



Sale of second-hand goods

Buying second-hand goods has never been more popular. This has been helped by the increased use of technology and growth of online marketplaces, such as eBay, Gumtree etc. Many organisations and groups are involved in selling these goods as a way of raising funds. This can be through charity shops, 'bring and buy' events, fairs and other sales activities.

Frequently, goods are donated by well-meaning members of the public, and can include a wide variety of items. Examples include electrical goods, toys, bicycles, furniture, clothing and other home wear. In many cases, it is your responsibility to make sure all these goods are checked and are safe to sell onwards.

Legal requirements

There is a wide range of legislation that could apply where second-hand goods are sold to a consumer. This includes the Consumer Rights Act, the Consumer Protection Act and the General Products Safety Regulations and so on.

In most cases, sellers of second-hand goods are responsible for ensuring these meet legal safety requirements and sellers may be liable to pay compensation if they sell unsafe goods, which then cause injury or damage. If you are in any doubt about your responsibilities when selling second-hand goods, you should contact your local Trading Standards office to seek clarification.

More specific requirements may apply depending on what you are selling. Here are just some of the more common items you are likely to come across:

Furniture – under the Furniture and Furnishings (Fire) (Safety) Regulations 1988, used furniture must meet specified fire safety requirements. 'Furniture' includes beds, divans, sofa beds, children's furniture, cots, cushions, high chairs, mattresses and pillows. It also includes outdoor furniture that is suitable for indoor use (such as upholstered dining sets for use in conservatories and gardens). Furniture made before 1950 is exempt as are bedclothes including duvets; loose covers for mattresses; pillow cases; curtains; carpets and sleeping bags.

In general, upholstery must meet certain safety provisions including fire retardancy tests. Usually, upholstered furniture must carry a permanent label with the heading 'CARELESSNESS CAUSES FIRE'. In the case of mattresses, there should be a label stating compliance with British Standard BS 7177: Specification for resistance to ignition of mattresses, mattress pads, divans and bed bases. Any items not bearing this labelling may not comply and you are advised not to sell them until you have obtained expert advice – for example, from the original manufacturer.

In addition to the specific rules on flammability, furniture must be safe in all other respects (e.g. free from sharp edges and splinters).

Electrical goods – here, the key legislation is the Electrical Equipment (Safety) Regulations 1994/2016 and the Plugs and Sockets etc. (Safety) Regulations 1994.

If you are in the business of selling second-hand electrical goods you must check that they are safe. Principally, appliances must be correctly fitted with an approved plug, having sleeved neutral and live pins, and the correct fuse. Usually, if it complies with an acceptable standard (i.e. a British or European Standard), it will normally meet the necessary safety requirements.

If you are unsure whether the goods are safe, it is recommended that you get someone who is competent to examine them. Usually, they will issue a test report and label each item to show that it has

passed with the date and their initials. All failed equipment should be destroyed or safely disposed of if it cannot be safely repaired. It is good practice to ask all staff that no electrical goods are sold unless the test label is attached.

Toys – new toys supplied by a business must comply with the Toys (Safety) Regulations 2011. These require them to be properly labelled with the name and address of the manufacturer/importer; the type, batch, model or serial number; and the CE mark. Some toys must come with warnings and instructions about the precautions that need to be taken to ensure safe use. Toys are defined as: 'products designed or intended (whether or not exclusively) for use in play by children under 14 years old'. Some examples of items **not** classed as toys include Christmas decorations, detailed scale models for adult collectors, fashion jewellery for children and puzzles with more than 500 pieces.

Toys that are second-hand are covered by the General Product Safety Regulations 2005. They do not need to be labelled in the way described above, although they must still be safe. They must also include the warnings and instructions mentioned.

You are advised to only sell second-hand toys that are CE marked, contain any relevant instructions or warnings and have been checked for any obvious faults.

Children's clothes – the General Product Safety Regulations 2005 and the Nightwear (Safety) Regulations 1985 require businesses to supply safe children's clothing. There is also a Code of Practice (BS 7907) which gives recommendations on the design and manufacture of children's clothing. A further Standard (BS EN 14682) sets out the specification for cords and drawstrings in children's clothing.

The Nightwear (Safety) Regulations 1985, prohibit the supply of children's nightwear (other than pyjamas, babies' garments and cotton terry towelling bath robes) that do not meet flammability performance requirements. The Regulations also specify labelling requirements.

Prams and pushchairs – the key requirements here are set out in the General Product Safety Regulations 2005 and the Furniture and Furnishings (Fire) (Safety) Regulations 1988. As such, all prams and pushchairs, both new and used, are required to be safe. Prams and pushchairs are 'any wheeled vehicle designed for the transport of one or more infants either seated or reclined'.

One way of doing this is to look for a label on them stating that they comply with BS EN 1888 (Child care articles. Wheeled child conveyances). These labels are usually found on the frame or seat covering. Also, all upholstered prams and pushchairs have to comply with stringent flammability requirements too. Again, look for the label indicating compliance on the frame or seating cover.

