

CHALLENGE 25

**THE LICENSING (SCOTLAND) ACT 2005
AGE VERIFICATION POLICY AND 'CHALLENGE 25'**

THE SCOTTISH BEER & PUB ASSOCIATION | AUGUST 2013



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THE LICENSING (SCOTLAND) ACT 2005

MANDATORY CONDITION FOR PREMISES AND OCCASIONAL LICENCES AGE VERIFICATION POLICY

In October 2011, the Licensing (Scotland) Act 2005 was amended by the introduction of a new mandatory condition for all premises licences and occasional licences. This provides that there must be an age verification policy in relation to the sale of alcohol on the premises. The section has set a minimum age of 25 years for the policy where it appears to the person selling the alcohol that the customer may be under the age of 25 years. Premises may set any minimum age for their own policy provided that it is 25 years or over.

The licence holder is merely required to have a policy and no information as to the specific wording of a policy is given in the Act. Section 102 of the Licensing (Scotland) Act 2005, as amended, provides for acceptable proof-of-age documents and only those forms of identification should be accepted as part of the age verification policy. With effect from 1st October 2013, these are:

- (i) A passport
- (ii) A European Union photocard driving licence
- (iii) A Ministry of Defence Form 90 (Defence Identity Card)
- (iv) A photographic identity card bearing the national Proof of Age Standards Scheme (PASS) hologram
- (v) A national identity card issued by a European Union member

state (other than the United Kingdom), Norway, Iceland, Liechtenstein or Switzerland, or
(vi) A Biometric Immigration Document.

It is for each business to decide which of these approved forms of identification it will accept in terms of the age verification policy. They need not all be accepted. It would be very prudent to exclude any type of document with which staff are not wholly familiar. Only the forms of identification acceptable to the business should be included in any declaration form signed by staff serving alcohol. Examples of the forms of proof of age are available from <http://prado.consilium.europa.eu/EN/homeIndex.html> and are contained in <http://www.scotland.gov.uk/Resource/0038/00389871.pdf>.

Since the requirement to have a policy in place is a mandatory premises licence condition, a failure to do so is a criminal offence in terms of Sections 1(1) and 1(3) of the Licensing (Scotland) Act 2005. It could also result in the review of a premises licence leading to the imposition of a sanction and would be treated as an aggravating factor in the event that alcohol is sold to a person under 18.

AGE VERIFICATION

COMPLIANCE MEASURES

There must be physical evidence that the age verification policy is in place. This can take a number of forms, although as a minimum we would recommend two principal methods:

STAFF DECLARATION

The Scottish Beer and Pub Association (SBPA) has produced an example of an age verification policy in Annex A. This represents the Association's understanding of the legal position. No licence holder is required to adopt this particular example of a policy and it is likely that there may be other styles of policy produced.

These forms, when completed by all staff involved in the sale or supply alcohol, should then be retained by the premises licence holder. Operators might find it convenient to keep the declarations with staff training records, although there is no obligation to do so. The declarations must be kept safe in case they are required to be produced if any question arises as to the existence of the policy. Failure to do so may become a factor where there has been a failure to implement the policy.

AGE VERIFICATION SIGNAGE - 'CHALLENGE 25'

Under Section 110 of the Licensing (Scotland) Act 2005, there is already an obligation to display a statutory notice at each point of

sale where sales of alcohol are made. The notice should say: "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."

In effect, this amounts to a 'Challenge 18' policy because the notice indicates that where doubt arises as to whether a purchaser is aged 18 or over, "alcohol will not be sold to the person except on production of evidence showing the person to be aged 18 or over." This would appear to conflict with the terms of the age verification policy. However, in order to provide physical evidence that the policy is in place, it is strongly recommended that additional 'Challenge 25' signage is displayed.

The Scottish Beer and Pub Association has produced 'Challenge 25' signage to facilitate this and an example is given at Annex B. Electronic copies of the materials can be obtained at www.challenge25.org

AGE VERIFICATION

FURTHER COMPLIANCE MEASURES

Individual premises licence holders may wish to consider further compliance measures:

STAFF TRAINING

Premises licence holders may wish to incorporate its age verification policy in training materials, including mandatory staff training. In any event, the policy must be communicated to all staff involved in the sale or supply of alcohol and that communication must be auditable.

However, it should be noted that the statutory requirements of mandatory staff training for those serving alcohol have not been amended by the requirement to have an age verification policy. Under the Licensing (Scotland) Act 2005, those requirements include training in relation to: (1) Offences under the Act,

particularly those involving persons under the age of 18; and (2) Proof of age under Sections 102 and 108 of the Act and the relevant regulations.

OTHER MEASURES

Further useful steps which might be taken to show due diligence and compliance with the terms of the age verification policy may include periodic company test purchases whereby a company agent aged 18 is sent in to premises to attempt to purchase alcohol; monitoring of staff by senior members, particularly of new staff; and signage placed at the bar or on tills where it can be seen by staff reminding them of the policy and their duties. **But again these are not specific legal requirements under the terms of the Licensing (Scotland) Act 2005.**

AGE VERIFICATION

CHECKING PASS ACCREDITED CARDS

Determining the age of young people is difficult and is unlikely to get any easier. The pressure on licence holders and their staff will continue to increase as technology enables fraudsters to produce more sophisticated and authentic looking proof-of-age cards.

This coupled with the increased need to verify age to avoid, or have the ability to defend, a prosecution, means that retailers must have assurance that cards that are produced as proof-of-age are genuine and reliable.

The Proof of Age Standards Scheme (PASS) delivers a common standard through its easily recognised logo, which is backed by a robust audit and accreditation process to help protect retailers of age restricted goods, and their employees, against being taken in by the many fake cards around.

