

businesscompanion

trading standards law explained

Tobacco and vapes

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

This guidance is for England

Certain products cannot be sold to persons below a legal minimum age; for tobacco and vapes this legal minimum age is 18.

A packet of cigarettes must contain a minimum of 20 cigarettes and must only be sold in its original packaging. A notice must be displayed stating 'It is illegal to sell tobacco products to anyone under the age of 18'.

Tobacco products must not be on display in-store and there are also restrictions on how prices and price lists are displayed.

Young people should always be asked for proof of their age.

Note: in English and Welsh law, 'nicotine inhaling products' is the legal term used to describe vapes (which are sometimes also referred to as e-cigarettes) and associated products; the generic term 'vapes' is used in this guide.

What is meant by tobacco, tobacco products and vapes?

'Tobacco' is defined as including cigarettes, any product containing tobacco for oral or nasal use (for example, snuff) and smoking mixtures used as a substitute for tobacco (for example, herbal cigarettes). 'Cigarettes' include cut tobacco rolled up in paper, tobacco leaf and other material in a form that is capable of being immediately used for smoking.

A 'tobacco product' is defined as "a product consisting wholly or partly of tobacco and intended to be smoked, snuffed, sucked or chewed".

A 'nicotine inhaling product' means a nicotine inhaling device (used to inhale nicotine through a mouth piece), nicotine cartridge (contains nicotine and forms part of a nicotine inhaling device) or nicotine refill substance (generally known as e-liquid). Nicotine inhaling devices are commonly referred to as 'vapes' and the law covers both disposable and rechargeable types. In this guide, 'vapes' refers to all the products mentioned in this paragraph, not just the inhaling devices.

Age restriction on the sale of tobacco products

The law states that it is an offence for any person to sell any tobacco products (including cigarette papers) to a person under the age of 18, whether or not it was for their own use. This is a strict liability offence, which means the owner of the business can be held responsible as well as the member of staff who made the sale. If you are charged with this offence, you have the defence that you took all reasonable precautions and exercised all due diligence to avoid committing the offence. This is commonly known as the 'due diligence' defence. The 'Keeping within the law' section of this guide includes steps that can be taken to provide a 'due diligence' defence.

You must display a notice that states:

IT IS ILLEGAL TO SELL TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18

The notice must be displayed in a prominent position and be easily visible at the point of sale. The notice must be no less than 297 mm x 420 mm (A3) and the characters must be no less than 36 mm in height. Your local Trading Standards service or your tobacco supplier may be able to provide a notice for you to use. It is an offence if you do not have the required notice on display, although the 'due diligence' defence is available to you.

Age restriction on the sale of vapes

A person who sells a vape to someone under the age of 18 commits an offence. This is a strict liability offence; the owner of the business can be held responsible as well as the member of staff who made the sale.

There is an exception for vapes that are licensed as medicines or medical devices. This exemption only applies to the extent to which the product is authorised.

If you sell vapes, you might want to display a poster advising customers that you will not sell to under-18s:

If I sell vapes or nicotine refills to people under 18 TRADING STANDARDS WILL PROSECUTE ME

Note: unlike the tobacco poster, this is not a legal requirement and is simply suggested wording.

Single use, disposable vapes are increasingly popular with children, largely due to their bright colours, appealing flavours and price. You and your staff should be alert to attempts by children to buy these products and take extra care to avoid underage sales.

Additional [guidance for pharmacies](#) (and other retailers that have not traditionally sold age-restricted products) has been produced by the Department of Health and Social Care (which was known simply as the Department of Health at the time), the Medicines and Healthcare products Regulatory Agency and the Chartered Trading Standards Institute.

Age of the person making the sale

If you employ children in your business, it is not illegal for them to sell tobacco products, provided of course that the customer is not under the age of 18. However, leaving unsupervised children selling tobacco is not recommended as they may find it difficult to refuse customers in their own age group.

Persistent sales to under-18s

If you are convicted of selling tobacco or vapes to persons under the age of 18, and at least two other offences occurred in the preceding two years relating to the same premises, Trading Standards can make an application to a Magistrates' Court for a restricted premises order and/or a restricted sales order.

