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Alcohol etc. (Scotland) Bill

18 February 2010

10/13

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The Alcohol etc. (Scotland) Bill is part of the Scottish Government's attempt to help address alcohol-related harm in Scotland by:

- Implementing a minimum price per unit of alcohol
- Restricting off-sale promotions and promotional activity
- Requiring licensees to operate an age verification policy
- Giving licensing boards the power to raise the purchase age to 21
- Implementing a social responsibility levy

The most controversial part of this Bill is minimum pricing and therefore much of the briefing is focused on this. It also includes a summary of the Health and Sport Committee's call for evidence on the provisions of the Bill and explores the key issues in relation to each.

The Scottish Parliament
Pàrlamaid na h-Alba

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EXECUTIVE SUMMARY

Background

The Alcohol etc. (Scotland) Bill contains a number of provisions aimed at reducing drinking and alcohol related harm in Scotland. Scotland has a higher level of consumption than the rest of the UK and a significant proportion of the population reports that they exceed alcohol guideline limits each week (20% women and 30% of men). There are an estimated 1,047,000 hazardous drinkers and 230,000 harmful drinkers in Scotland. Beer, spirits and wine are the most popular drinks (in that order), the largest proportion of which are purchased in the off-trade sector. The off-trade share of the market has been growing in recent years and the average price per unit of alcohol in the off-trade is now 43p, compared with £1.31 in the on-trade.

Minimum Pricing

The key provision within the Bill is the establishment of a minimum price at which a unit of alcohol can be sold. The Bill does not state what that price should be but gives Ministers the power to set it in regulations. Research commissioned by the Scottish Government has estimated that a minimum price would reduce alcohol consumption (by 2.7% at 40p) and alcohol related harms. This research is based on a body of evidence linking price and consumption, and consumption and harm.

The Health and Sport Committee's call for evidence found 81% of respondents in favour of minimum pricing and 19% against. Those in favour tended to be convinced of the health and social benefits of the proposal, while those against raised concerns about the evidence base for the policy and whether it will achieve its stated aim. Specific points raised include; the sensitivity of heavy drinkers to price (p12), the link between consumption levels in the general population and harm (p13), the effect on low income groups (p15), the effect on the alcohol industry (p21), the effect on cross-border trade (p22) and the legality of the measure under EU law (p22).

Other Provisions

Other provisions within the Bill include:

Extending the ban on discount drinks promotions to off-trade premises

The Bill seeks to amend the Licensing (Scotland) Act 2005 to prohibit supplying alcohol free or at a reduced price on the purchase of other drinks in off-sales premises, and to limit the location of alcohol promotional material to alcohol display areas. Most (83%) of the respondents to the Committee's call for evidence who commented on the provisions relating to promotions supported the restrictions, while those who were opposed (17%) questioned the evidence that discount promotions in the off-trade affect overall levels of consumption. The research commissioned by the Government concluded that a ban on discount promotions would enhance the effect of minimum pricing, reducing alcohol consumption by 5.4% (p26).

Making it mandatory that all licensed premises should operate an age verification policy

The Bill seeks to amend the Licensing (Scotland) Act 2005 to require all licensed premises to operate an age verification policy in a bid to reduce underage sales. Such schemes are voluntary at present and include ‘Challenge 21’ whereby all those who look under the age of 21 must provide proof of age when purchasing alcohol. Of those who commented on this proposal in the Committee’s call for evidence, the majority (22/24) were in favour of this provision. (p28)

Provisions on the sale of off-sales alcohol to under 21s

The Bill contains a provision which would require licensing boards to include a statement on the impact to an area of off-trade sales to under 21s. This “detrimental impact statement” will consider the extent to which off-sales purchasing by people under the age of 21 is having a detrimental impact in any locality or the whole of the licensing board’s area. This provision could form the justification for a licensing board to implement an age restriction of 21 on the sale of alcohol by applying a condition to licensed off-sales premises. This could be done on either a geographical area, by type of premise or for a specific time period. Of those who commented on this provision in the call for evidence, 67% were against and 33% in favour. Reasons for opposing it included that it is incongruous with other age restrictions and that there needs to be better enforcement of existing laws. Data shows an increasing, but still relatively low, level of prosecutions for selling to underage persons. Another key point made was the likely different effect of such a policy on a local (as opposed to national) basis. (p29).

A power to introduce a social responsibility levy on licensed premises

The Bill would give Ministers the power to establish arrangements to introduce a social responsibility levy on licensed premises, under a principle that the ‘polluter pays’. Local authorities would be able to use the monies from the levy to offset the cost of alcohol misuse. There is no detail on the levy on the face of the Bill as this would be established in regulations. Opinion in the call for evidence was fairly evenly split (51% in favour, 49% against). Those opposed expressed concern that; such a levy would be just another tax on business, that it erodes the responsibility of individuals who act in an anti-social way, the on-trade will end up footing the bill for the off-trade where most consumption occurs, and there are existing powers within the Licensing (Scotland) Act 2005 to deal with irresponsible licensees. (p32)

Powers to vary license conditions

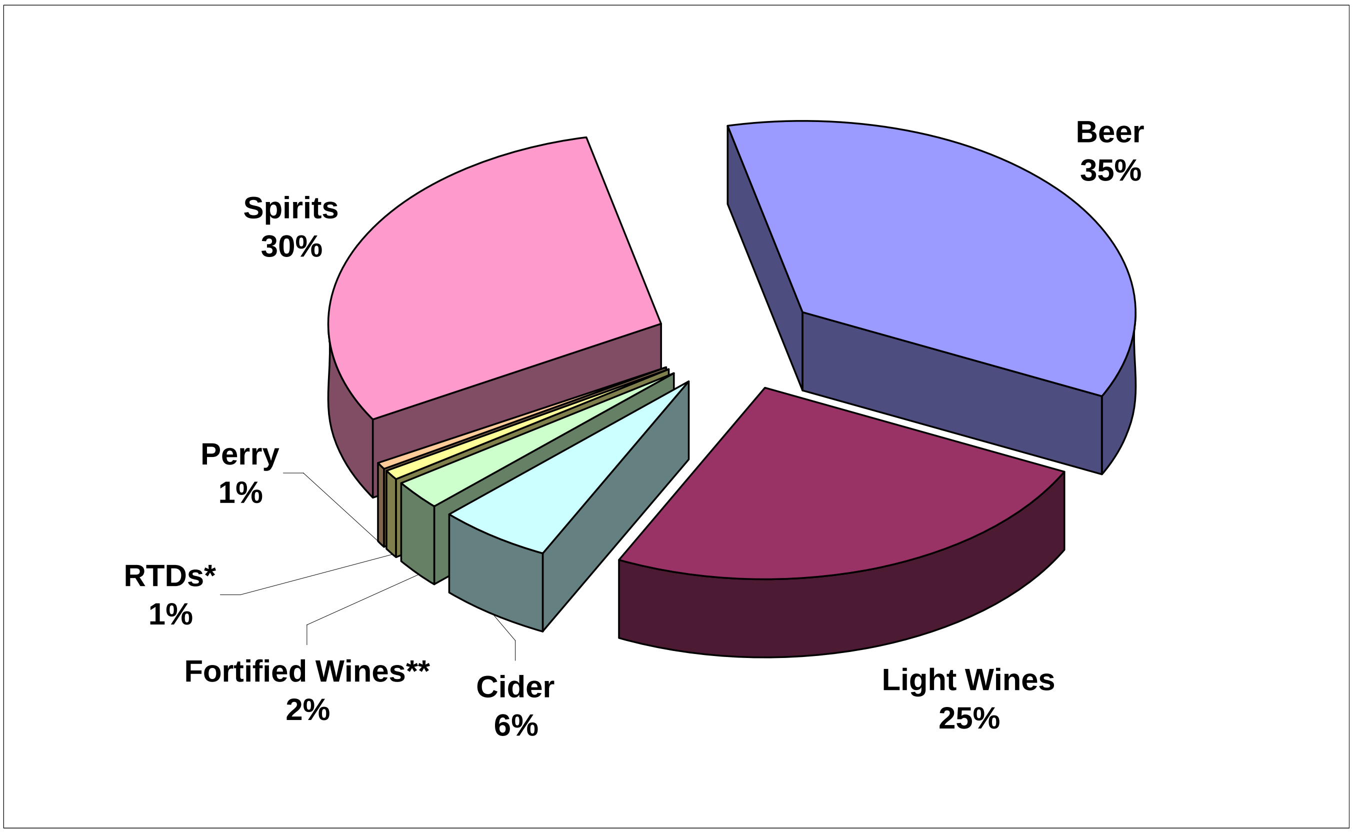
The Bill also contains provisions which would allow Ministers to amend or delete the list of mandatory conditions within licenses, and a power for licensing boards to vary the conditions of existing premises licenses. Mandatory conditions relate to those that are applied to all licenses nationally e.g. the role and qualifications of a premises manager. At present, Ministers can only add to or extend the list (p29). The Bill would also allow licensing boards to vary the conditions of existing licenses in its area. At the moment this can only be done on a case by case basis. Concerns were raised about the lack of a hearing and appeals mechanism for a licensee whose license was changed by a licensing board. (p32)

ALCOHOL IN SCOTLAND

Scots' Drinking Habits

50.5m litres of pure alcohol were sold in Scotland in 2009. This equates to 12.2 litres of pure alcohol for every person over the age of 18, which is higher than for England and Wales where the average is just over 10 litres per capita. Figure 1 shows the breakdown of sales

Figure 1: Volume of alcohol sold by type of drink (litres of pure alcohol), 2009



Source: Nielsen Industry data obtained by NHS Health Scotland, 2010

* RTDs = 'Ready-to-drink' products such as alcopops **Fortified wine refers to drinks such as Sherry and Port

There is evidence that stronger drinks are being consumed as the total natural volume of alcoholic drinks sold in Scotland between 2005 and 2007 decreased but the volume of pure alcohol sold remained stable (ISD, 2009) (see also figure 2 which shows proportion of alcohol sold by beverage type). On average, each person bought 23.4 units of alcohol a week. 30% of men and 20% of women report their usual alcohol consumption as being more than the recommended limit per week (Corbett et al, 2008). Guidelines are 21 units per week for men and 14 units a week for women.

Research also suggests that in Scotland there are around 1,047,000 hazardous drinkers and roughly 230,000 harmful drinkers1 (York Health Economics Consortium, 2010). Very high levels of alcohol consumption are relatively rare with 7% of men drinking in excess of 50 units and 4% of women drinking more than 35 units a week (these are the cut-offs used to classify harmful drinking in the International Classification of Mental Disorders). For both men and women, the proportion exceeding limits declines with age and increases with income (Corbett et al, 2008).