The key feature to look out for is the PASS hologram which is present on all PASS accredited cards. This provides a standard for those staff involved in selling alcohol, tobacco and other age-restricted goods.

Asking for and accepting PASS cards is due diligence. Remember to follow the five step checking process (Annex C).

FIVE STEP CHECKING PROCESS

Follow these simple 5 steps to make sure you avoid making an underage sale:

- 1 Check the PASS hologram. Is it genuine (as shown on sample/training cards)?**
- 2 Check the photograph. Does it match the person in front of you?**
- 3 Check the date of birth. Is the person old enough?**
- 4 Check the card. Has it been tampered with?**
- 5 Check the person. Are you satisfied about the person's age? If not, refuse to sell.**

Materials illustrating the 5 step checking process are available under Downloads for Retailers on the PASS website, www.pass-scheme.org.uk/downloads/

ANNEX A

VERIFICATION POLICY STAFF DECLARATION

LICENSING (SCOTLAND) ACT 2005 AGE VERIFICATION POLICY STAFF DECLARATION

PREMISES AGE VERIFICATION POLICY NAME AND ADDRESS OF PREMISES

.....
.....
.....

NAME OF STAFF MEMBER

.....

The sale of alcohol to a child or young person (that is to say, a person aged under 18) is an offence which may lead to a fine of up to £5,000 and/or a term of imprisonment not exceeding three months. Such a sale will also lead to a review of the premises licence and could result in the licence being suspended or revoked.

[Name of premises licence holders] operate an 'age verification policy', in terms of which you must require production of an acceptable proof-of-age document if you are in any doubt as to whether a person seeking to buy alcohol is less than 25 [or insert higher age] years of age.

Only the following documents are acceptable for proof-of-age purposes [Delete the forms of identification which are NOT to be accepted as part of the company's 'age verification policy']:

- A passport
- A European Union photocard driving licence
- A Ministry of Defence Form 90 (Defence Identity Card)
- A photographic identity card bearing the national Proof of Age Standards Scheme (PASS) hologram
- A national identity card issued by a European Union member state (other than the United Kingdom), Norway, Iceland, Liechtenstein or Switzerland, or
- A Biometric Immigration Document.

If no such document is produced or if you have a suspicion that the document presented is not genuine, or has been tampered with or has been altered, then you must refuse the sale or refuse to authorise the sale.

Declaration:
I have read and understood the foregoing policy. I understand that failure to comply with its terms will be treated as gross misconduct and may lead to my dismissal from my employment.

Signed:

Date:

ANNEX B

CHALLENGE 25 POSTER

UNDER 25?



**IF YOU ARE LUCKY
ENOUGH TO LOOK UNDER
25 YOU WILL BE ASKED
TO PROVE THAT YOU ARE
AGED 18 OR OVER WHEN
YOU BUY ALCOHOL**

**IF YOU ARE UNDER 18
YOU ARE COMMITTING AN
OFFENCE IF YOU ATTEMPT
TO BUY ALCOHOL**



SCOTTISH
BEER & PUB
ASSOCIATION

drinkaware.co.uk
for the facts about alcohol

WWW.CHALLENGE25.ORG



ANNEX C

CHECKING PASS ACCREDITED CARDS

fta - do you **PASS** ?

helping you prevent underage sales

Card Recognition Guide

5-step checking process

Step 1 – check the **PASS** hologram

- look for the 3D effect in the background of the hologram
- look for the small **PASS** text in the background
- The **PASS** hologram must be flush with the plastic of the card – **NOT** stuck on top of plastic
- if in doubt, compare it with the sample card provided with this pack.



Step 2 – check the photograph

- ensure that the photograph is of the person presenting the card – if necessary, politely ask the person to remove their hood, hat or sunglasses to be sure
- the photograph must be printed directly onto the plastic of the card – **NOT** stuck on top of the plastic.



Step 3 – check the date of birth

- calculate the age of the person from the date of birth
- make sure they are old enough to buy the goods or services requested
- the date of birth must be printed onto the plastic – **NOT** handwritten or stuck on top of the plastic.



Step 4 – check the card

- ensure the card has not been tampered with or altered
- feel the card – it should be completely smooth – **NO** ridges or anything stuck to the card.



Step 5 – check the person

If you are still unsure about a person's age your legal responsibility is to refuse to sell.

Your personal safety is the most important thing

If you feel threatened, call your supervisor or manager for assistance.

If you refuse to sell....

If you refuse to sell items because you believe the person is too young, once the person has left report the incident to your supervisor or manager, and record the details in the 'Refusal Record Book'.

It is recommended that the only other acceptable forms of proof of age are:

- Photo driving license
- Passport.



USEFUL CONTACTS

THE SCOTTISH BEER AND PUB ASSOCIATION

Scott House
8-10 South St Andrew Street
Edinburgh EH2 2AZ
www.scottishpubs.co.uk
www.challenge25.org

YOUNG SCOT

Rosebery House
9 Haymarket Terrace
Edinburgh EH12 5EZ
Tel: 0808 801 0338
www.youngscot.org/card
info@youngscot.org

CITIZENCARD

36 Bromells Road
London SW4 0BG
www.citizencard.com
www.citizencard.com/ipr/contact-us.html

VALIDATE UK

Main House
Bishop's Yard
Main Street
Corbridge
Northumberland NE45 5LA
Tel: 01434 634996
www.validateuk.co.uk
info@validateuk.co.uk

PASS - THE NATIONAL PROOF OF AGE STANDARDS SCHEME

www.pass-scheme.org.uk
www.pass-scheme.org.uk/contact/



FOR FURTHER INFORMATION,
VISIT: WWW.CHALLENGE25.ORG