



Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

**Clause-by-Clause Consideration of the
Sunbeds Bill**

14 September 2010

NORTHERN IRELAND ASSEMBLY

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HEALTH, SOCIAL SERVICES
AND PUBLIC SAFETY**

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Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)
Mrs Michelle O'Neill (Deputy Chairperson)
Mrs Mary Bradley
Mr Alex Easton
Mr Tommy Gallagher
Mr Sam Gardiner
Mr Paul Girvan
Mr John McCallister
Ms Sue Ramsey

Witnesses:

Mr Craig Allen)	
Mr Seamus Camplisson)	Department of Health, Social Services and Public Safety
Mr Nigel McMahon)	
Ms Julie Stewart)	

The Chairperson (Mr Wells):

In members' packs, there are responses from Diane Dodds and Jim Nicholson from the European Parliament regarding the compatibility of an outright ban on sunbeds with article 10 of the European Convention on Human Rights. They both express their support for the Bill but are not in a position to offer advice on the matter. We are not opting for an outright ban on sunbeds but

have sought advice on the issue.

Before we start the clause-by-clause consideration of the Sunbeds Bill, I will introduce the officials from the Department of Health, Social Services and Public Safety (DHSSPS) and explain why they are here. Craig Allen is from the legislation equality branch, Seamus Camplisson is from the health protection branch, Nigel McMahon is the Chief Environmental Health Officer, and Julie Stewart is from the health protection branch. They are here because, during the summer, the Irish Republic announced the publication of its sunbeds legislation. I knew about that only because I happened to be doing an interview on a certain radio programme that starts at 9.00 am, and which shall remain nameless, and there was a representative from the public health agency in the Irish Republic who said that sunbeds legislation had been referred to the executive. My ears pricked up at that point.

That legislation largely mirrors what we are doing, with one notable exception: it will place an onus on the sunbed operator to tell those who have a Celtic skin type — red hair, freckles and fair skin, a person who can go under a sun lamp all day and not tan — that they shall not use a sunbed. That struck me as a major divergence from the road that we are going down. It is relevant because someone in Lifford with a Celtic skin type could be told by an operator there that he or she cannot use a sunbed but could then take a 10-minute walk and nip across the border to Strabane and lie under a sun lamp until they were burnt to a frazzle. That struck me as an obvious loophole.

Therefore, we thought that it would be useful for departmental officials to discuss whether they recognise that skin type, if there is potential for damage for those who have it, and whether there is anything that the legislation can do, as proposed or amended, to deal with the issue.

Mr Seamus Camplisson (Department of Health, Social Services and Public Safety):

Mary Harney proposed an outright ban on sunbed use for people who are over 18 years of age and who have skin type 1 on the Fitzpatrick classification scale — in other words: very fair skin.

There are four broad questions about that proposal. First, is it workable? Secondly, is it desirable? Thirdly, is it necessary? Fourthly, is it possible? I will be brief in answering those questions.

First, on the question of whether the proposal is workable, specifically with regard to enforcement, some issues would need to be resolved. Who would have the authority to make a decision on a person's skin type in cases in which people with type 1 skin dispute that fact? Primary and subordinate legislation would need to establish robust and fair arrangements for determining an individual's skin type.

It appears that the Republic is considering allowing a sunbed operator the authority to make a decision on a person's skin type. That would present a clear conflict of interest, because a sunbed operator's primary purpose is to maximise his or her profits by selling sunbed sessions. Therefore, one would have to query the wisdom of a sunbed operator being the person who decides whether someone has a suitable skin type to use a sunbed.

If a sunbed operator does not make that decision, who would? Should it be a GP, a dermatologist or another health professional? If a third party were to make the initial determination — it could be necessary to have a fourth party lined up to deal with any appeals — there would be a raft of other necessary decisions, including how the parties are designated and given authority, who pays them, how the fees are determined and who determines them. Therefore, it would lead to a long list of questions.

We also have to ask whether such a proposal could create the risk of assaults on shop assistants who refuse sunbed use because of their perceptions of customers' skin types. Concerns have been expressed recently about age-related restrictions on sales of products, such as those for the sale of alcohol and tobacco, because of assaults by people who were not happy at being turned away. That is a scenario that you need to be aware of.

It is also a difficulty that skin type can be disguised very easily with make-up, tanning lotion or hair dye. I was not aware that tinted contact lenses are popular for that purpose; I am assured that they are. The fact that it is easy to disguise skin type could create additional problems for the poor shop assistant who is potentially already in a conflict situation.

