



Home Office

Offensive Weapons Act 2019

Statutory guidance – draft for consultation

15 August 2019

This consultation begins on 15 August 2019

This consultation ends on 9 October 2019

About this consultation

- To:** This consultation is open to the public and targeted at individuals, businesses and organisations in England, Wales and Scotland with an interest in the sections of the Offensive Weapons Act 2019 that deal with the: sale and delivery of corrosive products, bladed articles and bladed products; possession of corrosive substances and certain offensive weapons; and threatening with offensive weapons.
- Duration:** From 15 August 2019 to 9 October 2019
- Enquiries to:** Email: offensive.weapons.act.consultation@homeoffice.gov.uk
- Post: Serious Violence Unit
5th floor, Fry Building
2 Marsham Street
London SW1P 4DF
- How to respond:** Please submit your response by XX October 2019 to the email address above. Alternatively you can post it to:
- Offensive Weapons Act Consultation
Serious Violence Unit
Home Office
5th floor, Fry Building
2 Marsham Street
London SW1P 4DF
- Additional ways to respond:** Please contact the Serious Violence Unit (as above) if you require information in any other format, such as Braille, large font or audio.
- Response paper:** A summary of responses to this consultation will be published on Gov.uk before or alongside the final statutory guidance.

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Annex A – flowchart – sales of bladed products

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Introduction

This statutory guidance, produced by the Home Office, covers the implementation of the Offensive Weapons Act 2019 in England and Wales. It also covers the implementation of sections 1-4 of the Act in Scotland. It is primarily for the police, retailers and trading standards. However, it will also be of interest to the Crown Prosecution Service (CPS), Her Majesty's Courts and Tribunal Service, manufacturers and suppliers of bladed articles, bladed products and corrosives, and members of the public.

It sets out how the legislation should be implemented and applied, the obligations imposed under the Act, and what factors should be taken into account when making decisions on how to proceed with individual cases of the possession, sale and delivery of knives, corrosives and offensive weapons, and the use of these to threaten others.

Organisations and bodies may issue additional guidance for clarification if they wish to do so.

This guidance is only concerned with certain Parts of the Act, namely:

- Part 1: Corrosive products and substances
- Part 3: Sale and delivery of knives etc.
- Part 4: Possession etc. of certain offensive weapons
- Part 5: Threatening with offensive weapons
- Part 7: Enforcement

Knife Crime Prevention Orders (KCPOs), and the measures around enhanced security for certain firearms as provided for in the Act, are subject to separate guidance. Additional arrangements in respect of the surrender of, and compensation scheme for, certain firearms and offensive weapons prohibited by the Act are also published separately. This information will be available on www.gov.uk. in due course.

Background

Knife crime and corrosive attacks are issues of considerable public concern, and these crimes have a devastating impact on the victims, their families and their communities. We identified the need for new legislation to respond to public concerns and to provide the police with the powers they need.

We ran a public consultation between 14 October 2017 and 9 December 2017 seeking views on legislative proposals on offensive and dangerous weapons. It received 10,712 responses. The consultation considered proposals to make new criminal offences for: the delivery of knives to a residential address; the possession of certain knives in private; the possession of knives or offensive weapons in a wider range of educational institutions; the sale of corrosive products to under 18s; the possession of corrosive substances in a public place; and the possession of large calibre rifles and rapid firing rifles. It also considered proposals for amending the offences of threatening with an article with a blade or point or an offensive weapon, and updating the definition of a flick knife.

Responses from the consultation were taken into consideration during the development of the Offensive Weapons Act which was introduced into Parliament on 20 June 2018 and received Royal Assent on 16 May 2019.

The measures in the Act are one aspect of wider action the Government is taking to address the increase in serious violence. The Serious Violence Strategy, published on 9 April 2018, sets out an important and wide-ranging programme of commitments focusing on tackling

county lines and misuse of drugs, early intervention and prevention, supporting communities and local partnerships, and an effective law enforcement and criminal justice response.

The Strategy has provided the basis on which several major measures have been brought forward. This includes a new £200m Youth Endowment Fund, an independent Review of Drug Misuse, and a consultation on a new legal duty to ensure public bodies work together to prevent and tackle serious violence. The consultation on this duty closed on 28 May and on 15 July 2019 the Government response was published which indicated that we will bring forward legislation to create a new duty on agencies and bodies to collaborate and plan, where possible through existing partnership structures, to prevent and reduce serious violence.

Purpose of the Act and relevant provisions subject to this guidance

The Act introduces new legislative measures to control the sale of knives and corrosive substances, and introduces new offences on their possession and use.

The Act creates a new criminal offence of selling a corrosive product to a person under the age of 18. The substances and concentration levels of what constitutes a corrosive product are set out in Schedule 1 of the Act. The Act contains a delegated power to amend the Schedule to add, remove or modify substances and concentration levels as required.

It creates a new criminal offence of possessing a corrosive substance in a public place. There is a defence where the person can prove that they had good reason or lawful authority for having the corrosive substance with them. There is a minimum custodial sentence in England and Wales where a person has one or more previous relevant conviction related to knives or offensive weapons.

It creates new criminal offences prohibiting the delivery of bladed products sold online to a residential address, but provides a defence where age verification takes place. The bladed products in question are those that can cause serious injury, and there are additional defences for made to order items and those for sporting and re-enactment purposes. Where the seller is based outside of the UK, delivery of a bladed article to an under 18 at any premises is an offence for the delivery company. In practice, delivery to residential addresses is still permitted where the seller has entered into a specific agreement with the delivery company that age verification will take place on delivery.

The Act amends the definition of a flick knife to include those where the mechanism is not within the handle, and prohibits the possession of flick knives and gravity knives (their sale, importation, manufacture and supply is already prohibited).

It amends existing legislation in respect of offensive weapons to make it a criminal offence to possess in private certain offensive weapons (such as knuckledusters, zombie knives and death stars). It extends the existing offences of possessing a bladed article or offensive weapon on school premises to cover further education premises in England and Wales. The sale, importation, manufacture and supply of these items is already prohibited.

It amends the legal test for threatening with an offensive weapon in England and Wales to consider how a reasonable person, in the victim's place, would interpret such a threat. It also lowers the test from 'serious physical harm' to 'risk of immediate physical harm', putting the victim's point of view at the heart of this offence.

In addition to the provisions covered in this guidance, the Act also includes:

- A prohibition on rapid firing rifles and bump stocks, which increase the rate of fire of rifles. It provides for compensation to owners who lawfully owned such firearms prior to their prohibition.
- Knife Crime Prevention Orders (KCPOs) to intervene with those individuals suspected of carrying knives routinely and to manage habitual knife carriers. The intention is that KCPOs will be preventative rather than punitive – to help prevent knife crime, by using positive requirements to help steer the individual away from serious violence, by addressing factors in their lives that may increase the chances of offending, alongside measures to prohibit certain activities, or introduce geographical restrictions and curfews to help prevent future offences.

PART 1: CORROSIVE PRODUCTS AND SUBSTANCES

Part 1 of the Act responds to the rising threat posed by the use of corrosives as a weapon to inflict serious harm. Whilst this type of crime is not new, the resurgence in the use of corrosives is of significant concern given the life changing injuries that these corrosive substances can inflict. These provisions strengthen the powers of the police, trading standards and other partners to be able to tackle these crimes.

We know from a voluntary data collection from police forces undertaken by the National Police Chief's Council (NPCC) between November 2016 and April 2017 that 39 forces reported that there had been 408 attacks using corrosive substances and that, where the age of the offender was known, 21% of offenders were under 18. A further voluntary data collection was undertaken by the NPCC and it has been estimated from this collection that there are currently 800 corrosive attacks per annum in England and Wales. We also know that while use of corrosives as a weapon in Scotland is rare, it has happened on occasion, with devastating results.

The provisions in Part 1 are designed to restrict access to those products containing the most harmful corrosive substance by prohibiting the sale and delivery of corrosive products to under 18s. Part 1 also strengthens the powers of the police as it makes it an offence to possess a corrosive substance in a public place without good reason and lawful authority.

Sale and delivery of corrosive products

1. Sale of corrosive products to persons under 18

The purpose of the sales provisions is to restrict access to products which contain the most harmful corrosive substances to under 18s. The provisions make it an offence to sell a corrosive product to a person who is under the age of 18. This offence applies to both over the counter and online sales of corrosive products.

This part of the guidance sets out the statutory obligations on retailers, online sellers and marketplaces to ensure that they comply with the law. This is particularly important, should they be charged with an offence of selling a corrosive product to an under 18, and wish to make use of the defence available under the Act of having taken all reasonable precautions and exercised all due diligence to avoid committing an offence. In Scotland, the seller is required to have undertaken a number of specific steps in order to be able to make use of the defence.

Relevant bodies who should have regard to these provisions

Retailers, manufacturers, police, trading standards and public.

Definition

For the purposes of the sales (sections 1 and 2 of the Act) and delivery legislative measures (sections 3 and 4 of the Act) then we have set out the definition of a corrosive product in Schedule 1 of the Act. It is defined as a substance listed in Schedule 1 or a product that contains a substance in a concentration higher than the limit set out for that substance within the Schedule. For ease of reference, the table in Schedule 1 is set out below.

| <i>Name of substance and Chemical Abstracts Registry Number (CAS RN)</i> | <i>Concentration limit (weight in weight)</i> |
|--|---|
| Ammonium hydroxide (CAS RN 1336-21-6) | 10% w/w |
| Formic acid (CAS RN 64-18-6) | 10% w/w |

| | |
|--|---------|
| Hydrochloric acid (CAS RN 7647-01-0) | 10% w/w |
| Hydrofluoric acid (CAS RN 7664-39-3) | 0% w/w |
| Nitric acid (CAS RN 7697-37-2) | 3% w/w |
| Phosphoric acid (CAS RN 7664-38-2) | 70% w/w |
| Sodium hydroxide (CAS RN 1310-73-2) | 12% w/w |
| Sodium hypochlorite (CAS RN 7681-52-9) | 10% w/w |
| Sulfuric acid (CAS RN 7664-93-9) | 15% w/w |

This approach to defining corrosive products by substance, chemical abstracts registry number and concentration limit within Schedule 1 has been taken to provide clarity on the products which will be subject to these age restrictions. This type of approach is one which should be familiar to retailers and manufacturers and, by setting out the exact substance and the specific concentration limit, this will assist retailers and sellers in identifying those products that they are selling which would be captured by these age restrictions.

The substances and concentrations limits have been set based on scientific advice from the Defence Science and Technology Laboratory (and previously from the Home Office Centre for Applied Science and Technology). The corrosive products set out in Schedule 1 includes those which we know have been used in attacks and also those which have the potential to be used as a weapon to inflict serious harm and life changing injuries on people. The concentration limits have been set based on advice from the Defence Science and Technology Laboratory on the thresholds at which these substances can cause permanent and life changing injuries.

The link below is to the paper provided by the Defence Science and Technology Laboratory (DSTL) during the House of Commons Committee stage of the Bill, which summarises the scientific advice to the Home Office on the type and identity of corrosive substances used in attacks.

[http://data.parliament.uk/DepositedPapers/Files/DEP2018-0883/Scientific Advice to Offensive Weapons Bill.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2018-0883/Scientific_Advice_to_Offensive_Weapons_Bill.pdf)

The types of products which are defined as “corrosive products” for the purposes of this legislation are those that contain corrosive substances at levels where they could be misused to cause serious harm and life changing injury to others. Corrosive products are commonly used where household-strength strength products will not be sufficient to do the task to hand, and include products such as high strength drain cleaners/unblockers, paint strippers, brick and patio cleaners, cleaning products, rust removers and limescale removers.

Products such as normal strength household bleach and cleaners will not be caught by these age restrictions as they tend to be more of an irritant and do not contain corrosive chemicals at the thresholds set out in Schedule 1 where they would cause permanent or life changing injuries. However, sellers would need to ensure that they check their product ranges to ensure that they know which products meet the definition of a corrosive product to under 18s.

We do not list products that would contain corrosive substances at a threshold for the definition of corrosive product to apply, as such a list would need to be constantly updated and subject to change as new products come on to the market.

Whilst there is no requirement on manufacturers to tell retailers or sellers the substances and concentration levels of substances in their products, it is the responsibility of the retailer to ensure that they are aware of any products they stock to which the age restriction applies.

