

**Explanatory Memorandum to the Sunbeds (Regulation) Act 2010 (Wales)
Regulations 2011**

This Explanatory Memorandum has been prepared by the Department for Public Health and Health Professions and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011. I am satisfied that the benefits outweigh any costs.

Edwina Hart MBE OStJ AM
Minister for Health and Social Services

28 February 2011

1. Description

The use of sunbeds has been classified as “carcinogenic to humans” by the International Agency for Research on Cancer (IARC). The Sunbeds (Regulation) Act 2010 covering England and Wales comes into force on 8 April 2011 and creates a duty on sunbed businesses to prevent the use of sunbeds by under-18s and provides for local authority enforcement of this duty. It also provides Welsh Ministers with powers to make regulations imposing further controls on commercial sunbed use including a requirement for salon premises to be supervised. In synopsis, regulation making powers encompass making further provision restricting the use, sale or hire of sunbeds; the provision of information to sunbed users; and the provision of protective eyewear. The draft Regulations therefore impose further controls on commercial sunbed use including a requirement for supervision of use, a prohibition on the sale or hire of sunbeds to persons aged under 18, the provision of health information to sunbed users and the provision and use of protective eyewear.

2. Matters of special interest to the Constitutional Affairs Committee

Although the Sunbeds (Regulation) Act 2010 comes into force on 8 April, these draft Regulations are presented to the Assembly prior to dissolution to enable Welsh Ministers to exercise the power to make the Regulations on 9 April.

3. Legislative background

The Sunbeds (Regulation) Act 2010 consists of 14 sections and a Schedule. Sections 4, 5, 6, 10 and 11 of the Act 2010 confer regulation making powers on the Welsh Ministers. The Act covers four main areas:

- Creating a duty on sunbed businesses to prevent use by under-18s, defining a restricted zone around sunbeds for this purpose, establishing an offence for non-compliance, and exempting sunbed use for medical treatment.
- Creating powers for Welsh Ministers to make regulations regarding supervision of sunbed use, prohibition of sale or hire to under-18s, provision of specified information to users, and mandating use of protective eyewear by customers.
- Establishing an enforcement duty on local authorities and providing powers of entry to authorised inspectors.
- Setting out liability of officers of corporate bodies which commit offences and further defining regulation-making powers

Section 2 of the Act creates an offence, applicable to operators of sunbed businesses, for allowing or offering use of a sunbed to under-18s. The section also removes the need to prove actual use by defining a “restricted zone” around a sunbed within which under-18s may not be permitted unless providing

a service for the sunbed business, such as cleaning or repair. This restricted zone could be the cubicle in which the sunbed is housed but could equally consist of the entire room in which an unenclosed sunbed is located, it will depend on the circumstances applying the definition of “restricted zone” as set out in the Act. An offence under this clause is subject to a fine on summary conviction not exceeding £20,000. Sections 7 and 8 and the Schedule relate to local authority enforcement, providing powers of entry, and creating an offence of obstructing authorised officers. Sections 4, 5 and 6 define the scope of additional regulation-making powers. These enable restrictions to be placed on sunbed sale or hire; the extension of the Act’s main provisions to sunbed businesses operating in domestic premises; definition of standard information to be provided (and prohibition of provision of information on health effects not specified, potentially covering information promoting benefits of sunbed use); imposition of additional requirements to provide, and attempt to ensure use of, appropriate eye protection by customers.

Regulations made under the Act are subject to the negative resolution procedure, with the exception of regulations which contain provisions further restricting the use, sale or hire of sunbeds, creating offences or increasing a penalty or which make provisions in relation to enforcement. Regulations which contain such provisions are subject to the affirmative resolution procedure.

While these regulation making powers are not yet in force, section 13 of the Interpretation Act 1978 provides that, in the absence of a contrary intention, regulations may be made if necessary to ensure that when provisions come into force, they will be capable of having full effect. Consequently, while the draft regulations may proceed to plenary before 8 April 2011, they will not be made and may not come into force until after 8 April 2011.

4. Purpose & intended effect of the legislation

Although humans have clearly evolved to tolerate some absorption of UV radiation, and are able to use this to create vitamin D in the skin, UV radiation is a known cause of damage to body tissues after prolonged or intense exposure. UV radiation can result in skin burns, accelerated skin ageing, eye damage and effects on the immune system. UV radiation is also capable of producing mutations of DNA that are thought to be an important part of the development of cancer.

A key UK report on the health effects and risks of sunbed exposure was published by COMARE in June 2009. COMARE is an independent expert advisory committee, administratively supported by the Health Protection Agency, which provides advice to the UK Government and devolved authorities. Their report provides a comprehensive overview of sunbed use in the UK and the evidence regarding health effects, concluding with recommendations for action that are broadly similar to the provisions of the Sunbeds (Regulation) Act 2010 but go further with some additionally stringent and more specific proposals for regulation via compulsory licensing.

Skin cancers, including melanoma, have become much more common in fair-skinned populations since the beginning of the 1970s, with a fourfold increase in reported rates over the past 30 years. This has been linked to the increasing popularity of deliberate tanning by exposure to UV radiation from sunbathing or sunbeds and there is now a significant body of published academic research supporting this link. Exposure to UV radiation in childhood and intermittent exposure with burning are thought to be particular risk factors for melanoma. Almost all national and international official advisory bodies and professional organisations argue that exposure to UV radiation is potentially dangerous, particularly for fair-skinned groups (typically northern Europeans), principally due to its link with skin cancers. The World Health Organization's International Agency for Research on Cancer (IARC) now classifies solar radiation and UV tanning devices as human carcinogens (causes of cancer). Announcing this change in August 2009, the IARC stated: The use of UV-emitting tanning devices is widespread in many developed countries, especially among young women. A comprehensive meta-analysis concluded that first use of sunbeds before the age of 35 years increased the risk of malignant melanoma by 75% and determined an increased risk of squamous cell carcinoma. Additionally, several case-control studies provide consistent evidence of a positive association between the use of UV-emitting tanning devices and ocular melanoma. Therefore, the Working Group raised the classification of the use of UV emitting tanning devices to Group 1, "carcinogenic to humans".

A UK report cites research estimating that approximately 370 additional new cases of melanoma and 100 melanoma-related deaths could be due to sunbeds each year (approximately 1% of cases and 5% of deaths). However, the estimate is subject to many caveats and the true effect could be substantially lower or higher. Malignant melanomas are emerging as a major cancerous threat. Over the past 20 years, Wales has experienced an increase in incidence from 6 people per 100,000 in 1990 to 15.1 per 100,000 in 2007.

The Minister for Health and Social services commissioned CRUK to undertake a survey of young people's use of sunbeds in Wales in 2009. The study found that overall, 8.2% of all children aged 11- 17 said that they had used a sunbed at least once and a further 16% said that they may use a sunbed in future. Usage was much higher among girls with 22.5% of those aged between 15-17 years (more than one in five girls in this age group) having used a sunbed.

There is a clear need to protect young people from the increased risk of developing skin cancer resulting from using sunbeds as well as providing adults with the necessary details to make an informed choice as to whether to use artificial tanning facilities. The regulations proposed seek to strengthen the impact of the Sunbeds (Regulation) Act 2010 to further protect the public health of the people of Wales.