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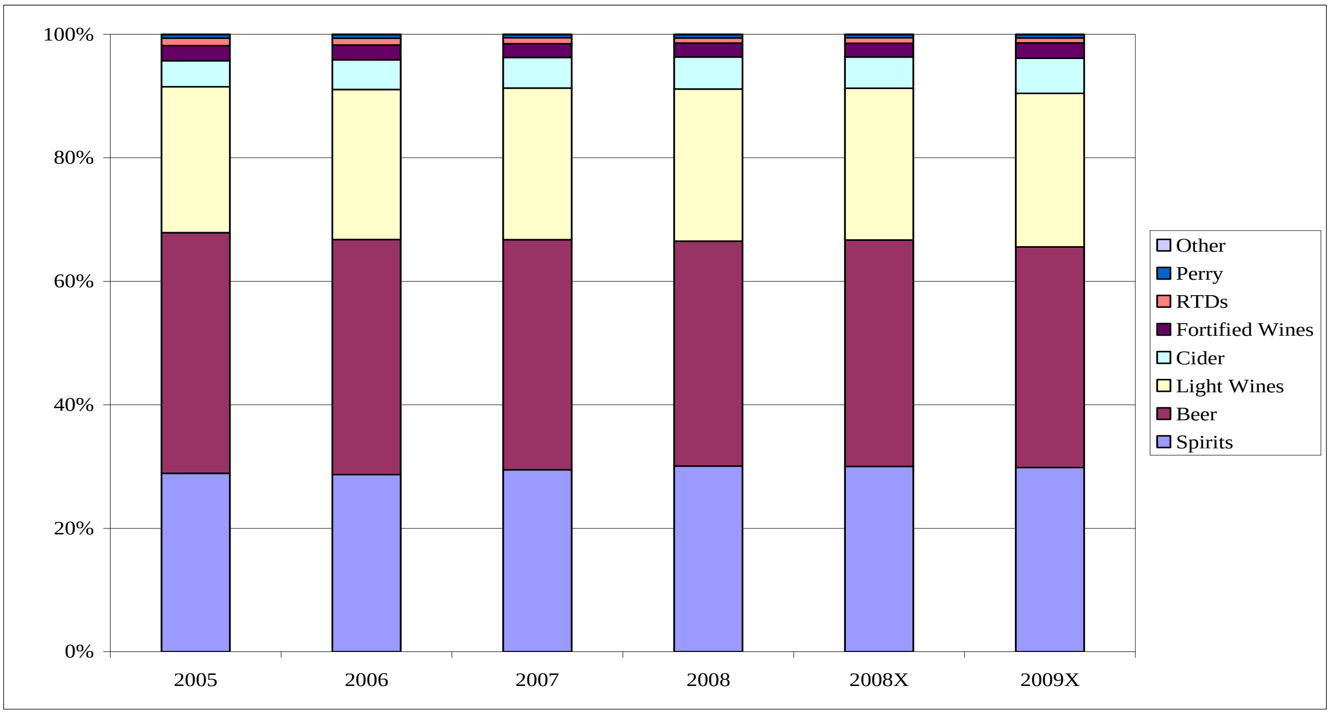
[1] For a definition see: http://www.scotland.gov.uk/Publications/2009/12/29122804/3

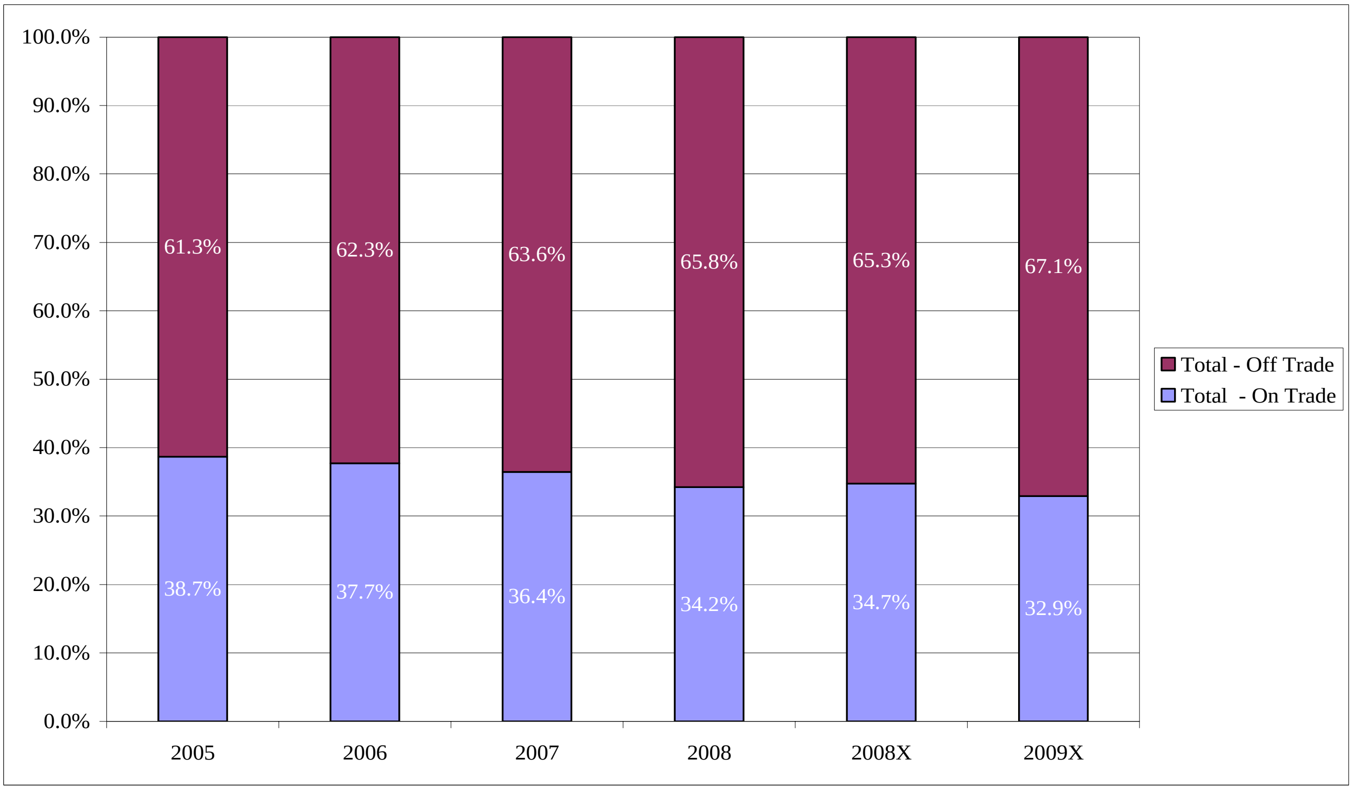
Figure 2: Trends in market share by beverage type, Scotland, 2005-2009[2]



Source: Nielsen Industry Statistics obtained by NHS Health Scotland

The majority of alcohol in Scotland is purchased in the off trade sector. The off trade share of the market has gradually been growing in recent years. This is shown in figure 3.

Figure 3: Percentage of pure alcohol sold in the on and off trade in Scotland, 2009[1]



Source: Nielsen Industry Statistics obtained by NHS Health Scotland

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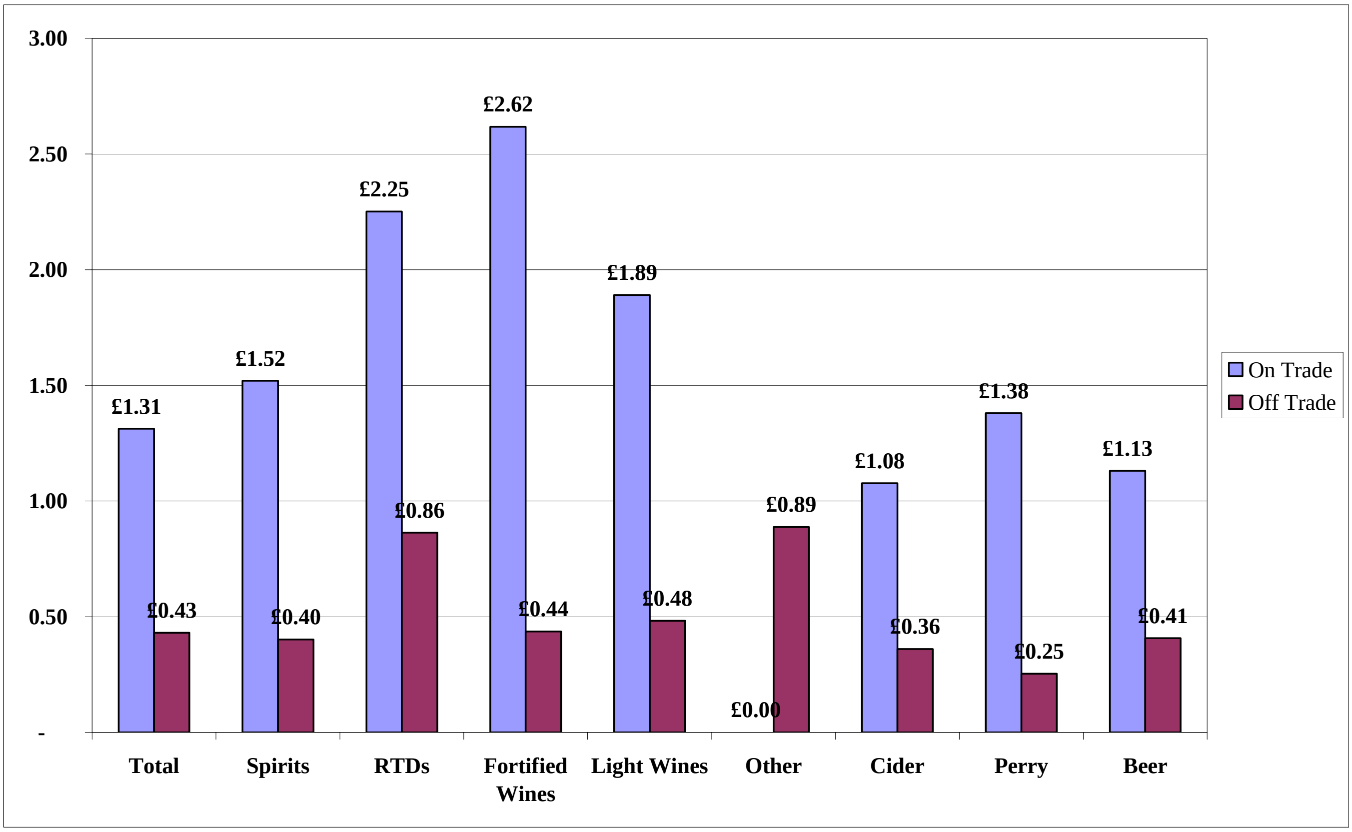
[2] 2005, 2006, 2007 and 2008 = 12 months
2008X = 12m. Off - Trade to w/e 04.10.2008 / On-Trade to end September2008
2009X = 12m. Off - Trade to w/e 03.10.2009 / On-Trade to end September2009

Of the 50.5m litres of pure alcohol sold in Scotland in 2009, 33.8m (67.1%) litres of this were sold through the off trade and 16.6m (32.9%) in the on trade. The average price paid per unit in Scotland is 72p but this differs markedly between the on and off trade. The following figure shows the average price paid per unit of alcohol in each drink category, broken down by whether it was sold in the on or off trade.

