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Alcohol taxation and the pub trade

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Summary

Excise duties are levied on three major categories of goods – alcoholic drinks, tobacco and road fuels. Generally excise duties are charged a flat rate: a certain number of pence per pint, per litre, per packet - though tobacco is subject to an additional ad valorem tax. Duty rates across these categories, and the share of the selling price taken in duty, and tax, as of April 2016, are illustrated below:[1]

Table 4. Excise duties, April 2016

Good	*Duty (pence)*	*Total duty as a % of price*	*Total tax as a % of price*[a]
Packet of 20 cigarettes:			
specific duty	392.8	59.0	75.6
ad valorem (16.5% of retail price)	152.6		
Pint of beer	40.7	13.6	30.3
Wine (75cl bottle)	208.4	48.6	65.3
Spirits (70cl bottle)	774.5	47.6	64.2
Unleaded petrol (litre)	58.0	54.4	71.1
Diesel (litre)	58.0	54.2	70.9

[a] Includes VAT.
Note: Assumes beer (bitter) at 3.9% abv, still wine exceeding 5.5% but not exceeding 15% abv, and spirits (whisky) at 40% abv.

Duties on alcoholic drinks are forecast to raise £11.0 billion in 2016/17 – split between beer & cider, £3.6bn; wine duties, £4.1bn, and spirits duties, £3.3bn. In this year fuel duties and tobacco duties are forecast to raise £27.9 billion and £8.7 billion respectively.[2]

As flat-rate duties are expressed in cash terms, they must be revalorised (ie, increased in line with inflation) each year in order to maintain their real value. In its 2008 Budget the Labour Government increased the rates of duty on alcoholic drinks by 6% in real terms, and proposed that rates would rise each year by 2% above the rate of inflation for another four years. A commitment to raise duty rates by a specified percentage each year is called a duty 'escalator', and in his March 2010 Budget the then Chancellor Alistair Darling proposed that the escalator would remain in place at least until 2014/15.

In its first Budget in June 2010, the Coalition Government launched a review of the taxing and pricing of alcohol "to ensure it tackles binge drinking without unfairly penalising responsible drinkers, pubs and important local industries."[3] Subsequently two changes were made to the structure of beer duty: an additional tax on high strength beers and a reduced rate of duty on low strength beers.[4] The review did not offer a view on the level of duty rates, though it noted there was little consensus on the right level of tax as "the debate about the absolute level of alcohol duty rates is often polarised."[5] That said, many commentators attributed the difficulties being faced in the pub trade at this time to the impact of the duty escalator on the price of beer.[6] In his 2013 Budget the then Chancellor, George Osborne, announced that the rate of beer duty would be cut by 1p,

1 Institute for Fiscal Studies, *A Survey of the UK Tax System*, November 2016 p19. The tax burden on these different excise goods reflects the fact that both duty and VAT is charged on their sale
2 OBR, *Economic & Fiscal Outlook*, Cm 9419, March 2017 (Table 4.6: current receipts).
3 *Budget 2010* HC 61 June 2010 para 2.96
4 HC Deb 30 November 2010 c65WS. The new duty rates came into effect from 1 October 2011.
5 HM Treasury, *Review of alcohol taxation*, November 2010 para 2.2
6 For example, Society of Independent Brewers press notice, *BPA, SIBA and CAMRA publish 'The Story of Beer Duty' setting out damage caused by Beer Duty Escalator*, 11 November 2016

and the escalator removed from this drink category, at a cost of £170m in 2013/14, rising to £215m in 2014/15.[7]

In Budgets over the next three years the rate of beer duty was cut by 1p on two occasions, and then frozen.

In his 2014 Budget Mr Osborne announced the first of these rate cuts, as well as confirming that the duty escalator would be scrapped on all alcoholic drinks, and that for the coming year, duty rates on spirits and ordinary cider for the coming year would be frozen. It was estimated that cutting beer duty and freezing cider duty would cost £110m in 2014/15, while freezing spirits duty and abolishing the escalator on wine duty would cost £175m in the same year.[8] Mr Osborne announced a second 1p rate cut in his 2015 Budget, just prior to the 2015 General Election – as well as cuts in duty on both cider & spirits duties, while wine duties were frozen. The annual cost of these changes was forecast to be £80-85m a year (beer and cider), and £95-105m a year (spirits and wine duties).[9] Finally in his 2016 Budget Mr Osborne announced that duty rates on beer, cider and spirits would be frozen though duty rates on other drink categories would be increased in line with inflation, at an overall cost of £85m a year.[10]

However, in his Budget statement to the House on 8 March 2017, the Chancellor, Philip Hammond, announced that excise duty rates for both alcohol and tobacco would be increased in line with inflation, with effect from 13 March.[11] The Exchequer impact of this measure is neutral.[12] Provision to set duty rates is included in the *Finance Bill 2017*.[13] In addition the Government has launched a consultation on options for reform to ensure that "duty rates better correspond to alcoholic strength"; specifically, a new duty rate band to target cheap, high strength 'white' ciders, and a new lower strength still wine band, to encourage the production and consumption of lower strength wines.[14]

Two other issues are often discussed in relation to the alcohol taxation and the pub trade: minimum pricing, and the regulation of pub companies.

First, in March 2012 the Coalition Government had announced proposals to discourage the sale of cheap alcohol by setting a minimum unit price – rather than, as initially planned, banning its sale if priced below the rate of excise duty and VAT. Following a consultation exercise, in July 2013 the Government announced that it would revert to initial plans, and in May 2014 legislation came into force to ban sales if priced this low.

Second, many have argued that another factor that has encouraged the decline in the number of pubs in recent years is the behaviour of pub companies – pubcos – to their tenants. Following several attempts to improve pubco-tenant relations through voluntary arrangements, in 2014 the Coalition Government introduced legislation to establish a code of practice to be enforced by an independent Adjudicator. The Pubs Code came into effect on 21 July 2016. Further details on both these issues are in two Library briefings: *Alcohol – minimum pricing*, CBP5021, 30 January 2017 and, *Statutory Pubs Code and the Pubs Code Adjudicator*, CDP2017-0027, 23 January 2017.

7 HC Deb 20 March 2013 c943. *Budget 2013*, HC 1033, March 2013 p65 (Table 2.1 – item 44).
8 HC Deb 19 March 2014 c791. *Budget 2014*, HC 1104, March 2014 p50, p57 (Table 2.1 – items 29 & 30)
9 HC Deb 18 March 2015 c777. *Budget 2015* HC 1093, March 2015 p64 (Table 2.1 – items 9 & 10).
10 HC Deb 16 March 2016 c965. *Budget 2016*, HC1093, March 2016 p31, p86 (Table 2.1 – item 55)
11 HC Deb 8 March 2017 c815
12 HMRC, *Alcohol duty: rate changes – tax information & impact note (TIIN)*, March 2017
13 "Clause 65: Alcoholic liquor – duty rates", Bill 156 EN 2016/17
14 *Budget 2017*, HC 1025, March 2017 para 3.33; HMT, *Alcohol structures consultation*, March 2017. Responses are invited by 12 June.

1. Introduction

For the purposes of taxation, alcoholic drinks are classed in five categories: beer; still cider and perry; sparkling cider and perry; wine and made-wine; sparkling wine and made-wine; and spirits. Duty is charged on each of these categories at a fixed rate – a number of pence per litre. In the case of beer and spirits, the rate of duty is set in relation to alcoholic strength.[15] Wine, made-wine, cider and perry are subject to specific (ie, by volume) duties, though duty rates are banded by reference to alcoholic strength.

The current rates of duty are set out overleaf.[16] Historical rates of duty on alcoholic drinks, and other excise goods, are on HM Revenue & Customs' UK Trade Info site.[17]

Given these variations in the structure of duty rates, commentators often focus either on the proportion of the final selling price that goes in tax – both excise duty and VAT,[18] or the amount of excise duty charged per unit of alcohol.

In the case of beer, as of April 2016, the general duty rate was £18.37 per hectolitre per cent of alcohol. As a consequence duty accounted for around 41p on a pint of beer of 3.9 per cent strength.[19] An additional duty is charged on 'high strength' beers, those over 7.5% abv, while a reduced rate applies to 'low strength beers', those under 1.2% abv. Breweries producing less than 60,000 hectolitres a year qualify for small breweries relief and may receive a reduction in beer duty payable by up to 50 per cent.[20]

HMRC no longer publish updated figures for the tax take on different alcoholic products, but historic data shows that the tax burden on beer has been relatively stable over the last twenty years: 33% in 1987, and 32% in 2012.[21]

In its Green Budget published in February 2016 the Institute for Fiscal Studies argued, "the current structure of alcohol duties is not well targeted at harmful alcohol consumption." To this end, the authors presented the structure of duties, when measured on a per-unit of alcohol basis:

[15] Strength is measured as alcohol by volume (ABV) – the percentage of an alcohol product's volume comprised of pure alcohol.
[16] Duty rates are set by the *Alcohol Liquor Duties Act 1979*, as amended.
[17] In the case of alcohol duties see, *Alcohol Duty Statistical Bulletin*, January 2017 (in particular, section 12).
[18] VAT is charged on the whole price demanded of the customer in return for the supply in question, excluding VAT, irrespective of whether part of that consideration is excise duty, or any other tax.
[19] 1 pint is around 0.568 litres – so the amount of duty on a pint would be 40.7p (£0.1837 x 3.9 x 0.568). For more details on the operation of beer duty see, HM Revenue & Customs, *Beer duty* Excise Notice 226, February 2017.
[20] *Beer duty* Excise Notice 226, February 2017 (Section 8: Small Brewery Beer)
[21] *Alcohol Factsheet 2013*, October 2013 (see tables 3.1-3.7).

Alcoholic drink duty rates, April 2017

Beer

Duty on beer exceeding 1.2% but not exceeding 2.8% abv: £8.42 per hectolitre for each per cent of alcohol

General beer duty on beer exceeding 2.8% abv and not produced by small breweries: £19.08 per hectolitre for each per cent of alcohol

Duty on beer exceeding 7.5% abv (and in addition to general beer duty): £5.69 per hectolitre for each per cent of alcohol

Cider and perry

Duty on still cider and perry exceeding 1.2% but not exceeding 7.5% abv: £40.38 per hectolitre of product

Duty on still cider and perry exceeding 7.5% but less than 8.5% abv: £61.04 per hectolitre of product

Duty on sparkling cider and perry exceeding 1.2% but not exceeding 5.5% abv: £40.38 per hectolitre of product

Duty on sparkling cider and perry exceeding 5.5% but less than 8.5% abv: £279.46 per hectolitre of product

Wine and made-wine

Duty on wine and made-wine exceeding 1.2% but not exceeding 4% abv: £88.93 per hectolitre of product

Duty on wine and made-wine exceeding 4% but not exceeding 5.5% abv: £122.30 per hectolitre of product

Duty on still wine and made-wine exceeding 5.5% but not exceeding 15% abv: £288.65 per hectolitre of product

Duty on sparkling wine and made-wine exceeding 5.5% but less than 8.5% abv: £279.46 per hectolitre of product

Duty on sparkling wine and made-wine of at least 8.5% but not exceeding 15% abv: £369.72 per hectolitre of product

Duty on wine and made-wine exceeding 15% but not exceeding 22% abv: £384.82 per hectolitre of product

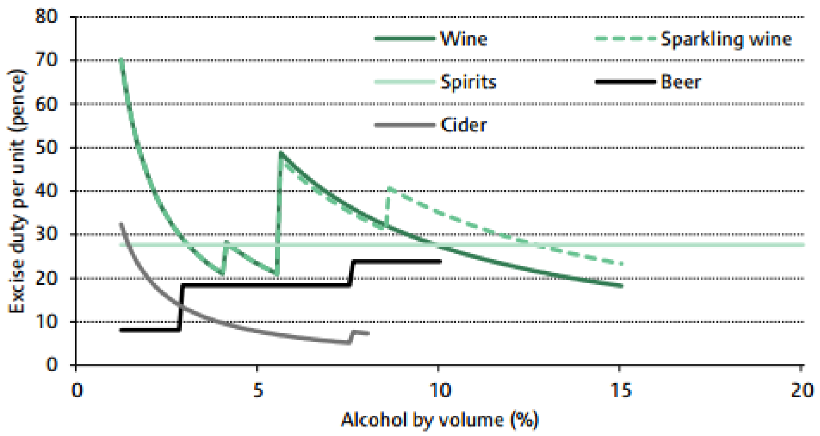
Spirits

Duty on spirits, spirits-based ready-to-drinks and all other drinks exceeding 22% abv: £28.74 per litre of pure alcohol

Source : HM Revenue & Customs, *Alcohol duty: rate changes – tax information & impact note*, March 2017

> Figure 9.12 shows the current structure of alcohol excise taxes, measured per unit of alcohol … To make the figure easier to read, we stop the horizontal axis at 20% ABV; however, it should be noted that the 27.66 pence per unit duty for spirits also applies to spirits products stronger than 20% ABV.

Figure 9.12. Excise tax per unit of alcohol, by alcohol strength and type



Note: Figure assumes all cider is 'still' ('sparkling' cider attracts a different duty rate, which is levied only on champagne substitutes in pressurised bottles).
Source: Calculated from HMRC data.

> For spirits and spirit-based alcopops, the tax levied per unit of alcohol is constant in strength. For beer, the tax per unit of alcohol increases with strength; strong beers attract a higher tax rate than mid-strength beers, which in turn attract a higher tax rate than low-strength beers. For wines and cider, the tax per unit varies by type and declines in strength, with discrete jumps at several points. For instance, a cider with 6% ABV attracts half the excise tax per unit of alcohol of a cider with 3% ABV. The highest rates of all are levied on very low-strength wine 'coolers', at more than 50p per unit, in contrast to a typical table wine of 12.5% ABV which has a duty rate of 21.9p per unit ...
>
> Overall, it is very difficult to justify the existing structure of alcohol excise taxes based on the likely harm associated with consuming different types and strengths of alcoholic drinks.[22]

The IFS has also published analysis of the tax take across different drink categories, and how this has changed over the last thirty years:

> [Over this period] the tax rate on beer has changed little, while the real level of duty on spirits has fallen steadily and is now little more than half what it was in 1978. Duty on wine fell in real terms through the 1980s and has changed little since; but as the pre-tax price of wine has fallen sharply over time and VAT has risen, tax makes up more of the price of a bottle now than it did 35 years ago.
>
> As shown in Table 16, implied duty rates per litre of pure alcohol are now much closer together than they were in 1978, but some variation persists.

[22] Chapter 9 : Excise Duties, Institute for Fiscal Studies, *Green Budget*, February 2016 p201, pp222-3. For earlier work on this issue by the IFS, see, *Price-based measures to reduce alcohol consumption, IFS Briefing Note BN138*, March 2013 & *Alcohol pricing and taxation policies: IFS Briefing Note BN124*, November 2011

Table 16. Implied duty rates per litre of pure alcohol (April 2016 prices)

Item	*1978*	*1988*	*1998*	*2008*	*2016*
Beer[a]	£17.84	£21.07	£17.90	£18.27	£18.37
Wine[b]	£31.57	£21.08	£19.38	£19.78	£23.15
Spirits	£55.27	£39.00	£31.44	£26.08	£27.66

[a] Beer of strength above 2.8% but not above 7.5% abv.
[b] Wine of strength 12% abv.