The legislation seeks to complement the controls to be introduced by the Sunbeds (Regulation) Act 2010. Whilst the Act makes it unlawful for someone under 18 to use a sunbed from 8 April 2011, it is difficult to see how this can be policed in unsupervised tanning salons. Young people would simply be able to use unsupervised salons to access sunbeds.

In order to help address the underlying public health risk of sunbed use, the Welsh Assembly Government intend to regulate sunbed businesses in the following areas :-

- (i) requiring the supervision of sunbed use;
- (ii) extending to businesses that operate from domestic premises the requirement that sunbeds are not used, or offered for use, to under 18s on those premises;
- (iii) prohibiting the sale or hire of sunbeds to under 18s;
- (iv) requiring the provision of specified health information to users;
- (v) prohibiting the provision or display of any material relating to the health effects of sunbed use, other than material containing health information that has been prescribed; and
- (vi) mandating the availability and use of protective eyewear by customers.

Supervision of sunbed use

The Regulations will make it an offence for a person that carries on a sunbed business to allow any person to use a sunbed on those premises without supervision by competent staff. A supervisor must be present at all times of operation. A “supervisor” is a person who carries on a sunbed business or an employee or agent of that person. Any person who is supervising the operation of a sunbed for a sunbed business should be competent to fulfil the various supervisory requirements as follows:

- (i) verify that the person is aged over 18;
- (ii) assist the person to assess their skin type;
- (iii) provide guidance to the person on use of the sunbed taking into account the person’s assessment of their skin type and any skin conditions or other relevant medical conditions apparent or disclosed to them;
- (iv) advise the person as to the safe operation of the sunbed;
- (v) provide the prescribed health information as required;
- (vi) ensure the provision and use of protective eyewear as required.

A defence would be available for a person who carries on a sunbed business to prove that the person (or an employee or agent of that person) took all reasonable precautions and exercised all due diligence to avoid committing it.

Duty to prevent sunbed use by children on domestic premises

The Regulations make it an offence for a person that carries on a sunbed business on domestic premises (or an employee or agent of the person) to allow or offer a person aged under 18 the use of a sunbed to which the business relates. A person who carries out a sunbed business on domestic premises who fails to comply with the requirements of the regulation will commit

a criminal offence. A defence would be available for a person who carries on a sunbed business to prove that the person (or an employee or agent of the person) took all reasonable precautions and exercised all due diligence to avoid committing it.

Prohibition of sale or hire of sunbeds to under 18s

The Regulations will make it an offence for anyone to sell or hire a sunbed to a person who is under 18 years of age. If the hirer or seller, or an employee or agent of the hirer or seller, had taken reasonable steps to verify the age of the person, a defence would be available in any proceedings for such an offence. For the purposes of the prohibition, the sale or hire of the sunbed will be treated as taking place on the premises where the order for the sale or hire was taken. But the regulations will also make provision to cover the remote sale or hire of sunbeds. Where the premises from which the order for the sale or hire of the sunbed is taken are not in Wales but the premises from which the sunbed is despatched are in Wales, the sale or hire will be treated as taking place on the premises from which the sunbed is despatched. A seller or hirer will have a due diligence defence that they took all reasonable precautions to avoid committing the offence.

Provision of prescribed information to users

The Regulations will make it an offence if an operator of sunbed premises fails to provide any person who proposes to use a sunbed on their premises with prescribed information regarding the health risks associated with sunbed use. This information must be provided every time the person proposes to use the sunbed on those premises. A supervisor of a sunbed premises must provide a person who proposes to use a sunbed on sunbed premises with information regarding the effects on health of sunbed use, for example warnings of the requirement to wear protective eyewear. A defence would be available to the operator, or an employee or agent of the operator, to prove that all reasonable steps were taken to avoid committing the offence.

The Regulations will also make it an offence if an operator of sunbed premises fails to display a notice which contains information regarding the health risks associated with sunbed use. The notice must be placed in a position where it is clearly visible to persons proposing to use a sunbed on the premises. A defence would be available to the operator, or an employee or agent of the operator, to prove that all reasonable steps were taken to avoid committing the offence.

Prohibition of material relating to the health effects of sunbed use

The Regulations will make it an offence for a person who carries on a sunbed business to provide or display any material that contains statements relating to the health effects of sunbeds other than the prescribed health information or any relevant health and safety information. The intention is to protect public health by prohibiting the use of misleading/erroneous/unproven/unfounded claims attributing health benefits of sunbeds. The right to freedom of expression is a qualified right which may be restricted in certain circumstances,

including in the interest of the protection of health. Misleading claims about health benefits which are intended to encourage or persuade a person to use a sunbed, for example that sunbed use boosts Vitamin D, maybe indirectly injurious to health as the risks of such use outweigh the possible benefits that may accrue. A defence would be available to the operator, or an employee or agent of the operator, to prove that all reasonable steps were taken to avoid committing the offence.

Protective eyewear

The Regulations will make it an offence for a person who carries on a sunbed business to allow any person to use a sunbed without being equipped with eyewear that is safe and appropriate for use with the sunbed and which protects the eyes of a person using the sunbed from the effects of exposure to radiation emitted by the sunbed. It is also the intention that a person is equipped with protective eyewear on every visit to sunbed premises. The Welsh Assembly Government recognises the difficulties for operators to ensure that the protective eyewear is actually worn by the users during the sunbed session. It, therefore, seeks to ensure that the user has the protective eyewear in their possession before entering the restricted zone. The Regulations make further provision for the sanitation of reusable goggles provided by the sunbed business. A defence would be available to the operator, or an employee or agent of the operator, to prove that all reasonable steps were taken to avoid committing the offence.

5. Consultation

A working group was established to advise on the content and implementation of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011. This group, comprising Chartered Institute of Environmental Health and local authority representation has advised the Welsh Assembly Government on the development and drafting of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011 and the implementation of the new Regulations prior to their proposed coming into force date.

A formal consultation on the draft version of these Regulations, together with the draft Regulatory Impact Assessment, was undertaken between 7 October 2010 and 29 December 2010. Consultees included local authorities, Public Health Wales, NHS organisations, the Chartered Institute of Environmental Health, Professional organisations, the Welsh Local Government Association, the UK Sunbed Association and sunbed businesses. The consultation document is available at:

<http://wales.gov.uk/consultations/healthsocialcare/sunbeds/?lang=en>

24 responses to the consultation were received. The vast majority of the respondents supported the Regulations. There were some concerns raised by a sunbed business and the Sunbed Association (SA). The SA consider moderate use of sunbeds does not present a serious detriment to public health and argue that the health warning is incorrect. The sunbed business held similar views and felt there is not sufficient evidence to introduce the

Regulations. A detailed analysis of the consultation responses, including how the Regulations were amended following the consultation, is available on the Welsh Assembly Government website at <http://wales.gov.uk/consultations/?lang=en&status=closed> .

The key issues that arose during the consultation and how these issues were dealt with, is summarised below:

One respondent suggested that in order to make Regulation 4 clearer, there should be a definition of “competent”. The Working Group felt this was a sensible suggestion and have amended the Regulations incorporating a definition that a supervisor is competent where he or she has sufficient training and experience or knowledge and other qualities to enable him or her to properly fulfil the requirements of the role. “Competency” is defined in terms that are similar to the definition set out in regulation 7 of the Management of Health and safety at Work Regulations 1999.

