

if in doubt
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DON'T SELL

A business guide to what you
need to know about
age-restricted products



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What you need to know about age-restricted products

This section details age-restricted products; the legislation that controls their sale and the reasons behind it and the penalties that may be imposed on those who sell them illegally

Cigarettes and Tobacco Products

The Offences

- it is an offence to sell cigarettes, tobacco products or cigarette papers to anyone under 18, even if they look older. This applies whether or not the cigarettes are for the young person's own use.
- It is also an offence to sell cigarettes unless they are in quantities of 10 or more and in their original packaging. This means that packets of cigarettes cannot be split to sell lesser quantities.
- It is an offence to fail to display a warning notice in a prominent position, which is clearly visible to anyone purchasing cigarettes, at every retail premise at which tobacco is sold. It must not be less than 297mm x 420mm (A3), with no character being less than 36mm in height.
- You must not allow persons under the age of 18 years to obtain cigarettes from vending machines. Vending machines should be placed where you can see them and where you can control their use. Where it is evident that a person under age has used a vending machine, a Court can make an order regulating its use or its removal.
- It is an offence to fail to display a sign on the vending machine stating " This machine is only for the use of people aged 18 or over." The sign itself should be at least 60mm x100mm with the letters being at least 6mm in height.

The Products

Cigarettes, tobacco leaf, cigarette papers, any products intended for nasal or oral use, smoking mixtures intended as a substitute for tobacco.

The Penalties

- A fine of up to £2,500 for selling to under 18's.
- A fine of up to £1,000 for selling unpackaged cigarettes.
- A fine of up to £1,000 for failing to display notices clearly.

The Law

- Children and Young Persons Act 1933
- Children and Young Persons (Protection from Tobacco) Act 1991
- Children and Young Persons (Sale of Tobacco etc) Order 2007

Remember

- In England in 2004/05 there were approximately 1.4 million NHS hospital admissions with a primary diagnosis of disease that can be related to smoking.
- In 2004, there were a total of 500,755 deaths of adults aged 35 and over. An estimated 88,800 (18%) of these were caused by smoking.
- In England in 2005, 9 per cent of children aged 11-15 reported that they were regular smokers.
- On the Isle of Wight there are approximately 290 deaths per year which is nearly one a day, or 6 a week as a direct result of smoking.
- Smoking causes many serious illnesses like bronchitis and lung cancer.

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What you need to know about age-restricted products

Alcohol

The Offences

- Selling alcohol to anyone younger than 18 years of age.
- Selling liqueur chocolates to anyone younger than 16 years of age.
- Selling alcohol to an adult if you think that they might be buying it on behalf of someone under 18.
- Selling alcohol if you are under 18 years old without the licensee or other responsible person over 18 knowing about the sale.
- Selling alcohol if you have no licence to do so.
- It is also an offence for anyone under 18 years of age to purchase or attempt to purchase alcohol.

*Smoking, Drinking and Drug Use among Young People in England (SDD). The Information Centre for Health and Social Care

The Products

Spirits, wine, ale, beer, cider, and any other alcoholic liquor

The Penalties

- Fixed Penalty Notice of £80
- A fine of up to £5,000.
- Withdrawal or suspension of your licence to sell alcohol.

The Law

The Licensing Act 1964

The Licensing Act 2003

Remember

- In 2004, the government estimated that alcohol misuse costs the health service between £1.4 and £1.7 billion per year.
- In 2007, alcohol was 69% more affordable in the United Kingdom than it was in 1980.
- In 2006/07, just over half of violent attackers, where the attack resulted in wounding and minor injuries, were believed to be under the influence of alcohol by their victims at the time of the incident.
- According to a 2006 survey*, 41% of young people aged 15 said they had drunk alcohol in the seven days prior to the survey.
- In 2006 the consumption of spirits had risen from 35% in 1990 to 63% in 2006.
- Young people purchased alcohol from friends or relatives 20%, 13% usually bought alcohol from a shop or supermarket, 7% from a pub or bar and 4% from a club or disco.

*Smoking, Drinking and Drug Use among Young People in England (SDD). The Information Centre for Health and Social Care

Butane Gas Lighter Refills

The Offence

Selling gas lighter refills containing butane (or a substance of which butane is a constituent part) to anyone under 18.

The Penalties

- A fine of up to £5,000

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What you need to know about age-restricted products

- Up to 6 months in prison.