Figure 4: Cost per unit by beverage type in the on and off trade sector, Scotland 2009



Source: Nielsen Industry Statistics obtained by NHS Health Scotland, 2010

COMMITTEE CALL FOR EVIDENCE

The Health & Sport Committee issued a call for evidence on the Bill in November 2009. 170 responses were received. The following figure shows the distribution of responses. Each response was grouped based on the broad sectoral interest of the organisation.

Table 1: Respondents to the Health and Sport Committee's call for evidence

Respondent Group	Count of Respondent Group
Health	36
Individual	19
Alcohol Misuse Organisations	18
Local Authority	14
Licensing Body	14
Other	13
Industry – Manufacturer	12
Children and Young People's Organisation	10

Respondent Group	Count of Respondent Group
Academic	8
Industry - Off Trade	7
Industry - On Trade	5
Faith/Religious Groups	4
Business Representative Group	3
Police	3
Community Council	2
Consumer Organisation	2
Total	170

A summary of the findings on the call for evidence are included for each section of the Bill discussed below.

SECTIONS 1 & 2: MINIMUM PRICING

BILL PROVISIONS

Section 1 of the Bill seeks to amend the Licensing (Scotland) Act 2005 (asp 16) ('the 2005 Act') to ensure that alcohol is not sold below a minimum price. The minimum price would be linked to the alcohol content of the drink as a 'price per unit'. The Bill does not propose what the price per unit should be or outline any way in which it would be modified (e.g. by linking to a price index) but instead it gives Ministers order making powers. Such an order would be subject to the affirmative resolution procedure in Parliament and would be added to the list of mandatory conditions in the 2005 Act (see Modification of Mandatory Conditions).

Section 2 of the Bill provides that a package containing two or more alcoholic products must not be sold for less than the price at which each product is for sale individually. This only applies if each product is available for sale separately on the premises.

BACKGROUND

The concept of minimum pricing for alcohol has been much debated over the last year. There is no direct evidence of the effect of the model proposed in the Bill because it is an approach that has not been used before (see also 'Experiences of Other Countries'). Evidence used in support of minimum pricing comes from academic studies and econometric modelling.

There is a substantial body of research which has examined the relationship between price, alcohol consumption and harm. In 2006, a review of cost-effective interventions on substance use by the World Health Organisation found that:

> Taxation has the most sizeable and least resource-intensive impact on reducing the avertable burden from…high-risk alcohol misuse. (Chisholm et al, 2006)

In 2008, the Department of Health in England commissioned the University of Sheffield to undertake research examining the link between alcohol price, advertising and consumption. The project consisted of 2 parts; a systematic review of the literature; and a modelling exercise using domestic data (Booth et al, 2008; Meier et al, 2008). A subsequent version of the modelling was carried out on behalf of the Scottish Government using Scottish data (Meier et al, 2009).

The results of both studies form the basis of the case for minimum pricing. The research team concluded that a 40p minimum price together with a total off-trade discount ban in Scotland would give an estimated:

- reduction in alcohol consumption of 5.4%
- reduction of around 6,300 hospital admissions per year
- reductions in direct health (NHS) costs of £21m per year
- reduction in numbers of crimes by 3,200 per annum of which 850 are violent offences
- direct cost savings associated with crime of around £2.7m per annum
- gains in quality of life associated with decreased crime is valued at £1.9m per annum
- reduction of 29,000 days absence per annum in the workplace
- 1,200 avoided unemployment cases per annum in the harmful drinker group (assuming jobs are available for those able to work)
- financial value for these estimated unemployment reductions of £29m per annum

The Scottish Government argues that minimum pricing would be a targeted measure as it would only affect those drinks which fall below the minimum at present. These drinks are more likely to be drunk by heavy and harmful drinkers.

The following sections look in more depth at some of the key points being debated in relation to minimum pricing.

COMMITTEE CALL FOR EVIDENCE

The following table shows the breakdown of opinion on minimum pricing received to the call for evidence.

Table 2: Breakdown of Opinion on Minimum Pricing

Respondent Group	For	Against	Unclear/no comment
Academic	6		2
Alcohol Misuse Organisations	16		2
Business Representative Group		2	1
Children and Young People's Organisation	9		1
Community Council	2		
Consumer Organisation	2		
Faith/Religious Groups	4		
Health	35		1
Individual	11	4	4
Industry - Manufacturer		10	2

Respondent Group	For	Against	Unclear/no comment
Industry - Off Trade	2	4	1
Industry - On Trade	3	2	
Licensing Body	9	1	4
Local Authority	9	1	4
Other	3	3	7
Police	3		
Total	114	27	29
Percentage	67%	16%	17%

The majority of respondents favoured the minimum pricing proposal, with significant support among the health and alcohol misuse organisations. Most of the opposition stemmed from the industry and business groups, specifically, alcohol manufacturing organisations and the off trade sector. There was more support for the proposal from the on-trade respondents. If those who did not express an opinion (or did not make it clear) are excluded from the analysis, then this gives a figure of 81% of respondents in favour of minimum pricing and 19% against.

KEY ISSUES

The following sections explore some of the key issues raised in relation to minimum pricing.

The link between price and alcohol consumption

Respondents to the committee call for evidence who were in favour of minimum pricing generally supported the rationale that price is a key driver in the consumption of alcohol. One of the main factors underpinning the modelling carried out by Sheffield is the sensitivity of drinkers to changes in price. ‘Price elasticity of demand’ is the economic concept used to indicate how consumer demand for a product changes when the price changes. It is the proportionate change in demand given a change in price, therefore if a 1% drop in price results in a 1% increase in demand, the elasticity value is said to be 1. Goods or services with an elasticity of less than 1 are termed ‘inelastic’ (i.e. less responsive to price changes) while goods with an elasticity value greater than 1 are termed ‘elastic’ (i.e. more responsive to price changes). Goods that are more essential to everyday living and have fewer substitutes are generally inelastic (e.g. staple foods) and have a low elasticity value, while goods or services that are not essential or have more substitutes tend to be elastic (e.g. restaurant meals).

One of the central aspects of the Sheffield study was ascertaining the price elasticity of demand for different alcoholic drinks and for different types of drinker. There were 2 parts to this. Firstly, the research team conducted a systematic review of the literature for previous studies which had measured elasticity, and secondly, the modelling team calculated elasticity values using UK data. The following outlines the key elasticity values found in the literature and through the Sheffield modelling exercise:

Table 3: Key Elasticity Values from the Sheffield Study, by Type of Drink and Type of Drinker

	Literature	Modelling
Alcohol	-0.497 (median – Gallet) -0.51 (Wagenaar et al, 2008)	
Wine	-0.700 (Gallet, 2007) -0.68 (Clements et al, 1997) -0.69 (Wagenaar, 2008)	-0.2829 to -0.5764
Spirits	-0.679 (Gallet, 2007) -0.98 (Clements et al, 1997) -0.8 (Wagenaar, 2008)	-0.62 (off-trade)
Beer	-0.36 (Gallet, 2007) -0.35 (Clements et al, 1997) -0.46 (Wagenaar, 2008)	-0.4794 to -0.5525
Moderate Drinkers		-0.23 to -0.52
Hazardous Drinkers		-0.30 to -0.61
Harmful Drinkers		-0.41 to -0.70
Heavy Drinkers	-0.28 (Waagenaar et al, 2008)	

These research findings demonstrate that, like most other consumer goods, if the price of alcohol increases, demand drops, although the demand is inelastic. However, the research also demonstrates that sensitivity to changes in price vary by the type of drink, by country and the type of drinker. This reflects the fact that ‘alcohol’ is not a homogenous product.

Differences in sensitivity to price have become one of the central issues in the debate on minimum pricing. This is explored in more detail below.

Responsiveness of Heavy Drinkers to Price

One of the key points raised by those opposed to minimum pricing is the responsiveness of heavy and harmful drinkers to price. It is perceived by many that those with a level of dependency on alcohol will be less likely to reduce their consumption if prices rise, thereby remaining unaffected by minimum pricing:

> *…price is a nearly irrelevant factor in addictive substance purchase.* (Individual submission to the Health & Sport Committee’s call for evidence)
>
> The Board does not agree that establishing minimum prices will alleviate the problems faced by the minority section of our society who are very heavy drinkers or persons that are addicted to alcohol. Such persons will purchase alcohol, regardless of the price, because their need for alcohol outweighs the cost of alcohol. (Aberdeenshire Licensing Board, 2010)

As the elasticity values above demonstrate, consumers of alcohol increase their drinking when prices are lowered, and decrease their consumption when prices rise. Research has found that heavy or harmful drinkers are no exception to this (Babor et al, 2003), although the level of their response is disputed.

The results of the Sheffield study appear on the face of it to be slightly conflicting in relation to this point. While the modelling exercise undertaken by Sheffield found hazardous and harmful drinkers were more sensitive to changes in price than moderate drinkers, the systematic review undertaken by the research team acknowledged evidence that heavier drinkers are less responsive to price increases. For example, Manning et al (1995) found that moderate drinkers are the most price elastic while the top 5% of heaviest drinkers have 'an elasticity not significantly different from zero', that is, their consumption would remain almost the same regardless of any price increase. Wagenaar et al (2008), also found a mean elasticity of -0.28 for heavy drinkers compared to -0.51 overall.

However, the Sheffield report explains that its modelling includes 'cross-price elasticities'[3] and that hazardous drinkers are more responsive because they show the greatest level of substitution behaviour. The study does go on to provide an elasticity estimate for total alcohol purchasing which results in an elasticity value of -0.21 for hazardous and harmful drinkers and -0.47 for moderate drinkers. The authors note that this is in keeping with the findings of the literature that (for overall alcohol consumption) hazardous and harmful drinkers are less sensitive to price increases than other drinkers. Though it should be noted that these are provided for reference and used in the sensitivity analysis, not in the baseline model.

Critics have argued that this demonstrates the policy would have little effect on those it wishes to target the most. The Centre for Economics and Business Research was commissioned by the brewer SABMiller to conduct a review of the Sheffield study and found:

> …the University of Sheffield report provides scope for misinterpretation of the evidence, as it highlights 'own price' elasticities which show that for individual alcohol products, heavier drinkers are more responsive to price changes. However, own price elasticities include the impact of switching between product types. The executive summary fails to mention the substantial evidence that overall, heavier drinkers are least responsive to price changes. (Centre for Economics and Business Research, 2009, pg 5)

In response to these criticisms in the Scottish model, the research team urged caution as: "Comparing these findings against elasticities based on mean levels of consumption may lead to invalid conclusions since the bases of demand are different" (Page 55). However, the researchers concede that studies do exist which suggest that price responsiveness may reduce with increasing levels of mean consumption, although they question to what extent they can be generalised to Scotland.