A number of respondents suggested changes to the prescribed health information for users and also the information to be displayed proposing some stronger wording in part; the information to be written in plain English that is easy to understand; and that the health information recognises the increased risk to younger sunbed users between the age of 18 and 35. The Working Group accepted these suggestions and Schedules 1 and 2 containing the prescribed information have been amended. Schedule 1 now makes reference to the 18 to 35 age group, is stronger in that it states “you should not use a sunbed if you” and then lists a number of factors for example “have had skin cancer in the past”. Schedule 1 also provides some specific advice to pregnant women on the risks of burning their skin as some women find that their skin is more sensitive during pregnancy and may be more likely to burn in the sun or if they use a sunbed. Schedule 2 now refers to “health information” to be displayed and not a “health warning”.

Further changes to the Regulations have been made to ensure that prescribed health information does not prohibit sunbed businesses from displaying any relevant health and safety information; and to include the word “safe” in the Regulations to read “eyewear that is safe and appropriate for use with the sunbed and which protects the eyes of a person using the sunbed from the effects of exposure to radiation emitted by the sunbed”.

A full Regulatory Impact Assessment, setting out the costs and benefits of these Regulations is attached at part 2 of this Memorandum.

PART 2 – REGULATORY IMPACT ASSESSMENT

1. Introduction

This Regulatory Impact Assessment aims to appraise the impact of The Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011. The Regulations take forward legislation set out in the Sunbeds (Regulation) Act 2010 ¹ introducing controls to protect public health from the risks associated with sunbed use.

The Sunbeds (Regulation) Act 2010 has the overarching objective to reduce the incidence of skin cancer. The regulation of sunbeds will contribute to the achievement of this objective. The Act prevents the use of sunbeds by people under the age of 18 by making it an offence for an operator of sunbed premises to allow someone under the age of 18 to use or access sunbeds. The Act includes regulation-making powers which enable further controls to be introduced on sunbed use.

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

2.1 Background

The World Health Organization (WHO) recommends that there should be effective laws governing the use of sunbeds particularly an age restriction of under 18. The International Agency for Research on Cancer (IARC) now categorises sunbeds in the highest cancer risk category – group 1 – “carcinogenic to humans” ². The Sunbed Association estimate that there are around 8,000 tanning facilities in the UK. The latest survey of local authorities reveals that there are around 450 sunbed premises in Wales.

The Health and Safety at Work Act 1974 ³ applies to sunbed operators and therefore they should carry out a risk assessment to assess the health and safety risks to employees, and persons other than employees, arising out of work activity. The legislation does not offer the opportunity to regulate on the minimum age of the customer, the use of unsupervised sunbeds or the mandatory provision of health information. The Health and Safety Executive updated its guidance (INDG 209 (rev1) ⁴ entitled “Reducing health risks from the use of ultraviolet (UV) tanning equipment” in 2009 and again in 2010 INDG (rev2) but this is not, in itself, legally enforceable.

2.2 Usage of Sunbeds

Around a quarter of adults in the UK have used a sunbed. The Welsh Assembly Government commissioned Cancer Research UK to undertake a prevalence study of sunbed use by young people in Wales in November 2008 ⁵.

Cancer Research UK completed their survey and provided officials with the results of the study in April 2009. The topline findings of the study are:-

- Overall, around 8.2% of all children aged 11-17 said they had used a sunbed at least once (16.7% of girls and 1.8% of boys). Use is higher in the 15-17 yr old group, with around 11% having used a sunbed.
- More than one in five girls aged 15-17yrs have used a sunbed at 22.5%.
- A further 16.0% of those interviewed said that though they haven't yet used a sunbed, they may do so in future.
- One in five children who use sunbeds use them at least once a week at 20.7%.
- 27.9% of girls said they used a sunbed at least once a week.
- A quarter of all children at 23.8% who said they had used a sunbed, had used one in the last month.
- 41.5% said they were unsupervised when they used tanning equipment in either a tanning/beauty salon or gym/leisure centre.
- A total of 74.3% were shown how to use the sunbed, although this could just mean being shown how to switch it on.
- Only half of children were given information on the harm sunbeds can cause.
- 20.5% who said they were supervised, said that they received no information on how to use the sunbed, nor the harm sunbeds could cause.

The overall national prevalence figure (8.2% for the 11-17 age group) is slightly higher but statistically comparable with the figure for England at 6% - from the scoping study that Cancer Research UK undertook for the Department of Health in August 2008.

2.3 Rationale for Intervention

The Welsh Assembly Government is concerned at the rise of all skin cancers in the UK and Wales. Over the past 20 years, Wales has experienced an increase in incidence of malignant melanoma from 6 people per 100,000 in 1990 to 15.1 per 100,000 in 2007. Over 10,400 cases of malignant melanoma were recorded in the UK in 2006, with 505 in Wales. There were 2042 deaths from malignant melanoma in the UK in 2007, 113 in Wales. The increased skin cancer rate is not, of course, due entirely to the use of sunbeds but also to

other factors including direct exposure to the sun's ultraviolet rays. There is substantial evidence of the increased risks caused by sunbed use. Research by Professor Brian Diffey in 2003 "A quantitative estimate of melanoma mortality from ultraviolet A sunbed use in the UK" suggests that possibly 100 or more individuals might die each year in the UK as a direct result of using sunbeds⁶. Using sunbeds at a young age (before the age of 35) increases the risks of getting cancer by up to 75%⁷. In July 2009, the International Agency for Research on Cancer (IARC) moved sunbeds up to the highest cancer risk category – group 1 – "carcinogenic to humans"². Medical evidence also suggests links to premature aging of the skin, eye damage, photodermatosis and photosensitivity.

The WHO recommends that the highest regulatory priority should be the restriction of the use of sunbeds by persons under 18 years and encourages governments to formulate and enforce effective laws governing the use of sunbeds⁸. The WHO considers voluntary codes to be ineffective in providing adequate health protection from sunbed use. Voluntary action by the sunbed industry in the UK has not been successful to date partly because the industry is fragmented and action varies. The Sunbed Association (TSA)⁹ has around 20% of the estimated 8,000 tanning salons in its membership. The European Commission Scientific Committee on Consumer Products (SCCP) has also concluded that young people under 18 should not use sunbeds¹⁰.

The Committee on Medical Aspects of Radiation in the Environment (COMARE) published its 13th report on 19 June 2009¹¹. The report entitled "The Health Effects and Risks Arising from the Exposure to UV Radiation from Artificial Tanning Devices" provides further evidence and support for the regulation of sunbed use. A National Assembly for Wales Health, Wellbeing and Local Government Committee Inquiry into Sunbeds that reported in November 2009 also called for legislation to regulate sunbed use¹².

The Sunbeds (Regulation) Act 2010¹, will, when it comes into force on 8 April 2011, provide regulation making powers for the Welsh Ministers to further regulate sunbed use in Wales, for example by:

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

It is proposed to use the powers in the Act ¹ to introduce Regulations to safeguard public health against the risks associated with sunbed use.

