

Selling Electronic Cigarettes (E-cigs)

E-cigarettes combine electronic components, batteries and chemical solutions and are often sold alongside related electrical products. The laws that apply to them are found in a range of Consumer Protection legislation. This leaflet is intended as a guide to the main areas of this legislation, but note that it is only a summary of the law.

This guidance is most appropriate for new or prospective independent retailers of refillable e-cigarettes, but may also act as a useful checklist for established businesses. The information here also applies to disposable-cartridge type e-cigarettes; however these tend to be 'main-brand', pre-packed products available from a wide range of outlets.

How do e-cigarettes work?

Most e-cigarettes have a re-chargeable battery which powers a vapourising unit. The battery is typically re-charged via a USB adapter which includes charging circuitry appropriate for the associated battery. This in turn is plugged into a computer or some other compatible charger. The vapourising unit heats liquid containing nicotine and turns it into an aerosol mist which is then inhaled by "vapers" to simulate the act of smoking. The batteries, typically the lithium-ion type, require recharging on a regular basis.

The liquid solution often used in electronic cigarettes is either sold in bottles as e-liquid or in a pre-filled disposable cartridge. This liquid solution typically contains nicotine in differing concentrations.

E-cigarette units

The safety of e-cigarette units is covered by the General Product Safety Regulations 2005 (GPSRs) which specify that only safe products should be placed on the market.

The GPSRs say that a safe product is one which, under normal or reasonably foreseeable conditions of use, presents no risk to people (or only the minimum risk consistent with a high level of protection for the safety of people).

When the safety of a product is assessed the following factors are relevant:

- The characteristics of the product – including composition, packaging and instructions for assembly and maintenance,
- The effect of the product on other products that it is likely to be used with – e.g. wall charges,
- The presentation of the product – the labelling, any warnings and instructions for use and disposal, and
- The categories of consumer at risk from the product – in particular children and the elderly.

All of these factors apply to the safety assessment of e-cigarettes.



The detailed requirements of the GPSRs vary according to whether the business selling e-cigarettes is a “producer” or a “distributor”. In many cases, e-cigarettes are imported directly into the European Union (EU) from the Far East. If you do this, you are classed as a **producer** and must:

- Sell only safe products.
- Provide customers with information which tells them about the risks posed by the e-cigarettes you sell and the precautions they can take against those risks.
- Adopt measures which allow you to be informed of any risks a product might pose and, if necessary, withdraw products from sale, warn consumers or recall products which prove to be unsafe.
Except where it is not reasonable to do so, these measures include;
 - a) Marking your name and address on the product or packaging,
 - b) Marking a product reference or batch no. on the product or packaging,
 - c) Carrying out sample testing of products,
 - d) Investigating complaints, and
 - e) Telling any other businesses you have sold e-cigarettes to about the results of your safety monitoring.
- Tell your Local Authority Trading Standards in writing about any of your e-cigarettes which you know pose a risk to consumers.

The obligations placed on “producers” are significant because they are responsible for bringing the products into the European Union for onward sale. The safety of products on sale in the European free market depends on producers taking their obligations seriously.

If you source e-cigarettes from another business within the UK or European Union, the regulations class you as a **distributor**. You must:

- Not sell products which you know (or should have presumed based on your professional knowledge) are dangerous.
- Participate in monitoring the safety of products by:
 - a) Passing on information about the risks posed by a product,
 - b) Keeping documentation necessary to trace the origin of the product, and
 - c) Producing the documentation when necessary and co-operating with the producer of the product or your Local Authority Trading Standards
- Tell your Local Authority Trading Standards in writing about any of your e-cigarettes which you know pose a risk to consumers.

Specific e-cigarette battery safety issues

There have been a number of reported incidents relating to ‘exploding’ e-cigarette batteries, each case exposing a very real risk of starting a fire or seriously harming someone nearby.