Exemptions

The legislation exempts any form of battery from the sales and delivery provisions given the wide uses of batteries in everyday items and the actual volume of batteries which are used. We also have no evidence that battery acid has been used in any attacks.

The provisions are about the sale of corrosive products to individuals who are under 18. In the case of a company buying corrosive products or corrosive chemicals, the sale will not be made to a person under 18. It would only be in exceptional cases where a business is run by a sole trader who is under 18 that the sole trader would need to make arrangements for the corrosive products to be purchased by, and delivered to, a person who was over 18. The requirement would in effect require the sale to be made to another person.

Identification of products caught by the age restrictions

Whilst the legislation places no requirement on manufacturers and wholesalers to tell retailers or sellers what substances and concentration limits are within their products, we would encourage manufacturers and wholesalers to provide assistance to them in confirming whether any of their products are captured by these age restrictions. Retailers and sellers need to be confident that none of the products that they sell contain these substances at the concentration levels which means that they would be caught by the definition of a corrosive product.

For EU manufacturers, there are existing regulations which require any manufacturer of hazardous chemicals or of products which contain hazardous chemicals to produce a safety data sheet which does set out the concentration limits of any hazardous chemicals that the product contains which includes corrosive substances. These sheets should be provided with the products and, if not, retailers and sellers need to ensure that the manufacturer provides these. If the purchasing of the products is done through wholesalers, then safety data sheets should also be available with the products but if not supplied this would be an issue to raise with the wholesaler to ensure that the products in question are not caught by these age restrictions.

As well as identifying any corrosive products that they sell, retailers and sellers need to take steps to ensure that their staff are aware that these products are subject to age restrictions through actions such as awareness raising, flagging those products caught by the age restrictions to staff, and incorporating corrosive products into any internal training programmes provided to staff on age restricted products.

We have already put in place in advance of this legislation a set of voluntary commitments on the responsible sale of corrosive products to help restrict the sale of corrosive products which contain harmful levels of acid and other corrosives and help prevent attacks by prohibiting sales to under 18s. These commitments were developed with the British Retail Consortium and were tested out with the British Independent Retailers Association (Bira) and the Association of Convenience Stores to ensure that there were both proportionate and that they worked in the retail environment. The voluntary commitments can be accessed at the following link:

<https://www.gov.uk/government/publications/sales-of-acid-voluntary-commitments-for-retailers/responsible-sales-of-acid-and-corrosive-substances-voluntary-commitments>

Major retailers have signed up to the voluntary commitments and to date these are: Wickes, B&Q, Screwfix, Homebase, Wilko, Co-op, Morrisons, Waitrose, John Lewis, Tesco, Lakeland, Asda and Aldi UK. We also have a number of small, independent retailers signed up and have continued to work with Bira to encourage smaller independent retailers to sign

up to these commitments. Section 1 of the Act effectively places these voluntary commitments on a statutory footing which applies to all retailers.

Defences

England and Wales – It is a defence for a retailer or seller if charged with the offence of selling a corrosive product to a person who is under the age of 18 that they had taken all reasonable precautions and exercised all due diligence to avoid committing the offence. This defence is similar to the one available in relation to the sale of knives and certain articles with a blade or a point to under 18s under section 141A of the Criminal Justice Act 1988.

The seller will need to decide which precautions would be reasonable and how to satisfy the requirement of exercising all due diligence. For example, this could be through traditional forms of age verification requiring the person to produce recognised documents such as a passport or driving licence to prove that they are over the age of 18, or through the use of electronic age verification systems which will allow the purchaser to prove that they are over 18.

Retailers and collection points will need to apply their Challenge 21/25 policies and processes as appropriate when verifying age. As part of this, they will also need to consider how best to support their staff through their existing internal processes, such as till alerts, supervision, awareness raising that certain corrosive products are subject to age restrictions, and the inclusion of any corrosive products that they sell or handle as a collection point in age restricted sales training. The final arbiter in any particular case will be the courts. However, the Government anticipates that applying a common sense approach would mean that by undertaking such measures, the seller has exercised all due diligence to prevent the sale of a corrosive product to a person under the age of 18.

Scotland – It is a defence for a retailer or seller if charged with this offence to show that they believed the person to whom the product was sold was aged 18 or over and either the accused had taken reasonable steps to establish the purchaser's age or no reasonable person, based on the purchaser's appearance, could have suspected they were under 18. This defence is similar to how the defence for the sale of bladed articles to under 18s operates. Reasonable steps are prescribed as being that the accused was shown any of the documents listed in subsection (5) (passport, EU photocard driving licence or such documents that Scottish Ministers may prescribe by order) and the document would have convinced any reasonable person.

The legislation does not set out what age verification processes or systems should be utilised by the seller or delivery company to satisfy the defences available to the seller or delivery company. The intention of this Statutory Guidance is to preserve flexibility for the seller or delivery company in determining which of the wide range of age verification products or systems available are best suited to their business requirements in order to fulfil this statutory obligation.

Penalties

The offence is a summary offence. The penalty on summary conviction in England and Wales is imprisonment for a term not exceeding 51 weeks, an unlimited fine or both. The maximum sentence of 51 weeks is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force, and until that time the maximum sentence will be six months imprisonment.

The penalty on summary conviction in Scotland is imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale, or both. Proceedings have to be commenced no later than 12 months following the commission of the offence.

The link below is to the news release which referenced the legislation which came into force on 12 March 2015 which removed the £5,000 cap that previously limited the maximum fines in England and Wales that magistrates' courts could impose.

<https://www.gov.uk/government/news/unlimited-fines-for-serious-offences>

Amending Schedule 1

The legislation provides the relevant national authority with a power to be able to amend, add or remove substances and concentration limits in Schedule 1 through secondary legislation. In the case of England, Wales and Scotland this would be the Secretary of State. We have placed a requirement on the face of the legislation that the national authority would only make any changes following consultation with persons likely to be affected by the regulations and whom the Secretary of State considers that it is appropriate to consult.

We will keep the substances and concentration limits under review by working closely with the National Police Chief's Council and forensic providers on the substances and concentrations that police forces are reporting finding either in relation to actual attacks or individuals being found in possession of a corrosive substance. We will also continue to work closely with retail trade associations and manufacturers as well as with our scientific advisors at the Defence Science and Technology Laboratory as part of this process.

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

The legislation defines a remote sale as a sale where the seller or the seller's representative was not in the presence of the buyer. The Government intends this to include sales which are made online, over the telephone or by post.

When a corrosive product is sold remotely, the seller needs to meet certain conditions if they want to rely on the defence under section 1 of the Act that they took all reasonable precautions and exercised all due diligence to avoid selling the corrosive product to a person under 18.

Section 2 sets out how the defence will apply for remote sales where a seller who has been charged with selling a corrosive product to someone under the age of under 18.

England and Wales – For sellers charged with the offence of selling a corrosive product to an under 18 then in order to be able to rely on this defence, as a minimum, **all** the following conditions below must be met:

- The first condition is that the seller has a system in place to verify the age of the purchaser and that they are not under the age of 18 and that the system is likely to prevent the purchase of a corrosive product by a person under the age of 18;
- The second condition, is that the package when dispatched by the seller is clearly marked that it both contains a corrosive product and that it can only be delivered and handed over to a person aged 18 or over (whether the purchaser or someone representing them);
- The third condition, is that the seller has taken all reasonable precautions and exercised all due diligence to ensure that when the package is delivered, it is handed over to a person aged 18 or over. This applies whether the seller delivers the package themselves or through a third party i.e. by staff at a collection point; and
- The fourth and final condition is that the seller does not deliver the package, or arrange for it to be delivered, to a locker.

Scotland – For sellers charged with the offence of selling a corrosive product to an under 18 it will be a defence for that person to show that all the conditions set out above have been met, and a seller will have shown that they have met a condition by producing sufficient evidence and the contrary has not been proved beyond reasonable doubt.

This section would allow the seller to send the product to a collection point and also the use of click and collect for instore collection as long as the way in which a collection point and/or click and collect operated was sufficient to meet the conditions above e.g. checks are made to ensure a package is only handed to those aged 18 or older.

Relevant bodies who should have regard to these provisions

Retailers, manufacturers, police, trading standards and the public.

Age verification systems

In store age verification

Sellers might decide to adopt their existing Challenge 21/25 policies to ensure that anyone who appears to be below the age of 21 or 25 must provide acceptable identification before purchasing a corrosive product. This requires that it be in the form of a passport, a European Union photocard driving licence or other valid form of identification, including (for England and Wales) electronic age verification. This approach will also mean that visual assessment is sufficient for anyone who is clearly over the age of 21/25.

Electronic and digital age verification

The legislation does not prescribe what age verification processes or systems should be used for the purposes of meeting one of the conditions for the defence to the offence of sale to an under 18 when the sale was made remotely. There are a wide range of age verification processes or systems available, and changes in technology mean these will be subject to change and development. The Government was also clear during the passage of the legislation in Parliament that we do not want to issue standards for electronic age verification which would in effect tell sellers or delivery companies what age verification systems they should procure and use. Technology-based systems may be right for some retailers, but not all, and both retailers and customers may want different options available. It is for retailers and businesses to decide what system works best for their business models and will allow them to demonstrate that they took all reasonable precautions and exercised all due diligence. As set out in the Act, it is the responsibility of the seller to make a decision on whether a particular system meets the requirement that [the] “system was likely to prevent persons under the age of 18 from buying corrosive products by that method”.

It is the responsibility of the seller to take all reasonable precautions and exercise all due diligence to ensure that the package will be delivered into the hands of a person aged 18 or over. The courts will be the final arbiter as to whether the seller has put in place adequate systems, taking into account the particular facts in individual cases. However, it is the Government’s intention that the following examples, either individually or combined, will be insufficient to satisfy the court that robust age verification had taken place:

- Relying on the person purchasing the corrosive product ticking a box confirming that they are over 18;
- Relying in any other way on information provided by the purchaser that they are over 18 without conducting additional checks;
- Using payment systems that may require the customer to be over 18, but which do not verify their age at the point of purchase.

Age verification at collection points

Collection points also need to comply with the requirement that the sale of a corrosive product should not be made to a person under 18. They need to consider whether to adopt and apply Challenge 21/25 policies, if they do not already, to ensure that anyone appearing to be under 21 or 25 must provide identification before collecting a corrosive product whether they are the actual purchaser or their representative. This should be the same as set out above for in store age verification.

Package labelling

All packages containing a corrosive product must be clearly marked to indicate that it contains a corrosive product and that it should only be delivered into the hands of a person aged 18 or over. The legislation does not stipulate the type of labelling or any of the characteristics of it, and this will enable sellers to determine how to comply with the labelling requirement. A seller will need to determine whether the requirement may be met by a sticker stating that this is a corrosive product and not to be handed over to someone aged under 18. Alternatively, a seller may decide to use the CLP (Classification, Labelling and Packaging of substances and mixtures) corrosive pictogram or symbol along with wording that this product should not be handed over to someone under 18. It could also be a label with an 18 symbol and corrosive symbol.

The final arbiter in any particular case will be the courts. However, in the Home Office view, it is unlikely that electronic labels used on handheld signature devices often used by delivery companies and couriers would satisfy the requirement to label the product. The Act says that the package itself must be clearly labelled. Clear and visible labelling will be important for retail and delivery staff and couriers so that they are fully aware that the package contains a corrosive product and must not be handed over to someone under 18.

Definition of a locker

A locker is defined as a lockable container to which the package was delivered with a view to it being collected by the purchaser or someone representing them. For example, those positioned at petrol stations or retail outlets which involve a code being sent to the purchaser in order to open the locker. These do not easily enable age verification to be carried out at the point of collection.

3. Delivery of corrosive products to residential premises etc

When a corrosive product is sold remotely, section 3 makes it an offence for the seller to arrange to deliver or arrange for its delivery to residential premises. It is also an offence for the seller to deliver or arrange for its delivery to a locker for collection.

The purpose of this section is to ensure that a corrosive product, where the sale is made remotely, cannot be delivered into the hands of a person who is under 18 or just left either at the address or a collection point because age has not been verified at the point of delivery.

This provision also ensures that for remote sales, the purchaser or their representative, will be subject to age verification checks when they collect the corrosive product in store or from a collection point.

