

OFFENSIVE WEAPONS BILL: APPROACH TO DOMESTIC AND OVERSEAS SALES OF CORROSIVE PRODUCTS AND KNIVES

Introduction

- The measures in the Offensive Weapons Bill form part of the Government's wider Serious Violence Strategy aimed at tackling, amongst other things, serious violence using knives and corrosive substances.
- Further restricting the ability of young people to purchase knives and corrosive substances is a key part of the Government's strategy. Although there are existing controls in place to prevent the sale of knives to young persons, both in store and online, it is clear that additional measures are needed to prevent retailers from selling knives online to under 18s. With the growth in the use of corrosive substances as a weapon, these restrictions also now need to be applied to the sale of corrosive products.
- This note explains the approach taken in the Bill to the sale and delivery of corrosive products and bladed articles for domestic and overseas sellers.

What does the Bill do?

- It is **already an offence to sell to a person under 18 an article with a blade or point (a 'bladed article')** (section 141A of the Criminal Justice Act 1988) and clause 1 of the Bill provides for a similar offence of selling a corrosive product to a person under 18.
- It is a **defence for a person charged with the sale of a bladed article to a person under 18 to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.** Clause 1 provides a similar defence in respect of the sale of corrosive products.
- **In relation to the remote sale (that is, online, telephone and mail order sales) and delivery of corrosive products and bladed articles/products, the Bill does three things.**
- Firstly, **if remote sellers in the UK want to rely on the defence** of having taken all reasonable precautions and exercised all due diligence to avoid commission of the offence of selling a corrosive product (clause 2) or bladed articles (clauses 15 to 17) to a person under 18 then **they need to prove as a minimum that a number of conditions have been met.**
- Those conditions are that:
 - the remote seller has a robust system in place for checking that persons who purchased a corrosive product or bladed article are over 18. The system needs to be able to deal with the various ways in which a corrosive product or bladed article could be purchased remotely, for example online or by phone.

- when the package containing the corrosive product or bladed article was dispatched by the seller it was clearly marked to indicate that it contained such a product or article and that when delivered it should only be delivered into the hands of someone who is over 18.
 - the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of someone aged 18 or over.
 - the seller did not deliver the package or arrange for its delivery to a locker.
- Secondly, **the Bill, it makes it an offence for a remote seller in the UK to send a corrosive product (clause 3) or bladed product (clause 18) to residential premises or a locker.** ‘Bladed products’ are used in this context to differentiate them from ‘bladed articles’ used under the existing offence at section 141A of the Criminal Justice Act and at clauses 15 to 17 and 21 of the Bill. Bladed products cover a narrower range of items than bladed articles – in particular it excludes items such as ordinary table knives and plastic disposable knives which will continue to be able to be delivered to residential premises. Clause 18 of the Bill provides a number of defences in relation to bladed products. These defences cover bespoke and handmade knives, such as specialist chef knives and bladed products that are used for sporting or re-enactment purposes. There are no defences for corrosive products. The intention of these provisions is to prevent a person under the age of 18 from purchasing a corrosive or bladed product remotely and arranging for it to be delivered to them at home.
 - Thirdly, **the Bill makes it an offence for a delivery company in the UK to deliver a corrosive product (clause 4) or bladed article (clause 21) from an overseas seller to a person under the age of 18 in the UK.** For the offence to be committed the delivery company must have entered into an arrangement with the overseas seller to deliver corrosive products or bladed articles. Bladed article is used in this context because it relates to the delivery of all bladed articles to a person under 18 rather than the more limited items covered by the term bladed product.

Why does the Bill draw a distinction between domestic and overseas sales?

- The first two of the measures set out above are to deal with the remote sale of corrosive products and bladed articles in the UK. When we consulted on how to address the issue of online sales, it was clear that delivery companies and collection points would be reluctant to provide services in relation to corrosive products and bladed articles if the criminal liability for checking age at the point of delivery or supply of the products fell to them.

- This would have meant that UK businesses would have had no way of getting their products to buyers because delivery companies would refuse to deliver them and collection points would refuse to provide a handling service. As a result, we placed the criminal liability on the seller – it is for them to make sure that the purchaser’s age is verified at the point of sale and that the products are suitably labelled etc and that they are not dispatched to residential premises or a locker.
- This left the issue of what we can do in relation to remote sellers overseas. We cannot apply the same restrictions on sellers who are based overseas given that they are not within the jurisdiction of the UK courts and, given this, taking extra-territorial jurisdiction in such cases would be of little practical benefit. Overseas sellers cannot be prosecuted here for selling to an under 18, consequently it makes no sense to place requirements on them in terms of the conditions they must meet if they want to rely on the defence of having taken all reasonable precautions and exercised all due diligence. Similarly, the offence of arranging delivery to a residential address or locker cannot apply to overseas sellers.
- In order to go some way towards addressing this issue, the Bill makes it an offence for a delivery company that is delivering corrosive products or bladed articles on behalf of an overseas seller to deliver them into the hands of a person in the UK who is under 18. It will be for individual delivery companies to decide whether they want to enter into arrangements with overseas sellers on this basis, but they will at least be doing so in full knowledge that the criminal liability falls to them.
- It would be inappropriate to place such criminal liability on a company which did not know what it was delivering, this is why we have stipulated in clauses 4 and 17 that the delivery company in the UK must have entered into specific arrangements with the overseas seller and know that is delivering a corrosive product or bladed article.
- We accept that this approach does not deal completely with the issue of overseas sellers – there is a risk that overseas sellers may simply place the corrosive product or bladed article in the international post. But we consider that the balance of advantage is in going as far as reasonably practicable to restrict the ability of under 18s to acquire corrosive products or bladed articles from overseas suppliers.

**Home Office
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