



Licensing (Scotland) Act 2005

2005 asp 16

PART 8

OFFENCES

Offences relating to children and young people

102 Sale of alcohol to a child or young person

- (1) A person who sells alcohol to a child or a young person commits an offence.
- (2) It is a defence for a person charged with an offence under subsection (1) (referred to in this section as “the accused”) to show that—
 - (a) the accused believed the child or young person to be aged 18 or over, and
 - (b) either—
 - (i) the accused had taken reasonable steps to establish the child’s or young person’s age, or
 - (ii) no reasonable person could have suspected from the child’s or young person’s appearance that the child or young person was aged under 18.
- (3) For the purposes of subsection (2)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child’s or young person’s age if and only if—
 - (a) the accused was shown any of the documents mentioned in subsection (4), and
 - (b) that document would have convinced a reasonable person.
- (4) The documents referred to in subsection (3)(a) are any document bearing to be—
 - (a) a passport,
 - (b) a European Union photocard driving licence, or
 - (c) such other document, or a document of such other description, as may be prescribed.
- (5) A person guilty of an offence under subsection (1) is liable on summary conviction to—
 - (a) a fine not exceeding level 5 on the standard scale,
 - (b) imprisonment for a term not exceeding 3 months, or
 - (c) both.

103 Allowing the sale of alcohol to a child or young person

- (1) Any responsible person who knowingly allows alcohol to be sold to a child or a young person on any relevant premises commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
 - (a) a fine not exceeding level 5 on the standard scale,
 - (b) imprisonment for a term not exceeding 3 months, or
 - (c) both.

104 Sale of liqueur confectionery to a child

- (1) A person who sells liqueur confectionery to a child commits an offence.
- (2) It is a defence for a person charged with an offence under subsection (1) (referred to in this section as “the accused”) to show that—
 - (a) the accused believed the child to be aged 16 or over, and
 - (b) either—
 - (i) the accused had taken reasonable steps to establish the child’s age, or
 - (ii) no reasonable person could have suspected from the child’s appearance that the child was aged under 16.
- (3) For the purposes of subsection (2)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child’s age if and only if—
 - (a) the accused was shown evidence of the child’s age, and
 - (b) that evidence would have convinced a reasonable person.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

105 Purchase of alcohol by or for a child or young person

- (1) A child or young person who buys or attempts to buy alcohol (whether for himself or herself or another person) commits an offence.
- (2) It is not an offence under subsection (1) for a child or young person to buy or attempt to buy alcohol if the child or young person is authorised to do so by the chief constable for the purpose of determining whether an offence is being committed under section 102.
- (3) A chief constable may authorise a child or young person to buy or attempt to buy alcohol as mentioned in subsection (2) only if satisfied that all reasonable steps have been or will be taken to avoid any risk to the welfare of the child or young person.
- (4) A person other than a child or young person who knowingly buys or attempts to buy alcohol—
 - (a) on behalf of a child or young person, or
 - (b) for consumption on relevant premises by a child or young person,commits an offence.
- (5) Subsection (4)(b) does not apply to the buying of beer, wine, cider or perry for consumption by a young person along with a meal supplied on relevant premises.

- (6) A child or young person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (7) A person guilty of an offence under subsection (4) is liable on summary conviction to—
 - (a) a fine not exceeding level 5 on the standard scale,
 - (b) imprisonment for a term not exceeding 3 months, or
 - (c) both.

106 Consumption of alcohol by a child or young person

- (1) A child or young person who knowingly consumes alcohol on any relevant premises commits an offence.
- (2) Any responsible person who knowingly allows a child or young person to consume alcohol on any relevant premises commits an offence.
- (3) Subsections (1) and (2) do not apply to the consumption of beer, wine, cider or perry by a young person along with a meal supplied on relevant premises.
- (4) A child or young person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person guilty of an offence under subsection (2) is liable on summary conviction to—
 - (a) a fine not exceeding level 5 on the standard scale,
 - (b) imprisonment for a term not exceeding 3 months, or
 - (c) both.