Relevant bodies who should have regard to these provisions

Retailers, manufacturers, police, trading standards and the public.

Defences

England and Wales – It is a defence for a seller if charged with this offence to prove that they had taken all reasonable precautions and exercised all due diligence to avoid committing the offence.

The seller will need to determine what checks need to be made to ensure that delivery is not made to residential premises and that a business is carried on at the address. This may be through looking up the sole trader, the company or the partnership on the internet and checking the address, or asking the buyer to provide information that he or she is running a business from the address.

Scotland – It is a defence for a seller if charged with this offence to show that they took all reasonable precautions and exercised all due diligence to avoid committing the offence. The accused would need to produce sufficient evidence in relation to the defence and the contrary not be proved beyond reasonable doubt.

Penalties

The offence is summary only. The penalty on summary conviction in England and Wales is imprisonment for a term not exceeding 51 weeks, an unlimited fine or both. The maximum sentence of 51 weeks is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force and until that time the maximum custodial sentence will be six months.

The penalty on summary conviction in Scotland is imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale, or both. Proceedings have to be commenced no later than 12 months following the commission of the offence.

Definitions

A residential premises is defined for the purposes of this section as premises which are used solely for residential purposes. This definition has been used to ensure that deliveries of corrosive products can be made to small businesses that are run from residential premises, including farms for example soap makers, picklers or metal workers.

A locker is defined as a lockable container to which the package was delivered with a view to it being collected by the purchaser or someone representing them.

4. Delivery of corrosive products to persons under 18

This section makes it an offence for a delivery company that has entered in an arrangement with a seller of corrosive products, who is outside the UK, to deliver the products in the UK to a person under 18. This applies where corrosive products have been sold remotely, whether by telephone, online or by post. The purpose is to reduce the risk that under 18s could seek to buy corrosive products from overseas sellers in an attempt to circumvent the prohibitions within the UK on the sale and delivery of corrosive products to under 18s and to residential premises.

For an offence to have been committed, the UK delivery company would need to have entered into an arrangement with an overseas seller to deliver corrosive products in the UK, and the delivery company would need to have delivered the corrosive product into the hands of a person aged under 18 or left it at the address without age verification taking place.

Relevant bodies who should have regard to these provisions

Delivery companies, overseas sellers, police, trading standards and the public.

Defences

England and Wales – It is a defence for a delivery company if charged with this offence to prove that they had taken all reasonable precautions and exercised all due diligence to avoid committing the offence. Taking all reasonable precautions and exercising due diligence

would entail ensuring that age verification had taken place at the point of delivery to ensure that the corrosive product was not handed over to a person under the age of 18.

Scotland – It is a defence for a delivery company if charged with this offence to show that they believed the person to whom the product was delivered was aged 18 or over and either the accused had taken reasonable steps to establish the purchaser's age or no reasonable person, based on the purchaser's appearance, could have suspected they were under 18. Reasonable steps are prescribed as being that the accused was shown any of the documents listed in subsection (5) (passport, EU photocard driving licence or such documents that Scottish Ministers may prescribe by order) and the document would have convinced any reasonable person.

Penalties

The offence is summary only. The penalty on summary conviction in England and Wales would be a fine, and in Scotland would be a fine not exceeding level 5 on the standard scale.

Definitions

For the purposes of this section, an overseas seller would be defined as a person who does not carry out any business of selling articles from any kind of premises within any part of the UK at the time of the remote sale.

Enforcement of sections 1 – 4

Both the police and trading standards are able to enforce the legislation.

In relation to over the counter sales, there will be a need to identify which stores and shops are selling corrosive products (within the terms of this Act) in the local area to ensure that they are complying with the legislation through measures such as awareness raising and test purchasing operations. The legislation does not require sellers to register in their local area but this does not preclude the police or trading standards from setting one up for their local area. For online sellers, there will also be a need to identify which online sellers and marketplaces are selling corrosive products, again for the purposes of test purchasing operations.

The enforcement of the provisions on the sales of corrosive products will be through similar practices and approaches in place for the sale of knives through test purchase operations. As a result, the police and trading standards would follow existing effective practice.

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

This section relates to Scotland only. It provides for certain evidential presumptions in Scotland relating to the nature of substances that are, or were, in containers in relation to offences under sections 1, 3 or 4 involving a corrosive product. The presumptions have effect unless any party is able to rebut them, and notice must be given at least 7 days ahead of trial of an intent to rebut the presumptions. The presumptions are that:

- a description on a container (whether open or sealed), where the container is found to have a substance within it, is presumed to be a description of the substance within the container; and
- in the case of an open container where no substance or a substance in an amount insufficient to allow analysis is recovered, and if the container was sealed at the time it was sold or delivered, then the description on the container is presumed to describe what was in the container at the time of sale or delivery.

Possession of corrosive substances

6 Offence of having a corrosive substance in a public place

Section 6 makes it an offence to possess a corrosive substance – a substance which is capable of burning human skin by corrosion – in a public place. It sets out a defence for the person charged with the offence to prove that they had good reason or lawful authority for having the corrosive substance in a public place, including for use at work.

This section addresses concern about people carrying corrosive substances on their person for use in a violent attack or other criminal acts. It places the onus on the person in possession of the corrosive substance in a public place – rather than the police or prosecution – to prove that they had good reason or lawful authority to be carrying the substance in a public place.

Previously, the offences under the Prevention of Crime Act 1953 have been used to prosecute anyone in possession of acid or other corrosive substances with the intention of causing harm, as the individual in possession of the corrosive substance may be considered to be in possession of an offensive weapon. However, the police and prosecution needed to prove that the person in question was carrying the corrosive substance with the intention of causing injury. This change mirrors existing legislation for the possession of knives in public to ensure a consistent enforcement response from the police.

Use of persuasive and evidential burdens

The offence places a reverse burden on the individual if charged with the offence to prove facts within his/her knowledge which should be relatively easy to establish. For example, when and where they had purchased the corrosive substance, the nature of their employment, for what purpose and if they used it as part of their work.

We expect that the circumstances in which the individual is likely to need to establish a defence are those where there is a suspicion or intelligence that an individual or group are carrying a corrosive substance which they might use for an attack on another person. If the person or member of the group were intending to use the substance for a legitimate purpose, the facts to enable to establish the good reason defence would be within their knowledge and they would readily be able to provide evidence for this. For example, if they were in possession of a drain cleaner, they should be able to explain why they had it, what they were going to use it for and how they were going to use it.

The link to the Government response to the Joint Committee on Human Rights provides useful information:

<https://www.parliament.uk/documents/joint-committees/human-rights/correspondence/2017-19/Offensive-Weapons-Bill-JCHR.pdf>

Relevant bodies who should have regard to these provisions

Police, prosecution and the public.

Definitions

For the purposes of the possession offence, a corrosive substance is defined as a substance which is capable of burning human skin by corrosion. This definition is specific to the offence and was developed based on the advice from the Defence Science and Technology Laboratory. The definition is focused on the actual effects of the substance as we know that corrosive substances are often decanted into other containers or bottles to make them

easier to use as a weapon and to conceal from the police. As a result, police officers may not be dealing with situations where an individual is in possession of a corrosive substance in its original packaging.

The definition is intended so that the most common household cleaning products would not be captured by the possession offence. It would not cover, for example, household bleach or standard household cleaners or liquids such as table vinegar which are not strong enough to burn human skin by corrosion. It would, however, capture strong drain cleaners and unblockers, brick and patio cleaners, paint strippers and industrial cleaning agents which members of the public might, of course, purchase. Most of these products will also be marked to show that they contain a strong corrosive and that they can seriously burn the skin.

The definition of public place for the possession offence in England and Wales includes any place to which, at the time in question, the public have or are permitted access, whether on payment or otherwise.

Defences

It is a defence for a person charged with this offence, in England and Wales, to prove that they had good reason or lawful authority to have possession of the corrosive substance in a public place. The final arbiter in any particular case will be the courts. However, the Government anticipates that applying a common sense approach would mean that a member of the public who had bought a corrosive substance, and was taking it home for the purpose for which the substance or product had been designed – for example, to unblock their drain or for decorating/DIY purposes – would have a good reason for this.

It is also likely that a court would consider that a person had good reason to have possession of a corrosive substance that they used in the course of their business or employment. For example, a plumber who has a drain unblocker, a builder who has a brick cleaner, an employee of a cleaning company who has industrial strength cleaning agents or an employee of a swimming pool cleaning company who has swimming pool chemicals.

<https://www.parliament.uk/documents/joint-committees/human-rights/correspondence/2017-19/Offensive-Weapons-Bill-JCHR.pdf>

In terms of lawful authority, under the Poisons Act 1972 there is a licensing regime for regulated substances and members of the public require a Home Office licence to import, acquire, possess or use a regulated substance. Regulated substances under the Act include certain corrosive acids, for example nitric acid at above 3% concentration and sulphuric acid at above 15% concentration. As a result, there may be situations where a Home Office licence holder has purchased these acids or a corrosive product containing one of these substances and is transporting the substance or product home.

Penalties

The offence is triable either way. The penalty on summary conviction in England and Wales would be imprisonment for a term not exceeding 12 months or to a fine or both. The maximum custodial term of 12 months is contingent on Section 154(1) of the Criminal Justice Act 2003 coming into force, and until that time the maximum custodial term will be six months imprisonment. The penalty on conviction on indictment in England and Wales, would be imprisonment for a term not exceeding 4 years, to a fine or both.

8 Appropriate custodial sentence for conviction under section 6

This section provides an appropriate custodial penalty where a person aged 16 or over is convicted of the offence of possessing a corrosive substance in a public place and has at least one relevant previous conviction. The court is required to impose an appropriate custodial term in addition to a fine, unless it decides that there are circumstances which would make it unjust to do so. An appropriate custodial term is defined as at least 6 months imprisonment for an offender aged 18 or over, or a detention and training order of at least 4 months for an offender aged 16 or 17. This mirrors existing legislation for knives and offensive weapons as amended by the Criminal Justice and Courts Act 2015.

For 16 and 17 year olds, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 when considering whether there are particular circumstances which would make imposing an appropriate custodial term unjust. This ensures the welfare of the children or young person is considered and steps taken to remove from them undesirable surroundings and to securing proper provision for their education and training.

The court must also have regard to the principal aim of the youth justice system “to prevent offending by children and young persons” as set out in section 37 of the Crime and Disorder Act 1998.

This section also ensures that there are procedures for appeals in those circumstances where a relevant conviction which was relied upon by the court to impose an appropriate custodial term has been set aside on appeal.

9 Offence under section 6: relevant convictions

This section sets out details of the convictions which amount to “relevant convictions” for the purposes of Section 6 and the imposition of an appropriate custodial term for a person aged 16 or over where they are convicted of the offence of possessing a corrosive substance in a public place in England and Wales and have at least one relevant previous conviction. This could either be a previous conviction for possessing a corrosive substance in public, or another relating to possessing or threatening with knives or offensive weapons. This can include convictions for offences in Scotland or Northern Ireland, and those under certain Armed Forces legislation, which would have constituted a relevant offence if committed in England and Wales. It also makes it clear that a relevant offence can be considered regardless of when it was committed.

10 Search for corrosive substances: England and Wales

This section provides the police with the appropriate powers under the Police and Criminal Evidence Act 1984 to be able to effectively investigate and enforce the new offence of possession of a corrosive substance in a public place. This includes ensuring that a police officer may search any person or vehicle or anything which is in or on a vehicle which is a corrosive substance, and seize a corrosive substance if it is discovered during the course of the search. The police officer must have reasonable grounds or suspicion that the person is carrying a corrosive substance on their person or within their vehicle before conducting a stop and search. This formed part of the proposals in the Home Office consultation on police stop and search powers that was published in September 2018.

Consequential amendments relating to corrosive products and substances

13 Consequential amendments relating to corrosive products and substances

Section 13 makes consequential amendments to both the Prevention of Crime Act 1953 and to the Criminal Justice Act 1988 to provide that a conviction in England and Wales under section 6, the offence of having a corrosive substance in public, is a “relevant conviction” for the purposes of the sentencing provisions set out in both of those Acts.

This section also makes a consequential amendment to section 37(1A) of the Mental Health Act 1983 to ensure that where a person is convicted of an offence of possession of a corrosive substance in public and has at least one relevant conviction, but the court is satisfied that they are suffering from mental health problems, then they would be able to authorise the person's admission and detention in such hospital specified in the order or place the person under the guardianship of a local social services authority or such person approved by a local social services authority.

