

Reducing Harm from Commercial Sunbeds

Consultation document

Citation: Ministry of Health. 2015. *Reducing Harm from Commercial Sunbeds: Consultation document*. Wellington: Ministry of Health.

Published in November 2015
by the Ministry of Health
PO Box 5013, Wellington 6145, New Zealand

ISBN 978-0-947491-32-1 (online)
HP 6295

This document is available at health.govt.nz



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1 Introduction

1.1 Purpose

This document contains proposals to introduce new regulations to protect the public from harm from services that artificially tan the skin through the use of ultra-violet (UV) light (this includes services using ‘sunbeds’). The Ministry of Health is seeking public feedback on the following key issues:

- Should the Government introduce new controls on sunbed services to reduce the harms caused by those services?
- What do you think of the proposals set out in this document for new regulatory controls?
- What impacts would the proposed new controls have on you or your business (if any)?

1.2 Definitions

Many people refer to UV-emitting devices used for tanning and other purposes as ‘sunbeds’. There are, however, a number of different types of such devices. These include beds (sunbeds) on which people lie, with UV emitting lamps above and below, but there are also cubicles in which people stand surrounded by UV lamps. Finally, there are other devices such as sun lamps, which people stand in front of or angle over their skin.

A UV device is any equipment intended to expose human skin to UV radiation for tanning or other purposes. However, for the purposes of this paper we:

- use the term *sunbeds* to cover all such UV devices
- refer to the use of UV devices for payment or other consideration as *sunbed services*
- refer to establishment(s) that offer the commercial use of sunbeds on-site as *sunbed premises*.

1.3 Background to the proposals

Skin cancer is by far the most common cancer affecting New Zealanders, and approximately 300 people die from melanoma of the skin each year. Exposure to sunbeds poses a significant risk of skin cancer to users, as well as the risk of burns to skin and eyes, ageing of the skin and photosensitivity reactions in the skin.

The Ministry of Health has been concerned for some time about the promotion and use of sunbeds in New Zealand. Recently Parliament has considered a Bill to ban the provision of sunbed services to people under 18 years of age. That Bill has broad cross-parliament support and is likely to be passed into law in 2015/16.

However, while a ban on such services to those aged under 18 years of age is likely to reduce public harm to some extent, it does not deal with the ongoing health risks posed by the supply of those services to the wider population. Part 2 of this document discusses these risks and how they are manifested.

This consultation document puts forward a proposal that would see regulations made under s119(d) of the Health Act 1956 to:

- (a) license sunbed premises and businesses that hire out sunbeds, as well as staff who either operate sunbeds or set them up in people's homes when hired
- (b) set mandatory operating practices for sunbed premises and businesses that hire out sunbeds.

The Government has also considered alternative options, including:

- maintaining the status quo (ie, voluntary compliance)
- the introduction of an active media campaign to discourage the use of sunbeds
- banning the provision of sunbed services in New Zealand
- banning the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use.

None of the alternative options were selected because none aligned well with the Government's policy objectives (see parts 3 and 4). The options are briefly summarised in the Appendix and are analysed in the accompanying Regulatory Impact Statement (RIS).¹

The target audiences for consultation on this document are the public, sunbed users, the health sector, and industry and business interests. The Ministry of Health will use information obtained from this consultation to update the RIS and make recommendations to the Government. If there is a decision to proceed with the proposal, regulations will be developed.

This consultation document also proposes including provisions in regulations to support the implementation of an infringement notice scheme that is being introduced by way of the Health (Protection) Amendment Bill 2014. Assuming that Bill is passed, regulations would need to set the level of infringement notice fines.

1.4 Making a submission

The closing date for submissions on this document is: **5 pm, Friday 12 February 2016.**

Submitters are encouraged to make submissions by email, using the response form available at the end of this document. Submissions should be emailed to the following address:

sunbeds@moh.govt.nz

A copy of this form is also available on the Ministry's website: www.health.govt.nz

Alternatively, your completed form can be mailed to:

Sunbed Consultation
Environmental & Border Health Team
Ministry of Health
PO Box 5013
Wellington 6145.

¹ The RIS is available at: <http://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements>

1.4.1 Protection of commercially sensitive information

Public reporting on this consultation will seek to avoid prejudice to the commercial position of respondents who provide commercially sensitive information. Submitters are therefore asked to clearly indicate any information they request be treated as confidential commercially sensitive information.

1.4.2 Official Information Act 1982

Your submission and any correspondence you send to the Ministry may be requested by a person under the Official Information Act 1982 (the Act). If there is any part of your submission that you consider should be properly withheld under the Act, please make this clear in your submission, noting the reasons why you would like the information to be withheld (eg, you may consider some information to be commercially sensitive).

If information from your submission is requested under the Act, the Ministry is obliged by law to handle such information in accordance with the Act. In many cases this will mean that we will have to release your submission and supporting information to the person who requested it, unless there is a justifiable reason for withholding this information under the Act.

1.4.3 Declaration of interest

All submitters are asked to declare any financial or other interests they may have in businesses associated with the artificial UV tanning industry, or any other business venture that may be affected, positively or negatively, as a result of the proposals contained within this document. Other stakeholders are asked to provide a short statement or explanation of the purpose or focus of any organisations they represent that have an interest in the proposals.

2 Problem definition

2.1 Summary

The use of sunbeds is potentially harmful in a number of ways. The Ministry of Health has been concerned for some time about their continued use given the clear evidence and international consensus that the use of sunbeds poses a significant increased risk of skin cancer to users. This risk is heightened for those aged less than 35 years and for those with certain skin-risk types.

Other potential harmful effects from the use of sunbeds include:

- burns to skin and eyes, and, in extreme cases, blistering of the skin
- ageing of the skin
- skin reactions in those with photosensitive skin.

The World Health Organization (WHO) advises strongly against the use of sunbeds for tanning, and in 2009 the International Agency for Research on Cancer classified sunbeds as 'carcinogenic to humans' (IARC 2009).

2.2 Skin cancer and its association with sunbeds

2.2.1 Skin cancer in New Zealand

Skin cancer is by far the most common cancer affecting New Zealanders. In 2011 there were 21,050 new cancer registrations, and of those, 2204 were 'malignant melanoma of skin' (Ministry of Health 2014). There were 359 deaths from malignant melanoma of the skin in 2011, which represents 4 percent of total cancer deaths in New Zealand for the year and makes it the sixth most common cause of death from cancer in 2011 (Ministry of Health 2014).

Cancer Registry data from 1996 to 2011 suggests that people of European descent have a significantly higher incidence of skin cancer than those of other ethnicities. For example, the incidence rate for people of European descent was over eight times higher than that of Māori (Ministry of Health 2015a).

New Zealand's skin cancer rates are among the highest in the world. This is due to factors such as high levels of UV radiation in New Zealand during summer, New Zealand's outdoor lifestyle, and a high population of people with fair skin.² The incidence of melanoma in New Zealand is about four times higher than in Canada, America and the United Kingdom.³

² See: <https://wellington.cancernz.org.nz/en/reducing-cancer-risk/what-you-can-do/sunsmart/about-skin-cancer/> (accessed 30 October 2015).

³ See: www.health.govt.nz/your-health/conditions-and-treatments/diseases-and-illnesses/melanoma (accessed 3 July 2015).

