HEALTH AND SPORT COMMITTEE

AGENDA

15th Meeting, 2010 (Session 3)

Wednesday 5 May 2010

The Committee will meet at 11.00 am in Committee Room 2.

1. **Alcohol etc. (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

   Nicola Sturgeon MSP, Cabinet Secretary for Health and Wellbeing, Gary Cox, Head of Alcohol Licensing Team, Alison Douglas, Head of Alcohol Policy Team, Rachel Rayner, Senior Principal Legal Officer, and Marjorie Marshall, Economic Adviser, Scottish Government.

2. **Alcohol etc. (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 report.

Douglas Wands
Clerk to the Health and Sport Committee
Room T2.60
The Scottish Parliament
Edinburgh
Tel: 0131 348 5212
Email: douglas.wands@scottish.parliament.uk
The papers for this meeting are as follows—

**Agenda Item 1**

Letter from the Cabinet Secretary for Health and Wellbeing  
HS/S3/10/15/1

Letter from Dr Petra Meier, University of Sheffield  
HS/S3/10/15/2

Letter from the Law Society of Scotland  
HS/S3/10/15/3

Report by the Finance Committee  
HS/S3/10/15/4

Report by the Subordinate Legislation Committee  
HS/S3/10/15/5

SPICe briefing  
HS/S3/10/15/6

**Agenda Item 2**

PRIVATE PAPER  
HS/S3/10/15/7 (P)
21 April 2010

Dear Christine

ALCOHOL ETC. (SCOTLAND) BILL – Stage 1

1. Thank you for your letter of 14 April in which the Health and Sport Committee has raised some issues in consideration of its draft report. I will respond to these in turn.

Sheffield Report

2. The final checks on the re-run of the Sheffield model have now been completed and I enclose a copy of the revised report for the Committee's consideration. The report will be published on the Scottish Government's website on 22 April (available from http://www.scotland.gov.uk/Publications/2010/04/20091852 following publication).

Impact on low-income groups

3. I acknowledge the Committee's interest in this and officials are currently scoping what may be possible given limitations on the data available. I will keep the Committee informed of progress and likely timescales, recognising the Committee's desire for information to be available at the earliest opportunity.

Legislative competence

4. The Committee has asked that the Scottish Government sets out the basis for its belief that the policy of minimum pricing will be legally compliant. I would do so as follows:

5. The Scottish Government considers that the introduction of a minimum price for alcohol based on a minimum price per unit of alcohol is capable of complying with European law.
Whether the minimum price determined in accordance with section 1 of the Bill complies with European law can only be determined once the minimum price per unit is determined. Consideration is still being given to the proposed minimum price per unit. In setting the minimum price per unit, the Scottish Government will ensure that any proposed minimum price per unit will comply with European law.

6. It is important to be clear that European law does not per se prohibit minimum pricing of alcohol. Minimum pricing will need to comply with provisions of Community law relating to free movement of goods. Article 28 of the Treaty on the Functioning of the European Union ("TFEU") states that:

"The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and all charges having equivalent effect."

7. Article 34 of TFEU states:

"Quantitative restrictions on imports, and all measures having equivalent effect, shall be prohibited between Member States."

8. The meaning of "measures having equivalent effect to quantitative restrictions" is set out in Procuer du Roi v Dassonville¹:

"All trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions."

9. However a measure will nevertheless comply with Article 34 if it:

(a) is a selling arrangement which applies to all traders in the same manner, in law and in fact, regarding the marketing of products, and

(b) does not amount to a restriction on use or would influence consumers to such an extent that it affects access to the market of the Member State bringing forward the measure.

10. This is based on a line of case-law starting with the combined cases of Keck and Mithouard².

11. So, in broad terms, whether a minimum pricing measure is contrary to Article 34 depends on whether it hinders trade between Member States or discriminates against products from another Member State.

12. However, even if a minimum pricing measure is deemed to interfere with trade between Member States or discriminate against products from another Member State, Article 36 provides that it will not breach Article 34 if:

(a) it is appropriately directed towards achieving a legitimate objective such as the protection of health; and

(b) any interference with trade between member states or discriminatory effect is

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¹ ([1974] ECR 837 (case 8/74)).

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proportionate.

13. Article 36 TFEU provides:

"The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property.

Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States."

14. In order to be considered to be appropriately directed towards achieving a legitimate objective a measure must not go beyond what is necessary to achieve that objective and it must serve to achieve it. In setting a minimum price per unit, the Scottish Government will ensure that this is the case.

15. A measure will not be proportionate if a less intrusive way of achieving the same objective is available and taxation is often cited as a less intrusive method of achieving public health objectives. This was the case for example in the Commission v Hellenic Republic case. However each case needs to be considered separately and the Scottish Government does not agree that taxation is the best way of achieving our objectives. This is because we do not consider that taxation would have the same targeted effect as minimum pricing per unit, across the board tax increases are not as effective in reducing alcohol harm as minimum pricing per unit, taxation schemes applying to specific products or products priced at a specific level would not achieve the policy objective and the level of taxation does not always affect the price of alcohol as tax rises are not necessarily passed on to consumers. We believe it to be the case that there are no alternative means of achieving our objectives and therefore no alternative less intrusive way of achieving our objectives.

16. Although paragraphs 12 to 15 above deal with the use of Article 36 to justify a measure that is deemed to breach Article 34, it should nevertheless also be noted that there is a line of case-law providing that measures which are "necessary" on certain important grounds, such as the protection of health, can in certain circumstances comply with Article 34 and so do not require to be justified under Article 36. The case-law is based on the Cassis de Dijon case which concerned a requirement by Germany that fruit liqueurs should have an alcohol content of more than 25%. This established that:

"Obstacles to movement in the Community resulting from disparities between the national laws relating to the marketing of products in question must be accepted in so far as those provisions may be recognised as being necessary in order to satisfy mandatory requirements relating in particular to the effectiveness of fiscal supervision, the protection of public health, the fairness of commercial transactions and the defence of the consumer."

17. A measure which constitutes a "mandatory requirement" will only comply with Article 34 if it was proportionate to the aim being pursued. A measure will not be proportionate if there is an alternative means of achieving the aim being pursued which does not restrict the free
movement of goods to the same extent. Our comments in relation to the use of taxation as a less intrusive means of achieving our objectives apply in this regard as well.

18. The 1978 case of Netherlands v van Tiggele\(^5\) has been referred to in evidence given to the Health Committee. This case concerned the imposition of minimum prices for alcohol but the minimum price was determined differently for different types of products. Under the Scottish Government's proposals the minimum price for each product will be determined in the same way. The European Court of Justice did not consider whether the minimum prices could be justified on grounds such as the protection of health as the court was only asked to rule on whether the relevant provisions of EU law applies to minimum pricing measures.

