



BRIEFING PAPER

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Alcohol: minimum pricing

By John Woodhouse

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Summary

The debate about a minimum price for alcohol has been prompted by concerns about high levels of drinking, its effect on public health and public order, and a widespread belief that most of the alcohol that contributes to drunken behaviour is irresponsibly priced and sold.

One policy option is to set a minimum price per unit of alcohol (MUP). Another is to ban the sale of alcohol below cost price (the level of alcohol duty plus VAT).

Licensing policy in Scotland

Alcohol licensing is a devolved matter. The *Alcohol (Minimum Pricing) Scotland Act 2012* paved the way for the introduction of MUP. The Scottish Whisky Association unsuccessfully challenged the legislation in the European and Scottish courts.

A minimum unit price of 50p per unit was introduced on 1 May 2018.

Licensing policy in England and Wales

A ban on selling alcohol below the level of alcohol duty plus VAT has been in place since 28 May 2014. This was introduced through the *Licensing Act 2003 (Mandatory Conditions) Order 2014*.

In March 2020, the Government [said](#) there were “no plans for the introduction of MUP in England” although it would continue to monitor the progress of MUP in Scotland and consider the evidence of its impact.

Public health policy in Wales

The *Public Health (Minimum Price for Alcohol) (Wales) Act 2018* enabled the introduction of MUP on public health grounds, an area within the Welsh Assembly’s legislative competence.

A minimum unit price of 50p was introduced from 2 March 2020.

1. Licensing policy in England and Wales

The *Licensing Act 2003* (as amended) regulates the sale and supply of alcohol in England and Wales.

1.1 Current position

Ban on sales below cost price (May 2014)

A ban on selling alcohol below a “permitted price” has been in place since 28 May 2014. This was introduced through the *Licensing Act 2003 (Mandatory Conditions) Order 2014*. The permitted price is defined as the level of alcohol duty plus VAT.

The Home Office has published [guidance](#) (March 2017) on the ban for alcohol suppliers and enforcement authorities.

Minimum unit pricing (MUP)?

Calls for MUP have been made for some time. In his 2008 [annual report](#), the then Chief Medical Officer for England, Sir Liam Donaldson, recommended setting a minimum price of 50p per unit. The report argued that this would target harmful “binge drinking”, while leaving the more moderate drinker unaffected.

The Coalition Government’s [Alcohol Strategy](#) (March 2012) included a commitment to introduce MUP. However, after a consultation, the then Government decided not to proceed with MUP. It instead introduced the ban on sales below cost price (see above). Further detail on Coalition Government policy is given in an appendix to this Paper.

Alcohol charities (e.g. [Alcohol Concern](#)), public health groups and others argue that MUP would have more of an impact on alcohol-related harm than the ban on below cost selling.

A December 2016 [report](#) by Public Health England looked at MUP and said that “empirical evidence and modelling studies have shown that setting a minimum price for alcohol can reduce alcohol-related harm while saving health-care costs.”¹

An April 2017 House of Lords Committee [report](#) recommended that if MUP was introduced in Scotland and found to be effective in reducing excessive drinking, then the policy should be introduced in England and Wales.²

In March 2020, the Government [said](#) there were “no plans for the introduction of MUP in England” although it would continue to monitor

¹ Public Health England, [The public health burden of alcohol and the effectiveness and cost-effectiveness of alcohol control policies: an evidence review](#), December 2016, p92

² House of Lords Select Committee on the Licensing Act 2003, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146, 4 April 2017, para 86

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the progress of MUP in Scotland and consider the evidence of its impact.³

Local initiatives on alcohol pricing?

There has been some discussion of whether licensing authorities can set a minimum unit price. Home Office [guidance](#) on the Licensing Act states that licensing authorities should not impose fixed prices through blanket licence conditions.⁴

³ [HL1749 \[on minimum pricing\]](#), answered 6 March 2020

⁴ Home Office, [Revised Guidance issued under section 182 of the Licensing Act 2003](#), April 2018, para 10.21

2. Licensing policy in Scotland

Alcohol licensing is a devolved matter. A minimum unit price of 50p was introduced on 1 May 2018. This followed an unsuccessful legal challenge to the *Alcohol (Minimum Pricing) (Scotland) Act 2012*.

2.1 The Alcohol (Minimum Pricing) (Scotland) Act 2012

The *Alcohol (Minimum Pricing) (Scotland) Act 2012* received Royal Assent in June 2012. The Act amended the *Licensing (Scotland) Act 2005* and paved the way for the introduction of MUP. Background to the 2012 Act is available in a Scottish Parliament Information Service (SPICe) [briefing paper](#).⁵

Scottish Whisky Association legal challenge

The Scottish Whisky Association (SWA) unsuccessfully challenged the 2012 Act in the European and Scottish courts.