2.2.2 Costs of skin cancer

The costs of skin cancer to the New Zealand health system were estimated in 2009 at about \$57 million per year (O’Dea 2009). In addition, lost productivity as a result of skin cancer was estimated to cost \$66 million a year (O’Dea 2009). If the estimated 4741 years of life lost were valued at a very low \$20,000 a year, this would imply a loss approaching \$95 million a year.

Additional costs include the personal costs borne by people with skin cancer, such as travel and accommodation to receive treatment, non-medical costs during illness, and preventive purchases such as sunscreen and protective clothing. Intangible costs include stress and loss of enjoyment of life, as well as premature death.

Around \$2 million a year is spent by non-government organisations on preventive measures (O’Dea 2009). In total, this gives an estimated cost for skin cancer of \$220 million a year (in 2009 dollars), not including personal preventive measures and intangible costs.

2.2.3 The contribution of sunbeds to skin cancer

Sunbeds expose users to higher levels of dangerous UV radiation than the sun, delivering UV radiation that is sometimes up to three to four times more intense than the midday sun.

Sunbeds increase the risk of melanoma and other skin cancers (Ministry of Health 2015b). As stated above, the International Agency for Research on Cancer has classified sunbeds as ‘carcinogenic to humans’ (IARC 2009). This is because those who use sunbeds, particularly before the age of 30, increase their risk of melanoma by 75 percent (IARC 2015). A 2012 study found that having ever used a sunbed was associated with an increased risk of melanoma, and each additional sunbed use per year was estimated to increase the risk of melanoma by 1.8 percent (Bonniol et al 2012).

The same study estimated that in Europe use of UV devices could be responsible for 5.4 percent of melanoma cases. Australian data suggests that 3.2 percent of melanomas and 3.5 percent of melanoma-related deaths could be attributable to sunbeds (Gordon et al 2008).

2.3 Sunbed premises in New Zealand

2.3.1 The extent of use of sunbeds

The exact number of sunbed premises in New Zealand is not known. This is because there are no registration requirements on sunbed premises. In recent years there has been a downward trend in the number of sunbed premises operating in New Zealand reported by district health board (DHB) public health units, based on their annual surveys. In the 2015 summary report on the national survey, 124 establishments with sunbeds were reported, a decrease from 162 in 2014 (EMF Services 2015). The average number of sunbeds per establishment was reported as 1.6.

There is no data on private ownership and use of sunbeds. There are several businesses offering rental of sunbeds for use in private homes, but the number of people hiring sunbeds is unknown. The exact number of sunbed users in New Zealand is not known either, as there is no requirement to report usage.

The 2010 Health and Lifestyle Survey noted that, overall, 2.8 percent of adult respondents (those aged 15 years and over) had used a sunbed in the last 12 months. This proportion is equivalent to around 92,000 people using sunbeds in New Zealand (Gray 2011).

In the US, almost one in three adults utilise sunbed services (Kavouras et al 2014). Various international studies have found that a significant percentage of young people use sunbeds, many using sunbed services more than 10 times each year (for example, Taddeo and Stanwick 2012).

2.3.2 Controls on the operation of sunbed premises in New Zealand

New Zealand currently has a voluntary standard for sunbed service providers. The Australia / New Zealand Standard 2635:2008 *Solaria for Cosmetic Purposes* (the Joint Standard) provides guidance on the steps operators can take to better inform consumers and reduce the risks from UV devices. The Joint Standard sets out requirements for installing, maintaining and operating UV devices in order to reduce the risk associated with sunbed services. However, the Joint Standard is not mandatory, so individual sunbed premises make their own decisions about whether to comply with it.

Indeed, despite the existence of the Joint Standard, operator compliance with the Standard is mediocre. In the past the Ministry of Health has commissioned Consumer New Zealand to undertake surveys of sunbed premises for compliance with clauses in the Joint Standard, and public health units have undertaken compliance checks once a year. In the most recent Consumer New Zealand survey it was found that more than 40 percent of operators failed to implement one or more of the requirements checked, and only 50 per cent of operators met all nine criteria that were assessed. Nevertheless, this was an improvement on previous years. Public health units have also found a small improvement in compliance over the past few years. However, in 2015 only 35 percent of the sunbed premises assessed showed full or nearly full compliance with the 11 areas of operation checked (EMF Services 2015).

There are some electrical safety requirements for UV tanning equipment.⁴ The Standard AS/NZS 60335.2.27 *Household and Similar Electrical Appliances – Safety – Particular requirements for appliances for skin exposure to ultraviolet and infrared radiation* covers sunbeds intended for home use, and also sunbeds intended for tanning salons, beauty salons and similar premises. The Standard sets rules about testing and on information on the sunbed and documentation, providing an avenue for the better control of the UV dose from sunbeds.

There are also controls under the Fair Trading Act 1986 which prohibit the industry from making false or misleading claims about the health benefits and risks of sunbed use.

Sunbed premises are not otherwise regulated nationwide in New Zealand, and there is no legal requirement that sunbed operators be trained. However, Auckland Council has implemented the Health and Hygiene Bylaw and a Code of Practice 2013, which requires the licensing of every manager of sunbed services and that operators comply with minimum standards, which are based on the Joint Standard (Auckland Council 2015). This includes the requirement for sunbed operators to be trained in identifying and minimising risks to the customer.

A ban on the provision of sunbed services to people under 18 years of age is being advanced by way of the Health (Protection) Amendment Bill 2014. This Bill is currently before Parliament and may be passed into law as early as late this year.

⁴ AS/NZS 60335.2.27:2010: *Household and Similar Electrical Appliances – Safety – General requirements* (IEC 60335-1 Ed 5, MOD).

2.4 Concerns about sunbed services in New Zealand

A number of concerns have been raised with the Ministry, and with the Parliamentary Select Committee considering the Health (Protection) Amendment Bill 2014, regarding the continued provision of sunbed services in New Zealand. These concerns include the following.

- Based on high-quality research undertaken internationally it is well established that there are significant health impacts arising from the provision of sunbed services, and yet such services are almost entirely unregulated in New Zealand.
- Repeated annual surveys by Consumer New Zealand and visits by public health units have shown operator non-compliance with recommended operational practices relating to the provision of sunbed services (although over the last 12 months there has been some improvement as regulation has been mooted, and in Auckland as a result of the implementation of a bylaw requiring the registration of sunbed premises and certain operational practices).
- There has been continued promotion by a number of businesses in New Zealand of UV tanning as a healthy and desirable lifestyle choice, despite strong evidence that there are no health benefits, and significant risks, associated with UV tanning.
- There is an information gap about the extent of use of sunbed services (what type and number of people use sunbed services, how often and under what circumstances), the size and composition of the UV tanning industry, and the specific level(s) of harm arising from the use of sunbeds in New Zealand, as well as private use of sunbeds.

Consultation questions

For businesses supplying sunbed services or devices

To enable the Ministry to assess the potential impacts on industry if regulations are developed, we would like your feedback on the following questions.

1. What sort of services does your business provide/undertake (eg, import or manufacture of sunbeds; provision of sunbed services at your premises or as a mobile service; rental of sunbeds for use in private homes)?
2. Is the commercial supply of sunbed services the sole focus of your business? If not, what is the main focus of your business (eg, beauty salon, gym)?
3. How many people do you employ in the provision of sunbed services?
4. What proportion of your business revenue comes from the provision of sunbed services (and, if you are willing to divulge this information, what is your annual revenue in \$NZ from those services)?
5. To how many people would you provide sunbed services? (Feel free to advise on the basis of an average per week, per month or per year.)
6. How many sunbed tanning sessions would a client typically have over a period of a month? Three months? A year?
7. How many UV devices (sunbeds or other) do you have on your premises?
8. Are you aware of any other data on the commercial provision of sunbed services in New Zealand?
9. Are you aware of any data on the **private** use of sunbeds in New Zealand?