Conclusion

19. Section 1 of the Bill complies with European law as it is an enabling provision and there will be no ban on selling alcohol below the minimum price until an order has been made setting the minimum price per unit.

20. Whether a specific minimum price per unit breaches Article 34, including whether such a measure can be justified under Article 36, will depend on the facts and evidence relating to that particular measure, relating in particular to its impact on foreign and domestic products and its contribution to the protection of important social policy objectives. The Scottish Government is in the process of considering the proposed minimum price per unit and in doing so will ensure that any proposed minimum price per unit will comply with European law.

21. For the reasons set out above, the Scottish Government considers that a minimum price for alcohol based on a minimum price per unit of alcohol is capable of complying with European law and in setting the minimum price per unit we will ensure that it does.

Tobacco cases

22. In the evidence sessions to the Health Committee questions have been raised as to the relevance of the recent judgements of the European Court of Justice in cases brought by the Commission against France, Ireland and Austria\(^6\). These judgments concern the interpretation of Directive 95/99 which sets out the minimum rate of excise duty to be applied to tobacco products. Tobacco products are subject to a proportional excise duty calculated on the maximum retail selling price and also to a specific excise duty calculated per unit of the product. Article 9(1) of the Directive specifically provides that manufacturers and producers are free to determine the maximum retail price of tobacco products. France, Ireland and Austria created rules which imposed minimum prices for tobacco products corresponding to a certain percentage of the average prices of the tobacco products concerned (95% in the case of France, 92.75% for cigarettes and 90% for fine-cut tobacco in the case of Austria and 97% in the case of Ireland).

23. The Commission challenged these minimum prices on the basis that the imposition of \textit{minimum} prices was contrary to Article 9(1) of the Directive as such prices limited the ability


\(^6\) Cases C-197/08, C-198/08 and C-221/08.

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of manufacturers and producers of tobacco products to determine the maximum retail selling price of their products. The Commission did not allege any breach of what is now Article 34. France, Ireland and Austria sought to justify the minimum prices for tobacco on the grounds that such measures were to necessary to protect public health in accordance with what is now Article 36.

24. Directive 92/83/EEC relating to the taxation of alcohol does not contain any provisions relating to pricing regimes or restricting such regimes. The Directive provides for minimum excise duties on alcohol to be based on the strength of the alcohol and so are determined independently of the price of alcohol. Consequently the court's views on the application of Directive 95/99 on tobacco taxation are of no direct relevance to the minimum pricing of alcohol.

25. In interpreting the Directive 95/99 on tobacco products the court did not say that Article 9(1) prohibited all forms of minimum pricing. The judgements were based on the specific minimum pricing measures for tobacco which were introduced by France, Ireland and Austria.

26. The court did not consider whether the minimum pricing of tobacco could be justified on the grounds of protecting health under Article 36 on the basis that no breach of Article 34 had been alleged. The court considered that Article 36 was only relevant as a means of justifying a measure that would otherwise breach Article 34.

27. The court's comments about the use of taxation of tobacco to protect health are consistent with previous case law, such as the case of Commission v Hellenic Republic referred to above. However it is necessary to consider the facts and evidence before deciding whether a particular measures complies with European law.

28. The Committee has quoted from an argument made by the Commission in response to the arguments of France, Ireland and Austria that the minimum pricing measures could be justified under what is now Article 36. The relevant part of the judgement is set out below:

"Public health considerations played a role in the drafting and amendment of the Community directives on harmonisation in the field of excise duty on tobacco products, but the principle of the free determination of prices was not revoked. By contrast, a system of minimum prices is capable of producing damaging effects for public health because, by protecting producers' margins, that system provides them with extra revenue which can be invested to increase sales of manufactured tobacco."

29. As the European Court of Justice did not consider whether the minimum pricing measures could be justified under Article 36 the court did not consider the argument made by the Commission. In any event the Commission only argued that minimum pricing is capable of producing damaging effects, not that it necessarily would.

30. As set out above if minimum pricing of alcohol needs to be justified under Article 36 then this will include demonstrating that minimum pricing will achieve, rather than be detrimental to, a legitimate aim and that there is not a less intrusive way of achieving the Scottish Government's policy objective.

31. As I mentioned at the Committee meeting on 24 March, I am open to considering whether the Social Responsibility Levy could operate in such a way as to recoup some of the increased revenue from alcohol sales.
Social Responsibility Levy

32. The Committee noted that it had no clear evidence on the principles of a Social Responsibility Levy and therefore on how it would work and whether it would be effective.

33. The principle of a Social Responsibility Levy was set out in the consultation on Changing Scotland’s Relationship with Alcohol. The Scottish Government stated that its proposal was that a levy should be applied to some alcohol retailers to help offset the costs of dealing with the adverse consequences of alcohol. Paragraphs 104 to 110 of the consultation document set out more detail on the principles behind the proposal.

34. The Bill sets out the broad parameters in which a levy would operate. In particular, the Bill makes provision about who a levy could be applied to, it links the use of money raised by the levy to the Licensing Objectives and ensures that the levy is applied by and used by local authorities.

35. It is these principles we are asking Parliament to agree, pending conclusion of a dialogue with those who would be affected by a levy. Any draft regulation setting out the precise detail of a levy would be subject to further consultation before it was brought before Parliament for consideration. As I said in evidence on 24 March 2010, we should not underestimate the ability of Committees to scrutinise draft regulations and I further note that the Finance Committee has indicated that it would scrutinise any draft in addition to the lead Committee. It seems sensible to the Scottish Government that we should continue to develop the detail of a levy with stakeholders and, following Parliament’s agreement to the broad principles, seek further agreement from Parliament on the precise detail. We are also mindful that with any new policy, setting out detail in regulations would provide the flexibility to review the arrangements in light of its practical operation.

36. I appreciate that the Committee would find it helpful to have more information and while I do not want to pre-empt the discussions that are ongoing with stakeholders, I am happy to report in general terms on the different options that are being discussed.

- The first approach is a levy geared towards premises whose operation or activity have been problematic, for example licence-holders that have not acted in accordance with the licensing objectives under the Licensing (Scotland) Act 2005. Under this method, it is more likely that problem premises would be affected and there would more likely be an incentive for premises to raise their standards.

- The second approach is a levy applied to all premises (with the possible exception of the smallest premises that sell a negligible amount of alcohol). This option (or a variation of it) could include the possibility of recouping additional revenue the alcohol industry would receive through the introduction of minimum pricing.

