

APPENDIX C

STATEMENT OF WITNESS

(Criminal Procedure Rules r.27(2); C.J.Act 1967, s.9; M.C. Act 1980, ss5B)

STATEMENT OF: DEAN ANTHONY COOKE

AGE OF WITNESS (IF OVER 18 ENTER "OVER 18"): OVER 18

OCCUPATION: SENIOR TRADING STANDARDS OFFICER,
SLOUGH BOROUGH COUNCIL TRADING STANDARDS

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 15th day of April 2013 Signed....

I am a Senior Trading Standards Officer for Slough Borough Council Trading Standards. The following facts are within my own personal knowledge.

On the 10th April 2013, a visit was made to Drinks Direct, 256 High Street, Langley, SL3 8HA following the receipt of a 5x5x5 intelligence report, regarding the sale of illicit tobacco products at the premises. The visit was carried out with Mr Peter Adshead (Senior Trading Standards Officer).

We arrived at the premises at 10:55am and carried out an inspection of the business as a whole. During the inspection a number of items were found, that contravened Consumer Protection legislation.

Underneath the main counter, to the right of hand side of the till, I found a box of illicit cigarettes with non-English health warnings on them. In the same box were 6 x packs of "Regal" cigarettes with English health warnings present. These packets were removed from the box and given back to the trader. The remainder of the box was seized, containing the following :-

- (i) 3 x packs of 20 – "L&M Blue Label" cigarettes
- (ii) 3 x packs of 20 – "L&M 2 in 1 Forward" cigarettes
- (iii) 1 x pack of 20 – "Classic Red" cigarettes

Dated the 15th day of April 2013 Signed..,

CONTINUATION OF STATEMENT OF: DEAN ANTHONY COOKE

- (iv) 4 x packs of "Minsk Capital" cigarettes
- (v) 24 x packs of "Marlboro Gold" cigarettes.

A further box was found to the left of these cigarettes containing hand rolling tobacco with non-English health warnings present on the packaging. The box contained the following :-

- (vi) 7 x 50g packs of Amberleaf hand rolling tobacco
- (vii) 9 x 50g packs of Golden Virginia hand rolling tobacco

Further to this, to the far left of the area behind the main counter, on the bottom shelf, the trader had in their possession for sale, boxes of shisha. A box containing shisha with tobacco content, bore no government health warnings.

- (viii) 9 x packs of tobacco shisha bearing no health warnings.

Inspection of the "Staff Only" storage area, during the inspection, raised further concerns, with the discovery of a cardboard box containing 'smokeless' chewing tobacco, bearing no government health warnings, of the following descriptions :-

- (ix) 3 x sealed packs of 'Tulsi Royal' Gutkha chewing tobacco.
- (x) 1 x open pack of 'Tulsi Royal' Gutkha
- (xi) 1 x pack of "RMD" Gutkha.
- (xii) 6 x plastic bags of an unidentified tobacco like powder.
- (xiii) 1 x open bag of "Udta Pancchi" chewing tobacco containing 7 pouches.
- (xiv) 60 x pouches of "Kuber – scented Khiani" chewing tobacco.
- (xv) 15 x pouches of "Tulsi Royal Gutkha"
- (xvi) 5 x pouches of "Chiani Khiani" + two empty bundles of packaging of this product.

A Code B notice was issued to the business at 11:55am.

Dated the 15th day of April 2013 Signed...

CONTINUATION OF STATEMENT OF: DEAN ANTHONY COOKE

All tobacco products (i) to (xvi) were sealed in a tamper proof evidence bag with a security seal number R00444827 at 12:05hrs.

Further seized items include medicines found in the same box as the smokeless tobacco, which were seized to be transferred to the Medicines & Healthcare products Regulatory Agency (MHRA). The items seized were as follows :-

- (i) 8 x boxes of "Kamagra – oral jelly (Sildenafil)"
- (ii) 10 x packets of "Kamagra Sildenafil – Citrate Tablets- 100mg"

All these items were sealed in a bag with the tamper proof evidence seal number 003397191.