Budget 2008 increased all alcohol duties by 6% above inflation and announced further real increases of 2% a year until 2013,[23] but did not change the relativities between different forms of alcohol. Since 2013, all alcohol duties have fallen in real terms. This is especially pronounced for beer duty, which was reduced in nominal terms in three successive Budgets from March 2013.

The existence of relatively high tax rates in the UK on some easily portable commodities could lead to loss of revenue through cross-border shopping. While it is possible that the UK tax rates are so high that reductions in those rates would encourage enough additional consumption to produce a net increase in revenue, the available evidence suggests that this is unlikely.[24] Only in the case of spirits is it likely that the current tax rate is high enough for a reduction to have little or no revenue cost, which might help explain why duty on spirits was frozen in nominal terms (cut in real terms) every year between 1997 and 2008.[25]

The rate of duty tax charged on alcoholic drinks is not affected by the way in which they are sold (that is, whether they are purchased at a pub or at a supermarket), though it is clear that in recent years the pricing strategies of many supermarkets has put the pub sector under considerable competitive pressure.[26] There are no official statistics on the respective revenue yield from these two sectors,[27] and data on duty receipts are not broken down between rural and urban areas.[28]

There are EU-wide rules regarding their taxation, just as they are for the taxation of other excise goods (tobacco and road fuels). In brief, Council Directive 92/84/EEC establishes the minimum rates of duty which Member States may charge on four drink categories:

- For alcohol (spirits), 550€ per hectolitre of pure alcohol
- For intermediate products, 45€ per hectolitre of product.
- For wine and sparkling wine, zero rate.
- For beer, 0.748 € per hectolitre per degree Plato, or 1.87€ per hectolitre per degree alcohol, of finished product.

23 These real increases were extended to 2013 and 2014 in the March 2010 Budget.
24 See I. Crawford, Z. Smith and S. Tanner, 'Alcohol taxes, tax revenues and the Single European Market', *Fiscal Studies*, 1999, 20, 305–20, and C. Walker and C.-D. Huang, *Alcohol Taxation and Revenue Maximisation: The Case of Spirits Du*ty, HM Customs and Excise Forecasting Team Technical Note Series A, 10, 2003.
25 IFS, *A Survey of the UK Tax System*, November 2016 pp59-60
26 HC Deb 17 November 2010 c818W; see also, HM Treasury, *Review of alcohol taxation*, November 2010 paras 5.3-5.6
27 HC Deb 8 November 2012 c722W
28 HC Deb 20 November 2012 c435W

A companion directive – 92/83/EEC – defines the various categories of alcoholic beverage, and prescribes the basis on which excise duty must be calculated on these categories.[29]

The Coalition Government carried out a review of the balance of competencies between the UK and the EU – and as part of this, published an assessment of what powers the EU had over taxation; there is a short section in this setting out how EU law limits the UK's discretion with respect to excise duties:

> **Excise duties**
>
> 1.18 The EU first exercised competence over excise in 1993 with the Directive on the general arrangements for products subject to excise duty [Council Directive 92/12/EEC]. This laid down the basic principles applicable for the holding, movement and monitoring of the products subject to excise duties, which are primarily tobacco, alcohol and energy. All EU Member States apply excise duties to these three product categories. The revenue from these excise duties accrues entirely to Member States.
>
> 1.19 The introduction of this Directive required Member States to remove their own domestic fiscal controls in this area. However, full harmonisation of the excise duty rates throughout the EU was not considered necessary for the proper functioning of the internal market. Instead, a series of minimum rates were agreed by Member States. For example, the Directive on the approximation of the rates of excise duty on alcohol and alcoholic beverages sets down these minimum rates for alcohol taxation.
>
> 1.20 Therefore, Member States retain competence to set excise duty rates at the levels they consider appropriate according to their national circumstances. In doing so it is necessary to take account of the risks that any significant disparity in the excise duty of any one product between different jurisdictions may have, for example in providing an incentive for criminal activity.[30]

As UK duty rates have been considerably above these minima, these EU rules have not been contentious in the same way as, say, EU rules on VAT rates – though, as discussed below, in the past governments have resisted calls from the pub trade to have a lower rate of duty on drinks sold in licenced premises, because this would be contrary to EU law.

Even without this restriction, it may be worth adding that excise duty is payable on alcoholic drinks once they are cleared for consumption onto the UK market, rather than at the point of sale – so when they leave the distillery or excise warehouse, for supply to licensed premises and retailers. This presents a significant practical obstacle to having this type of differential duty rate, because the tax is not charged and paid when consumed in a pub or bought at a supermarket.

29 A summary of these rules is published on the Commission's site.

30 HMG, *Review of the Balance of Competences between the United Kingdom and the European Union – Taxation*, July 2013 p16

2. The Labour Government's duty escalator

As noted above, flat-rate excise duties are expressed in cash terms, and have to be increased annually in line with inflation – revalourised – if they are to maintain their real value. For several years before the 2008 Budget, the rate of beer duty had been set this way. When the last of this duty rises was debated during the proceedings of the Finance Bill in May 2007, the then Financial Secretary, John Healey, set out the rationale for this approach:

> [This] is a revenue measure, and one that is entirely consistent with the convention and the usual approach to excise duties, which is that, generally, this Government and previous Governments would, at first blush, look to increase duties in line with inflation, at least to maintain their real value …
>
> There have been concerns about alcohol-related harm, its social impact and the quite serious problems that it causes in some areas … As a result of those concerns, and as a proposed response to those problems, there have been calls for significant increases in duty. However, the view that the Government take—it is the view that we have consistently taken in the Treasury—is that that sort of social harm and social concern is best tackled by social legislation and by working with the trade in self-regulation, rather than by taxation, which, in this circumstance, is an instrument that is not best suited to deal with the social problems that we are discussing. In fact, it would be likely to penalise the vast majority of responsible drinkers rather than affecting the minority who cause us concern. …
>
> The general case for using taxation as a means of regulating consumption has not been made. It is not best suited to this area of policy. In addition, concerns have been expressed by some in the alcohol industry who argue that higher energy and raw materials prices, and their impact on consumer demand, have created a difficult trading environment for them over the past year. We recognise that the industry makes an important social and economic contribution to the life of this country. I would argue that the modest inflation-only increase in the duty on beer, wine and cider recognises those concerns, while providing the important stream of revenue that is necessary to maintain our commitment to public services.[31]

At this time health organisations launched a campaign for duty rates to be increased in real terms, as part of a strategy to tackle the social impact of alcohol consumption, as the BBC reported in November 2007:

> Taxes on alcohol should be increased and advertising restrictions should be tightened, according to a new group of 24 leading health organisations. The Health Alcohol Alliance … has been formed by medical organisations and charities to increase pressure on the government to curb excessive drinking and provide more resources for alcohol-related health problems. It calls for the government to adopt a twin strategy of increasing tax and reducing the easy availability of alcohol.

[31] Debate on clause 5 of *Finance Bill 2007* (Public Bill Committee, First Sitting, 8 May 2007 cc35-6).

> The Alliance says increasing the price of alcohol by 10% could cut all alcohol-related deaths by between 10% and 30%. Its get tough on alcohol message is echoed in a report published on Tuesday by the Nuffield Council on Bioethics, which also proposes raising prices and restricting pub opening hours. The charity Alcohol Concern said the price of all alcohol in shops has barely changed since the mid-1990s - with some wines and lagers becoming cheaper. At the same time licensing laws have been relaxed, allowing longer opening hours for many pubs and bars …
>
> Professor Ian Gilmore, president of the Royal College of Physicians and chairman of the Health Alcohol Alliance, said it was time to treat alcohol in a similar way to drugs. "If you look at the burden of damage to society, it's hugely greater for alcohol than for drugs," he said. "But the majority of money has always gone on drugs, partly because of the strong link to crime." Professor Gilmore said that, in some parts of the country, doctors find it hard to get help for patients with alcohol-related problems, even though two thirds of people with a drug problem can access specific services. He said the Finnish experience - where health problems soared after alcohol tax was cut by 40% - showed a hike in taxes was likely to have a positive effect.[32]

The report on ethical issues in public health by the Nuffield Council on Bioethics – cited in this piece – argued that higher taxes on alcohol were an effective strategy for reducing consumption. An extended extract from the Council's report is reproduced overleaf.

Further research has suggested that the relative harm caused by alcohol abuse is considerably greater than is reflected in either the way it is taxed or the way it is classified as a legal drug,[33] and official statistics show a steady rise over the last decade in the number of deaths in England with an alcohol-related underlying cause.[34]

In his Budget speech on 12 March 2008, the then Chancellor, Alistair Darling, announced that all duty rates on alcohol products would be increased by 6% with immediate effect:

> As incomes have risen, alcohol has become more affordable. In 1997 the average bottle of wine bought in a supermarket cost £4.45 in today's prices; if you into a supermarket today, the average bottle of wine will cost about £4. So from midnight on Sunday, alcohol duty will increase by 6 per cent. above the rate of inflation. Beer will rise by 4p a pint, cider by 3p a litre, wine by 14p a bottle and spirits by 55p a bottle, and those duties will increase by 2 per cent. above the rate of inflation in each of the next four years.[35]

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32 "Campaigners want alcohol tax rise", *BBC News online*, 13 November 2007

33 For example, Independent Scientific Committee on Drugs, "Drug harms in the UK: a multi-criteria decision analysis ", *The Lancet*, Vol 376, Issue 9752, pp1558 - 1565, November 2010 – discussed by the BBC's home editor, Mark Easton, on his blog: "Drug debate hots up", *Mark Easton's UK*, 1 November 2010

34 *Statistics on alcohol*, Library standard note SN3311, 29 March 2012 p8. In 2009 the number of deaths fell slightly.

35 HC Deb 12 March 2008 cc 297-298

Nuffield Council on Bioethics

***Public health: ethical issues*, November 2007 (pp 113-4)**

Role of government

6.28 The use of alcohol and tobacco has implications for nearly every government department in the UK. In some cases departments may support the alcohol and tobacco industries despite concerns about population health.[77] This may also be found in devolved administrations and regional and local government, for example where job losses might be caused in that area if sales of these products reduced.

6.29 In 2004 the Government published its Alcohol Harm Reduction Strategy for England followed in 2007 by Safe, Sensible, Social: The next steps in the National Alcohol Strategy.[78] A comparison of the Government's Strategy with the findings of the evidence-based study *Alcohol: No ordinary commodity*[79] (sponsored by WHO) finds that there is little consensus.

The latter emphasised the effectiveness of increasing taxes, restricting hours and days of sale and the density of outlets that sell alcohol, and possibly of banning advertising, whereas it found little evidence in support of the effectiveness of education about alcohol in schools, and evidence for a lack of effectiveness concerning public service messages and warning labels.

The Government's original Strategy, however, concentrated on education and communication, reviewing the advertising of alcohol, enforcement of legal restrictions on selling to under-18s, and voluntary measures for the alcohol industry about labelling and manufacturing. The second part of the Strategy included further measures on guidance and public information campaigns and measures to try to promote a 'sensible drinking' culture.

A review of the evidence and a consultation on the relationship between alcohol price, promotion and harm was also announced and the Government pledged to consider the need for regulatory change in the future. We draw attention to the fact that alcoholic drinks in the UK are now less expensive relative to disposable income than they were in the 1970s.[80]

6.30 The areas where No ordinary commodity and the UK Government's strategies are in agreement include support for at-risk drinkers and treatment of people with alcohol problems and implementing rules about serving intoxicated people. The evidence presented in No ordinary commodity on the effectiveness of restricting the availability of alcohol stands in contrast to the Government's policy since November 2005 of allowing extended opening hours for pubs and bars.[81]

The evidence for the effectiveness of some of the interventions aiming to reduce the overall consumption of alcohol is strong.[82] Thus, the Government's failure to take up the most effective strategies cannot be due to lack of evidence.

6.31 The stewardship model provides justification for the UK Government to introduce measures that are more coercive than those which currently feature in the National Alcohol Strategy (2004 and 2007). We recommend that evidence-based measures judged effective in the WHO-sponsored analysis Alcohol: No ordinary commodity are implemented by the UK Government. These include coercive strategies to manage alcohol consumption, specifically in the areas of price, marketing and availability. For example, taxes on alcoholic beverages might be increased, which has been shown to be an effective strategy for reducing consumption.

We also recommend that the Home Office, the UK health departments and the Department of Culture, Media and Sport analyse the effect of extended opening hours of licensed premises on levels of consumption, as well as on antisocial behaviour.

Footnotes:

[77] Baggott R (2000) *Public Health: Policy and politics* (Basingstoke: Palgrave Macmillan), pp.196–220.

[78] Prime Minister's Strategy Unit (2004) *Alcohol Harm Reduction Strategy for England*, …; Department of Health, Home Office, Department for Education and Skills and Department for Culture, Media and Sport (2007) *Safe. Sensible. Social. The next steps in the National Alcohol Strategy* (London: Department of Health Publications). The original Strategy stated that the Government had consulted with the devolved administrations in Scotland, Northern Ireland and Wales in producing its analysis and would continue to do so as the strategy was implemented. All three devolved administrations produced their own strategies. The follow-up document was also prepared in discussion with the devolved administrations, and reflects programmes developed by each administration.

[79] Babor T, Caetano R, Casswell S et al. (2003) *Alcohol: No ordinary commodity – Research and public policy* (Oxford: Oxford University Press).

[80] Academy of Medical Sciences (2004) *Calling Time: The nation's drinking as a major health issue* (London: Academy of Medical Sciences).

[81] See DCMS, *Licensing Act 2003 Explained*, 2007.

[82] Academy of Medical Sciences (2004).

In a speech to the BMA just after the Budget the then Minister of State for Public Health, Dawn Primarolo, noted that the Department estimated that, if the proposed increases in duty rates fed through to prices, the policy would save 3,250 lives by March 2013.[36] This proved quite contentious and following the Budget Treasury Ministers stressed on a number of occasions that this was not the primary purpose of raising duty rates. In answer to a PQ Treasury Minister Angela Eagle, said "the intention of the increase in alcohol duty announced at Budget was to raise revenue, not to tackle problem drinking."[37] The point was reiterated in answer to a PQ in the Lords in January 2009, which noted, "the Government do not see taxation primarily as a tool for reducing alcohol-related harm. However, the Government remain committed to tackling problem drinking."[38]

The increase in duty rates were strongly criticised by the drinks industry,[39] and during the Commons debates on the Budget John Grogan raised concerns about the impact on pubs:

> There was a significant change in the policy on alcohol duty last week. All alcohol duty—on wine, spirits, beer or cider—was increased by a similar percentage. A promise was made that in forthcoming years there would be increases of inflation plus 2 per cent. on all alcohol … I want to explore whether the measures will be an effective way of raising revenue and promoting health.

[36] HL Deb 11 June 2008 c110WA. The Dept of Health's analysis of the impact of these duty rate changes was set out in a Commons Library deposited paper (Deposited paper DEP2008-1538, 11 June 2008).