37. Within these two options there are many detailed issues being debated among stakeholders including the criteria which may be used to determine the application of a levy and the way in which a levy could be calculated. Officials have been asked to progress these discussions and provide options that could be included in draft regulations for wider circulation and debate. Once that is completed, Ministers will consider whether to bring draft regulations to Parliament.
38. As we made clear in the Alcohol Framework, a decision to introduce a levy will be taken in the context of the wider economic climate at that time.

Finance Committee Report

39. I note the Finance Committee’s comments on the points raised concerning the costs on business, impact on small retailers and savings where no further comment from the Scottish Government is required. In respect of the Statement of Funding, that would appear to be a general point of procedure rather than one in relation to the Alcohol Bill only. I note that the Finance Committee is pursuing that matter with the Minister for Parliamentary Business.

40. On the Social Responsibility Levy two points have been raised: no indicative range of options for the levy was set out in the Financial Memorandum; and the Scottish Government should give consideration to a fault-based system as proposed by the Scotch Whisky Association and the Scottish Grocers Federation. These are dealt with in the section above on Social Responsibility Levy.

41. The remaining points are as follow:

Costs on local authorities

42. We would not expect West Dunbartonshire Council’s Licensing Standards Officers to visit every premises to check on minimum pricing compliance and I’m not sure why West Dunbartonshire Council thought that was what was required. As the Council itself has stated, we would expect a targeted approach based on intelligence and public complaints to be adopted which would seem a rational use of resources and one that is consistent with the way Licensing Standards Officers already operate. COSLA was consulted on this issue and they confirmed that they considered the additional work would be small in relation to the overall work of the Licensing Standards Officers and, as such, costs would be likely to be marginal. We agreed with COSLA that the position would be reviewed around a year after implementation.

43. The fee system introduced for the Licensing (Scotland) Act 2005 does not relate to the Alcohol Bill. However, the fee regulations were based on a system devised by independent researchers based on figures supplied from every local authority bar one. When the fee regulations based on this work were consulted on prior to their enactment, local authorities raised a concern that the cap at which fees could be set was too low, so the cap was doubled. Ministers requested that the Accounts Commission consider the 2005 Act regime and this now forms part of the Commission’s ongoing work plan. Ministers have given an undertaking to examine any recommendation they choose to make.

Definitions used in the Financial Memorandum

44. The Sheffield model is consistent with an epidemiological approach in reporting the mean values for consumption and impact within the groups the Sheffield team were analysing. Annex A shows the distributions around the mean value for each of the different groups of drinkers.
Overall level of costs and savings and margins of uncertainty

45. Firstly, I would like to point out that reference is made at paragraph 83 in the Financial Memorandum to section 3 of the Sheffield Report which details the results of the sensitivity analyses carried out on the modelling.

46. Mathematical and econometric models, such as the Sheffield model, are built to simulate complex real world phenomena and as such the models themselves are typically very complex. Probabilistic sensitivity analysis is a specific method of characterising uncertainty around values of individual input variables. It defines inputs as probability ranges (by applying a probability distribution) to determine if one or a combination of variables has an impact on a model's outcome.

47. The analyses undertaken by the Sheffield team includes probabilistic sensitivity analysis around the price elasticities of demand and the use of alternative assumptions around the differential responsiveness of moderate and heavier drinkers (pages 53 to 57 for descriptions of the different sensitivity analyses and pages 92 to 96 for the results). This allows a range of estimates on the potential impact of minimum pricing on consumption and harm outcomes to be developed.

48. The 95% confidence intervals for changes in consumption due to each policy tested are quite narrow: for a 40p minimum price for all drinkers the change is estimated to lie between 2.6% and 2.9% i.e. there is a 95% probability that the reduction lies between 2.6% and 2.9%. For an off-trade discount ban for all drinkers the change is estimated to lie between 3.0% and 3.1%; for the combination of these policies for all drinkers the change is estimated to lie between 5.2% and 5.6%.

49. Further testing and adjusting of the baseline results took place. For example, scenario analysis was carried out around the differential responsiveness of moderate and heavier drinkers. Following this, the elasticity estimates for hazardous and harmful drinkers were reduced by one third (using a modelling assumption made by Chisholm et al (2004)).

50. I trust this reply addresses the issues raised by the Committee in consideration of its draft report.

NICOLA STURGEON
Annex A

Distribution of alcohol consumption, by units of alcohol, per week, across different groups of drinkers.

Data from the Scottish Health Survey (2003) which was the used in the ScHARR modelling (September 2009 report) has been analysed to describe the distribution of alcohol consumption across the different categories of drinker used in the model: moderate, hazardous and harmful. The units are calculated by asking people how often they drink and how much they usually drink, allowing the estimation of the weekly amount. So if someone drank one pint every month then they’d have drunk less than one unit per week. (Note: the scaling on the graphs varies so care has to be taken when making visual comparisons).

Scottish Health Survey 2003.
Estimated weekly alcohol units by level of alcohol consumption
All aged 16+ who drank alcohol

Moderate drinkers
(men under 21 units per week, women under 14 units per week)

The graph for moderate drinkers shows a right skewed distribution which shows that moderate drinkers drink very little and therefore will be largely unaffected by minimum pricing. This holds for all moderate drinkers regardless of their income. Please note that non drinkers are not included - the lowest value is actually 0.03 units.
Hazardous drinkers
(men 21-50 units; women 14-35 units)

The graph shows a clustering at 21 and 22 units, and again at 28 units.

Harmful drinkers
(men over 50 units per week, women over 35 units per week)

For harmful drinkers the graph shows a heavily skewed distribution with a tail of those drinking at very high levels.
The evidence provided by Professor Beath included the suggestion of a scenario whereby prices over recent years have been falling, encouraging increased drinking and causing dependence on alcohol. If such price falls were now reversed, the suggestion is that because people are now dependent, they would not reverse their drinking. We would like to respond to the issues raised in three ways:

1) **Were prices falling or rising during the period used to estimate elasticities?**

   The econometrics model that informs both the original and updated epidemiological modelling is based on 5-years worth of EFS data from 2001-2005/6, adjusted to current prices using sales data from market research companies. It is probably helpful to show two graphs using data derived from the ONS publication Focus on Consumer Price Indices.

![Fig. 1. Trends in on- and off-trade prices, inflation and income](image-url)
Figure 1 shows that prices for beers, wines and spirits have increased over the same period, but off-trade prices have not kept up with inflation. At the same time, household disposable income rose. Figure 2 shows that affordability of alcohol, when considering alcohol prices in comparison to all-item inflation and disposable income, has increased throughout the 1990s and 2000s, and more for off-trade than on-trade alcohol. There is no evidence of a sudden price fall during the modelled period.

