



This guidance document contains Assured Advice under the ACS Primary Authority Scheme. For more details visit www.acs.org.uk/assured-advice

ACS | advice

ELECTRONIC CIGARETTES

E-cigarettes are devices that heat a nicotine-containing e-liquid to generate an aerosol. Using an e-cigarette is also known as “vaping”. This guide explains how to source and sell e-cigarettes responsibly.

1. RESPONSIBLE SOURCING

E-cigarette products must be notified to MHRA before being legal to sell in retail stores. When sourcing new supplies of any e-cigarette or e-liquid product, check that a compliant notification has been published in one of the Notified Product lists on the MHRA website, which are updated weekly. If a product has yet to achieve publication status, the supplier may not supply it to you for resale. For more information, retailers should access the following retailer guide <https://bit.ly/3nnvUlj> from the MHRA to help retailers to check e-cigarette and e-liquid products for compliance.

Side effects and safety concerns with e-cigarettes or e-liquids (refill containers) can be reported to MHRA through the Yellow Card reporting system. Retailers and consumers can report products that are either defective or non-compliant to local Trading Standards or email TPDsafety@mhra.gov.uk

The best way to ensure that you are only stocking legal products is to source from reputable companies with UK offices or authorised representation, or from recognised wholesalers.

2. REGULATIONS

The European Union Tobacco Products Directive “TPD” is the framework that sets minimum regulatory standards and processes for tobacco products, electronic cigarettes and herbal products for smoking in the European Union. The Directive was implemented into UK law through the Tobacco and Related Product Regulations 2016 (TRPR).

In the UK, e-cigarettes are tightly regulated for safety and quality. Vapour products in the UK need to be notified to the MHRA (Medicines and Healthcare products Regulatory Agency). MHRA requires all e-cigarette manufacturers to submit data to evaluate the potential health impact of a product, as well as information about how it was manufactured.



3. UK NATIONS

ENGLAND AND WALES

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 came into effect on 1 October 2015 and makes it an offence:

- For retailers to sell e-cigarettes to anyone under the age of 18. (E-cigarettes which are licensed as medicines are exempt from the age restriction – see next page).
- For the proxy purchase of e-cigarettes.

Sanctions

- If a retailer sells an e-cigarette to someone under the age of 18, both the retailer and staff member who made the sale are liable on summary conviction to a fine not exceeding level 4 (£2,500 at time of publication) on the standard scale.
- The fixed penalty for the proxy purchase of e-cigarettes is £90. The fine applies to the person who purchases or attempts to purchase for someone under the age of 18.

SCOTLAND

The Health (Tobacco, Nicotine Etc. and Care)(Scotland) Act makes it an offence:

- For retailers to sell e-cigarettes to anyone under the age of 18. (E-cigarettes which are licensed as medicines are exempt from the age restriction – see below).
- For failing to implement an age verification policy for the sale of e-cigarettes.
- For the proxy purchase of e-cigarettes.
- To sell e-cigarettes from a premises which is not registered on the Scottish Tobacco Retailers Register.
- For any person under the age of 18 to sell a tobacco product, cigarette papers, or Nicotine Vaping Product without authorisation from a person over the age of 18.

The Act also implements further restrictions on e-cigarette media advertising which is yet to be confirmed by Scottish Ministers

Sanctions

- If a member of staff sells an e-cigarette to someone under the age of 18, they are liable on summary conviction to a fine not exceeding level 4 (£2,500 at time of publication) on the standard scale.
- If a retailer fails to implement an age verification policy for the sale of e-cigarettes, they are liable on summary conviction to a fine not exceeding level 2 (£500 at time of publication) on the standard scale.
- If a retailer allows staff under the age of 18 to sell a tobacco product, cigarette papers, or Nicotine Vaping Product without authorisation they are liable on summary conviction to a fine not exceeding level 1 (£200 at time of publication) on the standard scale.
- A person who purchases or attempts to purchase e-cigarettes for someone under the age of 18 is liable on summary conviction to a fine not exceeding level 5 (£5,000 at the time of publication) on the standard scale.
- A retailer who continues to sell e-cigarettes without registering to sell e-cigarettes is liable on summary conviction to a fine not exceeding £20,000, imprisonment for a term not exceeding 6 months, or both.

