

2013 No. 201

PUBLIC HEALTH

**The Public Health etc. (Scotland) Act 2008 (Sunbed)
Amendment Regulations 2013**

<i>Made</i>	- - - -	<i>18th June 2013</i>
<i>Laid before the Scottish Parliament</i>		<i>20th 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 95(4)(c) and 96(5)(c) of the Public Health etc. (Scotland) Act 2008(a) and all other powers enabling them to do so.

In accordance with section 122(3) of that Act they have consulted such persons as they consider appropriate.

Citation and commencement

1. These Regulations may be cited as the Public Health etc. (Scotland) Act 2008 (Sunbed) Amendment Regulations 2013 and come into force on 1st October 2013.

Amendment of the Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009

2. For regulation 2 of the Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009(b) substitute—

“2. Prescribed documents

The documents and descriptions of documents prescribed(c) for the purposes of sections 95(4)(c) and 96(5)(c) of the Public Health etc. (Scotland) Act 2008 (documents establishing a person’s age) 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(d);

(a) 2008 asp 5.
(b) S.S.I. 2009/388.
(c) See section 124 of the Public Health etc. (Scotland) Act 2008 for the meaning of “prescribed”.
(d) 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).”.

MICHAEL MATHESON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
18th June 2013

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- (a) Part II of Schedule 1 to the European Communities Act 1972 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 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 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); amended by S.I. 2009/819 and S.I. 2012/594.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 95(1) and 96(1) and (2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) provide for offences of allowing use of, selling or hiring a sunbed to a person under 18.

Sections 95(2) and 96(3) provide for a defence to such charges. The defence is that the accused believed the customer to be 18 or over and had been shown a document appearing to be 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 these Regulations amends the Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009 which prescribed only (b) below. The prescribed forms of acceptable identification are now—

- (a) a Defence Identity Card issued by the Ministry of Defence;
- (b) a photographic identity card bearing the national Proof of Age Standards Scheme hologram;
- (c) a national identity card issued by an EU state (other than the UK), Norway, Iceland, Liechtenstein or Switzerland; and
- (d) a Biometric Immigration Document.

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