2) Elasticities and dependent drinkers
When the Sheffield report talks about heavy drinkers, these are all drinkers who drink beyond the recommended limits (>21/14 units per week for men/women), who make up just under 30% of the Scottish population (around 21% hazardous and 6% harmful drinkers). Heavy drinker elasticities were estimated for these groups. Dependent drinkers, mentioned during the meeting as possibly not responding to price as much because of their addiction, make up only 1% of the population (or 3% of the heavy drinkers). Because they are a relatively small population group, it has not been possible in our study to estimate their price responsiveness separately. Our thinking is that it is unlikely that a differential response to price would affect the results of the population-level Sheffield model substantially.

3) International evidence
It is worth reiterating that our own-price price elasticities, which are approximately -0.5 and thus indicate that alcohol is inelastic, are consistent with the international literature. Meta-analyses of over one hundred studies show similar aggregate elasticities to those estimated in our study.
It is not correct, as was mentioned in the evidence session, that other studies have already demonstrated decreased price sensitivity for dependent drinkers: The only other studies separately estimating elasticities for heavy drinkers are studies that have used heavy episodic drinking (“binge” drinking) as an indicator and are mostly based on university student samples (see the meta-analysis by Wagenaar et al 2009 in Addiction for a list of these studies).

Sensitivity analyses replacing our elasticity matrices with such alternative estimates (see report for NICE: http://guidance.nice.org.uk/PHG/Wave15/1) and another which assumes that heavy drinkers respond to price 1/3 less than moderate drinkers have shown that our model predictions are fairly robust to alternative assumptions around price elasticities.

We hope that this brief reply is helpful. Please do not hesitate to contact us should you have further queries regarding the original or the updated model.

Best regards

Dr Petra Meier
(on behalf of the Sheffield Alcohol Policy Research Team)
I refer to the above oral evidence session of the Scottish Parliament’s Health & Sport Committee held on Wednesday 17 March 2010.

I understand, following the publication of the transcript of this session in the official report, that the Health & Sport Committee are seeking further information from the Law Society of Scotland.

I also understand that Jim McLean has written under separate cover with regard to the Dutch Gin minimum price case which was quantitative restriction prohibited by Article 30 of the Treaty of Rome. The link to this case is attached for your information.


In this case the minimum pricing of Dutch Gin was held to be quantitative restriction prohibited by Article 30 of the Treaty of Rome then in force.

With particular reference to the comments at Column 2984 by Rhoda Grant, MSP and also at Column 2990 by Ross Finnie, MSP, I can provide the Health & Sport Committee with the following comments.

The Law Society notes that Section 10 of the Bill allows Scottish Ministers by Regulations made by Statutory Instrument to make provision for the imposition on relevant licence-holders of charges for the purposes mentioned in Sub-Section 3.

The purposes are outlined in Sub-Section 3 being

“meeting or contributing to expenditure incurred or to be incurred by any local authority

(a) in furtherance of the licensing objectives; and

(b) which the authority considers necessary or desirable with a view to remediying or mitigating any adverse impact on those objectives attributable (directly or indirectly) to the operation of the business of relevant licence-holders in the authority’s area."

The Society is of the view that this is within the competence of the Scottish Parliament as it amounts to a “local tax to fund local authority expenditure” which is the exception to reservations A1 entitled “Financial and Economic Matters” under Part II entitled “Specific Reservations” of Schedule 5 to the Scotland Act 1998.
With particular reference to Ross Finnie's comments, the Society notes that there is no provision contained within Section 10 as to how the social responsibility levy is to be imposed.

It is presumed that it is the intention of Scottish Ministers to determine this in terms of Section 10(4)(k) whereby Regulations under Sub-Section 1 may, in particular – confer functions on local authorities in relation to the determination, administration, collection and enforcement of charges, or in relation to any other matter provided for in the Regulations.

The Society takes a view that, in order to be within the exception to the reservation, the social responsibility levy requires to be raised by local authorities rather than by Scottish Government. If, in terms of the Regulations, it is raised by Scottish Government, it may not qualify as a “local tax”.

The Society further notes that the Bill simply enables Scottish Ministers to make regulations, which include terms of Section 10(4)(k) but is of course not limited to giving Scottish Ministers the power to confer functions on local authorities.

In all the circumstances, the issues of competence will very much depend on the Regulations.

I trust that the above information is of some assistance to you, but should you wish to discuss further, please don’t hesitate to contact me.

Kind regards.

Yours sincerely

Alan McCreadie
Deputy Director
Law Reform
Finance Committee

Remit and membership

Remit:

1. The remit of the Finance Committee is to consider and report on-

   (a) any report or other document laid before the Parliament by members of the Scottish Executive containing proposals for, or budgets of, public expenditure or proposals for the making of a tax-varying resolution, taking into account any report or recommendations concerning such documents made to them by any other committee with power to consider such documents or any part of them;

   (b) any report made by a committee setting out proposals concerning public expenditure;

   (c) Budget Bills; and

   (d) any other matter relating to or affecting the expenditure of the Scottish Administration or other expenditure payable out of the Scottish Consolidated Fund.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, “public expenditure” means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.

   (Standing Orders of the Scottish Parliament, Rule 6.6)

Membership:

Derek Brownlee
Malcolm Chisholm
Linda Fabiani
Joe Fitzpatrick
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Tom McCabe (Deputy Convener)
Jeremy Purvis
Andrew Welsh (Convener)
David Whitton

Committee Clerking Team:

Clerk to the Committee
Jim Johnston

Senior Assistant Clerk
Terry Shevlin

Assistant Clerk
Allan Campbell

Committee Assistant
Jennifer Bell
Report on the Financial Memorandum of the Alcohol etc. (Scotland) Bill

The Committee reports to the Health and Sport Committee as follows—

INTRODUCTION

1. The Alcohol etc. (Scotland) Bill (“the Bill”) was introduced in the Parliament on 25 November 2009. The Health and Sport Committee has been designated as the lead committee on the Bill.

2. Under Standing Orders Rule 9.6, the lead committee at Stage 1 is required, among other things, to consider and report on the Bill’s Financial Memorandum. In doing so, it is required to consider any views submitted to it by the Finance Committee (“the Committee”).