Mr Adshead also found a number of potentially counterfeit "Jacob's Creek Semillion Chardonnay" wine on the shelves of the front store. These 7 bottles were seized and sealed in tamper proof evidence bag R00444806.

Two further bottles of "Jacob's Creek Semillion Chardonnay" wine were found in the fridges in the front stor; these were sealed in bag number R00444742.

As the owner was not present at the time, all necessary documentation was signed on his behalf by the manager, Mr Ravinder Singh Grover.

All seized items (bags R00444827, 003397191, R00444806 and R00444742) were removed from the premises at 13:25hrs and secure in the boot of Mr Ashead's vehicle. These items were then transported to the Trading Standards Secure Store and logged in at 13:45hrs.

Dated the 15th day of April 2013 Signed.....

RECEIVED
20 AUG 2008
CONS. PROT

Direct Dialling: 01753 875255
Enquiries To: Keith Eaglestone
E-Mail: keith.eaglestone@slough.gov.uk
Date: 15th August 2008

Mr. Charanjit Singh Arura,
Drink Direct Supermarket Ltd.,
256, High Street,
Langley,
SL3 8HA

Dear Sir,

I have received a prosecution report from one of my concerning the discovery of packets of counterfeit Durex condoms at your premises on the 15th November last year.
After an extensive investigation and your subsequent explanation, I have decided that we will not be instituting legal proceedings in this instance.
I would point out that I think it extremely unlikely that this authority will take such a sympathetic approach in the future and I would put you on notice that if we find any counterfeit products in your possession in subsequent visits the matter will automatically be considered for legal proceedings.
This decision is also conditional on your written acknowledgement of this letter within 7 days.

Yours faithfully,

Keith Eaglestone
Trading Standards Manager

C.S. ARURA.

19-8-2008

TRADING STANDARDS GUIDANCE LEAFLET

AGE RESTRICTED PRODUCTS

Legislation prohibits the sale of certain products to persons under certain ages. The following is designed to guide you through the requirements of the law and assist in compliance

PRODUCT	ONLY TO BE SOLD TO THOSE:	MAXIMUM PENALTY
Alcohol	18 and over	£5000 & forfeit of licence
Liqueur Chocolates	16 and over	£500
Cigarettes, Cigarette Papers and Tobacco Products	18 and over	£2500 + Retailer Sanction for Persistent Offenders
Offensive Weapons/ Knives	18 and over	£5000 & up to 6 months Imprisonment
Fireworks / Explosives	18 and over	£5000 & up to 6 months Imprisonment
DVDs, Videos, Video & Computer Games		£5000 & up to 6 months Imprisonment
Classification 12	12 and over	
Classification 15	15 and over	
Classification 18	18 and over	
Volatile Substances/ Solvents	18 and over	£5000 & up to 6 months Imprisonment
Lighter refills containing butane	18 and over	£5000 & up to 6 months Imprisonment
Lottery Tickets/ "Instant Win" cards	16 and over	£5000 & up to 2 years Imprisonment
Aerosol Spray Paints	16 and over	£2500
Petrol	16 and over	£5000 & up to 6 months Imprisonment

NB // Matches and Lighters - As a matter of best practice, retail staff are advised not to sell matches and lighters to children under 16 unless accompanied by an adult.

ALCOHOL

LAW : Licensing Act 2003

The Police and Trading Standards jointly enforce this.

It is illegal to sell alcohol to anyone under 18, or to knowingly sell to a person over 18 who is purchasing on behalf of a person under 18.

It is also illegal for a person under 18 to sell alcohol unless a person over 18 years of age supervises the sale.

TOBACCO PRODUCTS:-

LAW: Children and Young Persons (Protection from Tobacco) Act 1991 & the Children and Young Persons Act 1933 (as amended)

From 1st October 2007, it is an offence for any person to sell cigarettes, tobacco products or cigarette papers to anyone below 18 years of age, even if they look older.

