



Assured Advice Age Restricted Products

Introduction

- There are some goods that retailers are only allowed to sell to customers who are over a certain age. NFRN members may sell some or all of the following:

<u>Sell to over 18s only</u>	<u>Sell to over 16s only</u>	<u>Variable age limits</u>
<p>Alcohol</p> <p>Tobacco products</p> <p>Cigarette papers</p> <p>E-cigarettes ¹</p> <p>Fireworks ²</p> <p>Knives</p> <p>Butane lighter refills</p> <p>Solvents ³</p> <p>Lottery tickets / scratchcards, other than National Lottery products</p>	<p>National Lottery tickets / scratchcards</p> <p>Spray paints</p>	<p>DVDs ⁴</p> <p>Computer games ⁴</p> <p>Magazines containing DVDs & games ⁴</p>

1 The sale of e-cigarettes to under-18s is banned from October 2015. It is best practice to prohibit sales of these items to all under 18s before that date.

2 Any cap, cracker snap, indoor firework, novelty match, party popper, serpent or throwdown may be sold to anyone over 16.

3 Solvents should not be sold where the seller has a reasonable cause to believe that they may be used for intoxication. It is best practice to prohibit sales of these items to all under 18s.

4 If products are marked with BBFC (DVDs) or PEGI (games) age limits, these must be adhered to.

- If these goods are sold to underage persons the following can happen:
 - Prosecutions of the actual seller; the business; and the licence
 - A review of the premises licence
 - Premises or individual banning orders preventing tobacco sales
- Enforcing these laws is often a high priority for enforcement agencies, as child welfare is at stake, so ensuring that your business does not sell needs to be a high priority for you.

Avoiding underage sales

- There are three steps sellers should take **every** time they sell age-restricted goods
 - **ASSESS** the age of the buyer. Do you have to ask for proof?
 - **CHALLENGE** for proof of age, where it is appropriate to do so, using Challenge 25.
 - **CHECK** offered proof of age, thoroughly.

It is recommended that the phrase '**ASSESS, CHALLENGE, CHECK**' is used repeatedly in staff training to encourage staff to remember all steps.

- Staff should be asked to **ASSESS** whether customers are under a stated age and **CHALLENGE** anyone they believe to be to provide proof of age. We recommend that this age is 25 and that you use the '**CHALLENGE 25**' rule. That is, that **anyone who appears under 25 is asked to provide proof of age**. This gives a good margin for error: if you think it is too high, you must remember it can be very difficult to assess the age – particularly of people from a different ethnicity and of females in general – and that this high level gives you protection from your staff cutting corners.

CHALLENGE 25 should be regarded as the **golden rule**. If it is properly applied for every sale of age-restricted goods, you will not make an underage sale.

- It is important to **train staff effectively** in the three steps and to **keep training records** so that you can show what you've done if a sale is made. Staff must not be allowed to serve customers unless they have been trained or are under close supervision as part of their training.
- Occasional **refresher training** should be given and recorded. The maximum recommended interval is six months. Staff should **sign the training record** to show they have understood what they should do.
- After training, you should **monitor staff** to ensure that they are following their instructions and frequently give them **reminders** of what is expected. (Reminders do not have to be recorded).
- **Refusals records** should be kept and checked. They can be used as a management tool to ensure that staff are following their instructions. You may wish to consider asking staff (especially if they are new, or have failed to follow instructions) to record all challenges, whether or not they lead to a sale.
- Overcoming distractions and still challenging properly is a requirement for staff, but **remove unnecessary distractions** such as televisions. Do not allow your staff to use computers or their phones while they are serving.
- Adults sometimes attempt to buy age-restricted goods, intending to pass them on to underage people (these are known as **Proxy sales**). The law expects sellers to prevent these sales where they suspect this is the purpose. This is not always easy to spot, but your training should give guidance on what to look for - such as youths hanging around outside the shop or adults trying to buy what you have recently refused to sell to a youth - and cover what to do when it is suspected.

Acceptable proof of age

- **Proof of age cards carrying the 'PASS' logo; driving licences; and passports** are the three generally accepted ways of proving age.



- Whatever proof is offered, the seller must **CHECK** it **thoroughly** to ensure it has not been tampered with, belongs to the person and that the date of birth signifies they are old enough to buy the goods in question. Do not forget that full driving licences can be held by 17 year olds. You can only **CHECK** properly by taking the proof of age from the buyer.

- Even if they have a photograph and date of birth on, student cards and other ‘non-PASS’ documents should not be accepted.
- Foreign passports should be accepted as long as they appear genuine – they should have similar characteristics (watermarks, patterns that fluoresce under ultra-violet light, for instance) that UK passports have. Many countries have national identity cards. It is best not to accept these unless it is from a country you know and you are sure it is genuine.
- You should **never ask a customer’s age**. If they tell you they are old enough, you would only have the option of believing them, when they may well be lying, or appearing to disbelieve them by asking for proof anyway. **Always ask immediately for proof of age**.

Who can sell age-restricted goods?

- There are restrictions on who can sell some age restricted goods.
- **Alcohol** cannot be sold by anyone who does not hold a personal licence, unless they have been authorised to sell alcohol by a licence holder – usually the Designated Premises Supervisor. It is best practice to keep a written document with training records, or displayed next to the licence summary, with the names of all authorised staff.

Under-18s can only sell alcohol if every transaction is approved by a personal licence holder.

You should be complying with all conditions on your premises licence before anyone can legally sell alcohol.

- **National Lottery** tickets and scratchcards cannot be sold by anyone under the age of 16. **Other lottery tickets and scratchcards** can only be sold by over 18s.
- **Fireworks** cannot be sold by any person under 18.

What if something goes wrong?

- The law allows a defence if an underage sale is made. If (and only if) you can show that you have **taken all reasonable precautions**, such as the ones identified in this guidance, and **exercised all due diligence to prevent the offence** (that is, monitored that your precautions are still in place and are effective), enforcement authorities should take this into account.
- If your business makes an underage sale it is important for you to engage with investigating authority and be able to show them evidence of the precautions you have taken.

THIS ADVICE SHOULD BE READ TOGETHER WITH THE ‘TOP TIPS’ GUIDE