2.4 Options

Three policy options for these Regulations were considered:

Option 1 Do nothing and rely on the Sunbeds (Regulation) Act 2010 ¹ (“the Act”) which seeks to prevent persons aged under 18 from using sunbeds by introducing a ban on businesses which offer sunbeds for use on their premises from allowing persons under 18 to use or have access to their sunbeds; or offering their sunbeds for use by persons aged under 18 years. This option could result in displacement activity whereby young people decide to use sunbed businesses that are unsupervised where they would not be challenged about their age or use subeds on a domestic premises. This option would offer little improvement on the current arrangements.

Option 2 Only introduce regulations under section 4 (1)(a) of the Act ¹ to require a person who carries on a sunbed business to ensure that a competent supervisor is present at all times of operation. Introducing this regulation in isolation would prevent the displacement effect of under 18s using unsupervised sunbed premises to avoid being challenged on their age. It would also ensure that supervisors had sufficient training, experience or knowledge to enable them to properly advise users of sunbeds on the health implications of doing so. It would not cover those sunbed businesses operating from a domestic setting or purchase and hire by under 18s. It would also not provide the additional protection for adult users that the full use of regulation making powers offers.

Option 3 Introduce regulation of sunbed use in order to protect public health, utilising all of the regulation making powers open to Welsh Ministers under the Act ¹ to: require a person who carries on a sunbed business on domestic premises to prevent sunbed use on those premises by persons aged under 18; require supervision of sunbed use by competent staff; prohibit the sale or hire of sunbeds to under 18s; require the provision of only prescribed health information and relevant health and safety information to users of sunbeds; and require the provision and use of safe and appropriate protective eyewear. We feel that these proposed legislative controls will strike the balance of protecting young people under 18 as well as those adults who continue to choose to use sunbeds.

Option 3 was proposed and consulted upon for the reasons described above. The outcome of the consultation supported this approach.

2.5 Costs and Benefits of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011

Option 1

The option of doing nothing would retain the existing ban on under 18s using sunbeds but would not have any other health protection benefits so far as tanning salons are concerned. The introduction of this ban under the Act¹ was costed by the Department of Health at £88,000 for England and Wales and was identified at that time as having to be met from local authorities (LAs) existing budgets. In the absence of better information, this figure is apportioned to Wales to give an annual cost of introducing the ban of £4,300.

An annual cost of £4,300 summed and discounted over ten years gives a total of approximately **£40,000**.

It is assumed that some displacement towards unsupervised facilities will occur under Option 1. A range of assumptions regarding sunbed users' reactions has been explored in the Technical Appendix at Annex A. The following figures for the benefits of each option assume that 50% of under 18 sunbed users that currently use supervised facilities move to unsupervised facilities as a result of the ban. Under this scenario, the benefit of pursuing Option 1 in terms of reduced costs to the NHS and reduction in deaths is estimated at approximately £20,800 per annum. When summed and discounted over ten years this gives a total of approximately **£210,000**.

The Net Present Value¹ of this option is approximately **£170,000**.

Option 2

Only introducing regulations to ensure that a competent supervisor is present at all times of operation would leave significant gaps in protecting health. This option would still incur the majority of the costs estimated for full implementation of the regulations (Option 3) with the exception of the cost of providing the prescribed health information estimated at £3,500. The option would not be effective in terms of reducing and addressing the public health risks associated with sunbed use. Whilst sunbed businesses would not be required to provide appropriate protective eyewear, most sunbed businesses already do so. No saving would therefore be achieved and the estimated cost is therefore £885,710 in year one and £648,210 in each future year.

The annual cost of this policy option when summed and discounted over ten years gives a total of **£6.3 million**.

The benefits of Option 2 are estimated in monetary terms at approximately £71,100 per annum. When summed and discounted over ten years this gives a total of approximately **£727,000**.

The Net Present Value of this option is approximately **£ - 5.59 million**.

Option 3

¹ The discounted value of a stream of either future costs or benefits. The term Net Present Value (NPV) is used to describe the difference between the present value of a stream of costs and a stream of benefits.

This option will build on the ban being imposed on under 18s using sunbeds under the Sunbeds (Regulation) Act 2010¹ by introducing the full regulation making powers provided for under the Act. This is the preferred option as it provides a more robust system of protecting young people against the risks of sunbed use as well as providing prescribed health information to those adults who continue to use sunbeds. The overall estimated costs associated with the implementation of this option is £889,210 in year one and £651,710 in each future year. This represents a worst case scenario as some sunbed businesses may decide to cease trading as a result of Option 3 and a proportion of sunbed business will already have competent staff employed at their premises.

The annual cost of this policy option summed and discounted over ten years gives a total of **£6.3 million**.

The benefits of Option 3 are estimated in monetary terms at approximately £71,100 per annum. When summed and discounted over ten years this gives a total of approximately **£727,000**.

The Net Present Value of this option is approximately **£ - 5.59 million**.

The figures above are based on a number of assumptions which are documented in the Technical Annex. The Net Present Values of Options 2 and 3 are identical given the similarities in the cost of both options. The estimated benefits of both options are also identical given the lack of information on the efficacy of each proposal at this stage. On the basis of the estimated costs, the analysis suggests that option 1, do minimum, offers the best value for money but it does not achieve the additional benefits for public health that are assumed to occur under Option 2 and 3.

The long term benefit of providing specified health information to all sunbed users in Wales has not been quantified. The proposed intervention may lead to a reduction in the duration and frequency of sunbed use. Some individuals may stop using sunbeds altogether and move towards substitute products. It has not been possible to quantify the benefit of providing protective eyewear to sunbed users. Requiring the provision and use of appropriate and safe protective eyewear will, however, lead to benefits for both sunbed users and the NHS at negligible cost to sunbed businesses given that most sunbed businesses already provide protective eyewear. There may also be benefits to sunbed users from using sunbed facilities such as improved security during sunbed use.

In cost benefit terms, Option 3 will break even if the regulatory intervention reduces skin cancer deaths by more than approximately 1.5 deaths per annum.

A brief discussion of the costs is set out below.

2.6 Costs to Local Authorities

The paper 'Sunbeds and Tanning Salons – Local Authority enforcement activity Summary of LACORS consultation responses June 2009'¹³ has been used to inform some of the estimates of compliance with guidance and the new legislative controls. A figure of 450 tanning facilities in Wales, based on local government returns, has been used for the purpose of the calculations. The cost of an Enforcement Officer, including on-costs, is in the region of £50,000 per year for 210 days enforcement activity. All Wales figures for initial full inspections, revisits and prosecutions in year one amount to 333 days or 1.59 of a FTE totalling £79,500 in year one. Ongoing inspections of high and medium risk premises, revisits and prosecutions in year 2 amount to 134 days or 0.6 of a FTE totalling £31,500 in year 2. The planning and attendance at local authority organised seminars for sunbed businesses amount to 154 days or 0.7 of a FTE amounting to £35,000 as a one off cost. Local authority organisation of and attendance at training seminars for enforcement officials amounts to 34 days or 0.2 of a FTE amounting to £7,500 again a one off cost in year one. The total cost to local authorities in year one is £122,000. The total cost to local authorities in year 2 is £31,500. Costs are likely to reduce further in future years.