For businesses that hire out sunbeds

10. How many UV devices (sunbeds or other) do you own?
11. How many people would hire sunbeds each year, and what would be a common period of time a person would hire a sunbed for?
12. How many staff do you have in your business?
13. When hiring out sunbeds, what do you do to minimise risks for users of those sunbeds?

For the public

14. Do you use sunbed services?

If your answer to question 14 is yes:

15. What is your age (under 18, 18–35, 36–50, over 50)?
16. How often do you use sunbed services? (Feel free to report use by number of times per week, month or year.)
17. Where do you usually receive sunbed services (eg, in your home by way of your own sunbed; or from a business that brings a sunbed to your home; or at sunbed premises that you visit for tanning sessions)?
18. Do you consider you have a good understanding of the risks of UV tanning?
19. Have you considered using, or have you used, alternative tanning methods (eg, spray tans or self-applied tans)? If not, why have you not considered or used these alternative tanning methods?

For everyone

20. Do you have an opinion, or any further points to add, regarding the Problem Definition outlined above?

3 Policy objective

The *objective* of the policy proposal set out in this consultation document is to reduce the risks of harm to the public from commercial sunbeds. When considering the range of policy options that could be advanced with this objective in mind, the following assessment criteria were applied when analysing options and selecting the preferred option.

- **Criterion 1:** new controls or interventions should be risk- and evidence-based, and consistent with good international practice.
- **Criterion 2:** new controls or interventions should be appropriate to protect health and safety while still enabling the use of medical UV devices for the treatment of certain skin conditions under qualified medical supervision in approved medical clinics.
- **Criterion 3:** new controls or interventions should not impose any unnecessary or unjustified compliance costs.
- **Criterion 4:** new controls or interventions should not unnecessarily restrict access to services desired by well-informed adults, unless there is good reason.

While this document advances one preferred option, the other policy options that were considered are listed in part 4 and summarised in the Appendix.

Consultation questions

21. Do you support the stated policy objective and assessment criteria outlined above? Why / why not?
22. Are there other policy objective(s) or assessment criteria that you think should apply as well/instead? If yes, what objectives and/or criteria would you support?

4 Policy options

4.1 Options considered

The Ministry of Health considered a number of policy options as a means to achieve the policy objective set out in part 3 of this document. These options were assessed by the Ministry, and a Regulatory Impact Statement (RIS) was developed. An RIS is a document that provides a high-level summary of the problem being addressed, the options and their associated costs and benefits, the consultation undertaken, and the proposed arrangements for implementation and review. The RIS for this proposal is available at: <http://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements>.

The options considered in the RIS were:

- **option 1:** maintain the status quo – voluntary compliance
- **option 2:** implement an active campaign to discourage the use of sunbeds
- **option 3:** introduce regulations under section 119(d) of the Health Act 1956, with respect to the provision of sunbed services: the regulations would have two components: (a) licensing of sunbed premises and businesses that hire out sunbeds for use in private settings, and of staff/operators that provide sunbed services or set up hired sunbeds in private settings); and (b) mandatory operational practices for sunbed premises
- **option 4:** ban the provision of sunbed services
- **option 5:** ban the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use.

On balance, the Ministry considers that option 3 is the preferred option for progressing because it provides the greatest alignment with the assessment criteria used to judge how well a policy option delivers on the policy objective set out in part 3.

Option 3 provides a comprehensive response to the public health risks posed by sunbeds, is consistent with good international practice, and arguably provides the greatest net benefit of all the options considered. Option 3 includes mandatory operational practices for sunbed premises and businesses that hire out sunbeds, which are consistent with recommended best practice while still allowing for informed choice by adults. Option 3 imposes some compliance costs to industry, but these are considered reasonable and proportionate given the public health risks of sunbed services. Under option 3, those requiring UV treatment of skin conditions could still receive those treatments through public hospitals. Finally, option 3 allows continued use of sunbeds by well-informed and consenting adults.

4.2 The proposal

Under the preferred option (option 3 above), regulations would be made under the existing regulation-making powers in section 119(d) of the Health Act 1956. Regulations would aim to reduce the risk of harm posed by sunbeds to the public as a whole, complementing the proposed ban on the supply of sunbed services to persons under 18 years of age being advanced by the Health (Protection) Amendment Bill 2014.

There are two proposed components of the proposed option: *licensing* and *mandatory operational practices*. This section discusses both of these components.

4.2.1 Component 1: Licensing

Under option 3 it is proposed that there be a *combined approach* to licensing. This would see sunbed premises and all sunbed operators (persons who operate sunbeds) licensed. Businesses that hire out sunbeds and those staff who set up hired sunbeds in private settings (also referred to as operators) would also be licensed.

The combined approach to licensing is preferred because it will contribute to the policy objective of reducing the risk of harm posed by sunbeds, assist with compliance monitoring, and ensure that every individual operating sunbeds commercially would be held to the same high standard of training and operating practice.

The Ministry considered a range of approaches for licensing, including licensing only the manager of the sunbed premises business and/or licensing all sunbeds. On balance, the Ministry considers that the approach proposed strikes a good balance. It ensures that the regulatory agency has confidence that all premises providing sunbed services and all businesses hiring out sunbeds are recorded and monitored, and that all operators handling sunbeds are trained and held accountable for complying with basic operational practices.

The *licensing framework* would include the following elements.

- Each sunbed premises and each business that hires out sunbeds for private use would need to be licensed, as would each person who commercially operates sunbeds or sets-up a sunbed in a hire situation. Mobile operators, if any exist, would have their home base licensed.
- Applications for sunbed premises and sunbed hire business licences would include a requirement to provide information on the location, number of sunbeds, names of staff who operate equipment and their operator licence details.
- Applications for operator licences would require information to be supplied on the applicant, the training they have undertaken and when, and their place of operation/employment.
- The manager or owner of sunbed premises must have an operator licence.
- Operators must provide proof that they are a fit and proper person to operate sunbeds, including:
 - not having more than two convictions over the past two years for breach of the provisions in the Health Act, or regulations made under that Act, relating to the provision of sunbed services
 - not having more than two convictions over the past two years for breach of the provisions in the Fair Trading Act 1986 and the Companies Act 1993
 - not having been the subject of proceedings over the past two years for breach of an industry code or industry licence conditions

- not currently having a suspended licence, or having had a licence revoked
- having undertaken approved training in the prior two years.
- A sunbed premises licence may not be issued in respect of premises where the owner/ manager of the premises does not have an operator licence or has had it suspended or revoked because they are not a fit and proper person to operate sunbeds.
- The Ministry of Health would administer the licensing scheme.
- In assessing an application for a licence and for ongoing compliance checks, inspection of the premises would be undertaken.
- Licences would need to be renewed annually and updated with the Ministry if a licensee's details changed. Sunbed premises licences and sunbed hire business licences could be transferred to new business owners
- There would be a provision for suspension or revocation of licences for any breach of operational practices.
- There would be a right of appeal process (to the District Court) against any decision to suspend or revoke a licence.
- Standard licence conditions would apply, including display of the licence, compliance with operational practices and maintenance of regular approved training. Other conditions could also be set by the Ministry of Health on a case-by-case basis, most likely to licences issued after conviction for an offence relating to non-compliance with the regulations, or after licence renewal following a previous suspension or revocation of a licence.

