



Trading Standards Service
Cultural and Community Services Department
Do you sell at car boot sales?

If you sell at boot sales, you cannot afford to ignore this information

Each year, many millions of pounds are spent at car boot sales. If you participate at these sales, regularly or otherwise, it is in your interests to read this information. It will help you decide whether you are a 'trader' and, if so, what you must do to comply with the law. It is also designed to help genuine private sellers decide what they should and should not sell. Unfortunately, what started as an informal and friendly means of recycling unwanted goods has been tainted by the activities of a few rogues who have conducted trade under the guise of private individuals and thereby tried to escape their liabilities to buyers. Trading Standards have discovered the sale of stolen, unsafe and counterfeit goods at boot sales.

Are you a trader?

A survey showed that most people who sell at boot sales don't consider themselves to be in trade. Many, however, admitted selling at such sales several times a year. Trading Standards reports that up to fifty per cent of participants are regulars at such events. So, when does the law consider you a trader? There is no hard and fast rule, but ask yourself the following questions:

- Are the goods you are selling your personal property? If not, and you buy goods in specially to resell, for example from newspaper adverts or a cash and carry, you are very likely to be a TRADER.
- Do you attend boot sales regularly – once every couple of months or more? If so, you are likely to be a TRADER even if boot sales are not a major source of income.
- Do you employ anyone to help you with sales? If so, you are probably a TRADER.
- Do you sell similar goods at other venues – e.g. markets, in the street or from home? If so, you are almost certainly a TRADER.
- How much of your income is derived from participation in car boot sales and for what percentage of your income does it account?

Traders and the law

• Business Names Act 1985

If you do not trade under your own name, you must still clearly display your name and an address where legal documents can be sent to you. These requirements also apply to receipts, invoices, orders and correspondence issued in the course of your business. You may feel uneasy about providing customers with this information, but if you do not, you will be in breach of the legislation and liable for penalties imposed by Trading Standards.

• Consumer Protection Act 1987

Take great care that everything you sell is safe. Be particularly careful with toys, electrical goods, cosmetics, upholstered furniture and clothing, particularly nightwear. Where you show a price for goods, it is an offence to charge a buyer more. It is illegal to mislead buyers in other ways about the price of goods – for example, by using price comparisons or 'sale' signs when the higher price you quote in comparisons is unfair or meaningless. Remember that, while it is in the nature of the market place to barter, the law obliges you to be clear about how you price goods.

• Price Marking Order 2004

Traders must show a price in writing for all goods offered for sale. This can be attached to the goods, or placed adjacent to them.

• Consumer Transactions (Restrictions on Statements) Order 1976

It is an offence to display any sign which tries to limit a buyer's rights. If you use signs like 'NO REFUNDS' or 'SOLD AS SEEN', as well as being illegal, they would not, in fact, limit a consumer's rights because they would be void for illegality or breach Unfair Contract Terms legislation.

- **Food Safety Act 1990**

Trading Standards Officers enforce rules governing the labelling and composition of food and will expect you to have checked that food is properly labelled, within any use-by date and of the right quality. Fines for selling food which contravenes these requirements can be high. Environmental Health Officers are responsible for controls on hygiene and food which is unfit to eat. For advice on these aspects of food safety, you should contact them at your local District Council.

- **Trade Descriptions Act 1968/Trade Marks Act 1994/Copyright, Designs and Patents Act 1988/Sale of Goods Act 1979**

It is a breach of contract if goods are misdescribed [Sale of Goods Act 1979 (as amended by Sale and Supply of Goods to Consumers Regulations)] as well as a criminal offence. Before selling recorded or branded items such as cassettes, videos, DVDs or t-shirts, satisfy yourself that they are not counterfeit, because heavy penalties can be imposed on anyone who breaches copyright and trade mark laws. Selling films on video or DVD is risky because the sale of films that have not been properly classified by the British Board of Film Classification can attract fines of up to £20,000 per tape or a prison sentence. You are strongly advised to take more detailed advice on the Video Recordings Act before putting video films out for sale. Don't be fooled into selling bootleg music or films by the seeming informality of the setting. Even if it was not you who copied from the original, the Copyright, Designs and Patents Act provides for secondary infringement so long as you are benefiting from the exercise commercially.