A restricted premises order prohibits the sale from the premises of any tobacco, cigarette papers or vapes to any person, by you or any of your staff for a period of up to one year. You are entitled to make representations to the court as to why they should not grant the order.

A restricted sales order prohibits a specified person who has been convicted of a tobacco or nicotine offence from selling any tobacco, cigarette papers or vapes to any person and from having any management function related to the sale of tobacco, cigarette papers or vapes for a period of up to one year.

Offences are committed if a person sells tobacco, cigarette papers or vapes when a restricted premises order is in place or if a person fails to comply with a restricted sales order.

Proxy purchase of tobacco and vapes

An adult who buys or attempts to buy tobacco, cigarette papers or vapes on behalf of someone under the age of 18 commits an offence. This is called 'proxy purchasing'.

It is the buyer and not the trader who commits an offence under these circumstances. However, be aware of young people loitering outside your premises; they may ask adult customers to buy tobacco, cigarette papers or vapes for them. It is advisable to refuse such sales.

Is it legal to sell single cigarettes?

No. A packet of cigarettes must contain a minimum of 20 cigarettes. It is an offence to sell cigarettes to any person other than in their original package. This means you must not split a pack and sell in lesser quantities.

Can tobacco be sold from vending machines?

No. Under the Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010, the sale of tobacco from an automatic vending machine is prohibited. If a sale takes place, the person who controls, or is concerned with the management of the premises where the automatic vending machine is located, commits the offence.

Any machines still on the premises can only be used for storage where the public do not have access to them (such as behind the bar) and must not display any advertising material.

Display and price marking of tobacco products

The display of tobacco products is prohibited and is an offence under the Tobacco Advertising and Promotion Act 2002.

Exemptions apply to the prohibition of tobacco displays, which are set out in the Tobacco Advertising and Promotion (Display) (England) Regulations 2010, one of which relates to 'requested displays' (a particular request by an individual to purchase or obtain information on a tobacco product). No offence is committed where a specific request has been made to you by a person aged 18 or over.

It is not an offence to display tobacco-related accessories such as cigarette papers.

If you are charged with an offence where a requested display was to a person under the age of 18, you have the defence that you believed the person was 18 or over and you had taken all reasonable steps to establish their age or from their appearance no-one could reasonably have suspected that the person was under the age of 18. Taking 'all reasonable steps' means asking the person for evidence of their age and the evidence would convince a reasonable person. If you are charged with an offence of causing the display of a tobacco product, you have the defence available that you exercised all due diligence to avoid committing the offence.

There are also strict requirements relating to the manner in which tobacco products are price-marked, as

set out in the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010; there are only three forms of lists and labels that are allowed (see paragraphs 49-62 of the detailed guidance linked to below).

There are specific rules for bulk and specialist tobacconists (see paragraphs 38-39 and 60-62 of the detailed guidance).

[Detailed guidance](#) has been produced by the Department of Health and Social Care (DHSC, which was known simply as the Department of Health at the time) and the Chartered Trading Standards Institute to assist you in compliance.

A [Q&A document](#) from DHSC and CTSI is also available.

Cigarette lighter refills

The Cigarette Lighter Refill (Safety) Regulations 1999 prohibit the supply of any cigarette lighter refill canisters containing butane, or a substance with butane as a constituent part, to anyone under the age of 18. This is because of the potential for abuse by 'sniffing' the gas, which can be extremely dangerous. See '[Cigarette lighter refills](#)' for further details.

Matches and lighters

It is not illegal to sell matches or lighters to children. However, it is recommended that you do not sell these items to children, who are unlikely to have a legitimate use for them.

Defences

If you are charged with any of the offences detailed above, you have the defence that you took all reasonable precautions and exercised all due diligence to avoid committing the offence. For age-restricted products such as tobacco this generally means that you believed the person was aged 18 or over and you had taken all reasonable steps to establish their age or that from their appearance no-one could reasonably have suspected that the person was under the age of 18. Taking 'all reasonable steps' means asking the person for evidence of their age and that the evidence would convince a reasonable person.

Keeping within the law

In order to keep within the law and satisfy the legal defence, you are advised to introduce an age verification policy and have effective systems to prevent display and sales to under-18s. To ensure these systems stay effective, they need to be regularly monitored and updated (where necessary) to identify and put right any problems or weaknesses, and to keep pace with any advances in technology.