[37] HC Deb 21 April 2008 c1675W

[38] HC 27 January 2009 c28WA

[39] for example, "Drinks trade furious at excise duty rise", *Financial Times*, 14 March 2008

> What are the implications for the pub industry, in particular? … In the past few years ... as beer duty has risen—considerably—since 1997, the gap between the price of beer in a pub and its price in supermarkets has widened … Unless other measures are taken, the rises will reinforce the trend of the past 10 years of more off-sales and fewer on-sales. Ten years ago, the on-trade accounted for nearly 80 per cent. of beer sales; that has gone down considerably to just over 60 per cent. The measures will reinforce the trend from drinking in community pubs and towards more sales in supermarkets …
>
> It is important to remember that pubs and the beer industry pay not only excise duty, but VAT and employment taxes. In fact, Ernst and Young suggested that the entire pub and beer industry contributed a total of £9 billion to Government revenue. The more that is drunk in pubs, as opposed to at home, the greater the Government revenue. The Government receive £1.14 in taxes from a pint of beer in a pub, compared with 55p for every pint drunk in the off-trade. In themselves, the measures will, as the hon. Gentleman points out, damage drinking in community pubs and favour supermarkets.[40]

At this time Greg Mulholland put down an EDM supporting a freeze in duty rates "until such time as the industry recovers", which 56 Members signed.[41]

Provision to implement the increase in duty rates on alcohol was made by s11 of the *Finance Act 2008*. This measure was debated on 13 May 2008 during the Committee stage of the Finance Bill; on this occasion, speaking for the Liberal Democrats, Jeremy Browne raised concerns about the impact on the pub sector:

> What are the current problems for pubs and, in some cases, brewers? One problem is cheap off-sales, which was mentioned in an intervention. That is causing difficulty in the industry because it is almost impossible to go to a supermarket and not find a promotion being offered on beer in particular and on other forms of alcohol. Obviously, that makes it harder for publicans.
>
> Another problem is changing leisure patterns. Some people stay at home, stay in their gardens, or watch DVDs at home instead of going to the pub. The smoking ban … has compounded the problems for some publicans. The effect varies considerably from one pub to another depending on the customer base of the establishment.
>
> Commodity prices have also had a sizeable impact on pubs and on the brewing industry generally. Of course, pubs must pay their utility bills and heat and light their premises. In addition, like most small businesses, they have to pay petrol prices to transport alcohol and other goods and services. Most important of all from the point of view of brewers—and this is often passed on to pubs—the ingredients of, for example, beer have become much more expensive to acquire. Brewers are struggling to hold their prices down and probably take a lower share of profit on each pint that they sell on to the pub. In turn, pubs are trying to hold prices down at a time when consumers are feeling the pinch.
>
> As a result, the profits of both brewers and the pub sector are being squeezed. That state of affairs upsets many people in the

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40 HC Deb 18 March 2008 cc772-3

41 EDM 1330 of 2007-08, 3 April 2008

> brewing industry because they feel that their problems are being compounded by above-inflation increases not only in this Budget, but in future Budgets.[42]

In response Treasury Minister Angela Eagle argued that "tax and especially excise duty, are not … the main issues for pubs":

> Hon. Members will acknowledge that there has been a general change in people's habits, which has contributed to the decline in the numbers of pubs. Innovation and a different kind of response and leisure approach … is also important. In other words, tax and especially excise duty, are not, I dare suggest, the main issues for pubs.
>
> We have great sympathy for anyone running a business and trying to attract new customers. There are those in the pub trade who wanted us to introduce excise duty that was aimed more specifically at the off-trade, which at the moment does discount—sometimes greatly—the cost of alcohol as a result of which excise duties are not passed on in off-trade prices.
>
> However, constraints on how the European Union rules apply on alcohol duty mean that it is not possible for us to have differential rates for the same drink if bought in a supermarket rather than a pub. Trying to level the playing field a bit more between the on-trade and the off-trade is not legal nor is it one that we can pursue.
>
> When making decisions on alcohol duty rates, we took account of several factors and listened to the views of the alcohol industry in all its diversity as well as the retailers in their diversity. Following a sustained period of rising real incomes and the fact that alcohol is much more affordable now than it was in 1997, we believed that it was right that alcohol duty should play a part in tackling some of the challenges of child and pensioner poverty, and it provided us with tax revenues in order to do so.[43]

42 Public Bill Committee, *Sixth sitting*, 13 May 2008 cc187-8
43 PBC 13 May 2008 cc193-5

3. The report of the All Party Parliamentary Group

In October 2008 the All Party Parliamentary Beer Group published a report on community pubs which argued that "community pubs can no longer rely on beer sales to make a living", due to "the availability of cheap beer from supermarkets, the increased number of outlets for off-sales, a change in leisure patterns with more people opting for home entertainment (a move exacerbated by the smoking ban), and the impact on price of successive increases in beer duty."

The Group suggested that the Government should consider tax incentives for on-trade sales, such as a differential rate of beer duty or a lower rate of VAT, even though, in evidence to the group, Treasury Minister John Healey had pointed out that EU-wide agreements on indirect taxes presented serious obstacles to this type of reform:

> In the last decade, beer duty has risen at a faster rate than other forms of alcohol taxation, by 27% as against 16% for wine and 3% for spirits. Community pubs' slender margins generally won't allow them to absorb increases in duty, leading to ever greater differentials with supermarket off-sales. The 2008 Budget imposed a further 8p pint increase, and proposed a 2% above inflation duty escalator going forward. BBPA pointed out "Each time tax rises it gets worse. Supermarkets are not accepting the increased prices from the brewers, whereas pubs have no choice and suffer all the add-on costs as well."
>
> Witnesses agreed that pubs could not hope to compete with supermarkets on price and we heard considerable bitterness that they had been struck by a double whammy: losing sales because of rising duty, and being blamed by media and Government for fuelling a binge-drinking culture … The evidence certainly points to beer excise duty being an ineffective or rather a counter-effective weapon against alcohol misuse, hitting on-sales in the controlled environment of a community pub whilst actually encouraging an increase in off-sales.
>
> The Panel is strongly of the view that the present approach, which permits alcohol to be sold at or below cost, or even just deeply discounted, in the off-trade as if it were an ordinary commodity, and which in turn gives rise to unsupervised drinking at prices with which responsible community pub licensees cannot possibly compete, cannot continue. Witnesses proposed a number of solutions. CAMRA and Shepherd Neame recommended a reduced rate of excise duty on sales of draught beer, as opposed to beer sold in bottles and cans, to entice customers back into pubs, or a rebate on sales; SIBA suggested the threshold for progressive beer duty should be raised.[44] We raised these questions with John Healey, then Financial Secretary to the Treasury, who responded that the Treasury's room for manoeuvre was limited under EU directive 92/83.

44 As noted above, small breweries relief, which was introduced in June 2002, allows the very smallest breweries to charge a lower rate of excise duty on their sales. see, HMRC, *Small Breweries' Relief: A Call for Evidence - summary of responses*, May 2004.

> We urge further investigation by the Treasury of possible routes, via VAT rates or otherwise, to deliver a differential effect between on and off sales of beer.[45]

An extract from Mr Healey's evidence, given in July 2006, is reproduced below:

> **51.2 JH (John Healey MP, Financial Secretary to the Treasury)** This Inquiry is properly looking at long term trends, and the shift of alcohol sales from the on trade to the off trade is just such a trend, fuelled by intensified competition from supermarkets. In my view the use of the tax system to frustrate or moderate such trends is likely deliver modest and marginal effects. [Progressive Beer Duty] has however enabled small breweries to buy pubs of their own and to invest in a whole range of other areas of their businesses, such as marketing, new plant, and so on. The essential problem with VAT is that it's a European tax. A lower VAT rate on draught beer would not be legally possible, since location of sale is not one of the limited number of possible bases for derogations.
>
> **51.3 JD (Janet Dean MP)** Would the same constraints apply to Excise duty, recognising the environmental benefits of the use of draught beer containers – the ultimate reuse example – as opposed to bottles and cans?
>
> **51.4 JH** There would be different constraints on us here; we would especially be concerned about financial and fraud issues – for example, beer could be initially supplied in large containers at the lower duty rate then fraudulently bottled later and sold on at the higher tax rate without accounting for the difference.[46]

Mr Healey gave more details about the legal obstacles to having a differential duty on draught beer in a letter to the Group, after this evidence session:

> 1. At the Inquiry I advised that the government would be concerned with the opportunity for fraud which might result from a decision to apply a lower duty rate to draught beer sold in the on-trade. I have since asked officials to consider the legality and practicality of this proposal in more detail, which has concluded that this is unlikely to be achievable.
>
> 2. Directive 92/83 specifies the manner in which duty is charged on alcohol and alcoholic beverages. It specifically states that excise duty is to be charged by reference to the volume and alcoholic strength or specific gravity of the final product. The Directive does also provide - in principle - for lower rates of duty for small breweries, and for different rates to be applied between regions within a Member State. However, the Directive is silent on the issue of applying lower rates dependent upon packaging or on final use or point of sale. It is reasonable to infer, therefore, that this was not the intention of European law, and that the UK would be acting counter to long-established agreements with its European partners in seeking to differentiate duty rates on beer based on these factors.
>
> 3. Although it is ultimately a tax on consumption, duty is actually chargeable at a stage before being placed in a container for delivery to the consumer, and so it would not be possible to

[45] *Community Pub Inquiry*, October 2008 pp16-17

[46] All-Party Parliamentary Beer Group Community Pub Inquiry: Fourth Panel hearing 20 July 2006 (*Community Pub Inquiry: Appendix 2*, October 2008 pp 25-6).

> distinguish between beer which was subsequently served in draught in the ontrade and that which was bottled or canned for sale in the off-trade.
>
> 4. In addition, there would be a number of practical and compliance issues with such a proposal, for example:
>
> a. It is not clear the extent to which any duty cut would be passed on to pubs and consumers. Market power is principally with the brewers rather than the pub owners, therefore it is possible that such a policy might do more to increase margins further up the supply chain.
>
> b. A duty reduction which applied only to draught beer could provide opportunities for non-compliance, for example if draught beer bought by a supplier at a lower rate of duty were decanted into bottles for onward sale. Since ale at least is not pressurised this would be relatively easy. If on the other hand the preferential rate were extended to all beer sold in the on-trade, additional compliance activities would be needed to ensure that bottled beers intended for on-trade sale did not get diverted to the off-trade.[47]

Despite these practical objections, 58 Members signed an EDM tabled just before the 2009 Budget, supporting the introduction of a differential duty rate on draft beer and cider.[48]

In May 2009 the Department for Culture, Media & Sport published a detailed response to the report by the All-Party Group, which reiterated the case against a differential duty rate:

> The Chancellor of the Exchequer does not take such decisions lightly and met representatives of the alcohol industry to hear their views so he could take a fully informed decision on the appropriate level of alcohol duty. Alcohol duty is a valuable revenue stream for funding important public services. The additional revenue raised from the increase in alcohol duty announced in the Budget will make a vital contribution to public finances.
>
> The structure of alcohol duty in the UK must comply with the EU legislation on alcohol duty, which requires beer to be taxed in proportion to its strength. EU law does not allow for a distinction to be made between beer packaged in casks or in bottles, meaning they must be taxed at the same rate. Similarly EU law does not allow for a reduced rate of VAT to be applied to the standalone sale of alcoholic beverages.[49]

47 Letter from John Healey, Financial Secretary to the Treasury, to All Party Beer Group, 28 August 2006 (*Community Pub Inquiry: Appendix 4*, October 2008 p3). See also, HC Deb 23 January 2014 c310W.

48 EDM 1086 of 2008-09, 13 March 2009. 90 Members signed a similar Motion following the Budget (EDM 1906 of 2008-09, 15 July 2009).

49 HC Deb 7 May 2009 c21WS; DCMS, *Government Response to the All Party Parliamentary Beer Group Community Pub Inquiry*, May 2009 pp 20-21.

4. The pub trade's campaign against the duty escalator

In his Pre-Budget statement to the House on 24 November 2008, the then Chancellor Alistair Darling announced that, given the threat to the UK economy from the global recession, the Government would introduce "a £20 billion fiscal stimulus between now and April 2010, around 1 per cent of GDP." In his view the "best and fairest approach" to delivering this stimulus was a cut in the standard rate of VAT, from 17½ per cent to 15 per cent from 1 December 2008, lasting 13 months. To compensate for this cut, duty rates on all excise goods would rise:

> The reduction in VAT lowers the amount of tax paid on tobacco, alcohol and petrol. In addition, of course, petrol prices have come down by about 7p a litre since last month alone, so I will offset the VAT reduction by increasing those duties to an amount that will keep the overall cost to consumers the same this year.[50]

In each case, the increase in duty would be *maintained*, when VAT rose back to 17½ per cent. Duty rates were increased by 8 per cent on all alcohol products except the rate on spirits, which was increased by 4 per cent.[51] It was estimated that this increase would raise £160m in 2008/09, rising to £640m in 2009/10.[52] In the case of beer duty, the rate rose from £14.96 per hectolitre per cent of alcohol, to £16.15 - equivalent to an extra 3p on a pint of beer.[53] Unsurprisingly the pub trade objected strongly to this move, as the *Times* reported:

> Landlords and tenants are still reeling from the last Budget in March when Alistair Darling raised duty on a pint by 4p and said that he would introduce an "escalator" increase of 2 per cent above the rate of inflation in future years. Jeremy Beadles, chief executive of the Wines and Spirits Trades Association, said that the total tax increase on alcohol this year was now "a massive 17 per cent, hurting consumers when they have little else to cheer about". Mark Hastings, spokesman for the British Beer and Pub Association, said that there was "genuine dismay and disbelief" that the Chancellor had failed to recognise the plight of pubs.
>
> Government figures appear to challenge this gloomy view. They report that the average price of beer in a pub is £2.57, which includes 38p VAT and 36p duty. This is likely to change to £2.54 a pint, comprising 33p VAT and 39p duty.[54]

Normally changes to the rates of excise duty are made in the annual Finance Bill. However, special provision exists to allow the Government to change the rates of excise duty and the rate of VAT for a limited period of time without immediate primary legislation. These 'economic regulators' allow increases or decreases in tax rates up to a specified

50 HC Deb 24 November 2008 c492, c495, c496

51 Initially spirits duty was to rise by 8%, but the Government cut this increase to 4% two days *after* the Pre-Budget statement (HM Revenue & Customs Pre Budget Notice PBRN 28, 26 November 2008; HC Deb 26 November 2008 c757).

52 Cm 7484 November 2008 p194

53 For beer of 4.2% strength – taking into account VAT at the new lower standard rate of 15% (HM Treasury Pre-Budget Press Notice PBR08/02 24 November 2008).