The section also makes consequential amendments to the Criminal Justice Act 1988 in relation to the review of sentences in cases where a court did not impose an appropriate custodial sentence. The section also amends the offences which are previous relevant convictions in relation to the offences under sections 139 and 139A of the 1988 Act (offences relating to bladed articles and offensive weapons) to include a conviction under section 6 for possession of a corrosive substance in public.

This section also makes a consequential amendment to section 12 (1A) of the Powers of Criminal Courts (Sentencing) Act 2000 to prevent a court from making an order for absolute or conditional discharge when sentencing an individual where they have been convicted of possessing a corrosive substance in public and have at least one relevant conviction under section 6.

The section also makes a consequential amendment to section 144 of the Criminal Justice Act 2003 and reduction in sentences for guilty pleas to include cases where an individual has been convicted of possessing a corrosive substance in public and has at least one relevant conviction and an appropriate custodial sentence is being considered by the court as under section 6.

PART 3: SALE AND DELIVERY OF KNIVES ETC

Part 3 of the Act strengthens legislation in relation to age restricted sales of knives, in particular, remote sales. The legislation requires that age verification takes place both when a sale is accepted and at the point when the item is delivered. Both are important steps in preventing the sale of knives to a person under the age of 18.

34 Sale etc of bladed articles to persons under 18

Section 34 of the Act amends section 141A of the Criminal Justice Act 1988 which made it an offence to sell articles with blade or sharp point to a person under 18. However, the offence did not apply to weapons covered by section 141¹ of the Criminal Justice Act (offensive weapons such as butterfly knives and push daggers²), which are set out in Annex A. The reason for this is that at the time the legislation was introduced the supply, including the sale, of such weapons was already prohibited³ and therefore the prohibitions of their sale to a person under 18 was not considered necessary.

However, over the years, a number of exclusions and defences have been introduced in relation to the supply of weapons covered by section 141. These include defences for swords with a curved blade of 50 cm or over made before 1954 or by traditional methods and for weapons used for sporting activities, historical re-enactment and religious reasons. Given these defences and exemptions it is possible that offensive weapons covered by section 141 could be sold to a person under 18. The Act removes the exclusion of weapons covered by section 141 of the Criminal Justice Act and has the effect that such weapons cannot be sold to a person under 18.

The Act does not amend section 141A of the Criminal Justice Act in relation to the exclusion for articles covered by the Restriction of Offensive Weapons Act 1959 (ROWA) which prohibits the supply of flick knives and gravity knives, as no exemptions or defences apply in relation to the supply of such weapons. All sales, irrespective of the age of the purchaser, are therefore already an offence⁴.

35 Defence to sale of bladed articles to persons under 18: England and Wales

Remote sale of bladed articles – Defences

The Act amends section 141A of the Criminal Justice Act in relation to the defence available to a person who has remotely sold articles with blade or point to a person under 18. It is a defence under section 141A of the Criminal Justice Act for a person charged with an offence to prove that he or she took all reasonable precautions and exercised due diligence to avoid committing the offence⁵.

For sellers charged with the offence of selling articles with a point or blade to an under 18 remotely then in order to be able to rely on this defence, as a minimum, **all** the following conditions below must be met:

¹ Knives and Offensive weapons information, *Gov.uk*, 11/12/2012 p3-4
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/186911/Knives_and_offensive_weapons_information_GDS_FAQ.pdf (25/06/2019)

⁽²⁾ See the Criminal Justice Act 1988 (Offensive Weapons) Order 1988, S.I. 1988/2019 (as amended), which specifies offensive weapons for the purposes of section 141 of the Criminal Justice Act 1988.

⁽³⁾ The supply is prohibited by section 141 of the Criminal Justice Act 1988 and the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (as amended).

⁽⁴⁾ See s1 of the Restriction of Offensive Weapons Act 1959 (as amended).

⁽⁵⁾ See section 141A(4), and new section 141B, of the Criminal Justice Act 1988 (as amended).

- The first condition is that the seller has a system in place to verify the age of the purchaser and that they are not under the age of 18 and that the system is likely to prevent the purchase of a bladed article by a person under the age of 18;
- The second condition, is that the package when dispatched by the seller is clearly marked that it both contains a bladed article and that it can only be delivered and handed over to a person aged 18 or over (whether the purchaser or someone representing them);
- The third condition, is that the seller has taken all reasonable precautions and exercised all due diligence to ensure that when the package is delivered, it is handed over to a person aged 18 or over. This applies whether the seller delivers the package themselves or through a third party i.e. by staff at a collection point; and
- The fourth and final condition is that the seller does not deliver the package, or arrange for it to be delivered, to a locker.

Age verification

The legislation does not prescribe what an age verification system should look like. It is up to sellers to make a decision on whether the system meets the requirement that *'[it] is likely to prevent persons under 18 from buying a bladed article'*⁽⁶⁾.

In store age verification

Sellers might decide to adopt their existing Challenge 21/25 policies to ensure that anyone who appears to be below the age of 21 or 25 must provide acceptable identification before purchasing an article with a point or blade. This requires that it be in the form of a passport, a European Union photocard driving licence or other valid form of identification, including (for England and Wales) electronic age verification. This approach will also mean that visual assessment is sufficient for anyone who is clearly over the age of 21/25.

Electronic and digital age verification

The legislation does not prescribe what age verification processes or systems should be used. There are a wide range of age verification processes or systems available, and these are subject to market changes and technological developments. The Government was clear during the passage of the legislation in Parliament that we do not want to issue standards for electronic age verification which would in effect tell sellers or delivery companies what age verification systems they should procure and use. Technology-based systems may be right for some retailers but not all, and both retailers and customers may want a range of different options available. It is for retailers and businesses to decide what system works best for their business models and will allow them to demonstrate that they took all reasonable precautions and exercised all due diligence.

The courts will be the final arbiter as to whether the seller has put in place adequate systems, taking into account the particular facts in individual cases. However, it is the Government's view that the following examples would be insufficient to demonstrate that robust age verification has taken place:

- Relying on the person purchasing the item ticking a box confirming they are over 18;
- Relying in any other way on information provided by the buyer that they are over 18 without conducting additional checks;
- Using payment systems that may require the customer to be over 18, but which do not verify age at point of purchase.

Age verification at collection points

Collection points also need to comply with the requirement that the sale of a bladed article should not be made to a person under 18. They need to consider whether to adopt and apply

⁽⁶⁾ See section 141B(4) of the Criminal Justice Act 1988 (as amended).

Challenge 21/25 policies, if they do not already, to ensure that anyone under or near the age of 18 must provide identification before collecting an article with a point or blade whether they are the actual purchaser or their representative. This should be the same as set out above for in store age verification.

Package labelling

All packages containing a bladed article must be clearly marked to indicate that it contains a bladed article and that it should only be delivered into the hands of a person aged 18 or over. The legislation does not stipulate the type of labelling or any of the characteristics of it, and this will enable sellers to determine how to comply with the labelling requirement. A seller will need to determine whether the requirement may be met by, for example, by a sticker stating that this is a bladed article and not to be handed over to someone aged under 18.

The final arbiter in any particular case will be the courts. However, in the Government's view, it is unlikely that electronic labels used on handheld signature devices often used by delivery companies and couriers would satisfy the requirement to label the product. The Act is clear that the package itself must be clearly labelled. Clear and visible labelling will be important for retail and delivery staff and couriers so that they are fully aware that the package contains a bladed article and must not be handed over to someone under 18.

Definition of a locker

A locker is defined as a lockable container to which the package was delivered with a view to it being collected by the purchaser or someone representing them. For example, those positioned at petrol stations or retail outlets which involve a code being sent to the purchaser to open the locker. These do not easily enable age verification to be carried out at the point of collection.

Bladed articles – Definition

The offence of sale of bladed articles to persons under 18, set out in section 141A of the Criminal Justice Act applies to:

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

The Criminal Justice Act does not define any of the items to which s141A applies and therefore the words carry their normal meaning. The general principle is that items that can commonly be described as knives are to be considered as such for s141A purposes. It is for a court to make a decision on whether s141A applies to a specific article, but sellers should be mindful that the Government's intention when the legislation was introduced was addressing public concern about under 18s getting hold of knives⁷. Retailers are expected to act responsibly and to consider carefully whether an item could commonly be defined as a knife.

The final arbiter in any particular case will be the courts. However, the Government anticipates that applying a common sense approach would mean the following non-exhaustive list provides examples of what items should normally be considered to be captured by the legislation:

- any kitchen knife regardless of size or design;
- cutlery knives;

⁷ <https://hansard.parliament.uk/Commons/2018-11-28/debates/5C3D6A9C-671A-4834-B792-B5BF9D15069D/OffensiveWeaponsBill?highlight=carrying%20knives#contribution-FB74BFFE-BC EE-44D2-8EE5-79B11E0D5692>

- bread knives;
- knives that can be used for the purpose of hobbies and trades regardless of whether they are marketed as knives, for instance, Stanley knives and snap-off cutters;
- cut-throat razors;
- carpenter adzes;
- gardening and farming tools such as shears, secateurs, hooks, slashers and choppers;
- butcher knives, including meat cleavers;
- utility knives;
- scissors with sharp edges or points;
- survival knives;
- machetes; and
- swords.

Likewise, some examples of items that the Government anticipates are unlikely to be captured by the legislation are:

- plastic cutlery knives;
- encased razor blades;
- blades which are part of domestic appliances, such as food processors and blenders;
- blades which are part of lawn mowers and similar tools; and
- woodturning tools such as chisels.

38 Delivery of bladed products to residential premises etc

Section 38 of the Act applies to remote sales of 'bladed products'. It creates an offence for the seller to deliver, or arrange the delivery of, 'bladed products' to residential premises or to lockers. A bladed product is an article which is or has a blade and is capable of causing serious injury by cutting the skin⁸.

The Act defines 'residential premises' as premises used solely for residential purposes. This means that if a premise is used for the business and residential premises (for instance if a person is running a business from their home such as a decorator, a carpenter or a farmer), it is possible to deliver bladed products to the address. It is for the seller to satisfy themselves that the address is not used solely for residential purposes.

The offence applies to sellers who themselves deliver items (i.e. through their delivery arm) and to sellers who arrange for delivery by a delivery company.

There are defences available to the seller, under section 40 of the Act, including where the company took all reasonable precautions and exercised all due diligence to prevent the item being delivered to an under 18.

The effect of this is that where a seller is sure that the bladed product will not be handed to an under 18, they can deliver it to a residential premises. Where no such arrangements are in place, the item will have to be collected in person at a collection point.

The Act defines a locker as a lockable container to which the package was delivered for collection by the buyer or a person acting on behalf of the buyer.

The penalty on summary conviction is imprisonment for a term not exceeding 51 weeks, a fine or both. The maximum custodial term of 51 weeks is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force, and until that time the maximum custodial term will be six months imprisonment.

⁽⁸⁾ See section 41(1) of the offensive Weapons Act 2019, and section 48 of this guidance.

39 Delivery of bladed products to persons under 18 (seller based in the UK)

Under section 39 of the Act, it is an offence for a delivery company to deliver bladed products, sold by UK based sellers, to an under 18 at a residential premises or to a locker.

The delivery company will commit an offence if they do not deliver the bladed product into the hands of a person over 18. This offence applies to body corporates. The liability only attaches to companies who enter into arrangements with a UK based remote seller for the delivery of bladed products. If the delivery company has not entered such arrangements or they do not know when entering the arrangement that it covered the delivery of a bladed product no offence is committed.

There is a defence available to delivery companies, under section 40(7) of the Act, where they have taken all reasonable precautions and exercised all due diligence to prevent the item being delivered to an under 18.

This offence differs to the offence of delivering to residential premises for non-UK sales under section 42 of the Act. Where the item is sold by a UK seller an offence is only committed if delivery is of a bladed product to a residential premises. For non-UK sales, the legislation applies to all premises and a wider category of bladed articles.

A body corporate convicted of an offence under this section is liable on summary conviction in England and Wales to a fine.

40 Defences to offence under section 38 or 39

Section 40 provides defences to the offences of delivering (or arranging delivery of) a bladed product to a residential premises (section 38 - the seller's offences) and the offence of delivering bladed products to an under 18 at a residential premises or to a locker (section 39 – the delivery company offence). The defences available differ.

