

## Minors

## Table of Contents

Table of Contents	2
Policy statement and principles	3
What	3
Why	3
How	3
Overview	4
Who is a 'minor'?	4
Minimum purchase/drinking age?	4
Exception relating to consumption	4
Designations for licensed premises	4
Definitions relating to minors	4
Quick reference - what minors can do	6
Evidence of age document (IDs)	7
Fake or fraudulently presented evidence of age documents (IDs)	7
Offences relating to minors	8
Policing minors	9
Policing minors on licensed premises	9
Policing minors in public places	11
Securing exhibits from minors	12
Alcohol Infringement Offence Notice (AION)	13
Benefits of using AION	13
Completing AION	13
Guiding principles with case preparation for 'minor' related offences	13

# Policy statement and principles

## What

Alcohol misuse is a key issue facing New Zealand and minors can be more at risk of harm from the misuse of alcohol. There is a disproportionate level of alcohol-related harm among youth with alcohol remaining a key driver of incidents and offending involving this group.

Legislative authority is in the [Sale and Supply of Alcohol Act 2012](#) (SASA) provides Police with particular provisions for dealing with minors and licensees who sell and supply alcohol to minors.

This chapter applies to all constables, hereafter referred to as 'Police', who may need to deal with minors on licensed premises or in possession of alcohol in public, and should be read in conjunction with the '[Licensed premises' compliance checks](#)' Police Manual chapter.

## Why

Preventing persons under the purchase age from unlawfully entering licensed premises and purchasing alcohol.

## How

Police will:

- know the various designations of licensed premises
- respond appropriately to offences committed by minors and licensees on licensed premises
- know the legislative authority they need to deal with minors in possession of alcohol in public places.

# Overview

Alcohol misuse is a key issue facing New Zealand and minors are not exempt from the misuse of alcohol. There is a disproportionate level of alcohol-related harm among youth with alcohol remaining a key driver of incidents and offending involving this group.

## Who is a 'minor'?

A minor for the purpose of these guidelines means a person who is under the age of 18 years, as defined in the Sale and Supply of Alcohol Act 2012.

## Minimum purchase/drinking age?

The minimum purchase age for alcohol is 18 years old.

This means that under no circumstances can alcohol be sold to a person **under** the age of 18 years (a minor). It is also illegal for:

- a minor to purchase alcohol, even if accompanied by a parent or legal guardian
- anyone other than a parent or legal guardian to supply alcohol to their child.

Eighteen (18) should not be thought of as the drinking age, a parent or legal guardian can supply alcohol to their child if they are under 18 years old, however this supply must be done in a responsible manner. This is not defined in the Act, but a normal definition of reasonableness can be applied.

## Exception relating to consumption

However, a minor accompanied by a parent or legal guardian may consume alcohol on an on-licensed premise in either a supervised or undesignated area, but only if the parent or legal guardian purchases or supplies the alcohol to them - section [241](#)(3)(a) Sale and Supply of Alcohol Act 2012 refers. Note that the alcohol needs to be supplied in a “reasonable manner”.

## Designations for licensed premises

Licensed premises are divided into various areas where different conditions apply. Some bars have just one type of area; others have combinations. The three types of designated areas include:

<b>Restricted area</b>	A restricted area is an area where no-one under the age of 18 years is allowed - section <a href="#">244</a> (1) Sale and Supply of Alcohol Act 2012 refers. Examples are gambling areas or adult entertainment premises.
<b>Supervised area</b>	<div>A supervised area is an area where no-one under the age of 18 years is allowed, unless they are accompanied by their parent or legal guardian - section <a href="#">244</a>(2) Sale and Supply of Alcohol Act 2012 refers.</div> <div><b>Note:</b><ul style="list-style-type: none"><li>- Parent means a natural, adoptive or foster parent.</li><li>- A legal guardian is not a relative, spouse, coach or older friend; it is someone who has legal guardianship under section <a href="#">15</a> of the Care of Children Act 2004.</li><li>- Minor accompanied in a supervised area means under direct supervision, not a parent or legal guardian attempting to supervise from some distance away.</li></ul></div>
<b>Undesignated area</b>	An undesignated area is an area where anyone of any age can be. Most restaurants and club premises are undesignated. Premises operating under a special licence and off-licence also function as undesignated areas.