The SWA claimed that MUP was contrary to EU law, would not be effective in tackling alcohol misuse, and would penalise responsible drinkers. In July 2012, the SWA lodged a complaint with the European Commission and filed a petition for judicial review with the Scottish Court of Session.⁶

In a [ruling](#) of 3 May 2013, the Court refused the SWA's petition. The Court ruled that the 2012 Act and the proposed Order setting a minimum unit price were not outside the legislative competence of the Scottish Parliament. The Court also decided that the measures were not incompatible with EU law.

The SWA appealed the decision. In April 2014, the Scottish Court of Session ruled that the case should be referred to the European Union's Court of Justice (ECJ).⁷

In September 2015, the Advocate General to the ECJ said that MUP could only be justified to protect public health if no alternative measures - such as tax increases - could be found.⁸ However the ECJ said this was a matter for the Scottish Courts to decide.

In October 2016, the Scottish Court of Session [upheld](#) its earlier decision to refuse the SWA's petition for a judicial review. In November 2016, the SWA [announced](#) that it would appeal to the UK Supreme Court.

⁵ SPICe, [Alcohol \(Minimum Pricing\)\(Scotland\) Bill](#), Briefing 12/01, 5 January 2012; An earlier attempt was made to introduce MUP through the *Alcohol etc (Scotland) Act 2010*; SPICe also published a [briefing paper](#) on this Bill

⁶ ["Scotch Whisky industry challenges minimum pricing of alcohol"](#), SWA press release, 19 July 2012

⁷ ["Legal challenge against Scottish Government's minimum alcohol pricing policy referred to European court"](#), *Daily Record*, 30 April 2014

⁸ Europa website, [Opinion of Advocate General Bot](#), delivered 3 September 2015 (1), Case C-333/14, *The Scotch Whisky Association and Others v The Lord Advocate & The Advocate General for Scotland*

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On 15 November 2017, the Supreme Court [said](#) that the 2012 Act did not breach EU law and that minimum pricing was “a proportionate means of achieving a legitimate aim”.⁹ The [full judgment](#) is available online.

2.2 MUP introduced (May 2018)

Following the Supreme Court’s judgment, the Scottish Government went ahead with its plans to introduce MUP.

A [consultation](#) on the Government’s preferred price of 50p ran from 1 December 2017 to 26 January 2018.¹⁰ The Government published its [analysis](#) of responses on 26 February 2018. A majority of respondents were in favour of the Government’s price.¹¹

A minimum price of 50p per unit came into force on 1 May 2018.

Further material on the introduction of MUP is available from the Scottish Government [website](#).

Impact

NHS Health Scotland is evaluating the impact of MUP.¹² A [webpage](#) includes a range of research material. This includes:

- NHS Scotland, [Analysis of off-trade alcohol sales in year post MUP published](#), January 2020
- NHS Scotland, [The impact of MUP on children and young people’s own drinking and related behaviour](#), January 2020
- NHS Scotland, [Evaluating the impacts of minimum unit pricing for alcohol on the alcoholic drinks industry in Scotland](#), October 2019
- NHS Scotland, [Monitoring and Evaluating Scotland’s Alcohol Strategy \(MESAS\)](#) (June 2019 – the first MESAS report since the introduction of MUP)

In September 2019, the British Medical Journal (BMJ) published a [report](#) on the immediate impact of MUP on alcohol purchases in Scotland.¹³

⁹ [“Scotch Whisky Association and others \(Appellants\) v The Lord Advocate and another \(Respondents\)\(Scotland\) \[2017\] UKSC 76”](#), Supreme Court press summary, 15 November 2017

¹⁰ Scottish Government website, [Minimum unit pricing](#) [accessed 11 March 2020]

¹¹ Scottish Government, [Minimum Unit Pricing of Alcohol Consultation Report: Analysis of Responses](#), February 2018, p3

¹² [“Evaluating the impact of Minimum Unit Pricing \(MUP\)”](#) NHS Health Scotland News release, 30 April 2018

¹³ Amy O’Donnell et al, [Immediate impact of minimum unit pricing on alcohol purchases in Scotland: controlled interrupted time series analysis for 2015-18](#), BMJ, September 2019

3. Wales: MUP as a public health measure

The [Public Health \(Minimum Price for Alcohol\) \(Wales\) Act 2018](#) received Royal Assent on 9 August 2018. The Act enabled the introduction of MUP on public health grounds, an area within the Welsh Assembly's legislative competence.¹⁴

A Welsh Government [consultation](#) on a minimum price of 50p per unit ran from 28 September 2018 to 21 December 2018.