This is the case whether or not the cigarettes are for the young person's own use. It is also an offence to sell cigarettes unless they are in quantities of 10 or more and in their original packaging.

This means that packets of cigarettes cannot be split to sell lesser quantities.

The following warning notice must be exhibited in a prominent position, which is clearly visible to anyone purchasing cigarettes, at every retail premise which tobacco is sold.

It must not be less than 297mm x 420mm (A3), with no character being less than 36mm in height.

**IT IS ILLEGAL TO SELL TOBACCO
PRODUCTS TO ANYONE UNDER
THE AGE OF 18**

The following vending machine notice must be exhibited on every automatic vending machine used for the sale of tobacco.

**THIS MACHINE IS ONLY
FOR THE USE OF
PEOPLE AGED 18 OR OVER**

This notice must not be less than 60mm x 100mm, which characters no less than 6mm high. It must be clearly visible to anyone using the machine.

Failure to exhibit these warning signs is an offence with a maximum fine of £1000 and the owner of the machine or the premise may be liable.

The Courts may make an order for regulating the use or removal of vending machines from premises, if they are satisfied that a person under the age of 18 has used it.

TOBACCO LEGISLATION : RETAILER SANCTIONS

LAW : (amendment to the Children & Young Persons Act 1933 by virtue of the Criminal Justice and Immigration Act 2008)

From the 1st April 2009, a 'Negative Licensing' system was brought into effect, to deal with 'Persistent Offenders' in relation to the sale of under age Tobacco Products.

If a person is convicted of making an illegal sale of tobacco products to a person under 18, and **on at least 2 other occasions within a 2 year period** has committed similar offences (these do not need to have been convictions), a '**Retailer Sanction**' may be applied for.

These could be :-

(i) Restricted Premises Order – where the retailer premises is prohibited from selling tobacco products for a **period of up to 12 months** – no sale of tobacco or cigarette papers may take place on that premises.

(ii) Restricted Sale Order – this is a sanction against an individual person and would apply to them personally selling tobacco products, wherever they were working – the business may sell tobacco products, but the banned individual may not – this sanction can also be for a **period up to 12 months**.

It is also possible for both sanctions to be applied at the same time to a premises and an individual.

The maximum penalty for breaching any of these retailer sanctions is a £20,000 fine.

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010

This is new legislation came into force this year and it that will eventually require all sellers of Tobacco Products to remove all tobacco products from visible display to consumers.

There is a run in period for different sized retailers. The deadlines for compliance are as follows :-

1st October 2011 – for 'large' retailers (premises over 280 square metres of floorspace)

1st October 2013 – for other smaller retailers.

For further advice on this legislation, please contact Trading Standards.

KNIVES & OTHER OFFENSIVE WEAPONS :-

LAW : The Criminal Justice Act 1988 (as amended by the Offensives Weapons Act 1996 and the Violent Crime Reduction Act 2006)

From 1st October 2007

It is an offence for a person to sell to a person under the age of 18:

- Any knife, knife blade or razor blade;
- Any axe;
- Any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to a person.

Whether a particular article is a knife is a question of fact, but using a wider definition this legislation prohibits sales of e.g. sheath knives, kitchen knives, craft knives and carpet knives to persons under the age of 18.

This legislation does not apply to folding pocket knives if the cutting edge of the blade is less than 3in or 7.62cm. Nor does it apply to replacement cartridges for safety razors, where less than 2mm of the blade is exposed.

FIREWORKS :

**LAW : The Fireworks (Safety) Regulations 1997
Consumer Protection Act 1987**

These regulations prohibit the supply of fireworks and assemblies to a person apparently under the age of 18.

The age limit remains at 16 for caps, cracker snaps, novelty matches, party popper, serpents and throwdowns, by virtue of the Explosives Act 1875 (as amended).