## Definitions relating to minors

This table provides definitions of key terms relating to offences committed by minors.

Term	Definition
Alcohol	<ul style="list-style-type: none"> <li>- Means a substance that is or contains a fermented, distilled, or spirituous liquor; and at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or</li> <li>- that is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C.</li> </ul> <p>Section <a href="#">5</a> of the Sale and Supply of Alcohol Act 2012 refers.</p>
Public place	<p>Public place means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward. Section <a href="#">2</a> of the Summary Offences Act 1981 refers.</p>

# Quick reference - what minors can do

This table helps to determine how and when minor(s):

- may be on licensed premises
- can purchase alcohol
- can be employed at licensed premises.

When a minor may be on licensed premises	Supervised	Restricted	Undesignated
Under 18 accompanied by parent or legal guardian	Yes	No	Yes
Under 18 unaccompanied	No	No	Yes but illegal to consume alcohol

How and when a minor can purchase alcohol	Supervised	Restricted	Undesignated
Under 18 accompanied by parent or legal guardian	No	No	No
Under 18 unaccompanied	No	No	No

Employment of minors	Supervised	Restricted	Undesignated
Bar/alcohol service (any age under 18)  <b>Note:</b> Employing minor(s) to serve may impact on manager's suitability to hold a manager's certificate.	Yes	No	Yes
Entertainment	No, unless accompanied	No	Yes
Cleaning/food service	Yes	Yes	Yes
At the request of a Police constable (on duty) (unaccompanied) <a href="#">SASA12</a> , section 243(2)	Yes	Yes	Yes
A member of licensee's or manager's family, or under 18 spouse of adult lodger	No special rules/exemptions apply: they are the same as the general public.		

## Evidence of age document (IDs)

It is the patron's responsibility to prove they are 18 years of age or older. This can be done by producing one of these 'evidence of age documents':

- a current New Zealand passport; or
- a current overseas passport; or
- a NZ driver licence issued under the [Land Transport Act 1998](#); or
- a Kiwi Access card issued by the Hospitality New Zealand (HNZ).

### Note:

- An overseas driver's licence is not an evidence of age document.
- The Kiwi Access card is a document in the prescribed form and issued by a specified organisation ([HNZ](#)) - (i.e. prescribed and specified by the Minister by notice in the Gazette).
- Only the documents listed above are legal evidence of age (section 5 of the Sale and Supply of Alcohol Act 2012.).

## Fake or fraudulently presented evidence of age documents (IDs)

There are two means by which evidence of age documents are commonly misused by minors and their associates. Firstly, documents are tampered with or created so as to provide fake evidence of age. Secondly, valid documents are either stolen or borrowed and presented by a non-owner as evidence of age.

See the '[Fake or fraudulently presented evidence of age documents](#)' chapter for more information.

## Offences relating to minors

Use this table to identify offences relating to minors and selecting the preferred jurisdiction.

Offences relating to minors	Committed by	Preferred jurisdiction
Selling or supplying alcohol to a minor Section <a href="#">239</a> (1)&(2) Sale and Supply of Alcohol Act 2012	Licensee/manager Seller/supplier	Alcohol Regulatory and Licensing Authority (ARLA) application summons
Purchasing liquor for a minor Section <a href="#">241</a> (1) Sale and Supply of Alcohol Act 2012	Any person	summons
Employing a minor Section <a href="#">242</a> (2) Sale and Supply of Alcohol Act 2012	Licensee	<a href="#">ARLA</a> application
Buying alcohol under the purchase age Section <a href="#">243</a> (1) Sale and Supply of Alcohol Act 2012	Minor	Alcohol Infringement Offence Notice ( <a href="#">AION</a> ) Precedent code W606,  Fine \$250
Minor in restricted area Section <a href="#">244</a> (1) Sale and Supply of Alcohol Act 2012	Minor	<a href="#">AION</a>  Precedent code W607,  Fine \$250
Minor in supervised area Section <a href="#">244</a> (2) Sale and Supply of Alcohol Act 2012	Minor	<a href="#">AION</a>  Precedent code W607,  Fine \$250
Allowing a minor in restricted or supervised area Section <a href="#">245</a> (1) Sale and Supply of Alcohol Act 2012	Licensee/manager	<a href="#">ARLA</a> application
Refusing or failing to supply particulars Section <a href="#">269</a> (4) Sale and Supply of Alcohol Act 2012	Any person	summons
Being a minor unaccompanied by parent or legal guardian drinks alcohol in a public place Section <a href="#">38</a> (3)(a) - Summary Offences Act 1981	Minor	<a href="#">AION</a>  Precedent code W604,  Fine \$200
Being a minor unaccompanied by parent or legal guardian has in possession or under their control alcohol in public place for consumption in that place Section <a href="#">38</a> (3)(b) - Summary Offences Act 1981	Minor	<a href="#">AION</a>  Precedent code W605,  Fine \$200