- **Misrepresentation Act 1967**

Any false claims about the quality, origin, authenticity of the goods sold may amount to a misrepresentation and would entitle the customer to sue you in the civil courts.

- **Sale of Goods Act 1979 (as amended by the Sale and Supply of Goods to Consumers Regulations 2002)**

If you sell something, whether new or second-hand, it should be of a satisfactory quality, as described and fit for its purpose, subject to some qualification if it is an antique, for example and it is being purchased for its aesthetic value rather than its functionality. If you sell something which does not meet these requirements, your customer has a right to a refund provided they reject the goods promptly. However, it is now presumed that the trader is at fault for the first six months after purchase, if there is a problem with the goods. So you will still be liable to replace the item, have it repaired or provide a partial refund during this period. After the six months is up, the consumer may still have an arguable case if they can prove to you your goods were intrinsically faulty. As a trader, you should be ready to honour these rights. If you are selling something with defects, you can only escape your obligation to provide these remedies, if you point out the faults at the time of sale. Doing this does not protect you, however, from a claim if the item has further faults. Your obligations here are civil, to the customer, rather than criminal but, under the Enterprise Act, Trading Standards Officers and the Office of Fair Trading can apply to the civil courts for an enforcement order preventing you from breaching the civil law.

If you are not a trader

If you are a genuine 'non-trader' seller, you will be largely outside the controls of consumer law, but there are exceptions – for example, if you describe goods in any way and that description proves to be false, you will be obliged to give a refund or replacement or reduce the price to reflect the Misdescription or misrepresentation. There are things you can do, however, which will help avoid problems and which are recommended as 'good practice' during private sales. These are as follows:

Electrical goods

We advise consumers not to buy items such as electric fires, electric blankets and irons at boot sales; so unless the item has a reputable recent source, we would caution strongly against its sale.

Food

Boot sales are not the place to try to get rid of those unwanted tins and packets lurking in the back of your food cupboards. It is not a good idea to sell items past their sell-by date, even though this is not of itself an offence – food must be unfit for human consumption before Environmental Health

Officers will penalise you. Please act responsibly and exercise caution.

Clothes

Think twice before selling nightwear. It might well not meet flammability requirements that apply to nightwear sold by traders. Children's coats with hood-cords can also pose a hazard, so beware of selling these if their source and safety is uncertain.

Toys

Check toys to make sure there are no sharp points or small parts that can be pulled off. Put the toy in a skip rather than a sale if it is in bad shape or very old. If you still have the packaging, sell the toy in it.

Cosmetic products

Some ingredients are regulated and, if seals are not intact, the items can become contaminated.

Other danger areas

Caution should be exercised in the sale of the types of goods listed below. All of them have their own safety standards when sold by traders and you should have them checked carefully before you even think about selling them:

- Prams and pushchairs;
- Paraffin heaters;
- Oil heaters.

Receipts

There is a general misconception among the public that a trader must provide a receipt for purchases. This is a convention - even good practice - but not a legal requirement. Of course, if you are a trader, it never hurts to try to please the customer, but you are not obliged to comply. However, it may help you to keep a detailed log, so you can submit reliable records to the Inland Revenue.

A police message

Handling stolen goods can attract greater penalties than the theft. If YOU sell stolen goods, the buyer is entitled to their money back from YOU, not the thief.

In your own interest, when buying goods, ask for a RECEIPT and proper IDENTIFICATION, note the seller's VEHICLE NUMBER and contact the nearest police station if you are suspicious. BEWARE of popular items of stolen property, especially garden equipment, power tools and mountain bikes.

