

Bill Summary: The Public Health (Minimum Price for Alcohol) (Wales) Bill



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The Public Health (Minimum Price for Alcohol) (Wales) Bill

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1. Introduction

The **Public Health (Minimum Price for Alcohol) (Wales) Bill** was introduced by Rebecca Evans AM, Minister for Social Services and Public Health, on 23 October 2017. In November 2017, following a change in ministerial portfolios, the First Minister authorised Vaughan Gething AM, Cabinet Secretary for Health and Social Services, as the new Member in Charge of the Bill.

The Bill provides for a minimum price for the sale/supply of alcohol in Wales, and makes it an offence for alcohol to be sold below that price. The minimum selling price will be calculated according to a formula based on a minimum price per unit of alcohol (referred to as minimum unit price/MUP). The minimum unit price is not set out on the face of the Bill and will be specified in regulations. An MUP of 50p is used as an example in the **Explanatory Memorandum** (EM) and Regulatory Impact Assessment (RIA).

Minimum pricing is a targeted measure, which aims to reduce hazardous and harmful levels of drinking¹. As described in the EM, the legislation would form part of the Welsh Government's wider strategic approach to tackling alcohol-related harm. The EM states:

The ultimate objective of the Bill is to tackle alcohol-related harm, including alcohol-attributable hospital admissions and alcohol-related deaths in Wales, by reducing alcohol consumption in harmful and hazardous drinkers. In particular, the Bill is targeted at protecting the health of harmful and hazardous drinkers (including young people) who tend to consume greater quantities of low-cost and high-alcohol content products. (EM p8, para 14)

The proposals would not increase the price of every alcoholic drink, only those currently sold below the minimum price. The main impact is likely to be on alcohol sold in supermarkets and off-licenses, particularly the relatively low cost/high strength products, and where it is sold as a multi-buy or as part of a sales promotion. The on-trade (e.g. pubs and clubs) are expected to be largely unaffected as they typically sell at well above the minimum prices under discussion.

¹ A 'hazardous' level of drinking is defined as between 14-50 units of alcohol a week for men and 14-35 units for women. A 'harmful' level is over 50 units a week for men and over 35 units a week for women.

The Business Committee remitted the Bill to the Health, Social Care and Sport Committee for consideration of the general principles, with a reporting deadline of 16 February 2018. Following a request from the Committee that more time be allowed to complete its work, the Business Committee subsequently agreed that the Committee should report by 2 March 2018.

The Health, Social Care and Sport Committee published its **stage 1 report** on 5 March 2018.

The Finance Committee and Constitutional and Legislative Affairs Committee also considered the Bill, reporting on **28 February** and **5 March** respectively.

2. Legislative Competence

The Explanatory Memorandum (EM) that accompanies the Bill states:

“The National Assembly for Wales (the National Assembly) has the legislative competence to make the provisions in the Bill pursuant to Part 4 of the Government of Wales Act 2006 (GOWA 2006). The relevant provisions of GOWA 2006 are set out in section 108 and Schedule 7.

Paragraphs 9, 12 and 15 of Schedule 7 of GOWA 2006 set out the following subjects in relation to which the Assembly may legislate:

Paragraph 9 Health and health services:

Promotion of health. Prevention, treatment and alleviation of disease, illness, injury, disability and mental disorder. Control of disease. Family planning. Provision of health services, including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities. Clinical governance and standards of health care. Organisation and funding of national health service.

Paragraph 12 Local government:

...Powers and duties of local authorities and their members and officers...

Paragraph 15 Social welfare:

...Protection and well-being of children (including adoption and fostering) and of young adults...”.

The Llywydd issued a **statement** on 23 October 2017 confirming that, in her view, the provisions of the Bill would be within the Assembly's legislative competence.

The Bill was introduced to the Assembly within the wider context of similar Scottish legislation being challenged in the UK's Supreme Court. The Scotch Whisky Association had argued that the Alcohol (Minimum Pricing) (Scotland) Act 2012 was incompatible with EU law. On 15 November 2017 the Supreme Court unanimously dismissed the challenge. Following that decision, the Cabinet Secretary stated:

“The judgment by the Supreme Court unanimously upholds the Court of Session's finding that the introduction of a minimum price for alcohol in Scotland is compatible with EU law. It considers that minimum pricing is a proportionate means of addressing alcohol related harm. The judgment confirms the question of where the balance ought to be struck between protecting health and trade matters is a matter for the devolved, democratically elected legislature to decide and states, in the clearest terms, that the courts should not second-guess the value which a domestic legislature puts on health.”

3. Main elements of the Bill

Section 1 of the Bill sets out the formula to calculate the minimum selling price for alcohol. This is based on a minimum price per unit of alcohol. As noted earlier, the minimum unit price (MUP) is not set out in the Bill and will be specified in regulations. An MUP of 50p is used as an example in the EM and RIA.

The formula proposed is minimum unit price x strength x volume. For example (assuming an MUP of 50p), a 7.5% strength, 3 litre bottle of cider would have a minimum selling price of £11.25 (0.50 x 7.5 x 3).