A previous literature review commissioned by the Scottish Executive (Ludbrook, 2004) found at the time that:

> "There is conflicting evidence concerning the relative effects of price on heavy drinkers. Studies relating prices to alcohol consumption for heavy drinkers provide less convincing evidence than studies relating tax changes to changes in the incidence of alcohol related problems, such as mortality, morbidity, accidents and crime, which show reductions in problems resulting from price rises (Babor et al 2003). These studies provide indirect evidence that price increases are reducing the incidence of problem drinking."

In addition, it is also worth noting that even if heavier drinkers are less sensitive to price changes than other drinkers, the relevant research findings indicate that their consumption would still decline.

The link between population consumption and harm

While there is a debate around the relationship between price and alcohol consumption, at the same time there is a question over what effect reducing alcohol consumption would have on alcohol related harm. Would a reduction in alcohol consumption at a population level lead to a reduction in alcohol related harm? Or will the harm only reduce when particular groups reduce their drinking to a certain level?

[3] This is the measure of demand for one good when the price of another good changes.

The Sheffield model calculates changes in consumption and harm at a population level, and has estimated that a 40p unit price would reduce consumption by 2.7%. It then uses this figure to model the effects on health, crime and employment. Many of the submissions in opposition to minimum pricing questioned the likelihood that reducing consumption across the population would significantly impact on harm given that hazardous and harmful drinkers are in the minority.

Anderson & Baumberg (2006) state that alcohol's causal role in social and health harms is usually contributory, being one of only several factors responsible for the problem (pg 135). Research has shown that it is not only the volume of alcohol that is consumed that is important, but the pattern of drinking. That is, the pattern of drinking may result in a different effect despite the overall volume of alcohol consumed being the same (Rehm, 2003; Gmel & Rehm, 2003).

The problems arising from alcohol can be through the effects on:

- physical agility and coordination (e.g. falls)
- thinking and reasoning processes (e.g. reckless behaviour such as drink driving)
- moods and emotions (e.g. violent crime)
- the body (e.g. liver disease)

There is a body of research which has examined the link between population level consumption and harm. For example, the RAND corporation report on 'The Affordability of alcoholic beverages in the European Union' (Rabinovich et al, 2009) reports a statistically significant association between alcohol consumption at the population level and 3 alcohol-related harms. Namely that a 1% increase in alcohol consumption at a population level is associated with an increase of:

- 0.86% in traffic accidents
- 0.61% in traffic injuries
- 0.37% in chronic liver disease

The Institute for Alcohol Studies also highlights research which has found that it is not only the heavy and harmful drinkers that cause alcohol-related problems but that light and moderate drinkers cause the largest proportion of alcohol related problems. This is because there are more light and moderate drinkers in the population and also because problems from alcohol use can occur at all consumption levels, therefore a small risk is spread across a large group. (Institute for Alcohol Studies, 2001). Finnish studies show that the majority of problems were found in the 90% of the population consuming moderately, compared to the 10% of the population drinking heavily (Poikolainen et al, 2007). This point was raised in the call for evidence:

> "Population level problems require a population approach, which can be counter-intuitive to those who argue for an approach that targets those at high-risk of alcohol-related consequences. Half of all alcohol is consumed by just 10% of drinkers.[1] The individuals within that 10% are certainly at high risk of experiencing alcohol-related harms. A targeted approach to reduce alcohol consumption would reduce their risk, but would not necessarily reduce the overall harm experienced in society. This is because alcohol-related disease occurs with consumption levels far below that of the heaviest 'problem' drinkers, and because there is no such thing as 'risk-free' intoxication. (Aberdeen City Alcohol and Drug Partnership, 2010)

In relation to health harms specifically, research has linked alcohol consumption to more than 60 different medical conditions (WHO, 2008; Rehm et al 2003; Room et al 2005) and shown that most diseases have a 'dose-response' relationship with alcohol. That is, the risk of disease increases with the volume of alcohol consumed. As part of the same evidence base, an examination of the causes of disease and disability attributable to alcohol, shows that a greater proportion of the overall burden of harm is associated with the acute effects of alcohol use and drinking to intoxication, rather than the chronic effects of sustained heavy drinking over a long period of time (Scottish Health Action on Alcohol Problems (SHAAP). Acute effects of alcohol use include unintentional injuries such as road traffic accidents, burns, drowning and falls, and intentional injuries including suicide.

However, the British Beer and Pub Association (2009) published a press release and letter in the Times challenging the rationale that by reducing alcohol consumption at a population level, alcohol-related hospital admissions will reduce. Using industry data, the association calculated there has been a year on year reduction in alcohol consumption in recent years (6% between 2004 and 2008) but this has not been reflected in alcohol-related hospital admissions. This point was also raised in the Committee's call for evidence.

The Sheffield modelling assumed no time-lag between alcohol consumption and acute alcohol related harms, and a mean lag of 10 years for all chronic conditions (Meier et al, 2009). Using these assumptions, while changes in chronic harms following a reduction in consumption may take more time to become apparent, changes in acute harms should be more immediate. According to the Scottish Health Survey 2008 there was a 17% increase in discharges related to alcohol from general hospitals in Scotland between 2003/4 and 2007/8 evident for all age groups in the adult population.

The Scottish Government has commissioned Sheffield University to re-run the model with Scottish data that was previously not available to the analysts. This is expected to be published in March 2010[4].

Effect on Low Income Groups

The Sheffield study did not attempt to model the effects of minimum pricing on different income groups but some submissions to the call for evidence raised concerns about the effect minimum pricing would have on those on a low income. These submissions felt minimum pricing is essentially a regressive policy which would have a disproportionate impact on low income groups. For example, in their submission to the committee ASDA said:

> "For customers on job seekers allowance or on the basic state pension then prices are not 'cheap' they are affordable. Minimum pricing is essentially a regressive policy as it will add to the costs of the lowest income households yet make little difference to middle and high income households. Responsible drinkers on a budget will be hit more than irresponsible drinkers with higher incomes." (ASDA, 2010)

UK data from the Family Spending survey (see table 4 below) shows that the lowest income households spend on average a slightly greater proportion of their weekly budget on off-sales alcohol (which is more likely to be affected by minimum pricing) than those in higher income households.

Table 4: Expenditure on off-sales alcohol by gross household income group

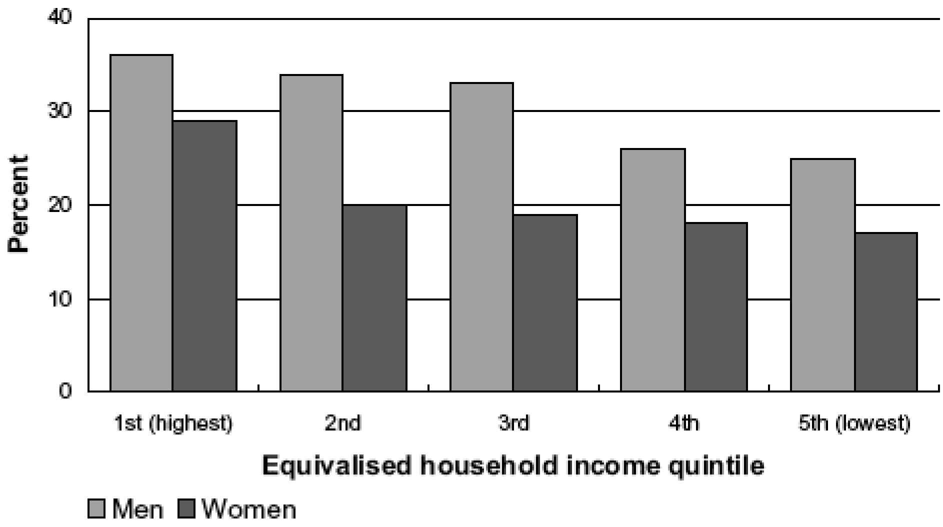
	Lowest 10%	2nd Decile	3rd Decile	4th Decile	5th Decile	6th Decile	7th Decile	8th Decile	Highest 10%
Weekly gross household expenditure on alcohol	£2.40	£3.10	£3.60	£4.90	£5.20	£6.00	£7.20	£9.50	£11.40
Total Weekly Expenditure	£153.70	£200	£257.10	£330.10	£393	£459.20	£536.70	£625.70	£1044.90
Alcohol as a % of the total	1.6%	1.6%	1.4%	1.5%	1.3%	1.3%	1.3%	1.5%	1.1%

Source: Office for National Statistics, Family Spending Survey 2009

[4] Personal communication with the Scottish Government

The distribution of alcohol consumption across the social groups was examined in the Scottish Health Survey 2008. This found that those in the highest income groups were more likely to exceed guideline limits:

Figure 5: Proportion exceeding government guidelines on weekly alcohol consumption (age-standardised), by equivalised household income quintile and sex



Source: Corbett et al, Scottish Health Survey, 2008

One other concern expressed is that if alcohol prices increase, problem drinkers with a low income may use spending from elsewhere in their budget to maintain their consumption levels. It is feared that this could be to the detriment of both them and their families.

No research could be found that examined the effect of alcohol consumption on family spending but research in India examined household spending in relation to tobacco use and found (John, 2006):

> "…tobacco consuming households had lower consumption of certain commodities such as milk, clean fuels and entertainment which has direct bearing on mostly children and female members in the household suggesting possible 'gender effects' and biases in intra-household resource allocation. Tobacco spending was also found to have negative effects on household nutrition intake."

It is not clear though as to what extent these findings can be generalised to alcohol and Scotland.

Those in favour of minimum pricing argue that ultimately, low income families would benefit from the policy, not only because they experience many of the harms arising from alcohol misuse, but also because a minimum price will bring an end to the price of other goods being used to subsidise cheap alcohol (Record & Day, 2009). The rationale behind this thinking is that non-alcoholic goods should become cheaper. However, it is worth noting that it is uncertain whether retailers will lower prices on these goods.

If retailers were to lower the price of other goods, then it also raises questions as to how it would impact on the effectiveness of minimum pricing. If other goods become cheaper, will this increase disposable income, make alcohol more affordable and thereby negate any effects of minimum pricing? This logic would follow on from the thinking in the RAND study that the increased affordability of alcohol has fuelled the increased consumption of alcohol (Rabinovich et al, 2009). Overall, the RAND analysis indicates that across the EU, 84% of the increase in alcohol affordability was driven by increases in income, and only 16% was driven by changes in alcohol prices (Rabinovich 2009, p. 26). The Sheffield study did not model the industry response to minimum pricing.

Punishing the many for the sins of the few?

One of the most frequently perceived disadvantages of the policy is that it would punish the majority for the sins of the few.

The following table outlines the distribution of the different types of drinkers used by Sheffield, the volume they drink, how much they spend in a year and some of the potential effects of a 40p unit price.