There is a fundamental problem with the proposal. Skin types, like almost all human physical characteristics, are a matter of degree rather than discrete categories; each skin type shades into other types. The question is not about minor details. The apartheid laws, and all the absurdities that accompanied them, emerged from the idea that there are discrete categories of human beings

rather than different but continuous variations in physical characteristics.

Sunbeds legislation in the Republic has not yet been drafted, so, as far as we are aware, we are talking about a proposal rather than a provision. To our knowledge, the proposal has not been tested by legislative draftsmen in the Republic.

It is possible that the problems that I listed are not insuperable and that such a proposal could be made to work. However, at this stage, the Department is not aware of any research that shows that similar provision in legislation has been introduced successfully anywhere in the world. There is a similar provision in Victoria in Australia, but we do not have any evidence about how workable it is. We will consider any evidence that is presented to us on whether such a provision is workable, and we will consider whether there is a case for bringing forward an amending Bill at a future date.

Secondly, and more briefly, there is the question of whether such a proposal is desirable. It raises a basic question about the proper role of the state. The position that underpins the Sunbeds Bill is that informed personal choice is better than disproportionate state control of individual personal decisions. Ultimately, people have to take some responsibility for looking after their health. To some people, it may seem as if the state is trying to intrude on people's personal space. The Assembly should consider that seriously.

Thirdly, is it necessary? The Sunbeds Bill addresses the issue of Celtic skin. The report from the Committee on Medial Aspects of Radiation in the Environment (COMARE), which prompted the Bill and which the DHSSPS and the other UK Health Departments commissioned in the first place, highlights the particular risk for fair skin. As the Bill stands, sunbed operators would have to provide written information about the health risks of sunbed use. Under the proposed regulations, the Department would prescribe the information that operators would have to provide to clients. Although that would be subject to public consultation, our intention is that prescribed information would emphasise the risks for people with fair skin and very fair skin. We will also consider whether compulsory signage should indicate the increased risk for people with fair skin. The Bill also includes a power to introduce compulsory training for staff and to prescribe training when suitable accredited training becomes available. To be accepted, a training course would have to include coverage of the risks associated with fair skin. Therefore, a number of safeguards already exist with fair skin in mind.

Fourthly, irrespective of the merits of the proposal, it is not clear whether it is possible to add such a provision to the Sunbeds Bill at this stage. The Department has not consulted on the idea. We would certainly have consulted on that if it had been a COMARE recommendation or if it had been recommended or suggested by any other stakeholders. The Committee has not had an opportunity to consider the proposal, and the Department has not asked the Office of the Legislative Counsel to try to draft the amendment or amendments that would be needed. Therefore, in summary, the idea has not been tested or scrutinised to an extent that would justify seeking to add it to the Bill at this stage.

The Chairperson:

I get the impression that you are not very happy with the suggestion.

Mr Camplisson:

I am not enthralled about it.

The Chairperson:

If the Committee decided to seek amendments to the legislation, what would the time consequences be? I assume from what you are saying that there will have to be re-consultation and drafting. What sort of delay would that cause?

Mr Camplisson:

If we were to try to stick to the established rules and conventions about consultation and time frames, where 12 weeks is ideal and eight weeks is regarded as the minimum, we would run the risk of losing the Bill and of it not getting through Final Stage before the end of this mandate. If it were agreed that it could be included in the Bill without consultation, Committee Stage, at the very least, would have to be extended to give members an opportunity to scrutinise the proposal closely. Therefore, it would probably add a minimum of one month to the timetable for the Bill, but it could extend the timetable to breaking point.

The Chairperson:

Is there another way of dealing with the issue? As you said, the proposal in the Republic is at a very early stage. It may never see the light of day, because the problems that you outlined may also be relevant in the South. Can it be added to subordinate legislation at a later stage, or is it

such a major issue of principle that the legislation would have to be amended?

Mr Camplisson:

I think that it is too fundamental to shoehorn it into subordinate legislation. It is about denying a particular service. I do not think that many people here are in favour of that service, but it is about denying a particular service to adults.

You mentioned a note from Diane Dodds — I have not seen it yet — about compatibility with article 10 of the European Convention on Human Rights. We would have to consider compatibility with article 10 and, indeed, article 8 of the European Convention on Human Rights, which is the right to private and family life. That could be brought into play, so we would need to do some writing around that.

My view is that it is probably too fundamental a question to leave to subordinate legislation. What we can do is use the details of the subordinate legislation to beef up the protection for people with very fair skin and ensure that they are aware of the added risk that is associated with Celtic skin.

