



Age Restricted Products Responsible Trader Scheme

SUMMARY OF AGE RESTRICTED LEGISLATION IN THE UK, OFFENCES, DEFENCES AND PENALTIES

ALCOHOL LEGISLATION - Licensing Act 2003

SUPPLY OFFENCES (ON SALES)

- 146 Sale of alcohol to children

(1) A person commits an offence if he sells alcohol to an individual aged under 18.

This does not prohibit the sale to a person who has attained the age of sixteen of beer, porter, cider or perry for consumption at a meal in a part of the premises usually set apart for the service of meals which is not a bar (S.169(4)).

DEFENCES

- Where a person is charged with selling intoxicating liquor to a person under eighteen by reason of his own act, it shall be a defence to prove he exercised all due diligence to avoid the commission of such offence; or he had no reason to suspect that the person was under eighteen (S.169(4A)).
- " Where a person is charged with an offence under this section by reason of his own conduct it is a defence that-
 - (a) he believed that the individual was aged 18 or over, and
 - (b) either-
 - (i) he had taken all reasonable steps to establish the individual's age, or
 - (ii) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.
- (5) For the purposes of subsection (4), a person is treated as having taken all reasonable steps to establish an individual's age if-
 - (a) he asked the individual for evidence of his age, and
 - (b) the evidence would have convinced a reasonable person.

SUPPLY OFFENCE (OFF SALES)

- The holder of the licence or his servant shall not knowingly deliver, nor shall the licence holder knowingly allow any person to deliver, to a person under eighteen intoxicating liquor sold in a licensed premises for consumption off the premises, except where delivery is made at the residence or working place of the purchaser (S.169(5)). The offence does not apply where the person under eighteen is a member of the family, his servant or an apprentice and is employed as a messenger to deliver intoxicating liquor (S.169(7)).

SUPPLEMENTARY OFFENCES

- A person under eighteen shall not in licensed premises buy or attempt to buy intoxicating liquor nor consume intoxicating liquor in a bar (S.169(2)).

This does not prohibit the purchase by a person who has attained the age of sixteen of beer, porter, cider or perry for consumption at a meal in a part of the premises usually set apart for the service of meals which is not a bar (S.169(4)).

- No person shall buy or attempt to buy intoxicating liquor for consumption in a bar in licensed premises by a person under eighteen (S.169(3)).
- A person shall not knowingly send a person under eighteen for the purposes of obtaining intoxicating liquor sold or to be sold in licensed premises for consumption off the premises, whether the liquor is to be obtained from the licensed premises or other premises from which it is delivered in pursuance of the sale (S.169(6)).

The offence does not apply where the person under eighteen is a member of the family, his servant or an apprentice and is employed as a messenger to deliver intoxicating liquor (S.169(7)).

- " The licence holder commits an offence, if any person under eighteen is employed in any bar of licensed premises at a time when the bar is open for the sale or consumption of intoxicating liquor (S.170(1)).

This does not apply where the person is over the age of 16 and is employed under an approved training scheme (S. 170(1 A)).

A person is not deemed to be employed in a bar by reason only that in the course of his employment in another part of the premises he enters the bar for the purpose of giving or receiving any message or of passing to or from a part of the premises which is not a bar and to or from which there is no other convenient means of access or egress (S.170(2)).

A person shall be deemed to be employed notwithstanding that he receives no wages for his work (S.170(3)).

- In premises licensed for the sale of intoxicating liquor for consumption off the premises or any off-sales department of an on-licensed premises, the licence holder shall not allow a person under eighteen to make any sale of such liquor unless the sale has been specifically approved by the licensee or by a person of eighteen or over acting on his behalf (S.171A(1)).

PENALTIES

S.169(1),(2),(3),(5),(6) Fine- not exceeding level 3. On second and subsequent conviction, the court may, if the offence was committed by the licence holder, order forfeiture of the licence. S.170(1) Fine - not exceeding level 1 S. 171 A(1) Fine - not exceeding level 1

NOTES

Intoxicating liquor defined as spirits, wine, beer, cider and any other spiritous liquor exceeding 0.5%.

Confectionery containing intoxicating liquor shall not be sold to a person under the age of 16 years. Any person knowingly contravening this, is liable to a fine not exceeding level 2 (S. 167).

CROSSBOWS LEGISLATION - Crossbows Act 1987

SUPPLY OFFENCE

- A person who sells or lets on hire a crossbow or part of a crossbow to a person under the age of eighteen, unless he believes him to be seventeen years of age or older and has reasonable ground for the belief (S.1).

SUPPLEMENTARY OFFENCE

- " A person under the age of eighteen who buys or hires a crossbow or part of a crossbow (S.2).