Li-ion rechargeable batteries are susceptible to explosive failure in certain circumstances; particularly if the unit has been damaged or subjected to inappropriate charging regimes. Battery manufacturing standards require overcharging protection to minimise the risk of dangerous failure. In some e-cigarette units ‘safety cut-off’ circuitry has been provided in the USB charging adapter, but not in the battery unit itself. In some cases it has been found that neither the charging connector nor battery has a ‘cut-off’ feature.



Products incorporating batteries without overcharging protection may be regarded as not 'safe products' – this is because they do not minimise a known risk to consumers.

The manufacturers of many refillable e-cigarettes have independently adopted similar styles of screw-in connection for batteries, vapourisers and charging adaptors. This fact has increased the likelihood of foreseeable misuse by consumers because batteries and charging adaptors can be easily interchanged with similar-looking equivalents.

E-cigarette suppliers should be particularly aware of these issues and seek to ensure the products they supply are as safe as possible by:

- Checking that a safety cut-off is incorporated in the recharging system – ideally in the battery unit.
- Including charging instructions which explain the procedures that consumers must follow and the risks involved with failing to follow these instructions.

Wall chargers

If retailers supply power adaptors as an accessory for charging e-cigarettes, they must be safe and comply with The Electrical Equipment (Safety) Regulations 1994, The Plugs and Sockets etc. (Safety) Regulations 1994 and The Electromagnetic Compatibility Regulations 2006. They must be marked with the following:

- CE Mark,
- The name or trademark of the manufacturer or responsible supplier,
- Unique identifier e.g. model, type, batch or serial number,
- The rated voltage(s), power, current and frequency.

Recently there has been an increase in the number of unbranded chargers found on the market, many of which have been found non-compliant. Specific risks found include:

- Wiring not mechanically retained.
- Lack of instructions.
- Overheating of the charger leading to the possibility of fire.
- Non-conformity of the plug part – pins too large or too close to the edge of the plug (they must be at least 9.5mm from the edge).
- Electric shock via the secondary parts.

A cautionary note on product testing to safety standards, test certificates and CE marking

One method by which manufacturers and importers can demonstrate that products meet safety requirements is to submit samples to independent, accredited test-houses/laboratories for testing against appropriate standards.

This approach is only valid where the samples tested are identical and traceable to the products eventually supplied to end users, such as representative samples taken from a production line. In such cases, a satisfactory test certificate may be accepted as an indication of compliance.



If you do not have control over the taking of samples and particularly if products are not individually or batch-marked, a test certificate may not afford sufficient assurance that a particular consignment of goods would pass a compliance check. Some reasons why this might happen include:

- The item tested was a prototype or design sample and not a regular production item
- The sample was taken at an optimum point during production, not representative of variations in the manufacturing process
- Changes to the production process may have taken place since the sample was tested
- Modifications to the product design may have taken place since the sample was tested
- Components or materials used in production may have been sourced differently from those used in the sample
- Product standards and/or test methods may have been revised since the sample was tested
- Tests applied to the sample did not address all the relevant legislative areas; for example, results indicating successful compliance with electromagnetic compatibility requirements do not demonstrate that a product is electrically safe.

If you import goods directly into the UK from outside the EU, we recommend that you arrange for appropriate, independent testing of samples taken from delivered consignments before placing the goods on the market.

CE marking is required to be applied by the producer to certain categories of goods when they are placed on the market in the EU. These product types include some electrical and electronic equipment.

When correctly and legally applied, a CE mark indicates that a product meets all relevant requirements of EU legislation.

Unfortunately, misuse of CE marking is not uncommon, particularly in the case of unbranded and counterfeit electrical and electronic equipment. If you import goods directly into the UK from outside the EU, you become responsible for ensuring that the CE mark is correctly applied.

You can find out more about your obligations in respect of CE marks here:

<https://www.gov.uk/ce-marking>

EU Tobacco Products Directive

On the 19th May 2014 a revised EU Tobacco Products Directive approved by the European Parliament came into force. The new law strengthens the rules on how tobacco products are manufactured, produced and presented in the EU, and introduces rules for certain tobacco-related products. There are new requirements for e-cigarettes.

More information about the requirements of the Directive can be found here:

http://ec.europa.eu/health/tobacco/products/revision/index_en.htm