It is proposed that annual *licence fees* would be imposed under s117 of the Health Act 1956. It is proposed that the fees cover the costs to government of implementing the licensing scheme and undertaking routine compliance activity. It is proposed that the annual fee for either sunbed premises or a sunbed hire business licence would be in the order of \$1,250 per year. There would be no fee for the individual operators' licences.

Once any regulations were implemented, it would be an *offence* to operate premises that supply sunbed services without a premises licence, or to commercially operate sunbeds without an operator's licence. It would also be an offence to operate a business providing sunbeds for hire in private settings without a business licence, or to set up sunbeds in a private hire setting without an operator's licence. The maximum fines under the Health Act would be a fine not exceeding \$500, and \$50 for each day of continuing offence.

An *exemption* from licensing would be provided for the provision of UV services at a hospital, prescribed by a registered medical practitioner for the purposes of medical treatment.

Consultation questions

For everyone

23. Do you support the licensing of businesses that provide sunbed services on a commercial basis? Why/why not?
24. If you support licensing, do you support an approach of licensing both sunbed premises and operators? Why/why not?
25. If you support licensing, do you support licensing businesses that hire out sunbeds, and operators who set up a sunbed in a private hire situation? Why/why not?
26. If you do not support the proposed approach to licensing described above, but do support licensing, is there an alternative form of licensing that you would prefer? If so, please provide details.
27. Do you think the scale of proposed licence fees is reasonable? If not, what are reasonable licensing fees?
28. Do you support the detail of the proposed licensing scheme, as set out above? Please advise what you do and do not support, and why/why not.

For businesses

29. What mechanism would you prefer to use to apply for a licence (eg, online application form, paper-based form provided by mail, other?)

4.2.2 Component 2: Mandatory operational practices

The second component of the preferred option would see a range of mandatory operational practices required by regulation.

The controls proposed are a subset of a larger set of controls in place under the Joint Standard (see section 2.3.2 of this document) and/or in place in other jurisdictions. These controls are considered the key requirements that would provide the most protection for the public. It is expected that they are realistic for sunbed premises to implement. They do not include all the requirements in the current Joint Standard.

Regulations would be developed in relation to four areas:

- staff behaviour, training and protection
- service provision
- notices, signage, claims and record keeping
- installation, maintenance, servicing and repair of sunbeds.

Note: some specific consultation questions are included in the body of the text below. General questions relating to the full set of proposed mandatory practices are included at the end of the section.

Note: the requirements discussed below relate to sunbed premises and operators. Some, but not all, of the requirements also apply to sunbed hire companies, and to operators who set up sunbeds in private settings as part of a hire arrangement.

Staff behaviour, training and protection

Staff training: all staff who provide sunbed services (including those who set up sunbeds in private settings under a hire arrangement) would be required to undertake training on the provision of those services. A non-exhaustive list of what training might be likely to cover includes:

- how to determine skin types and set exposure times
- emergency procedures in case of over-exposure to UV radiation
- procedures for cleaning and disinfecting protective eyewear and tanning equipment
- the regulations and expectations of all businesses providing sunbed services.

Staff training records and certificates would need to be maintained by the owner or manager of the premises.

Training options that might be considered include:

- Ministry of Health support for a self-directed training scheme, where operators study a series of documents and sit a test (onsite or online) to obtain their licence
- Ministry of Health training provided through an online training course
- training provided by an industry body or other third party, either onsite, offsite or online.

A very simple approach would be for the Ministry of Health, through DHB public health units, to provide guidance materials for operators, and then subsequently pose a test(s) to operators. If the operator then passes the test, they could receive a certificate. Under this approach, operators would be charged a fee for the training on a cost-recovery basis.

Current proposals are to cost recover government training costs. These are estimated at approximately \$608 per training 'event'. A training event comprises the full process by which one or more operators at sunbed premises or a sunbed hire business undertake their training and secure their certificate of training. This training must be renewed every two years.

Consultation questions

30. Would you support training being a core focus of the mandatory operational practices? Why/why not?
31. Which approach(es) to training would you support? Why?
32. Do you think the scale of proposed training fees is reasonable? If not, what are reasonable fees?

Duty: a licensed operator would need to be on duty and supervising the operation of sunbeds any time they are in use. (Note: this applies to sunbed premises only; this would not apply to sunbed hire businesses.)

Other staff: the premises licence holder would need to ensure that other staff working on the premises (non-operators) are aware of the potential hazards of artificial UV light. (Note: this applies to sunbed premises only; this would not apply to sunbed hire businesses.)

Protection of staff: the sunbed premises' licence holder would be obliged to minimise the exposure of staff who need to work near a sunbed while it is operating. This may be through provision of protective clothing and goggles, limiting presence in areas where tanning is underway, careful maintenance of devices so that operators are not exposed to direct UV light, or other means.

Service provision

Client interview and assessment: before accepting someone as a client, a licensed operator would be required to interview them for the purpose of screening out people who are most sensitive to the effects of UV because of age, skin type, medications or pregnancy. No person under the age of 18 years would be permitted to access sunbed services. Prior to the commencement of tanning sessions, a licensed operator would determine the client's skin type.

The proposed approach is that the licensed operator would be required to *strongly discourage* the use of sunbeds by people who have/are:

- skin type 1 (typical features include freckles, red or fair hair and blue or green eyes, with pale skin that often burns and never tans) (Cancer Research UK 2013)
- skin type II (features include light hair and blue or brown eyes, with skin that usually burns and tans minimally) (Cancer Research UK 2013)
- been treated for skin cancer
- a large number of moles or freckles
- a history of frequent sunburns in childhood
- suffered an allergic reaction to UV light exposure
- pregnant.

A licensed operator would also have to ask people who are on photosensitising medication to show evidence of having consulted their doctor before they are permitted to use sunbed services.

There is no power under the Health Act 1956 to develop regulations to require operators to exclude persons with certain skin types from accessing UV services. The Ministry is therefore not proposing such controls at this time, but if in the future there were further proposals to amend the Health Act, this may be proposed.

While the above requirements would also be imposed on licensed operators who set up hired sunbeds in private settings, they relate to the person hiring the device only. Information must be provided to the person hiring the sunbed on how other users of that device should be excluded if they are underage and strongly discouraged if they have high-risk skin types.

A key part of the training required of operators would focus on identifying and excluding people with high-risk skin types.

Consultation questions

33. Do you support the proposed list of people who should be strongly discouraged from using sunbed services provided by licensed operators? If not, why not and do you prefer another approach?
34. It is currently proposed that people with skin type I and skin type II should be strongly discouraged from accessing sunbed services and hired sunbeds. Do you support this? If yes, what suggestions do you have for supporting compliance with this requirement?

Consent forms: a licensed sunbed premises operator would need to ensure that each client reads and signs a consent form before each sunbed session. The consent form must include information on the risks associated with artificial tanning. The form must also note advice given to persons with skin types I and II and received from those who are on photosensitising medicine. The licensed operator would be required to provide a copy of the signed form to the client. In the case of the operator setting up a hired sunbed in a private setting under a hire arrangement, consenting and advice relate to the hirer only, and only once, at the initiation of the hire.