In February 2019, after analysing the [responses](#), the Government noted some of the concerns raised about the potential unintended consequences of MUP - the potential impacts on vulnerable groups, household budgets, the risk of switching to other substances and the potential increase in the number of people seeking support from services. However, the Government was still of the [view](#) that a 50p minimum unit price was "a proportionate response to tackling the health risks of excessive alcohol consumption".¹⁵

An MUP of 50p was introduced from 2 March 2020.¹⁶

For further background to the Welsh legislation see:

- National Assembly of Wales [webpage](#) on the Act
- Welsh Government, [Explanatory Memorandum](#) to the *Public Health (Minimum Price for Alcohol) (Wales) Bill*, October 2017
- National Assembly of Wales Research Service, [The Public Health \(Minimum Price for Alcohol\) \(Wales\) Bill](#), Paper 18-022, 8 March 2018

¹⁴ National Assembly of Wales, [Presiding Officer's Statement on Legislative Competence - the Public Health \(Minimum Price for Alcohol\) \(Wales\) Bill](#), 23 October 2017

¹⁵ [Written Statement: Welsh Government Consultation Outcome: Minimum Unit Pricing of Alcohol](#), 15 February 2019

¹⁶ Welsh Government website, [Minimum unit pricing of alcohol](#) [accessed 11 March 2020]

Appendix: Coalition Government policy on alcohol pricing

The Coalition Government said that it would ban the sale of alcohol below cost price.¹⁷ A July 2010 [consultation](#) sought views on how to define the cost of alcohol, effective ways to enforce a ban, and the feasibility of using the mandatory code of practice to set a licence condition that no sale could be below cost price.¹⁸ Responses to the consultation “indicated a wide range of views...with no overall consensus”.¹⁹

In January 2011, the Government [set out](#) plans to ban the sale of alcohol below the rate of duty plus VAT.²⁰ It was intended that the ban would come into force in April 2012 and would be a new condition of the mandatory code of practice.²¹

Alcohol strategy (March 2012)

The Government’s March 2012 [alcohol strategy](#) set out a range of proposals to address binge drinking and alcohol-fuelled violence. One of the strategy’s commitments was to introduce MUP instead of the ban on below cost sales.²² The Prime Minister’s foreword claimed that MUP would reduce crime and alcohol-related deaths.²³

Reaction

Alcohol Concern welcomed the Government’s plans,²⁴ as did the [Alcohol Health Alliance](#).²⁵

The BBC reported that some in the drinks industry, such as C&C Group, had given the Government’s proposal a “cautious welcome”.²⁶ Greene King and Waitrose, in evidence to the Health Select Committee, strongly supported MUP.²⁷ However, the British Retail Consortium claimed it would be “a tax on responsible drinkers”.²⁸

¹⁷ HM Government, *The Coalition: our programme for government*, May 2010, p13

¹⁸ Home Office, *Rebalancing the Licensing Act: a consultation on empowering individuals, families and local communities to shape and determine local licensing*, July 2010, consultation question 24 on p20

¹⁹ Home Office, *Responses to consultation: Rebalancing the Licensing Act*, 2010, p11

²⁰ [HC Deb 18 January 2011 c34WS](#)

²¹ [HC Deb 27 October 2011 c312W](#)

²² HM Government, *The Government’s Alcohol Strategy*, Cm 8336, March 2012, p7

²³ *Ibid*, p2

²⁴ Alcohol Concern, *Briefing paper on the Government’s alcohol strategy*, March 2012, p1; Alcohol Concern favours a minimum price of 50p per unit.

²⁵ “Health bodies say government must stand firm on minimum unit pricing”, Alcohol Health Alliance news release, 13 March 2013

²⁶ [“Minimum alcohol price planned for England and Wales”](#), BBC News, 23 March 2012

²⁷ Health Select Committee, *Government’s Alcohol Strategy*, HC 132 2012-13, July 2012, para 46

²⁸ [“Minimum alcohol price planned for England and Wales”](#), BBC News, 23 March 2012

The Health Select Committee welcomed plans for MUP while remarking that it was “struck by how little evidence has been presented about the specific effects anticipated from different levels of minimum unit price”.²⁹ The Committee also said that an appropriate mechanism would be needed to monitor and adjust the minimum price over time and recommended that there should be a “sunset clause” on any provisions for setting a price.³⁰

The [Wine and Spirit Trade Association](#) told the Committee that it was “inconsistent with the operation of the free market for the state to intervene on price” and that minimum pricing could “therefore represent a barrier to trade and be illegal under EU law.”³¹

The Office of Fair Trading also said that minimum pricing legislation could be incompatible with European law.³²

Alcohol strategy consultation (November 2012)

A November 2012 [consultation](#) on the alcohol strategy sought views on, among other things, a minimum unit price of 45p.³³ According to estimates in the consultation paper, such a price would result in a reduction in consumption across all product types of 3.3%, 5,240 fewer crimes per year, a reduction in 24,600 alcohol-related hospital admissions and 714 fewer deaths per year after ten years.³⁴