## Policing minors

### Policing minors on licensed premises

Follow these steps to police minors on licensed premises.

Step	Action
1	Calculate before entering the licensed premises the cutoff date when a person's date of birth makes them a minor.
2	<p>Be aware that minors will attempt to look inconspicuous:</p> <ul style="list-style-type: none"> <li>- thinking that if they don't look at you, you won't notice them</li> <li>- they will often look down or away.</li> </ul> <p><b>Note:</b> Toilets on licensed premises are an area where minors hide in an attempt to avoid detection.</p>
3	<p>When dealing with minors:</p> <ul style="list-style-type: none"> <li>- be firm but fair</li> <li>- try to speak to the minor in a quiet setting, if possible, away from third party interference</li> <li>- explain alternatives to them and grant them a reasonable time to comply with your requests (e.g. to supply satisfactory evidence).</li> </ul>
4	<p>When meeting any patron on licensed premises that you have reasonable cause to suspect of being under 18 years of age (minor):</p> <ul style="list-style-type: none"> <li>- you may (under section <a href="#">269(1)</a> Sale and Supply of Alcohol Act 2012) require that person's: <ul style="list-style-type: none"> <li>- name</li> <li>- address</li> <li>- date of birth (age is material)</li> </ul> </li> </ul> <p>and have reasonable cause to suspect that any particulars (name, address, date of birth) are false, you may (under section <a href="#">269(2)</a> Sale and Supply of Alcohol Act 2012) require satisfactory evidence of those particulars (<a href="#">evidence of age document</a>) from that patron.</p> <p><b>Note:</b> Evidence of age document includes:</p> <ul style="list-style-type: none"> <li>- a current New Zealand passport; or</li> <li>- a current overseas passport; or</li> <li>- a New Zealand Driver's licence; or</li> <li>- a Kiwi Access card.</li> </ul>
5	<p>Confirm minor's ID (evidence of age document), for a driver's licence scan it using OnDuty and check the version numbers align. Retain if you believe it is a fake or fraudulently presented.</p> <p><b>Note:</b> Refer to '<a href="#">Fake or fraudulently presented evidence of age documents</a>' chapter for good practice guidance.</p>
6	<p>If the minor, without reasonable excuse, refuses or fails to supply any particulars or evidence when required to do so and after being cautioned persists in that refusal or failure, then you may arrest that person without warrant (section <a href="#">269(3)</a> refers).</p>