3. At its meeting on 15 December, the Committee agreed to adopt level 3 scrutiny in relation to the Financial Memorandum (i.e. that it would take oral evidence from affected bodies and the bill team). The Committee received written submissions from—

   - Scotch Whisky Association;
   - Scottish Grocers’ Federation;
   - Scottish Retail Consortium and the Wine & Spirit Trade Association;
   - Six Health Boards;
   - NHS Health Scotland;
   - West Dunbartonshire Council; and
   - Scottish Ambulance Service.

4. At its meeting on 9 February, the Committee took evidence from the Scotch Whisky Association (“SWA”) and the Scottish Grocers’ Federation (“SGF”), in addition to the bill team. The Official Report of the evidence session can be found on the Parliament’s website, at: http://www.scottish.parliament.uk/s3/committees/finance/or-10/fi10-0402.htm#Col1871.

5. Following the evidence session, both the SWA and the bill team supplied additional written material. All written evidence received is attached as an annexe to this report.
THE BILL

6. The Policy Memorandum explains that the Scottish Government considers that the Bill will help reduce alcohol consumption in Scotland and reduce the impact that alcohol misuse and overconsumption has on public health, public services, productivity, and the economy as a whole.¹

7. Each of the measures in this Bill should be seen as part of the wider strategic approach to tackling alcohol misuse set out in Changing Scotland’s Relationship with Alcohol: A Framework for Action.² The measures in the Bill include—

- minimum pricing to protect and improve public health by reducing alcohol consumption;
- further restrictions on off-sales promotions and promotional activity;
- a requirement for an age verification policy;
- provisions concerning the modification of licence conditions;
- provisions in respect of assessing the impact of off-sales to people under 21; and
- provisions in respect of a social responsibility levy.

THE FINANCIAL MEMORANDUM

8. The Financial Memorandum ("FM") is set out in two chapters. Chapter one details those areas of costs that carry a significant financial impact.³ These are—

- introduction of a minimum price for a unit of alcohol (sections 1 and 2 of the Bill);
- introduction of a restriction for off-sales on supply of alcoholic drinks free of charge or at a reduced price (section 3 of the Bill);
- provision in respect of sale of alcohol to under 21s (section 8 of the Bill).

9. Chapter two presents the remaining provisions of the Bill, which do not have a significant financial impact. These are—

¹ Alcohol etc. (Scotland) Bill. Policy Memorandum, paragraph 2. Available at: http://www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-pm.pdf
³ For the purposes of the FM, “significant” is defined as a topic in the Bill having a financial impact of £0.4m per annum once implemented.
• restriction of the location of drinks promotions in off-sales premises (section 4 of the Bill); and

• a requirement for licence holders to operate an age verification policy (section 5 of the Bill).

10. The FM states that provisions related to the social responsibility levy (sections 10 and 11 of the Bill) are “deemed not to have a significant financial impact at this stage as the Bill is setting out the enabling power.”\(^4\) Where provisions are not mentioned in the FM they are technical and carry no financial impact.

11. The School of Health and Related Research (“SCHARR”) at the University of Sheffield has done a range of research and modelling on the impact of the provisions in the Bill, and its work is the basis of much of the Financial Memorandum. Paragraph 135 of the FM contains a summary table of all the financial implications of the Bill.

SUMMARY OF EVIDENCE

Statement of Funding Policy

12. As noted above, the FM states that the combination of a minimum price and a ban on quantity discounts for off sales could result in a net reduction of between £7m and £76m in receipts to the Exchequer, depending on the minimum price per unit of alcohol set. The FM goes on to state that—

“Under the terms of the Statement of Funding between Scottish Ministers and the UK Government, the reduction in VAT and duty falls as a cost to the Scottish Administration.”\(^5\)

13. However, in evidence, the Bill team suggested that this would not be the case—

“The statement of funding [policy] is a technicality that we have to include in the financial memorandum. Any discussions on any money changing hands would happen between Scottish Government finance and the Treasury, and we are not aware that the Treasury has contacted finance about that.”\(^6\)

14. The bill team went on to state that the Smoking, Health and Social Care (Scotland) Act 2005 provided a precedent and that, in their view, it was not the role of the Scottish Government to contact the Treasury to discuss these issues in the first instance. The Committee wrote to the Treasury in December 2009 to seek its views on the issue (the letter to the Treasury is included as an annexe to this report). By the time of publication of this report, no response had been received from the Treasury.


\(^5\) Financial Memorandum, paragraph 58.

15. The Committee has agreed to write to the Minister for Parliamentary Business, seeking clarification on the inclusion of reference to the Statement of Funding Policy in Financial Memorandums generally.

Costs on business

16. In terms of both the on and off-trade sectors, the FM states that “all minimum price scenarios combined with a discount ban result in estimated increased revenue to the alcohol industry (excluding VAT and duty)”. However, evidence received from business organisations indicated a degree of concern about the proposals in the Bill.

Whisky industry – impact on jobs in the own-brand sector

17. In its original written submission to the Committee, and during the oral evidence session, the SWA stated that the introduction of minimum pricing could lead to the loss of 400 jobs at companies whose business model is weighted towards supplying own-label and value brands. In its submission following the evidence session, the SWA explained that—

- the UK makes up 8% of the global market of Scotch whisky sales;
- 20% of UK sales of Scotch whisky are in Scotland; and
- 30% of Scotch whisky sales in Scotland are accounted for by value brands or by own-label brands; and
- On that basis it would appear that only 0.48% of the global Scotch whisky market is made up of Scottish sales of own-label and value brands.

18. In terms of the specific numbers of jobs at risk, the SWA states that Whyte and Mackay has stated that “minimum pricing would lead to closure of their Grangemouth bottling plant” and that this would result in the loss of 200 jobs. The SWA goes on to state that “a further 100 jobs at Invergordon distillery would be at severe risk” with knock on effects to suppliers. In terms of Glen Catrine, the SWA indicates that it is “a very private company and has not made any public statement” but that “the company’s business model and the 140 jobs at their Ayrshire bottling plant is based upon the sustainability of value brands” and that a further 60 people are employed at their Loch Lomond distillery.

19. The Committee notes that the lead committee has taken further evidence from Whyte and Mackay seeking clarification of the basis of the figures quoted above and that during that evidence session, Whyte and Mackay accepted that the figures originally quoted were related to minimum pricing being introduced across the UK, rather than for Scotland only.

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7 Financial Memorandum, paragraph 70.
8 Scotch Whisky Association. Written submission to the Finance Committee.
9 Scotch Whisky Association. Supplementary written submission to the Finance Committee.
10 Scotch Whisky Association. Supplementary written submission to the Finance Committee.
11 Scotch Whisky Association. Supplementary written submission to the Finance Committee.
20. In addition, the Committee notes that, despite being questioned on the issue during the evidence session, the SWA did not return to the Committee with further information on the involvement of companies producing own-label whisky in the production of vodka and other drinks.