54 "Pub trade is angered by 8% rise in alcohol duty", *Times*, 25 November 2008

limit: in the case of excise duties, rates of duty or rebate, drawback or allowance may be adjusted by an increase or decrease of up to 10 per cent (of the underlying rate that is set in primary legislation).[55] Secondary legislation to increase alcohol and tobacco duties was laid before the House following the Pre Budget statement, but not debated until 13 January 2009. On this occasion Treasury Minister Angela Eagle said a little about this procedure:

> The statutory instruments give effect to the desired duty changes and derive their force from the so-called economic regulator powers ... The resulting new rates of excise duty on alcohol and tobacco will cease to be in force after one year, unless confirmed through another order or in the Finance Bill of the Budget later this year. The Committee will, therefore, have more time to debate the issues when we consider those.[56]

The Minister was asked by several Members about the impact of the duty rate changes on the pub sector; in response, she said:

> In coming to decisions, we always bear in mind what is going on in the specific industries, trades and sectors affected. Excise duties are only one part of a complex picture. Clearly, there is a tough situation in the retail trade at the moment, and that applies equally to brewing and to the pub trade. The reasons cannot, by any means, be attributed solely to excise duty levels … I am aware of the differences between the on trade and the off trade and of how those have developed over the last few years … For example, supermarkets discount more heavily than the on trade can, which leads to discrepancies. Such matters of competition and behaviour cannot be resolved by the use of tax or excise duty …
>
> The statutory instruments will create a situation in which prices go down in all categories, except for the 1p increase in the price of wine. According to the weighted average—an analysis of the on pint and off pint of beer—prices are expected to go down by 1p. The prices of cider and perry are expected to go down by 3p a litre, wine to go up by 1p and spirits to go down by 12p ... We know what is happening with some pub and brewing companies. However, the statutory instruments should lead to a fall in prices. There is only a minor increase for wine and there are minor falls for the rest so the measures we are discussing should have a neutral effect …
>
> I have said from the beginning that there is a tough environment in general for pubs and clubs at the moment. We know that. However, there is sometimes a tendency, when there is a whole range of pressures on this sector of retail, to blame particular duties or taxes for the entirety of those problems … We know that the smoking ban has had some effect in this sector, but we also know that cultural change and shifts in the way in which people spend their leisure change are also impacting on the sector … We are all enamoured of the British pub institution, but we have to recognise that it needs to change with the times and that not all of the difficulties are associated purely with tax.[57]

Speaking for the Conservatives, Justine Greening noted that, "even if we believe the Government's claim that this package was price neutral

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55 HM Treasury, *Tax/Benefit Reference Manual 2009/10* ed paras 4.51-3, 4.111

56 SI 2008/3026 & SI 2008/3062. Second Delegated Legislation Committee, 13 January 2009 c4

57 *op.cit.* cc5-6, cc20-21

to the industry in the short term, these orders mean that, just within a year, we will see real tax increases for an industry which is struggling to cope and a public with less money than they have perhaps had in recent years … I question whether this is the right time to increase the duty on alcohol again—this is the second rise in duty this financial year." Ms Greening was particularly critical of the fact that no impact assessment had been produced for this measure, as were a number of other Members. In response the Minister suggested this would not be appropriate:

> The idea of an impact assessment is to try to assess what, in administrative terms, the impact of the change being discussed would be. They do not go wider than that. They do not seek to analyse what might happen to particular industries in time, or have entire modelling systems for particular contexts or sectors. They are purely about administrative burdens. They are not normally produced for annual tobacco duty changes and they are not required in respect of changes to tax rates where there are low associated administrative costs. In the context of alcohol and tobacco duties, these change annually, so businesses have systems in place to deal with changes and the implications of changing the duties. That is why there is no impact assessment for excise duty changes.[58]

After the PBR, the British Beer & Pub Association (BBPA) – in conjunction with Camra and a number of breweries – launched an 'Axe the beer tax campaign'. (The campaign was subsequently renamed "I'm Backing the Pub"). The campaign proposed the abolition of the duty escalator, the reversal of the duty increases in the 2008 PBR, and a review of how the duty system could support the pub sector.[59] To buttress its case the BBPA published estimates that in the second half of 2008 around 39 pubs were closing each week, and that a total of 2,000 pubs had closed since the Budget.[60]

The campaign proved highly popular and, in December 2008, 201 Members signed a motion supporting it.[61] An opinion poll commissioned by the campaign in early 2009 found that 70% of respondents were opposed to any further real-terms increase in duty rates.[62] At this time, the Conservative Party launched a similar campaign, which recommended "cutting taxes on lower alcohol drinks such as low alcohol beers and raising taxes on problem drinks like high strength ciders and alcopops in order to use the tax system to target binge drinking whilst ensuring that responsible drinkers and the traditional British pub are not unfairly penalised."[63] In March 2009 the Institute for Public Policy Research published a report on community pubs, arguing that "pub closures have a serious impact on community

58 *op.cit.* c8, c20
59 This was published on the campaign's site at the time: axethebeertax.com; the site is no longer maintained.
60 BBPA press notices, *Pub closures climb towards six a day*, 19 January 2009*; Record 2000 pub closures since 2008 Budget at a cost of 20,000 jobs*, 4 March 2009
61 [EDM 10 of 2008-09, 3 December 2008]
62 Axe the Beer Tax press notice, *New polling shows that over 70% of the public oppose plans to increase tax on beer*, 1 March 2009
63 Conservative Party press notice, *Hunt launches campaign to Save the Great British Pub*, 20 February 2009

life." The report made a series of recommendations, noting that there was "no magic bullet" to solve this sector's problems. Nevertheless, one of the proposals was that "there should be no further increases in beer duty at a time of escalating pub closures."[64]

However, its 2009 Budget the Labour Government confirmed that all duty rates on alcoholic drinks would rise by 2% with effect from midnight on Budget day.[65] The duty rate of beer rose from £16.15 to £16.47 per hectolitre per cent of alcohol – equivalent to an extra 1p on a pint of beer.[66] Unsurprisingly the trade was strongly critical of the decision,[67] and its concerns were raised when legislation to set the new, higher rates of duty was scrutinised at the Committee stage of the Finance Bill.[68] On this occasion the Liberal Democrats put down an amendment to freeze duty rates for three years, in the absence of any official assessment of the impact of the tax regime on pubs.[69] In moving the amendment, Jeremy Browne argued that drinking in pubs was particularly price sensitive:

> Anyone who goes shopping will know just how cheap alcohol is in supermarkets compared with pubs ... The public do not greet it with great hostility, but the differential involved makes it that much harder for pubs and other licensed establishments to be successful ... Pubs are more price sensitive than bars that sell in large volume. I am not convinced that the Government's policy will have a profound impact on binge drinking: people who go and drink 12 pints of very strong lager are unlikely to modify their behaviour, and if they do, it will take the form of drinking 11 and a half pints of very strong lager, the effect of which will be little different. On the other hand, people of more modest means who drink in a pub, in a village or an urban area, can be more price sensitive: they may choose not to visit the pub, or to have only one pint, rather than one and a half.[70]

Opposing the amendment the Minister, Ms Eagle, pointed out that there was 'plenty' of information available on this issue, and that it was quite clear that the level of duty was just one factor among many affecting pubs:

> Many hon. Members have acknowledged that competitiveness and employment levels in any industry depend on a range of factors. It would therefore be very difficult to identify the specific impact of alcohol duty rises alone, against other factors such as a change in the culture of pubs and their customers and increased competition for leisure time. The Government value the

64 IPPR press notice, *One size fits all approach is killing our community pubs*, 31 March 2009; Rick Muir, *Pubs and places: the social value of community pubs*, IPPR 2009 p5

65 HC Deb 22 April 2009 c244

66 HM Revenue & Customs Budget Note BN86, 22 April 2009. As the Labour Government had already committed itself to an annual 2% duty rate increase, the 2009 Budget report made no separate estimate of the Exchequer impact of this change (HC 407 April 2009 para A.136-7 p169).

67 "Last time for last orders as alcohol rises are rushed in", *Times*, 23 April 2009; BBPA press notice, *Chancellor betrays Britain's struggling pubs, says BBPA*, 22 April 2009

68 Under s11 of *FA 2009* duty rates were increased by a *nominal* 2 per cent. The rate of inflation (RPI) was -0.4% in the year to March 2009 (Office for National Statistics first release, *Consumer price indices - March 2009*, 21 April 2009). Given this, the Budget 2009 rise in alcohol duty rates was greater than 2% in *real terms*.

69 HC Deb 12 May 2009 cc 777-828

70 HC Deb 12 May 2009 cc 785-6

> contribution that pubs make to employment and local communities, although EU tax legislation means that it is not possible to provide tax reliefs targeted specifically at pubs, such as taxing beer sold in supermarkets differently from that sold in pubs ... There are many reasons why particular pubs might close. Some businesses were possibly never viable and we are also in the middle of difficult trading conditions, as the right hon. Gentleman pointed out. We cannot assume that alcohol excise duties have a direct relationship to the pub closures, as some have argued.[71]

The House debated the issue a second time at the Report stage of the Bill, when the Liberal Democrats put down an amendment to make annual *reductions* in the rate of beer duty.[72] Unsurprisingly, the Government opposed the proposal. On this occasion Treasury Minister Sarah McCarthy-Fry set out a number of government initiatives supporting this sector:

> The pub sector has been adversely affected by the economic downturn, as well as by changing tastes and lifestyles over a longer time period—nowadays there are many more ways to spend leisure time. Increased input costs for suppliers and the smoking ban have also had an effect. Changes in duty are unlikely to be the answer to tackling those problems. Indeed, the proportion of tax—duty and VAT—in the price of a pint of beer in a pub has remained broadly constant in real terms since 1994. ...
>
> The Government recognise and value the contribution that pubs make [and have] … introduced a range of measures to support all businesses, including the British pub. Those include: enabling pubs to spread payment of this year's inflation uprating to business rates over three years; HMRC's business payment support service, which has benefited many pubs already; improved access to finance for small businesses through the enterprise finance guarantee; and support through low-cost loans and advice on energy efficiency for small businesses, including many pubs, to make savings on their energy bills.[73]

Members continued to raise the issue of beer taxation and the pub sector through the year. In November 2009 sixty Members signed an EDM put down by Bob Russell criticising the rate of beer duty, similar to the Motion he had put down the year before.[74] A second motion put down by Nigel Evans, calling for a cut in duty when the standard rate of VAT returned to 17.5 per cent in January 2010, was signed by 150 Members.[75]

However, the Labour Government did not change its position on this issue. In his last Budget statement before the 2010 General Election, the then Chancellor Alistair Darling, confirmed that duty rates would rise by 2 per cent in real terms – adding 2p to the price of a prink of beer – and that the duty escalator would apply for two *more* years than as previously announced – that is, at least until 2014/15. The extension

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71 HC Deb 12 May 2009 cc 813-4
72 HC Deb 7 July 2009 cc 923-936. On both occasions, Conservative Members generally abstained.
73 HC Deb 7 July 2009 cc934-5
74 EDM 10 of 2009-10, 18 November 2009
75 EDM 157 of 2009-10, 23 November 2009

of the escalator was estimated to raise an additional £105m in 2013/14, rising to £190m in 2014/15.[76]

Mr Darling also proposed that the duty rate on cider should be increased by over 10 per cent, to correct a "long-standing anomaly [which] has meant that cider has been under-taxed in comparison with other alcoholic drinks."[77] Although the amounts of money involved were relatively small,[78] there was criticism of the change from both cider growers and drinkers,[79] and both the Liberal Democrats and Conservatives spoke against the change in the Budget debates following the Chancellor's statement.

Several days later the then Prime Minister, Gordon Brown, announced that, as widely anticipated, the election would be held on 6 May, with the Dissolution on 12 April. This meant that the Finance Bill was approved in its entirety in a single day as part of the 'wash up' procedure before the Dissolution. To obtain the Opposition's support, four changes were made to the Bill, including the withdrawal of the additional rate rise on cider.[80]

At the time the Labour Government proposed that the higher rate would be reintroduced as part of a second Finance Bill after the Election. Following the establishment of the Coalition Government, the Chancellor, George Osborne, presented the new Government's first Budget on 22 June 2010, and in the Budget report, the Government confirmed that this second-stage increase in cider duty would *not* be implemented.[81]

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76 *Budget 2010*, HC 451 March 2010 para 5.84; p120 (Table A1 : item 28). These estimates were updated to £110m and £215m respectively (*Budget 2011,* HC 836, March 2011 Table 2.2, item bt).

77 HC Deb 23 March 2010 c256

78 The rise in cider duty was projected to raise £15m per year. By comparison the 2% rise in rates on all drinks was estimated to raise an additional £625m in 2010/11: *Budget 2008* HC 388 March 2008 p110; *Budget 2010* HC 451 March 2010 p120 (Table A1: item 29).

79 "Why has the Government imposed such a heavy tax on cider", *Independent*, 26 March 2010; "Cider singled out for biggest rise in duty to curb binge drinking", *Times*, 25 March 2010

80 HC Deb 7 April 2010 cc 1102-4. Cider duties rose by 10% in real terms from 29 March, but were reduced in line with other duty rates from 30 June – under s9 of the *Finance Act 2010*.

81 *Budget 2010* HC 61 June 2010 paras 2.95

5. The Coalition Government's initial approach (2010-2012)

5.1 The Government's review of alcohol taxation

A review of the taxation and pricing of alcohol was mentioned in the Coalition Government's agreement,[82] and was launched at the time of the June 2010 Budget report – though no formal consultation document was published. The Budget report confirmed that there would be "no increases in the rate of duty on beer, wine or spirits at this Budget, but the Government will continue with the plans it inherited to increase the rates by 2 per cent above inflation each year to 2014/15."[83] In general the pub sector welcomed the absence of any further duty rises, though there were concerns about the impact on pubs from the rise in the standard rate of VAT set for 4 January 2011 – the most significant tax increase announced by Mr Osborne.[84]

On 30 November 2010 Treasury Minister Justine Greening announced that following the department's review, the Government planned two changes to the structure of beer duty – to encourage production and consumption of lower-strength beers - and that draft legislation would be published in the next few days:

> **The Economic Secretary to the Treasury (Justine Greening):** I am today publishing further information about potential tax measures following the review of alcohol taxation, I am making this update available on the HM Treasury website and a copy has been placed in the Libraries of both Houses. These measures are part of the wider Government action to tackle problem drinking due to be announced this week by the Secretary of State for Health and the Secretary of State for the Home Department.
>
> The Government recognise that in some areas taxation can have a role in helping to address the harms associated with problem drinking. For example, a change to the definition of cider has already been made resulting in increased duty on cheap, strong ciders strongly associated with public health concerns.[85] To complement this change, the Government intend to introduce a new additional duty on beers over 7.5% abv (alcohol by volume) in strength. This will help to address the consumption of cheap, "super strength" lagers that are also associated with high, and dangerous, levels of alcohol consumption. Changes will also be made to introduce a reduced rate of duty on beers produced at an alcoholic strength of 2.8% abv or below. This measure will help encourage the production and consumption of lower-strength beers and give responsible drinkers additional choice.
>
> These measures will continue to be developed with a final announcement made at Budget 2011. Draft Finance Bill clauses

82 HMG, *The Coalition: our programme for government*, May 2010 p13
83 *Budget 2010*, HC 61, June 2010 para 2.96; para 1.120
84 "Brewers escape expected hammering but have to swallow sales tax increase", *Financial Times*, 23 June 2010
85 [under the *Alcoholic Liquor Duties (Definition of Cider) Order 2010* SI 2010/1914. This was debated by the First Delegated Legislation Committee on 25 October 2010.]

> will be published alongside other Finance Bill measures on 9 December 2011 as announced recently by the Exchequer Secretary to the Treasury, Official Report, 9 November, column 10WS.
>
> There are no further changes to the structure of the duty on alcohol as a result of this review. Decisions about duty rates remain a matter for the Chancellor at the Budget. The Treasury will continue to engage with industry and other interested groups ahead of the Budget.[86]

The British Beer & Pub Association were critical of the decision to introduce a new higher rate on beer only, while Alcohol Concern supported the change, but suggested its impact would be relatively small.[87]

The Government's case for having a new higher rate on beer was set out in more detail in the review document accompanying the Minister's statement – which argued that consumption habits made it sensible to focus on this particular product:

> A number of health and homelessness groups raised particular concerns about high-strength beers. These products are used as cheap sources of alcohol and are often associated with alcoholism. Some of these products, especially "super-strength" lagers, contain more than the Chief Medical Officer's recommended daily alcohol consumption[88] in a single can. This makes it difficult for these products to be consumed in a responsible fashion. They are consumed disproportionately by men, and by those in lower socio-economic groups. A submission from a homelessness charity stated that a number of the homeless men and women that they work with are specifically addicted to super-strength lagers, which cause significant health issues.
>
> The Government intends to introduce a new additional tax on high-strength beers over 7.5% abv to help reduce the consumption of these products and ultimately reduce health harms. Classifying beers over 7.5% abv as high-strength is comparable to the current cider duty regime where ciders over 7.5% abv pay duty as "strong ciders".