Use of a timer: a licensed sunbed premises operator would be required to determine, set and control the exposure time for a sunbed session, in accordance with the tanning plan. The sunbed premises licence holder would need to ensure that a sunbed has a functional automatic timing device and that clients cannot control the timer setting.

A licensed sunbed operator would also be required to:

- prepare a *tanning plan* for each client, based on their skin type and ensuring tan time is increased gradually: there must be at least 48 hours between sessions, and no more than three sessions per week, and the tanning plan must include advice on limiting time in the sun following the use of a sunbed
- advise all clients to *avoid tanning for 48 hours* after a tanning session, and check whether a prospective client has used any sunbed services or has tanned in the sun in the previous 48 hours
- ensure all clients wear *suitable eye protection*, and provide such eye protection if the client doesn't bring his/her own appropriate protection
- examine and *sanitise* all surfaces of sunbeds that come into contact with clients between each use
- take reasonable steps to ensure that clients do not use *tan enhancers or accelerators*.

In the case of a sunbed hire situation, the licensed operator would be required to provide advice on tanning, tanning plans and the avoidance of tanning and limiting time in the sun within a 48-hour period. A timer must be installed on the machine and advice provided on how to use it. Suitable and sufficient eye protection must be provided with the hired sunbed, and sunbeds must be sanitised between hires. If requested, the operator must be able to assist with the development of tanning plan(s) for the person hiring the device or other users.

Notices, signage, claims and record-keeping

Health claims: sunbed premises and sunbed hiring businesses would be prohibited from making, or displaying, any claims of health benefits in relation to UV tanning, including that tanning provides needed vitamin D. Licensed operators similarly must not make health claims or claim that artificial tanning is without risk.

Warning notices: the sunbed premises licence holder would be responsible for ensuring that a warning notice is displayed near the entrance or reception area of the premises and also by every sunbed. It would be a requirement that the warning notice be brought to the attention of all clients prior to their commencing any tanning session. The warning notice would need to specify that:

- UV exposure can cause skin cancer, skin ageing and eye damage
- repeated UV exposure increases risk
- (subject to the passage of the Health [Protection] Amendment Bill 2014) those under the age of 18 years will not be permitted to use a sunbed
- people with fair skin who burn easily and with other risk factors for melanoma should not use a sunbed
- intentional exposure to sunlight or artificial UV radiation must be avoided for the next 48 hours
- protective eyewear must be used at all times in a sunbed
- people who are unsure of their own personal risks of melanoma and skin cancer should consult their GP before using a sunbed.

People hiring sunbeds must be provided with similar information and warnings before hiring a sunbed and before the onsite set-up of the sunbed.

Client records: the sunbed premises licence holder would be required to keep copies of any proof-of-age documentation, signed consent forms, initial interviews and skin-type assessments, tanning plans, and records of dates, times of day and durations of tanning sessions, and, if there are several sunbeds, the sunbed used. Client records would need to be held for two years, and, as they contain personal information, would need to be kept confidential and secure. The records would need to be available for inspection by enforcement officers. There would be similar record-keeping requirements for sunbed hire business licence holders in relation to proof of age and consent forms (for the person hiring the sunbed), and which sunbed was hired.

Any *client complaints or incidents* concerning the safe operation of the premises or sunbeds, such as customer burning/overexposure, physical injury, or equipment failure, would also need to be recorded. All such incidents and complaints would need to be notified in writing directly to the Director-General of Health within 14 days of their occurrence.

Operators would be required to provide information and advice to consumers on their *rights under the Consumers Guarantees Act 1993*.

Installation, maintenance, servicing and repair of sunbeds

Installation and maintenance: there would be minimum requirements for sunbeds. These would include:

- each sunbed must have a timer, accurate to within 5 percent of the set time period
- a readily identifiable, accessible switch would need to be provided for use in an emergency to enable the client and the staff (in the case of sunbed premises) to *switch off the sunbed while it is in use*
- grilles or guards (or some other means) to prevent the client from accidentally touching or coming too close to the lamps
- standing UV devices installed with a handgrip or other means to provide support.

Servicing and repair: the sunbed premises licence holder or the sunbed hire business licence holder would be required to ensure that all sunbeds are serviced annually, and repaired when required, by a trained technician. Any defective sunbed would need to be withdrawn from use immediately. Records of servicing and repaired work (including lamp replacement) would be required to be kept on the premises for two years and made available to the enforcement officer for inspection on request. Where a sunbed is set up in a private setting under a hire arrangement, service records of the device being set up must be on hand for inspection by the person hiring the device (on request).

Sale of sunbeds: sunbed premises licence holders and sunbed hire business licence holders would be required to maintain records of sale or disposal of any sunbeds, including the date, name and address of any person to whom a sunbed was sold. Such records would need to be kept for two years and be available for inspection by enforcement officers on request.

Consultation questions

35. Which proposed operational practices outlined above do you support or oppose? Why/who not?
36. Are there other controls that you believe should apply? What are they and who would be subject to these controls?

4.2.3 Implementation of regulations

The Ministry of Health would be the *implementing authority* for the regulations, supported by enforcement officers in public health units and/or territorial authorities. The Ministry of Health would establish the systems for, and administer, the licensing regime.

The proposed approach for *enforcing compliance* with the regulations involves public health units inspecting premises providing sunbed services and enforcing the licensing scheme and mandatory operational practices. This approach is proposed because public health unit officers are currently responsible for visiting sunbed premises in their districts and have the knowledge required to carry out this role.

Another approach would be for the Ministry of Health to administer the legislation but make territorial authorities responsible for its implementation. A consultation question on this issue at the end of this section is directed to the relevant stakeholders.

The Ministry proposes that a *nine-month transition period* apply before operators would need to be licensed. A *six-month transition period* would apply before premises sunbed premises and hire businesses must be licensed. With the exception of the requirement to record to whom sunbeds were sold or disposed of, which would come into force immediately, the mandatory operational requirements would come into force six months after the regulations are made.

The Ministry of Health, through public health units, would provide support for managers and operators during this period. The transition period allows premises owners to ensure all premises and operational procedures are compliant with the regulations and all operators have undertaken the necessary training. The Ministry and public health units are likely to provide guidance materials, standard forms and templates, and signage to premises.

The proposed regulations would also set out *consultation requirements* for any future controls on sunbed services or sunbeds. This would mandate that consultation would be required with affected parties before any further (future) regulations would be made.

There would be a clear statement in the regulations that there is an *exemption* from the mandatory operational requirements for the provision of UV services at a hospital, where those services are prescribed by a registered medical practitioner for the purposes of medical treatment.

Consultation questions

37. Which agencies should be responsible for monitoring and ensuring compliance with the regulations: public health units or territorial authorities? Why?
38. Are the proposed transition periods reasonable to allow businesses and operators to ensure compliance with the regulations? If not, what transition periods would be appropriate?
39. Are there other support needs for businesses that we have not set out in this consultation document?

4.3 Alternative policy options

This document focuses on explaining, and consulting on, what the Ministry considers to be the *preferred* option for meeting the policy objective set out in part 3 of this document. However, in section 4.1 of this document the Ministry has listed the other policy options that were considered. These are also explored further in the RIS the Ministry developed and that is available at: <http://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements>, and they are summarised in the Appendix.

If you do not support the preferred option as set out in this document, the Ministry would be interested to hear what option, if any, you might prefer was implemented instead.