The Chairperson:

Is that an implicit commitment from the Department that the advice that you will give to sunbed operators under clause 5 will include a specific warning that people with what is perceived to be type 1 skin should pay special attention and a recommendation that those people should not be exposed to sunbeds?

Mr Camplisson:

We anticipate that strong, clear health warnings will be addressed to people with fair and very fair skin. That will be subject to public consultation, but I cannot see it being a contentious matter. I expect that the dangers will be outlined in the provided written information and possibly in the signage as well. Any training courses that are accredited and accepted for the purposes of the Bill will certainly have to highlight the added risk for people with fair skin.

Mr Girvan:

I come to the Sunbeds Bill at a very late stage. I see a straightforward, common-sense approach to moving forward. However, progressing legislation does not always follow a common-sense

approach. Clear guidance and warnings would probably be the best method. The legislation should include reference to clear warnings, guidance and adequate training. However, dealing with non-regulated areas will be difficult. It will be fine with council-run facilities, and so on, where the public can be sure that the people running the facilities will deal with the legislation. However, some operators will not follow the proper guidelines, which is where the issue will arise.

The Chairperson:

We hope that, after the legislation and subject to consultation, there will be provision for licensing under subordinate legislation. I hope that that will bring all sunbed operators in Northern Ireland under some form of control and district council inspection. Therefore, although that is not in the legislation, we expect to see it in the future.

Mr Gallagher:

Chairperson, you referred at the start to the co-ordination of arrangements across the island and the desirability of having a common system. Is the Department in touch with people at the same level in the Dáil in relation to the matter?

Mr Camplisson:

Yes.

Mr Gallagher:

That is essential. There is not much more that the Committee can do other than to write to the Select Committee on Health and Children in Dublin to outline what we will do once we come to a decision. At least we will have informed that Committee of what we are doing.

The Chairperson:

What level of contact is there between the DHSSPS and Dublin?

Ms Julie Stewart (Department of Health, Social Services and Public Safety):

I have been in contact with the Department of Health and Children. The Bill is at a very early stage, and the draftsmen have not even received their instructions yet. The proposals that they have outlined are being tested at the moment.

The Chairperson:

We could keep an eye on what is happening, and, if need be, introduce an amendment or subordinate legislation at a later stage. I was quite surprised that the lady on the radio interview was in a position to announce what her executive were about to consider before they actually looked at the legislation. We do things differently up here, and it may be that some of the issues that we are arguing about may never come to fruition when the Bill is published. I thought that the issue was worth raising because it is fundamentally different from what we are doing. You have convinced me that we cannot stop the whole process to bring us into line with the Republic if its proposed legislation may never happen. The remainder of the issues that the Republic is considering seems to be in line with what we are suggesting, albeit in a different legislative framework.

Mr Camplisson:

That is no accident, Chairperson. We sent them details of our Sunbeds Bill, so it is no coincidence.

The Chairperson:

I was quite amused by your reference to a possible assault on a member of staff. Certainly, if someone came into a premises wearing a Rangers top and was told that he had a Celtic skin type, he might misunderstand what was going on. *[Laughter.]* Let us hope that we do not put staff in that position. I hope that members are happy to let the officials merge into the background and watch the rest of the proceedings from the Public Gallery.

We will now move on to the Committee's clause-by-clause consideration of the Sunbeds Bill.

Clause 1 (Prohibition on allowing use of sunbeds by persons under 18)

The Chairperson:

Clause 1 — prohibition on allowing use of sunbeds by persons under 18 — is a fundamental part of the Sunbeds Bill. The clause provides that it is an offence for an operator of a sunbed premises to allow a person under the age of 18 to use a sunbed on a sunbed operator's premises. It also describes circumstances that would constitute the operator of a sunbed premises as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

I remind members that, on 24 June 2010, the Committee indicated that it was generally content with clause 1 and with the proposed amendments. Alex, do you have a comment?

Mr Easton:

Clause 1 is fine, as far as it goes. However, from my reading, it bans only people under the age of 18 from using sunbeds if they are on sunbed premises. It does not ban private use. I know that we cannot police people who have sunbeds at home. However, even with that, it would be a deterrent if it was illegal for somebody under the age of 18 to use a sunbed. To me, the clause offers a loophole, because people who own a sunbed could, if they wanted to, let all their mates who are under the age of 18 use it. Given that they would not be operating a business, that is a loophole. I do not understand why we cannot include “private use of sunbeds for people under 18” in the clause. I know that that cannot be enforced. However, at least the law would be there, and, if somebody happened to get caught, we could use it. It makes a mockery of the law that somebody under the age of 18, who cannot use a sunbed in a shop, can use a sunbed at home.

