



# Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021

2021 asp 6

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 19th January 2021 and received Royal Assent on 24th February 2021**

An Act of the Scottish Parliament to create an offence of assaulting, threatening or abusing retail workers; and to provide for a statutory aggravation of that offence where the retail worker is enforcing a statutory age restriction.

## **1 Offence of assaulting etc. retail worker**

- (1) It is an offence for a person to assault, threaten or abuse another person—
  - (a) who is a retail worker, and
  - (b) who is engaged, at the time, in retail work.
- (2) No offence is committed under [subsection \(1\)](#) unless the person who assaults, threatens or abuses knows or ought to know that the other person—
  - (a) is a retail worker, and
  - (b) is engaged, at the time, in retail work.
- (3) A person who commits an offence under [subsection \(1\)](#) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the prescribed sum (or both).
- (4) Evidence from a single source is sufficient to establish, for the purposes of this section—
  - (a) whether a person is a retail worker, and
  - (b) whether the person is engaged, at the time, in retail work.
- (5) In subsection (3), the “prescribed sum” has the meaning given by section 225(8) of the Criminal Procedure (Scotland) Act 1995.

## 2 Behaviour constituting an offence under section 1

- (1) The offence under section 1 of threatening or abusing a retail worker is committed by a person only if the person—
  - (a) behaves in a threatening or abusive manner towards the worker, and
  - (b) intends by the behaviour to cause the worker or any other person fear or alarm or is reckless as to whether the behaviour would cause such fear or alarm.
- (2) Subsection (1) applies to—
  - (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done,
  - (b) behaviour consisting of—
    - (i) a single act, or
    - (ii) a course of conduct.

## 3 Aggravation in relation to enforcement of statutory age restriction

- (1) This section applies where, in proceedings for an offence under section 1, it is—
  - (a) specified in the complaint that the offence is aggravated by reason of the retail worker's enforcing a statutory age restriction, and
  - (b) proved that the offence is so aggravated.
- (2) The offence is so aggravated if the behaviour constituting the offence occurred because of the enforcement of a statutory age restriction.
- (3) Evidence from a single source is sufficient to prove that the offence is so aggravated.
- (4) Where this section applies, the court must—
  - (a) state on conviction that the offence is so aggravated,
  - (b) record the conviction in a way that shows that the offence is so aggravated,
  - (c) take the aggravation into account in determining the appropriate sentence, and
  - (d) state—
    - (i) where the sentence imposed in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
    - (ii) otherwise, the reasons for there being no such difference.
- (5) In this section—

“enforcement”, in relation to a statutory age restriction, includes—

  - (a) seeking information as to a person's age,
  - (b) considering information as to a person's age,
  - (c) refusing to sell or supply goods or services,

for the purposes of complying with the restriction (and “enforcing” is to be construed accordingly),

“statutory age restriction” means a provision in an enactment making it an offence to sell or supply goods or services to a person under an age specified in that or another enactment.

## 4 Meaning of “retail worker”

- (1) In this Act, “retail worker”—

- (a) means a person—
    - (i) whose usual place of work is retail premises, or
    - (ii) whose usual place of work is not retail premises but who does retail work,
  - (b) includes, in relation to a business that owns or occupies any premises in which the person works, a person who—
    - (i) is an employee of the business,
    - (ii) is an owner of the business, or
    - (iii) works in the premises under arrangements made between the business and another person for the provision of staff,
  - (c) also includes a person who delivers goods from retail premises.
- (2) For the purposes of subsection (1), it is irrelevant whether or not the person receives payment for the work.
- (3) In proceedings for an offence under section 1, it is not necessary for the prosecutor to prove that the person charged with the offence knew or ought to have known any matter falling within subsection (1)(b) in relation to the person against whom the offence is alleged to have been committed.

## **5 Meaning of “retail premises” and “retail work”**

- (1) In this Act, “retail premises” means premises that are used wholly or mainly for the sale or supply of goods, on a retail basis, to members of the public.
- (2) In this Act, “retail work” means—
  - (a) in the case of a person whose usual place of work is retail premises, any work in those retail premises,
  - (b) in the case of a person whose usual place of work is not retail premises, work in connection with—
    - (i) the sale or supply of goods, on a retail basis, to members of the public, or
    - (ii) the sale or supply of services (including facilities for gambling) in respect of which a statutory age restriction applies,
  - (c) subject to subsection (3), in the case of a person who delivers goods from retail premises, work in connection with the sale or supply of goods, on a retail basis, to members of the public.
- (3) A person who delivers goods from retail premises is doing retail work only during the period beginning when the person arrives at a place where delivery of goods is to be effected and ending when the person leaves that place (whether or not goods have been delivered).
- (4) In subsection (2)(b)(ii), “statutory age restriction” has the same meaning as in section 3(5).
- (5) In this section, references to working in premises includes working on any land forming part of the premises.

## **6 Commencement**

- (1) This section, section 4 (except subsection (3)), section 5 and section 7 come into force on the day after Royal Assent.
- (2) The other provisions of this Act (including section 4(3)) come into force at the end of the period of 6 months beginning with the day of Royal Assent.

## **7 Short title**

The short title of this Act is the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021.