Under section 2, it will be an offence for an alcohol retailer to supply alcohol, or to authorise the supply of alcohol, at a selling price below the applicable minimum price.

The Bill establishes local authority-led enforcement arrangements. This includes powers to bring prosecutions, powers of entry for authorised officers, an offence of obstructing an authorised officer, and power to issue fixed penalty notices.

The Welsh Ministers must report on the operation and effect of the legislation at the end of a five year period, beginning with the day on which the offence of supplying alcohol below the minimum price comes into force (section 21).

The minimum pricing regime established by the Bill will cease to have effect 6 years from the date on which the section 2 offence comes into force, unless the Welsh Ministers make regulations providing otherwise (section 22). These regulations cannot be made until at least 5 years after the section 2 offence comes into force. If no such regulations are made by the end of 6 years, the minimum pricing provisions are repealed. If regulations are made, the minimum pricing provisions will continue indefinitely, unless repealed by a subsequent Act.

4. Background to the Bill

The Welsh Government's draft Bill

In 2015, the Welsh Government **consulted** on a Draft Public Health (Minimum Price for Alcohol) Bill. According to the published **summary of responses**, there was broad consensus that a 50p minimum unit price for alcohol would benefit Wales as a whole through reducing alcohol consumption and related harms. 131 (out of 194) respondents supported the proposal to introduce legislation (mostly from health organisations, academia, the voluntary sector (including groups representing older people and children/young people), and members of the public). 39 were against the proposals (mostly representing the alcohol industry and retailers, and members of the public). 24 were neither for nor against the proposals.

The Draft Bill followed an earlier consultation on proposals for a minimum price for alcohol included in the public health white paper **Listening to you: Your health matters** in April 2014.

As a result of the consultation on the Draft Bill, a number of changes were made to the Bill as introduced. These include the duty on the Welsh Ministers to report on the operation and effect of the legislation after five years (section 21), and the 'sunset clause' repealing the minimum pricing regime after a six-year period, unless the Welsh Ministers make regulations providing otherwise (section 22).

The Sheffield Alcohol Policy Model

The EM highlights the link between alcohol price and consumption, and consumption and harm, evidenced in Sheffield University's modelling work. The RIA, published as part of the EM accompanying the Bill, draws heavily on the Sheffield Model.

In 2009, the Sheffield Alcohol Research Group (SARG) at Sheffield University developed the Sheffield Alcohol Policy Model to assess the potential impact of alcohol policies, including different levels of minimum unit pricing, for the population of England. The model has subsequently been adapted for other areas, including Scotland and Canada.

In 2014 the Welsh Government commissioned SARG to adapt the model for Wales. The **Welsh adaptation of the Sheffield Alcohol Policy Model** concluded that:

- minimum unit pricing (MUP) policies would be effective in reducing alcohol consumption, alcohol-related harms (including alcohol-related deaths, hospitalisations, crime and workplace absences) and the costs associated with those harms;
- MUP policies would only have a small impact on moderate drinkers. Somewhat larger impacts would be experienced by increasing risk drinkers, with the most substantial effects being experienced by high risk drinkers;
- MUP policies would have a larger impact on those in poverty, particularly high risk drinkers, than those not in poverty. However, those in poverty also experience larger relative gains in health, and the high risk drinkers are estimated to marginally reduce their spending due to reduced drinking levels.

Based on a minimum unit price of 50p, the total societal value of the reduction in alcohol-related harms was estimated at £882m over the 20 year period modelled. This includes direct healthcare costs (£131m), crime costs (£248m), workplace costs (£14m) and a financial valuation of the **quality-adjusted life year** (QALY) gain (£489m), assuming a QALY is valued at £60,000.

In June 2017, the Welsh Government commissioned SARG to model the potential impact of a minimum unit pricing policy for alcohol, using new data and new modelling approaches, and how this might compare to rises in alcohol duty.

In November 2017 SARG produced an **interim report**, ahead of the planned publication of its full review. The interim report provided preliminary results regarding the estimated impact on health outcomes.

In February 2018 SARG produced its final report for the Welsh Government, Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Wales. This concluded that:

- A minimum unit price set at between 35 and 70p would be effective in reducing alcohol consumption among hazardous and, particularly, harmful drinkers. These consumption reductions would lead to reductions in alcohol-related mortality and hospitalisations. Higher levels of MUP lead to greater reductions in consumption and harm.
- Moderate drinkers would experience only small impacts on their alcohol consumption and spending following the introduction of a minimum unit price. This is because they tend to buy alcohol which would be subject to little or no increase in price under the policy. Higher levels of MUP have larger impacts on the consumption of moderate drinkers.
- The greatest impact of a minimum unit price would be on the most deprived harmful drinkers. Deprived drinkers consuming at moderate levels would be more affected than other moderate drinkers, but the overall impact on their alcohol consumption and spending remains small.
- Large alcohol tax increases would be required to achieve the same effects as a 50p minimum unit price.