2.7 Costs to the Sunbed Industry

There will be costs on sunbed businesses of employing and training staff to ensure they are fully competent to supervise the sunbed premises during operating hours. If sunbed businesses currently employ experienced staff then the cost of training to ensure they are fully competent to perform the supervisory role expected might be the only additional cost. The cost of a training course per employee is estimated at £150 X 2 employees = £300 X 450 salons = £135,000. This is likely to be an overestimate as many currently attended salons will have competent staff that may not require further training. On the basis of local authority returns to the Welsh Assembly Government it is estimated that 11% of salons are unsupervised. Using a total of 450 salons, this reveals that 50 premises would need to employ competent supervisors as a worst case scenario. The salary of a FTE supervisor is estimated at £5.93 per hour x 40 hours = £237.20 per week x 52 = £12,334.40 per annum. 50 salons x 12,334.20 = £616,710. This is based on all sunbed businesses choosing to employ a competent supervisor rather than ceasing trading. It is difficult to estimate whether there would be any potential costs to sunbed salons and manufacturers of sunbeds due to a decrease in demand because of the more explicit health information and warnings being provided to customers. The Sunbed Industry would also be required to provide protective eyewear to sunbed users and ensure sanitation of reusable goggles. Responsible sunbed operators should already be providing such a service to its clients so these costs should already be included in their running costs. The maximum total cost to the sunbed Industry in year one is estimated at £751,710. In year two the cost is £616,710.

2.8 Costs to Welsh Assembly Government

The Welsh Assembly Government would need to ensure that the required funding of £122,000 is transferred to the Local Government Settlement. A further one-off cost of £15,500 is anticipated for the cost of supporting materials i.e. posters and leaflets for sunbed operators and delivering two training events for local authorities in Wales. Sunbed businesses would be expected to download supporting posters and leaflets from the Welsh Assembly Government's website once initial supplies were exhausted. A total cost of £137,500 is estimated in year one that will reduce to £31,500 per annum in year 2 onwards.

2.9 Costs on other bodies, individuals and businesses

There will be no costs on other bodies. However the requirement for competent supervisors at sunbed premises will provide an income opportunity for training providers to deliver suitable courses. Costs to the criminal justice system are assumed to be minimal as prosecutions will be conducted by Environmental Health Officers and Local Government Regulation (LGR formerly LACORS) estimate that these prosecutions are likely to be very low in number.

2.10 Impact on the NHS

There is substantial research on the incidence of, and deaths from forms of skin cancer. A review by Cancer Research UK ¹⁴ suggests that an estimated 21,545 11-17 year olds have used a sunbed in Wales. This represents an avoidable increased risk of ill health and death. Adult users will be better informed as a result of increased supervision and the provision of health information and may also now be in a better position to weigh the perceived benefits of use against risk. The proposed legislation would lead to a positive health benefit as well as reducing the NHS costs of treating skin cancers.

The Committee on Medical Aspects of Radiation in the Environment (COMARE) thirteenth report ¹¹ estimates that total sunbed use could account for approximately 370 new cases of melanoma and 100 deaths each year in the UK. This equates to roughly 5 deaths in Wales each year as a result of sunbed use (and approximately 0.17 deaths amongst under 18s).

The demand on NHS services suggest that skin complaints comprise 10-25 % of general practice workload. It is estimated that skin cancer accounts for 30% of a consultant dermatologist's workload and one third of all the plastic surgery on the NHS.

The Technical Appendix at Annex A provides further information on the impact on the NHS.

2.11 Impact on small businesses

The financial costs to the sunbed industry are detailed at paragraph 2.7. The Regulations will apply equally to all operators of sunbeds. The greatest impact will be on those sunbed premises that are unstaffed and that will need to

employ a competent supervisor. In some cases these will be small businesses but can be large businesses operating from a number of locations. In order to ensure that all businesses have adequate time to implement the legislation, it is intended to allow 6 months after the Regulations have been made before they come into force.

2.12 Impact on voluntary sector

There will be no impact on the voluntary sector from introducing these legislative controls.

2.13 Equality Impact Assessment

Research findings show that a significant proportion of people, particularly, young women and girls, under the age of 18 have used and continue to use a sunbed. The ban on under 18s using a sunbed introduced by the Sunbeds (Regulation) Act 2010¹ may see a trend of young people looking for alternative opportunities to access a sunbed including unstaffed salons and the hire or purchase of a sunbed. The Regulations look to control these alternatives and will therefore have greater impact on those under 18, particularly young women.

Guidance (based on the Fitzpatrick (1975) skin typing test¹⁵) will be provided as part of the legislative controls warning those with fair or sensitive skin; with a large number of freckles and/or red hair or a large number of moles; those taking certain medicines or with medical conditions not to use sunbeds. The Regulations will therefore impact on grounds of race. The impact is likely to be on the basis of exclusion of age and the recommended exclusion on grounds of race from an activity which has potential to harm their health. The Regulations do not impact on grounds of disability; religion/belief; sexual orientation and Human Rights. Overall an adverse impact is unlikely.

The Welsh Assembly Government is committed to working towards full realisation of children and young people's rights for all under 25-year olds in Wales. Articles 6 and 24 of the UN Convention on Rights of the Child (UNCRC) place a duty on Governments to take all necessary steps to secure the health and wellbeing of children and young people aged under 18. The Regulations will contribute to fulfilment of this duty. As we move forward towards implementation of the Regulations, we are aware that we will need to give further consideration to the impact of the UNCRC more broadly, and in particular to Article 3 (Best interests of the Child) and Article 12 (Participation and respect for the views of children and young people) as well as applicability of Article 36 which relates to protecting children against all forms of exploitation prejudicial to any aspect of the child's welfare.

2.14 Sustainable Development Impact

The Regulations indirectly contribute to the principles of sustainable development through introducing powers that will prevent or reduce the risks of potential harm to health. The controls may reduce costs to the NHS of treating

people with skin cancer, eye and skin damage caused by sunbed use. Further information can be found at Annex A.

2.15 Regulation 3 - A duty on a person who carries on a sunbed business on domestic premises to prevent sunbed use on those premises by persons aged under 18

Benefits

The ban on under 18s using sunbeds and the proposed supervision of all sunbed businesses may generate displacement activity and promote an increase in young people seeking tanning sessions from persons carrying out a sunbed business on domestic premises. This Regulation seeks to capture any displacement activity by using the scope of the Act ¹ to include domestic premises.

2.16 Regulation 4 - Supervision of sunbed use by competent staff

Benefits

The proposal for the introduction of supervisors in sunbed premises will bring to an end the days of unstaffed sunbed premises which enabled sunbed users to self determine the duration and frequency of their tanning sessions. This Regulation seeks to secure that supervisors will be the key people to prevent young people under 18 from using a sunbed. Supervisors will also perform an important role in protecting people's health by providing prescribed health risk information to adults choosing to use a sunbed and also by ensuring, as far as is reasonably practicable, that sunbed users wear protective eyewear during a tanning session. Supervisors will also be required to provide advice and guidance to sunbed users on skin types and exposure times. This Regulation also seeks that supervisors remain on the premises at all times when customers are present, either seeking to use a sunbed or in the process of using a sunbed.