It went on to suggest that although there were relatively few low-strength beers on the market, a new lower duty rate would encourage their production:

> Under the EU structures Directive, the UK Government is able to implement reduced rates on low-strength beers. There are currently few low-strength beers produced although some examples do exist and some have been produced specifically as part of a campaign to champion a reduced rate of duty for low-strength beers.[89] Some brewers suggested that the range of products available had been limited due to the higher unit costs of producing and retailing lower strength products. These additional costs could include development costs but also higher ongoing production costs.

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86 HC Deb 30 November 2010 cc65-66WS

87 "Super-strength beers face higher tax rate to cut binge drinking", *Financial Times*, 1 December 2010

88 CMOs recommend adults do not regularly exceed: Men: 3-4 units daily; Women: 2-3 units daily.

89 2009 Great British Beer Festival as part of a CAMRA campaign.

> The Government intends to introduce a new reduced rate of duty for beers at or below 2.8% abv to encourage the production and consumption of lower strength products. This reduced rate will be introduced alongside the new tax on high-strength beers in a broadly revenue neutral way.[90]

As noted in the preceding discussion of the All Party Group's proposal for a differential rate on pub sales, the duty regime in the UK and other Member States is subject to certain restrictions in EU law, which establishes EU-wide parameters for the structure of duties on alcohol and the minimum rates that can be applied (under the 'structures' and 'rates' directives, 92/83/EEC & 92/84/EEC). One consequence of this is that it would not be possible for breweries claiming small breweries relief to apply a further duty reduction on low strength beers: "Small Breweries Relief in its current form cannot be applied to beer produced at or below 2.8% abv in addition to the introduction of a new reduced rate. This is due to [article 4] … of the 'structures' Directive which does not allow for the total rate of relief for small breweries to exceed 50 per cent of the standard beer rate."[91]

Draft provisions for the *Finance Bill 2011* were published on 9 December – and this included provisions for the new duties on high and low strength beers. In a change in practice, the Treasury published 'information and impact notes' to accompany this draft legislation, and in the note covering the new beer duties, the department gave details of the scope of the new rates, while confirming that "the exact date of implementation and applicable rates of duty will be announced following further discussions with the industry":

> Legislation will be introduced in Finance Bill 2011 providing for a new duty on beers exceeding 7.5 per cent abv that are produced in or imported into the UK. The new duty is to be levied in addition to the existing general duty on beer. The legislation will also change the taxation of low strength beers by introducing a reduced rate of general beer duty at or below 2.8 per cent abv.[92]

It was anticipated that this measure would have a small or negligible impact on tax receipts, though its impact at an individual level will be quite focused, as the majority of those individuals who consume high strength beers are men over 35 from lower socio-economic groups.[93] In its review, the Government did not make any announcement about the level of taxation on beer, and alcohol generally, though it noted that there was little consensus on the level of the tax burden, or how it influenced problem drinking:

> A number of groups, particularly health groups, argue that there should be substantial increases in duty rates to combat problem drinking. However, industry and consumer groups (e.g. CAMRA) argue that levels of taxation should be frozen or even reduced to support businesses and employment.
>
> There is consistent evidence that, in aggregate, consumers respond to changes in the price of alcohol and an increase in price

90 HM Treasury, *Review of alcohol taxation*, November 2010 paras 4.2-4.5, 4.10-4.12
91 *Review of alcohol taxation*, November 2010 para 4.16
92 HMT, *Overview of draft legislation for Finance Bill 2011*, December 2010 p107
93 *Overview of draft legislation for Finance Bill 2011*, December 2010 p108

> will lead to lower average consumption. Several health and social groups believe that low prices play a role in encouraging excess consumption, and that tax could help to address this. However, drawing out the links between price and alcohol-related harm is not as straightforward. Despite a decline in overall alcohol consumption since 2004, alcohol-related hospital admissions have increased year to year. Some evidence provided to the review suggested that some heavy drinkers might not be as price sensitive as other groups but respondents also stated that price changes could be effective in terms of reducing total consumption. The evidence about the effect of price on young drinkers was very mixed, with some groups suggesting that price would not be an effective deterrent to drinking for this group.[94]

The review acknowledged that there were significant differences in the amount of tax charged on different drinks by reference to their alcohol content – but noted that equalising duty would be a very major change, penalising responsible drinkers with little guarantee of reducing the scale of problem drinking:

> Moving towards a duty system of this nature would require significant changes to the existing rates and structure. For example, if rates of duty were to be aligned with those of spirits, it would require increasing the rates of duty on cider by as much as 250 per cent and those on beer by around 40 per cent. These substantial changes would significantly penalise responsible drinkers.
>
> It is also unclear that such a change of structure of taxation would help the Government achieve its wider aims of reducing problem drinking. Respondents generally accepted that consumers respond to price signals and not to the amount of tax charged on a product: [As one respondent argued] "Consumers do not look at duty rates when making product choices – most would not even be aware of tax rates on different products." [95]

In November 2011 the Institute for Fiscal Studies published a paper on alcohol taxation and pricing, in which it suggested that there was insufficient evidence to support the way in which the current duty system discriminated between different categories of drink:

> One obvious question [for alcohol taxation] is whether different types of alcohol should be taxed to different extents … [The current variation in duty rates on different categories, and alcoholic strengths] may be justified if, say, the marginal external costs associated with spirits intake are higher than those associated with beer, wine or cider. It may be that consumption of spirits, a relatively undiluted form of alcohol, is associated with harmful 'binge' drinking more than consumption of other alcohol types. More generally, the optimal tax rates on different types of alcohol will depend on how responsive demand is to prices and the extent to which different type of alcohol are complementary to leisure (since taxing goods which are complementary to leisure may improve work incentives).
>
> In US studies, Saffer and Chaloupka (1994), ignoring the complementarity to leisure, argue that if anything taxes on beer should be higher than those on spirits but conclude that given the uncertainties involved in their estimates, a position of neutrality in

94 *Review of alcohol taxation*, November 2010 paras 2.2-2.4
95 *Review of alcohol taxation*, November 2010 paras 3.20-2.21

> which all alcohols were taxed at the same rate (per alcohol unit) was a sensible approach.[96] Parry et al (2009) argue that once the relationship between alcohol and leisure is taken into account a case can be made to tax beer more heavily than wine and in turn tax both more heavily than spirits.[97] This is the reverse of the current UK duty structure.
>
> The economic evidence suggests that the current structure of alcohol excise taxes is probably not optimal. As a starting point, it would seem desirable to treat different types of alcohol in the same way in the tax system, which would point to relatively large increases in cider taxes and ideally a restructuring of alcohol taxation so that all drinks could be taxed on the basis of their alcohol content rather than just spirits and beers.
>
> This would obviously require legislative change at the EU level as well as the UK level. Deviating from this neutral position should be motivated by strong evidence that certain types of alcohol are associated with higher marginal external costs than others, and more research on this for the UK would be useful for good policy making.[98]

5.2 Application of the duty escalator (2011-12)

In the weeks before the 2011 Budget, the pub sector continued to argue that the duty escalator should be removed from beer[99] – and an EDM supporting this move was signed by 132 Members.[100] However, in this Budget speech on 23 March the Chancellor, George Osborne, confirmed that duty rates would rise by 2 per cent above the Retail Prices Index (RPI) on 28 March:

> We have already announced plans to increase duty on the strongest beers and cut in half the duty paid on low-alcohol beers. Beyond that, I can tell the House I have no further changes to announce to the rates of alcohol duty put in place by the previous Government. As usual, these changes will come in at midnight on Sunday.[101]

The Budget report explained that this would "add 4 pence to the price of a pint of beer, 15 pence to the price of a bottle of wine, and 54 pence to the price of a bottle of spirits."[102]

Reaction to the Budget focused on the Chancellor's decision to cut road fuel duties, funded by a supplementary charge on North Sea oil & gas production, and his announcement that the personal allowance would rise by £1,000 in 2011/12 and a further £630 in 2012/13. By comparison there was relatively little surprise expressed over the rise in

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96 Saffer, H. and F. Chaloupka (1994), 'Alcohol tax equalization and social costs', *Eastern Economic Journal*, 20 (1), 33–43.

97 Parry, I. W. H, S. E. West and R. Laxminarayan (2009), 'Fiscal and externality rationales for alcohol policies', *The B.E. Journal of Economic Analysis and Policy Contributions*, 9 (1), Article 29

98 Andrew Leicester, *Alcohol pricing and taxation policies: IFS Briefing Note BN124*, November 2011 pp11-12

99 BBPA press release, *New report shows the vital role of beer and pubs in every local area in Britain*, 14 March 2011

100 EDM 1475 of 2010-12, 17 February 2011

101 HC Deb 23 March 2011 c964

102 HC 836 March 2011 para 2.120

alcohol duties, though the British Beer and Pub Association (BBPA) suggested this would cut 10,000 jobs in the pub sector.[103] In this context it is worth noting that in a PQ just before the Budget, the Government cited research by HM Revenue & Customs which indicated that beer sales in pubs were *less* price sensitive than off-license sales:

> **Andrew Rosindell:** To ask the Chancellor of the Exchequer what assessment he has made of the effect of recent trends in the level of beer duty on the consumption of beer (a) in public houses and (b) in general in the UK.
>
> **Justine Greening:** HMRC has conducted some research into the impact of price changes on alcohol consumption. From changes in duty rates the effect on prices can be estimated and, from this, the change in consumption. HMRC estimate that a 1% increase in prices results in a 0.77% decrease in the consumption of beer in on-licensed premises such as public houses and restaurants.
>
> HMRC also estimates that a 1% increase in prices results in a 1.11% reduction in sales in the off-licensed trade. These results are published in the technical paper:
>
> http://www.hmrc.gov.uk/research/alcohol-consumption-uk.pdf[104]

The BBPA were also critical of the new higher rate of duty on super-strength beer, though it welcomed the lower rate for beers of a low alcohol count:

> The Government does deserve credit for the 50 per cent reduced rate for beers below 2.8 per cent abv. It will act as a spur to innovation in what is a vital UK industry, and over time, should help nudge consumers towards lower-strength drinks. The next step is to move towards a zero rate and, as importantly, for the Government to support a change in European law to increase the 2.8 per cent abv threshold to which reduced rates can be applied.
>
> When it comes to the new rate on higher strength beers, this high rate means that vintage ales and speciality beers are now taxed considerably more than 13 per cent abv imported wines. While we support the Government's intention to encourage consumers towards lower-strength products, it is inconsistent policy-making to apply additional taxes solely to stronger beers whilst ignoring stronger wines and spirits. These beers account for less than half a per cent of total alcohol sales.[105]

The *Times* reported similar scepticism from medical campaigners, who had described the new higher rate "as 'window dressing' since the super-strength sector accounts for less than 1% of the beer market."[106]

Alongside the Budget report the Government published a series of impact notes, giving more detail on the purpose and anticipated impact of all of its tax changes. There was no note on the duty rate escalator - generally this type of impact note will not be published to accompany a routine legislative change[107] - though there was an updated note on the

103 "Tweaks to duty hit smokers of cheaper brands", *Financial Times*, 24 March 2011
104 HC Deb 21 March 2011 c829W
105 BBPA press release, *Beer tax hike a hammer blow*, 23 March 2011
106 "Sobering tax rise for strong beer and cheap cigarettes", *Times*, 24 March 2011
107 Eg, a change that gives effect to previously announced policy, such as routine changes to rates, appointed day orders, secondary legislation enacting Double Taxation treaties, or secondary legislation not laid before Parliament. (HMT/HMRC, *Overview of Tax Legislation and Rates*, 23 March 2011 – Annex A).

new structure for low/super-strength beers. This gave details of the duty differential to be applied to these drinks, compared with the standard rate of duty on beer:

> Legislation will be introduced in Finance Bill 2011 to provide for a new duty on beer exceeding 7.5 per cent abv that is produced in or imported into the UK. This new duty will be known as High Strength Beer Duty (HSBD) and is to be levied in addition to the existing general beer duty. The rate of duty for HSBD will be 25 per cent of the general beer duty rate at the time of introduction. The impact of this change on retail prices is equivalent to 25 pence on a 500ml can of beer at 9 per cent abv.
>
> The legislation will also change the taxation of lower strength beer by introducing a reduced rate of general beer duty for lower strength beer, that is beer exceeding 1.2 per cent abv and not exceeding 2.8 per cent abv. The new reduced rate of general beer duty for lower strength beer will be equivalent to 50 per cent of the general beer duty rate at the time of introduction. The impact of this change on retail prices is equivalent to a reduction of 18 pence on a pint of beer at 2.8 per cent abv.[108]

The duty relief for small breweries would not be affected by these new rates, and beer brewed for home consumption would remain duty-exempt. The new rates would come into effect from 1 October 2011. The department estimates that the revenue impact of these changes will be negligible as "increased revenues from the new high-strength beer duty roughly offsets the costs of the new reduced rate on lower strength beers."[109]

At this time several Members raised concerns about the impact of the duty escalator on the pub sector, in the Budget debates,[110] and in PQs:

> **Andrew Griffiths:** To ask the Chancellor of the Exchequer if he will assess the effects of freezing beer duty on the level of (a) unemployment and (b) revenue to the Exchequer.
>
> **Justine Greening:** Estimates can be made from the direct effects of illustrative changes table published by HMRC … This shows that every 1% increase on duty is worth around £25 million. Economic effects, such as employment are considered on the whole package of Budget measures by the Office of Budget Responsibility (OBR). Individual measures are not considered in isolation. However, as set out in its latest 'Economic and fiscal outlook', the OBR expects total employment to rise by 900,000 between 2010 and 2015.[111]

The Government was also asked about the scope of the new lower-strength rate, and whether it might be extended:

> **Mr Robin Walker:** To ask the Chancellor of the Exchequer if he will estimate (a) the cost to the public purse of reducing duty on beers and ciders with an ABV of less than 2.5% and (b) the fiscal effects of extending this reduction to beers and ciders with an ABV of up to 4%.