7	<p>Be aware of collecting other evidence to identify offending by a licensee, manager and staff of licensed premises staff or another person. For example:</p> <ul style="list-style-type: none"> <li>- Did the minor purchase alcohol?</li> <li>- How many drinks did the minor purchase?</li> <li>- Who sold or supplied alcohol to the minor?</li> <li>- Was the minor asked for ID on entry to licensed premises?</li> <li>- How many drinks did the minor consume?</li> <li>- How long has the minor been in the bar?</li> <li>- Where was the minor sitting or standing in the bar? (to indicate whether the licensee or manager should have noticed the minor's presence)</li> </ul>
8	<p>Use your discretion for offences committed by minors against the Sale and Supply of Alcohol Act 2012 in deciding whether to warn or charge. Keep in mind to apply a consistent approach that aligns with:</p> <ul style="list-style-type: none"> <li>- the purpose of the licensed premises inspection</li> <li>- the directions of your supervisor</li> <li>- operation orders given at an orders group</li> <li>- the Graduated Response Model (GRM)</li> <li>- maintaining fairness and withstanding subsequent scrutiny</li> <li>- public interest.</li> </ul> <p><b>Note:</b> Report Sale and Supply of Alcohol Act 2012 offences committed by licensees or managers of licensed premises involving minors to your Alcohol Harm Prevention Officer. They have more information available and meet with partner agencies to make an informed decision about whether to warn or charge.</p>
9	<p>If you are considering pursuing or recommending a warning or charge against:</p> <ul style="list-style-type: none"> <li>- a licensee, manager or any person on licensed premises for selling or supplying liquor to minors (section <a href="#">239</a>); or</li> <li>- a licensee or manager for permitting minors to be in restricted or supervised areas (section <a href="#">244</a>);</li> </ul> <p>then be aware that evidence of age documents (IDs) offer a defence if it can be proved one of these IDs was checked when the minor entered the premises:</p> <ul style="list-style-type: none"> <li>- a current New Zealand passport; or</li> <li>- a current overseas passport; or</li> <li>- NZ driver's licence; or</li> <li>- Kiwi Access card.</li> </ul> <p><b>Note:</b> Other forms of identification may be valid, but they do not offer the same defence to the charge of supplying a minor. Any manager or licensee who accepts any other form of identification is taking an unnecessary risk.</p>
10	<p>Be familiar with the boundaries of the restricted and supervised areas for the licensed premises you are visiting.</p> <p><b>Note:</b> Section 5 of the Sale and Supply of Alcohol Act 2012 (interpretation) defines restricted and supervised areas.</p>
11	<p>If you issue an <a href="#">AION</a> to prosecute minors (aged 14 to 17 years inclusive) under sections <a href="#">243(1)</a> or <a href="#">243(2)</a> of the Sale and Supply of Alcohol Act 2012, then go to the '<a href="#">Completing AION</a>' section. A written warning may be appropriate.</p>

12	<p>If the minor is a young person aged 14 to 16 years, then:</p> <ul style="list-style-type: none"> <li>- consider taking action under section 48 of the Children, Young Persons, and Their Families Act 1989</li> <li>- ensure parent/legal guardian is advised of the contact with police, this helps to avoid: <ul style="list-style-type: none"> <li>- later denials and court hearings</li> <li>- complaints from parent/legal guardian about not being notified earlier</li> </ul> </li> <li>- send a photocopy of the <u>AION</u> to youth aid section (<u>YAS</u>).</li> </ul> <p><b>Note:</b> Should parent or guardian seek diversion, then the diversion process should be administered by <u>YAS</u>.</p>
13	<p>Remember no power or right exists for Police to photograph the minor, unless the minor:</p> <ul style="list-style-type: none"> <li>- is arrested (section 32 Policing Act 2008)</li> <li>- is summonsed (section 33 Policing Act 2008)</li> <li>- consents to having photograph taken.</li> </ul>
14	<p>See the chapter in the Police manual titled '<a href="#">Licensed premises compliance checks</a>' and the sections:</p> <ul style="list-style-type: none"> <li>- powers to seize samples of alcohol</li> <li>- securing exhibits from licensed premises for good practice guidance on seizing evidence.</li> </ul>
15	<p>For minors on licensed premises complete the licensed premises patron report.</p> <p><b>Advise your AHPO of any action you have taken in a licensed premises.</b></p>

## Policing minors in public places

Follow these steps to police minors in public places.