The Chairperson:

That issue was discussed on 24 June 2010.

Mr Easton:

I know that.

The Chairperson:

The Department has taken on board our concerns. We thought that, perhaps, the Children Order 1995 could be used. However, the Department has included a series of amendments, which we will come to later in the discussion, that will subject sellers or hirers of sunbeds to similar requirements as those operating commercial sunbed premises. For instance, they will be asked to provide protective eyewear, to ensure that sunbeds meet technical requirements and to undertake training. Further on in the Bill, the Department has gone as far as it can to address that issue. People who hire or own a sunbed will no longer be able to do what they like if someone under the age of 18 will be using it.

Mr Easton:

There are probably hundreds of people with sunbeds across the UK, and there is no regulation for them because they already own a sunbed. There will be from now on in, but Joe Bloggs next

door could have a sunbed and could allow somebody who is under the age of 18 to use it, and there is nothing in the Bill to stop that from happening.

The Chairperson:

There is: the person using the sunbed would be under exactly the same constraints as a person who has a sunbed establishment.

Mr Easton:

We do not know who they are.

The Chairperson:

If a sunbed is hired from a reputable company, a record is kept of where that sunbed has gone. If it were to be reported to the council that Mrs Smith from down the road was allowing 12-year-olds to lie under a sunbed all day, a public health official from the council could come out to the premises, inspect them, and if Mrs Smith was behaving differently from a commercial sunbed operator, she could be prosecuted.

Mr Easton:

I still do not think that it states that under 18s cannot use a sunbed in a private dwelling.

The Chairperson:

My understanding is that the amendment goes a long way to addressing that concern.

Mr Easton:

It states that under 18s cannot use a sunbed in a shop. There is nothing to say that under 18s cannot use a sunbed in a private dwelling.

The Chairperson:

Perhaps it would be helpful for the departmental officials to come back into the witness box, as it were, as points arise, because they could answer any technical points on how far they believe their amendments go. Seamus, will you come to the table and address that point?

Ms Stewart:

As you said, Chair, we have gone as far as we can with the Office of the Legislative Counsel

(OLC) and the legislative draftspeople on the private use of sunbeds. It came down to the question of enforcement. We cannot do anything about sunbeds that are already in private premises; we can act and legislate only for those that are bought or hired from now on.

Mr Camplisson:

That is correct. It comes down to what can be enforced.

Mr Easton:

I accept that it cannot be enforced, but I do not understand why a form of words cannot state that 18-year-olds in private premises are not legally allowed to use sunbeds. Although it cannot be enforced, there is no reason why it cannot be put in legislation.

Mr Camplisson:

Who would be committing the offence in that case?

Mr Easton:

The owner of the sunbed in the private dwelling.

Mr Camplisson:

Would it be the person under 18, the person who owns the house, the person who owns the sunbed or somebody else?

Mr Easton:

It would be the person who owns the sunbed.

Mr Camplisson:

What would happen if that person was not around when the person under 18 was using the sunbed?

Mr Easton:

It would be a deterrent, regardless of whether it can be enforced. As it stands, there is a loophole, and it will be used as such. I will, however, support the Bill as far as it goes.

Ms Stewart

I am not a drafts person, but the legislation has been with OLC and drafts people, and they keep raising the enforcement issue. That is their advice.

The Chairperson:

I need to test the Committee's view on the matter. I see the line that you are going down, Alex. If the Committee goes down that route, it will have consequences for other parts of the Bill. If we agree to take an amendment, we will have to come back in a week's time and consider it. We would also have to stop further consideration of the rest of the Bill, because Alex suggests something that is fundamentally different. Alex, you want a ban on under 18s using sunbeds on private premises.

Mr Easton:

Yes.

Mr Gardiner:

In the past, advertisements warned about drinking and driving and that smoking caused cancer. Has the Department anything similar in mind, or does anything in the Bill warn people in Northern Ireland that sunbeds can cause cancer?

The Chairperson:

That is an important but different issue.

Mr Gardiner:

I know, but I do not want to lose sight of it.

The Chairperson:

That comes up in a later clause that we will consider, and I will let you speak on it. The problem is that, if we decide to support a ban on the use of sunbeds in private premises by those under the age of 18, as Alex suggests, we will not get to discuss that clause.