**Whisky industry – impact on international trade**

21. The other major issue raised by the SWA was the potential adverse impact of minimum pricing on whisky exports. The SWA stated both in written and oral evidence that £600 million of exports would be put at risk (around 20% of the whisky export market). The SWA cited examples of countries where they had “won cases of blatant discrimination”, including Korea, Chile, Japan and Uruguay and explained that—

> “By looking at what markets do and how price is relevant in all the markets round the world, we have calculated an equivalent increase in price that is commensurate with the Scottish Government proposal of...40p per indicative unit, and what impact that would have on our sales in critical markets. We have also looked at what effect that would have on our potential sales in markets where we are trying to reduce the price.”

22. In its supplementary submission to the Committee, the SWA set out in more detail the modelling behind these assumptions, which can be found in the annexe to this report.

23. In response to the points made by the SWA in oral evidence, the bill team explained that, in their view—

> “The basis of that assumption is that an action taken by the Scottish Parliament could result in action being taken against Scotch whisky around the world. However, our starting point is that—as the Scotch Whisky Association argues very effectively at the moment—Scotch whisky is currently sold internationally in a context in which it is disproportionately taxed in its domestic market. The second point is that minimum pricing is entirely fair in its effect on every type of alcohol. The policy treats every product in the same way because it is based on the alcohol content of each product rather than differentiating between, for example, whisky, cider or beer. Therefore, in principle, there should be no basis on which other countries can single out Scotch whisky and treat it differently from how they treat their domestic products.”

24. The Committee notes the view of the SWA and the response from the bill team.

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12 Scotch Whisky Association. Written submission to the Finance Committee.
14 Scotch Whisky Association. Supplementary written submission to the Finance Committee.
**Impact on small retailers**

25. Although recognising that “it is difficult to predict what the possible outcome for retailers will be”\(^{16}\) when the level of minimum price is not known, the SGF outlined a range of issues which could have an adverse impact on small retailers. These include administrative costs related to altering pricing that could have a larger impact proportionately on shops with a smaller workforce; a possible rise in cross-border shopping to the north of England, which could have a significant impact on retailers in south and central Scotland; a possible rise in “white van man” activity “as consumers turn to other channels to purchase alcohol to avoid higher prices”; and a potential increase in internet sales of alcohol.\(^{17}\)

26. In terms of the rise in “white van man” activity, and a rise in cross-border shopping, in comparison with illicit sales of tobacco, the bill team indicated that—

“The price differential between a legal packet of cigarettes and an illegal one is substantial...the financial incentive for people to operate illegally, or indeed, to drive to Carlisle to do their weekly shop, depends on the minimum price. A 40p minimum price [for alcohol] would provide a very limited incentive for people to do that, either on their own behalf or to supply others.”\(^{18}\)

27. Despite this, the bill team confirmed that cross-border shopping “gets more likely the higher the minimum price.”\(^{19}\)

28. In terms of internet sales of alcohol, in supplementary written evidence, the bill team confirmed that—

“Any retailer in England is subject to the requirements of the 2003 Act and the Scottish Parliament has no locus in this area. There are already major differences between Scotland and England in the way alcohol can be sold and promoted. For example, the 2005 Act bans a range of promotions in on-sales and off-sales whereas the Licensing Act 2003 in England and Wales currently does not. The most effective way of addressing this point would be for greater consistency between the licensing regimes in Scotland and England. We were therefore pleased to note the recommendations of the Health Select Committee’s report on Alcohol in respect of minimum pricing and alcohol promotions. We await the UK Government’s response to the Select Committee with interest and can revert to the Committee once the UK Government’s position has been set out.”\(^{20}\)

29. The Committee notes the view of the SGF and the response from the bill team.

**Social Responsibility Levy**

30. While the Bill makes provision for a social responsibility levy (“the levy”), the FM states that “the provisions in the Bill have no direct financial implications as

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\(^{16}\) Scottish Grocers’ Federation. Written submission to the Finance Committee.

\(^{17}\) Scottish Grocers’ Federation. Written submission to the Finance Committee.


\(^{20}\) Scottish Government Bill Team. Supplementary submission to the Finance Committee.
they enable the Scottish Ministers to establish arrangements for a Social Responsibility Levy by way of regulations."\(^{21}\) Before discussing the specific evidence received on the levy, in general terms, this Committee (and the Finance Committee in Session 2) has already raised the issue of the provision of financial information for costs that arise through subordinate legislation. Indeed, the Scottish Government’s own guidance on financial memoranda states—

“Costings should not be omitted because final decisions have still to be made. Where this is the case a range of costs should be provided reflecting the possible options. Where a Bill proposes powers dependent on secondary legislation (or further primary legislation), it may not be possible to be precise. In these cases, the Memorandum should say so. However, this should be supported by an outline of the SG’s current intentions, the financial implications of these intentions, and the effect of varying the major assumptions.”\(^{22}\)

31. The Committee appreciates that work on the levy is ongoing and that it would not be possible to provide precise estimates at this time. However, the Committee is of the view that it would have been preferable for the Financial Memorandum to have set out at least an indicative range of options for the levy, even if the figures provided would be subject to a wide margin of uncertainty. In addition, the Committee notes that (in common with other bills where significant areas of cost have come through secondary legislation) it intends to scrutinise the financial implications of the relevant statutory instrument when it is laid.

32. Evidence received by the Committee said that, without details on the levy, it was hard to give a thorough assessment. However, both the SWA and the SGF expressed the view that—

“...if such a fee is to be introduced, there should be a fault-based system, rather than a blanket system that catches everybody. It should be about encouraging the highest possible standards and, if people fail to meet their responsibilities, there should be a fee.”\(^{23}\)

33. The bill team indicated that “nothing has been ruled out”, but did not give any further details on the levy. The Committee recognises that engagement is ongoing with the industry and asks the lead committee to consider the points raised by the SWA and SGF on a fault-based system as part of its consideration of the general principles of the bill at Stage 1.

Costs on local authorities

34. The FM states that there are likely to be marginal costs on local authorities, due to additional duties being placed on Licensing Standards Officers (LSOs). However, written evidence received from West Dunbartonshire Council suggested

\(^{21}\) Financial Memorandum, paragraph 132.


that the assumptions in the FM “are not entirely correct” regarding additional workloads for LSOs and that the costs of running a licensing system are not covered by fee income.\textsuperscript{24} Although the figures mentioned here are minor compared to other figures in the FM, the Committee recommends that the lead committee raise this issue with the Cabinet Secretary.