2.17 Regulation 5 - Prohibit the sale or hire of sunbeds to under 18s

Benefits

The Regulations are designed to be as comprehensive as possible within the powers provided by the primary legislation. A ban on under 18s from using sunbeds may generate some displacement activity where under 18s may seek other avenues for gaining access to a sunbed, for example a trend of young people hiring or purchasing sunbeds for use in their own homes. This Regulation seeks to prevent this activity, with an overall view to protecting the health of under 18s in Wales, now and in future.

2.18 Regulation 6 – Remote sale or hire of sunbeds

Benefits

This Regulation seeks to extend the scope of Regulation 5 to provide for situations whereby under 18s could, for example, seek to secure a mail-order or Internet purchase or hire of a sunbed from a supplier outside Wales. Where the order for the sale or hire is taken outside of Wales, but the supplier has premises in Wales from which the sunbed is despatched, the sale or hire is to be treated as taking place on the premises from which the sunbed is despatched.

2.19 Regulation 7 - Require the provision of specified health information to users on the health risks

Benefits

This Regulation provides for prescribed health information to be provided for sunbed users. If an adult chooses to use a sunbed then the sunbed businesses is required to provide the user with health information on the risks involved. If the adult still wishes to use the sunbed then the person does so with the knowledge of the associated risks. The continuous provision to sunbed users of health risk information may eventually lead to a reduction in the number of adults choosing to use sunbeds. This Regulation also seeks to ensure that sunbed businesses are unable to provide or display any material that contains statements relating to the health effects of sunbeds, for example claims that sunbeds promote health benefits, other than that prescribed which includes any relevant health and safety information. The intention is to protect public health and to prohibit the use of misleading / erroneous / unproven / unfounded claims attributing health benefits to sunbeds. The right to freedom of expression is a qualified right which government may restrict in the interest of the protection of health. Misleading claims about health benefits which are intended to encourage or persuade a person to use a sunbed are indirectly injurious to health. The perceived health benefits of sunbed use are largely psychological and cosmetic and are outweighed by the risks.

2.19 Regulation 8 - Require the provision and use of safe and appropriate protective eyewear

Benefits

This Regulation seeks to ensure that sunbed users are provided with or have in their possession clean, safe and appropriate protective eyewear to protect their eyes during sunbed use. This Regulation also seeks to ensure as far as reasonably practicable that sunbed business supervisors ensure that such protective eyewear is worn by the sunbed user during their sunbed session. This provision seeks to reduce the number of people presenting themselves for treatment to the NHS as a result of eye damage through sunbed use. If adults wish to continue to use sunbeds, then they should do so taking appropriate steps to limit the risks to health that sunbeds pose, an example being actively seeking to reduce the risk of damage to their eyes and eyesight through the wearing of appropriate protective eyewear.

3. Summary of estimated costs for the final proposed regulations

Costs	2011-12 £K	2012 -13 £K
Welsh Assembly Government	16 (1)	-
Local Authorities	122	32
Sunbed Industry	752	617
Total Estimate	890	649

Notes:

(1) Excludes the amount of £122K Welsh Assembly Government will need to transfer to local authorities in Wales via a grant scheme.

4. Consultation

In Wales, a working group was established to advise on the content and implementation of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011. This group, comprising Chartered Institute of Environmental Health and local authority representation has advised the Welsh Assembly Government on the development and drafting of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011 and the implementation of the new Regulations prior to their proposed coming into force date.

A formal consultation on the draft version of these Regulations, together with the draft Regulatory Impact Assessment was undertaken between 7 October 2010 and 29 December 2010. Consultees included local authorities, Public Health Wales, NHS organisations, the Chartered Institute of Environmental Health, Professional organisations, the Welsh Local Government Association, the UK Sunbed Association and sunbed businesses.

Twenty four responses to the consultation were received.

The vast majority of the respondents supported the Regulations introducing the full regulation making powers allowed for by the Sunbeds (Regulation) Act 2010. There were some concerns raised by a sunbed business and the Sunbed Association (SA). The SA consider moderate use of sunbeds does not present a serious detriment to public health and argue that the health warning is incorrect. A sunbed businesses voiced similar views and feel there is not sufficient evidence to introduce the Regulations.

The key issues that arose during the consultation and how these issues were dealt with, is summarised below:

One respondent suggested that in order to make Regulation 4 clearer, there should be a definition of "competent". The Working Group felt this was a sensible suggestion and have amended the Regulations incorporating a definition that a supervisor is competent where he or she has sufficient training

and experience or knowledge and other qualities to enable him or her to properly to fulfil the requirements of the role. . “Competency” is defined in terms that are similar to the definition set out in Regulation 7 of the Management of Health and Safety at Work Regulations 1999.

A number of respondents suggested changes to the prescribed health information for users and that to be displayed proposing some stronger wording in part; the information to be written in plain English that is easy to understand; and that the health information recognises the increased risk to younger sunbed users between the age of 18 and 35. The Working Group accepted these suggestions and Schedules 1 and 2 containing the prescribed information have been amended. Schedule 1 now makes reference to the 18 to 35 age group, is stronger in that it states “you should not use a sunbed if you” and then lists a number of factors for example “have had skin cancer in the past”. Schedule 1 also provides some specific advice to pregnant women on the risks of burning their skin as some women find that their skin is more sensitive during pregnancy and may be more likely to burn in the sun or if they use a sunbed. Schedule 2 now refers to “health information” to be displayed and not a “health warning”.

Further change to the Regulations have been made to ensure that prescribed health information does not prohibit sunbed businesses from displaying any relevant health and safety information; and to include the word “safe” in the Regulations to read “eyewear that is safe and appropriate for use with the sunbed and which protects the eyes of a person using the sunbed from the effects of exposure to radiation emitted by the sunbed.

Some of the points raised by consultees are issues that will be better covered in the guidance to accompany the Regulations than in the legislation directly.

We asked three questions on the Regulatory Impact Assessment. 79% of respondents agreed Option 3 as the preferred option. 71% agreed that the Regulatory Impact Assessment contained all of the relevant evidence. When asked whether respondents were content with the estimated costs/benefits regarding the implementation of these Regulations 42% agreed to this question, 17 % disagreed and 42% abstained from answering.

5. Competition assessment

The policy will have an impact on unstaffed sunbed premises but is not anticipated to have a significant detrimental effect on competition. The requirement of the Regulations that all sunbed premises are supervised places sunbed businesses on an equal footing in terms of competition. Unstaffed salons pose a risk to public health and could be regarded as currently having an unfair advantage over salons that are staffed.

Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	Yes
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

6. Post implementation review

The Welsh Assembly Government runs a Health Behaviour in School-age Children (HBSC) ¹⁶ study with 11 to 16 year-olds every four years. For the future, the questionnaire will include questions covering prevalence of sunbed use by young people in Wales. This will inform our knowledge of sunbed use by young people following the introduction in Wales of the primary and secondary legislative controls.

As an additional informative measure, local authorities will be asked to provide, on an annual basis, details of the number of sunbeds operating within their respective areas.