Mr Gallagher:

I appreciate what Alex is saying, and it is important. However, we must be realistic. Alex acknowledged that such a provision could not be enforced, and there is no point in our trying to

make a law that we admit cannot be enforced. We all try to encourage respect for the law, but making laws and knowing that they cannot be enforced is not a positive step. Although the problem that Alex outlined is serious, we must try to address it later in the Bill, as you mentioned, Chair, and close the gaps as best we can. That is the best option. Whatever people are up to behind closed doors, it would not be wise for us to go there.

The Chairperson:

Sunbeds will have stickers on them, and the leaflets provided with them will also advise private operators that they should not allow people who are under 18 to use them. What are the views of the representatives from the Ulster Unionist Party and Sinn Féin?

Mrs M Bradley:

On the point that Alex made, we must remember that many young people of 18 now own homes or live in their own flats, where they could allow people of any age to use sunbeds. How are we to know about that? I accept that there is a loophole, but unless we place a complete ban on sunbeds, I do not see any way around that. Mind you, I would not have a problem with a complete ban.

The Chairperson:

May I test the views of the Ulster Unionist Party and Sinn Féin?

Mrs O'Neill:

I understand the principle behind Alex's point, but the legislation as drafted goes as far as it can. We can act only from this point on. From the legislation's enactment, the operator will be the person who hires or buys a sunbed for private use. That goes far enough, and we cannot do anything else.

Mr McCallister:

I raised questions on that issue back in June. I agree with the point, but, at some point, legislation must be balanced to make it achievable, as opposed to making law that can never be enforced. Environmental health officers could not be sent round to peek through the windows of someone's house.

Seamus made the point about who is responsible. I am sure that, if parents were to catch their

child using a sunbed in their home, they would not want that child to be prosecuted. They might want the child to be educated about sunbeds, but they would hardly want a prosecution. Parental choice and responsibility are central to many issues. Previously, the Assembly discussed the disciplining of children, including smacking in the home. Whatever one's view, how could a ban be enforced? How can the law on alcohol be enforced in the home? It must be accepted that government cannot intrude on the privacy of a home. We can educate as much as possible, and if the advice is that the legislation goes as far as it can, that is as good as it gets.

The Chairperson:

Alex, do you wish to pursue the issue?

Mr Easton:

No, I will not pursue it, but I thought that it was important to point out that loophole.

The Chairperson:

You have raised it, and you will, therefore, be entitled to table an amendment on the Floor of the House. I would rather that scenario than members who had not raised an issue in Committee trying to table an amendment.

Mr Easton:

So, if I were to decide to table an amendment, you would not take a dim view.

The Chairperson:

I would not take a dim view.

Mr Girvan:

I appreciate where Alex is coming from, but clause 2(3) clearly indicates a way to ensure that adequate guidance and advice will be given when a sunbed is sold or hired. At that stage, the owner will have to come on board. By creating the offence, we have taken all reasonable precautions to ensure that someone under 18 cannot use a sunbed. There is a difficulty in trying to police that in the home, but all reasonable precautions are covered.

The Chairperson:

That information will be on stickers attached to sunbeds when they are hired out. On the basis

that Alex does not wish to push the issue any further, we can release the officials again — at least for now.

Mr Easton:

Do not go too far.

The Chairperson:

The Department has proposed amendments to clause 1. Subsection 1 has been amended to include restricted zones within sunbed premises. It prohibits someone under the age of 18 from going into a restricted zone that contains a sunbed unless he or she has a specific reason for doing so, such as cleaning or sunbed maintenance.

The three new subsections inserted after clause 1(4) — (4A), (4B) and (4C) — provide a definition of a “restricted zone” and deal with an issue that was raised in June. Previously, a public health official who entered premises had to find someone under the age of 18 on a sunbed to be able to pursue a prosecution. That raised all sorts of issues: did we want an official to be inspecting sunbeds when young girls were using them? Now, the official must prove only that the young person is in the restricted zone. Therefore, those amendments are in line with the Committee’s view.

Subsection 5 has been amended to change the fine from “level 4” to “level 5”, an increase that comes up time and time again.

Apart from Alex’s caveat, I remind members that today’s meeting is the last opportunity to discuss this clause.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 1, subject to the proposed amendments agreed with the Department, agreed to.

The Chairperson:

I have informed the Deputy Chairperson that I have to leave the Committee for a short time to collect a petition at 1.15 pm, but I will come straight back. After clause 2, I will hand over briefly to the Deputy Chairperson.