107 Unsupervised sale of alcohol by a child or young person

- (1) Any responsible person who knowingly allows alcohol to be sold, supplied or served by a child or young person on any relevant premises commits an offence.
- (2) Subsection (1) does not apply to—
 - (a) any sale by a child or young person of alcohol for consumption off the premises, or
 - (b) any supply or service by a child or young person of alcohol for consumption on the premises along with a meal supplied on relevant premises,if the condition in subsection (3) is satisfied.
- (3) That condition is that the sale, supply or service is specifically authorised by—
 - (a) a responsible person, or
 - (b) any other person of or over 18 years of age who is authorised by a responsible person for the purposes of this section.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

108 Delivery of alcohol by or to a child or young person

- (1) This section applies where alcohol is sold on any relevant premises for consumption off the premises.
- (2) Any responsible person who allows the alcohol to be delivered by a child or young person commits an offence.
- (3) Any responsible person who—
 - (a) delivers the alcohol, or
 - (b) allows it to be delivered,to a child or young person commits an offence.
- (4) Subsections (2) and (3) do not apply to the delivery of the alcohol by or to a child or young person who works on the relevant premises or at the place where the delivery is made in a capacity (whether paid or unpaid) which involves the delivery of alcohol.
- (5) It is a defence for a person charged with an offence under subsection (2) or (3)(a) (referred to in this subsection and subsection (6) as “the accused”) to show that—
 - (a) the accused believed the child or young person to be aged 18 or over, and
 - (b) either—
 - (i) the accused had taken reasonable steps to establish the child’s or young person’s age, or
 - (ii) no reasonable person could have suspected from the child’s or young person’s appearance that the child or young person was aged under 18.
- (6) For the purposes of subsection (5)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child’s or young person’s age if and only if—
 - (a) the accused was shown any of the documents mentioned in subsection (7), and
 - (b) that document would have convinced a reasonable person.
- (7) The documents referred to in subsection (6)(a) are any document bearing to be—
 - (a) a passport,
 - (b) a European Union photocard driving licence, or
 - (c) such other document, or a document of such other description, as may be prescribed.
- (8) It is a defence for a person charged with an offence under subsection (3)(b) (“the accused”) to prove that the accused took all reasonable precautions and exercised due diligence not to commit the offence.
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

109 Sending a child or young person to obtain alcohol

- (1) Any person who knowingly sends a child or young person to obtain alcohol sold or to be sold on any relevant premises for consumption off the premises commits an offence.
- (2) It is immaterial for the purposes of subsection (1) whether the child or young person is sent to obtain the alcohol from the relevant premises where it is sold or from some other place from which it is to be delivered.

- (3) Subsection (1) does not apply where the child or young person works on the relevant premises or at the place where the alcohol is to be delivered in a capacity (whether paid or unpaid) which involves the delivery of alcohol.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to—
 - (a) a fine not exceeding level 5 on the standard scale,
 - (b) imprisonment for a term not exceeding 3 months, or
 - (c) both.

110 Duty to display notice

- (1) This section applies in relation to any relevant premises.
- (2) The notice mentioned in subsection (3) must be displayed—
 - (a) at all times,
 - (b) at each place on the premises where sales of alcohol are made, and
 - (c) in a position where it is readily visible to any person seeking to buy alcohol.
- (3) That is a notice in the prescribed form and of the prescribed dimensions containing the following statements, namely—

“It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises.

It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under the age of 18.

Where there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over.”.
- (4) If the requirement in subsection (2) is not met in relation to any premises, the person specified in subsection (5) commits an offence.
- (5) That person is, in relation to any relevant premises—
 - (a) in the case of licensed premises—
 - (i) the premises licence holder, and
 - (ii) the premises manager,
 - (b) in the case of premises in respect of which an occasional licence has effect, the holder of the licence, and
 - (c) in the case of other relevant premises, the person having the management and control of the premises.
- (6) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.