The most notable differences between the 2014 and 2018 modelling include:

- Overall societal benefits have reduced from an estimated £882 million to £783 million in the 2018 modelling. This is mainly due to smaller estimated reductions in direct healthcare costs and costs associated with crime.
- Retailers are estimated to see a smaller increase in profits (£17.8 million) than was shown in the 2014 modelling (£27 million).
- Annual revenue to the Exchequer from duty and VAT receipts on alcohol in Wales is estimated to fall by 0.4% or £1.9 million following the introduction of a 50p MUP. In the 2014 modelling, revenue to the Exchequer was estimated to decrease by 1% (equivalent to £5.8 million).

5. Financial implications of the Bill

Estimated costs and benefits of the legislation are set out in the RIA – see from page 62 of the EM.

This estimates total costs of £2.6m (present value £2.2m). This is made up of administrative costs to the Welsh Government (guidance, communications, training and evaluation) and compliance costs for retailers.

Enforcement costs for local authorities are unquantified in the Regulatory Impact Assessment (RIA) but are anticipated to be low; enforcing the legislation is expected to be undertaken within the existing inspection regime. However, the RIA notes that discussions are ongoing with local authorities and the Wales Heads of Trading Standards on potentially funding additional inspection activity, particularly during the first year of implementing the legislation.

Costs associated with this activity have not yet been confirmed, but early discussions suggest that £150,000 will need to be allocated by Welsh Government to cover additional inspection activity in the first year of implementation – followed by £100,000 in year 2 and £50,000 in year 3. (EM p107, para 297)

As set out in the RIA, the benefits of the legislation are estimated at £882m over the 20 year period modelled. This includes direct healthcare costs (£131m), crime costs (£248m), workplace costs (£14m) and a financial valuation of the health benefits (£489m).

However, as noted earlier, these overall benefits have reduced by £100 million in the 2018 modelling undertaken by Sheffield University.

Overall benefits of the Bill (over a 20 year period following implementation):

	2014	2018
Reduced direct healthcare costs	£131 million	£91 million
Gains from improved health outcomes	£489 million	£490 million
Benefits from lower crime	£248 million	£188 million
Reduced workplace absence	£14 million	£14 million
Total	£882 million	£783 million

6. Response to the Bill

The majority of stakeholders are supportive of the Bill as a public health measure. Most opposition to minimum pricing comes from within the alcohol industry (although this isn't the case across the board – major supermarkets for example have varied in their views).

Local government representatives are comfortable that the new duties imposed on them align well with their existing activity, although they have highlighted the need for a greater concentration of resources in the first year of implementation to aid early compliance.

Although the policy is widely supported, a number of concerns have been raised during stage 1 scrutiny of the Bill, as discussed in the Health, Social Care and Sport Committee's report. These include:

- The lack of real-world experience of minimum pricing, and the extent to which a mathematical model can predict the impact of the policy on alcohol consumption and harm.
- Whether minimum pricing will unfairly penalise moderate drinkers.
- Whether there will be a disproportionate impact on low income groups.

- How the policy will affect vulnerable, dependent drinkers, including whether there's a risk of substituting non-beverage forms of alcohol or illegal drugs if the price of alcohol increases.

The potential for an increase in cross-border trade, to the detriment of Welsh businesses.

How the alcohol industry might respond to a potential windfall in profits as a result of minimum pricing.

In its report, the Health, Social Care and Sport Committee recommends that the National Assembly agrees the general principles of the Public Health (Minimum Price for Alcohol) (Wales) Bill, but cautions that the Bill itself and wider policy require further consideration.

Our scrutiny of the Bill has been thorough and we believe the evidence presented to us indicates a need for further action to improve the Bill, to prepare for its commencement, and to support its implementation. Further action is also needed to ensure the impacts of minimum unit pricing, including any unintended consequences, are monitored and understood.

(...)

We have made a number of recommendations which we believe will strengthen the legislation and its implementation, and will avoid some potential unintended consequences, particularly with regards to dependent drinkers.

The Committee's report emphasises that minimum pricing won't be effective in isolation, and that a range of measures are needed to tackle alcohol misuse.

7. Summary of Stage 2 changes

Stage 2 consideration of the Public Health (Minimum Price for Alcohol) (Wales) Bill was carried out in the Health, Social Care and Sport Committee on **3 May 2018**.

No amendments were brought forward by the Welsh Government.

A number of opposition amendments were tabled. These mainly related to: setting the minimum unit price; provision for a charitable contribution by alcohol retailers; guidance for retailers on compliance with the legislation; promoting

awareness of the legislation, and; reporting arrangements on the operation and effectiveness of the Act.

None of the amendments were agreed, the Bill was therefore **unamended at Stage 2**. The Cabinet Secretary for Health and Social Services did however indicate that he might be willing to work with Members to bring forward amendments at Stage 3 in relation to promoting awareness of the Act and provision for scrutiny by the Assembly of the evaluation report on the legislation.