References and Web Links

1. The Sunbeds (Regulation) Act 2010:
www.legislation.gov.uk/ukpga/2010/20/enacted
2. WHO Agency for Research on Cancer (IARC) categorisation of sunbeds as “group 1” – “carcinogenic to humans”:
www.iarc.fr/en/media-centre/iarcnews/2009/sunbeds_uvradiation.php
3. Health and Safety at Work Act 1974:
www.hse.gov.uk/legislation/hswa.htm
4. INDG209(rev1): Health and Safety Executive (HSE) revised leaflet on “Reducing health risks from the use of ultraviolet (UV) tanning equipment” April 2009: www.hse.gov.uk/pubns/indg209.pdf
5. Cancer Research UK Study into “Sunbed use in children in Wales” 2009:
www.wales.gov.uk/topics/health/protection/environmental/publications/sunbed/?lang=en
6. Diffey, B. A quantitative estimate of melanoma mortality from ultraviolet A sunbed use in the UK. *Br J Dermatol* 149, 578-81 (2003):
www.ncbi.nlm.nih.gov/pubmed/14510992
7. International Agency for Research (IARC) on Cancer Working Group on artificial ultraviolet (UV) light and skin cancer. The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: A systematic review. *Int J Cancer* Mar 1;120(5):1116-22 (2007):
www.ncbi.nlm.nih.gov/pubmed/17131335
8. World Health Organization Fact Sheet N°2087 on Sunbeds, tanning and UV exposure
www.who.int/mediacentre/factsheets/fs287/en/
9. The Sunbed Association:
www.sunbedassociation.org.uk
10. The European Commission’s Scientific Committee on Consumer Products opinion on “Biological effects of ultra-violet radiation relevant to health with particular reference to sunbeds for cosmetic purposes:
http://ec.europa.eu/health/ph_risk/committees/04_sccp/docs/sccp_o_031b.pdf
11. Committee on Medical Aspects of Radiation in the Environment (COMARE) Thirteenth Report: “*The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices*” June 2009: www.comare.org.uk/comare_docs.htm

12. The National Assembly for Wales' Health Wellbeing and Local Government Committee Report following its Inquiry into "the use and regulation of sunbeds in Wales" June/November 2009:
www.assemblywales.org/bus-home/bus-committees/bus-committees-scrutiny-committees/bus-committees-third-hwlg-home/bus-committees-third-hwlg-report.htm
13. Sunbeds and Tanning Salons – Local Authority enforcement activity summary of LACORS consultation responses June 2009:
<http://lacors.conseq.net/lacorsdev/tio/271726>
14. Cancer Research UK:
<http://search.cancerresearchuk.org/search/results.jsp?siteid=0&query=sunbeds&go.x=12&go.y=7>
15. T. B. Fitzpatrick 1975 (The Fitzpatrick Scale - aka "Fitzpatrick skin typing test" or "Fitzpatrick phototyping scale"):
http://en.wikipedia.org/wiki/Fitzpatrick_scale
16. Health Behaviour in School Age Children www.hbsc.org/index.html

Annex A

Technical Appendix

1. This technical appendix aims to provide information regarding the calculation of the benefits of this policy and the assumptions behind them. Sensitivity analysis has also been applied to test the uncertainty surrounding key variables.
2. As mentioned in the main body of this Impact Assessment, the benefits of restricting under 18 year olds from using supervised and unsupervised sunbeds are derived from saved costs to the NHS and life years saved from preventing skin cancer deaths. It has not been possible to monetise the other benefits of the proposals, such as reduced eye damage or reduced sunbed use overall, due to a lack of information.
3. Prior to monetising any costs we first need to isolate the percentage of sunbed users in Wales who are under 18. A report by COMARE² states that around a quarter of adults in the UK have used a sunbed. It is assumed that this assumption also holds true for Wales. Therefore, using the ONS Mid-2009 population estimates, it is estimated that there are approximately 591,000 adult sunbed users in Wales. According to research undertaken by Cancer Research UK³, approximately 8.2% of young people aged 11-17 years old in Wales have used a sunbed at least once. Using this information as a guide, and using the ONS population estimates once again, it is estimated that approximately 22,000 of 11-17 year olds in Wales have used a sunbed.
4. Summing the numbers of adult and under 18 users gives a total number of sunbed users in Wales of 612,000. Therefore, under 18s account for approximately 3.5% of all sunbed users in Wales.
5. Of the 22,000 underage sunbed users, it is assumed that 41.5% (9,000) use unsupervised facilities. This assumption is based on the percentage of children who reported that they had been unsupervised when using a sunbed at a tanning/beauty salon or gym/leisure centre in the Cancer Research UK study (95% confidence interval: 30.4%, 52.6%). Taking this assumption further, it is assumed that the remaining 58.5% (13,000) use supervised facilities. For the purposes of the figures presented in the main body of the impact assessment, a 50% displacement effect of under 18 users from supervised to unsupervised facilities has been assumed as a result of introducing the UK ban.

NHS Costs Saved

² COMARE report 13th Report "The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices", page 36.

³ Cancer Research UK: Study of Sunbed Use by Children in Wales (2009):
<http://wales.gov.uk/docs/phhs/publications/100723cancerresearchsunbedsen.pdf>

6. Treatment of skin cancers has a cost to the NHS in Wales. A recent paper by Morris et al⁴ provides estimates for the cost of treatment of Malignant Melanoma and other skin neoplasms in 2002 prices. These are uplifted using the HCHS price index from the 2009 Unit Costs publication⁵ to give estimates as follows:
 - a. Cost to NHS in Wales of Malignant Melanoma – **£3,831**
 - b. Cost to NHS in Wales of other skin neoplasms – **£1,742**
7. These costs are then weighted to account for the case mix of Malignant Melanoma and other skin cancers using data from the National Clinical and Health Outcomes Database (NCHOD⁶) to give an average cost of skin cancer to the NHS in Wales of **£2,033**.
8. The report by COMARE that “a mathematical model estimates that sunbed use could account for approximately 370 new cases of melanoma”. Scaling this figure to Wales, it is estimated that 18 new cases of melanoma per annum occur in Wales as a result of sunbed use. Assuming that 3.5% of sunbed users in Wales are under 18, it is estimated that 0.63 cases out of the 18 occur as a result of sunbed use amongst under 18s.
9. Therefore, based on the average treatment cost of skin cancer to the NHS in Wales (of £2,033) it costs £1,284 to treat 0.63 cases of a skin cancer per annum. Based on the assumption that 41.5% of sunbed use amongst under-18s is unsupervised, it is estimated that 0.26 skin cancer cases occur as a result of unsupervised use. It would cost £533 to treat 0.26 skin cancer cases. In the same manner, it would cost £751 to treat the 0.37 cases that are assumed to occur as a result of supervised use of sunbeds amongst under-18s.

Monetised Life Years Saved

10. Skin cancers can also result in death to those who contract them. Restricting the use of sunbeds by under 18 year olds is estimated to have an impact on the number of skin cancer related deaths. These life years saved can then be monetised.
11. The calculations below assume that the current average age of a skin cancer death holds for those cases that are as a result of sunbed use. That is, skin cancers contracted as a result of sunbed use do not have a lower average age of death than skin cancers from other sources. This limiting assumption is applied in the absence of information about how the relative risk of contracting skin cancer changes as the use of a sunbed by an under 18 year old varies.
12. To monetise life years saved as a result of restricting under-18s from using sunbeds (both supervised and unsupervised), the average ages of skin cancer deaths are calculated using data from NCHOD. The QALY loss from

⁴ Morris S., Cox B., Bosquanet N, 2009; 'Cost of skin Cancer in England', European Journal of Health Economics, Issue 10 Vol. 3

⁵ Unit Costs 2009, PSSRU. See <http://www.pssru.ac.uk/pdf/uc/uc2009/uc2009.pdf>

⁶ NCHOD – See <http://www.nchod.nhs.uk>

these average ages is calculated using 2007-2009 life tables from the ONS and is applied to the Department of Health's value of a QALY (Quality Adjusted Life Year) of £50,000.