108 HMRC, *Duty on high and lower strength beers (TIIN6875),* March 2010
109 *ibid.*
110 For example, Marcus Jones MP (HC Deb 23 March 2011 c1041), Andrew Griffiths MP (HC Deb 29 March 2011 c c211-2), and Richard Drax MP (HC Deb 29 March 2011 c251).
111 HC Deb 28 March 2011 c34W

> **Justine Greening:** The share of the beer and cider market below 2.5% ABV is less than 1% of total. As such the impact of reducing the rates on these products would be small, even if the reduction was large. Reducing duty on beer and cider up to 4% would have a much larger effect as the market share is much greater. However, under EU directive 92/83, it is not possible to apply a reduced rate to beers above 2.8% AVC. The UK hopes to achieve an increase in this threshold through current discussions on potential changes to the directive.[112]

Provisions in the *Finance Bill 2011* to provide for the rise in duty rates, and the new rates for low and high strength beers, were debated at the Bill's Committee stage on 12 & 17 May 2011.[113] Speaking for the Opposition Kerry McCarthy MP expressed support both for "the general principle of using alcohol duty as a revenue raiser" and "the continuation of the duty escalator" but raised questions about the numbers of low-strength beers that would qualify for the reduced rate, and why the new rate would come in from 1 October 2011.[114] In response Treasury Minister Justine Greening argued that setting duty rates was just one part of the Government's approach to problem drinking; the Minister suggested that the new lower rate should encourage the development of this sector of the beer market, and explained why it would be introduced later in the year:

> The clause introduces a new reduced rate at 50% of general beer duty for beers at or below 2.8% ABV. We will continue not to charge duty on beers at or below 1.2% ABV. That will reduce the price of a pint of lower-strength beer by between 12p and 18p. It will provide an incentive for brewers to develop and retail new lower-strength products … [The market for these beers] is relatively small at the moment. There are a few limited brands that brewers are putting on the market. As important as price is, taste is important, too. Many companies are now working to produce low-strength beers that have the taste that consumers want …
>
> The date of 1 October 2011 was chosen for three main reasons. First, HMRC needs to make changes to its systems, so as to collect the new duty and to apply the reduced rates. Without the changes, collection of the duty would have been burdensome for businesses and for HMRC, imposing unnecessary costs … Secondly, the level of the reduced rate was only announced in the 2011 Budget and, consistent with our aim of better tax policy making, we decided that eight days was simply not sufficient time for businesses to adapt their accounting systems to a structural change in the duty regime. Thirdly, the longer lead-in time will allow all brewers to develop a product that will benefit from the favourable rate of duty—we hope to see that take place.[115]

Ms McCarthy noted the industry's criticism of the new higher rate on high-strength beers, and suggested that it might have little impact on behaviour:

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112 HC Deb 28 March 2011 c34W

113 Public Bill Committee (*Finance (No 3) Bill 2011*) 12 & 17 May 2011 cc141-167. The clauses were agreed unamended without a division. They now form ss13-15 of the *Finance Act 2011*. Consequential amendments to the regulations governing the production of duty were made by Order (SI 2011/1795).

114 PBC 12 May 2011 cc 142-3, c147

115 PBC 12 May 2011 c153, cc154-5

> The duty will affect not only super-strength lagers, but premium high-strength beers that are already relatively expensive, but tend to be consumed responsibly … On the one hand, the industry producing premium beers is concerned that the measures would have a negative impact on it. On the other hand, people concerned about binge drinking and the consumption of high-strength beers say that they will not have an impact on behaviour, so why is the high-strength beer market being singled out?[116]

In response to these concerns Ms Greening argued that this was a "measured approach to tackling problem drinking", noting that the two new rates, taken together, would not raise extra funds for the Exchequer:

> From 1 October 2011, the new duty will be applied at a rate of 25% of standard beer duty, which will add 25p to the price of a can of 9% ABV super-strength lager. That is a 16% increase based upon current prices. Some members of the Committee implied that that is an attack, as it were, on beer. I do not think it is. It is a measured approached to tackling problem drinking …
>
> The vast majority of beers are between 3.5% and 5% ABV in strength. This duty will impact on less than 1% of the beer market … and more than three quarters of the beers affected are the so-called super-strength lagers. We can see that such a measure will have a disproportionate impact on tackling problem drinking, because the change in taxation will make it less attractive for producers to make such strong products. Some may choose to reduce the strength of their products or even choose to withdraw from this part of the market. Increases in prices will also make the products less affordable for consumers. Health and homelessness groups continually argue that affordability is one of the key drivers of demand for alcohol, particularly for those drinking at harmful levels …
>
> Clauses 14 and 15 broadly even out as revenue-neutral … The new duty will raise a small amount of tax revenue for the Treasury. That will be used and is being used to fund the reduced rate of duty for lower-strength beers.[117]

Over the next months concerns about the impact on the pub trade from the Government's approach to setting excise duty continued to be raised. In February 2012 Andrew Griffiths MP put down an EDM, calling for the escalator to be suspended, which 121 Members signed.[118] An 'e petition' supporting this change was signed by over 100,000 people.[119] However, in his Budget speech in March 2012 the Chancellor simply noted that "the Government will shortly be publishing its Alcohol Strategy", adding, "but today I have no further changes to make to the duty rates set out by my predecessor."[120] The Budget report noted that, "as announced at Budget 2008, and extended in the March Budget 2010, alcohol duty rates will increase by

116 PBC 17 May 2011 c161, c163
117 PBC 17 May 2011 cc165-6, c167
118 EDM 2785 of 2010-12, 28 February 2012. 159 Members signed a similar EDM put down in November 2012 (EDM 703 of 2012/13, 8 November 2012).
119 HM Government, *E-petitions: Stop the beer duty escalator*, closed February 2013
120 HC Deb 21 March 2012 c803

2 per cent above the RPI. These changes will come into effect from 26 March 2012."[121]

Provision to increase duty rates was made in the Finance Bill, and was the subject of a short debate in Committee on 19 June 2012. On this occasion Grahame Morris MP argued that the Government should review the impact of the duty regime on the pub trade, prior to any future duty increases. However, Treasury Minister Chloe Smith opposed this on the grounds that the Government had published its review of alcohol taxation relatively recently.[122]

A few weeks later the impact of the duty escalator was the subject of an adjournment debate on 2 July when Gavin Williamson suggested that "the simple reality is that beer duty is getting to the point where it is too high and it is pricing people out of the market." In response, the Minister, Miss Smith, argued that the level of duty could not be seen to be the principal cause of pub closures and that cancelling the proposed rise in duties was not an attractive option, given the pressure at present on the public finances. She went on to note that the Government's plans to introduce a form of minimum unit pricing on alcohol could well have a positive impact, not just on public health, but also on the state of the pub sector:

> We have all, I am sure, been in good pubs and terrible pubs, and the price of the beer is not the only factor involved. On the price of a beer, I point out that the pre-announced alcohol duty increases in question added only 3p to a pint of average-strength beer, including VAT. The total duty on a pint of beer is now 47p. I think that hon. Members will agree that, especially as alcohol consumption does, after all, carry its own costs and concerns, that addition in the Budget this year is not an overwhelming or unreasonable amount. It is something that we can consider in the context of the public finances and the challenges relating to them that have to be met...
>
> The decline in the beer and pub industry that some talk of is influenced by a number of factors. Lifestyles are changing. People's choices when they walk into pubs and other establishments are changing. People have more choice about whether they go to a pub or somewhere else. Removing the escalator, which is what has been asked for tonight, and the pre-announced duty increases would not solve those problems. There is very much a wider context ...
>
> CAMRA's figures show that the net rate of pub closures has slowed dramatically over the past two years. I believe the BBPA's figures support this. I support pubs as places where people can drink sensibly in a supervised environment and enjoy themselves responsibly. I want to reverse the trend towards pre-loading on cheap alcohol at home … In my view, minimum unit pricing will help tackle the issue of excessive alcohol consumption and heavily discounted alcohol sold in supermarkets and off-licences. I strongly believe that that will benefit pubs and the responsible on-

[121] *Budget 2012* HC 1853 March 2012 par 2.135. The report notes that *future* duty increases set for 2013/14 and 2014/15, will raise £125m and £250m in these years (Table 2.2 – item bf). The duty escalator is forecast to increase beer duty receipts by £35m and £70m in these years (HC Deb 29 January 2013 c772).

[122] Public Bill Committee (Finance Bill), 19 June 2012 cc521-9

> trade once we can tackle the demand for cheap alcohol in supermarkets.[123]

On 1 November 2012 the House debated the impact of the duty escalator. Opening the debate Andrew Griffiths said, "the reality is that most pubs get 65% of their income from the sale of beer. That is why beer duty—rather than duty on wine, spirits, cider or anything else—is so important. Publicans, those small businesses in all our constituencies, rely on selling beer, and the 45% increase in duty that we have seen is simply unsustainable."[124] On this occasion Cathy Jamieson said that the Opposition supported the call for a formal review of the escalator, in part because of the impact of the increase in the standard rate of VAT, announced in the Coalition Government's first Budget:

> The extension to the beer duty escalator was introduced when VAT was 17.5%. The rise in VAT was equivalent to a 12% increase in duty, and in 2011, the coalition Government's first full year, there was the biggest ever pence per pint annual increase in the beer tax. A couple of hon. Members have mentioned that the VAT rise increased the price of a pint in a pub by some 5p but the price of a can of beer in a supermarket by less than 2p. It has hit pubs harder than supermarkets, and it risks hitting the pub trade harder than the duty increases have.[125]

In response the Economic Secretary, Sajid Javid, did not announce a change in the Government's approach, though he assured Members that he was in "listening mode":

> The sad truth is that pubs have been closing for many years, and that decline has been influenced by many factors, not just alcohol duty. Lifestyles and consumer tastes are changing and individuals have increased choice in their leisure activities. Those things have an impact, and those factors—not just alcohol duty— determine the size of the pub sector. The number of pubs continued to decline in the early 2000s, despite relatively flat alcohol duties in real terms …
>
> I assure all hon. Members who have contributed to the debate that I have been in listening mode. This debate has been valuable and showed just how important debates tabled by the Backbench Business Committee can be. I will take on board a lot of messages from the debate, and ensure that the Government do even more to help the pubs and the brewing industry.[126]

The House debated the issue a second time on 5 March 2013. On this occasion the Minister suggested that "the decline if the nation's beer consumption predates the increases in duty and is a reflection of how consumer tastes have changed", though he went on to note a number of policies that will have benefited pubs:

> For example, the drop in the small profits rate from 21% to 20% in April 2011 has supported thousands of small businesses such as pubs. About a fifth of pubs currently receive a reduction in the business rates they pay. Small pubs can also benefit from small

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123 HC Deb 2 July 2012 c730, cc733-4
124 HC Deb 1 November 2012 c402
125 *op.cit.* c437
126 *op.cit.* cc439-441

business rates relief or rural rates relief, and the Government have extended the small business rates relief holiday until March 2014.

The majority of pubs have also benefited from the reform of gaming machine taxation introduced on 1 February, and they have the opportunity to benefit from the Live Music Act 2012, which came into force last October, making it much easier for pubs to put on live music events. On top of that, in January the Government announced plans for a statutory code alongside the independent adjudicator to ensure fair practice between large pub companies and their tenants on issues such as rent and the price publicans pay for their beer. The Government will be consulting on those plans shortly, and I hope that Members present will make pubs and publicans in their communities aware of the proposals.[127]

[127] HC Deb 5 March 2013 c198-9WH

6. Cancellation of the duty escalator (2013-15)

6.1 Budget 2013

In his Budget speech on 20 March 2013 the Chancellor, George Osborne, announced that while duty rates on other drink categories would go up by 2 per cent above RPI, the duty escalator on beer would be cancelled, and the duty rate would be cut by 1p per pint:

> We are looking at plans to stop the biggest discounts of cheap alcohol at retailers, but responsible drinkers in our pubs should not pay the price for the problems caused by others. The sad fact is that we have lost 10,000 pubs in the UK over the past decade. Many hon. Members, such as my hon. Friend the Member for Bristol North West (Charlotte Leslie), have raised their concerns with me, and my hon. Friend the Member for Burton (Andrew Griffiths) in particular has been a committed champion of the famous brewing industry that employs many of his constituents.
>
> I intend to maintain the planned rise for all alcohol duties, with the exception of beer. We will now scrap the beer duty escalator altogether, and instead of the 3p rise in beer duty tax planned for this year by the previous Government I am cancelling it altogether.
>
> That is the freeze people have been campaigning for, but I am going to go one step further and cut beer duty by 1p. We are taking a penny off the pint. The cut will take effect this Sunday night and I expect it to be passed on in full to customers. All other duties will remain as previously announced.[128]

The Budget report gave more details of this decision, and the Government's ongoing review of alcohol pricing:

> The Government is committed to supporting communities as well as individual households. The Government has already taken action to support community pubs through the reduction in both the small profits rate and the corporation tax rate, and regulatory changes to make it easier for pubs to play live music.
>
> To provide further support to community pubs, **Budget 2013 announces that general beer duty will be reduced by 2 per cent from 25 March 2013. The Government will then cancel the escalator for beer duty next year and instead increase it by inflation thereafter.** Tax on average strength beer will be 1 penny lower after Budget 2013, saving beer drinkers 4 pence a pint in 2013-14 compared to the previous government's plans.
>
> Duty on high and low strength beer will also be adjusted to reduce the tax on a typical product by 1 penny a pint from 25 March 2013. The Government will shortly respond to its alcohol consultation, including with proposals to deal with deeply-discounted alcohol in supermarkets and other stores.[129]

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[128] HC Deb 20 March 2013 c943

[129] *Budget 2013*, HC 1033, March 2013 para 1.176-7. The standard rate of beer duty was cut from £19.51 per hectolitre per cent of alcohol, to £19.12.

Following the Budget, in July the Government announced that from May 2014 sales of alcohol by licensed premises in England & Wales would be banned if priced below the level of duty and VAT.[130]

The cut in beer duty, and the decision to uprate it only in line with inflation, was estimated to cost £170m in 2013/14, rising to £215m in 2014/15. By comparison the Chancellor's decision to cancel an inflation-only rise in fuel duty set for September 2013 was estimated to cost £810m in 2014/15.[131] The announcement was welcomed by the pub sector,[132] though distillers and suppliers of other drink categories were critical that only beer duty had been cut.[133] In the Budget debates following the Chancellor's statement, many Members welcomed the announcement.[134]

In terms of the public finances, the sums of money involved are quite minor, though in the IFS' post-Budget briefing, director Paul Johnson suggested that "a more imaginative response to the problem of excess drinking, which the Government does seem to acknowledge, might have been welcome":

> There is plenty of scope to rationalise the system of excise duties on alcohol so as to target heavy drinkers – who tend to drink higher strength and less highly taxed forms of alcohol. Reforms could be designed which would have a more direct effect on problem drinking than would a minimum price and which would raise revenue for the Exchequer – rather than provide a windfall for the drinks industry which is what a minimum price would achieve.[135]

Following the Budget there were some concerns that the Chancellor's decision to raise duty on wine, while cutting duty on beer, might be contrary to EU law.[136] This question related not to the EU directives, mentioned above, setting minimum duty rates across the EU, but to the general provision in the EU Treaty to prohibit national taxation that discriminates against goods imported from other Member States. In 1983 the European Court of Justice found the existing structure of alcohol duty rates in the UK was in contravention of this provision.[137] Article 95(2) of the Treaty, as it was, states "no Member States shall

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130 HC Deb 17 July 2013 cc1113-4

131 *Budget 2013*, HC 1033, March 2013 p65 (Table 2.1 – item 44, item 43). Estimates of the impact of the 1p duty rate cut on the consumption of beer, as well as wine and spirits, were given in answers to PQs at this time (HC Deb 25 April 2013 cc1143-4W; HC Deb 10 June 2013 cc31-2W).

132 BBPA press notice, *Budget 2013 – Brilliant news as brewers and pubs celebrating an unprecedented beer duty cut*, 20 March 2013; "Cheers George! Pubs raise their glasses as Chancellor takes 4p off price of a pint", *Times*, 21 March 2013; "'Duty done' by beer but no cheer for wines and spirits", *Guardian*, 21 March 2013

133 "Osborne's measures bring cheer to beer but damp the spirits", *Financial Times*, 21 March 2013

134 For example, Stephen Williams (HC Deb 20 March 2013 c973), David Lammy (c981), James Clappison (c989), Gavin Williamson (cc1000-1), Emma Reynolds (c1030), & Annette Brooke (HC Deb 25 March 2103 cc1354-5).

