EXPLANATORY MEMORANDUM TO

THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) (AMENDMENT) ORDER 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Sarah Jones MP, Minister of State for Policing and Crime Prevention at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Marcus Starling, Deputy Director for Drugs & Alcohol Policy, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Toby Pinnock at the Home Office can be contacted by email at the following address with any queries regarding the instrument: Toby.Pinnock@homeoffice.gov.uk

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument enables the use of digital identification, subject to certain criteria, as proof of age for purchasing alcohol in England and Wales. This legislation does not mandate individuals to use digital identification for age verification, or businesses to adopt its use. Individuals/businesses will be able to continue to use/accept physical identification for alcohol sales should they choose to do so. This legislation just brings about an additional way of conducting age verification, which offers certain safeguards in terms of minimising the sharing of personal data and avoiding the need to carry passports or other forms of physical ID, for the benefit of businesses and members of the public. These changes are achieved by amending the Schedule to the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 (S.I. 2010/860) ("the 2010 Order").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 This instrument aims to modernise age verification for alcohol sales by allowing a responsible person to accept digital identification for the purposes of age verification permitting the use of digital verification services that are listed in the DVS register,

under section 32 of the Data (Use and Access) Act 2025 ("the Data Act") ("registered DVS"), where certain conditions are met.

5.2 This instrument follows the passing of the Data Act, which established a statutory regime of standards, governance and oversight for registered DVS providers ("DVSP"). To be listed in the DVS register, a DVSP must hold a valid certificate issued by an accredited conformity assessment body (who must be so accredited by the UK Accreditation Service). That certificate must confirm that they are providing digital verification services (as defined under section 27 of the Data Act) in accordance with the UK's DVS trust framework, published under section 28 of the Data Act ("the DVS trust framework")[1]. The rules in the DVS trust framework draw on existing technical standards, best practice, guidance and legislation. It also places rigorous security requirements on certified DVS providers based on robust international standards. The DVS trust framework rules help ensure that registered DVS are secure and privacy-enhancing.

5.3 This change delivers on a government commitment to modernise age verification, reflecting how people now shop and technological advancements. It gives people an alternative option to physical documents. These alternatives are underpinned by existing rules for digital verification services which ensure that services better protect people's privacy, are secure and inclusive. It also supports the aims of the Licensing Act 2003 ("2003 Act"), particularly keeping children safe by supporting retailers to prevent under 18s from buying alcohol.

5.4 This instrument permits the responsible person's age verification policy (required under the mandatory licensing conditions) to include use of digital identification to determine whether an individual meets the age threshold specified in that policy, provided that:

5.4.1 the responsible person and a DVSP ("the relevant DVSP") have an agreement in place for delivery of digital verification services;

5.4.2 the digital verification service which the relevant DVSP is delivering is registered in accordance with either version 0.4 or 1.0 of the DVS trust framework;

5.4.3 the relevant DVSP has agreed it will deliver digital identification which meets at least a medium level of confidence (where that level of confidence has been verified by either the relevant DVSP or another DVSP), as defined in either version 0.4 or 1.0 of the DVS trust framework, depending upon which version (of the DVS trust framework) the registered DVS being provided is registered against; and

5.4.4 the relevant DVSP confirms, while providing its services, the individual has met the age specified in the age verification policy. This means that the relevant DVSP must confirm that the digital identification confirms the person attempting to be supplied with alcohol has met the required age. This means that a mere visual inspection of the digital identification will not be sufficient to meet the requirements in this instrument.

5.5 The requirements set out above aim to prevent the improper use of digital identification for the purposes of verification and is designed to protect an individual's data.