DVDs / VIDEO TAPES/ VIDEO GAMES/ COMPUTER GAMES :

LAW : The Video Recordings Act 1984 & 2010

It is an offence to supply, or offer to supply, a video recording to any person who has not attained the age specified on the recording. This legislation applies to video films, video games and computer games.

It is a defence to show that you neither knew or had reasonable grounds to believe that:

- The classification certificate contained the settlement in relation to the specified age, or
- The person concerned had not attained the specific age, or
- That you had reasonable grounds to believe that the supply was or would have been an exempted supply, as defined by legislation. If you sell a video film by retail, you will not be dealing with exempted supplies.

The classifications are as follows:

ABBREVIATION	CLASSIFICATION	ONLY TO BE SOLD TO
U	Universal	Unrestricted
Uc	Universal - particularly suitable for children	Unrestricted
PG	Parental Guidance - general viewing but some scenes may be unsuitable for young children	Unrestricted
12	Suitable only for persons 12 years and over	12 years and over
15	Suitable only for persons 12 years and over	15 years and over
18	Suitable only for persons 12 years and over	18 years and over

Restricted 18 (R18) video cassettes and DVDs can only be supplied in licensed sex shops to persons 18 and over.

SOLVENTS & INTOXICATING SUBSTANCES :

LAW : Intoxicating Substances (Supply) Act 1985

An offence is committed under this legislation if a volatile substance or solvent based product is sold and it is believed that they are for a person under the age of 18 and that they are likely to be inhaled for the purposes of becoming intoxicated. This offence applies even when it is known that another person is buying the product for the person under the age of 18.

Special attention should be paid to young persons –

- Buying volatile substances and nothing else;
- Buying plastic bags at the same time as volatile substances;
- Displaying signs similar to drunkenness;
- With spots and sores around mouth and nose.

However, solvents may be sold to persons under 18 for their normal use.

LIGHTER REFILLS :

LAW : The Cigarette Lighter Refill (Safety) Regulations 1999

It is an offence to supply cigarette lighter refill canisters containing butane to anyone under the age of 18.

LOTTERY TICKETS/SCRATCH CARDS :

LAW : National Lottery, etc. Act 1993

National Lottery Regulations 1994

It is an offence to sell National Lottery (LOTTO) tickets and Instant Win cards (scratch cards) to any person under 16. The regulations also require anyone selling such products to be 16 or over.

AEROSOL SPRAY PAINT :

LAW : The Anti-Social Behaviour Act 2003

A person must not sell an aerosol paint container (a device which contains paint stored under pressure **and** which is designed to permit the release of paint spray) to anyone under 16.

PETROL :

LAW : Petroleum (Consolidation) Act 1928

It may be a licensing condition that anyone in charge of a petrol station must be at least 18, and anyone dispensing petrol or operating a petrol dispensing system must be at least 16.

Due Diligence and Reasonable Precautions

Some of the preceding legislation have defences available; namely that the accused took **all reasonable precautions and exercised all due diligence** to avoid committing an offence.

In relation to video recordings, as well as these defences you will also need to show that the offence was due to the act or default of another person other than the accused.

Even where no due diligence defences are available, it is recommended that the guidelines on the next page are followed as best practice.

Staff Training and Training Records

As most of the offences mentioned are of strict liability, which means that they can occur even when the owner is not in the shop.

To avoid committing these offences, it is advised that the legislation is brought to the attention of the staff via regular training.

Members of staff should be advised that they themselves may be personally liable if they sell to young persons in breach of the legal requirements.

It is important that you can prove that your staff have understood what is required of them under the legislation. This can be done by keeping a record of the training and asking the member of staff to sign to say that they have understood it. These should then be checked and signed on a regular basis by management or the owner.

CitizenCard Proof of Age Scheme – “ASK 21”

If there is any doubt about a person's age, proof of age should be requested.

This could be a recently issued passport, photo driving license or other photo proof of age such as a **CitizenCard** which has a “PASS” hologram

Staff need to examine any ID to ensure it is genuine, that it belongs to that individual and to check dates to ensure the cardholder is old enough for the goods they are buying.

