
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 102(1) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) provides that a person who sells alcohol to a child or young person commits an offence.

Section 108(2) provides that any responsible person (as defined in section 122(3) of the 2005 Act) who allows alcohol to be delivered by a child or young person commits an offence. Section 108(3) provides that any responsible person who delivers alcohol, or allows it to be delivered, to a child or young person commits an offence.

Sections 102(2) and 108(5) provide a defence to those offences. The defence is that the accused had taken reasonable steps to establish the child or young person’s age. Under sections 102(3) and 108(6) “reasonable steps” is taken to mean that the accused had been shown any of the documents mentioned in section 102(4) or section 108(7) (a passport, EU photocard driving licence, or other prescribed document) and that the document shown would have convinced a reasonable person as to the customer’s age.

Regulation 2 of the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 prescribes a photographic identity card of a type approved by the British Retail Consortium for the purposes of its Proof of Age Standards Scheme as a document that can be used to establish proof of age.

Regulation 2 of these Regulations prescribes a further three forms of acceptable identification for these purposes. These are—

- A Defence Identity Card issued by the Ministry of Defence;
- A national identity card issued by an EU state (other than the UK), Norway, Iceland, Liechtenstein or Switzerland; and
- A Biometric Immigration Document.