5.6 This instrument also requires that digital identification being used for age verification is based on robust evidence about the individual and that it relates to that individual. This reduces the chance of someone fraudulently obtaining a digital proof of age or using one that relates to someone else. By requiring use of DVSP and preventing

[1] https://www.gov.uk/government/collections/uk-digital-verification-services-trust-framework

visual inspection of the digital identification being relied upon for the proof of age check, this instrument supports retailers to be confident that the proof of age has not been tampered with, for example, by altering a screenshot of the digital identification being relied upon. Physical documents will continue to be accepted as proof of age when buying alcohol. The use of digital identification for age verification is an additional option, not a replacement.

What was the previous policy, how is this different?

5.7 Currently, under the 2010 Order, only physical documents, such as passports or driving licences, can be accepted for age verification. This instrument allows digital identification to be used for age verification where certain conditions are met. Digital identification can be more convenient and reliable for both the supplier and the recipient and may reduce reliance on physical documents whilst providing greater privacy.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends the 2010 Order to provide individuals with the option of using digital identity as proof of age when purchasing alcohol. This is done robustly by ensuring such information has been verified and delivered to the responsible person by DVSP. This acts as an alternative to using physical documents. Retailers will not be required to accept digital identification if they do not wish to.

Why was this approach taken to change the law?

6.2 The 2010 Order required updating because it currently only provides for physical identity documents to be used as proof of age for alcohol sales under the 2003 Act. To enable modernisation and take advantage of the developments brought about by the Data Act, it was necessary to include the option of digital identification as an acceptable method of age verification for alcohol sales.

7. Consultation

Summary of consultation outcome and methodology

7.1 Between 24 January and 30 March 2024, the Government consulted on allowing digital identities and age assurance technologies, including facial age estimation, to verify age for alcohol purchases. The Government's response to the consultation can be found on GOV.UK.[2] Currently only physical documents with a photo, birth date and security features are accepted. Stakeholders from hospitality, retail, licensing and policing expressed support in updating the legislation to permit digital age verification. It was concluded that further work was needed in relation to facial age estimation technology before it can be implemented in retail settings.

7.2 The consultation centred on how any change could impact the 2003 Act and its four objectives: preventing crime and disorder, protecting children, ensuring public safety, and reducing public nuisance. A total of 251 responses were received from licensing authorities, the hospitality industry, policing, technology partners, members of the public and others.

7.3 72% of respondents supported amending the legislation to allow digital identities as proof of age for alcohol sales across all retail settings. Most believed this would

[2] https://www.gov.uk/government/consultations/alcohol-licensing-age-verification/outcome/alcohol-licensing-age-verification-consultation-results

positively impact the 2003 Act's objectives, though some raised concerns about data protection and the risk of digital identity fraud.

7.4 The Association of Police and Crime Commissioners were generally supportive of this legislative change, but stressed the need for robust verification processes to ensure digital identities are genuine. The Home Office has worked with DSIT to ensure that this legislation is fit for purpose and contains appropriate safeguards.

7.5 82% of respondents agreed that digital identity providers should be certified under the UK DVS trust framework (formerly known as the UK digital identity and attributes trust framework), while a minority preferred alternative schemes like the Proof of Age Standards Scheme, a Community Interest Company which accredits suppliers of Proof of Age Cards in the UK.

8. Applicable Guidance

8.1 The licensing guidance issued by the Secretary of State under section 182 of the 2003 Act will be updated accordingly on GOV.UK website when these changes take effect.[3] Additional guidance will be provided in due course but at a time decided by the Chartered Trading Standards Institute. As a matter of practice, we publish updates to guidance only when the changes take effect, to prevent local authorities and other stakeholders from relying on an incorrect version.

8.2 Licensing authorities may additionally wish to consider amending any local guidance, or locally applied licensing conditions, which would otherwise limit the ability of licensed premises to take advantage of this legislative change.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument. An Economic Note has instead been prepared. This will be published alongside the instrument on the legislation.gov.uk website. The Economic Note estimates that the benefits of the measure will outweigh the costs. The benefits include increased alcohol sales, reduced violence against shopworkers and potential efficiency savings at checkouts. The main costs incurred are the costs of using DVS, technology costs and the costs of training and familiarisation with the new legislation.