An Impact Assessment (IA) was published by the Home Office.³⁵ This used version 2 of a model³⁶, developed by the [University of Sheffield’s School of Health and Related Research](#), for assessing the impact of alcohol pricing policies.³⁷ The IA gave the following costs of alcohol misuse in England:

- NHS costs, at about £3.5bn per year at 2009-10 costs
- Alcohol-related crime, at £11bn per year at 2010-11 costs
- Lost productivity due to alcohol, at about £7.3bn per year at 2009-10 costs (UK estimate).³⁸

The IA acknowledged that no other country had yet implemented MUP but said there was a “range of evidence that supports increasing the price of alcohol in order to reduce alcohol consumption and leading to reductions in alcohol harms, particularly with regard to health harms”.³⁹ The IA referred to recent analysis of the effectiveness of “social reference pricing” in Canada which found that a 10% increase in the

²⁹ Health Select Committee, [Government’s Alcohol Strategy](#), para 54

³⁰ Ibid, para 57

³¹ Ibid, para 43

³² Ibid, para 44

³³ Home Office, [A consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour](#), November 2012, chapter 5

³⁴ Ibid, p16

³⁵ Home Office, [Impact Assessment on a minimum unit price for alcohol](#), November 2012

³⁶ University of Sheffield Alcohol Research Group website, [The Sheffield Alcohol Policy Model](#) [accessed 11 March 2020]

³⁷ Home Office, [Impact Assessment on a minimum unit price for alcohol](#), p8

³⁸ Ibid, pp5-6

³⁹ Ibid, p6

minimum price of any given alcoholic product reduced its consumption by between 14.6% and 16.1%.⁴⁰

The IA claimed that MUP would help to curb the increase in “pre-loading” – drinking at home - which studies had linked with alcohol-related crime and disorder.⁴¹

Government response to the consultation (July 2013)

In July 2013, the Government announced that it would not be introducing MUP after all and would instead go ahead with the ban on sales below cost price:

[The] consultation has been extremely useful. But it has not provided evidence that conclusively demonstrates that Minimum Unit Pricing (MUP) will actually do what it is meant to: reduce problem drinking without penalising all those who drink responsibly. In the absence of that empirical evidence, we have decided that it would be a mistake to implement MUP at this stage. We are not rejecting MUP – merely delaying it until we have conclusive evidence that it will be effective.

There is too much cheap alcohol available so we will ban the sale of alcohol at below what it costs the retailer to obtain it in the first place. This will stop the worst instances of deep discounting which result in alcohol being sold cheaply and harmfully. It will no longer be legal, for example, to sell a can of 4% ABV lager for less than 40 pence.⁴²

A number of other measures to tackle excessive drinking and alcohol-related crime were set out in the Government’s plans. These included making the mandatory licensing conditions more effective, particularly those regulating irresponsible sales and promotions.⁴³

Reaction

Alcohol Concern said the “best chance” of tackling the problems caused by cheap drink had “been kicked into the long grass” and that the Government had “caved in to industry lobbying.”⁴⁴ [Alcohol Research UK](#) also accused the Government of changing policy following “sustained pressure from sections of the alcohol industry” rather than on the basis of any new evidence.⁴⁵

[Public Health England](#) said it shared “the disappointment of the public health community” that MUP was not being taken forward and noted that the evidence base for it was “strong and growing”.⁴⁶

The [Portman Group](#), the “responsibility body for drinks producers in the UK”, welcomed the Government’s decision and gave details of the

⁴⁰ Ibid, p6

⁴¹ Ibid, p7

⁴² Home Office, [Next steps following the consultation on delivering the Government’s alcohol strategy](#), July 2013, p3

⁴³ Ibid, chapters 1 & 2

⁴⁴ [“Minimum unit price for alcohol proposal shelved”](#), *Guardian*, 17 July 2013

⁴⁵ [“Government alcohol strategy response – Alcohol Research UK comment”](#), News release, 17 July 2013

⁴⁶ [“Alcohol Strategy consultation report”](#), Public Health England response, 17 July 2013

voluntary pledges that alcohol producers had made to promote responsible drinking.⁴⁷

Ban on sales below cost price (May 2014)

A ban on selling alcohol below a “permitted price” was introduced through the *Licensing Act 2003 (Mandatory Conditions) Order 2014*. This came into force on 28 May 2014.

The “permitted price” is defined as the level of alcohol duty plus VAT. This means that a can of average strength lager cannot be sold for less than 41p and a standard bottle of vodka cannot be sold for less than £9.06.⁴⁸

⁴⁷ [“Portman Group Response to Government’s Alcohol Strategy Consultation Response”](#), News release, 29 August 2013

⁴⁸ Home Office [Guidance on banning the sale of alcohol below the cost of duty plus VAT: for suppliers of alcohol and enforcement authorities in England and Wales](#), March 2017, p5

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