

2013 No. 199

LICENSING (LIQUOR)

**The Sale of Alcohol to Children and Young Persons (Scotland)
Amendment Regulations 2013**

<i>Made</i>	- - - -	<i>13th June 2013</i>
<i>Laid before the Scottish Parliament</i>		<i>18th June 2013</i>
<i>Coming into force</i>	- -	<i>1st October 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 102(4)(c), 108(7)(c), 146(2) and 147(1) of the Licensing (Scotland) Act 2005^(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Sale of Alcohol to Children and Young Persons (Scotland) Amendment Regulations 2013 and come into force on 1st October 2013.

Amendment of the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007

2.—(1) Regulation 2 of the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007^(b) is amended as follows.

(2) In paragraph (1) for “A document of the description specified in paragraph (2) is” substitute “The documents and descriptions of documents specified in paragraph (2) are”.

(3) For paragraph (2) substitute—

“(2) The documents and descriptions of documents are—

- (a) a Ministry of Defence Form 90 (Defence Identity Card);
- (b) a photographic identity card bearing the national Proof of Age Standards Scheme hologram^(c);

(a) 2005 asp 16.

(b) S.S.I. 2007/93.

(c) The national Proof of Age Standards Scheme is run by PASSCO, company number 4570623, a company limited by guarantee with its registered office at 21 Dartmouth Street, London SW1 9BP.

- (c) a national identity card issued by a member State^(a) (other than the United Kingdom), Norway, Iceland, Liechtenstein or Switzerland^(b); and
- (d) a Biometric Immigration Document^(c).”.

KENNY MACASKILL

A member of the Scottish Government

St Andrew's House,
Edinburgh
13th June 2013

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- (a) Part II of Schedule 1 to the European Communities Act 1972 (c.68) provides that “member” in the expression “member State” refers to membership of the EU. Section 1(2) of that Act defines “the EU” to mean the European Union, being the Union established by the Treaty on the European Union signed at Maastricht on 7th February 1992 (as amended by any later Treaty). Schedule 1 (read with section 25(1)) to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) provides that “the EU” and other expressions defined by section 1 of, and Schedule 1 to, the 1972 Act have the meanings given by that Act when used in a Scottish instrument.
 - (b) The States listed are the present members of the European Economic Area and Switzerland.
 - (c) A Biometric Immigration Document is issued in accordance with the Immigration (Biometric Registration) Regulations 2008 (S.I. 2008/3048); as amended by S.I. 2009/819 and 2012/594.

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.

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£4.00

S201306175 06/2013 19585

<http://www.legislation.gov.uk/id/ssi/2013/199>

ISBN 978-0-11-102105-7



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