DEFENCE None

provided.

PENALTIES

S.1 Fine - Level 3 and/or imprisonment - not exceeding 6 months
(*Summary*) S.2 & 3 Fine - Level 3 (*Summary*)

NOTES

The Act does not apply to crossbows with a draw weight of less than 1.4 kilograms.

FIREWORKS

LEGISLATION - Fireworks (Safety) Regulations 1997 Manufacture and Storage of Explosives Regulations 2005

SUPPLY OFFENCES

- No person shall supply any firework or any assembly to any person under the age of eighteen years (Reg.6(1)).

This does not prohibit the supply of any cap, cracker snap, novelty match, party popper, serpent or throw down.

Gunpowder shall not be sold to anyone apparently under the age of sixteen years. (S.31).

PENALTIES

S.6 Fine - Level 5 and/or imprisonment - not exceeding 6 months
(*Summary*) S.31 Fine - Level 5 (*Summary*)

NOTES

- Cap means a firework (including an amorce) designed for use in toys which comprises a non-metallic envelope or cup containing a dot of impact-sensitive pyrotechnic composition, and which produces a report when hit.
- Cracker snap means a firework comprising two overlapping strips of card or paper with a friction-sensitive explosive composition in sliding contact with an abrasive face and produces a report when pulled apart.
- " Novelty match means a firework comprising a match with a dot of pyrotechnic composition designed to be hand held while functioning and whose functioning involves report or the production of visual effects or both.
- Party popper means a firework comprising a device designed to be hand held while functioning, operated by a pull-string with an abrasive surface in sliding contact with a friction-sensitive pyrotechnic composition, producing a report with the ejection of streamers or confetti or both.
- Serpent means a firework comprising a pre-formed shape of pyrotechnic composition, with or without support, whose functioning involves the generation of expanded residue.
- Throwdown means a firework comprising impact-sensitive explosive composition and grains of inert material wrapped in paper or foil which produces a report when thrown onto the ground.

By virtue of S.31 of the Explosives Act, caps, cracker snaps, novelty matches, party poppers, serpents and throwdowns are prohibited from sale to persons apparently under the age of sixteen years.

GAS LIGHTER REFILLS

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

SUPPLY OFFENCE

- No person shall supply any cigarette lighter refill canister containing butane or a substance with butane as a constituent part to any person under the age of eighteen years (Reg.2). Contravention of the regulation is an offence under the Act (3.12(1)).

DEFENCE

- Person took all reasonable steps and exercised all due diligence to avoid committing the offence (8.39(1)).

PENALTY

Fine - Level 5 and/or imprisonment - not exceeding 6 months (*Summary*)

KNIVES LEGISLATION - Criminal Justice Act 1988

SUPPLY OFFENCE

Any person who sells to a person under the age of eighteen years 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 a person (S.141A).

DEFENCE

" Person charged to prove that he took all reasonable precautions and exercised all due diligence to prevent the commission of the offence (S.141A(4)).

PENALTY

Fine - not exceeding level 5 and/or imprisonment - not exceeding 6 months. (*Summary*).

NOTES The offence does not apply to any article listed

below

- An article referred to in S.1 Restriction of Offensive Weapons Act 1959 - This act provides for the offence for selling or hiring, offering for sale or hire, or exposing, or having in possession for sale or hire to any other person, a 'flick knife' or a 'gravity knife'.
 - Any article referred to in an order made under S.141 (2) of The Criminal Justice Act 1988 - The Criminal Justice Act 1988 (Offensive Weapons) Order 1988 has been made.
- " Any article referred to in an order made by the Secretary of State under this section - The Criminal Justice Act 1988 (Offensive Weapons) (Exemption) Order 1996 has been made (S.141A(3)).

LOTTERY TICKETS

LEGISLATION - National Lottery etc. Act 1993 National Lottery Regulations 1994 (SI 1994/189)

SUPPLY OFFENCES

- A national lottery ticket shall not be sold to a person who has not attained the age of 16 years (Reg. 3).

Contravention of the regulations made under S.12 of the Act is an offence by

- the lottery promoter, except if the contravention occurred without the consent or connivance of the promoter and the promoter exercised all due diligence to prevent such a contravention
- any director, manager, secretary, or similar officer of the promoter if he consented to or connived at the contravention or if the contravention was attributable to any neglect on his part
- any other person who was party to the contravention.

SUPPLEMENTARY OFFENCES

- " A national lottery ticket shall not be sold by a person who has not attained the age of 16 years (Reg. 3).

