perceptions of the risks involved? What other methods could be used to affect perceptions?

Q4 If cosmetic sunbed premises were to be regulated, what body or bodies would be best placed to do so? What degree of flexibility should a regulator have?

Q5 How should the costs on the enforcing body be covered?

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