Defences – section 38: the seller

The seller has a defence where they can show they exercised all reasonable precautions and due diligence to prevent the item being delivered to a residential premises or locker (section 40(1) of the Act). The seller will need to satisfy the court that they took appropriate steps to check the address was a business address. This may be through checking Companies House, looking the sole trader, the company or the partnership on the internet and check the address, or asking the buyer to provide information that he or she is running a business from the address.

Where a seller is delivering the products themselves (through their delivery arm), they have a defence where they can demonstrate internal procedures were in place to ensure that, when delivered, the bladed product would not be handed to an under 18. They also need to prove that they have taken all reasonable precautions and exercised all due diligence to ensure this occurred (section 40(2)(a) of the Act). Whether or not the seller had adequate procedures in place is a matter for the court, but the seller may be able to satisfy this requirement by mandating age verification at the point of delivery. The requirement to take reasonable precautions and exercise due diligence will depend on the circumstances.

Where a seller is arranging delivery of the product by a delivery company, the seller has a defence where they can demonstrate they have arrangements in place with the delivery company which requires the company to have procedures in place to ensure that the bladed product would not be handed to an under 18. The seller also needs to be able to show they

took all reasonable precautions and exercised all due diligence to ensure this occurred (section 40(3) of the Act). Again, whether this is met is a matter for the courts, but sellers may want to consider contractual arrangements requiring age verification at the point of delivery and ensuring they monitor whether this is effective at preventing items reaching under 18s.

It is also a defence if the bladed product was designed, manufactured or adapted for the buyer in accordance with the buyer's specifications (section 40(4) – (5) of the Act). Examples may include bespoke knives made to specific weight, length or shape.

It is also a defence if the seller reasonably believed the bladed product for a sporting purpose or for historical re-enactment (section 40(6) of the Act). Examples may include fencing foils or replicas of medieval swords.

These additional defences do not apply to the offence of a delivery company delivering products to a person under 18. They must still be handed to a person over the age of 18 at the point of delivery.

Defences – section 39: the delivery company

There is a defence available to delivery companies, under section 40(7) of the Act, where the company took all reasonable precautions and exercised all due diligence to prevent the item being delivered to an under 18.

Age verification

It is up to the seller and the delivery company to decide how they will ensure that packages containing bladed products (in the case of sellers based in the UK) are not delivered to a person under 18. All packages containing a bladed product must be clearly marked to indicate that it contains an age restricted product and that it should only be delivered into the hands of a person aged 18 or over.

Delivery companies may need to make anyone who delivers the product on behalf of the company aware of the legislation and the importance of age verification. They will want to ensure that they have internal systems in place that confirm that the package has not been delivered into the hands of a person under 18 in order to reassure themselves that their systems are robust, as well as reassure sellers, and courts if needed.

41 Meaning of “bladed product” in sections 38 to 40

This section defines a ‘bladed product’ as an article that has a blade and is capable of causing a serious injury to a person which involves cutting that person’s skin.

Bladed products as they apply to sections 38 and 39 of the Act are intended to be a subset of the wider range of bladed articles to which section 141A of the Criminal Justice Act 1988 applies (i.e. any article with a blade or sharp point).

Whilst the courts are the final arbiter as to whether an article is a bladed product, taking into account the particular facts in individual cases, the Government’s view is that the articles in the below list are unlikely to be considered bladed products:

- cutlery knives other than sharply pointed steak knives;
- small scissors with rounded tips;
- utility knives with small cutting blades;
- snap off cutters;
- pizza cutters; and

- cheese knives.

The objective of the legislation is to address public concern about knife crime and the risk that dangerous knives and blades fall into the hands of persons under 18.

42 Delivery of bladed articles to persons under 18 (seller based outside the UK)

Section 42 of the Act makes it an offence for a delivery company, who has entered into an arrangement with a seller based outside the UK, to deliver a bladed article to a person under 18.

The criminal liability only attaches to companies who enter into arrangements with a non-UK based seller for the delivery of bladed articles. If the delivery company has not entered such arrangements, or they do not know when entering the arrangement that it covered the delivery of a bladed article, no offence is committed. This is a corporate criminal liability, not individual. There is a defence available to delivery companies where they can prove that they took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

This offence largely mirrors the offence on delivery companies at section 39, but in this case it applies to bladed articles and to deliveries to all premises (regardless of whether they are residential or business premises). A bladed article is a knife or knife blade or razor blade, axe or other article with a blade or sharp point made or adapted for use for causing injury to the person⁹. This is because sellers based abroad may not be able to determine when they sell a bladed article whether the delivery address is residential or a business address.

A person charged with an offence under this section is liable on summary conviction in England and Wales to a fine.

Age verification on delivery

It is up to the seller and the delivery company to decide how they will ensure that packages containing bladed articles (in the case of sellers based outside of the UK) are not delivered to a person under 18.

To assist delivery companies, all packages containing a bladed article should be clearly marked to indicate that it contains an age restricted product, and that it should only be delivered into the hands of a person aged 18 or over.

Delivery companies may need to make anyone who delivers the product on behalf of the company aware of the legislation and the importance of age verification. They will want to ensure that they have internal systems in place that confirm that the package has not been delivered into the hands of a person under 18 in order to reassure themselves that their systems are robust, as well as reassure courts if needed.

The links below provide legal guidance on legislation and case law relating to knives and offensive weapons pre-dating the Offences Weapons Act 2019

<https://www.cps.gov.uk/legal-guidance/offensive-weapons-knives-bladed-and-pointed-articles>

<https://www.gov.uk/government/publications/knives-and-offensive-weapons-information>

⁽⁹⁾ A bladed article is an article to which section 141A of the Criminal Justice Act 1988 applies.

PART 4: POSSESSION ETC OF CERTAIN OFFENSIVE WEAPONS

Part 4 of the Act strengthens legislation in relation to possession of bladed articles and certain dangerous and offensive weapons. The Act extends the current possession offence in a public place and school premises to further education premises. The Act also prohibits private possession of dangerous and offensive weapons to which the Restriction of Offensive Weapons Act 1959 and the Criminal Justice Act 1988 apply. At present if the police find a zombie knife, a flick knife or a butterfly knife in someone's home they can only take action if it is considered to be evidence in a criminal investigation. Otherwise there is nothing that the police can do if they find such weapons in someone's home. The Act will allow the police to be able to seize such weapons held in private so they cannot be used in crime. The Act also amends the definition of a flick knife to ensure that modern designs are also prohibited, and expands the list of prohibited offensive weapons to include so called cyclone knives.

43 Amendments to the definition of "flick knife"

This section amends the definition of a "flick knife" in the Restriction of Offensive Weapons Act 1959¹⁰. The amended definition includes any knife that opens automatically from a closed position, or partially opened position, to a fully opened position by means of any manual pressure that is applied to a button, spring or other device which is contained either within the knife or is attached to the knife.

The previous definition of a "flick knife" referred to the mechanism that activates the blade being in, or attached to, the handle of the knife. This did not capture various new designs of knife available which mimic the speed and way in which a flick knife can be opened, through a mechanism not in the handle itself.

Knives that open manually, including those which can be opened with a thumb stud, do not fall under the new definition. Similarly, knives with a mechanism that opens the blade slightly, but not completely, and then can only be fully opened by hand are also out of scope of the Act. This ensures that knives are available on the market for a situation where it is necessary to open a knife with one hand, for example, a person climbing a rockface who needs to support their weight with one hand.

The sale, importation and supply of flick knives and gravity knives has been banned since 1959¹¹.

44 Prohibition on the possession of certain dangerous knives

This section prohibits the possession in public and in private, of a flick or gravity knife as described in section 1 of the Restriction of Offensive Weapons Act 1959 (as amended by section 43 of the Offensive Weapons Act 2019).

Any person who possesses such a knife is liable:

- On summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or both. The maximum sentence of 51 weeks is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force, and until that time the maximum custodial term will be six months imprisonment;

⁽¹⁰⁾ See section 1(a) of the Restriction of Offensive Weapons Act 1959.

⁽¹¹⁾ See section 1 of the Restriction of Offensive Weapons Act 1959.

- On conviction on indictment, to imprisonment for a term not exceeding 4 years, to a fine or to both.

The Act provides defences for museums and galleries and persons acting on behalf of a museum or gallery in order for them to hold items of historical importance as part of their collections for cultural, artistic or educational purposes. There is also a defence for those in possession of the dangerous weapons who can prove that they have the weapon in their possession in order to make it available to a museum or gallery – this defence applies to both possession and importation¹². There are no further defences, such as for private possession or supply of antique flick or gravity knives, in the Offensive Weapons Act 2019.

45 Prohibition on the possession of offensive weapons on further education premises

This section extends the offence under section 139A of the Criminal Justice Act 1988 prohibiting possession of an article with a blade or which is sharply pointed or an offensive weapon on school premises to also cover further education premises. An offensive weapon is any article made or adapted for use for causing injury to the person, or intended for such use¹³.

This change has been made in order to ensure that the legislation in relation to possession of bladed articles keeps up with the changes to the education environment. This provides the police with the powers they need to deal with an incident in further education establishments if it happens.

The defences provided in section 139A of the Criminal Justice Act 1988 also apply to further education premises:

- good reason or lawful authority;
- for use at work;
- for educational purposes;
- for religious reasons; or
- as part of any national costume.

Where such a defence is available, it will be for the heads of these institutions/establishments to decide the policy on whether to allow such items on their premises.

This section also provides the police with a power of entry to search for offensive weapons in further education premises by amending section 139B of the Criminal Justice Act 1988. This includes a power to search the premises and any person on those premises whom the police officer has reasonable grounds for suspecting unlawfully has with them an article with blade or point, or offensive weapon.

In this section “further educational premises” means, in relation to England and Wales, land used solely for the purposes of—(i) an institution within the further education sector or the higher education sector (within the meaning of section 91 of the Further and Higher Education Act 1992), or (ii) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010), excluding any land occupied solely as a dwelling by a person employed at the institution or 16 to 19 Academy.

⁽¹²⁾ Importation of flick or gravity knives is prohibited under section 1(2) of the Restriction of Offensive Weapons Act 1959, and an offence under section 50(2) and (3) of the Customs and Excise Management Act 1979.

⁽¹³⁾ See section 1 of the Prevention of Crime Act 1953.

46 Prohibition on the possession of offensive weapons

This section amends section 141 of the Criminal Justice Act 1988 to make it a criminal offence to possess in private any weapon set out in the Criminal Justice Act 1988 (Offensive Weapons) Order 1988¹⁴. Since 1988 it has been an offence to manufacture, sell, hire, offer to sell or hire, possess for the purposes of sale or hire, import, lend or give weapons to which that section applies, and this section makes unlawful the simple possession of these. Weapons set out in the 1988 Order include items such as knuckledusters, handclaws, disguised and stealth knives, and zombie knives.

In England and Wales, and in relation to this legislation, a private place is a place other than:

- a public place
- school premises
- further education premises, or
- a prison.

This is because possession in those places are already prohibited under other legislation.

The defences that already exist under s141 of the Criminal Justice Act 1988 in relation to manufacture, importation and sale of certain weapons, also apply for possession in private. This includes that the weapon in question is:

- of historical importance;
- to be used for historical re-enactments;
- to be used for sporting activities;
- possessed on behalf of a museum or gallery, or lend or hired by a museum or gallery for cultural, artistic or educational purposes; or
- possessed for religious reasons.

Antique weapons, over 100 years old, are currently exempted from section 141 of the Criminal Justice Act 1988¹⁵. This exemption will also apply to the offence of possessing such weapons under the Act.

There is also an exemption for swords with curved blades of 50cm or longer covered by the prohibition that were made before 1954 or those made at any time by traditional methods by hand.

The penalty for possession in private is, on summary conviction, amended to imprisonment for a term not exceeding 12 months, a fine or both. The maximum sentence of 51 weeks is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force, and until that time the maximum custodial term will be six months imprisonment. The penalty on conviction on indictment is imprisonment for a term not exceeding 4 years, a fine or both.