Table 5: Cost and consumption of alcohol in Scotland and potential changes with a 40p minimum price, by type of drinker (Source: Meier et al, 2009)

	Moderate (18+)	Hazardous (11+)	Harmful (11+)	Scotland (11+)
Number	2,426,970	953,631	273,768	3,833,386
Units per drinker per year (average)	320.3	1,414.7	3,390	813.6
Cost per drinker per year (average)	£294.38	£1,055.97	£2,130.38	£634.68
Fall in units consumed per drinker per year at a 40p unit price	-4.09	-26.19	-194.05	-22.3
Cost if drinkers' consumption stays the same at a 40p unit price	£5.77	£35.28	£139.20	£21.84

Therefore, although in a minority, the hazardous and harmful drinkers are responsible for consuming the majority of the alcohol sold in Scotland. A drop in consumption at a population level would be made up of a small reduction spread across the bulk of moderate drinkers, and a larger reduction across the smaller group of hazardous and harmful drinkers.

Proponents of the measure argue that while moderate drinkers will bear a cost, the cost from alcohol misuse is not borne by the individual anyway, but by society as a whole. Estimates put the societal cost to Scotland from alcohol at £3.5bn (York Health Economics Consortium, 2010) and research has suggested that the societal cost per unit sold in Scotland is 45p (Ludbrook, 2009). It has also been suggested that minimum pricing would end consumers of other products subsidising cheap alcohol therefore it would be to their benefit (Record & Day, 2009). However, at present there is no evidence to suggest one way or another if retailers would lower the price of other products should minimum pricing be enacted.

It has also been suggested that the cost to moderate drinkers may have been underestimated as, if the cheapest drinks rise in price, manufacturers/retailers may try to maintain the price differential between cheaper and expensive products by raising the price of more expensive drinks. If this happens, the assumptions used by the modelling may underestimate the cost to moderate drinkers.

At what level should a minimum price be set?

The Sheffield report details the expected changes in consumption at different prices:

Table 6: Estimated change in consumption with minimum pricing

	Change in Consumption
25p	-0.2%
30p	-0.5%
35p	-1.3%
40p	-2.7%
45p	-4.7%
50p	-7.2%
55p	-10%
60p	-12.9%
65p	-15.9%
70p	-18.9%

Source: Meier et al, 2009

The Sheffield report makes use of a 40p unit price for modelling purposes and this is the price that has most frequently been discussed. In the Committee call for evidence, the most frequently recommended price per unit was 50p, closely followed by those suggesting a range of between 40-50p. A common theme to emerge when discussing the level was the need to balance the potential public health benefits with what is acceptable to consumers, as well as the need to minimise a potential increase in illicit trade (see 'Cross Border Purchasing').

Many of the submissions argued that minimum pricing will not affect heavy drinkers who drink more expensive drinks and that most drinks are already priced beyond 40p per unit. This is backed to a certain degree by the Scottish Health Survey 2008 which found a link between excessive drinking and income, with those in the higher income and social class categories more likely to exceed guideline limits (see figure 5). However, other research has found that extremely heavy drinkers were more likely to purchase the cheapest units.

Research conducted with patients of the Lothian Alcohol Problems Services (Black et al, 2009) compared the units consumed and the price paid by patients with wider alcohol sales in Scotland. This research found that patients consumed on average 198 UK units in a typical drinking week. The majority of purchases were from 'off-sales' where the average price was 34 pence per unit. Overall the mean price paid was 43 pence, the minimum was 9 pence. There was a correlation between price paid per unit and total number of units consumed. Those consuming the greatest amount of alcohol tended to pay the smallest unit price. Only 17% of units were purchased at a price of 50, or more pence.

In a bid to demonstrate that minimum pricing will only affect the cheapest drinks (more likely to be drunk by heavy and harmful drinkers), the Scottish Government published a snapshot survey of supermarket prices for different alcoholic products, together with an analysis of how they would be affected by a 40p minimum price. Table 6 shows the drinks in the survey that would experience an increase in price if a 40p per unit price was applied (Scottish Government, 2009). The full findings of the survey can be found on the Scottish Government website.

The elasticity values from the Sheffield study can also be used with these findings to calculate the estimated reduction in consumption for these products. This is shown in the last 3 columns of table 7.

The table demonstrates that at 40p, the products most likely to be affected by a 40p unit price would be cider and lager at the cheaper end of the market, as well as own brand spirits. However, at a higher price per unit, more products would experience an increase in price and a decrease in consumption.

Table 7: Alcoholic products which would experience an increase in price with a 40p price per unit, plus the potential decrease in consumption.

	Original Price (Lowest)	New Price at 40p per unit	% increase in price	% decrease in consumption in moderate drinkers	% decrease in consumption in hazardous/harmful drinkers	% decrease in consumption for all drinkers[5]
Value Dry Cider 2L 4.2% vol	£1.21	£3.36	+177.7%	-71.61%	-100%	-98.18%
Own Brand Strong Cider 3L 5.5% vol	£2.78	£6.60	+137.4%	-55.37%	-80.16%	-75.91%
Value Lager 4x440ml 3% vol	91p	£2.11	+131.9%	-53.16%	-76.95%	-72.87%
Orchard Mill Cider 2L 5% vol	£1.79	£2.21	+123.5%	-49.77%	-72.05%	-68.23%
Blackthorn Dry Cider (2 Litre)	£2.05	£4.40	+114.6%	-46.18%	-66.86%	-63.32%
Diamond White (2 Litre)	£3.07	£6.00	+95.4%	-38.45%	-55.66%	-52.71%
Strongbow Cider 10x440ml 5.3% vol	£6	£9.33	+55.5%	-22.37%	-32.38%	-30.66%
Value Gin 700ml	£6.98	£10.50	+50.4%	-25.91%	-31.05%	-30.90%
Own Brand Value Vodka 700ml	£6.98	£10.50	+50.4%	-25.91%	-31.05%	-30.90%
Own Brand Pilsner 12x500ml 4% vol	£6.95	£9.60	+38.1%	-15.35%	-22.23%	-21.05%
Blackthorn Cider (15x440ml cans)	£9.00	£12.40	+37.8%	-15.23%	-22.05%	-20.88%
High Commissioner Old Scotch Whisky 700ml	£8.98	£11.20	+24.7%	-12.7%	-15.22%	-15.14%
Own brand	£3.11	£4.05	+30.2%	-13.12%	-17.77%	-15.45%

[5] Please note that elasticity values for 'all drinkers' are not available separately for Scotland. The values used to calculate this column were taken from the original English modelling study (Meier et al, 2009, page 55). The elasticity values were subsequently revised for the Scottish report but did not include an estimate for 'all drinkers'.

	Original Price (Lowest)	New Price at 40p per unit	% increase in price	% decrease in consumption in moderate drinkers	% decrease in consumption in hazardous/harmful drinkers	% decrease in consumption for all drinkers[5]
Cabernet Sauvignon 13.5% vol						
Own Brand Standard Vodka 700ml	£8.36	£10.50	+25.6%	-13.16%	-15.77%	-15.7%
Stella Artois 20x440ml	£15.00	£18.30	+22%	-8.87%	-12.83%	-12.16%
Carling 10x440ml 4.1% vol	£6	£7.22	+20.3%	-8.18%	-11.84%	-11.22%
Glen's Vodka 700ml	£8.98	£10.50	+16.9%	-8.69%	-10.41%	-10.36%
Red Square Vodka 700ml	£9.07	£10.50	+15.8%	-8.12%	-9.73%	-9.69%
Own-Brand Blended Whisky 700ml	£10.18	£11.20	+10%	-5.14%	-6.16%	-6.13%
Own Brand Chilean Chardonnay 12% vol	£3.38	£3.60	+6.5%	-2.82%	-3.82%	-3.33%
Tetley's Original Bitter 12x440ml 3.8%	£7.67	£8.03	+4.7%	-1.89%	-2.74%	-2.6%
Own Brand Rioja 13.5%	£3.98	£4.05	+1.76%	-0.76%	-1.04%	-0.9%
Blossom Hill Shiraz 13.5%	£4.00	£4.05	+1.25%	-0.54%	-0.74%	-0.64%

Source: Scottish Government, 2009; Meier et al 2009; Meier et al, 2010

Effects on the Alcohol Industry

There has been much speculation as to the effect of minimum pricing on the alcohol industry. The Sheffield report does not model the effect on the industry and opinion on the potential effects differ.

The alcohol manufacturing industry in Scotland is dominated by Whisky. Taking into account indirect and induced employment it is estimated that in total around 41,000 jobs rely on the Scotch Whisky industry and generate over £800m in income within the economy (Nicol, 2009). Scotland also manufactures white spirits and it is estimated that around 2,300 jobs and £50m income is linked to the white spirits industry. According to the Scottish Executive, in 2006 the UK was the second largest vodka producer in the EU after Poland (Nicol, 2009).

The latest figures show that the spirit drinks industry accounted for £1.7bn Gross Value Added (GVA) in 2007 – representing £195,900 GVA per employee, compared to £45,700 GVA per employee across all industries (Nicol, 2009)

Whisky exports from Scotland in 2008 were valued at £3.1bn, with the top 3 export destinations being the USA, France and Spain. The Whisky industry also brings benefits to the agricultural industry, purchasing over £90m of cereals from Scottish suppliers (Nicol, 2009).

Some commentators have suggested that the alcohol industry will benefit from the policy because a drop in consumption will be offset by an increase in price (Ludbrook, 2008). The increased revenue to the industry with a 40p minimum price and a discount ban would be £91m for the off-trade and £39m for the on-trade sector. Higher unit prices would result in higher revenue, for example:

Table 8: Effect of minimum pricing and discount ban on industry revenue (excl VAT & duty)

Minimum price and a discount ban	Off-trade sector per annum (£m)	On-trade sector per annum (£m)	Total per annum (£m)
25p	+£55m	+£17m	+£72m
30p	+£63m	+£22m	+£85m
35p	+£75m	+£29m	+£104m
40p	+£91m	+£39m	+£130m
45p	+£108m	+£51m	+£159m
50p	+£124m	+£63m	+£187m
55p	+£139m	+£77m	+£216m
60p	+£152m	+£93m	+£245m
65p	+£159m	+£110m	+£269m
70p	+£160m	+£128m	+£288m

Source: Alcohol etc. (Scotland) Bill, Explanatory Notes, pg17

While some see this as one of the benefits of the policy, others see this as a drawback. Not only because none of the revenue will be directed to the Exchequer, but also because there is no guarantee that alcohol producers will benefit from the increased revenue to retailers.

The policy is also seen as being of benefit to the on-trade sector as it could potentially 'level the playing field' with the off-trade given the disparity in prices between the two (see figure 4). The

Sheffield modelling found that rises in the price of off-trade drinks resulted in an increase in demand for the higher priced on-trade drinks (Meier et al, 2008, pg 50)

Whyte & McKay (2010) has estimated that minimum pricing would cost 200 jobs at their bottling plant in Grangemouth as it is a leading manufacturer of own brand whisky, sales of which are likely to be affected under minimum pricing (see table 7). The Scotch Whisky Association (2010) (SWA) has also raised concerns about the effect on its export market and barriers to trade abroad.