Key best practice features of an effective system include the following.

Age verification checks

Always ask young people to produce proof of their age. The Chartered Trading Standards Institute, the Home Office and the National Police Chiefs' Council support the UK's national [Proof of Age Standards](#)

[Scheme \(PASS\)](#), which includes a number of card issuers. You can be confident that a card issued under the scheme and bearing the PASS hologram is an acceptable proof of age.

A passport or a UK photocard driving licence is also acceptable, but make sure that the card matches the person using it and the date of birth shows they are 18 or over. Military identification cards can be used as proof of age, but (as with other forms of identification) make sure the photo matches the person presenting the card and check the date of birth. Be aware that military identification cards can be held by 16 and 17-year-old service people.

You do not have to accept all of the above forms of identification and it may be best to exclude any type of document that your staff are not familiar with.

Some young people may present false identification cards so it is advisable to also check the look and feel of a card. For example, the PASS hologram should be an integral part of a PASS card and not an add-on.

If the person cannot prove that they are at least the minimum legal age, or if you are in any doubt, refuse the sale.

Please see the Home Office [False ID Guidance](#) for more information.

Operate a Challenge 21 / Challenge 25 policy

This means that if the person appears to be under the age of 21 / 25, they will be asked to verify that they are 18 or over by showing valid proof of age.

Staff training

Make sure your staff are properly trained. They need to know which products are age restricted, what the age restriction is and the action they must take if they believe a person under the age of 18 is attempting to buy. It is important that you can prove your staff have understood what is required of them under the legislation.

This can be done by keeping a record of the training and asking your staff to sign to say that they have understood it. These records can then be checked and signed on a regular basis by management or the owner.

Maintain a refusals log

It is best practice to record all refusals (date, time, incident, description of potential buyer). Maintaining a refusals log will help to demonstrate that you actively refuse sales and have an effective system in place. It is advisable that the manager / owner checks the log to ensure that all members of staff are using it.

A specimen [refusals log](#) is attached.

Some tills have a refusals system built in. If you use a till-based system, ensure that refusals can be retrieved at a later date. Be aware that some refusals are made before a product is scanned.

Till prompts

If you possess an EPoS system, it may be possible to use it to remind staff of age restrictions via a prompt. Alternatively, stickers can be used over certain product barcodes.

You should note that till prompts will not help you prevent offences under the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 as the scan and prompt takes place after the display has been made.

Signage

You must display the legally required tobacco notice (see 'Age restriction on the sale of tobacco products' above). It is not a legal requirement but you can, if you wish, display a poster advising customers that you will not sell e-cigarettes or nicotine refills to under-18s (see 'Age restriction on the sale of vapes' above). These should deter potential purchasers and act as reminders to staff.

Closed circuit television (CCTV)

A CCTV system may act as a deterrent and reduce the number of incidents of underage sales.

Online sales

If you sell by distance means, such as online or via a catalogue, you should set up an effective system capable of verifying the age of potential purchasers. Please see '[Online sales of age-restricted products](#)' for more information.

Packaging, labelling, advertising and tracking

For information on the requirements regarding packaging etc, see '[Tobacco, vapes, etc: packaging, labelling, advertising and tracking](#)'.

Single-use (disposable) vapes ban

With effect from 1 June 2025, the Environmental Protection (Single-use Vapes) (England) Regulations 2024 ban the sale and supply of single-use vapes (also commonly referred to as disposable vapes). This ban applies to all single-use vapes, whether they contain nicotine or not.

Why introduce a ban?

It has long been recognised that single-use vapes are a wasteful use of precious earth resources. They often end up as litter, leading to pollution; they are discarded as non-recycled waste and the batteries they contain have the potential to cause fires. The ban aims to support sustainable behaviour and to reduce the environmental impact of vaping.

This ban affects all businesses within the vaping sector, including manufacturers, importers, wholesalers and retailers.

What is the difference between single-use and reusable vapes?

Single-use vapes are those that are not designed or intended to be re-used.