Step	Action
1	Calculate before entering the public place the cut-off date when a person's date of birth makes them a minor.
2	<p>Be aware that minors will attempt to look inconspicuous:</p> <ul style="list-style-type: none"> <li>- thinking that if they don't look at you, you won't notice them</li> <li>- they will often look down or away</li> <li>- endeavour to conceal themselves.</li> </ul>
3	<p>When dealing with minors:</p> <ul style="list-style-type: none"> <li>- be firm but fair</li> <li>- try to speak to the minor in a quiet setting, if possible away from third party interference</li> <li>- determine consumption or intent to consume in a public place</li> <li>- explain alternatives to them, and grant them a reasonable time to comply with your requests (e.g. to provide particulars or supply satisfactory evidence).</li> </ul>
4	<p>If you have reasonable belief that a minor in a public place and within your view is committing an offence against section 38(3) of the Summary Offences Act 1981 (i.e. drinking, in possession or has under their control alcohol and is unaccompanied by a parent or legal guardian) then you may:</p> <ul style="list-style-type: none"> <li>- demand their name and address;</li> <li>- arrest without warrant (section 39(2), Summary Offences Act 1981) that person if they: <ul style="list-style-type: none"> <li>- fail to give their name and address, or</li> <li>- give you false particulars (you must have reasonable belief of this).</li> </ul> </li> </ul>

5	<p>Be alert to collecting evidence to identify other offending. For example ask:</p> <ul style="list-style-type: none"> <li>- Who supplied alcohol?</li> <li>- Where was alcohol supplied from?</li> </ul> <p>If the alcohol was supplied from licensed premises, then inquire whether an offence has been committed under the Sale and Supply of Alcohol Act 2012 by a licensee, manager, licensed premises staff or other person. For example:</p> <ul style="list-style-type: none"> <li>- Did the minor purchase alcohol?</li> <li>- How much alcohol did the minor purchase?</li> <li>- Who sold/supplied alcohol to the minor?</li> <li>- Was the minor asked for ID before making their purchase?</li> </ul>
6	<p>Use your discretion for alcohol offences committed by minors in a public place in deciding whether to warn or charge. Keep in mind to apply a consistent approach that aligns with:</p> <ul style="list-style-type: none"> <li>- the reason for intervention</li> <li>- the directions of your supervisor</li> <li>- operation orders given at an orders group</li> <li>- maintaining fairness and withstanding subsequent scrutiny</li> <li>- public interest.</li> </ul>
7	<p>If you issue an <a href="#">AION</a> to prosecute minors (aged 14 to 17 years inclusive) under section <a href="#">38(3)</a> of the Summary offences Act 1981, then go to the '<a href="#">Completing AION</a>' section. Consider a written warning.</p>
8	<p>If the minor is a young person aged 14, 15 or 16 years, then:</p> <ul style="list-style-type: none"> <li>- issue the <a href="#">AION</a> as normal (as you would for a 17-year-old minor)</li> <li>- consider taking action under section <a href="#">48</a> of the Children, Young Persons, and Their Families Act 1989</li> <li>- ensure parent/legal guardian is advised of the contact with police, this helps to avoid: <ul style="list-style-type: none"> <li>- later denials and court hearings</li> <li>- complaints from parent/legal guardian about not being notified earlier</li> </ul> </li> <li>- advise youth aid section (<a href="#">YAS</a>) of any action taken.</li> </ul>
9	<p>Remember no power or right exists for Police to photograph the minor, unless the minor:</p> <ul style="list-style-type: none"> <li>- is arrested (section <a href="#">32</a> Policing Act 2008)</li> <li>- is summonsed (section <a href="#">33</a> Policing Act 2008)</li> <li>- consents to having a photograph taken.</li> </ul>

## Securing exhibits from minors

Follow these steps to secure exhibits from minors either on licensed premises or in public places.