47 Prohibition on the possession of offensive weapons: supplementary

This section amends the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (SI 1988/2019) to include weapons known as cyclone knives or spiral knives. A cyclone or spiral knife is a weapon comprised of a handle with a blade with two or more cutting edges, each of which forms a helix and a sharp point at the end of the blade. The

¹⁴ Knives and Offensive weapons information, *Gov.uk*, 11/12/2012 p3-4
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/186911/Knives_and_offensive_weapons_information_GDS_FAQ.pdf (25/06/2019)

(¹⁵) See paragraphs 1 and 2 of the Criminal Justice Act 1988 (Offensive Weapons) Order 1988.

effect of including these weapons is that, as offensive weapons, the sale, importation, supply and possession of these knives is banned.

Kirpans

Section 47 of the Act provides an additional defence with respect to swords with curved blades of 50cm or longer.

Some kirpans can fall under this definition of an offensive weapon to which section 141 of the Criminal Justice Act 1988 applies¹⁶. A kirpan which is less than 50cm is not captured by the legislation. It is already a defence under section 139 of the Criminal Justice Act 1988 to possess one in public for religious reasons to ensure that a person of Sikh faith can possess a kirpan. It was similarly a defence to the offence under s141 of that Act (manufacture, sale, hire etc) where such conduct was for the purposes of use in religious ceremonies. This defence applies to possession in private, and this section modifies the defence extending it from “religious ceremonies” to “religious reasons”¹⁷.

In addition, section 47 provides a new defence to the offence of possession in private for Sikhs possessing such swords for the purposes of presenting them to others at a religious ceremony or other ceremonial event and for the recipients, whether they are a Sikh or not, to possess swords that they have been presented with. It also provides a defence for the ancillary acts, where they are for that end purpose e.g. the manufacture and sale, act of giving etc. This ensures the act of ceremonial gifting of the Sikh kirpan can lawfully occur.

48 Surrender of prohibited offensive weapons

This section makes provision for those who currently hold offensive weapons, the possession of which has become prohibited by this Act, to be able to surrender those weapons at designated police stations. There will be a defined window for people to hand in weapons and, where eligible, claim compensation. Details and guidance on surrender and compensation arrangements will be published separately, once the compensation arrangements come into force via secondary legislation.

49 Payments in respect of surrendered offensive weapons

This section makes provision to make regulations that will provide for compensation payments to be made to eligible owners of previously legally held offensive weapons, who voluntarily hand these weapons into the police for safe disposal.

The compensation arrangements will include the following elements:

- Eligibility for compensation for legally acquired and owned offensive weapons;
- Receipt and verification of claims;
- Evaluation of claims; and
- Payment (or refusal) of claims.

Guidance on the compensation arrangements, including details on who can apply and the claims process, will be published following the regulations being made and enacted by Parliament.

⁽¹⁶⁾ See paragraph 1(r) of the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988.

⁽¹⁷⁾ See paragraph 5A of the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988.

PART 5: THREATENING WITH OFFENSIVE WEAPONS

50 Offence of threatening with offensive weapon etc in a public place etc

This section amends the legal test for threatening with an offensive weapon in a public place. It replaces the requirement of the threat causing immediate risk of serious physical harm to the victim, with a requirement that the threat is such that a reasonable person who was exposed to this threat would think that they were at a risk of immediate physical harm. This amends the offences provided by the s1A of the Prevention of Crime Act 1953 and s139AA of the Criminal Justice Act 1988.

The previous legal test was based on the objective assessment of the immediate risk of serious physical harm to the victim rather than being based on how a reasonable person would perceive the threat. The new test considers how a reasonable person, in the victim's place, would interpret such a threat, and not whether the victim was objectively at risk of immediate physical harm. This test is not based on the victim's fear of suffering harm. The reasonable person test removes the element of subjectivity on the part of the person threatened. In addition, lowering the test from 'serious physical harm' to 'risk of immediate physical harm' puts the victim's point of view at the heart of this offence.

There is no legislative definition given for "physical harm" in either offence.

The Act does not amend the penalty for this offence provided in s1A of the Prevention of Crime Act 1953 and s139AA of the Criminal Justice Act 1988, so a person guilty of this offence is liable to:

- On summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both. The maximum sentence of 12 months is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force, and until that time the maximum sentence will be six months imprisonment;
- On conviction on indictment, imprisonment for a term not exceeding 4 years, or a fine or both.

Minimal custodial sentencing, under section 28 of the Criminal Justice and Courts Act 2015, applies to threatening with offensive weapons offences.

For defendants under the age of 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933, to the welfare of the child or young person and take steps for removing them from undesirable surroundings, and for securing that proper provision is made for their education and training.

The court must also have regard to the principal aim of the youth justice system "to prevent offending by children and young persons" as set out in section 37 of the Crime and Disorder Act 1998.

51 Offence of threatening with offensive weapon etc on further education premises

Section 51 amends section 139AA of the Criminal Justice Act to extend the offence of threatening with a bladed or pointed article or an offensive weapon on school premises to further education premises.

The Act does not amend the penalty for this offence provided in s139AA of the Criminal Justice Act 1988, so a person guilty of this offence is liable to:

- On summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both. The maximum sentence of 51 weeks is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force, and until that time the maximum sentence will be six months imprisonment;
- On conviction on indictment, imprisonment for a term not exceeding 4 years, or a fine or both.

Minimal custodial sentencing, under section 28 of the Criminal Justice and Courts Act 2015, applies to threatening with offensive weapons offences.

For defendants under the age of 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933, to the welfare of the child or young person and take steps for removing them from undesirable surroundings, and for securing that proper provision is made for their education and training.

52 Offence of threatening with an offensive weapon etc in a private place

This section creates a new specific offence of threatening with a corrosive substance, bladed or pointed article or an offensive weapon in private. Whilst it was already an offence to threaten someone with an offensive weapon in private, the offences that were most likely to be used in such circumstances, namely common assault, did not attract the same penalties for an offence of threatening in public.

It is now an offence for a person to unlawfully and intentionally threaten another person with a corrosive substance, a bladed or pointed article or an offensive weapon in a way that there is an immediate risk of serious physical harm to that person.

Serious physical harm is defined as amounting to grievous bodily harm for the purposes of the Offences against the Person Act 1861. Grievous bodily harm is defined in case law¹⁸ as really serious harm as assessed by a jury, and a wound defined as a break in the continuity of the skin falls within the parameters of grievous bodily harm.

The offence in private adopts a higher test than the offence of threatening in a public place or educational premises. This is because this can cover actions in the private sphere, such as in a person's home, and so lower levels of threat with everyday and lawful household items should not be captured. Other charges may be more appropriate.

For example, the conduct may amount to common assault under the Criminal Justice Act 1988. The offences of using threatening, abusive or insulting words or behaviour intending to cause a person to believe that immediate unlawful violence will be used against him or another, or with intent to cause a person harassment, alarm or distress, under section 4 and 4A of the Public Order Act 1986 may also be available. These offences apply both in private and public, except that no offence is committed where both the person threatening and the person being threatened are in the same or another dwelling.

Depending on the conduct, it may also be possible to bring a charge of attempted wounding or attempted Grievous Bodily Harm contrary to section 18 of the Offences Against the Person Act 1861. In addition, it may be possible to bring a charge of threat to kill under section 16 of the 1861 Act, which carries a maximum sentence of 10 years if tried on indictment.

¹⁸ DPP v Smith 1961

The issue of charging, prosecution and sentencing are operational matters for the police, Crown Prosecution Service and courts to make on a case by case basis.

The offence applies in any private place. For bladed and pointed articles and offensive weapons this means anywhere other than a public place or school or further education premises, where it is already an offence. For corrosive substances, a private place means anywhere other than a public place, so it would be an offence to threaten someone with a corrosive on educational premises for example.

The new offence carries a penalty of:

- On summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both. The maximum sentence of 12 months is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force, and until that time the maximum sentence will be six months imprisonment;
- On conviction on indictment, imprisonment for a term not exceeding 4 years, or a fine or both.

53 Search for corrosive substance on school or further education premises

Section 53 provides the necessary powers to enter and search for a corrosive substance on school and further education premises in support of the new offence at section 52. These powers will enable the police enter and search a school or further education premises and any person to prevent an actual attack. This power would only be used when a police officer has reasonable grounds to suspect that someone has been threatened by another person with a corrosive substance. A report from a teacher, a parent or a pupil may constitute reasonable grounds to exercise this power.

PART 7: ENFORCEMENT

This Part does not form part of the statutory guidance but is included for background information.

64 Enforcement of offences relating to sale etc of offensive weapons

Section 64 confers a power on local authorities (a local weights and measures authority under section 69 of the Local Weights and Measures Act 1985) to enforce within its area the new offences under the Act and existing offences relating to the sale, delivery etc of knives, corrosives products and other offensive weapons:

- Section 1(1) of the Restriction of Offensive Weapons Act 1959 (penalties for offences in connection with dangerous weapons);
- Section 1 of the Crossbows Act 1987 (sale etc of crossbows to persons under 18);
- Section 141(1) of the Criminal Justice Act 1988 (offensive weapons);
- Section 141A of that Act (sale etc of bladed articles to persons under 18);
- Section 1 of the Knives Act 1997 (unlawful marketing of knives);
- Section 2 of that Act (publication of unlawful marketing material relating to knives);
- Section 1 of the Offensive Weapons Act 2019 (sale of corrosive products to persons under 18);
- Section 3 of that Act (delivery of corrosive products to residential premises etc);
- Section 4 of that Act (delivery of corrosive products to persons under 18);
- Section 38 of that Act (delivery of bladed products to residential premises etc);
- Section 39 of that Act (delivery of bladed products to persons under 18); and
- Section 42 of that Act (delivery of bladed articles to persons under 18).

The investigatory powers available to a local weights and measures authority for the purposes of enforcing a provision are listed in Schedule 5 to the Consumer Rights Act 2015¹⁹.

65 Application of Regulatory Enforcement and Sanctions Act 2008

Section 65 applies Parts 1 and 2 of the Regulatory Enforcement and Sanctions Act 2008 to the enforcement of provisions relating to the age restricted sale and delivery of knives, corrosive products and offensive weapons, which includes extending the Primary Authority scheme to these provisions.

The Primary Authority scheme was created in response to recommendations in the Hampton Report (2005) which noted widespread inconsistencies of regulatory interpretation between different local authorities. The statutory basis for the scheme is provided by the Regulatory Enforcement and Sanctions Act 2008 (as amended) and associated secondary legislation. The Primary Authority scheme was introduced in April 2009. The Enterprise Act 2016 included measures to amend the Regulatory Enforcement and Sanctions Act 2008 to enable many more small businesses and pre-start-up enterprises to participate in Primary Authority.

The scheme provides greater regulatory consistency and certainty for businesses operating across a number of local authority areas. The scheme is based on the creation of a statutory partnership between a business and its 'Primary Authority' (PA). The PA act as coordinator of other local authority inspections of that business. The scheme has been

¹⁹ <http://www.legislation.gov.uk/ukpga/2015/15/schedule/5/enacted>

received positively and it has had widespread uptake and support from businesses, professional bodies and local authorities.

The key elements of the scheme are:

- The PA acts as a key point of contact for a business that it partners with in relation to the business's interactions with local authorities that regulate it, known as enforcing authorities. In the case of age restricted sales of knives enforcement responsibilities are split between local authorities and police forces. Police forces operate outside the scope of PA and there is no plan to change this.
- The PA also has a role to play leading regulation of the business on behalf of local authority regulators, including through the co-ordination of intelligence and of responses to specific issues that arise.
- The PA is able to share compliance information with enforcing authorities and may, with consent from the Secretary of State, publish an inspection plan where this will be of benefit in guiding and co-ordinating the activities of enforcing authorities. As a result, protections are enhanced, although enforcing authorities are not constrained from responding to and investigating complaints.
- The PA is able to provide advice and guidance on compliance to the business (known as PA Advice) in areas of regulation covered by the partnership, on which the business can rely.
- Where the business faces potential enforcement action by an enforcing authority, the PA will assess whether the proposed action is inconsistent with any PA Advice given. If the action is inconsistent, the PA is able to direct the enforcing authority not to take the action.
- The Secretary of State is empowered to make a determination in the case of a disagreement as to whether proposed enforcement action is inconsistent with PA Advice given by the PA, and whether that advice was correct and properly given.
- PA Advice does not affect the responsibility that a business has to comply with legal requirements, but supports it in meeting its obligations by:
 - Helping it to understand what needs to be done to achieve or maintain compliance;
 - Setting out a way of achieving and maintaining compliance; or
 - Providing information that the method of compliance chosen by the business is acceptable.