PENALTIES

Fine - not exceeding statutory maximum (*Summary*)
Imprisonment - not exceeding 2 years (*On indictment*)

**PETROLEUM LEGISLATION - Petroleum (Consolidation)
Act 1928**

OFFENCE

- Any person to whom a petroleum spirit licence is granted, contravenes any condition of the licence

DEFENCE None

provided

PENALTY Fine - not exceeding level 5

(Summary)

NOTES Conditions of a licence include

- " Licensee must take all practical steps necessary to prevent persons under 16 years of age having access to petroleum spirit on the licensed premises or any equipment associated with such spirit.
- At an attended operator filling station and attended self-service filling station, no operating attendant shall be under the age of 16 years and no one under the age of 18 years shall be left in sole charge of the filling station.

TOBACCO PRODUCTS

LEGISLATION - Children and Young Persons Act 1933 (As Amended) Children and Young Persons (Protection from Tobacco) Act 1991

SUPPLY OFFENCES

" Any person who sells to a person under the age of 18 years any tobacco or cigarette papers, whether for his own use or not (S.7(1)).

Amended to 18 from 1st October 2007

SUPPLEMENTARY OFFENCES

- Failure to comply with an order made in respect of a vending machine (S.7(2)).

DEFENCES

- Person charged under S.7 (1) to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence (S.7(1A)).

PENALTIES Fine - not exceeding level 4

(Summary)

NOTES

Tobacco includes cigarettes, any product containing tobacco and intended for oral or nasal use and smoking mixtures intended as a substitute for tobacco

Cigarettes includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

VIDEO WORKS LEGISLATION - Video Recordings Act 1984

SUPPLY OFFENCE

- " A person who supplies or offers to supply a video recording containing a video work to a person who has not attained the age specified for that work stated in a classification certificate, unless the supply is an exempted supply (S.11(1)).

DEFENCE

- The accused neither knew or had reasonable grounds to believe that the classification certificate contained the statement concerned or the accused neither knew or had reasonable grounds to believe that the person concerned had not attained that age or the accused believed on reasonable grounds that the supply was exempted by virtue of S.3(4) or (5) of the Act (S.11 (2)).
- " Defiance to prove that the commission of the offence was due to the act or default of another person and that the accused took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by any person under his control (S.14A).

PENALTY

Fine - not exceeding level 5 and/or imprisonment - not exceeding 6 months. (*Summary*)

134

NOTES

Video work defined as any series of visual images (with or without sound) produced electronically by the use of information contained on any disc, magnetic tape, or any other device capable of storing data electronically and shown as a moving picture.

Video recording defined as any disc, magnetic tape or any other device capable of storing data electronically containing information by the use of which the whole or a part of a video work may be produced.

Supply means supply in any manner, whether or not for reward, and therefore, includes supply by way of sale, letting on hire/exchange or loan; and references to supply are to be interpreted accordingly.

VOLATILE SUBSTANCES LEGISLATION - Intoxicating Substances (Supply) Act 1985

SUPPLY OFFENCES

- " A person to supply or offer to supply a substance to a person under the age of eighteen whom he knows or has reasonable cause to believe, to be under that age if he knows or has reasonable cause to believe that the substance or its fumes are, likely to be inhaled by the person under eighteen for intoxication purposes (S.1(1)).
- A person to supply or offer to supply a substance to a person acting on behalf of a person under eighteen, whom he knows or has reasonable cause to believe, to be so acting, if he knows or has reasonable cause to believe that the substance or its fumes are likely to be inhaled by the person under eighteen for intoxication purposes (S.1(1)).

DEFENCE

- Person proceeded against to show that at the time of supply or offer he was under the age of eighteen and was acting otherwise than in the course or furtherance of a business (S1.(2)).

PENALTIES

Fine - not exceeding level 5 and/or imprisonment - not exceeding 6 months (*Summary*)

NOTES

The offence does not apply to a controlled drug as defined in the Misuse of Drugs Act 1971 (S1 (4)).

ANTI-SOCIAL BEHAVIOR ACT 2003 – Aerosol Spray Paint

Sale of aerosol paint to children

A person commits an offence if he sells an aerosol paint container to a person under the age of sixteen.

(2) In subsection (1) "aerosol paint container" means a device which-

(a) contains paint stored under pressure, and

(b) is designed to permit the release of the paint as a spray.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale £2500.

(4) It is a defence for a person charged with an offence under this section in respect of a sale to prove that-

(a) he took all reasonable steps to determine the purchaser's age, and

(b) he reasonably believed that the purchaser was not under the age of sixteen.

(5) It is a defence for a person charged with an offence under this section in respect of a sale effected by another person to prove that he (the defendant) took all reasonable steps to avoid the commission of an offence under this section.