Consultation questions

40. This consultation document proposes the implementation of option 3 (regulations introducing licensing and mandatory operational practices). However, please indicate if you would support one or more of the following options instead, and if so, why:
- option 1: maintain the status quo – voluntary compliance
 - option 2: active campaign to discourage the use of sunbeds
 - option 4: ban the provision of commercial sunbeds
 - option 5: ban the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use.
41. If you do not support the proposals set out in this paper, or the other options considered by the Ministry, what approach would you support instead?

4.4 Infringement notices

The Health (Protection) Amendment Bill 2014, currently before Parliament, would introduce an infringement notice system whereby enforcement officers could issue infringement notices on the spot to any person who either breaches the proposed ban on the provision of sunbed services to persons aged under 18 years or breaches regulations made under the Act in relation to sunbed services.

To give effect to this, regulations would need to be made under section 117(1)(rb) of the Health Act 1956 to set infringement fees (the fee that the notice would impose on a person breaching either the Act or relevant regulations). The Health (Protection) Amendment Bill 2014 anticipates that such fees would:

- in the case of an individual, not exceed \$1,000
- in the case of a body corporate, not exceed \$5,000.

As the maximum fine under the Health Act for breach of the proposed licensing requirements or mandatory operational practices is limited to \$500, and \$50 per day for a continuing offence, the Ministry considers that the infringement notice fee should not be set any higher than that.

Accordingly, the Ministry proposes that infringement notice fees be set at \$250 for an individual operator, and \$500 for a body corporate.

Consultation questions

42. Do you support the proposed infringement notice penalty of \$250 for an individual and \$500 for a body corporate? Why/why not?
43. If you do not support the proposed infringement notice penalty, what penalty would you propose instead?

5 Impacts

This section identifies some potential impacts on stakeholders if the Government were to implement regulations on the provision of sunbed services. The potential impacts identified here are based on the assumption that regulations would help achieve the objectives described in part 3 of this document and contribute to a reduction in the harms associated with artificial UV tanning.

This part provides *qualitative* descriptions of potential impacts. It does not seek to quantify the potential impacts in financial (or other) terms. Information the Ministry hopes to receive in response to the questions included in part 2 of this document may enable more *quantitative* assessment of impacts.

Table 1 lists the potential impacts for various stakeholders. A number of impacts from implementing the regulations will be generic; others will be more specific.

Table 1: Potential impacts of implementing regulations on the provision of commercial sunbeds

| Positive impacts | Negative impacts |
|---|---|
| <p>Implementing the regulations:</p> <ul style="list-style-type: none"> would allow people who want access to sunbed services to continue to access them, subject to evidence-based controls would introduce best practice controls designed to reduce risks to the public, and if complied with, would have some positive impact in terms of reduced mortality, morbidity and health care costs associated with the use of sunbeds would consistently provide consumers with more comprehensive safety information and guidance may reduce access by those people with high-risk skin types to commercially supplied sunbed services. would provide assurance to the Government that steps are being put in place by operators to reduce risks would recognise the inherent risks in artificial UV tanning, and reiterate these risks to the industry and consumers would improve knowledge and monitoring of industry premises and operators, and increase knowledge of the extent of use of sunbed services in New Zealand would be consistent with moves to regulate UV services and devices internationally, supported by WHO and IARC would be consistent with research that has found increased skin cancer rates associated with the use of sunbeds would enable speedy enforcement action in relation to any breaches of operational standards, and thus encourage compliance. | <p>Sunbed services will continue to pose an ongoing risk to public health.</p> <p>There will be costs to the Government to implement and enforce a new regulatory scheme (although cost recovery proposals could shift such costs to industry).</p> <p>There is likely to be criticism from health agencies that the measures do not go far enough to address the risks from sunbed premises and businesses that hire out sunbeds.</p> <p>There is likely to be criticism from industry regarding the imposition of costs on industry and for regulating the market.</p> <p>Annual licensing fees would be imposed on all providers of commercial sunbed services.</p> <p>There would be compliance costs on businesses and all operators due to the requirement to learn and comply with the new scheme.</p> <p>There would be training costs for businesses, and potentially for individual operators.</p> <p>From the perspective of industry, it could shrink the market, reducing revenue for importers, manufacturers and sunbed and sunbed premises operators.</p> <p>The regulations could result in sunbeds being sold to private consumers, and thus an increased risk of harm arising from poorly maintained machines.</p> <p>The regulations could drive consumers to tan more in the sun, which would be uncontrolled.</p> |

Consultation questions

44. Are there any other impacts, positive or negative, that are not listed above? Who do they affect?

For businesses

45. What impacts would the proposed regulations (option 3) have on your business? Please provide estimates, in \$NZD, of the following costs, and any other impacts:
- costs of complying with licensing (time taken to learn about requirements, apply for licences for premises, businesses and operators, etc)
 - establishment costs of complying with the mandatory operational practices (cost of learning what is required, developing forms, establishing record-keeping systems, changing practices, signage, etc)
 - ongoing costs of ensuring compliance with the mandatory operational practices (this may be monetary costs, increased employment costs, etc)
 - effects on the number of staff in your business
 - costs of all operators requiring training
 - any other costs or impacts.
46. What would the costs be if any of the other options were considered (ie, options 1, 2, 4 or 5)? Please provide an estimate of financial costs, impacts on employment, time taken to comply, etc. However, if it is not possible to provide such detail, please provide a statement on how costly it would be, and what impacts would otherwise occur, for each option, *relative to the preferred option* (option 3).

For users of sunbeds

47. What impacts do you think the proposed regulations would have on you?
48. If, instead of the controls proposed in this consultation document, there was a total ban on the provision of sunbed services, what would your response be?

6 Next steps

Once the consultation period has closed, officials will consider the results and the Ministry of Health will make a recommendation to the Government. The RIS will be updated with the information obtained from the consultation process.

If a decision were made to proceed with the proposal set out in this document, regulations would be developed. It is expected that those regulations would not be in place until 2016, and transition periods would apply from the date on which those regulations were made.

6.1 Implementation, monitoring, evaluation and review

In anticipation of the making of regulations, the following measures would be put in place.

- The Ministry and public health units would publicise the new regulations and develop guidance for businesses offering sunbed services.
- Assuming it was decided that the Ministry and public health units establish training support for operators, the systems would be put in place to facilitate this, including the development of training materials, testing protocols, etc.
- The Ministry would work with industry to develop consistent consent forms, record-keeping processes, signage, etc.
- The Ministry would develop protocols for compliance monitoring and enforcement.
- The Ministry would monitor the implementation of the regulations.

The Ministry would propose undertaking a review or formal evaluation after three years to look at such things as the level of sunbed premises compliance with licensing and operational practices, the scale of private use of sunbeds, any unforeseen consequences of the regulations, and any further areas for improving public health and safety associated with the continuing supply and use of sunbed services.

Consultation questions

49. Are there any other areas of implementation, monitoring, evaluation or review that the Ministry needs to consider?

Appendix:

Summary of other options

This consultation paper proposes proceeding with regulations for licensing and mandatory operational practices for sunbed premises. This was presented as option 3 in the Regulatory Impact Statement (RIS) that was developed by the Ministry of Health. That RIS considered other options as well. These are summarised very briefly below.