If there is still doubt, the sale should not be allowed to take place, we always advise:

“No ID - No Sale”

In relation to Alcohol and other “18” products such as tobacco products, knives, solvents and fireworks, if you introduce the policy of asking anybody who appears to be **“UNDER 21”** for proof of age, this will assist in not making a false indication, or illegal sale.

Refusal Register

All refusals should be recorded in a Refusal Register. Maintaining a Refusal Register will strengthen a case for due diligence.

Other Considerations

Although the law does not always specify a minimum age for being able to sell certain goods, the age of the member of staff may be considered in any claims of due diligence.

If you process an EPOS system, it may be possible to use it to remind staff via a prompt. Alternatively, stickers can be used over certain product bar codes.

Posters showing age limits should be displayed and contain a statement regarding the refusal or such sales. This would then deter potential purchasers and act as a reminder to members of staff.

PLEASE NOTE

This guidance is intended for traders and offers practical advice.
It should not be regarded as an authoritative interpretation of the law.

For further advice, please contact **Slough Trading Standards** on 01753 875255

NB// These papers are very important. If you have difficulty reading or understanding English, please contact someone who can help you immediately.

這些是十分重要的文件。如果你有困難
看懂英文，請馬上向別人求助。

Chinese

هذه الاوراق مهمه جدا. اذا وجدت اي صعوبه في قراة او فهم
اللغه الانكليزية. يرجى الاتصال باي شخص يمكنه مساعدتك حالا.

Arabic

NHỮNG GIẤY TỜ NÀY RẤT QUAN TRỌNG. NẾU QUÝ VỊ CÓ KHÓ
KHĂN ĐỂ ĐỌC HOẶC HIỂU TIẾNG ANH. XIN NHỚ MỘT NGƯỜI
NÀO ĐÓ GIÚP QUÝ VỊ NGAY LẬP TỨC

Vietnamese

यह कागज़ बहुत महत्वपूर्ण है। यदि आप को अंग्रेज़ी पढ़ने या
समझने में कठिनाई आती हो तो कृपया किसी ऐसे व्यक्ति से संपर्क
करें जो आप की शीघ्र ही सहायता कर सके।

Hindi

Urdu

یہ نيات اہم کاغذات ہیں
اگر آپ کو انگریزی پڑھنے یا سمجھنے میں دشواری پیش ہو تو براہ مہربانی کسی ایسے شخص سے رجوع کریں جو انہیں پڑھ کر
آپ کو کھائے

Punjabi

ਇਹ ਕਾਗਜ਼ ਬੜੇ ਜ਼ਰੂਰੀ ਹਨ। ਜੇ ਤੁਹਾਨੂੰ ਅੰਗਰੇਜ਼ੀ ਪੜ੍ਹਨ ਜਾਂ ਸਮਝਣ
ਵਿਚ ਮੁਸ਼ਕਲ ਆਉਂਦੀ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਕਿਸੇ ਅੱਜੇ ਵਿਅਕਤੀ ਨਾਲ
ਸੰਪਰਕ ਕਰੋ ਜਿਹੜਾ ਤੁਹਾਡੀ ਜਲਦੀ ਸਹਾਇਤਾ ਕਰ ਸਕੇ।

Gujarati

આ કાગળો બહુ મહત્વના છે. જો તમને અંગ્રેજી વાંચવા અથવા
સમજવામાં મુશ્કેલી પડે તો, કૃપા કરી તમને તાત્કાલિક
સહાય કરી શકે એવી કોઈ વ્યક્તિનો સંપર્ક સાધો.

Bengali

এই কাগজ-পত্রগুলো খুবই গুরুত্বপূর্ণ। হেঁচকি পড়তে বা বুঝতে
আপনার অসুবিধা হলে অনুগ্রহ করে অবিলম্বে এমন কারো সাথে
যোগাযোগ করবেন যিনি আপনাকে সাহায্য করতে পারবেন।