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 Scotland

The Tobacco and Vapes Act 2026 (the T&V Act) introduces phased restrictions with the aim of reducing smoking-related harm, preventing young people from becoming addicted to nicotine and supporting public health objectives. The T&V Act makes it an offence to sell tobacco products to anyone born on or after 1 January 2009, meaning that the legal age for purchasing tobacco will increase by one year, every year. It also strengthens controls on vaping and nicotine products by restricting sales to under-18s.

The T&V Act also prohibits the use of vending machines for the sale and dispensing of tobacco products, herbal smoking products, cigarette papers and (with some exemptions) vaping and nicotine products.

A pack of cigarettes must contain a minimum of 20 cigarettes and must only be sold in its original packaging. An age of sale notice must be displayed at the point of sale.

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

Vaping and nicotine products

You must not sell a vaping or nicotine product to a person under the age of 18. If you do so, you commit an offence.

If you are charged with an offence, you have a defence if you can prove that you followed age-verification procedures to verify the buyer was at least 18 years old or you took all reasonable steps to avoid committing the offence.

Vaping product means :

- A vape device (pod, pen, etc)
- Any item intended to form part of a vape device (coil, refill container, etc)
- A vaping substance (e-liquid, nicotine salt, etc)

Nicotine products were not always covered by older legislation. The T&V Act updates the law so that all nicotine products are subject to the same age restrictions as vapes, regardless of how the nicotine is produced.

Nicotine product means:

- A device, including any component forming part of that device, intended to enable the delivery of nicotine into the body
- Nicotine, or any nicotine-containing substance, intended to be delivered into the body

Nicotine products are evolving rapidly and currently include:

- Nicotine pouches

- Nicotine strips
- Nicotine pearls
- Synthetic nicotine products

Tobacco products, herbal products for smoking and cigarette papers

The T&V Act introduces a new age of sale offence relating to the sale of tobacco and other smoking-related products.

From 1 January 2027, you must not sell any of the following to anyone born on or after 1 January 2009:

- A tobacco product
- A herbal smoking product
- Cigarette papers

If you are charged with an offence, you have a defence if you can prove that you followed age-verification procedures or took all reasonable steps to avoid committing the offence.

Tobacco products covered include:

- Cigarettes
- Hand-rolling tobacco
- Cigars and cigarillos
- Pipe tobacco
- Shisha (flavoured tobacco product smoked through a waterpipe)
- Tobacco blunts (tobacco leaf smoking wrap)
- Nasal, chewing and heated tobacco

Herbal smoking products include:

- Herbal shisha (nicotine and tobacco-free flavoured plant-based materials used for smoking through a waterpipe)
- Herbal cigarettes
- Herbal blunts (tobacco-free smoking wrap)

Cigarette papers include anything used for wrapping round tobacco products or herbal smoking products so they can be smoked.

Register of tobacco and vapes retailers

You must register with the Scottish Government to become a tobacco and/or vape retailer. This can be done online and the application must contain your name and the address of the premises (including moveable premises) from which you intend to retail tobacco and/or vapes. If you are registered to sell tobacco and you intend to retail vapes, you must apply to change your registration to include vapes.

Tobacco or vape retailing banning orders

A person may be banned from carrying on a tobacco or vape business from the premises at which they committed three or more offences against tobacco or vape legislation within a period of 24 months. The ban can be for any period up to 24 months.

A person banned from retailing tobacco or vapes at a premises commits an offence if they retail tobacco or

vapes at those premises during the period of the ban.

Age of sale notices

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 that 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. The sign must be displayed until midnight on 31 December, at which point it must be replaced by the new sign (see below).

If you sell vaping or nicotine products, you may wish to display a poster advising customers that you will not sell to under-18s:

Vaping and nicotine products 18+ only. If you look 25 or under, we'll ask for proof of age

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

From 1 January 2027, you must display a notice in a prominent position, at each point of sale on the premises, stating:

It is illegal to sell tobacco products to anyone born on or after 1 January 2009

Each notice must be a minimum of 297 mm by 420 mm, and each character within the notice must be a minimum of 21 mm high.

It will be an offence not to display the required notice, unless you can demonstrate that you took all reasonable steps to avoid committing the offence.

Proxy purchasing

Anyone aged 18 or over who buys, or attempts to buy, a vaping or nicotine product on behalf of a person under 18 commits an offence.