Clause 2 (Prohibition on sale or hire of sunbeds to persons under 18)

The Chairperson:

Clause 2 also relates to Alex's point. It provides that it is an offence for a person to sell or hire a sunbed to a person under the age of 18. It also describes the circumstances that would constitute the seller or hirer as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

The Department has proposed an amendment at clause 2(6) to change the fine from level 4 to level 5, which takes it from £2,500 to £5,000. Again, that indicates the seriousness with which departmental officials view the matter. It is quite a large amount of money. The proposed amendment did not cause any difficulty at the Committee's meeting on 24 June.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 2, subject to the proposed amendment agreed with the Department, agreed to.

(The Deputy Chairperson [Mrs O'Neill] in the Chair)

Clause 3 (Remote sale or hire of sunbeds)

The Deputy Chairperson:

Clause 3 provides that, where a sale or hire of a sunbed takes place in circumstances in which the premises that receive an order are not the same as the premises from which the sunbed is dispatched for sale or hire, subject to subsection 3, the sale or hire is to be treated as taking place on the premises where the order is taken. Subsection 3 provides that, where the premises in which the order is taken are not in the North of Ireland, but the premises from which the sunbed is dispatched are in the North of Ireland, the sale or hire is to be treated as taking place on the premises from which the sunbed is dispatched.

At its meeting of 24 June, the Committee indicated that it was generally content with the clause. No amendments were proposed by the Department or by any Committee member. I remind members that this is your last opportunity to discuss the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 3 agreed to.

Clause 4 (Prohibition on allowing unsupervised use of sunbeds)

The Deputy Chairperson:

This clause provides that it is an offence for an operator of sunbed premises to allow a person under the age of 18 to use a sunbed without supervision on the sunbed operator's premises. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

The Department proposed an amendment to subsection 4 changing the fine to level 5, which the Committee supported. At the meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendment. I remind members that this is our last opportunity to discuss the clause.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 4, subject to the proposed amendment agreed with the Department, agreed to.

Clause 5 (Duty to provide information to sunbed users, or buyers etc.)

The Deputy Chairperson:

The clause places a duty on operators of sunbed premises and hirers or sellers of sunbeds to provide information about the health risks associated with using sunbeds to those who seek to use, buy or hire a sunbed. It also provides that failure to provide such information is an offence. The Department has proposed an amendment to the wording that will allow the Department to prescribe other information to be provided and an amendment to subsection 12 changing the fine level from 4 to level 5.

At its meeting on 24 June, the Committee indicated that it was generally content with the clause and proposed amendments. There was some discussion on whether the phrase "may be prescribed" should be replaced by "shall be prescribed" in clauses 5 and 6. The Bill Office has advised that, if we were considering going in that direction, we would have to use the word "must". Alex, perhaps you would like to speak, followed by Paul.

Mr Easton:

I will ask Paul's question for him.

Mr Girvan:

Away you go.

Mr Easton:

Our point is not about the issue that you just raised. Does the amendment "and such other information" mean informing people about cancers and so forth, as Sam mentioned, will be included?

The Committee Clerk:

It will include information stating that under 18s should not use sunbeds, outlining the risk to fair skins and any other health information that is legally proven. All of that information about cancers and so forth should be included. All of that information will come back to the Committee, because it is subordinate legislation. You will, therefore, have an opportunity to consider it.

Mr McCallister:

Does that give the Department the power to regularly update or change —

The Committee Clerk:

It does, as new information comes forward.

The Deputy Chairperson:

Are there any other issues? Does anyone want to pick up on that point?

The Committee Clerk:

The Department has gone on public record — officials came to the Committee on 24 June, and their evidence is recorded in the Hansard report — as stating that it is working on that information and that it intends to bring it forward within the next 12 months. It is not as though the Department is not working on the information.

Question, That the Committee is content with the clause, subject to the proposed amendments

agreed with the Department, put and agreed to.

Clause 5, subject to the proposed amendments agreed with the Department, agreed to.

Clause 6 (Duty to display information notice)

The Deputy Chairperson:

The clause places a duty on operators of sunbed premises to display an information notice about the health risks associated with using sunbeds in a position that is readily visible to anyone proposing to use the sunbed on the premises. It also provides that failure to display such an information notice is an offence. The Department has proposed an amendment to the wording, allowing the Department to prescribe other information to be provided and an amendment to subsection 5 changing the fine level from 4 to level 5. At the meeting on 24 June, the Committee indicated that it was generally content with the clause and proposed amendments.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 6, subject to the proposed amendments agreed with the Department, agreed to.