Option 1: Maintaining the status quo – voluntary compliance

Under the status quo there would be no regulatory controls introduced on the provision of sunbed services beyond the current general consumer protection and health and safety laws. Sunbed premises operators would still make their own decision whether to comply with the voluntary Joint Standard. People could also purchase their own, or rent, sunbeds for their private use and legally offer these for use by others.

The Ministry of Health and public health units have undertaken extensive efforts to promote sunbed premises operators' compliance with the Joint Standard. There has also been education of consumers about the risk of sunbeds. Officials would continue with this work.

This option would have the least impact on reducing public health risks from exposure to sunbeds. Thus far the status quo has not been effective in encouraging compliance by the industry and the harms would continue. Users would continue to use sunbed services, many without being aware of potential health risks, and this option would not reduce the costs to the public health system for treating skin cancers and to the economy for lost production. This option is also inconsistent with recommendations by international agencies to regulate the provision of sunbed services.

This option would have a low cost to government because there would be no implementation and enforcement costs, as well as no compliance costs. The option does not affect importers, manufacturers, sellers or hirers of sunbeds, or providers of sunbed services, and does not restrict access of consumers, unless individual operators choose to do so.

Option 2: Active campaign to discourage the use of sunbeds

Under this option the Government would fund (on an ongoing basis) mass media campaigns, and potentially school-based programmes, against the use of sunbeds. The campaigns would specifically identify the dangers of sunbeds and other sunbeds and would actively discourage the public's use of commercially or privately owned sunbeds.

The development of a mass media campaign of this nature would be relatively easy to do and could draw on decades of experience in developing mass media campaigns promoting public health messages on such matters as moderate use of alcohol, tobacco use, healthy eating / healthy action and immunisation. There would be costs to the Government, including costs for designing and implementing the media campaign and other public awareness initiatives. This option imposes no costs on sunbed premises because there is no regulation requiring them to stop providing sunbed services.

This option would heighten public awareness and would better inform the public about the risks associated with the use of sunbed services. It would be likely to reduce the use of sunbed services by consumers and it would promote individual responsibility around healthy lifestyle choices. However, it is not consistent with good international practice and recommendations from leading health agencies. It is also likely to result in strongly polarised views between industry, government and the public, and could have the perverse impact of heightening awareness, and thus use, of sunbed services.

Option 4: Ban the provision of sunbed services

Option 4 proposes a ban on the operation of sunbed premises under the Health Act 1956 (this would include a person who owns a sunbed privately but who allows others to use it in exchange for payment or other consideration).

Under this option all sunbed premises would have to cease operation. This would significantly reduce the public's exposure to sunbeds and have public health benefits, including a likely reduction in skin cancer incidence, and subsequent cost reductions to the public health system. This option is based on Australian legislation, which banned all sunbed services for cosmetic purposes by January 2015 in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania, the Northern Territory and Victoria. The remaining Australian state to enact a ban is Western Australia, which will do so by 1 January 2016. Some Australian state governments provided assistance to the industry and a payment for each device so that industry could dispose of any unwanted UV devices safely.

However, this option would prevent access to sunbed services by adults who are well informed and choose to take the risk of artificial UV tanning for cosmetic purposes. Businesses that provide sunbed services as only a portion of their business would suffer some revenue loss. Businesses that are primarily or exclusively sunbed service providers would be forced to close or change the services they provide. Business closure would result in an unknown number of employees being made redundant.

Option 5: Ban the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use

Under this option the importation, manufacture, sale and rental of sunbeds would be prohibited in New Zealand. The resale of sunbeds within New Zealand might also be banned, including to private citizens. This option would only be implemented in combination with, or following the adoption of, option 4.

In combination with option 4, this option would result in near elimination of access to sunbeds. Of all the options considered, it would thus have the most significant positive impact on population health.

However, the option would significantly affect importers, manufacturers, sellers and hirers of sunbeds. Importers, manufacturers and sellers/hirers of sunbeds would no longer have a market in New Zealand. Sunbed premises operators and private citizens who own sunbeds would not be able to sell the sunbeds domestically, and in many cases may have to dump them or settle for reduced value by selling offshore and incurring the cost of transport. Disposal of any lamps with heavy metals would be subject to environmental waste disposal requirements.

The cost of this option to Government, in terms of its design and implementation (excepting enforcement), is likely to be similar in scale to option 4.

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Submission form

The closing date for submissions is: **5 pm, Friday 12 February 2016.**

Submitters are encouraged to make submissions by email, using this response form, to:

sunbeds@moh.govt.nz

Alternatively, your completed form can be mailed to:

Sunbed Consultation
Environmental Health Team
Ministry of Health
PO Box 5013
Wellington 6145

A copy of this form is also available on the Ministry's website: www.health.govt.nz

Protection of commercially sensitive information

Public reporting on this consultation will seek to avoid prejudice to the commercial position of respondents who provide commercially sensitive information. Submitters are therefore asked to clearly indicate any information they wish to have treated as confidential commercially sensitive information.

Declaration of interests

All submitters are asked to declare any financial or other interests they may have in businesses associated with the artificial UV tanning industry, or any other business venture that may be affected, positively or negatively, as a result of the proposals contained within this document. Other stakeholders are asked to provide a short statement or explanation of the purpose or focus of any organisations they represent that have an interest in the proposals.

Official Information Act 1982

Your submission and any correspondence you send to the Ministry may be requested by a person under the Official Information Act 1982 (the Act). If there is any part of your submission that you consider should be properly withheld under the Act, please make this clear in your submission, noting the reasons why you would like the information to be withheld (eg. you may consider some information to be commercially sensitive).

If information from your submission is requested under the Act, the Ministry is obliged by law to handle such information in accordance with the Act. In many cases this will mean that we will have to release your submission and supporting information to the person who requested it, unless there is a justifiable reason for withholding this information under the Act.

No obligation to respond to all questions

Please feel free to respond to only the questions you wish to.

Consultation questions

Problem definition

For businesses supplying sunbed services or sunbeds

To enable the Ministry to assess the potential impacts on industry if regulations are developed, we would like your feedback on the following questions.

1. What sort of services does your business provide/undertake (eg, import or manufacture of sunbeds; provision of sunbed services at your premises or as a mobile service; rental of sunbeds for use in private homes)?

2. Is the commercial supply of sunbed services the sole focus of your business?

Yes

No

If not, what is the main focus of your business (eg, beauty salon, gym)?

3. How many people do you employ in the provision of sunbed services?

4. What proportion of your business revenue comes from the provision of sunbed services (and, if you are willing to divulge this information, what is your annual revenue in \$NZ from those services)?

| Proportion of business revenue from provision of sunbed services | Annual revenue from sunbed services |
|--|-------------------------------------|
| | |

5. To how many people would you provide sunbed services? (Feel free to advise on the basis of an average per week, per month or per year.)

6. How many sunbed tanning sessions would a client typically have over a period of a month? Three months? A year?

| A month | Three months | A year |
|---------|--------------|--------|
| | | |

7. How many UV devices (sunbeds or other) do you have on your premises?

8. Are you aware of any other data on the commercial provision of sunbed services in New Zealand?

- Yes
 No

Please comment below.

9. Are you aware of any data on the **private** use of sunbeds in New Zealand?

- Yes
 No

Please comment below.