To be treated as reusable, a vape must be all of the following:

- **refillable.** This means that it is designed to include a single-use container* that is available for the user to buy separately, or it is designed to include a container* that a user can refill with vape liquid
- **rechargeable.** This means that it is designed to contain a battery that can be recharged
- **replaceable.** It must have a coil (whether or not it is part of a replacement cartridge or pod) that is capable of being replaced by the user and is available for them to buy separately to the vape itself

[*The Regulations define a 'container' as "a cartridge, pod, tank, capsule or other any other receptacle designed to hold a vaping substance and to be used with a vape".]

Maximum legal capacity:

- 2 ml for pods, tanks, etc
- 10 ml for refill containers

It is important that you can demonstrate compliance with the law if required to do so by Trading Standards. This means that you are able to produce evidence to show that you took reasonable steps to ensure that the vape is, in fact, reusable. Before you place an order with your supplier, you should carry out the following checks:

- vaping products containing nicotine must be notified to and approved by the Medicines and Healthcare products Regulatory Agency (MHRA). Check the [MHRA ECIG](#) website to see if the vape is listed. If it is not listed, it is not legal and you cannot sell or supply it
- if a vape does not contain nicotine, it does not have to be notified to MHRA and will not be listed. In these circumstances, seek an assurance from your supplier that the vape is reusable and check samples of the product yourself to verify that this is the case. If you have any doubts, contact your local Trading Standards service
- you may choose to supply or sell 'separately available' replacement components (containers, vape liquids and coils) within your premises or you can ask your supplier for a list of stockists

What you should do before 1 June 2025

Each Trading Standards service enforces the ban within its own local authority area. From 1 June, if you supply (or offer to supply / have in your possession for supply) single-use vapes, they can be seized. Trading Standards can also apply civil sanctions (fixed monetary penalty, Compliance Notice or Stop Notice) or charge you with an offence.

With this in mind, it is essential that you act now:

- don't buy any new stock of single-use vapes
- sell all of your existing stock
- only buy vapes that comply with the new Regulations (**note:** they must also comply with existing

- vaping products regulations)
- train your staff on the specifics of the ban
- inform and advise your customers to support their switch to reuseable vapes

Any single-use vapes that you do not sell should be marked 'not for sale or supply', stored away from new stock and arrangements made with a specialist waste management business to dispose of them.

The Department for Environment, Food and Rural Affairs (Defra) has published [guidance on the forthcoming single-use vapes ban](#).

Recycling

Vapes of all types are electrical items, which are covered by the Waste Electrical and Electronic Equipment Regulations 2013. As a seller (referred to as a 'distributor' under the Regulations), you must offer a 'take back' service. This means that you accept vapes (including single-use vapes returned after the ban comes into force) and vape parts (such as used pods, coils or batteries) that your customers return to you to be recycled. You should ensure that returns are stored safely to minimise any fire risk and recycled on a regular basis.

Batteries

Information on the safety of batteries in vapes can be found in '[Batteries](#)'.

Further information

The House of Commons Library has published a briefing paper entitled [The Regulation of E-cigarettes](#), which "provides an overview of the regulation, health, and product safety aspects, of e-cigarettes".

For more information on vapes, see '[Vaping products](#)' and '[Chemical safety of vapes](#)', which can be found in Business Companion's Business in Focus section.

Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see '[Trading Standards: powers, enforcement and penalties](#)'.

In this update

More information added on the forthcoming ban on single-use vapes.

Last reviewed / updated: May 2025

Key legislation

- [Children and Young Persons Act 1933](#)
- [Children and Young Persons \(Protection from Tobacco\) Act 1991](#)
- [Cigarette Lighter Refill \(Safety\) Regulations 1999](#)

- [Tobacco Advertising and Promotion Act 2002](#)
- [Protection from Tobacco \(Sales from Vending Machines\) \(England\) Regulations 2010](#)
- [Tobacco Advertising and Promotion \(Display\) \(England\) Regulations 2010](#)
- [Tobacco Advertising and Promotion \(Display of Prices\) \(England\) Regulations 2010](#)
- [Waste Electrical and Electronic Equipment Regulations 2013](#)
- [Children and Families Act 2014](#)
- [Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#)
- [Standardised Packaging of Tobacco Products Regulations 2015](#)
- [Environmental Protection \(Single-use Vapes\) \(England\) Regulations 2024](#)

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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