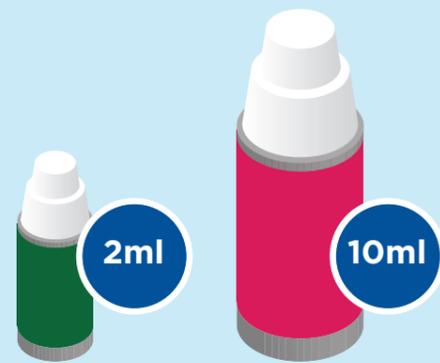
4. PRODUCT AND LABELLING REQUIREMENTS

The TRPR has strict requirements for e-cigarettes that are compliant and permitted for resale. Those requirements include:

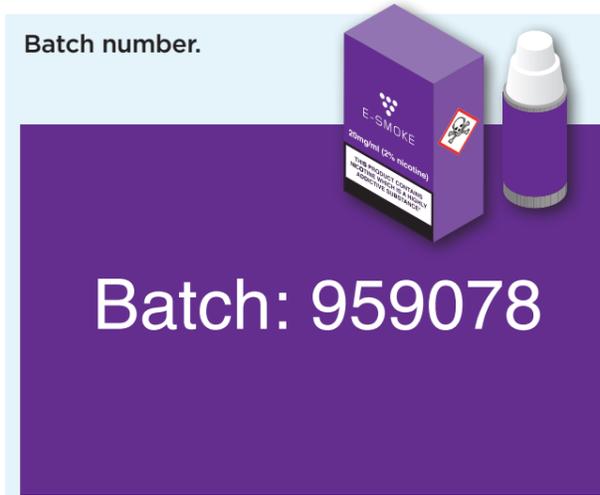
Maximum tank size (cartridge/pod): 2 ml.



Maximum refill container volume: 10 ml.



Batch number.



Recommendation to keep the product out of the reach of children.



Maximum nicotine content: 20 mg/ml.



Prominent health warning in black text on a white background on front and back (30% of each surface). No variation to this wording is permitted.



Offers and discounts, product safety/health claims are prohibited on packs.



E- cigarettes that are charged from the mains electrical supply should bear the CE mark or UKCA mark. The UKCA (UK Conformity Assessed) mark became part of UK law when the UK left the EU and must be included on all packaging from January 2023 onwards]



List of ingredients in nicotine-containing liquid, if present.

3x Flavoured eLiquid

INGREDIENTS

Vegetable Glycerine (<80%)
 Monopropylene Glycol (<20%)
 Flavouring: cookie, cherry, almond.
 0.6% Nicotine

Indication of nicotine content and delivery per dose.

Nicotine content
 6-8 mg per
 cartridge

All e-cigarettes and refill containers must be Tamper-evident and have child-resistant packaging. Electronic/electrical products must be disposed of separately from household waste.



Packaging must also contain the manufacturer or importer name and contact details.

Imported and distributed by
E-Smoke Ltd
 90 Eastern Road,
 Slough SL3 1XS
 Tel: 01753 100100
 Email: info@e-smoke.co.uk

5. PREVENTING UNDERAGE SALES

E-cigarettes are age-restricted products by law. The minimum age to purchase is 18. Any retailer who sells an e-cigarette to someone under the age of 18 is committing an offence, and both the business owner and staff members who made the sale can be penalised.