For businesses that hire out sunbeds

10. How many UV devices (sunbeds or other) do you own?

11. How many people would hire sunbeds each year, and what would be a common period of time a person would hire a sunbed for?

| How many people hire sunbeds each year? | Common period of time sunbeds hired for |
|---|---|
| | |

12. How many staff do you have in your business?

13. When hiring out sunbeds, what do you do to minimise risks for users of those sunbeds?

For the public

14. Do you use sunbed services?

- Yes
 No

If your answer to question 14 is yes:

15. What is your age?

- Under 18
 18–35 years
 36–50 years
 Over 50

16. How often do you use sunbed services? (Feel free to report use by number of times per week, month or year.)

17. Where do you usually receive sunbed services (eg, in your home by way of your own sunbed; or from a business that brings a sunbed to your home; or at sunbed premises that you visit for tanning sessions)?

18. Do you consider you have a good understanding of the risks of UV tanning?

- Yes
 No

19. Have you considered using, or have used, alternative tanning methods (eg, spray tans or self-applied tans)?

Yes

No

If not, why have you not considered or used these alternative tanning methods?

For everyone

20. Do you have an opinion, or any further points to add, regarding the Problem Definition outlined above?

Policy objective

21. Do you support the stated policy objective and assessment criteria outlined above?

Yes

No

Why / why not?

22. Are there other policy objective(s) or assessment criteria that you think should apply as well/instead?

Yes

No

If yes, what objectives and/or criteria would you support?

The proposal

Component 1: Licensing

23. Do you support the licensing of businesses that provide sunbed services on a commercial basis?

Yes

No

Why/why not?

24. If you support licensing, do you support an approach of licensing both sunbed premises and operators?

Yes

No

Why/why not?

25. If you support licensing, do you support licensing businesses that hire out sunbeds, and operators who set up sunbeds in a private hire situation?

Yes

No

Why/why not?

26. If you do not support the proposed approach to licensing described above, but do support licensing, is there an alternative form of licensing that you would prefer?

Yes

No

If so, please provide details.

27. Do you think the scale of proposed licence fees proposed in the consultation document is reasonable?

Yes

No

If not, what are reasonable licensing fees?

28. Do you support the detail of the proposed licensing scheme, as set out above?

Yes

No

Please advise what you do and do not support, and why/why not.

For businesses

29. What mechanism would you prefer to use to apply for a licence (eg, online application form, paper-based form provided by mail, other?)

Component 2: Mandatory operational practices

Training

30. Would you support training being a core focus of the mandatory operational practices?

Yes

No

Why/why not?

| |
|--|
| |
|--|

31. Which approach(es) to training would you support? Why?

| Approach(es) to training you would support | Reasons |
|--|---------|
| | |

32. Do you think the scale of proposed training fees is reasonable?

Yes

No

If not, what are reasonable fees?

| |
|--|
| |
|--|

Exclusion of certain persons from service

33. Do you support the proposed list of people who should be strongly discouraged from using sunbed services provided by licensed operators?

Yes

No

If not, why not?

| |
|--|
| |
|--|

Do you prefer another approach?

Yes

No

34. It is currently proposed that people with skin type I and skin type II should be strongly discouraged from accessing sunbed services and hired sunbeds. Do you support this?

Yes

No

If yes, what suggestions do you have for supporting compliance with this requirement?

| |
|--|
| |
|--|

Mandatory operational requirements

35. Which proposed operational practices outlined in the consultation document do you support or oppose? Why/why not?

| Proposed operational practices you support | Reasons |
|--|---------|
| | |
| Proposed operational practices you oppose | Reasons |
| | |

36. Are there other controls that you believe should apply?

Yes

No

What are they and who would be subject to these controls?

| Other controls you believe should apply | Who would be subject to these controls |
|---|--|
| | |

Implementation of regulations

37. Which agencies should be responsible for monitoring and ensuring compliance with the regulations: public health units or territorial authorities?

- Public health units
 Territorial authorities

Why?

38. Are the proposed transition periods reasonable to allow businesses and operators to ensure compliance with the regulations?

- Yes
 No

If not, what transition periods would be appropriate?

39. Please detail below any other support needs for businesses that we have not set out in the consultation document.

Alternative policy options

40. This consultation document proposes the implementation of option 3 (regulations introducing licensing and mandatory operational practices). However, please indicate if you would support one or more of the following options instead, and if so, why:

- option 1: maintain the status quo – voluntary compliance
- option 2: active campaign to discourage the use of sunbeds
- option 4: ban the provision of commercial sunbeds
- option 5: ban the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use.

| Other option(s) you would support | | | Reason |
|--|--------------------------|--------------------------|--------|
| | Yes | No | |
| Option 1: maintain the status quo – voluntary compliance | <input type="checkbox"/> | <input type="checkbox"/> | |
| Option 2: active campaign to discourage the use of sunbeds | <input type="checkbox"/> | <input type="checkbox"/> | |
| Option 4: ban the provision of commercial sunbeds | <input type="checkbox"/> | <input type="checkbox"/> | |
| Option 5: ban the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use | <input type="checkbox"/> | <input type="checkbox"/> | |

41. If you do not support the proposals set out in this paper, or the other options considered by the Ministry, what approach would you support instead?

Infringement notices

42. Do you support the proposed infringement notice penalty of \$250 for an individual and \$500 for a body corporate?

Yes

No

Why/why not?

43. If you do not support the proposed infringement notice penalty, what would you propose instead?

Impacts

44. Please detail below any other impacts, positive or negative, that are not listed in the consultation document. Who do they affect?

| Other impacts | Who do they affect? |
|---------------|---------------------|
| | |

For businesses

45. What impacts would the proposed regulations (option 3) have on your business? Please provide estimates, in \$NZD, of the following costs, and any other impacts:

- costs of complying with licensing (time taken to learn about requirements, apply for licences for both the premises and operators, etc)
- establishment costs of complying with the mandatory operational practices (cost of learning what is required, developing forms, establishing record-keeping systems, changing practices, signage, etc)
- ongoing costs of ensuring compliance with the mandatory operational practices (this may be monetary costs, increased employment costs, etc)
- effects on the number of staff in your business
- costs of all operators requiring training
- any other costs or impacts.

| Impacts of proposed regulations | Estimate of costs | Other impacts |
|---|-------------------|---------------|
| Costs of complying with licensing | | |
| Establishment costs of complying with the mandatory operational practices | | |
| Ongoing costs of ensuring compliance with the mandatory operational practices | | |
| Effects on the number of staff in your business | | |
| Costs of all operators requiring training | | |
| Any other costs or impacts | | |

46. What would the costs be if any of the other options were considered (ie, options 1, 2, 4 or 5)? Please provide an estimate of financial costs, impacts on employment, time taken to comply, etc. However, if it is not possible to provide such detail, please provide a statement on how costly it would be, and what impacts would otherwise occur, for each option, *relative to the preferred option (option 3)*.

| Other option(s) | Impacts |
|--|---------|
| Option 1: maintain the status quo – voluntary compliance | |
| Option 2: active campaign to discourage the use of sunbeds | |
| Option 4: ban the provision of commercial sunbeds | |
| Option 5: ban the importation, manufacture, sale and rental of sunbeds for commercial, and possibly private, use | |

For users of sunbeds

47. What impacts do you think the proposed regulations would have on you?

48. If, instead of the controls proposed in the consultation document, there was a total ban on the provision of sunbed services, what would your response be?

Implementation, monitoring, evaluation and review

49. Are there any other areas of implementation, monitoring, evaluation or review that the Ministry needs to consider?

Other comments

If you wish to provide additional information, you are welcome to include this with your submission.