

ALCOHOL GUIDELINES

Stallholder's obligations

The Stallholder's Contract obliges Stallholders to act in relation to alcohol in accordance with these guidelines.

Stallholders and their staff shall act in relation to alcohol in a controlled and attentive manner at all times.

Only those Stallholders specifically authorised to sell alcoholic drinks may do so.

Stallholders authorised to sell alcoholic drinks at the Event must purchase supplies from the appointed drink suppliers (details of whom will be advised by FEL on request).

Stallholders who are permitted to sell alcoholic drinks must comply with the FEL Code of practice relating to Alcohol, as set out herein.

All Stallholders, regardless of whether they themselves are intending to sell or distribute alcohol in any form will ensure that juveniles and alcohol will be kept rigorously separated, in and around their stand.

Any misbehaviour or under-age consumption of alcohol shall be reported promptly by Stallholders to the Event Manager or to a badged Steward or Marshal.

Stallholders should encourage drinking for adults in moderation, and should familiarise themselves with generally available and recommended industry guides such as the Portman Group's Code of Practice, downloadable from: <http://www.portmangroup.org.uk> and <http://www.brc.org.uk/Downloads/FCSG0475ResponsibleRetailingofAlcohol.pdf> by way of example. FEL requires all Stallholders to familiarise themselves with and to take all steps available to comply with these guidelines. Stallholders should also familiarise themselves with and comply with the Licensing (Scotland) Act 2005.

Further guidance on these matters is contained herein.

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Portman Guide: In relation to naming, packaging and promoting any alcoholic materials:

- 1) The alcoholic nature of a drink should be communicated on its packaging with absolute clarity.
- 2) A drink, its packaging and any promotional material or activity should not in any direct or indirect way:
 - (a) give higher alcoholic strength, or intoxicating effect, undue emphasis. A product's lower alcoholic strength may be emphasised proportionately when it is below the average strength for similar beverages.
(Factual information about alcoholic strength may be given (see footnote 1))
 - (b) suggest any association with bravado, or with violent, aggressive, dangerous or anti-social behaviour;
 - (c) suggest any association with, acceptance of, or allusion to, illicit drugs;
 - (d) suggest any association with sexual activity or sexual success;
 - (e) suggest that consumption of the drink can lead to social success or popularity;
 - (f) encourage illegal, irresponsible or immoderate consumption, such as drink driving, binge-drinking or drunkenness;
 - (g) urge the consumer to drink rapidly or to "down" a product in one;
 - (h) have a particular appeal to under 18s;
 - (i) incorporate images of people who are, or look as if they are, under twenty-five years of age, where there is any suggestion that they are drinking alcohol or they are featured in a significant role. Images may be shown where people appear only in an incidental context; and
 - (j) suggest that the product has therapeutic qualities, or can enhance mental or physical capabilities.

Note 1: Under the UK Food Labelling Regulations 1996, Regulation 42(1) and Schedule 8 Part I, the description 'low alcohol' or any other word or description which implies that the drink being described is 'low' in alcohol shall not be applied to any alcoholic drink unless the drink is no more than 1.2% abv.

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Source: Portman Group Code of Practice <http://www.portmangroup.org.uk>

Licensing (Scotland) Act 2005

FEL will apply for an occasional licence to authorise the sale of alcohol for consumption on or off the premises for the time specified.

The area licensed will be defined by the extent of the fenced area.

The times will be as stated in the licence and as communicated to Stallholders by the Event Manager.

Each person selling or serving alcohol will be supplied with a copy of the licence, which they should read, along with these notes, and will be expected to abide by both the licence and the following:

- Customers should be advised of the existence of a byelaw against consuming alcohol in a place to which the public have access. The byelaw covers all of Forres town centre. The licensed area is exempt from the byelaw. Customers should be aware of the requirement not to consume alcohol in a place to which the public have access that is outside of the licensed premises.
- Alcohol cannot be sold outside of the licensed premises.
- Alcohol cannot be sold or consumed on the premises outside of the hours specified in the licence.
- Only activities listed in the licence can take place within the licensed area at the times specified.
- Entertainment is authorised by the alcohol licence and can only take place within the licensed area and within times specified in the licence. Entertainment taking place outside of the licensed hours may require a separate public entertainment licence and so anyone selling or serving alcohol will ensure that they do not undertake entertainment outside licensed hours.
- The occasional licence will be subject to the mandatory conditions as set out in Schedule 4 to the Licensing (Scotland) Act 2005 as below.
- Note in particular the prohibition on bulk buy discounts and irresponsible promotions.
- Note also the requirement to have free tap water available as well as soft drinks at reasonable prices.
- In accordance with the mandatory conditions there must be a Challenge 25 policy in place.
- The policy should include signage.
- Details are set out in the following pages.
- Note the limited types of ID that are acceptable under the Act.