In its submission to the Finance Committee, SWA states that Scotch Whisky faces 600 trade barriers worldwide. It believes that minimum pricing will threaten whisky exports if a precedent of overriding trade rules is secured and this "will lead to a domino effect of 'health-based' restrictions on Scotch being applied in [whisky] export markets". (Scotch Whisky Association, 2010)

Cross-border purchasing and illicit trade

One of the key concerns and points made in opposition to minimum pricing is that it could be undermined by cross border purchasing and illicit trade. There are a number of areas in the world that are renowned as hotspots for cross border trade in alcohol, for example, between Finland and Estonia. According to Karlsson & Osterberg (2009) there are several factors which determine the magnitude of cross-border trade in alcoholic beverages:

- the level of price differences
- the existence of import quotas
- the severity of border control
- number of annual border crossings
- the traffic infrastructure
- the population living near the border
- motives for crossing the border

Of this list, the authors state that price difference is the main motive for cross-border trade. The larger the difference, the higher the volume of cross border trade.

Stockwell et al (2006) highlight international experiences where price rises have resulted in the increased production and consumption of illicit alcohol, as well as the consumption of alcohol not intended for human consumption.

Compatibility of Minimum Pricing with EU Law

The legality of the minimum pricing proposal has been called into question by some commentators who claim it breaches EU law on the free movement of goods. The relevant EU provisions in this matter are articles 34-36 of the Treaty on the Functioning of the European Union[6].

Article 34 prohibits member states from engaging in strategies that have the effect of restricting the free flow of goods between member states. It may be construed that article 34 has been breached when a state treats its own goods in a more favourable way than those coming from outside. However, even when rules apply to both domestic and imported goods, if the rule impedes the free flow of goods across borders it may still be construed that the article has been

[6] Previously articles 28-30 of the Treaty establishing the European Community but amended by the Treaty of Lisbon which came into force on 1 December 2009.

breached. Article 36 allows a public health defence to breaches of article 34 but the burden is on the member state to show the measure is proportionate and not ‘arbitrary discrimination’.

The Scottish Government has asserted that the Bill does not breach either domestic or EU law and in response to a written PQ stated that it had received legal advice on the proposal but it would not be divulging that advice (S3W-15628). Despite further calls from opposition MSPs, the Scottish Government has not (at the time of writing) divulged the advice it has received. During a debate in the chamber, the Cabinet Secretary for Health and Wellbeing stated:

> We have always said that challenges will have to be overcome in introducing minimum pricing. To be compatible with EU law, minimum pricing needs to be proportionate, non-discriminatory and to achieve a clear health benefit. It is emphatically not the case that the EU prohibits a policy of minimum pricing, and members should not assert that it does. (OR 5 November 2009, Col 20890)

European Commission

During the debate members also referred to a PQ from Catherine Stihler MEP which asked the European Commission whether minimum pricing violated EC law. The Commission responded that Directive 92/83/EEC does not prohibit Member States from setting minimum prices for alcohol but that any measure and its effects still need to be compatible with Treaty rules on the free movement of goods. The Commission did not state a definitive view on the legality of minimum pricing but instead outlined that the legality would be dependant on the specifics of the scheme, its resulting effects and how proportionate a measure it is:

> …The Court of Justice…has ruled that national rules fixing retail prices for alcoholic beverages could constitute measures having an equivalent effect to quantitative restrictions on imports contrary to Article 28 EC. This would be the case if, for example, prices were set at such a level that imported products were placed at a disadvantage in relation to identical domestic products, either because they could not profitably be marketed in the conditions laid down or because the competitive advantage conferred by lower cost prices was cancelled out. In other words, a minimum price fixed at a specific amount may, according to the circumstances, have an adverse effect specific to the marketing of imported products and thus constitute an obstacle to the free movement of goods within the internal market. On the other hand, this would not be the case if pricing rules applied to all relevant traders operating within the national territory and if they affected in the same manner, in law and in fact, the marketing of domestic and imported products.
>
> Concerning health objectives, which Member States have the right to protect, it would be important to consider the range of alternative measures that might have the same public health impact, but which might be less restrictive to intra-Community trade. For example, a minimum price level could equally be ensured by increasing the excise duties on alcohol. This would allow the tax to act as an objective cost factor. On the other hand, necessity and proportionality of a discriminatory minimum price regime for alcoholic beverages could be questioned since a national rule cannot be justified in terms of Article 30 EC if the underlying interests may be protected just as effectively by measures which are less restrictive to intra-Community trade.

Case C197/08 – Commission of the European Communities versus the French Republic, Republic of Austria and Ireland

Much interest has been paid to a case in the European Court of Justice which has challenged minimum pricing for tobacco products in France, Austria and Ireland (case C197/08).

On 22 October 2009, Advocate General Kokott issued an opinion[7] on this case, which alleges that minimum pricing for tobacco products in Ireland, France and Austria infringe article 9(1) of directive 95/59. This directive relates specifically to taxes which affect the consumption of manufactured tobacco and article 9(1) states that manufacturers shall be free to determine the maximum retail selling price for each of its products.

The Advocate General highlighted previous case law which had found that while the directive does not specifically prohibit a minimum price, the establishment of a minimum price inevitably has the effect of limiting the freedom of manufacturers in determining their maximum price. She also asserted that minimum pricing for tobacco could not be defended in this instance by relying on article 34 of the EC treaty as this article outlines the circumstances in which restrictions on the freedoms outlined in article 36 may be justified whereas the alleged infringement in this case is of directive 95/59, not article 34. However, the Advocate General did give some consideration to the application of article 36 but was of the opinion that “increases in excise duties are…a less intrusive measure than minimum prices, which are thus not necessary”. This was based on European case law.

Opinion differs on how this opinion can be generalised to minimum pricing for alcohol. The European Court of Justice is yet to issue its decision on the case. This is expected to be issued in the near future.

Experiences of Other Countries

The experiences of other countries are often referenced in the debate on minimum pricing. However, it is a new policy initiative that has not been used in the proposed form internationally. Canada is the only place in the world that has used a form of minimum pricing to any great extent (see ‘Canada’ for further discussion), whereas other countries are often mentioned because they exemplify specific points in the debate. The following discusses the experiences in some of the countries most commonly referenced.

Northern Europe vs. Southern Europe

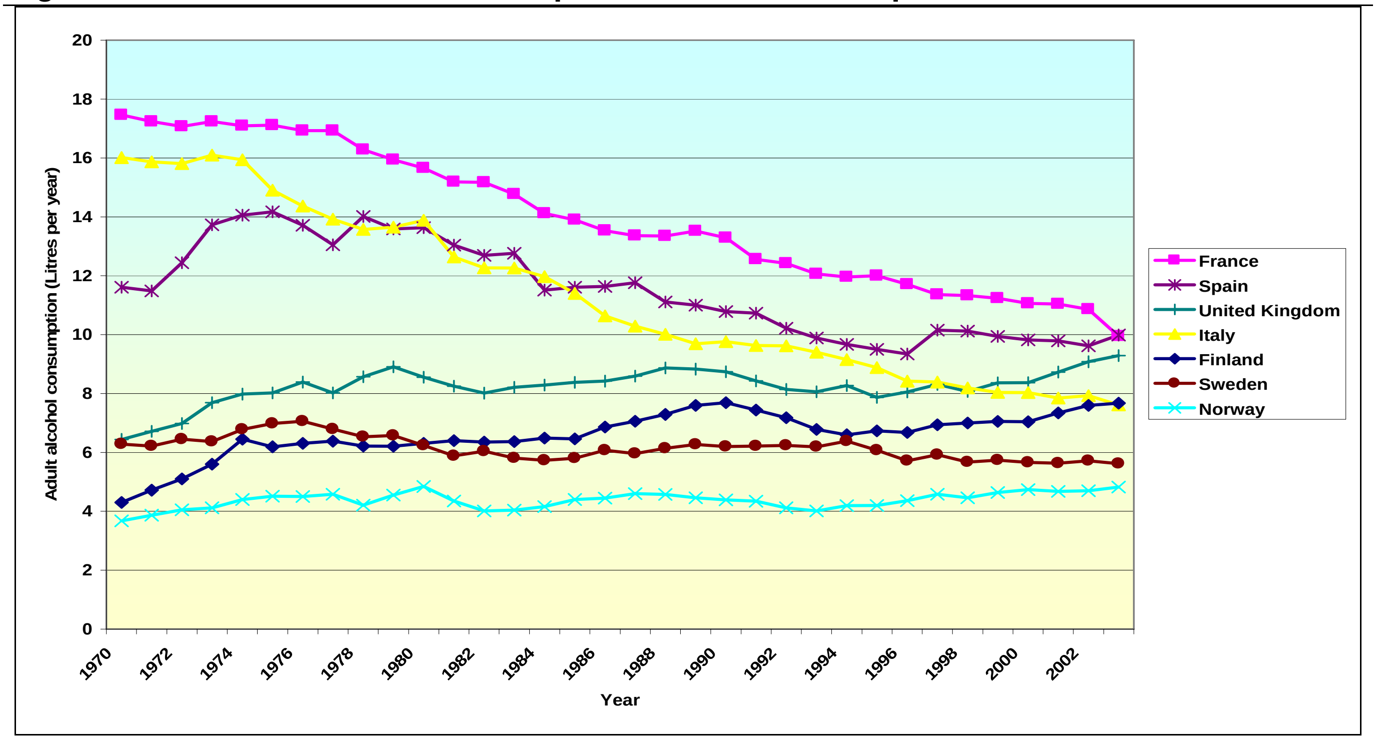
One of the most common arguments used in opposition to minimum pricing are the experiences of the Nordic and Southern European Countries. There is a general perception that the Nordic countries have more problems with alcohol despite it being highly taxed, compared to the Southern European countries where alcohol is cheaper. However, a closer inspection of the key data reveals that these perceptions are not strictly true.

For example, the Southern European countries have historically had higher levels of alcohol consumption than the Nordic countries, although consumption levels are now converging (see figure 6). Correspondingly, there are also higher levels of liver cirrhosis and other chronic harms in Southern Europe compared to the Nordic countries (WHO, 2004). It is unclear why there is a perception that alcohol is more problematic in the Nordic countries than in the South of Europe. One of the reasons may be that patterns of consumption are different. For example, in the Nordic countries, people are more likely to binge drink and drink to drunkenness over fewer

[7] Since 2003, advocates general are required to give an opinion on a case only if the Court considers that this particular case raises a new point of law. The opinion is not legally binding and the Court does not necessarily follow the advocate-general’s opinion.

occasions, while in Southern Europe, daily drinking with meals is more common (Anderson & Baumberg, 2006). Binge drinking is associated with acute effects of alcohol (e.g. injuries, cardiac arrhythmias) while prolonged exposure leads to chronic effects (e.g. liver cirrhosis, cancer).