From 1 January 2027, anyone aged 18 or over who buys, or attempts to buy, a tobacco product, a herbal smoking product or cigarette papers on behalf of someone who was born on or after 1 January 2009 commits an offence.

This is called 'proxy purchasing'.

It is the buyer (and not you as 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 these products 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 packaging (that is, in the retail packaging in which they were supplied to you). This means you must not split a pack and sell in lesser quantities.

Age of the person making the sale

For premises that are not registered, an employer of a person (or any other person who has management control of those premises) who allows the sale of a tobacco product, cigarette papers or a vape by a person under the age of 18 commits an offence.

If the sale takes place on registered premises and the person under the age of 18 making the sale is authorised to do so in writing, no offence is committed.

Free distribution and product discounts

The T&V Act sets out the legal consequences of using free distribution or substantial discounts as means to promote a tobacco product, a herbal smoking product, cigarette papers a vaping or a nicotine product; these are collectively called 'relevant products'.

You must not:

- Give away a relevant product free of charge where the purpose or effect is to promote that product
- Give away a coupon with a view to promoting a relevant product. A coupon means any item, whether physical or electronic, that can be redeemed (on its own or in combination with another item) for a product, service, cash, or any other benefit

Examples of promotional practices that are effectively no longer permitted include:

- Handing out free vape samples in a shopping centre
- Distributing free nicotine pouches to attract new customers
- Giving away cigarette papers as a free gift to promote other relevant products
- Promotions such as 'Buy a vape and get a free e-liquid'

If you are charged with an offence of giving away a vaping or nicotine product or a coupon for one of these products, you have a defence available that you were acting in accordance with a formal agreement or contract you had with a public authority. For example, free distribution within a smoking cessation service to support individuals to quit smoking tobacco products.

It is also an offence to:

- Sell a relevant product at a substantial discount where the purpose or effect is to promote that product
- Sell or provide a coupon at a substantial discount for the purchase of relevant products

The T&V Act does not specify a particular percentage that automatically amounts to a 'substantial

discount'. However, a price that is much lower than your normal selling price, and could not reasonably be regarded as a genuine discount or part of normal trading practice (such as a genuine stock clearance reduction), is likely to be caught by the offence.

Vending machines

Previous legislation already banned the sale of tobacco from vending machines. The T&V Act replaces that legislation and now covers a wider range of products that must not be sold from vending machines.

If you manage or control premises and you allow a vending machine to be used to sell or dispense relevant products to customers, you commit an offence. You must not, therefore, allow customers to obtain the following products from a vending machine on your premises:

- Tobacco products
- Herbal smoking products
- Cigarette papers
- Vaping products
- Nicotine products

You can use a vending machine to store these products, but customers must not be able to access it to buy or receive them.

This offence does not apply to vaping product vending machines in areas of mental health hospitals that are intended wholly or mainly for inpatients.

Tobacco display

The T&V Act gives the Scottish Ministers power to make new rules about how tobacco products, tobacco-related devices, herbal smoking products, cigarette papers, vaping products and nicotine products (and their prices) can be displayed on retail premises. Until such time as the law is updated, the current rules remain in place.

You are required to cover your display of tobacco products. It is an offence to display tobacco products unless a specific request to purchase tobacco has been made to you by a person over the age of 18.

Retailers must not have tobacco products and smoking-related products (cigarette papers, tubes, filters, holders, apparatus for making cigarettes and pipes for smoking tobacco products) on permanent, open display - for example, on public view on gantries behind the counter. The size of each display must not exceed 1,000 cm^2. Tobacco retailers must make sure that tobacco products and smoking-related products are out of public sight and cannot be seen unless the display is incidental to normal stocktaking, cleaning, pricing or restocking.

There are specific rules for bulk and specialist tobacconists.

Tobacco prices

Only three types of tobacco price display are permitted:

- Poster style lists (up to A3 in size), which can be permanently on show. The legislation states that these must not exceed 1,250 cm^2 (A3-sized paper falls within the legal size limit)

- A price list available on request (picture price list), which must not be left on permanent show but which can be shown to any customer who asks for information about tobacco products or smoking-related products. Good practice would suggest that age checks should be carried out before showing the picture price list and requests from children and young people under the age of 18 should be refused
- Price labels, which can be placed on shelving, storage units or tobacco jars. One price label is permitted for each product, either on the covered shelf where the product is stored or on the front of the storage unit where the particular tobacco product or smoking-related product is held pending sale.