135 Paul Johnson, *IFS Budget 2013 analysis : introductory remarks*, 21 March 2013 p8; see also, John Kay, "On the cusp of creating a shadow drinking industry", *Financial Times*, 20 March 2013

136 As raised in the Commons by Geoffrey Clifton-Brown (HC Deb 21 March 2013 c996), and in the Lords by Lord Bilimoria (HL Deb 21 March 2013 c704).

137 Case 170/78, 12 July 1983

impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products."[138]

At this time the rate of duty on wine in the UK was far higher relative to the rate of duty on beer, though in the past it had been argued that drinkers did not see the two products as interchangeable. Beer was generally drunk in pubs, whereas wine was generally drunk at home – so the UK Government had taken the position that the differential in duty rate did not distort the market for either product. By contrast, the Court found that wine at the cheaper end of the market was interchangeable with beer. As beer was mostly produced in the UK, and wine was mostly imported, the heavier tax on wine afforded indirect protection to the UK product.[139] The Court did not specify a single method to determine the relative tax burden, but discussed evidence that compared the two duty rates by reference to volume, to alcoholic strength, and to the final price of the products in question.[140] Consequently in the 1984 Budget the then Chancellor Nigel Lawson announced a cut in the rate of duty on wine, along with an increase in beer duty.[141]

In the event no legal challenge was launched, though there are two reasons to thinking any challenge would have been unsuccessful. First, although the reforms made to the structure of duties in the early 1980s aligned the taxation of the two products, there have remained substantial differences in duty rates in this country. Second, the Court has upheld the legality of national duty regimes which have taxed beer more than wine; in 2005 the Court ruled that the Swedish duty regime did not infringe the principle of non-discrimination, because the differential between the rate on beer and the rate of wine was not of a size to substantially distort final prices and, thus, provide significant protection to Swedish beer over imported wine.[142] Indeed the Government made it clear that in its view the new duty regime was compliant with the law.[143]

Provision to set duty rates for 2013-14 was made in s180 of the *Finance Act 2013*; this was debated in Public Bill Committee on 13 June 2013.[144] Speaking for the Opposition Chris Leslie welcomed the cut in beer duty, noting that, "the Opposition have long been calling for the Government to review the impact of the beer duty on the industry during these tough economic times." In his response the then Economic Secretary, Sajid Javid, touched on the question of EU law, noting, "in

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138 This provision is now contained in Article 110 of the [Treaty on the Functioning of the European Union](#).

139 In a debate on the beer escalator just before the Budget, the Economic Secretary noted, "more than 85% of the beer consumed in the UK is brewed in the UK" (HC Deb 5 March 2013 c198WH).

140 For a discussion of the case see, Weatherill & Beaumont, *EC Law*, 1993 pp 354-6

141 HC Deb 13 March 1984 c302

142 Case 167-05, 8 April 2008

143 In answer to a PQ after the Budget, the Economic Secretary said, "EU law requires duty on average strength beer and wine to be broadly similar, which following the Budget, remains the case across the UK. The average strength of wine has been increasing in recent years and per unit of alcohol the duty on wine has increased by less than the duty on beer." (HC Deb 26 March 2013 c1070W).

144 PBC, 16th sitting, cc527-42

keeping with EU law, duty on average-strength wine and beer will continue to be broadly similar. The average strength of wine has increased in recent years, so wine duty has increased by less than beer duty on a per unit of alcohol basis."[145]

The Minister also explained how the rates charged on high strength beers would be affected:

> In addition to the general beer duty rate, there are also additional beer duty rates for high and low-strength beer. In order to reduce the tax on a typical pint of low-strength beer by 1p, the duty strength on low-strength beer is being reduced by 6%. Duty on high-strength beer has two parts: general beer duty and an additional high-strength beer duty. The additional high-strength beer duty is increasing by 4.3%, which partly offsets some of the 2% reduction in general beer duty. The overall duty on high-strength beer therefore falls by 0.75%—so it is falling overall—reducing the duty on a typical pint of high-strength beer by 1p.

He was asked by Pamela Nash MP if cutting the rate was not contrary to the Government's intention in introducing the higher rate in 2011. The Minister replied:

> The overall beer duty for high-strength beer forms two parts, one component being the standard beer duty. The two things are connected. When we changed standard beer duty that had an impact on high-strength beer, but the other component we changed reduced the amount of reduction that would have taken place otherwise. To have done anything else would have unnecessarily complicated our duty regime, so we felt that our action was the appropriate course.[146]

6.2 Budget 2014

In his Budget speech on 19 March, the Chancellor announced that the rate of beer duty would be cut by another 1p; the duty escalator would be scrapped completely, and that for the coming year, duty rates on spirits and ordinary cider for the coming year would be frozen:

> We have introduced new laws to prevent alcohol from being sold below minimum tax rates, and this helps to prevent supermarkets from undercutting pubs and it helps to stop problem drinking. It is a far more targeted approach than the alcohol duty escalator, which was introduced by the previous Government and hated by so many responsible drinkers.
>
> Today, I am scrapping that escalator for all alcohol duties. They will rise with inflation, with these exceptions: Scottish whisky is a huge British success story. [Hon. Members: "Scotch whisky."] To support that industry, instead of raising duties on Scotch whisky and other spirits, I am today going to freeze them, and with some cider makers in the west country, who have been hit hard by the recent weather, I am going to help them by freezing the duty on ordinary cider too.
>
> Then there is beer. I know the industry, led so ably by my hon. Friend the Member for Burton (Andrew Griffiths), has been campaigning for a freeze, but beer duty next week will not be

[145] *op.cit.* c527, c538
[146] *op.cit.* cc541-2

> frozen; it will be cut again by 1p—pubs saved, jobs created and a penny off a pint for the second year running.[147]

The Budget report gave a little more detail on the implications of these rate decisions on prices:

> 1.187 Budget 2014 announces that the tax on a typical pint of beer will be cut by 1 penny from 24 March 2014. This will support jobs in the pub industry, and means that a pint of beer will be 8p cheaper than under the previous government's duty plans. In addition, the duty on ordinary cider will be frozen this year, and the duty escalator for wine will end, keeping the duty on wine and beer broadly similar.
>
> 1.188 To support the domestic market for the thriving Scotch whisky industry and jobs in Scotland, the Budget announces that the duty on spirits will be frozen for 2014-15. This means that a bottle of Scotch whisky will be 42p lower than under the previous government's duty plans. [148]

It was estimated that cutting beer duty and freezing cider duty would cost £110m in 2014/15, while freezing spirits duty and abolishing the escalator on wine duty would cost £175m in the same year.[149]

Press coverage of the Budget focused on reforms that Mr Osborne proposed for pensions and savings, though the drinks industry strongly welcomed these duty rate changes,[150] as did several Members speaking during the Budget debates.[151]

Provision to set duty rates for 2014-15 was made in s76 of the *Finance Act 2014*; this was debated in Public Bill Committee on 10 June.[152] Speaking for the Opposition Catherine McKinnell commented on the "vigorous campaigning by various industries and their representative organisations" for the abolition of the duty escalator, and noted that "the Opposition have long called on the Government to conduct a proper and thorough review of alcohol duties, and their impact on respective industries, especially in the light of the Coalition's 2011 decision to increase VAT." She suggested that the decision the year before to cut beer duty but not other duties had affected the Scotch whisky industry's "sales and level of employment", and asked the Minister what impact the rate cut had had "on the beer and pub trade in the UK."[153]

In response Treasury Minister Nicky Morgan said the British Beer and Pub Association had reported that "89% of its members reduced or froze their prices, 76% increased investment and 51% employed more

147 HC Deb 19 March 2014 c791
148 *Budget 2014*, HC 1104, March 2014 p50
149 *op.cit.* p57 Table 2.1 – items 29 & 30), see also, HM Treasury, *Budget 2014 Policy Costings*, March 2014 p26
150 "Drinks industry raises a glass as alcohol escalator is scrapped", *Financial Times*; "Three cheers for beer, cider and scotch", *Guardian*; "A penny off a pink and whisky on ice", *Times*; all dated 20 March 2014
151 For example, Damian Collins (HC Deb 19 March 2014 c868), Toby Perkins (c871), Richard Graham (HC Deb 20 March 2014 c1004), Mary Macleod (HC Deb 24 March 2014 c73), Bill Wiggin (c92), Andrew Griffiths (HC Deb 25 March 2014 c190). Jim Shannon was one Member who was strongly critical (HC Deb 25 March 2014 c249).
152 PBC, *Tenth sitting*, cc342-350
153 *op.cit.* cc342-3

staff" in response to the duty rate cut. She went on to set out the changes in duty rates for the different categories of beer and cider for the current year:

> The clause … cuts general beer duty by 2% to reduce the tax on an average strength pint of beer by 1p … To ensure the tax on a typical low-strength beer is also cut by 1p a pint, low-strength beer duty is being reduced by 6%. The duty on high-strength beer has two parts: general beer duty and an additional duty. The additional duty on high-strength beer increases by 3.9%, so the clause partially offsets the reduction in general beer duty, reducing the overall duty on high-strength beer by 0.75% and the tax on a typical pint of high-strength beer by 1p …
>
> The Government are keen to provide support to pubs where the focus on beer is less strong, such as food-led pubs, which tend to sell more wine and spirits than others. The clause stops the previous Government's duty escalator and limits the duty increase on most wine, made-wine and high-strength sparkling cider to RPI inflation. That keeps the duties on beer and wine broadly similar, as required by EU law. In keeping with EU legal requirements, the duty rate on wine of more than 22% alcohol by volume continues to be the same as on spirits.
>
> The clause also freezes the duty on most cider, so that a typical litre of cider is now 6p cheaper than under the previous Government's duty plans. The west country, home to many of the country's orchards, was hit hard by winter's bad weather. This change will help the cider industry. The duty rate on high-strength sparkling cider continues to be the same as equivalent strength sparkling wine, complying with EU legal requirements.[154]

On this occasion Ian Mearns asked the Minister if the Government would consider cutting the tax take on whisky more substantially. Ms Morgan replied:

> The hon. Gentleman … will not be surprised to hear that that point has been made to me, in debates in this place and when I have journeyed to Scotland. The point is that this year's duty freeze sends a clear signal about our support for the industry. More can always be done on any change made by any Government in any Budget announcement, and there will always be people who ask for more, but we took a decision this year on what was manageable within the economic constraints left to us as we sort out the economic situation of this country.[155]

The Committee proceeded to approve the clause without a vote.

6.3 Budget 2015

On 18 March 2015 George Osborne presented the Coalition Government's last Budget, just prior to the 2015 General Election. In the weeks before the Budget, several Members made the case for a third cut in beer duty, in debates or EDMs,[156] as well as for a cut in the

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[154] *op.cit.* cc347-8
[155] *op.cit.* cc349
[156] For example, Andrew Griffiths in an adjournment debate in February that year (HC Deb 5 February 2015 cc525-532). An Early Day Motions tabled by Mr Griffiths supporting a further rate cut was signed by 122 Members (EDM 625 of 2014-15, 15 December 2014)

duty on whisky.[157] Of related interest, in February 2015 the Government announced that, as part of its strategy to support community pubs, it would remove permitted development rights (for change of use and demolition) for pubs which are listed as an asset of community value.[158]

In his Budget statement Mr Osborne announced a further cut in beer duty, as well as cuts in the duty rates on both cider & spirits duties:

> Last year, thanks to the persistent campaigning of my hon. Friends the Members for Burton (Andrew Griffiths) and for Keighley (Kris Hopkins), I cut beer duty for the second year in a row, and the industry estimates that that helped to create 16,000 jobs. Today I am cutting beer duty for the third year in a row—taking another penny off a pint.
>
> I am also cutting cider duty by 2% to support our producers in the west country and elsewhere. To back one of the UK's biggest exports, the duty on Scotch whisky and other spirits will be cut by 2% as well. Wine duty will be frozen. That will mean more pubs saved, jobs created, families supported, and a penny off a pint for the third year in a row.[159]

The annual cost of these duty rates changes was forecast to be £80-85m (beer and cider), and £95-105m a year (spirits and wine duties).[160]

The announcement was welcomed by the industry,[161] though the timing of the dissolution prior to the Election meant that the legislation to set duty rates, as with the rest of the Finance Bill, was agreed with very little debate.[162]

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157 Alan Reid made the case for a 2% cut in the duty rate in an adjournment debate at this time (HC Deb 12 February 2015 cc1050-4).

158 This change was implemented in April 2015. For details see, *Planning: change of use*, Commons Library briefing CBP1301, 30 March 2016.

159 HC Deb 18 March 2015 c777

160 *Budget 2015* HC 1093, March 2015 p64 (Table 2.1 – items 9 & 10).

161 For example, "Budget 2015: Beer duty cut by 1p a pint for third year", *BBC News*, & "Budget winners: beer drinkers, farmers and charities count their blessings", *Guardian*, 18 March 2015.

162 Following the presentation of the Bill after the end of the Budget debates, all of its stages of the Bill were completed in one day, two days later (HC Deb 25 March 2015 cc1437-1534).

7. The Conservative Government's approach

7.1 Budget 2016

Alcohol taxation, or, more specifically, beer duty, was not a feature of the 2015 General Election,[163] and the then Chancellor, George Osborne, did not mention it in the Conservative Government's first Budget in June 2015 – although the level of government support for pubs, and the rate of duty on beer, continued to be raised in the House:

> **Q Asked by Jim Shannon (Strangford) :** To ask the Secretary of State for Business, Innovation and Skills, what recent steps he has taken to prevent pub closures.
>
> **A Answered by: Anna Soubry :** This Government is committed to supporting a fair and flourishing pubs sector. We have scrapped the beer duty escalator, and at Budget 2015 we cut beer duty for the third year in a row. Through the Community Right to Bid, we are giving communities in England a fairer chance to bid to buy and run their pub by listing it as an Asset of Community Value. We are introducing a statutory Pubs Code and an independent Adjudicator to govern the relationship between large pub-owning companies and the thousands of tenants that run tied pubs across England and Wales. These measures will help to ensure the pubs industry continues to thrive, to the benefit of all those who work hard to make the pub the mainstay of our communities.[164]
>
> *
>
> **Q Asked by Mr Barry Sheerman (Huddersfield) :** To ask Mr Chancellor of the Exchequer, what plans he has for the future level of beer duty.
>
> **A Answered by: Damian Hinds :** The government continues to keep all taxes under review and decisions on tax policy are made as part of the Budget process. The government is committed to supporting the beer industry. The tax on a typical pint of beer was cut by a penny at March Budget 2015, building on the duty cuts at Budget 2014 and Budget 2013.[165]

In January 2016 Nigel Evans tabled an EDM supporting a further cut in beer duty which 52 Members signed.[166]

Mr Osborne presented the 2016 Budget on 16 March, and as part of this, he announced that duty rates on beer, cider and spirts would all be frozen for the next year:

> I have always been clear that I want to support responsible drinkers and our nation's pubs. Five years ago we inherited tax plans that would have ruined that industry. Instead, prompted by my hon. Friend the Member for Burton (Andrew Griffiths) and others, the action we took in the last Parliament on beer duty

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[163] The tax is not mentioned in, Institute for Fiscal Studies, *Taxes and benefits: the parties' plans*, Election Briefing note, April 2015.
[164] PQ12471, 26 October 2015
[165] PQ28750, 7 March 2016
[166] EDM 919 of 2015-16, 6 January 2016

> saved hundreds of pubs and thousands of jobs. Today I back our pubs again. I am freezing beer duty, and cider duty too.
>
> Scotch whisky accounts for a fifth of all the UK's food and drink exports. So we back Scotland and back that vital industry too, with a freeze on whisky and other spirits duty this year. All other alcohol duties will rise by inflation, as planned.[167]

The Budget report provided a few more details …

> **Freezing alcohol duties**
>
> 1.87 Pubs play an important role in their local communities. The British Beer and Pub Association report that beer duty rate changes since Budget 2013 have helped support both pubs and over 19,000 jobs.[168] To continue this support, the duty rates on beer will be frozen in cash terms this year.
>
> 1.88 The Scotch whisky industry is a great British success story. Exports are worth around £4 billion a year making up around a fifth of UK food and drink exports.[169] To continue to support the Scotch whisky industry, the duty rate on spirits will be frozen this year. The duty rates on most ciders will also be frozen this year in recognition of the important role cider makers play in rural communities. Other alcohol duty rates will rise by inflation. Beer and wine duties will continue to be broadly similar.