Figure 6: Trends in alcohol Consumption in Selected European Countries



Source: European Health For All Database

Canada

The most directly comparable example of a minimum pricing scheme comes from Canada. However, none of the Canadian Provinces or Territories operate a system like the one being proposed for Scotland i.e. where the minimum price is determined by the volume of alcohol and applies in both off-trade and on-trade sales.

The alcohol market in Canada is heavily controlled by the state, with federal and local government having considerable ability to regulate alcohol prices. Each of Canada's 13 provinces and territories has a liquor board or commission which oversees the control, distribution and sale of alcohol in its jurisdiction. Off-sales are also dominated by government controlled liquor stores. Most jurisdictions have maintained a total, or near-total, control of the sale of spirits whilst allowing limited privatisation of beer and wine sales. Licences issued to private businesses (bars, restaurants, nightclubs) are subject to a comprehensive body of laws and regulations that vary between jurisdictions.

Provincial and territorial governments can also directly influence alcohol prices through minimum "social reference pricing" (SRP). "Social reference" or "floor" prices exist in 8 of the 13 jurisdictions. Minimum prices apply to alcohol sold in government and private liquor stores (where these are permitted) and also to alcohol brought into Canada from other countries.

There is very little detailed information available on what happens in the provinces with minimum pricing

Canadian Example: Ontario

- Sets a floor price for different categories of drink
- Price reviewed annually
- Linked to the Consumer Price Index to ensure it keeps pace with inflation and income
- Beer is the only drink where the price is explicitly linked to alcohol content

and it would appear that it differs markedly across the country. For example, some provinces link the price to the volume of the drink, others link it to the alcohol content for certain types of drink.

In April 2007, the Canadian National Alcohol Strategy Working Group recommended that all jurisdictions should move towards pricing based on the volume of alcohol. This has not yet been adopted by the Federal government or any of the provinces/territories.

The CEBR report (2009) contained an analysis of key data in minimum pricing and non-minimum pricing provinces in Canada. This found that alcohol consumption in provinces with SRP has fallen relative to those provinces without SRP, although in relation to alcohol related harms, SRP provinces have higher levels of alcoholic liver disease deaths and selected crimes. It should be noted though that this analysis is observational and as such it is difficult to draw any conclusions about the effectiveness of SRP.

SPICe contacted each of the Canadian provinces to ask about peer reviewed research that had studied the effect of SRP on things like consumption, health, crime and the drinks industry. Those that responded referred to the research examining price and consumption and a literature search did not uncover any published analysis of the effect the SRP model has had in Canada.

SECTIONS 3 & 4: DRINKS PROMOTIONS

BILL PROVISIONS

Sections 3-4 of the Bill seek to amend the 2005 Act so that the prohibition on supplying alcohol free or at a reduced price on the purchase of other drinks applies to off-sales (in addition to on-sales which is already provided for in the 2005 Act). It also seeks to further control promotional activities in off-sales premises by restricting the location of promotional materials to the alcohol display area(s) required by the 2005 Act.

BACKGROUND

The Licensing (Scotland) Act 2005 implemented a number of restrictions on promotions, including:

- **Pricing of alcohol** – any change to the price that alcohol is to be sold at must be brought in at the beginning of a period of licensed hours and cannot be changed again for 72 hours. This has the effect of preventing “happy hour” type promotions
- **Irresponsible drinks promotions** – certain sorts of promotions are prohibited, such as:
    - supplying alcohol free or at a reduced price on the purchase of other drinks (for example “three for the price of two” type promotions)
    - providing an extra measure of alcohol free or at a reduced price on the purchase of other measures
    - supplying unlimited amounts of alcohol for a flat fee (for example “all you can drink” type promotions)
    - encouraging a person to buy or consume a larger measure of alcohol than they had originally intended (for example “a double for the price of a single” type promotions)

A number of the requirements in relation to irresponsible drinks promotions only apply to the sale of alcohol for consumption on the premises (such as supplying alcohol free or at a reduced price on the purchase of other drinks). However, some apply to both on- and off-sales, including the prohibition on promotions which encourage a person to buy or consumer a larger measure of alcohol than they originally intended.

COMMITTEE CALL FOR EVIDENCE

Table 9: Breakdown of Opinion on Promotions

Respondent Group	For	Against	Unclear/no comment
Academic	3		5
Alcohol Organisation	13		5
Business Representative Group		2	1
Children and Young People's Organisation	5	1	4
Community Council	1		1
Consumer Organisation			2
Faith/Religious Groups	2		2
Health	23		13
Individual	1	1	17
Industry – Manufacturer	2	4	6
Industry - Off Trade	1	5	1
Industry - On Trade	3		2
Licensing Body	8		4
Local Authority	8		6
Other	2	2	9
Police	1		2
Total	**73**	**15**	**80**
Percentage	**43%**	**9%**	**48%**

These provisions were broadly supported by those who commented on this aspect of the Bill. Many were pleased that the ban on discount promotions was being extended to off-sales, seeing this as a correction of a weakness in the 2005 Act.

KEY ISSUES

Most of those in support were of the opinion that these promotions encouraged people to consume more alcohol than they intended and that, combined with minimum pricing, would have a greater effect on reducing consumption.

The main points used in opposition to these provisions were:

- There is no evidence that promotions in off-sales encourage people to drink more. Some believed that promotions offer good value to responsible drinkers who take the product home for later consumption. Therefore banning promotions will not reduce consumption.
- Most promotions are about brand preference. It could lead to market stagnation as small and start-up producers will have little opportunity to get their product known. Also, it will force producers to compete on things like price, and it could therefore inadvertently lead to driving prices down and making alcohol cheaper.

The Sheffield modelling found that bans on off-trade 'buy one get one free' offers only have a small impact on consumption as they affect a small proportion of total sales. However, tighter restrictions on off-trade discounting have increasing effects. For example, bans of discounts greater than 30% (e.g. "3 for the price of 2" offers) and greater than 20% (e.g. "5 for the price of 4" offers) lead to overall consumption reductions similar to the 25p and 35p minimum pricing scenarios. Bans on discounts for lower-priced alcohol (<30p per unit) were not found to be effective in reducing consumption (Meier et al, 2008).

The Sheffield study found that an off-trade discount ban would have the following effect on consumption, over and above minimum pricing:

Table 10: Effect of an off-trade discount ban on consumption

Minimum Price	Change in Consumption (beyond effect of minimum price)
25p	-3%
30p	-3%
35p	-2.9%
40p	-2.6%
45p	-2.3%
50p	-2.0%
55p	-1.6%
60p	-1.4%
65p	-1.2%
70p	-1.1%

Source: Meier et al, 2009

Many respondents raised potential loopholes with these provisions as currently drafted, for example, the use of vouchers and loyalty cards to reward customers. Clarity on what constitutes an 'irresponsible promotion' was also called for by some licensing boards and local authorities (e.g. Clackmannanshire Licensing Board, 2010).

SECTION 5: AGE VERIFICATION POLICY

BILL PROVISIONS

Section 5 seeks to make it mandatory for all licensed premises to operate an age verification policy.

BACKGROUND

Age verification policies include schemes such as ‘Challenge 21’ whereby all those who look to be under 21 are asked to provide proof of age when buying alcohol. The purpose of this is to ensure that fewer under 18s are sold alcohol. Challenge 21 was introduced by the British Beer and Pub Association in 2005 and a number of variations have developed, including Challenge 25 and Challenge 30. Many of the UK’s retailers have voluntarily chosen to adopt one of these schemes.

COMMITTEE CALL FOR EVIDENCE

Only 24 of the responses mentioned the age verification scheme proposed in the Bill. Of these responses, 22 expressed support for the proposal and 2 were opposed.

KEY ISSUES

The reasons for opposing the scheme were that it does not make sense in a place where the age of purchase has not been raised to 21 and it would be unfair to penalise a premise that did not have a policy but where there was no evidence of sales to those who are underage.

Even though the general opinion was favourable, a number of issues were raised in relation to this proposal, specifically around the need for a nationally recognised proof of age card and that the Bill should specify that the policy should be written in order to aid inspection by Licensing Standards Officers.

SECTIONS 6 & 7: MODIFICATION OF MANDATORY CONDITIONS

BILL PROVISIONS

Sections 6 and 7 of the Bill propose to amend the 2005 Act to allow Ministers to add, delete or amend the mandatory conditions which apply to premises licences and occasional licences.

In addition, the provisions in the Bill which relate to minimum pricing and age verification will be taken forward as additional mandatory licence conditions.

BACKGROUND

One of the innovations of the 2005 Act was to create a system whereby nation-wide mandatory conditions can be attached to licences. This enables Scottish Ministers to control, for example, drinks promotions deemed to be irresponsible, at a national level. Section 27 of the 2005 Act sets out how the system of mandatory conditions operates and the mandatory conditions which apply to all premises licences are set out in Schedule 3 to the 2005 Act (Schedule 4 lists those which apply to occasional licences). Scottish Ministers are at present empowered to add or extend this list of mandatory conditions.

Among other things, the mandatory requirements cover; the role and qualifications of the premises manager, the requirement for a personal licence holder to supervise all sales of alcohol, training requirements for staff, pricing of alcohol and irresponsible drinks promotions.

COMMITTEE CALL FOR EVIDENCE

Just 3 responses to the call for evidence mentioned this provision in the Bill. All welcomed its inclusion.

SECTION 8: SALE OF ALCOHOL TO UNDER 21S

BILL PROVISIONS

Section 8 of the Bill would require licensing boards to include a "detrimental impact statement" in their licensing policy statements. This will consider the extent to which off-sales purchasing by people under the age of 21 is having a detrimental impact in any locality or the whole of the licensing board's area. The issuing of such a statement could form the justification for a licensing board to implement an age restriction of 21 on the sale of off-trade alcohol. The power to do this is not contained within section 8 of the Bill; instead it would be done by applying a condition to licensed premises. The explanatory notes to the Bill explain that this could be done on either a geographical area, by type of premise or for a specific time period.

BACKGROUND

Almost all countries apply age restrictions on the purchase and consumption of alcohol. Although there is variation in what the age is set at, it most often falls between 16 and 21.

The Scottish Schools and Adolescent Lifestyle and Substance Use Survey (SALSUS) (2008) asked respondents who had ever had an alcoholic drink whether they had ever *purchased* alcohol. 62% of 15 year olds who had had a drink had purchased alcohol, compared with 43% of 13 year olds. The following table shows the sources from which this alcohol was purchased.