The Law

- The Cigarette Lighter Refill (Safety) Regulations 1999
- Consumer Protection Act 1987 (Section 12)

Remember

- Solvent abuse can kill instantly.
- During 2000 - the latest year that solvent and volatile substance abuse statistics are available - over 50 per cent of the recorded deaths (64) were due to lighter fuel refills. A particularly disturbing fact is that in more than 43 percent of the deaths there was no evidence of previous abuse.
- Most of those who die are teenagers.

(Source Re-Solv)

Solvents

The Offence

The Seller knows, or has reasonable cause to believe that the substance is, or its fumes are, likely to be inhaled by that person (18 years and under) to cause intoxication.

The Products

The law does not give a list of substances that might be inhaled. It is up to you to decide whether a particular young person is likely to abuse the product. Be suspicious if:

- Buying volatile substances and nothing else
- Buying plastic bags at the same time as volatile substances
- Displaying signs similar to drunkenness
- Spots and sores around mouth and nose

But solvents may be sold to persons under 18 for their normal intended use.

The main products that are inhaled for the purpose of getting high are:

- Solvent based glue.
- Correction fluids and thinners.
- Marker pens.
- Nail varnishes and varnish removers.
- Petrol
- Aerosol sprays (e.g. deodorant, hairspray, air fresheners, spray paints, etc.)

Be aware that many other products are likely to be abused.

The Penalties

- A fine of up to £5,000
- Up to 6 months in prison.

The Law

- Intoxicating Substances (Supply) Act 1985

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What you need to know about age-restricted products

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(Source Re-Solv)

Fireworks

The Offence

- Selling or supplying fireworks to someone who is under 18 years of age.
- Selling or supplying caps, cracker snaps, novelty matches, party poppers, throwdowns, etc. to a person who is under 16 years of age.
- Splitting up a pre-packed fireworks selection box or pack and selling the fireworks individually.
- Failure to display the required notice about fireworks.
- It is also an offence for someone under 18 to possess a firework in a public place.

If you intend to sell or store fireworks you must register or obtain a licence from your local Trading Standards Service.

The Products

Fireworks including rockets, roman candles, sparklers, party poppers, throwdowns etc.

The Penalties

- A fine of up to £5,000.
- Up to 6 months in prison.
- An unlimited fine and up to 2 years in prison under Health and Safety at Work legalisation.

The Law

- The Explosives Act 1895 (as amended)
- The Health and Safety at Work etc Act 1974 (as amended)
- The Fireworks (Safety) Regulations 1997 (as amended)
- The Fireworks Act 2003
- The Fireworks Regulation 2004
- The Manufacture and Storage of Explosives Regulations 2005

Remember

- In 2005 990 people were injured by fireworks in England, Scotland and Wales.
- 72% of those injured were under 17 years of age.
- Family and private parties were where the majority of injuries occurred.

(source: UK Division of IMS Health Survey for BERR)

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What you need to know about age-restricted products

Spray Paints

The Offences

- Selling a spray paint device to anyone under 16

The Products

A spray paint device

- (a) contains paint stored under pressure; and
- (b) is designed to permit the release of the paint as a spray.

The Penalties

- A fine of up to £2,500 for selling spray paint devices to anyone under the age of 16

The Law

- The Anti-Social Behaviour Act 2003

Remember

- Spray paints as with any solvents can be inhaled in order to get high – this can kill instantly

Knives

The Offence

It is an offence for a person to sell the following to a person under the age of 18

- Any knife, knife blade or razor blade
- Any axe
- Any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person

Whether a particular article is a knife is a question of fact, but using a wider definition this legislation prohibits such sales of eg sheath knives; kitchen knives; craft knives and carpet knives to persons under the age of 18.

This legislation does not apply to folding pocket knives if the cutting edge of the blade is less than 3 inches or 7.62 cm. Nor does it apply to replacement cartridges for safety razors, where less than 2mm of the blade is exposed.

The Penalties

- A fine of up to £5000 and/or
- Up to 6 months imprisonment

The Law

Criminal Justice Act 1988

Remember

Police recorded 5,023 serious knife crimes in England and Wales in the first three months of 2007 after they began to count the offences as a separate crime category last spring. It is equivalent to about 400 offences per week or one knife crime every 24 minutes.

(Source: Daily Telegraph).

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What you need to know about age-restricted products

Videos, DVD's and Games

The Offence

- Supplying or offering to supply a video recording (includes DVD's and video or computer games) to a person who has not reached the age specified on the recording
- Supplying an R18 video or DVD other than from a licensed sex shop to person 18 years of age and older.

The Product

Any video recording on disc or tape that is not exempt from classification.