… and estimated that these measures would cost £85m a year.[170] By comparison Mr Osborne's decision to freeze duty rates on road fuel – the sixth year in succession – was estimated to cost £440-£450m a year over the next five years.[171]

Press coverage of the Budget focused on other elements of the Budget – principally the announcement of a levy on the soft drinks industry – though it was mentioned briefly by IFS director Paul Johnson in the Institute's presentation on the Budget:

> While duty on wine rose in line with inflation yesterday, duty on beer, spirits and cider was frozen. Spirits and strong cider are the tipples of choice among the heaviest drinkers. Their preference for strong cider at least is largely down to the fact that it bears much lower tax per unit alcohol than any other drink. In a bizarre aside Mr Osborne linked freezing spirits duty to the importance of whisky exports. Duties are not paid on exports. This is rhetorical nonsense.[172]

Several Members welcomed the measure in the Budget debates following the Chancellor's statement.[173] Provision to set duty rates was made by s155 of the *Finance Act 2016*; when this was debated in Committee, Rebecca Long Bailey, for the Opposition, expressed support for the duty freeze, though she asked why the freeze had not been

167 HC Deb 16 March 2016 c965
168 British Beer and Pub Association Budget Submission, 2016.
169 HMRC analysis based on UK Trade Statistics data and DEFRA's Food Statistics Pocketbook 2015
170 *Budget 2016*, HC1093, March 2016 p31; Table 2.1 – item 55
171 *op.cit.* p86 (Table 2.1 – item 54)
172 "Paul Johnson's opening remarks", *IFS Budget briefing 2016*, 17 March 2016 p8
173 For example, Andrea Jenkyns (HC Deb 16 March 2016 cc1003-4), Helen Whately (HC Deb 17 March 2016 c1170), Nusrat Ghani (HC Deb 21 March 2016 c1331)

extended to wine. In response Treasury Minister Damian said the following:

> It was announced in the Budget that the duty on beer, spirits and most ciders would be frozen this year and that the duty on most wines and higher-strength sparkling cider would rise with inflation. With those changes, we continue to support the pub industry, which plays such an important part in British cultural life … Given that about two thirds of alcohol sold in pubs is beer, we froze duty on a typical pint of beer, following three consecutive beer duty cuts that were widely welcomed …
>
> The clause provides for duty on most wines to increase by RPI only. Under these changes, the duty on beer and wine will remain broadly similar, and the duty rate on wine above 22% ABV will continue to be the same as that for spirits …
>
> The clause also sets out that duty on high-strength sparkling cider is increased by RPI only, which means that it continues to be the same as for sparkling wine of equivalent strength. It was also announced in the Budget that the duty on all other ciders would be frozen … The freeze in cider duty supports the industry, which has high production costs and plays an important role in many local economies, particularly in some of our rural areas ...
>
> Scotch is one of the great British success stories. Its exports are estimated to be worth nearly £4 billion, and account for about 20% of total food and drink exports. The freeze in spirits duty will provide further support to the Scotch industry. It means that a 70 cl bottle of whisky is now 87p lower in price … The freeze will help elsewhere, too, including by supporting the global thirst for British gin …
>
> The changes to alcohol duty rates in the clause ensure that responsible drinkers are not penalised ... We recognise that not everyone is a responsible drinker, and we have taken a targeted approach to tackling alcohol-related harm. For example, to encourage the consumption and production of lower-strength beer, the Government place higher duties on super-strength beer and cider. Licensing rules are also in place to help to tackle irresponsible alcohol consumption. For example, local authorities can now introduce early morning restriction orders more easily.[174]

7.2 Budget 2017

As in previous years, in the weeks before the Budget, the drinks industry made the case for cuts in duty rates,[175] and several Members argued for a reduction in beer duty in a Westminster Hall debate on 7 March.[176]

However, in his Budget statement to the House on 8 March 2017, the Chancellor, Philip Hammond, announced that excise duty rates for both alcohol and tobacco would be increased in line with inflation, with effect from 13 March.[177] The Exchequer impact of this increase in alcohol duty rates is neutral. Provision to set duty rates is included in the

174 Public Bill Committee (Finance Bill), *Sixth Sitting*, 7 July 2016, cc174-6
175 BBPA, *Beer sales down in 2016 – penny off a pint in the Budget would safeguard jobs and pubs*, 23 February 2017 & WSTA press notice, *Don't punish wine and spirit drinkers with price hikes – WSTA urges Treasury*, 22 February 2017. see also, CAMRA press notice, *CAMRA calls for a penny off your pint*, 6 February 2017
176 HC Deb 7 March 2017 cc217-339WH
177 HC Deb 8 March 2017 c815

Finance Bill 2017.[178] The Budget report also announced the Government would consult on reforms to the structure of duty rates:

> **3.33 Alcohol duty rates and bands** – From 13 March 2017, the duty rates on beer, cider, wine and spirits will increase by RPI inflation, in line with previous forecasts. The government will also consult on:
>
> - introducing a new duty band for still cider just below 7.5% abv to target white ciders
> - the impacts of introducing a new duty band for still wine and made-wine between 5.5% and 8.5% abv.[179]

HMRC's tax information & impact note ('TIIN') on these changes to duty rates says a little about the impact the new rates may have on price:

> **Impact on individuals, households and families**
>
> At the current VAT rate, and assuming 100% pass through wherever alcohol is purchased, from 13 March 2017 the tax on a typical:
>
> - pint of beer will be 2 pence higher but 11 pence lower than it otherwise would have been since ending the beer duty escalator in 2013
> - pint of cider will be 1 penny higher but 3 pence lower than it otherwise would have been since ending the cider duty escalator in 2014
> - bottle of Scotch whisky will be 36 pence higher but 90 pence lower than it otherwise would have been since ending the spirits duty escalator in 2014
> - bottle of wine will be 10 pence higher but 8 pence lower than it otherwise would have been since ending the wine duty escalator in 2014.[180]

Generally there was relatively little press comment on the Chancellor's announcement, though the drinks industry was strongly critical,[181] and two Members mentioned the issue during the Budget debates after the statement. Graham Evans, chairman of the all-party group on beer, expressed disappointment in the duty increase, but went on to make the case for extending the scope of the lower duty rate on low-strength beers:

> I am somewhat disappointed about the inflationary rise in beer duty [though] the Government do have a proud track record of three reductions in beer duty, a beer duty freeze and the removal of the hated beer duty escalator. Although I welcome the introduction of duty bands to target high alcohol-by-volume white ciders to encourage responsible drinking, it is important to remember that 70% of the drinks bought in pubs are beer.
>
> The current bracket for reduced-rate beer sits at 1.2% to 2.8% ABV. However, current HMRC duty receipts demonstrate that, in

178 "Clause 65: Alcoholic liquor – duty rates", Bill 156 EN 2016/17
179 *Budget 2017*, HC 1025, March 2017 para 3.33
180 *Alcohol duty: rate changes – TIIN*, March 2017
181 BBPA press notice, *Budget 2017 – new pub specific rates relief welcome, but beer tax hike hugely damaging* & Scotch Whisky Association press notice, *Scotch Whisky industry says excise increase is a blow to a vital UK industry* & WSTA press notice, *WSTA responds to the Budget 2017*, 8 March 2017.

> the six years since the policy was introduced, such beer represents just 0.15% of the market. I know that the Minister will be aware of the cross-industry campaign to split general beer duty rate into two tiers— 2.8% to 3.5%, and 3.5% to 7.5%—and to reduce the duty rate for 3.5% ABV beers, which have much less alcohol in them than the UK average and are highly drinkable for UK consumers. I hope that we can work together on this matter over the coming month to encourage a broader selection of lower strength beers to become part of the norm in UK drinking culture.[182]

Gill Furniss also mentioned the duty rise, citing the BBPA's claim that putting up the price of beer by 2p a pint woud "result in 4,000 job losses and more pub closures."[183]

One point made by the trade is that in increasing excise duty rates by inflation, the Government uses the Retail Price Index (RPI) as its measure of inflation, not, as with direct taxes, the Consumer Price Index (CPI).[184] The continued use of RPI as an inflation measure is not uncontroversial, and it is also the case, as Paul Johnson has noted, that RPI consistently suggests that inflation is quite a bit higher than the CPI.[185]

Following the Budget the Government launched its consultation on options for reforming duty rate bands – specifically, as they apply to cider and perry, and to still wine. Two extracts from the paper are reproduced below – first on the case for a new rate band to apply to higher strength 'white' ciders …

> **A new still cider and perry band below 7.5% abv**
>
> The current still cider and perry bands are:
>
> - above 1.2% but not above 7.5% abv, with a duty rate of £40.38 per hectolitre of product
> - above 7.5% but less than 8.5% abv, with a duty rate of £61.04 per hectolitre of product
>
> Public health groups argue the main still cider band – above 1.2% to 7.5% abv – is too wide as low-strength still ciders attract the same duty as 7.5% abv still ciders. Theoretically, this can create adverse incentives to produce drinks towards the top of the band. There is no additional duty cost from increasing alcohol content in a still cider up to 7.5% abv so the duty per unit of alcohol falls as the alcohol content rises in the band.
>
> Higher strength 'white' ciders have been highlighted, by some, as a product that causes disproportionate levels of harm. These drinks have an alcohol strength around 7.5% abv, and are reportedly typically purchased as a cheap form of relatively high strength alcohol ... Public health groups report that these high strength products are closely associated with dependent, street and underage drinking primarily due to their low price …

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182 HC Deb 14 March 2017 cc257-8
183 HC Deb 14 March 2017 c276
184 WSTA press notice, *Budget Reaction – unsurprising surprises*, 14 March 2017. See also, OBR, *Economic & Fiscal Outlook*, Cm 9419, March 2017 para 3.55; HM Treasury, *Spring Budget 2017 Policy Costings*, March 2017 (Annex A).
185 Paul Johnson, *Good luck to our latest measure of inflation, it's the best of a bad bunch*, IFS 21 March 2017. See also, *E&FO*, Cm 9419, March 2017 p83 (Table 3.8: Detailed summary of the forecast).

Some argue that the duty rates for cider are too low. A typical strength cider has a relatively lower duty rate compared to other alcoholic drinks of the same/similar alcoholic strength. This is because the cider industry is an important part of the rural economy. It uses almost half of the apples grown in the UK. Any change in the main rates of cider duties will impact on a wide range of cider makers including those making lower strength drinks ..

Alternatively, the government could lower the 7.5% abv threshold for the higher strength still cider band for ciders above 7.5% up to 8.5% abv. However, lowering the 7.5% abv threshold would widen the higher strength band, meaning that there would be a greater difference in alcoholic strength between the weakest and strongest drinks captured by the band.

Current rules allow reduced rates for still ciders below 8.5% abv. Therefore, the government could introduce a new duty band below 7.5% to split the main still cider band into two. The government is minded to introduce a new still cider and perry duty band to target high strength 'white' ciders, up to 7.5% abv. All products captured by this new band would pay a higher duty rate than their current rate. Those still ciders and perries in the lowest duty band would continue to pay the current duty rate.

… and second the options for a new rate band on lower strength wine:

The impacts of a new still wine band between 5.5% and 8.5% abv

The duty on wine and made-wine, like cider, is currently banded. All wines and made-wines in a band pay the same duty. The government would support any future changes to EU rules to allow the duty on wine to rise in line with alcoholic strength. This could help encourage the production and consumption of lower strength wines. In the meantime, the government would welcome evidence on the impacts a new duty band for still wine and made-wine between 5.5% and 8.5% abv could have in encouraging innovation in the lower strength wine market and encouraging the consumption of lower strength wines …

EU law requires that there has to be a single band for wine between 8.5% and 15% abv. As the UK's main still wine and made-wine band is currently 5.5% to 15% abv, it would be possible to split the main still wine and made-wine band into two. Under this scenario, there would be new duty bands for wines and made-wines between 5.5% and 8.5% abv with a lower duty rate than currently applied.

The government has no current plans to change the duty rate on wines between 8.5% and 15% abv apart from those assumed in the public finances. This would mimic the duty structure for sparkling wine and made-wines, which has different rates depending on whether the sparkling wine is either above 5.5% up to 8.5% abv or between 8.5% and 15% abv…

It is possible that changes to the structure of the alcohol duty system could encourage innovation in the low strength wine market. Nevertheless, the government appreciates that there may be other non-tax barriers to growth for the lower strength wine market, for example wider regulations or the attitude and tastes of consumers.[186]

[186] HMT, *Alcohol structures consultation*, March 2017.

Responses are invited by 12 June.

Notably, alongside the launch of this consultation the IFS published some analysis of the social costs of drinking, making the case for varying alcohol taxes on products preferred by different groups:

> There is significant evidence that these social costs of drinking vary across people and with the total amount of alcohol a person drinks. For instance, the social cost from a heavy drinker having his tenth beer of the evening is likely to be larger than a light drinker on his first. When the social costs of drinking vary across people, the price increase induced by tax is likely to be too low for some consumers (the heavy drinkers) and too high for others (the light drinkers). This means it cannot fully correct for the social costs of alcohol …
>
> We analyse a representative sample of British households' off-trade alcohol purchases to determine the optimal structure of alcohol taxes. Heavy drinkers buy a different mix of products to lighter drinkers. For instance, heavy drinkers prefer stronger alcohol products (those with higher ABV). In part, this is due to the fact that heavy drinkers get a relatively high share of their ethanol from spirits and less from cider and beer, but also because they prefer stronger products within each of these broad segments of the market.
>
> We also show that heavier drinkers respond differently to price changes, compared with lighter drinkers. Following an increase in the price of an alcohol product, the heaviest drinkers are more than three times as likely to switch to another alcohol product, rather than to not buying alcohol at all, than the lightest drinking households ...
>
> The variation in preferences for different products and price responsiveness across heavy and light drinkers provide scope to improve consumer welfare by setting different tax rates across products. By setting higher taxes on high-strength spirits, and bringing the taxes on cider in line with those on beer, the government can reduce the gap in consumer welfare between the current UK system and the hypothetical ideal system (which would be achieved by setting consumer specific tax rates) by around half.[187]

[187] Rachel Griffith et al., *Fixing the UK's alcohol taxes*, IFS/Institute of Alcohol Studies, 20 March 2017

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