9.2 The total costs of this instrument over 10 years are estimated to be in the range of £276.3 million to £971.8 million Present Value (PV), with a central estimate of £459.2 million. The total benefits are estimated to be in the range of £682.0 million to £1,206.5 million (PV), with a central estimate of £888.5 million. The Net Present Social Value (NPSV) lies in a range of -£289.8 million to £930.2 million (PV), with a central estimate of £429.4 million (PV).

Impact on businesses, charities and voluntary bodies

9.3 Many businesses in the off-licence trade (such as supermarkets) are unlikely to adopt the use of digital verification services for age verification checks if their use is limited solely to alcohol sales. Widespread uptake is expected to depend on regulatory alignment across other age-restricted products such as energy drinks and over-the-counter medication. We expect some businesses may choose to adopt digital verification services to streamline operations but there is no mandatory requirement

[3] https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003

on them to do so. There will also be an impact on DVSP providing age verification services in this context as they might need to update their services or products to ensure they are meeting the expectations of consumers and the relevant statutory requirements under the Data Act and the 2010 Order as amended by this instrument.

9.4 Businesses may incur transitional costs related to staff training (£5.8 million over 10 years) or system updates (unmonetised), even though adoption remains optional. There is expected to be a cost incurred by businesses as a result of DVSP charging licence holders for the provision of their services (£453.0 million over 10 years).

9.5 Businesses are expected to benefit from increased alcohol sales due to the increased likelihood that a consumer will have the means to prove their age (£29.3 million over 10 years), and also from efficiency savings at checkouts as a result of potentially reducing the frequency of staff intervention in age verification for alcohol sales (£468.4 million over 10 years). Operational efficiencies at self-checkouts will depend on the process each business adopts to fulfil their age verification policy and how confident they are that their DVS solution is compliant with their legal duties.

9.6 However, the requirements introduced by this instrument are not mandatory. Small and micro businesses are not obliged to accept digital identification (in line with the requirements set out above) and may prefer to continue to use only physical forms of identification.

9.7 The legislation does impact small or micro businesses, particularly in the early stages of the appraisal period. These include potential barriers in adopting digital ID such as implementation costs, infrastructure constraints, legal complexities and lower uptake among older customer bases. As adoption is voluntary, smaller businesses that do not implement DVS may risk losing customers over time if customer reliance grows. Benefits are also likely to be uneven, with larger retailers who are more likely to have self-checkouts being better positioned to realise the potential efficiency gains, whereas smaller businesses may incur adoption costs without the equivalent time-saving advantages. These impacts are expected to be short-term and indirect.

9.8 It was not possible to exempt small and micro businesses from the requirements within this instrument. This is because the objective is to modernise age verification and ensure a consistent approach across all licensed premises, regardless of business size. Exempting small or micro businesses would undermine the effectiveness of the policy and could create confusion for consumers and enforcement authorities. This policy is optional, and businesses will not have to accept digital identification (and therefore use digital verification services).

9.9 There is no impact, or no significant impact on the public sector because this instrument does not introduce any new public-sector duty. DSIT will continue to maintain the DVS register and the DVS trust framework and lead wider digital verification policy. Costs are expected to arise from familiarisation for trading standards officers and licensing authorities to support implementation and oversight.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through regular engagement with licensing authorities, Trading Standards and DVS. The Home Office will collect feedback on implementation, compliance and any operational challenges and will keep the legislation under regular review.

10.2 This instrument does not include a statutory review clause, and is in line with the requirements of the Small Business, Enterprise and Employment Act 2015. The Minister for Policing and Crime, has made the following statement: "It is not appropriate to include a statutory review clause in this instrument because the policy is optional, has minimal impact on businesses, and will be monitored through non-legislative means."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of State for Policing and Crime has made the following statement regarding Human Rights: “In my view the provisions of the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2026 are compatible with convention rights.”

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).