Snus (oral tobacco products)

Snus is a smokeless oral tobacco product placed under the lip. You must not sell, offer or expose it for sale. To do so is an offence.

If you are charged with an offence, you have a defence if you can prove that you took all reasonable steps to avoid committing the offence.

You must not have an oral tobacco product in your possession with intent to supply it to someone else in the course of business.

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

To recap, from 1 January 2027, if you are charged with a sale offence (tobacco products, herbal smoking products and cigarette papers), you have the defence that you took reasonable steps to avoid committing the offence. This means asking the person for evidence of their age to verify they were born before 1 January 2009.

If you are charged with an offence of selling a vaping or nicotine product to someone under the age of 18, you also have the defence available that you took reasonable steps to avoid committing the offence.

You can use the 'reasonable steps' defence for an offence of failing to display the required age of sale notice.

Age-verification policy

You must have an age-verification policy, which is available for inspection by an enforcement officer. Your written age-verification policy must state exactly what steps are to taken to establish the age of a person who appears to be under the age of 25.

The Scottish Government has produced guidance on age-verification policies for tobacco / vaping product businesses.

Keeping within the law

In order to keep within the law and satisfy the legal defences, you must have a written age-verification policy (see above). You are advised to have effective systems to prevent certain displays of tobacco products, cigarette papers or vapes, and their sale 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 Scottish Government and Police Scotland 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. The Scottish Government also endorses the Young Scot card.

A passport, photocard driving licence, Ministry of Defence form 90, EU national identity card or a biometric immigration document is also acceptable, but make sure that the:

- Card matches the person using it
- Date of birth shows that they are at least the minimum legal age

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.

Operate an age-verification policy

It is a legal requirement that you and your staff check the age of those attempting to buy tobacco, tobacco products and vapes. All customers who appear to be under the age of 25 must be asked to show valid

proof of age that verifies they are over 18.

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 legal age 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.

Signage

You must display the legally required tobacco notice. It is not a legal requirement but you can, if you wish, display a poster advising customers that you will not sell vapes or nicotine refills to under-18s. These should deter potential purchasers and act as reminders to staff.

See 'Age of sale notices' above for more information.

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

The Environmental Protection (Single-use Vapes) (Scotland) 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.

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 reuseable, 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, reuseable. 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 reuseable 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

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 Department of Health and Social Care (DHSC) has produced detailed smoking and vaping guidance, which includes information on the T&V Act.

The DHSC's guidance on the T&V Act covers:

- Selling tobacco, herbal smoking products and cigarette papers
- Selling vaping and nicotine products
- Tobacco, vaping and nicotine products: fixed penalty notices
- Tobacco and vaping product vending machine ban

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

For more information on vapes, see 'Chemical safety of vapes', which can be found in Business Companion's Business in Focus section.

Future changes

The T&V Act gives the Government future powers to change the rules on the display and price marking of tobacco, vaping and nicotine products, as well as powers to amend packaging and product requirements.

A provision has also been made to prohibit the retail sale of tobacco products etc without a licence.

The Act is set to end the advertising and sponsorship of vaping and nicotine products, herbal smoking products and cigarettes. It is anticipated that this will come into force from 1 June 2027.

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

Parts 1-4 of the Tobacco and Vapes Act 2026 come into force on 29 October 2026. Phased age-of-sale restrictions for tobacco and related products begin on 1 January 2027 (until 1 January, the current law preventing sales to under-18s continues to apply). The guide has been updated to cover both of these.

Last reviewed / updated: October 2026

Key legislation

- Cigarette Lighter Refill (Safety) Regulations 1999
- Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010
- Tobacco and Primary Medical Services (Scotland) Act 2010
- Sale of Tobacco (Display of Warning Statements) (Scotland) Regulations 2011
- Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011
- Sale of Tobacco (Display of Tobacco Products and Prices etc) (Scotland) Regulations 2013
- Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013
- Waste Electrical and Electronic Equipment Regulations 2013
- Standardised Packaging of Tobacco Products Regulations 2015
- Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016
- Tobacco and Related Products Regulations 2016
- Sale of Nicotine Vapour Products (Prescribed Documents) (Scotland) Regulations 2017
- Sale of Tobacco and Nicotine Vapour Products by Persons Under 18 (Scotland) Regulations 2017
- Environmental Protection (Single-use Vapes) (Scotland) Regulations 2024
- Tobacco and Vapes Act 2026

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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