Savings

35. The FM states that alcohol misuse costs an estimated £2.25 billion per year, although the Committee notes that this does not wholly consist of costs on the Government. The figure is in part made up of £820 million in lost productivity, £385 million to criminal justice and emergency services and £405 million to the NHS.\textsuperscript{25} These figures derive from a separate study to the SCHARR modelling, \textit{Costs of Alcohol Use and Misuse in Scotland}.\textsuperscript{26}

36. In terms of savings as a result of the Bill, the FM states that, again depending on the minimum price used, “health harms” are estimated to reduce by between £14m and £93m in the first year, and by between £356m and £2310m over 10 years (table 5 of the FM). In supplementary evidence to the Committee, the bill team explained how the two studies relate to each other—

“The £405 million cost to the NHS is, as correctly identified, from the "Costs of Alcohol Use and Misuse in Scotland, Scottish Government, May 2008" which was a cost of illness study estimating the cost of alcohol misuse to Scotland in the financial year 2006/07. It is a stand alone cross sectional study. Cost of illness studies are a well-established means of estimating the economic burden attributable to a particular disease and are used by policy makers in helping to prioritise and plan.

The ScHARR model estimates that savings to the NHS will increase as the years progress due to many of the harms, with associated treatment costs, being due to chronic disease. Savings are generated using Scottish hospital activity data and English model inputs for costs as Scottish specific costs were not available in the format required. Unit costs for health services across the UK are comparable. Ten years is assumed to be required to see the full effect of the implementation of the policy. In year 10 for example the savings are estimated to nearly £21m compared to around £7m in year 1. (By way of illustration £21m would cover 75% of the cost of the new maternity unit at the Southern General Hospital in Glasgow, or build 2 community hospitals such as that in Girvan).

The £115 million saving quoted as the cumulative saving over 10 years is the value discounted at 3.5% per annum (as per HM treasury guidance) back to current prices (i.e. a Net Present Value figure). The overall cost to the NHS over that time would also have to be discounted to make a fair

\textsuperscript{24} West Dunbartonshire Council. Written submission to the Finance Committee.
\textsuperscript{25} Financial Memorandum, paragraph 45.
comparison. In addition any reductions in the total NHS cost due to the policy over those 10 years need to be factored in. So to use a total (undiscounted) of 10 x £405 million as the 10 year cost is not valid. The suggested 2.8% is likely to be an underestimate.\textsuperscript{27}

37. The Committee thanks the bill team for this detailed explanation and appreciates the difficulty of providing precise figures in this area. However, the Committee notes that the figures provided by the Government do not constitute a like-by-like comparison. In addition, the FM states that the “wider costs of crime to society” are expected to reduce by between £3m and £19m in the first year and between £29m and £169m over 10 years (table 5), again depending on the minimum price used. In general terms, the comments made about margins of uncertainty above apply to these figures as well. \textbf{However, the Committee notes that NHS boards and other health organisations expressed support for the assumptions and figures in the FM in written evidence.}\textsuperscript{28}

\textbf{Definitions used in the FM}

38. The Committee recognises that questions around the definitions used for “hazardous”, “harmful” and “moderate” drinkers are possibly more appropriate for the lead committee. However, given their centrality to the assumptions used in the FM, the Committee did consider these points during its evidence-taking session with the bill team. The modelling used in the FM estimates that there are around 2.4 million moderate drinkers in Scotland, around 1 million hazardous and around 270,000 harmful.\textsuperscript{29} The bill team stated that—

“[… ] setting sensible drinking guidelines is not an absolute science, but it was the considered view of the expert panel that the guidelines of three to four units a day for women and four to five for men represented a reasonable population level of when the risk starts to head up the sharp curve.”\textsuperscript{30}

39. However, the bill team also confirmed that no data was available on the spread of drinkers within the figures provided - for example on how many hazardous drinkers were towards the top end or bottom end of consumption.\textsuperscript{31} The Committee appreciates that there is a lack of data in this area and that this is not an “exact science”. Nonetheless, in order to get as clear a picture as possible of the financial impact of the Bill, it would have been helpful to the Committee’s scrutiny of the FM if some analysis had been done in this area of cost, especially on the spread of figures within each of the groups of drinkers.

\textsuperscript{27} Scottish Government. Supplementary submission to the Finance Committee.  
\textsuperscript{28} Health Boards. Written submissions to the Finance Committee.  
\textsuperscript{29} Financial Memorandum, paragraph 55.  
Overall level of costs and savings and margins of uncertainty

40. As can be seen from the summary table at paragraph of the FM, the potential financial impact of the Bill is significant. The specific cost estimates and the underlying assumptions behind these estimates have been discussed above. However, in general terms, the Committee notes that although the FM provides figures depending on the level of minimum price used, it does not provide margins of uncertainty for these figures. Providing margins of uncertainty is a requirement under the Parliament’s Standing Orders (Rule 9.3.2), therefore the Committee asks the lead committee to pursue this with the Cabinet Secretary.

41. On a related point, the Committee notes the response from the bill team that the SCHARR modelling work is currently being re-run with data that was not available when the original modelling was carried out and that this will be published in late March/early April. While this will be too late in the process for this committee to consider it in detail, the Committee encourages the lead committee to look at the revised data once it has been published.

CONCLUSION

42. It is clear that the financial impact of the Bill could be significant and the Committee appreciates that this is a complex area. In terms of specific areas of cost, the Committee directs the lead committee to its comments throughout this report. The Committee recommends that the lead committee raise these issues with the Cabinet Secretary.
ANNEXE – WRITTEN EVIDENCE RECEIVED
SUBMISSION FROM THE FEDERATION OF SMALL BUSINESSES

Introduction

The Federation of Small Businesses is Scotland’s largest direct-member business organisation, representing around 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper.

We welcome the opportunity to submit our comments to the Finance Committee on the Financial Memorandum which accompanied the Alcohol etc. (Scotland) Bill.

Consultation

The FSB in Scotland did submit a response to the Changing Scotland's Relationship with Alcohol consultation in September 2008, as a significant minority of our membership are small independent retailers and could be affected by the proposals outlined in the Bill.

Promotions

The FSB has consistently supported the ending of irresponsible promotions that encourage binge drinking. However, such intervention has to be balanced against the risks of the government intervening in the market, by deciding the pricing structure for a particular product.