13. The COMARE report states that around 100 deaths each year in the UK are accounted for by sunbed use. Scaling this number suggests that 5 deaths occur each year in Wales as a result of sunbed use. When assuming that 3.5% of Welsh sunbed users are under 18, it is estimated that 0.17 deaths occur as a result of sunbed use amongst the under 18 group. Using assumptions about the percentage of under 18s who use supervised facilities and those who use unsupervised facilities, it is estimated that 0.10 deaths occur as a result of supervised sunbed use, whereas 0.07 deaths occur as a result of unsupervised use. The 0.07 deaths will be prevented by the additional Welsh regulations. It is anticipated that this figure will rise as a result of introducing the UK ban. Assuming a 50% displacement rate from supervised to unsupervised facilities under the UK ban, the additional Welsh regulations could prevent up to 0.12 deaths per annum.
14. The average age of death from skin cancers is compared with the average life expectancy for both males and females to estimate the number of QALYs that are gained when a skin cancer death is prevented. When accounting for the differences in male and female life expectancy, preventing 0.07 deaths is monetised as £29,000 per annum in life years saved. This would rise to approximately £49,400 per annum if 0.12 deaths are prevented.

Sensitivity Analysis

Benefits: Displacement

15. It is assumed that a number of underage sunbed users will be displaced towards unsupervised tanning facilities as a result of the UK ban.
16. As noted above, it is estimated that 13,000 under 18 year olds currently use supervised tanning facilities. In the figures presented in the main body of the Impact Assessment, it has been assumed that half of those users (6,500) will move towards unsupervised facilities when the UK ban comes into force.
17. To explore the impact of this displacement effect on the benefits of the policy options, a range of displacement scenarios have been examined (0%, 50% and 100% displacement). The figures presented in the main body of the Impact Assessment assume a 50% rate of displacement.
18. **Policy Option 1: Do Minimum – Implement Sunbeds (Regulation Act 2010).** When summed and discounted over 10 years, the total benefits of this option are estimated to lie within a range of **£0 to £424,000**. When assuming that 50% of those currently using supervised facilities migrate towards unsupervised facilities as a result of the ban, the discounted benefit of this policy option is **£210,000**.
19. **Policy Options 2 and 3:** Introduce regulations 4 (1)(a) of the Act (competent supervisor present only) for Option 2 and all regulations available to Welsh Ministers for Option 3.

When summed and discounted over 10 years, the total benefits of both options are estimated at approximately **£727,000**. This captures both the benefits of the UK ban as well as the benefits of additional Welsh regulations (identical for both Options 2 and 3 due to the failure to quantify the additional benefits of Option 3 over Option 2). Depending on the rate of displacement between supervised and unsupervised facilities following the UK ban, the contribution of the Welsh regulations to the total benefits achieved will lie within a range of £302,000 to £727,000. A central estimate of approximately **£514,000** has been assumed as the benefit of additional Welsh regulations in the main body of the impact assessment.

Costs: Sunbed Industry

20. The main cost imposed upon sunbed businesses as a result of the Welsh regulations is the cost of employing a competent supervisor. The impact of the Welsh regulations on the trading decisions of Welsh sunbed businesses is currently unknown.
21. As a result of the regulations, some sunbed businesses may decide to close, rather than incur the cost of employing a competent supervisor. In this case, the overall cost of the regulations to the sunbed industry will be lower than the amount assumed in the main body of the Impact Assessment. The Impact Assessment assumes a 'worst case scenario', i.e. it assumes that all unsupervised facilities incur the cost of employing a competent supervisor and therefore shows the maximum cost that the Welsh regulations could impose upon the sunbed industry.
22. If some businesses decide to close, then the cost of employing a supervisor will not be incurred (and the overall cost of the Welsh regulations to the industry will therefore be lower). Anecdotal evidence from Scotland has shown that a number of sunbed businesses decided to close as a result of the additional regulations implemented there.
23. Sensitivity analysis has therefore been used to examine the cost to the industry when different numbers of sunbed businesses close as a result of the regulations. The following closure rates have been examined:
 - a. 0%, i.e. no closures at all. Therefore all operators of previously unsupervised facilities decide to incur the cost of employing competent supervisors in order to comply with the Welsh regulations. This represents the 'maximum cost' that the Welsh regulations could impose upon the sunbed industry'; a 'worst case scenario';
 - b. 50%, i.e. half of unsupervised facilities close. In this instance, the remaining 50% of businesses that previously operated unsupervised facilities decide to stay in business and incur the cost of employing a competent supervisor in order to comply with the Welsh regulations. This represents a 'medium cost' scenario to the industry; and
 - c. 100%, i.e. all unsupervised facilities close. Therefore no employment costs are incurred as all unsupervised facilities close as a result of introducing the Welsh regulations. This represents a 'minimum cost to the industry'

24. **Policy Option 1: Do Minimum – Implement Sunbeds (Regulation Act 2010).**

It is assumed that this option will not have any impact on the number of unsupervised tanning salons in Wales and therefore the costs and benefits of the option stay unchanged regardless of closure rates. The discounted cost of this policy option is approximately **£40,000**. The **Net Present Value** of this policy option is approximately **£170,000**.

25. **Policy Options 2 and 3: Introduce regulations 4 (1)(a) of the Act (competent supervisor present only) for Option 2 and all regulations available to Welsh Ministers for Option 3.**

The following figures show the impact of different closure rates (explained above) on the discounted cost (over 10 years) of policy options 2 and 3 and their respective Net Present Values:

0% Closure Rate

▪ Cost to Sunbed Industry (discounted):	£5.8	million
▪ Total Cost (discounted) of policy:	£6.3	million
▪ Net Present Value of policy:	- £5.59	million

The figures above are those that have been used and reported in the main body of the impact assessment. They reflect the maximum costs to the industry of employing competent supervisors, i.e. a 'worst case scenario'.

50% Closure Rate

▪ Cost to Sunbed Industry (discounted):	£3.0	million
▪ Total Cost (discounted) of policy:	£3.4	million
▪ Net Present Value of policy:	- £2.72	million

100% Closure Rate

▪ Cost to Sunbed Industry (discounted):	£0.14	million
▪ Total Cost (discounted) of policy:	£0.57	million
▪ Net Present Value of policy:	£0.16	million

26. If all unsupervised facilities close (i.e. a 100% closure rate) there will still be a cost imposed on the sunbed industry due to the requirement for those sunbed businesses that currently provide supervised facilities to provide adequate training to for their staff. However, as can be seen above, when all unsupervised facilities close as a result of the Welsh regulations, the Net Present Value of Options 2 and 3 is positive (i.e. their benefits outweigh their costs).