

# Nicotine Inhaling Products Prevention of sales to the under 18's

Guidance note issued by the CTSI

## The Law

Children and Families Act 2014

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

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### What does the law say and do?

It prohibits the sale and supply of nicotine inhaling products including E-cigarettes, nicotine cartridges and nicotine refill substances to young people under the age of 18 years.

The law also prohibits the purchase of nicotine inhaling products by an adult for supply to a young person under 18 years. This is known as proxy purchasing.

The regulations exempt **licensed** nicotine replacement therapy (NRT) including electronic cigarette devices that are **licensed as medicines** or **medical devices**. These may be identified by a product licence (PL) number marked on the product or packaging.

You must be clear whether the products you intend to sell are exempt or not.

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### Who can commit an offence?

**Any person** who sells an E-cigarette, refill or cartridge containing nicotine to a person under the age of eighteen years - it does not matter if the sale is said to be for someone else or for their own use.

**Any adult** who (proxy) purchases a nicotine inhaling product for supply to a young person under 18 years commits an offence.

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### Penalties

If found guilty of selling nicotine inhaling products to a young person under 18 years an individual may be fined up to £2,500 in the Magistrates' Court.

In addition, a person or a business found to be **repeatedly** selling nicotine inhaling products to young people under the age of 18 could receive a Restricted Sales Order or a Restricted Premises Order from the court.

These orders prohibit a named individual, or a named retail outlet, from selling nicotine inhaling products to anyone for a period of up to one year. Failure to comply with an order can result in an unlimited financial penalty being imposed by the court.

For the offence of proxy purchasing; an individual may be issued with a Fixed Penalty Notice of £90 (reduced to £60 if paid within 15 days). Failure to pay the fine may result in the matter being pursued in court. The court may then issue a fine of up to £2,500.



## What you can do to prevent illegal sales to young people

It is a criminal offence to sell nicotine inhaling products to young people under the age of 18. You may have a defence to this offence if it can be shown that you have done all that is reasonable to avoid committing the offence.

### A responsible retailer should consider the following practices\*:

**Provide staff training:** Ensure that ALL relevant employees are aware of the legal requirements relating to the sale of nicotine inhaling products. Train your staff on a regular basis and keep a record of the training received and the date. Ensure your employees sign a declaration to say that they have received training and understand the legal requirements imposed upon them and your business.

**Implement a policy for the sale of ALL age restricted products including nicotine inhaling products:** This could include the circumstances in which a customer will or will not be served. For example, only on production of acceptable photo ID that is a Passport, Photocard Driving Licence or a PASS accredited proof of age card. It might also include a requirement for staff to refer to other senior staff before making a sale. "Challenge 25" is an example of an age verification policy that requires customers to be challenged if they appear to be under 25 years and asked to produce suitable ID for checking to ensure that they are over the age of 18. This should be undertaken before a sale can be considered.

**Notices:** Although there is NO legal requirement to display a notice as there is for tobacco, these can act as a useful deterrent to potential under age purchasers and act as a reminder to employees. Challenge 25 posters may also be useful. Referring to a poster, may help deflect and diffuse any negative reaction from a refused customer.

**Refusals log:** Keeping a written record of occasions when a sale has been refused will demonstrate to any enforcement body that refusals to sell nicotine inhaling products do occur. It also helps you to monitor the refusals made by individual employees. If an employee rarely refuses a sale this MAY indicate that they require additional training. A history of refusals acts as evidence that your business is attempting to comply with the law..

**Till stickers/prompts:** These help to remind employees that these products are age-restricted and encourages them to consider what they need to do when a young person attempts to purchase such.

### Sample Declaration

As employees of \_\_\_\_\_, we have received training relating to the sale of Nicotine Inhaling Products to persons under the age of 18 years.

Name of employee	Date of training	Signature of employee

Further advice available from the Business Companion website: [www.businesscompanion.info](http://www.businesscompanion.info)  
Search for nicotine inhaling products.

\*This list is not exhaustive. Each business must consider what best suits their particular business needs.