The following links to the Primary Authority Statutory Guidance and Guide for Local Authorities may provide useful further reading:

<https://www.gov.uk/guidance/primary-authority-a-guide-for-local-authorities>

<https://www.gov.uk/government/publications/primary-authority-statutory-guidance>

Annex A

Specified Weapons

Section 141 of the Criminal Justice Act 1988 provides that it is an offence to manufacture, sell or hire, offer for sale or hire, expose or have in his possession for the purpose of sale or hire of or lending or giving to any other person certain specified weapons.

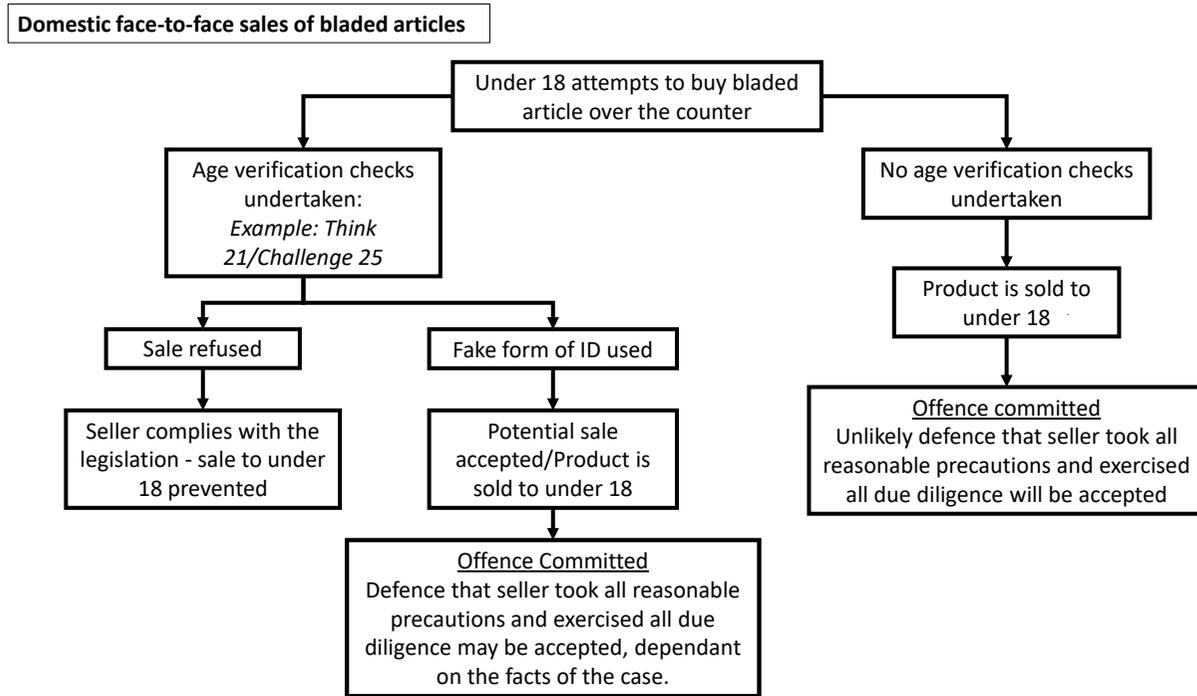
The Criminal Justice Act (Offensive Weapons) Order 1988 (S.I 1998/2019) (as amended) provides that the following are specified weapons for the purpose of section 141:

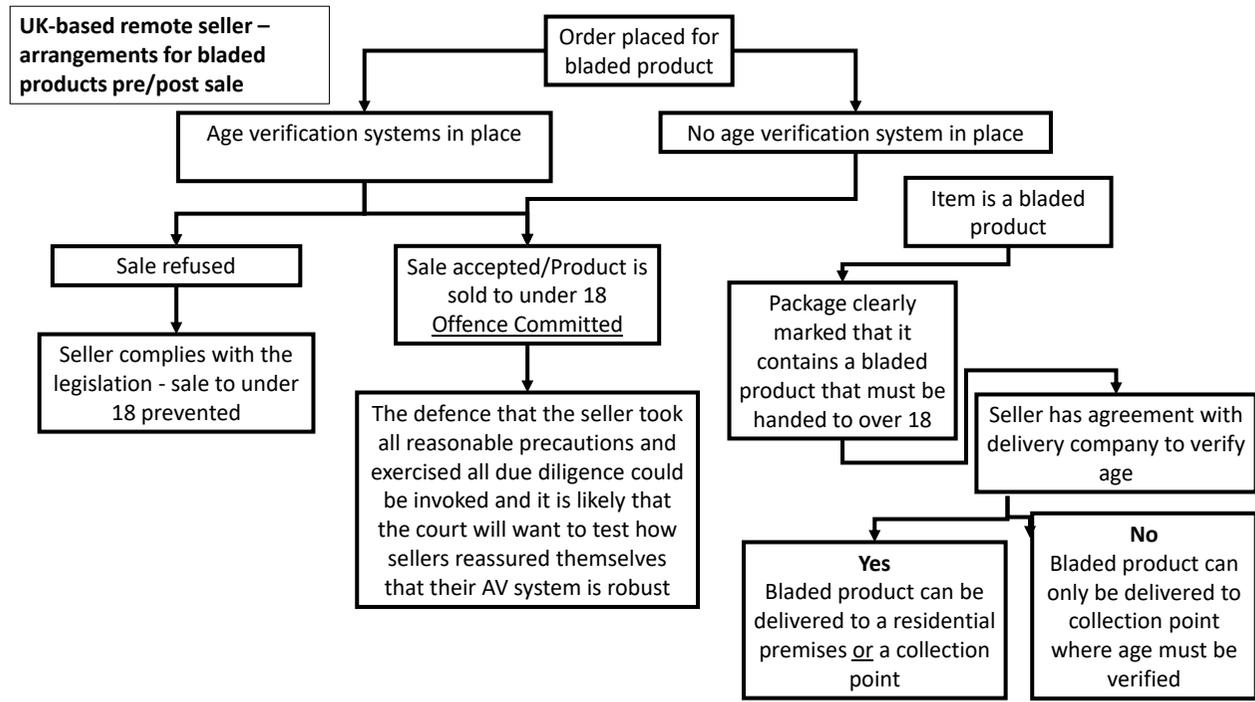
- a) a knuckleduster, that is, a band of metal or other hard material worn on one or more fingers, and designed to cause injury, and any weapon incorporating a knuckleduster;
- b) a swordstick, that is, a hollow walking-stick or cane containing a blade which may be used as a sword;
- c) the weapon sometimes known as a 'handclaw', being a band of metal or other hard material from which a number of sharp spikes protrude, and worn around the hand;
- d) the weapon sometimes known as a 'belt buckle knife', being a buckle, which incorporates or conceals a knife;
- e) the weapon sometimes known as a 'push dagger', being a knife, the handle of which fits within a clenched fist and the blade of which protrudes from between two fingers;
- f) the weapon sometimes known as a 'hollow kubotan', being a cylindrical container containing a number of sharp spikes;
- g) the weapon sometimes known as a 'footclaw', being a bar of metal or other hard material from which a number of sharp spikes protrude, and worn strapped to the foot;
- h) the weapon sometimes known as a 'shuriken', 'shaken' or 'death star', being a hard, non-flexible plate having three or more sharp radiating points and designed to be thrown;
- i) the weapon sometimes known as a 'balisong' or 'butterfly knife', being a blade enclosed by its handle, which is designed to split down the middle, without the operation of a spring or other mechanical means, to reveal the blade;
- j) the weapon sometimes known as a 'telescopic truncheon', being a truncheon which extends automatically by hand pressure applied to a button, spring or other device in or attached to its handle;
- k) the weapon sometimes known as a 'blowpipe' or 'blow gun', being a hollow tube out of which hard pellets or darts are shot by the use of breath;
- l) the weapon sometimes known as a 'kusari gama', being a length of rope, cord, wire or chain fastened at one end to a sickle;
- m) the weapon sometimes known as a 'kyoketsu shoge', being a length of rope, cord, wire or chain fastened at one end to a hooked knife;

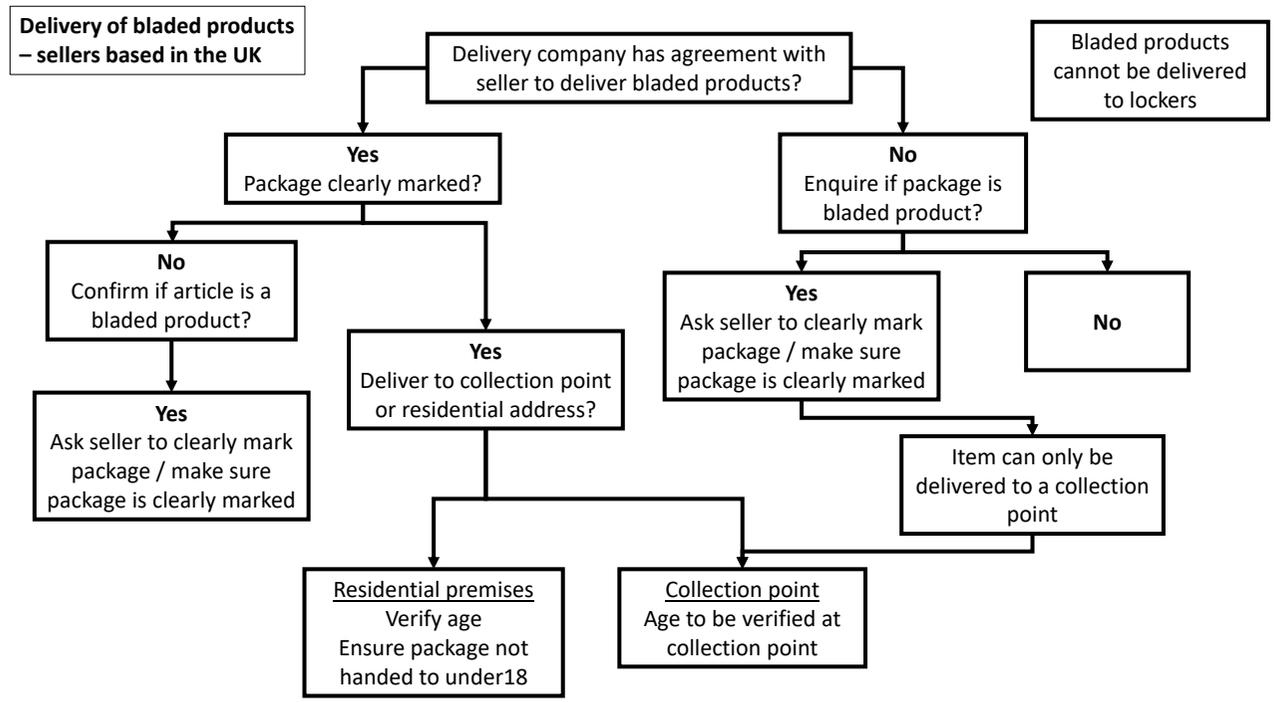
- n) the weapon sometimes known as a 'manrikigusari' or 'kusari', being a length of rope, cord, wire or chain fastened at each end to a hard weight or hand grip;
- o) a disguised knife, that is any knife which has a concealed blade or concealed sharp point and is designed to appear to be an everyday object of a kind commonly carried on the person or in a handbag, briefcase, or other hand luggage (such as a comb, brush, writing instrument, cigarette lighter, key, lipstick or telephone);
- p) a stealth knife, that is a knife or spike, which has a blade, or sharp point, made from a material that is not readily detectable by apparatus used for detecting metal and which is not designed for domestic use or for use in the processing, preparation or consumption of food or as a toy;
- q) a straight, side-handled or friction-lock truncheon (sometimes known as a baton);
- r) a sword with a curved blade of 50 centimetres or over in length; and for the purposes of this sub-paragraph, the length of the blade shall be the straight line distance from the top of the handle to the tip of the blade';
- s) the weapon sometimes known as a "zombie knife", "zombie killer knife" or "zombie slayer knife", being a blade with — (i) a cutting edge; (ii) a serrated edge; and (iii) images or words (whether on the blade or handle) that suggest that it is to be used for the purpose of violence;
- t) the weapon sometimes known as a "cyclone knife" or "spiral knife", being a weapon with — (i) a handle; (ii) a blade with two or more cutting edges, each of which forms a helix; and (iii) a sharp point at the end of the blade.