Clause 7 (Prohibition on provision or display of other information)

The Deputy Chairperson:

Clause 7 prohibits the provision or display of information or material containing statements relating to the health effects of sunbeds other than the information provided by the Department. The effect of the clause is to prevent misleading health claims. Advice from the Northern Ireland Human Rights Commission, which was seen by the Committee on 24 June, indicated that the level of fine prescribed in the clause was proportionate. The Department, lacking confidence that a higher fine would be proportionate, proposed to leave the fine at level 1. At its meeting of 24 June, the Committee indicated that it was generally content with clause 7.

Mr Girvan:

For my information, what is a level 1 fine?

The Committee Clerk:

I think that a level 1 fine is set at £50. That is one piece of information that I do not have with me, and I will correct that if I have got it wrong.

The Deputy Chairperson:

I will send the list of categories of fines to you, Paul.

Question, That the Committee is content with the clause, put and agreed to.

Clause 7 agreed to.

Clause 8 (Protective eyewear)

The Deputy Chairperson:

Clause 8 provides that an operator of sunbed premises who does not make available protective eyewear for a person proposing to use the sunbed commits an offence. It also provides that an operator of a sunbed premises should ensure, as far as is reasonably practical, that protective eyewear is worn by users of sunbeds.

The Department has proposed two amendments to clause 8. First, new subsections (3A) to (3D) have been added to ensure that sellers and hirers of sunbeds provide eyewear to their clients, and proposed new subsections (5A) and (5B) will provide a defence for those hirers and sellers. Secondly, the proposed amendment to subsection 6 will change the fine for this offence from level 4 to level 5.

At its meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendments.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 8, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, agreed to.

Clause 9 (Requirements in relation to training)

The Deputy Chairperson:

Clause 9 places a duty on operators of sunbed premises to ensure that persons who allow other persons to use a sunbed on those premises meet such training requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of a sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

The Department has proposed two amendments. First, proposed new subsections 2, (2A) and (2B) ensure that those persons who sell and hire sunbeds meet the same training requirements as those in sunbed premises, and proposed new subsections (3A) and (3B) provide a defence for those sellers and hirers. Secondly, the proposed amendment to subsection 4 will change the level of fine for that offence from level 4 to level 5.

On 24 June, the Committee was generally content with the clause and the proposed amendments to it.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 9, subject to the proposed amendments agreed with the Department, agreed to.

The Deputy Chairperson:

I must have all the easy clauses. *[Laughter.]*

Clause 10 (Requirements in relation to sunbeds)

The Deputy Chairperson:

Clause 10 places a duty on operators of sunbed premises to make available for use only those sunbeds that meet such requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

The Department has proposed two amendments. First, proposed new subsections (2A) to (2D) will ensure that those sunbeds that are sold and hired meet the same requirements as those in sunbed premises, and proposed new subsections (3A) and (3B) provide a defence for those sellers and hirers. Secondly, the proposed amendment to subsection 4 will change the level of fine for that offence from level 4 to level 5.

At its meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendments.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 10, subject to the proposed amendments agreed with the Department, agreed to.

Clause 11 (Exemption for medical treatment)

The Deputy Chairperson:

Clause 11 provides for an exemption for offences under the Bill where a sunbed is used for the purposes of medical treatment under the supervision or direction of a registered medical practitioner, the sunbed is in, or provided by, a healthcare establishment and the sunbed is made available only for the purpose of medical treatment.

The Department has proposed an amendment to subsection 3 to include a definition of a “registered medical practitioner”. At its meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendment.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 11, subject to the proposed amendment agreed with the Department, agreed to.

Clause 12 (Enforcement by district councils)

The Deputy Chairperson:

This clause places a duty on district councils to enforce the provisions of the Bill in their area and introduces schedule 1, which makes provision about the powers of authorised officers. At the meeting on 24 June, the Committee noted that concerns about the clause will be dealt with by the proposed licensing amendment. Therefore, members were generally content with the clause.

Mr Gardiner:

You said “district councils”. Does that include county councils or the city council?

The Committee Clerk:

The word “district” covers those.

Mr Gardiner:

OK.

Question, That the Committee is content with the clause, put and agreed to.

Clause 12 agreed to.

