

Vehicle sales and safety

This advice is intended for motor traders supplying vehicles for use in Great Britain. It is not intended for private owners selling their own vehicles but it is important to note that the law does apply to those circumstances.

The advice will also apply to car repairers; auctions, car and van hire businesses and any other businesses that supply vehicles or carry out work on customers' vehicles. In this advice, the term 'vehicle' includes trailer.

All vehicle sales and supply of vehicles are covered by the requirements of the Road Traffic Act 1988 and its amendments. (www.legislation.gov.uk/ukpga/1988/52/contents)

Section 75 of the Act requires that any road vehicle or trailer that is offered for sale, exposed for sale, or supplied, in the UK, must be in a safe condition.

In practical terms this means that **you** must ensure that a vehicle is safe to use on the road **before** you sell or supply it.

Supplying an unsafe vehicle is a criminal offence.

What is meant by the term unroadworthy?

The Road Traffic Act 1988 does not define the term 'unroadworthy', but makes reference to the following areas that, if defective, may cause a vehicle to be in an unroadworthy condition:

- brakes, steering gear and tyres
- the construction, weight or equipment of vehicles

In relation to construction, this will particularly relate to structural integrity of safety-critical bodyframe areas such as suspension mounting points and seatbelt anchorages.

How do you check if a vehicle is roadworthy?

Before selling or offering or exposing a vehicle for sale it should be given a thorough mechanical and structural pre-sale check by a suitably qualified or competent person. Any significant defects that may make the vehicle unroadworthy must be rectified.

A valid MOT certificate or service history might help in assessing the condition of a vehicle but should not be relied upon as an indication that a vehicle is roadworthy. Submitting a vehicle for an MoT test may be appropriate in some cases and should highlight defects that must be rectified before the vehicle is offered for sale or otherwise supplied. Traders who sell or supply vehicles must take positive action to ensure that any they supply are safe; it is advisable to keep records of any test or examination and its results so as to be able to demonstrate the action that was taken

What about selling through a motor auction?

You remain responsible for the safety of any vehicle you offer for sale at an auction. The auctioneers act as your agent; as such you are offering to sell the vehicle and are responsible for its condition and any descriptions that you have applied to the vehicle.

Relying on any of the auctioneer's terms and conditions to exclude liability for the safety of a vehicle may not be sufficient to avoid prosecution.

As previously recommended in relation to supplying a vehicle, immediately before you place a vehicle for sale in an auction get it checked for safety by a competent engineer or obtain a new MOT certificate for the vehicle. This could increase the value of the vehicle that you are trying to sell. Always keep records of any checks you make.

What does 'Supply' mean?

Supply has a wide meaning. Supply can mean to give as a prize, hire, lend, exchange or loan. Vehicle repair, MOT test or vehicle hire businesses could all 'supply' a vehicle such as in the course of returning it to its owner after a repair or providing a hire vehicle or courtesy car.

Sale of vehicles for spares or repair

If you sell a vehicle or a trailer, the presumption will be that it is going to be used on the road. This means that it is required to be in a safe and roadworthy condition at the time of offering or exposing it for sale.

Vehicles that are damaged or are in such a degraded condition that they are unroadworthy may still be of value to a specialist repairer or for breaking for spare parts. Such vehicles are commonly referred to as being for 'spares or repair'.

If you intend to dispose of a vehicle for 'spares or repair' you must ensure that any purchaser knows before purchase that the vehicle is in such a condition that it cannot be used on a road (including driving it away from your premises after a sale) unless repaired. Failure to do so may expose both the seller (you) and the driver to possible prosecution.

To avoid committing an offence under the Act you must prove that you took

'all reasonable steps to ensure that any prospective purchaser would be aware that its use in its current condition on a road in Great Britain would be unlawful'

This effectively means you will need to inform any potential buyer that they cannot use the vehicle on a road until it has been fully repaired before the purchaser has decided to make the purchase (see the Road Traffic Act s.75 (6A)).

What constitutes 'reasonable steps' would be for a court to decide in each particular case. We would advise however that these would include:

- offering for sale in a separate area to that used to display roadworthy vehicles.
- displaying on the vehicle a prominent notice stating it is for spares and repair only; that in its current condition it must be regarded as unroadworthy and that it cannot be used on the road before repair and, if necessary, will require a new MoT certificate.
- clearly stating the above information additionally on any invoice or other paperwork you give to the purchaser.
- ensuring that your documentation clearly informs the purchaser they can only remove the vehicle from your premises on a suitable transporter/recovery vehicle or trailer

- ensuring that the purchaser understands the conditions of sale and signs a statement to confirm and record that they understood those conditions.
- not passing on any current MoT certificate or tax disc to the buyer.
- ensuring that the purchaser does remove the vehicle by transporter or trailer and refusing to release the vehicle unless they do so.

This leaflet has been prepared with the assistance of information supplied by Norfolk County Council Trading Standards.

Where can I get further help?

This leaflet is not an authoritative document on the law and is only intended for guidance. For further details or clarification contact Derbyshire Trading Standards at:

Chatsworth Hall
 Chesterfield Road
 Matlock
 Derbyshire
 DE4 3FW

Telephone:

Businesses:	Call Derbyshire	01629 533190
Consumers:	Citizens Advice consumer helpline	03454 040506

Website: www.derbyshire.gov.uk/tradingstandards

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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