

*These notes refer to the Licensing Act 2003 (c.17)
which received Royal Assent on 10 July 2003*

LICENSING ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 7: Offences

Section 146 – Sale of alcohol to children

233. Existing legislation ties the offence of selling alcohol to children to licensed premises. This section makes it an offence to sell alcohol to children anywhere. Subsections (2) and (3) further provide that it is an offence for a club, or a person on behalf of a club, to supply alcohol to or to the order of a child who is a member of a club, or to any child on the order of a member of a club. Subsection (4) provides a defence if the seller believed that the purchaser was 18 or over and either he took all reasonable steps to establish the purchaser's age or nobody could reasonably have suspected from the purchaser's appearance that he was under 18. The second limb of that defence would cover a case where the purchaser who was under 18 looked exceptionally old for his age. The defendant will be deemed to have taken 'all reasonable steps' if he asked the individual for evidence of his age. However, if it is proved by the prosecution that the evidence of age was such that no reasonable person would have been convinced by it (for example if the proof of age was either an obvious forgery or clearly belonged to another person), the defence will fail. Subsection (6) provides a further defence in circumstances where the sale or supply was made by someone other than the person charged with the offence (for example, where the manager of a pub is charged with the offence although the actual sale was made by a barman) if the person charged exercised all due diligence to avoid committing the offence.