Clause 13 (Fixed penalties for certain offences)

The Deputy Chairperson:

This clause provides that authorised officers may give a fixed penalty notice to persons whom they have reason to believe have committed an offence. It also introduces schedule 2, which makes further provision about fixed penalties. The Department has stated that the amounts of fixed penalties are subject to subordinate legislation and that, in light of the Committee's concerns, it would consider the levels of fixed penalties. At its meeting on 24 June, the Committee indicated that it was generally content with the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 13 agreed to.

Clause 14 (Obstruction of officers)

The Deputy Chairperson:

This clause provides that it is an offence for anyone intentionally to obstruct an authorised officer in the exercise of the officer's function under the Bill. Subsection 5 has been amended to change the fine levels from level 4 to level 5, and, at the meeting on 24 June, the Committee was generally content with the clause and the proposed amendment.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 14, subject to the proposed amendment agreed with the Department, agreed to.

Clause 15 (Registration or licensing of sunbed premises or operators, etc.)

The Deputy Chairperson:

This clause provides that regulations may allow district councils to register premises that are being used or are intended to be used as sunbed premises or on which the sale or hire of sunbeds takes place or is proposed to take place. Regulations will also allow district councils to prohibit the use of premises that are not registered in compliance with regulations.

The Department has proposed an amendment to allow regulations to be made for the registration or licensing of sunbed premises and/or operators, including those premises that sell or hire sunbeds. The Department proposes to introduce licensing by regulation, which will be subject to affirmative procedure. The Committee discussed that issue at length. At the meeting on 24 June, the Committee was generally content with the amendment and the proposed way forward.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 15, subject to the proposed amendments agreed with the Department, agreed to.

Clause 16 (Offences by bodies corporate etc.)

The Deputy Chairperson:

This clause provides that, if an offence under the Bill is committed with the consent or connivance of, or is attributable to the neglect of, a partner of a body corporate, that partner is guilty as well as the partnership. At its meeting on 24 June, the Committee indicated that it was generally content with the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 16 agreed to.

Clause 17 (Regulations)

The Deputy Chairperson:

This clause contains provision about the required procedures for making subordinate legislation under the Bill. The Department has proposed an amendment to subsection 3 to ensure that regulations that are made under clause 15, which deals with registration and licensing, must be laid before and approved by resolution of the Assembly.

At its meeting on 24 June, the Committee indicated that it was generally content with the clause and the proposed amendment.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 17, subject to the proposed amendment agreed with the Department, agreed to.

Clause 18 (Interpretation)

The Deputy Chairperson:

This clause defines the terms used in the Bill. At its meeting on 24 June, the Committee indicated that it was generally content with the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 18 agreed to.

Clause 19 (Commencement)

The Deputy Chairperson:

This clause provides that the main provisions of the Bill come into operation on a later day as appointed by the Department. On 24 June, the Committee indicated that it was generally content with that clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 19 agreed to.

(The Chairperson [Mr Wells] in the Chair)

The Chairperson:

If the worst comes to the worst, I have a defibrillator. If the meeting becomes too intense for members of the Committee, I now have the gear; I am an expert.

Mr McCallister:

I am just worried that that was what the petition was about.

Mr Gardiner:

It looks to be out of date.

The Chairperson:

Are we at clause 20 already? I am aghast at the speed with which the Committee moves when I am out of the room. I left at clause 2.

Clause 20 (Short title)

The Chairperson:

At the meeting on 24 June, the Committee indicated that it was generally content with the clause. I remind members that this is their last opportunity to raise any issues about the clause. However, I suspect that nothing will come up.

Question, That the Committee is content with the clause, put and agreed to.

Clause 20 agreed to.

Schedule 1 (Powers of authorised officers)

The Chairperson:

This schedule provides details of the authorisation levels and powers given to an authorised officer in respect of documentation and premises, including warrant procedures. At its meeting on 24 June, the Committee indicated that it was generally content with the schedule. Again, this is the last opportunity for members to raise any issues that they have with the schedule.

Question, That the Committee is content with the schedule, put and agreed to.

Schedule 1 agreed to.

Schedule 2 (Fixed penalties)

The Chairperson:

This schedule contains the regulations and proceedings of fixed penalty notices, including details of trials and withdrawals of notices in certain circumstances. Once again, this is our last opportunity to discuss the schedule.

Question, That the Committee is content with the schedule, put and agreed to.

Schedule 2 agreed to.

The Chairperson:

That was quite remarkable. I will definitely leave the room more often. I remind members that our next meeting is on Thursday 16 September at 2.00 pm. Thank you very much for your co-operation.