The Penalties

- A fine of up to £5000 and/or
- Up to 6 months imprisonment

The Law

The Video Recordings Act 1984.

Remember

The law exists to protect the health and wellbeing of our community and the young people within it.

Lottery Tickets

The Offence

- To sell National Lottery tickets and Instant Win cards (scratch cards) to any person under 16.
- Requires any person selling such products to be over 16.
- Failure to display a notice warning against supplying lottery tickets and scratch cards to children under the age of 16 years.

The Product

- National Lottery tickets
- Instant Win cards (scratch cards)

The Penalties

- Summary conviction Fine up to £5000
- Indictment unlimited fine, 2 years imprisonment

The Law

- National Lottery etc Act 1993
- National Lottery Regulations 1994

Remember

It is important to note that if you sell to a child then you may be breaching your contract with your supplier of the Lottery Terminal, which could result ultimately in the terminal being removed.

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Guidance for owners and licensees

Notices

The law requires that you clearly display certain notices if you sell particular age-restricted products. You **must** display the required notices if you sell any of the following:

Tobacco and Tobacco Products

A notice with the following statement **“IT IS ILLEGAL TO SELL TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18”** must be prominently displayed so that it is clearly visible to anyone purchasing cigarettes, at every retail premise at which tobacco is sold. It must not be less than 297 mm x 420 mm (A3), with no character being less than 36 mm in height.

You must display a sign on the vending machine stated **“This machine is only for the use of people aged 18 or over”**.

Fireworks

You must display the statutory notice (min size 400 mm x 300 mm, letters at least 16 mm in height) with the wording:-

“It is illegal to sell adult fireworks to anyone under the age of 18” and

“It is illegal for anyone under the age of 18 to possess adult fireworks in a public place”

Training and Supporting your staff

You should train every member of your staff and ensure that they know and understand the laws that relate to age-restricted products.

- It is good practice to document all the training that you conduct with your staff.
- Keep training records in a safe place. The enforcing agencies (Police, National Lottery and Trading Standards) may ask to inspect them. They will want to see evidence that you take the law on age-restricted sales seriously.
- If you do sell age-restricted products to someone who is too young to buy them, then it may help your case if you can show that you took all reasonable precautions and exercised all due diligence. Well kept training records will help to show that you took the law and staff training seriously.
- Encourage your staff to request proof of age (Citizens Card, driving licence or passport) from anyone who they suspect to be under the required age and to speak to you if they have any doubts about a customer's age or about a sale.
- Train your staff to use a Refusals Book where all refusals are recorded.
- If you do sell age-restricted products to someone who is underage, it may harm your case if you cannot show that you and your staff have used the Refusals Book or if you cannot provide evidence of having trained your staff properly.

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Guidance for owners and licensees

Training and Supporting Younger Staff

- If someone is too young to buy alcohol, then they are too young to sell it. It is an offence for anyone under the age of 18 to sell alcohol unless they are directly supervised by someone who is over 18 years of age.
- It is an offence for anyone under the age of 16 to sell National Lottery tickets.
- Be particularly aware of peer pressure on young members of staff especially on Friday evenings and at weekends.

Avoiding Prosecution – taking reasonable precautions and exercising due diligence

It is worth following our best practice guidelines for 3 reasons:

- As a responsible retailer, it will help you to avoid selling age-restricted products to people who are too young to buy them.
- It helps to protect the Isle of Wight community, and the young people in it, from the damaging effects of age-restricted products.
- If you unintentionally make a sale to an underage customer, then your case may be helped if you can produce evidence of good practice.

By taking the following reasonable precautions and ensuring that you follow them diligently, you should avoid making an underage sale and protect yourself from some of the legal consequences of doing so.

- Train your staff and maintain Training Records.
- Ensure that you and your staff record all refused sales in your Refusals Book.
- Monitor your staff and make sure that they do look out for underage customers, that they do request proof of age and that, where appropriate, they do refuse sales.
- Make these guidelines readily available to your staff.

Remember - if you do make an illegal sale, failure to show that you have taken reasonable steps to avoid committing an offence may not help you to defend your case in court.

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Guidance for staff

Guidelines for staff selling age-restricted products

- Both you and the owner or licensee of your shop may be liable to a criminal conviction and/or a fine or a fixed penalty notice at the time of sale. (£80)
- Your employer may terminate your employment.
- You may be contributing to behaviour that is damaging to the health and wellbeing of the community and its younger members.
- You could be contributing to the sort of antisocial behaviour that often results from the mis-use of some age-restricted products.

