



Offensive Weapons Act 2019

2019 CHAPTER 17

PART 1

CORROSIVE PRODUCTS AND SUBSTANCES

Sale and delivery of corrosive products

1 Sale of corrosive products to persons under 18

- (1) A person commits an offence if they sell a corrosive product to a person who is under the age of 18.
- (2) Subject to section 2, it is a defence for a person charged in England and Wales or Northern Ireland with an offence under subsection (1) to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (3) Except where section 2 applies, it is a defence for a person (“the accused”) charged in Scotland with an offence under subsection (1) to show that—
 - (a) the accused believed the person to whom the corrosive product was sold (“the purchaser”) to be aged 18 or over, and
 - (b) either the accused had taken reasonable steps to establish the purchaser’s age or no reasonable person could have suspected from the purchaser’s appearance that the purchaser was under the age of 18.
- (4) For the purposes of subsection (3)(b), the accused is to be treated as having taken reasonable steps to establish the purchaser’s age if and only if—
 - (a) the accused was shown any of the documents mentioned in subsection (5), and
 - (b) the document would have convinced a reasonable person.
- (5) Those documents are any document bearing to be—
 - (a) a passport,
 - (b) a European Union photocard driving licence, or

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- (c) such other document, or a document of such other description, as the Scottish Ministers may prescribe by order.
- (6) The accused is to be taken to have shown a matter mentioned in subsection (3) if—
 - (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (7) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;
 - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.
- (8) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (7)(a) to 51 weeks is to be read as a reference to 6 months.
- (9) In Scotland, proceedings for an offence under subsection (1) may be commenced within the period of 12 months beginning with the commission of the offence.
- (10) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of subsection (9) as it applies for the purposes of that section.
- (11) Subject to subsection (15), in this section and sections 2 to 4 “corrosive product” means—
 - (a) a substance listed in the first column of Schedule 1, or
 - (b) a product which contains a substance listed in the first column of that Schedule in a concentration higher than the limit set out for that substance in the second column of that Schedule.
- (12) The appropriate national authority may by regulations amend Schedule 1 by adding, modifying or removing a reference to a substance or a concentration limit.
- (13) Before making regulations under subsection (12) the appropriate national authority must consult such persons likely to be affected by the regulations as the authority considers appropriate.
- (14) In this section “the appropriate national authority” means—
 - (a) in relation to England and Wales and Scotland, the Secretary of State, and
 - (b) in relation to Northern Ireland, the Department of Justice in Northern Ireland.
- (15) References to a corrosive product in this section and sections 2 to 4 do not include a substance or product which is contained in a battery.
- (16) See section 5 for provisions about presumptions as to the content of containers in proceedings in Scotland.

2 Defence to remote sale of corrosive products to persons under 18

- (1) This section applies if—
 - (a) a person (“the seller”) is charged with an offence under section 1 (sale of corrosive products to persons under 18), and

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- (b) the seller was not in the presence of the person (“the buyer”) to whom the product to which the charge relates was sold at the time of the sale.
- (2) For the purposes of subsection (1)(b) the seller was not in the presence of the buyer at the time of the sale if—
 - (a) where the seller is an individual, the seller or a person acting on the seller’s behalf was not in the presence of the buyer at that time;
 - (b) where the seller is not an individual, a person acting on the seller’s behalf was not in the presence of the buyer at that time.
- (3) If the seller is charged with the offence in England and Wales or Northern Ireland, the seller is not to be regarded as having proved that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence unless, as a minimum, they prove that the conditions in subsections (6) to (9) are met.
- (4) If the seller is charged with the offence in Scotland, it is a defence for the seller to show that the conditions in subsections (6) to (9) are met.
- (5) For the purposes of subsection (4) the seller is to be taken to have shown a matter mentioned in subsections (6) to (9) if—
 - (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (6) Condition A is that, at the time the offence is alleged to have been committed—
 - (a) the seller operated a system for checking that persons who bought corrosive products by the same or a similar method of purchase to that used by the buyer were not under the age of 18, and
 - (b) that system was likely to prevent persons under the age of 18 from buying corrosive products by that method.
- (7) Condition B is that when the package containing the corrosive product was dispatched by the seller, it was clearly marked to indicate—
 - (a) that it contained a corrosive product, and
 - (b) that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over.
- (8) Condition C is that the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of a person aged 18 or over.
- (9) Condition D is that the seller did not deliver the package, or arrange for its delivery, to a locker.
- (10) Where the corrosive product was dispatched by the seller to a place from which it was to be collected by the buyer or a person acting on behalf of the buyer, references in subsections (7) and (8) to the final delivery of the product are to be read as its supply to the buyer or a person acting on behalf of the buyer from that place.
- (11) In subsection (9) “locker” means a lockable container to which the package was delivered with a view to its collection by the buyer, or a person acting on behalf of the buyer, in accordance with arrangements made between the seller and the buyer.