Step	Action
1	<p>If an offence has been committed that has alcohol as an ingredient, then consider:</p> <ul style="list-style-type: none"> <li>- smelling the alcohol</li> <li>- note the alcohol percentage if in a trade-marked container</li> <li>- obtain in your notebook a sentence acknowledging alcohol consumed and signature from the person (e.g. "I John Smith, born 30 June 1983, acknowledge selling a 330ml bottle of Tui beer containing 4% alcohol to the minor identified as Joe Brown")</li> </ul> <p><b>Whilst there is the ability to seize the liquid and send a sample for analysis, this is never been done. The ability to give evidence regarding why you believed it to be alcohol, based on smell, visual identification, trade container, is sufficient.</b></p>
2	<p>The power to seize alcohol and the container holding the alcohol without warrant for the purposes of analysis is contained under:</p> <ul style="list-style-type: none"> <li>- section 268 of the Sale and Supply of Alcohol Act 2012 for minors on licensed premises</li> <li>- section 45, Summary Offences Act 1981 for minors in a public place.</li> </ul> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>- On the conviction of a minor for an offence against section 38(3) of the Summary Offences Act 1981 the alcohol and the containers are forfeited to the Crown (section 45(2) of the Summary Offences Act 1981 refers).</li> <li>- If the minor is simply warned or charged but not convicted of the offence, they are entitled to the return of the alcohol.</li> </ul>
3	<p>In an extreme case where it is needed to prove the substance was alcohol:</p> <ul style="list-style-type: none"> <li>- place the alcohol in a blood alcohol sample container</li> </ul> <p><b>Note:</b> The preservatives in these containers stabilise the alcohol content and do not affect the alcohol level.</p> <ul style="list-style-type: none"> <li>- put the container in its accompanying foam box</li> <li>- send the boxed container to the Institute of Environmental Science and Research Ltd (ESR) immediately by registered mail, enclosing an 'Exhibit for Laboratory Examination' form (Police 143).</li> </ul>
4	<p>Fake or fraudulently presented drivers licences can be photographed and attached to the AION. Enquiries can be made to return the licence to the legitimate owner, who may be eligible for an AION depending on the circumstances.</p>

## Alcohol Infringement Offence Notice (AION)

AIONs should be issued to minors (under 18 years) for those offences having a precedent offence code under the Sale and Supply of Alcohol Act 2012, Local Government Act 2002 and Summary Offences Act 1981 as identified in the table '[Offences relating to minors](#)'.

### Benefits of using AION

The benefits of using infringement notices include:

- Avoids preparing a full prosecution file (saves time and effort).
- Each offence carries an infringement fee of between \$200-\$250.
- The notice provides prompts to ensure all relevant information is recorded.

### Completing AION

An AION is issued in the same way as a traffic ION and is found under the alcohol section. The AION will prompt you to record all the requisite pieces of evidence to prove the offence. Photographs can be included which are of evidential value.

## Guiding principles with case preparation for 'minor' related offences

Use these general principles to determine the most appropriate method of completing your case preparation for 'minor' related offences.



Point	General principles
1	<p>Use <a href="#">AIONs</a> to prosecute minors for:</p> <ul style="list-style-type: none"> <li>- purchasing alcohol on or from licensed premises</li> <li>- being found in breach of the Sale and Supply of Alcohol Act 2012 in a: <ul style="list-style-type: none"> <li>- restricted area on licensed premises</li> <li>- supervised area on licensed premises</li> </ul> </li> <li>- being found in a public place drinking alcohol and not accompanied by their parent or legal guardian</li> <li>- being found in a public place and had in their possession or under their control alcohol for consumption in that place and not accompanied by their parent or legal guardian.</li> </ul>
2	<p>Prepare a summons to prosecute in the District Court:</p> <ul style="list-style-type: none"> <li>- a seller or supplier of alcohol to a minor, who is not a licensee or a manager, or</li> <li>- a person who is not exempt under the Sale and Supply of Alcohol Act 2012 for being found on licensed premises outside licensing hours.</li> </ul> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>- Prosecution can only occur through the District Court, the <a href="#">ARLA</a> only has jurisdiction over the licensee and manager.</li> <li>- For guidance on case preparation and file management see the Police Manual chapter '<a href="#">Case management</a>'.</li> </ul>
3	<p>Complete a licensed premises check form for all Sale and Supply of Alcohol Act 2012 compliance breaches by the licensee or manager and submit through your supervisor to your Alcohol Harm Prevention Officer.</p> <p><b>Note:</b> It is important to be aware that the information you provide is for subsequent collation among partner agencies and may be used in an application to <a href="#">ARLA</a> taking action against licenses and managers' certificates, such as:</p> <ul style="list-style-type: none"> <li>- suspensions</li> <li>- cancellations</li> <li>- variations (to licences only).</li> </ul>