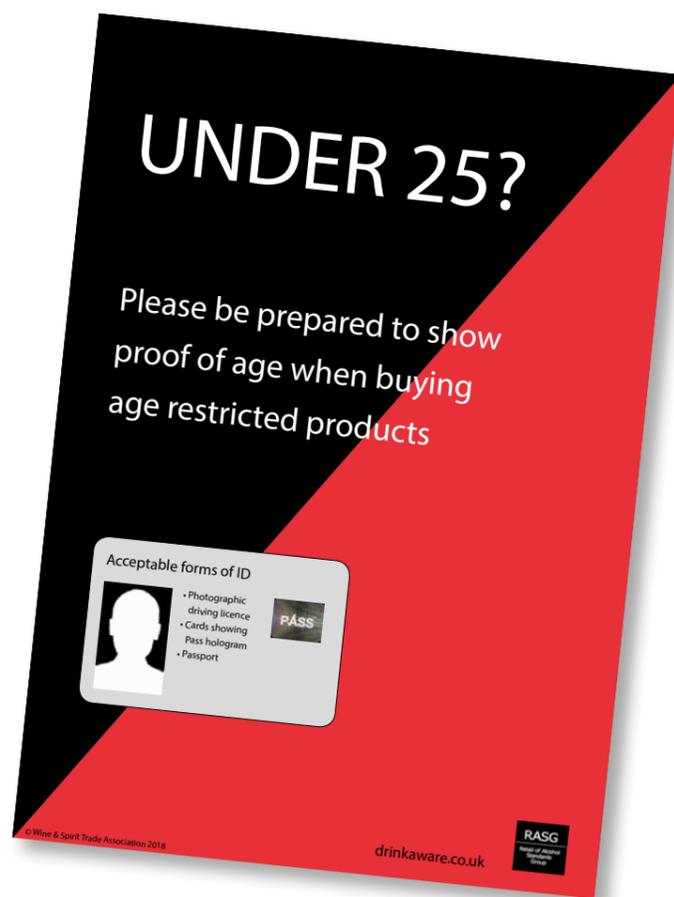
Challenge 25

ACS recommends the use of Challenge 25 policies for all underage sales.

Challenge 25 is a store policy based on two simple principles:

1. All staff serving customers should be trained to 'think 25'. This means if a customer is seeking to buy an age restricted product (of any kind), the staff member should ask themselves the question - 'does the person in front of me look like they might be under the age of 25 years?' If the answer is yes, then they should ask the person for a valid proof of age. If the identification confirms they are over the legal age of purchase for that product, then it can be sold to them.
2. The store policy is clearly communicated to customers, usually through the use of visible in-store signage.

Posters are available to download and print from <http://www.challenge25.org/downloads.html>