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Licensing (Scotland) Act 2005

Schedule 4 occasional Licence Mandatory Conditions

1

In this schedule, “the premises” means, in relation to any occasional licence, the premises specified in the licence.

2

- (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.
- (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).

3

Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

4

- (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.
- (2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

5

- (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.
- (2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.

5B

- (1) A package containing two or more alcoholic products (whether of the same or different kinds)

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may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.

(2) Sub-paragraph (1) applies—

- (a) only where each of the alcoholic products is for sale on the premises separately, and
- (b) regardless of whether or not the package also contains any item which is not an alcoholic product.

(3) In this paragraph, “alcoholic product” means a product containing alcohol and includes the container in which alcohol is for sale.

6

Where the price at which any alcohol sold on the premises [for consumption on the premises] ¹ is varied—

- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation of the price at which that or any other alcohol is sold on the premises [for consumption on the premises] may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

6A

Where the price at which any alcohol sold on the premises for consumption off the premises is varied—

- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

7

(1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—

- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
- (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
- (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
- (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
- (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
- (f) is based on the strength of any alcohol,
- (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
- (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed

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off the premises.

(3) Paragraphs [(c) to (e)] of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

8

(1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

9

(1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

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Age Verification Policy

Information and Matters to Address

1. What is an Age Verification Policy?

It is a mandatory condition on every premises and occasional licence authorising the sale of alcohol saying that:

- (1) There must be an age verification policy in relation to the sale of alcohol on the premises.*
- (2) An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).*

This means that there is a requirement **to have a policy**.

There is no specific requirement beyond that, but the Moray Licensing Board is encouraging all licence holders to have a written policy and so the Stallholder should **provide to FEL a written policy**. The absence of a written policy will mean that Stallholders dealing in alcohol will need to produce other evidence to the effect that a policy is in place and that staff are aware and enforcing the same.

It is **not** a change to licensing laws requiring persons to be over 25 before they can purchase alcohol. It is a requirement to have a policy on taking steps to verify the age of anyone attempting to buy alcohol who appears under 25. If someone appears over 25 then it follows that there is no requirement to take steps to verify their age.

Neither is it a requirement to take steps to verify a particular individual every time he/she attempts to purchase alcohol. If an individual is known to staff to be over 18 then there would not be a need to take steps to verify his/her age. Of course it is better if this is included within the policy itself.

2. What is required?

As set out in 1 above, what is required is a written policy on age verification.

Often this is termed a “**Challenge 25**” policy.

The information in these Alcohol Guidelines includes a sample policy **outline** that is available to adopt and adapt. It is not “complete” as a policy.

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This document can have two uses:

. As the outline of a complete policy to expand upon using this additional information. As it is a requirement for every premises, there will not be a single policy that fits all. Therefore it is essential that the outline is reviewed and tailored to suit the individual premises; AND

. In its current outline form it may also be useful as a poster to notify customers that a policy is required and is in place. This may be useful for premises to try and manage customer expectations as many more customers may be asked to produce valid identification when previously it may not have been required. Stallholders dealing in alcohol will thus be required to display this poster on their stand.

3. Why is an Age Verification Policy required?

First and foremost, it is required because it is now a mandatory condition to have a policy in place. Therefore it would be a breach of the licence not to have a policy.

Secondly, breach of the licence and the lack of a policy may lead to both a review of the premises licence by the Licensing Board and criminal sanctions. The requirement for a policy is designed to reduce the incidence of under-age sales of alcohol. Selling alcohol to someone who is under 18 is a criminal offence as is allowing alcohol to be sold to someone under 18. There are many other offences to do with alcohol and under 18s and in addition recent changes to the legislation have brought back potential criminal liability on the employers for the actions of their employees.

The police also carry out test purchase operations.

All these matters make it very important that a policy is put in place, that staff are trained in and follow it and that implementation and effectiveness is monitored.

It is about protecting both employers and employees as far as is possible.

In respect of the offence of selling alcohol to someone under 18:

(2) It is a defence... 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—

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(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.

Having an effective age verification policy means an accused is more likely to be afforded a defence.

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4. What is suitable ID?

Following on from the provisions about what constitutes a defence, in 3 above, the safest form of defence is to show that reasonable steps were taken to establish the child/young person's age. Reasonable steps means looking at one of the **only** acceptable forms of ID.