Licensing

There is no consensus among local authorities as to how car boot sales should be classified but in some areas councils impose the normal conditions attached to market licences. Some will permit car boot sales only if the proceeds are going to charity as opposed to benefiting commercial enterprises. Other authorities permit only a small number of sales per year. Therefore, as a participant, your behaviour may positively or adversely affect the view of authorities to grant future licences to car boot sale organisers, so be responsible about noise, litter and traffic as well as your conduct towards customers at the sale.

Remember

It is not our intention to spoil the fun of people who enjoy buying and selling at boot sales. As well as being a social occasion, boot sales recycle goods and, therefore, have some environmental benefits.

Our main objective is to see that where traders move in, they behave as traders and meet their obligations. Whether you are a regular trader or not, you should be ready to co-operate with Trading Standards Officers who may visit boot sales at any time to carry out inspections, give advice and investigate complaints.

Be aware of Counterfeit goods

Counterfeit goods are a huge problem and they are becoming more widely available. Technology levels have improved so much that it is easy for criminals to make sophisticated copies.

What are the most common fakes?

- Designer labelled clothes, watches, perfume and cosmetics.
- Alcohol.
- CDs, DVDs, video and audio tapes.
- Computer software, such as games.
- Vehicle parts.
- DIY tools.

How can you avoid buying fakes?

Top tips to avoid buying fakes include:

- Be suspicious about bargains. If something seems too good to be true, it probably is!
- Find out if you have any guarantees or after-sales service.
- Examine the quality of the goods.
- Check labels and packaging for misspellings and poor logos.
- Take extra care at street markets, car boot sales, pubs and computer fairs, or in other situations where it may be more difficult to get in touch with the trader after the purchase.
- You should also guard against buying fakes on the Internet. For further information, refer to the factsheet safe shopping on the Internet.

Why should you avoid buying fakes?

There are lots of reasons why you should not buy fakes - and some that you may not have considered before.

- The goods may be dangerous - from cosmetics that can cause skin rashes to fake car parts that may cause accidents.
- A lot of fake goods fund drug dealers and other organised crime - even terrorism.
- You may end up paying higher taxes because people who deal in fakes don't - consumers like you end up making up the difference.
- You may be putting local people out of jobs because genuine manufacturers can't compete with the criminals making and selling fakes.
- If you buy fake goods and they don't live up to your expectations, you won't get any after sales service or guarantees.
- Fake goods deprive the copyright owner of money that can be used to fund new development.

What does the law say?

It is unlawful to apply a registered trade mark to goods, or to make an exact copy of goods which have the benefit of a registered trade mark registration, without the permission of the trade mark owner.

Even where goods are not subject to a trade mark registration, it is sometimes still possible to bring an action against someone making copies of goods, or attaching marks to goods, without the permission of the person already trading in those goods and associated marks. This is called a 'passing-off' action.

You may still be able to use your statutory rights against the seller – as the goods may not be as described. For further advice on this you should contact Consumer Direct.

Copyright may exist in certain goods, such as artistic designs on clothing, computer programs, CDs, DVDs and other electronic media. An infringement of copyright may occur where such goods are copied without the permission of the copyright owner.

Infringing goods are generally known as 'counterfeit' or 'pirated' goods.

What can you do?

If you want to know more about fake goods or if you think somebody is selling fake goods, please call Consumer Direct.

[The Alliance Against Counterfeiting & Piracy](#) (AACP) is a coalition of British trade associations and industry enforcement organisations with an interest in preventing counterfeiting and piracy in the UK. It aims to help legitimate business flourish so that consumers are not put at risk by exposure to substandard and potentially dangerous merchandise.

The [Government Intellectual Property website](#) has further advice on how to avoid buying fakes.

Where can I get further help?

This leaflet is not an authoritative document on the law and is only intended for guidance.

For further information, visit the

<http://www.consumerdirect.gov.uk/>

Or telephone 08454 040506.