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3 Delivery of corrosive products to residential premises etc

- (1) This section applies if—
 - (a) a person (“the seller”) sells a corrosive product to another person (“the buyer”), and
 - (b) the seller and the buyer are not in each other’s presence at the time of the sale.
- (2) The seller commits an offence if, for the purposes of supplying the corrosive product to the buyer, the seller delivers the product, or arranges for its delivery, to residential premises.
- (3) The seller commits an offence if, for the purposes of supplying the corrosive product to the buyer, the seller delivers the product, or arranges for its delivery, to a locker.
- (4) For the purposes of subsection (1)(b) a person (“A”) is not in the presence of another person (“B”) at any time if—
 - (a) where A is an individual, A or a person acting on behalf of A is not in the presence of B at that time;
 - (b) where A is not an individual, a person acting on behalf of A is not in the presence of B at that time.
- (5) In subsection (2) “residential premises” means premises used solely for residential purposes.
- (6) The circumstances where premises are not residential premises for the purposes of that subsection include, in particular, where a person carries on a business from the premises.
- (7) In subsection (3) “locker” means a lockable container to which the corrosive product is delivered with a view to its collection by the buyer, or a person acting on behalf of the buyer, in accordance with arrangements made between the seller and the buyer.
- (8) It is a defence for a person charged in England and Wales or Northern Ireland with an offence under this section to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (9) It is a defence for a person charged in Scotland with an offence under this section to show that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (10) A person is to be taken to have shown a matter mentioned in subsection (9) if—
 - (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (11) A person guilty of an offence under this section is liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;
 - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.
- (12) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (11)(a) to 51 weeks is to be read as a reference to 6 months.

- (13) In Scotland, proceedings for an offence under this section may be commenced within the period of 12 months beginning with the commission of the offence.
- (14) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of subsection (13) as it applies for the purposes of that section.
- (15) See section 5 for provisions about presumptions as to the content of containers in proceedings in Scotland.

4 Delivery of corrosive products to persons under 18

- (1) This section applies if—
 - (a) a person (“the seller”) sells a corrosive product to another person (“the buyer”),
 - (b) the seller and the buyer are not in each other’s presence at the time of the sale and the seller is outside the United Kingdom at that time,
 - (c) before the sale, the seller entered into an arrangement with a person who is a body corporate by which the person agreed to deliver corrosive products for the seller,
 - (d) that person was aware when they entered into the arrangement that it covered the delivery of corrosive products, and
 - (e) that person delivers the corrosive product pursuant to that arrangement.
- (2) For the purposes of subsection (1)(b) a person (“A”) is not in the presence of another person (“B”) at any time if—
 - (a) where A is an individual, A or a person acting on behalf of A is not in the presence of B at that time;
 - (b) where A is not an individual, a person acting on behalf of A is not in the presence of B at that time.
- (3) For the purposes of subsection (1)(b) a person other than an individual is outside the United Kingdom at any time if the person does not carry on a business of selling articles of any kind from premises in any part of the United Kingdom at that time.
- (4) The person mentioned in subsection (1)(e) commits an offence if, when they deliver the corrosive product, they do not deliver it into the hands of a person aged 18 or over.
- (5) It is a defence for a person charged in England and Wales or Northern Ireland with an offence under subsection (4) to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (6) It is a defence for a person (“the accused”) charged in Scotland with an offence under subsection (4) to show that—
 - (a) the accused believed the person into whose hands the corrosive product was delivered to be aged 18 or over, and
 - (b) either the accused had taken reasonable steps to establish the person’s age or no reasonable person could have suspected from the person’s appearance that the person was under the age of 18.
- (7) For the purposes of subsection (6)(b), the accused is to be treated as having taken reasonable steps to establish the person’s age if and only if—
 - (a) the accused was shown any of the documents mentioned in subsection (8), and

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- (b) the document would have convinced a reasonable person.
- (8) Those documents are any document bearing to be—
 - (a) a passport,
 - (b) a European Union photocard driving licence, or
 - (c) such other document, or a document of such other description, as the Scottish Ministers may prescribe by order.
- (9) The accused is to be taken to have shown a matter mentioned in subsection (6) if—
 - (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (10) A person guilty of an offence under subsection (4) is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (11) In Scotland, proceedings for an offence under this section may be commenced within the period of 12 months beginning with the commission of the offence.
- (12) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of subsection (11) as it applies for the purposes of that section.
- (13) See section 5 for provisions about presumptions as to the content of containers in proceedings in Scotland.

5 Presumptions in proceedings in Scotland for offence under section 1, 3 or 4

- (1) This section applies for the purposes of any trial in proceedings for an alleged offence under section 1(1), 3(2) or (3) or 4(4).
- (2) Where—
 - (a) a substance is found in a container (whether open or sealed), and
 - (b) there is on the container a description of the contents of the container,
 the substance found is to be presumed to be a substance of that description.
- (3) Where an open container is found which—
 - (a) is empty or contains an amount of a substance which is insufficient to allow analysis of it,
 - (b) was sealed at the time it was sold or delivered, and
 - (c) has on it a description of the contents of the container,
 the container is to be presumed to have contained, at the time it was sold or delivered, a substance of that description.
- (4) At the trial, any party to the proceedings may rebut the presumption mentioned in subsection (2) or (3) by proving that, at the time of its sale or delivery, the substance in the container was not of the description on the container.
- (5) A party may lead evidence for the purpose of rebutting the presumption only if the party has, not less than 7 days before the date of the trial, given notice of the intention to do so to the other parties.