Noting that section 47 of the Offensive Weapons Act which inserts cyclone knives into the schedule, as specified weapons, has not yet been brought into force but, in due course, these weapons will also be controlled.

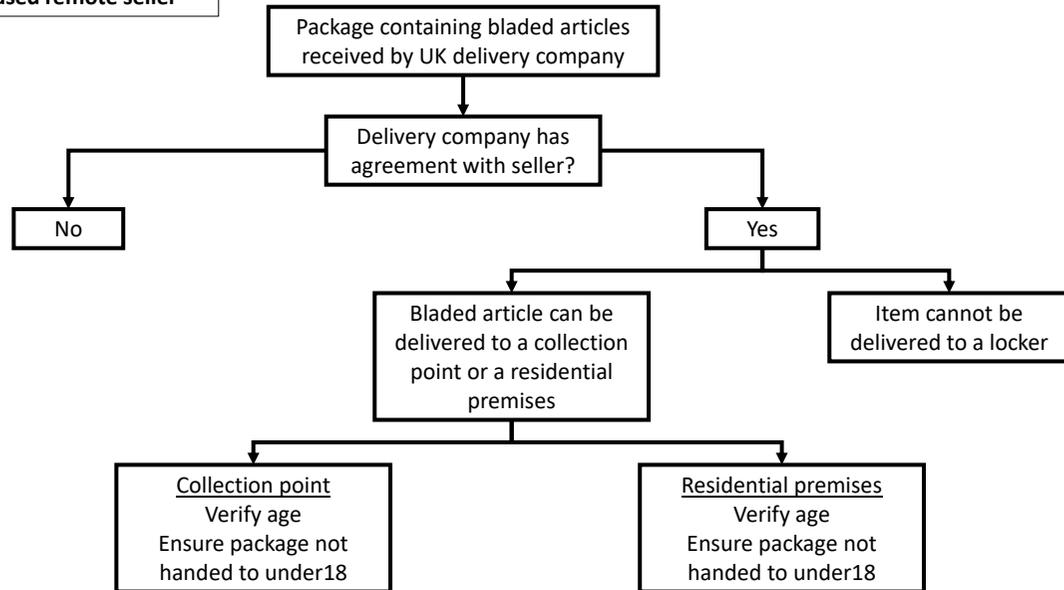
Annex A







Overseas based remote seller



²Defence to sale of bladed articles to persons under 18

For sellers charged with the offence of selling articles with a point or blade or offensive weapon to an under 18 remotely in order to be able to rely on this defence, as a minimum, **all** of the following conditions below must be met:

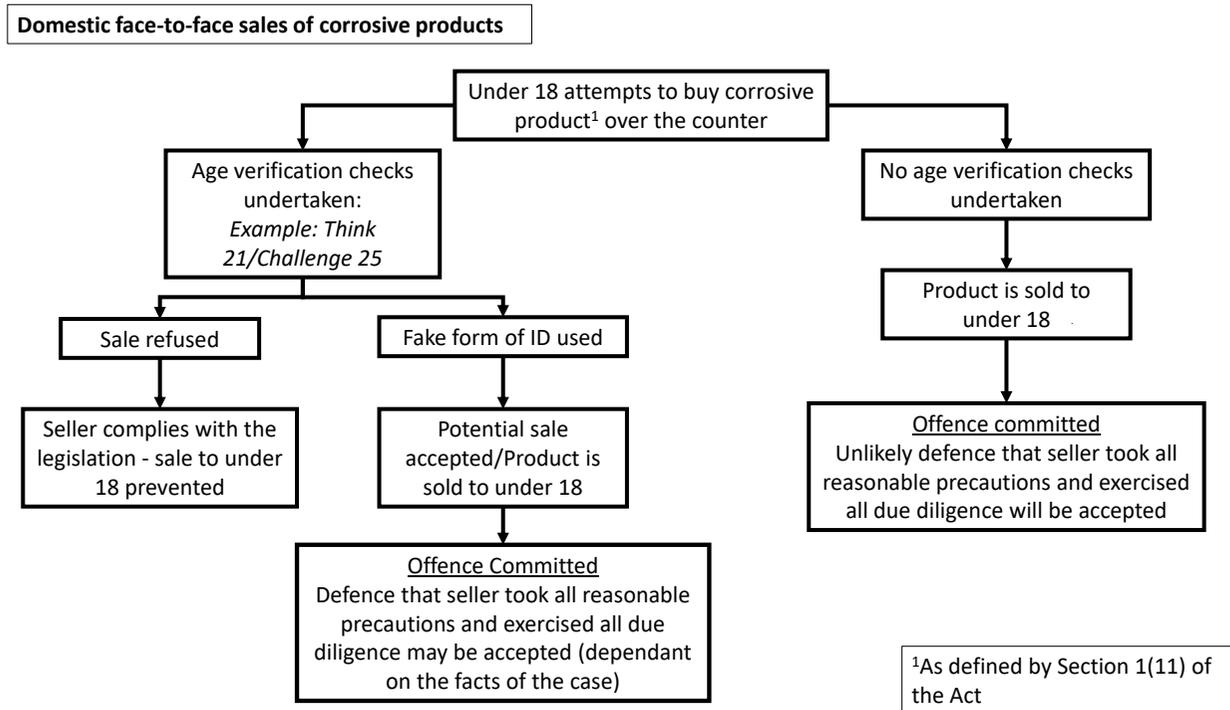
Condition A; is that the seller has a system in place to verify the age of the purchaser and that they are not under the age of 18 and that the system is likely to prevent the purchase of a bladed article by a person under the age of 18;

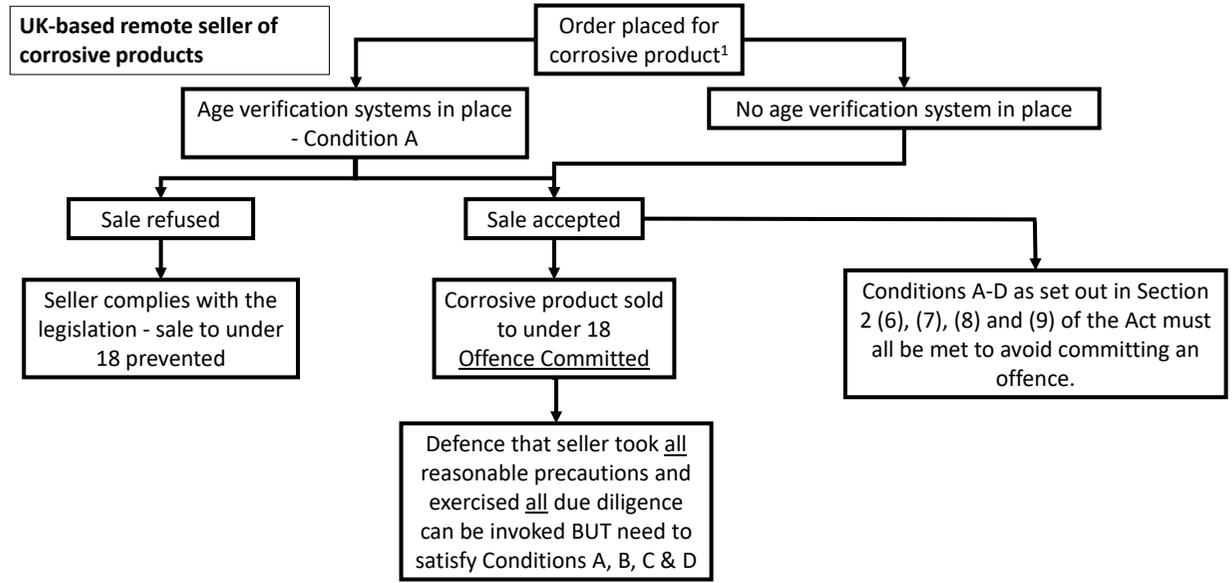
Condition B; is that the package when dispatched by the seller is clearly marked that it both contains a bladed article and that it can only be delivered and handed over to a person aged 18 or over (whether the purchaser or someone representing them);

Condition C; is that the seller has taken all reasonable precautions and exercised all due diligence to ensure that when the package is delivered, it is handed over to a person aged 18 or over. This applies whether the seller delivers the package themselves or through a third party i.e. by staff at a collection point; and

Condition D; is that the seller does not deliver the package, or arrange for it to be delivered, to a locker.

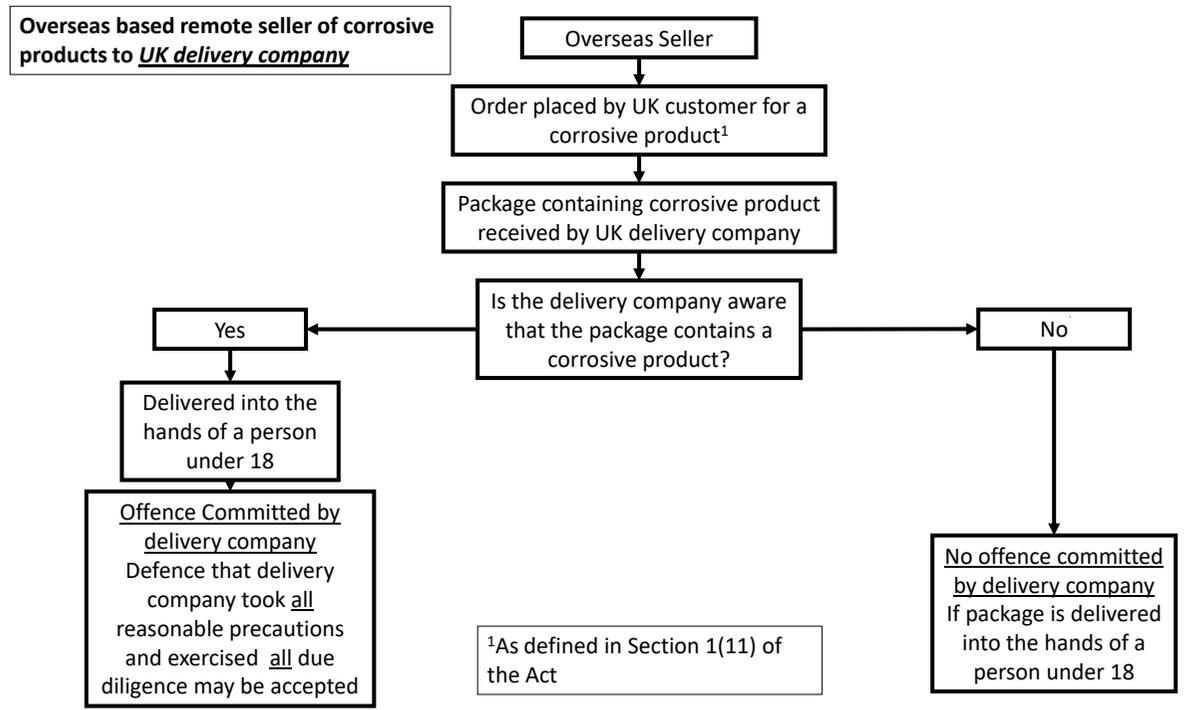
Annex B





Conditions A-D as set out in Section 2 (6)(7)(8) and (9) of the Act²

¹As defined Section 1(11) of the Act



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

For sellers charged with the offence of selling a corrosive product to an under 18 in order to be able to rely on this defence and when it is a remote sale, as a minimum, **all** the following conditions below must be met:

Condition A; is that the seller has a system in place to verify the age of the purchaser and that they are not under the age of 18 and that the system is likely to prevent the purchase of a corrosive product by a person under the age of 18;

Condition B; is that the package when dispatched by the seller is clearly marked that it both contains a corrosive product and when delivered it can only be handed over to a person aged 18 or over (whether the purchaser or someone representing them);

Condition C; is that the seller has taken all reasonable precautions and exercised all due diligence to ensure that when the package is delivered, it is handed over to a person aged 18 or over. This applies whether the seller delivers the package themselves or through a third party i.e. by staff at a collection point; and

Condition D; is that the seller does not deliver the package, or arrange for it to be delivered, to a locker.