businesscompanion
trading standards law explained

Aerosol spray paints

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This guidance is for Scotland

It is a criminal offence to sell a spray paint device to anyone under the age of 16.

There are measures you should put in place to avoid selling to under-16s. These include carrying out age-verification checks and regular staff training, and displaying posters concerning the age restriction.

Antisocial behaviour and spray paint devices

The Antisocial Behaviour etc (Scotland) Act 2004 addresses the problem of spray-painted graffiti, recognising that graffiti can contribute to the fear of crime. Research has shown that graffiti, litter and general degradation of a neighbourhood disproportionately affect people's sense of safety and security. Local authorities spend considerable sums of money every year removing graffiti, with varying degrees of success.

The law

The Antisocial Behaviour etc (Scotland) Act 2004 deals with the sale of spray paint devices to children:

- A spray paint device is defined as a device that contains paint stored under pressure, and designed to permit the release of the paint as a spray

- A person commits an offence if they sell a spray paint device to a person under the age of 16
- The owner of the business, as well as the person who made the sale, may be liable if a sale of a spray paint device is made to a person under the age of 16
- A notice (see below) is required to be exhibited in a prominent position at all retail premises selling spray paint devices. Failure to display a notice is an offence

IT IS ILLEGAL TO SELL A SPRAY PAINT DEVICE TO ANYONE UNDER THE AGE OF 16

Defences

If you are charged with an offence of selling a spray paint device to a person under the age of 16, you have a defence available to you that you took all reasonable steps to determine the purchaser's age and that you reasonably believed that the purchaser was not under the age of 16.

If you, as owner of the business, are charged with an offence because someone working in your premises sold a spray paint device to a person under the age of 16, you have a defence available to you that you took all reasonable steps to avoid committing the offence.

Keeping within the law

In order to keep within the law and satisfy the legal defences, you are advised to introduce an age-verification policy and have effective systems in place to prevent sales to under-16s. 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, UK 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 a Challenge 25 policy

This means that if the person appears to be under the age of 25, they will be asked to verify that they are 16 or over by showing valid proof of age.

Staff training

Make sure that 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 16 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 members of 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.

Store and product layout

Identify the age-restricted products in your store and consider moving them nearer to the counter, or even behind it. Consider displaying dummy packs so that people have to ask for the products if they want to buy them.

Closed circuit television (CCTV)

A CCTV system may act as a deterrent and reduce the number of incidents of underage sales. It will also help you to monitor 'blind spots' within your store if it is not possible to change the layout or relocate the products behind, or closer to, the counter.

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.

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

No major changes.

Last reviewed / updated: December 2025

Key legislation

- Antisocial Behaviour etc (Scotland) Act 2004

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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