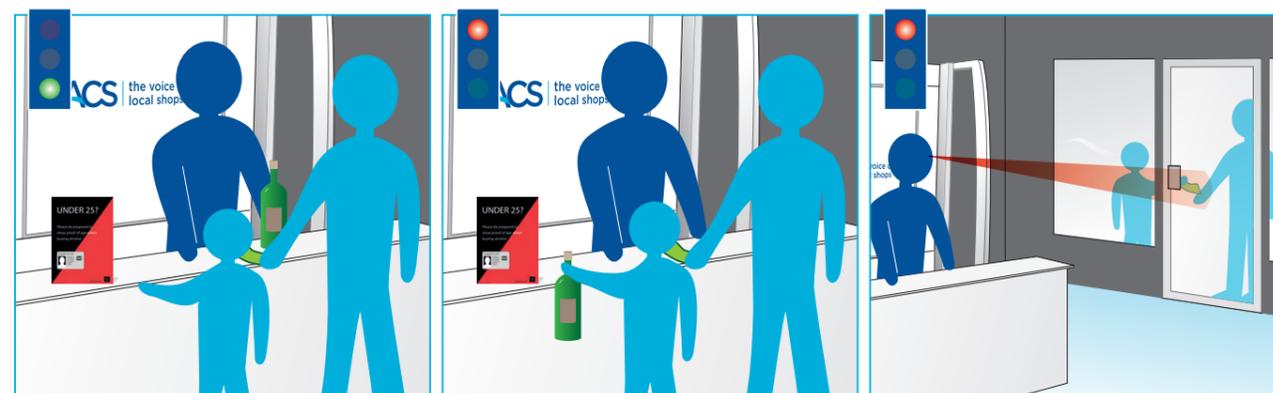


6. PROXY SALES

It is an offence for an adult to purchase nicotine inhaling products on behalf of someone under age. This is commonly called a 'proxy sale'. You should consider adopting a common approach to identifying and preventing proxy sales across all age restricted products.

It can be very difficult to know if an adult intends to buy an age restricted product for or on behalf of someone who is underage. Therefore, you are only expected to act when an obvious proxy sale is taking place. More information on common scenarios that retailers may encounter when dealing with attempted proxy sales is available in the ACS Assured Advice guide on Preventing Underage Sales.

To mitigate proxy purchasing, some manufacturers might enforce product-quantity limits that restrict bulk orders that may be distributed to those underage. Check and comply with manufacturer product-quantity limits if they have such policies in place.



7. ONLINE SALES

For retailers that sell e-cigarettes online through a delivery service or online ordering platform, ACS recommends conducting ID checks before any goods are delivered to a customer. More information about selling age restricted products online is available in the ACS Assured Advice guide on Preventing Underage Sales.

8. ADVERTISING

Retailers that advertise e-cigarettes should consult advice on the restrictions on advertising e-cigarettes and refill containers from the Department of Health and Social Care and from the Advertising Standards Authority.

MEDICATED E-CIGARETTES

- E-cigarettes which are licensed as medicines are exempt from the age restriction and can be sold to persons under 18.
- E-cigarettes that contain over 20mg/ml of nicotine are required to be licensed as medicines.
- You can check if e-cigarettes you stock are licensed as medicines by visiting the Medicines and Healthcare products Regulatory Agency (MHRA) website here: www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products

ABOUT THIS GUIDE

This guide is provided by the Association of Convenience Stores in consultation with Buckinghamshire and Surrey Trading Standards. It was last updated in January 2022. Please refer to the ACS website for the most current version of this guidance.

ACS Primary Authority Scheme

This advice was developed by ACS, Buckinghamshire and Surrey Trading Standards, Woking Borough Council and Surrey Fire and Rescue Service; as part of a dedicated primary authority scheme. This means that all the advice that has this mark against it is 'Assured Advice'.

Assured Advice means that if you adopt this policy in your business, then it must be respected by all other local authorities and they cannot ask you to adopt a different policy.



This guide covers a range of different issues of best practice and law. Those that qualify as assured advice are marked by this hallmark.

To benefit from assured advice you must sign up to the ACS scheme. All ACS members can sign up to the ACS Primary Authority Scheme for details of how to join up visit www.acs.org.uk/advice

Relevant legislation and additional guidance

- **Tobacco and Related Product Regulations (2016):**
<https://www.legislation.gov.uk/ukxi/2016/507/contents/made>
- **MHRA Notified Products List:**
<https://cms.mhra.gov.uk/ecig>
- **MHRA Retailer Guide:**
<https://bit.ly/3nnvUlj>
- **Yellow Card Reporting System:**
<https://yellowcard.mhra.gov.uk>
- **Restrictions on advertising electronic cigarettes (DHSC):**
<https://www.gov.uk/government/publications/proposals-for-uk-law-on-the-advertising-of-e-cigarettes/publishing-20-may-not-yet-complete>
- **ASA Code Section 22, Electronic Cigarettes:**
https://www.asa.org.uk/type/non_broadcast/code_section/22.html

CONTACT

For more details on this guidance, contact a member of the ACS team on 01252 515001.

For more details on ACS:

Visit: www.acs.org.uk

Call: 01252 515001

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