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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 202**

**PUBLIC HEALTH**

**The Sale of Tobacco (Prescribed Documents) (Scotland) 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 section 4(4) of the Tobacco and Primary Medical Services (Scotland) Act 2010<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013 and come into force on 1st October 2013.

**Sale of tobacco products to persons under 18 – prescribed documents**

2. The documents and descriptions of documents prescribed<sup>(2)</sup> for the purposes of section 4(4) (c) of the Tobacco and Primary Medical Services (Scotland) Act 2010 (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<sup>(3)</sup>;
- (c) a national identity card issued by a member State<sup>(4)</sup> (other than the United Kingdom), Norway, Iceland, Liechtenstein or Switzerland<sup>(5)</sup>; and

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(1) 2010 asp 3.  
(2) “Prescribed” is defined in section 35 of the Tobacco and Primary Medical Services (Scotland) Act 2010 to mean prescribed in regulations made by the Scottish Ministers.  
(3) 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.  
(4) 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”

(d) a Biometric Immigration Document<sup>(6)</sup>.

**Revocation of the Sale of Tobacco (Prescribed Document) Regulations 2010**

3. The Sale of Tobacco (Prescribed Document) Regulations 2010<sup>(7)</sup> are revoked.

St Andrew's House,  
Edinburgh  
18th June 2013

*MICHAEL MATHESON*  
Authorised to sign by the Scottish Ministers

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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.

- (5) The States listed are the present members of the European Economic Area and Switzerland.  
(6) 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.  
(7) S.S.I. 2010/406.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 4(1) of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the Act”) provides that it is an offence to sell a tobacco product or cigarette papers to a person under the age of 18.

Section 4(2) to (4) of the Act provides a defence to such a charge. The defence is that the accused believed the customer to be 18 or over and had been shown a document bearing 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 prescribes additional forms of acceptable identification.

These are—

- (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.

Regulation 3 revokes the Sale of Tobacco (Prescribed Document) Regulations 2010 which prescribed only (b) above as an additional form of acceptable identification.