There are other checks you can also make. These will be particularly important if the pram or pushchair has been damaged or modified. These include checking that there are no sharp edges or points; ensuring the safety harness is in good condition; making sure the parking brake works; testing the stability of the pushchair; checking the locking devices for the folding chassis; ensuring the wheels are secure; looking for damage to the tubes and linkages and for any finger entrapments.

Gas appliances – here, the General Product Safety Regulations 2005, the Gas Safety (Installation and Use) Regulations 1998 and the Health and Safety at Work etc. Act 1974 may be relevant. A gas cooking appliance is any equipment designed, or suitable, for domestic use in the home (including a ship or caravan) and is designed for cooking by the burning of gas, including LPG (liquefied petroleum gas).

Any gas cooking appliance must meet certain safety requirements. For example, the gas carrying component must prevent leaks of gas, the gas shut-off devices must work properly and safely and surface temperatures must not be too high.

Cookers that state that they comply with British Standard BS EN 30: Domestic cooking appliances burning gas, or bear the CE mark, will probably have complied when they were manufactured. However, that does not guarantee that they will comply after they have been used. Therefore, it will be necessary for a skilled and competent person to examine the appliance to ensure that it complies with the safety requirements.

Only someone who is Gas Safe-registered can install a gas appliance.

More broadly, under the Trade Marks Act 1994 it is an offence to sell counterfeit goods, such as DVDs, CDs, T-shirts, bags and perfumes. Also, under the Video Recordings Act 1984 it is an offence to sell films that have not been correctly classified by the BBFC, and also to sell DVDs or video games to anyone not meeting the age on the certificate.

Hazards to look out for

Some typical hazards include:

- protective headgear where it is impossible to determine if they have been damaged
- toys with loose facial features, sharp edges, finger trapping or choking hazards
- furniture without a 'fire' label
- damaged prams or pushchairs without a 'fire' label
- electrical equipment without a CE mark
- damaged plugs, cables and casings to electrical equipment
- children's raincoats, overcoats, anoraks, tracksuit tops or other clothes fitted with a hood cord.*

*Note: this list is not exhaustive

Precautions you can take

Typical precautions include:

- checking that all equipment is complete, with all necessary safeguards fitted, and free from obvious defects
- obtaining important information such as the age range of the product, particularly whether it is suitable for children under 36 months (due to choking hazards), and other safety warnings
- ensuring that toys and electrical goods have a CE mark
- getting a qualified person to check electrical goods and labelling them to show that this has been done
- ensuring that all toys are clean and where possible washed prior to being sold
- never selling second-hand electric or fire blankets, as their history, usage and condition may be unknown.*

*Note: this list is not exhaustive

Making a start

Action	Guidance
1. When planning a sale, set out some basic rules about what you can and cannot accept.	It may not be obvious to members of the public those things that cannot be re-sold. By making this clear when you ask for donations, you can reduce the amount of items donated that are inappropriate or unsafe. This will save you time in checking items, and disposing of those that you cannot sell.
2. Set aside an appropriate place to store and check donations. All items must be checked thoroughly to ensure that they are safe before they can be sold. Make a note of any checks or inspections made or training provided.	The checks required will depend on the item donated. Some of the checks that might be required are set out above. If you find any defects or other problems, these must be corrected to bring items up to a suitable standard. If this is not possible, the items must be safely disposed of. Remember, if you are asking employees or others (such as volunteers) to carry out the checks, they may need some basic instruction on how to do these properly and what to do if they have any doubts. It is a good idea to keep appropriate records of the checks that you make. This will help to demonstrate that you have the necessary procedures in place to help prevent you offering unsafe items for sale.
3. Obtain any important information for the goods that you may need to pass on to buyers.	A good example, is the information for second-hand toys. These are often missing their instructions, which could include important information (such as, the age range of the product, particularly whether it is suitable for children under 36 months due to choking hazards) and other safety warnings. These days, information for goods, including any necessary safety information, can usually be downloaded from the manufacturer's website.

Action	Guidance
4. Document your arrangements and responsibilities for the sale of second-hand goods.	Depending upon your own circumstances, you may want to record your arrangements for checking and selling on second-hand goods. If you have prepared a health and safety policy, you could record these as part of it.

Want to know more?

Further useful resources are available at www.businesscompanion.info/en/quick-guides/product-safety

Note: if you are in Ireland, Northern Ireland, Jersey, Guernsey or the Isle of Man, then regional variations might apply. In this instance, you should check the guidance provided by the Enforcing Agency for your region. This will be freely available on their website.

Risk advice line

(provided by Ecclesiastical professionals or external specialists)

Phone: **0345 600 7531**

Email: risk.advice@ecclesiastical.com

Risk specialists are on hand to advise you on a range of topics, including:

- property protection, security, business continuity planning
- health and safety, food safety, environmental management
- construction safety, fire safety, occupational health, water safety or asbestos.

Available Monday to Friday 9am – 5pm (excluding public and bank holidays).

For further information speak to your insurance advisor or call us on **0345 60 20 999**

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