Those are:

- (a) a passport,
- (b) a European Union photocard driving licence, or
- (c) a photo ID bearing the PASS hologram e.g. Young Scot card

Young Scot cards are issued to most school children, remain valid up to the age of 26 and can be updated in terms of photos. Information and Young Scot packs are available for free on the web at <http://www.youngscot.org/local/moray> and from Young Scot Moray.

There is also an Access Moray Card – which is a local Young Scot card and so remains acceptable ID - with information available at:

http://www.moray.gov.uk/moray_standard/page_44455.html

Note also the requirement that the document would have convinced a reasonable person so the document must not be obviously fake. Further advice about fake i/ds is available from the Home office. For convenience a copy of the advisory document has been placed on the Licensing pages of Moray Council's website.

In the event of discovering fake ID the advice from the police is to try and contact them at the time the ID is presented. If this is not possible then the fake ID should be handed into the police at the first opportunity. Grampian police do not have a single point of contact for false ID and neither do they use bailment forms.

If no ID is seen then the defence can only be based on a claim that the accused believed the child/young person to have been over 18 and no reasonable person could have suspected otherwise. This will be a difficult test to pass.

5. What if no ID is available?

This is a matter for the individual premises to decide. Choices would be to:

- . Refuse service at all in the absence of acceptable ID; or

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. Allow staff to exercise a degree of discretion. Discretion might be on the basis of other evidence available, other information obtained, personal knowledge or a manager's / second opinion.

Exercising discretion will always be at the risk of the staff member, premises manager and potentially the licence holder.

The legislation is obviously limited in the forms of acceptable identification. In an area that has a high proportion of tourists it only allows for a passport or an EU photo driving licence. Many countries issue national identity cards and premises might consider those to be acceptable, although it will be more difficult to know whether those are fake. If exercising discretion, staff would be well advised to seek additional information and a second opinion wherever possible. The policy could include guidance on other documents, referral procedures and possible questions to ask, including the obvious age and date of birth questions – to marry the two.

The most important thing is that where doubt remains – where there is even a suspicion that the customer is under 18 – there should be no sale.

6. What other arrangements are in place?

The policy should describe the other measures in place to combat under-age sales. Those might include things like:

- Till prompts
- Posters and other signage
- Refusals book

These will provide additional evidence that an age verification policy is in place.

7. What monitoring arrangements are there?

A policy has to be properly implemented. Staff need to be trained (and re-trained) in the policy. The policy must be promoted and enforced from a senior level.

It will also be a good idea to keep a training log and ensure each staff member signs the log when they have completed the training.

Performance and effectiveness need to be monitored, for which good records will be required. These should be essential elements of any good policy.

Good record keeping is another reason to have the policy, and all matter relating to it, in writing. As records are to be kept policies should consider the application of the Data Protection Act 1998.

8. Will your policy cover other age restricted products?

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There is an opportunity to include all age restricted products within a written policy; not necessarily with the same age criteria. This is reflected in the sample policy circulated by the Scottish Government.

Agency Sales

It is important to consider and address the risk of “agency sales”. That is the risk that over 18s are buying alcohol for underagers or to re-sell to underagers. This is considered to be a high risk at this Event.

PREMISES AGE VERIFICATION POLICY

NAME AND ADDRESS OF PREMISES

[THE GRANT PARK ARENA]

NAME OF LICENCE HOLDER

[FORRES EVENTS LIMITED]

[INDIVIDUAL L/Hs]

This policy applies in relation to the sale of alcohol for consumption on and off the premises and is in accordance with the provisions of paragraph 9A of Schedule 3 to the Licensing (Scotland) Act 2005 (“the Act”)

1. It is policy on these premises for staff to establish the age of any person attempting to buy alcohol when that person appears to be under the age of 25 years. This policy is a mandatory requirement of the Act.
2. Staff will require such persons, before being served alcohol, to produce, on request, valid identification. In accordance with the Act, the **only** valid forms of identification shall be:
 - 2.1.A European Union photo-card driving licence
 - 2.2.A passport
 - 2.3.An approved proof of age photo ID card bearing a PASS (proof of age standards scheme) hologram e.g. Young Scot card
 - 2.4.The premises manager and other staff on the premises shall be alert to the use of false or altered identification and retain the right to decline to serve any person whether or not in possession of valid identification.

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3. A refusals book will be maintained and details of any customer who is not served will be noted in the book.
4. The premises licence holder will ensure that all relevant staff are made aware of the existence and content of this policy.
5. Full records will be maintained in terms of staff training, enforcement of the policy and refusals and those records may be made available for inspection to the police, the licensing authority and its representatives.

SignedLicence Holder

Date.....