Follow these guidelines to ensure that you comply with the law at all times and remember, you must refuse to sell an age-restricted product to anyone who you suspect might be too young to buy it.

- Take special care during busy periods. This is when underage customers are most likely to attempt to buy age-restricted products.
- Never sell an age-restricted product to a young person who claims that it's for their mum, dad or other adult (even if it is). Do not accept any notes that claim to be from an adult requesting that age-restricted products be sold to a young person.

Look for the danger signs:

- Customers who look too young to buy the product that they are asking for. Customers in school uniform.
- Young people who pay with the exact money.
- Young people who look nervous or who avoid eye contact while making their purchase.
- Anyone who asks the price of a single cigarette. (It is illegal to sell cigarettes singly.)

Proof of Age

- A photo driving licence, a passport or a proof of age card such as the Citizens Card (ensure that it has the PASS hologram).
- Always look at the photograph on the document and ensure that it is of the person standing in front of you.
- Always check that no one has tampered with the card. Feel the card to make sure that it has no bumps or ridges and that nothing is stuck to it.

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Guidance for staff

Guidelines for handling refusals

- If you think that someone might be too young to buy an age-restricted product, then politely refuse to sell them it, and give them an explanation.
- If you have any doubts, speak to the manager or owner of the shop.
- Try to stay calm, polite, understanding and firm even when the customer tries to pressurise you into making an underage sale.
- If the customer becomes violent or aggressive, speak to your manager immediately so that he or she can call the police or escort the customer from the premises.
- If you have a CCTV system, ensure that it is on. It could deter violence and its records could be used as evidence to prosecute an offender.
- Record all refusals in your Refusals Book. This pack includes a page which you can photocopy that is designed for that purpose.
- Keep your Refusals Book up to date and in a safe place. The enforcing authorities might want to see it.

If a customer protests about your refusal to sell a product, try to follow these basic calming techniques.

- Keep your voice calm, your hands open and try to maintain eye contact
- Do not respond to verbal abuse.
- Do not waver. Stick to your reasons for refusing the sale.
- Try to ensure that the potential buyer understands why the sale cannot take place.
- Knowing the law and following these guidelines will help you to stay calm and be sure of your ground.

If a potential customer uses abusive language or becomes aggressive, then try to stick to these guidelines:

- Do not allow yourself to be provoked.
- Do not shout or interrupt.
- Keep to a safe and non threatening distance.
- Keep your voice low and your movements slow
- Be consistent in your reasons for not selling.
- Make it clear that you are not picking on anyone and that the same law applies to everyone.
- Do not hesitate to ask for help and support from your colleague or manager.

By refusing to sell age-restricted products to underage persons or to those who you believe are buying for underage persons, you - or your staff - may be exposed to hostility and aggression. The police will provide you with all the support necessary to uphold the law.

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Guidance for staff

Guidelines on proof of age schemes

The Government-approved PASS (Proof of Age Standards Scheme) accredited card which is recommended by Trading Standards and the Police is the CitizenCard. This is accepted by most nationwide supermarkets, off-licences, newsagents, forecourts, pubs, and clubs. It gives peace of mind to you as a retailer or licensee as an official ID and proof-of-age for people of any age.

The only other acceptable forms of proof of age are:

- A DVLA photo driving licence
- A current passport

Valid Proof

The Citizen Card proof of age scheme carry the British Retail Consortium's Proof of Age Standards Scheme (PASS) logo. This is a 3D hologram with the word PASS printed in the centre, in large silver letters, and then repeated in the background in a smaller print.

Even if a card carried a genuine PASS logo, make sure that It has not been tampered with. Some people may try to change the dates or names on a card. Bogus cards are readily available. It is wise to only accept cards that fulfil the following criteria:

- They should carry the PASS logo.
- They should carry a full colour, head and shoulders photograph of the card bearer.
- They should show the full name and date of birth of the owner.

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Useful contact numbers

Isle of Wight Council Trading Standards Service 823370

Email: trading.standards@iow.gov.uk

www.iwight.com/tradingstandards

Isle of Wight Council Licensing including Best Bar None 823159

Email: licensing@iow.gov.uk

www.iwight.com/licensing

Crimestoppers 0800 555111

Isle of Wight Council Get Sorted Team 550980

(Young People's Substance Misuse)

Citizen Card 01244 651340

www.citizencard.com

Isle of Wight Crime Prevention Officer 822696

This publication is available on request in large print, on audiotape, or in Braille and in other languages. For further details please contact the Isle of Wight Council on (01983) 823370 (Typetalk available).



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