Table 11: Sources of purchased alcohol, by age group and gender

	13 Years (%)			**15 Years (%)**			**Gender (%)**	
	Boys	**Girls**	**All**	**Boys**	**Girls**	**All**	**Boys**	**Girls**
Never Buy Alcohol	60	53	57	40	36	38	47	42
Pub	1	1	1	5	4	4	4	3
Club or Disco	2	2	2	3	4	3	2	3
Off licence	7	5	6	18	15	16	14	11
Shop	10	11	11	21	18	19	17	15
Supermarket	3	2	2	8	5	6	6	4
Friend or relative	19	27	23	25	38	32	23	35
Someone else	1	1	1	1	0	1	1	1
Base	*1240*	*1286*	*2532*	*1786*	*1892*	*3689*	*3026*	*3178*

Source: SALSUS 2008

The consultation by the Scottish Government found a lack of support for a national increase in the age of purchase. Taking this into account, the Government decided not to apply a blanket approach to raising the minimum age of purchase, and instead opted for an enabling power for local authorities in order to allow local flexibility.

This approach is based on pilot projects carried out in small towns in Scotland. For example, for a six week period in Armadale, West Lothian in 2008, there was a trial period of withdrawing the sale of alcohol from licensed off-sales premises to persons under the age of 21 on Fridays and Saturdays between the hours of 1700 and 2200. The evaluation found there was a reduction in calls about anti-social behaviour, youth drinking and vandalism (Lothian and Borders Police, 2008).

COMMITTEE CALL FOR EVIDENCE

Table 12: Breakdown of Opinion on Raising the Purchase Age

Respondent Group	For	Against	Unclear/no comment
Academic		3	5
Alcohol Organisation	5	2	11
Business Representative Group		3	
Children and Young People's Organisation		7	3
Community Council	1		1
Consumer Organisation			2
Faith/Religious Groups			4
Health	10	6	20
Individual	1	2	16
Industry - Manufacturer		8	4
Industry - Off Trade		7	
Industry - On Trade	1	3	1
Licensing Body	2	5	7
Local Authority	4	4	6
Other	1	3	9
Police	1	1	1
Total	**26**	**54**	**89**
Percentage	**15%**	**32%**	**52%**

If we exclude the responses where no opinion was made or was unclear, then 67% of responses were against, and 33% were in favour of giving local authorities the power to raise the purchase age to 21.

KEY ISSUES

Effectiveness of Minimum Purchase Ages

Those in favour saw it as beneficial in tackling underage drinking and a useful tool to penalise irresponsible retailers. It was also thought it would reduce pre-loading and get young drinkers to drink in the controlled environment of pubs.

There is some evidence on the effect of the purchase age, with higher purchase ages associated with a decrease in motor vehicle accidents, alcohol related injury admissions to hospital, a reduction in alcohol consumption, drink driving and adverse traffic related outcomes (Shults et al, 2001; Wagenaar and Toomey, 2002; Babor et al, 2003)

However, many of the submissions argued that it is incongruous with other ages of responsibility and creates an unfair competitive advantage for the on-trade. There was also disagreement with the idea that pubs are a more controlled and responsible drinking environment.

The above research was also conducted in areas with a national purchase age and many submissions questioned the rationale of raising the purchase age locally. It was felt that this would not only be difficult to enforce but could cause tension and confusion and may displace anti-social behaviour to neighbouring areas.

Enforcement

Many of the submissions focused on the point of needing greater enforcement of the existing laws. A Parliamentary question in May 2009 found the following levels of prosecutions for selling to under 18s:

Table 13: Persons Proceeded Against for Selling Alcohol to Underage Persons[1], by Police Force Area, 2005-06 to 2007-08 (Source: S3W-22817)

Police Force Area	2005-06	2006-07	2007-08
Central	7	8	10
Dumfries & Galloway	6	-	2
Fife	-	5	3
Grampian	3	8	9
Lothian & Borders	12	16	22
Northern	2	4	3
Strathclyde	41	45	54
Tayside	1	2	8
Scotland	72	88	111

Note: 1. Where the main offence is under the Licensing (Scotland) Act 1976 Sections 67, 68(1) and 68(7).

Babor et al (2003) stresses the importance of enforcement and in a review of the research found that even moderate increases in enforcement can reduce underage sales by as much as 35% to 40%.

SECTION 9: VARIATION OF LICENSING CONDITIONS

BILL PROVISIONS

Section 9 of the Bill seeks to give Licensing Boards the power to vary the conditions of existing premise licenses in its area. The types of matters that can be varied will be specified in regulations which will be subject to affirmative resolution procedure. A licensing board would only be able to use this power in pursuit of the licensing objectives in the 2005 Act.

BACKGROUND

At present, a licensing board can only impose conditions on a premise licence when it grants the licence or when it is reviewing it; therefore any variations would be applied on a case by case basis. This provision would therefore enable a board to apply a condition to more than one premise at a time.

COMMITTEE CALL FOR EVIDENCE

Only 9 of the responses specifically addressed this part of the Bill. It is difficult to gauge opinion as most of these responses focused on the point that this power would not be accompanied by a right to a hearing or appeal. There is also no mechanism for informing a licensee of the change or the reason for the change.

SECTIONS 10 & 11: SOCIAL RESPONSIBILITY LEVY

BILL PROVISIONS

Section 10 of the Bill proposes an enabling power for Ministers to establish arrangements for a social responsibility levy to be applied to licensed premises. There is no detail in the Bill as to who the levy would be applied to, when, or at what level. The specifics of the levy would be taken forward in regulations subject to the affirmative resolution procedure.

BACKGROUND

The principle behind the levy is that those who profit from alcohol should contribute to the cost of dealing with the consequences of alcohol misuse. The burden of dealing with alcohol misuse in Scotland is estimated at between £2.5bn and £4.6bn per annum (York Health Economics Consortium, 2010).

COMMITTEE CALL FOR EVIDENCE

Table 14: Breakdown of opinion on the Social Responsibility Levy

Respondent Group	For	Against	Unclear/No Comment
Academic	2		6
Alcohol Organisation	5	4	9
Business Representative Group	1	2	
Children and Young People's Organisation	4		6
Community Council	1		1
Consumer Organisation			2
Faith/Religious Groups	2		2
Health	12	3	21
Individual	1	1	17
Industry - Manufacturer	1	7	4
Industry - Off Trade		6	1
Industry - On Trade		5	
Licensing Body	3	4	5
Local Authority	4	5	5
Other	2		11
Police	2		1
Total	**40**	**38**	**92**
Percentage	**23.5%**	**22%**	**54%**

Less than half of the responses clearly expressed a position on this provision. Of those who did, opinion was fairly evenly split with 51% in favour of a social responsibility levy and 49% against. Support for the levy tended to come from health, alcohol, and children and young people's organisations. Opposition was mainly from the industry, licensing boards and local authorities.

KEY ISSUES

The main themes expressed in favour of the levy included support for the principle that the 'polluter pays' and that revenue from the levy could be used to support services that bear the burden of alcohol misuse.

The main arguments expressed against the levy included:

- That it would just be another tax on business and could potentially have a harmful effect on licensed retailers who had only just borne the cost of implementing the Licensing (Scotland) Act 2005
- Penalties should be directed at those who cause the trouble and a levy would erode the responsibility of individuals who act in an anti-social way. Some highlighted the inconsistency of how the logic behind the levy is applied, suggesting it could equally be applied to producers of high fat foods or car manufacturers
- Powers already exist under the Licensing (Scotland) Act 2005 to punish irresponsible retailers.
- The on trade will pay the price for harm stemming from the off-trade, given the proportion of alcohol which is sold in the off-trade and consumed at home

Across opinion, many respondents highlighted the lack of detail on how the levy would be applied. Some thought it should be targeted at irresponsible retailers while others suggested it should be applied across the board and based on volume of alcohol sales.

Many also raised concerns about the practical application of the levy, for example, if it is to be targeted, the difficulties in acquiring evidence and attributing blame. Research has documented the difficulties in apportioning blame to individual sectors due to the movement of consumers when drinking (Forsyth et al, 2005; Forsyth, 2006).

FINANCIAL MEMORANDUM

The Bill has three sections which are considered to have a significant financial impact. A significant financial impact is defined as being greater than £400,000 per annum. The three topics are:

- Introduction of a minimum price for a unit of alcohol
- Introduction of a restriction for off-sales on supply of alcoholic drinks free of charge or at a reduced price
- Provision in respect of sale of alcohol to under 21s

The following sections outline the potential costs based on a minimum price level set at 40p, a ban on promotional discounts and the effects of raising the minimum age of off-licence sales to 21.

Cost to Government

In terms of VAT and duty, there is an estimated net effect reduction of £12m per annum in receipts to the Exchequer in relation to a minimum price of 40p and a discount ban. This is due to the estimated reduction in duty, which is applied to the volume of sales, which are expected to reduce overall. Limiting off-license sales to over 21s will have an estimated net effect reduction of £33m. Under the terms of the Statement of Funding between Scottish Ministers and the UK Government, any reduction in VAT and duty will be a cost to the Scottish Administration.

Research undertaken by the School of Health and Related Research (ScHARR) at the University of Sheffield to inform the potential impact of setting a minimum price was done at a cost of £64,000 to the Scottish Administration.

Healthcare service costs are expected to reduce by around £7m in the first year with around 1,600 fewer hospital admissions. Direct costs of crime are expected to reduce by around £3m in the first year as estimated crime volumes fall by around 3,200 offences per annum.

Cost to Local Authorities

Any cost to Local Authorities would be through the work of Licensing Standards Officers (LSOs) who work on behalf of local authorities to monitor and enforce the licensing arrangements attached to licensed premises. It is expected that the additional number of checks carried out in relation to the Alcohol Bill would be small in relation to the number already done; therefore any additional costs are expected to be minimal.

Cost to Consumers

The research carried out by Sheffield looked at 3 different consumer groups to analyse behavioural change on the introduction of a minimum pricing policy. ‘Moderate’ drinkers will spend £11 more per year, ‘Hazardous’ drinkers will spend £58 more per annum and ‘Harmful’ drinkers will spend £137 more per year under a 40p minimum price and discount ban.

Overall the estimated cost to consumers will be around £118m per annum, split £26m/£55m/£37m across ‘Moderate’, ‘Hazardous’ and ‘Harmful’ drinkers.

Cost to Industry

Introducing a minimum price scenario and discount ban will result in estimated increased revenue to the alcohol industry (excluding VAT and duty) in both the on-trade and off-trade sectors. The estimates are based on revenues to the alcohol industry sector as a whole.

Excluding VAT and duty, the estimated increase in revenue for the alcohol industry is £130m (Off-trade sector £91m, On-trade sector £39m). There will be costs to retailers in relation to re-pricing, re-setting bar codes etc. Costs will vary depending on whether retailers will adopt separate pricing structures for Scotland and the rest of the UK.

Limiting off-license sales to ages 21 and over will result in a loss of £18m (excluding VAT and duty) in revenue to businesses. The Scottish Grocers’ Federation predicted that sales would probably fall by between 15 and 25 per cent with sales of beer and wine probably worst affected.

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