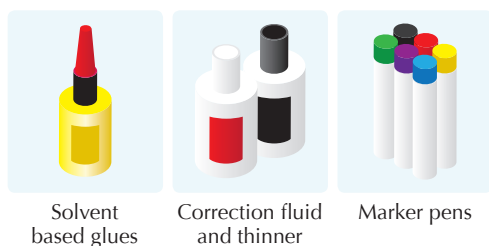


The Psychoactive Substances Act (2016) came into force on 26 May 2016, replacing previous legislation on intoxicating substances. The primary purpose of the legislation is to stop the sale of items that are commonly known as 'legal highs'. However, the Act will also have implications for legitimate retailers, which in many cases will sell psychoactive substances such as butane and solvents entirely legitimately.

## What is a Psychoactive Substance?

Under the new rules, a psychoactive substance is defined as one which affects a person's mental functioning or emotional state by stimulating or depressing their nervous system. In practice, this would include the kind of effect that we associate with controlled drugs, such as hallucinations, changes in alertness, perception of time and space, mood or empathy with others and drowsiness.

All of the substances that were covered by the previous Intoxicating Substances Act will now be covered by the Psychoactive Substances Act. This includes the following:



## What is not a Psychoactive Substance?

A large range of substances are exempt from the Psychoactive Substances Act because they are fully regulated by existing laws. These exempted substances are:

- Food
- Any medicinal products
- Alcohol
- Controlled drugs
- Nicotine and tobacco products
- Caffeine

## Retailer's responsibilities

Under the regulations, retailers are expected to take reasonable steps to satisfy themselves that they are aware of the use of a potentially psychoactive substance. These reasonable steps are detailed below.

### Age restrictions

The new legislation provides no legal age restriction on the sale of psychoactive substances for purposes other than consumption, but it is recommended that retailers voluntarily age-restrict potential psychoactive substances for those under 18 to prevent those at highest

### Retailer checklist (reasonable steps)

- Be aware of any substances you sell in store that could be psychoactive
- Make sure your staff are trained to be able to identify and assess the risk of the psychoactive substances you sell
- Consider placing warning signs in store to highlight policies to customers and staff
- Consider policy to restrict the quantity of psychoactive substances being sold i.e. using Electronic Point of Sale Point of Sale Checklist (Reasonable Steps)

### Retailers should train their staff to use the following checklist:

- What is the apparent physical/mental state of the customer? Are they drunk/intoxicated? Do they have physical symptoms of intoxication, such as bad skin, weeping eyes or a rash around the nose?
- What is the substance? Is it something that has been flagged as high risk?
- What quantity of the product is the customer attempting to purchase?
- What time is the purchase taking place? Items purchased during unsociable hours might be more at risk for example late in the evening
- What else is the customer buying? Is it part of a weekly shop, or solely a purchase of a psychoactive substance?

### Testing

An established retailer, which sells a wide variety of products entirely legitimately, is not expected to know whether each and every one of them contains a psychoactive substance. Retailers are not expected to undertake testing of substances to confirm whether they are psychoactive.

### Penalties

For summary prosecutions, imprisonment not exceeding 12 months or a fine. On indictment, imprisonment of up to seven years and an unlimited fine. Breaching the Psychoactive Substances Act can also have an impact on your alcohol licence, which could include a review of your premises licence or the removal of a personal licence.

## CONTACT

For more details on this guidance, contact a member of the ACS Team on 01252 515001.

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