Many small retailers promote particular products as a means of increasing sales across their store. Given the economies of scale, a supermarket is able to negotiate a lower price on a product than a smaller retailer. Promotional activity is one of the few ways smaller retailers can contend with the supermarkets. The FSB has been campaigning over a number of years now to “Keep Trade Local”, and we believe that small independent retailers provide a valuable resource to local communities. It is extremely important that these small local businesses remain able to compete in their communities.

There are many small retailers in areas of Scotland that are dependent on tourism for much of their turnover. The FSB sees a potential for small niche shops in these areas being disadvantaged if they are not able to promote local brands such as whisky, liqueurs and real ales. We would like to see these important small businesses protected in any future legislation.

Anecdotal evidence suggests that most small shops are often not the main culprits associated with what might be deemed irresponsible pricing. The FSB has previously campaigned against the use of ‘loss leaders’ as a sales tactic by larger retailers.

Minimum Pricing

We also note at this stage that it may be difficult for a small retailer to accurately assess the impact on his business when the proposed minimum price and other restrictions remain unpublished.

Many small retailers are concerned about the potential cost associated with the introduction of a minimum price. For example, it has been widely suggested that the price on the product as well as shelf edges and computer data systems would have to be updated. For a small retailer with limited staff resources, making these changes could be a considerable undertaking.

Social Responsibility Levy

At present, there is uncertainty about the impact of the proposed social responsibility levy as there is no detail about who will pay the levy, how it would work and how much would be raised. Due to the lack of detail that exists at present, the FSB is not in a position to measure the potential impact this would have on small independent retailers.
While recognising that not all retailers operate within the law, the overwhelming majority of small independent retailers do, and they provide a valuable service to their local communities. The FSB has previously expressed its view that we oppose the introduction of a social responsibility levy as legislation already exists to punish retailers who break the law. This should be rigorously enforced before imposing additional costs on small businesses, the overwhelming majority of whom operate within the law.

The proposed levy would also affect the same group of businesses that have recently faced higher costs following the introduction of the new licensing regulations.

We have also previously expressed a view that it would set a precedent if those retailers who sell alcohol paid for the social costs of its effects. For example, should a fast food company pay for the effects of obesity?

**Conclusion**

The FSB is grateful for the opportunity to participate in this consultation and we hope that our comments are helpful in your scrutiny of the Bill.
SUBMISSION FROM SCOTTISH AMBULANCE SERVICE

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

   Yes – copy of response attached

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

   It is difficult to identify, without the background detail, whether Scottish Ambulance Savings have been identified in the overall £405 million annual savings to NHS Scotland

3. Did you have sufficient time to contribute to the consultation exercise?

   Yes.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

   The Bill should it achieve the desired reduction in harmful drinking would help avoid costs, and manage demand more appropriately such that critically ill and injured people receive a higher quality service.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

   We do not currently anticipate any direct cost to SAS

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

   The Scenarios used to estimate the impact, the costs and the timeframes appear reasonable to base likely outcomes and have factored in a degree of uncertainty.

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

   N/A

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

   Any further impact on harmful drinking should have consequential efficiencies for the Scottish Ambulance service.
Alcohol Etc. (Scotland) Bill – Health and Sport Committee Call for Evidence

Scottish Ambulance Service (SAS) Response

- General Comments

SAS welcomes the opportunity to contribute to this call for evidence and we support the general principles of the Bill. Alcohol puts significant strain on SAS resources and potentially affects our ability to respond to other medical emergencies, as well as affecting the wellbeing and safety of our staff responding to alcohol related incidences.

We are particularly compelled by some specific findings of a study carried out by Sheffield University that considered the implications of a range of options in Scotland. Based on a minimum price of 40p per unit of alcohol being introduced along with a ban on price promotions, it is estimated that:

- Consumption among harmful drinkers in Scotland would fall 8.7 per cent
- Deaths would fall by about 70 in the first year and 365 per year by year 10 of the policy
- A reduction in illnesses of 1,200 in the first year and 3,700 per year by year 10
- A reduction in general hospital admissions of 1,600 in the first year and 6,300 per year by year 10 (representing 15 per cent of total alcohol-related admissions)
- A reduction in crime of 3,200 offences per year

As many as two-thirds of calls to SAS at the weekend can be alcohol-related, ranging from direct harm to the individual from alcohol, and alcohol-related accidents and violence. The latter is also a considerable challenge and threat to the effectiveness and wellbeing of our front-line staff, with impacts on morale and sickness absence rates.

We agree with the view of the national Violence Reduction Unit that if we reduce the accessibility and availability of alcohol, we will reduce violence – as well as reducing the considerable burden on our economy and our health service.

A reduction in alcohol consumption could also help to mitigate unprecedented increases in emergency demand in recent years. There should be benefits of reduced A&E attendances and general health improvement benefits.

- The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol.

SAS supports the statement of BMA Scotland and others around the evidence of a strong relationship between price and consumption: as price falls, consumption increases. Alcohol has become progressively more affordable, particularly for off-sales. If heavy drinkers are drinking less, friends and family will notice a positive difference in their lives. If young people are drinking less, they will be less at risk of coming to harm themselves and less likely to disrupt those living in the local area.

We also agree with the view of the national Violence Reduction Unit that if we reduce the accessibility and availability of alcohol, we will likely reduce violence – as well as reducing the considerable burden on our economy and our health service.

- The level at which such a proposed minimum price should be set and the justification for that level.

SAS does not have a particular view on this, other than the level should be set at some such point where evidence exists of a likely meaningful impact on consumption.
• The rationale behind the use of minimum pricing as an effective tool to address all types of problem drinking

SAS supports the view that minimum pricing is the best mechanism to change the business practices such as loss-leading and heavy discounting that are contributing to these problems. We believe that minimum pricing could have a significant and positive impact on health as part of a co-ordinated strategy. Treating alcohol-related conditions cost the NHS in the UK approximately £2.7 billion in 2006/07, almost double the 2001 cost.1

1 NHS Confederation and Royal College of Physicians Joint Briefing, 1 Jan 2010

• Possible alternatives to the introduction of minimum pricing as an effective means of addressing the key public health issues around alcohol consumption

SAS believes that tackling the availability of cheap alcohol is a very important step, but that it is also important to have a co-ordinated strategy on tackling alcohol problems, including education, prevention and treatments service as part of a wider package. These services require ongoing investment and should be designed on the best available evidence of effectiveness. They should also build upon the most successful partnership approaches involving the NHS, local government, the third sector, police and criminal justice agencies and other key stakeholders.
SUBMISSION FROM THE SCOTTISH GROCERS’ FEDERATION

1. The SGF welcomes the opportunity to provide written evidence to the Finance Committee on the financial memorandum of the Alcohol etc. (Scotland) Bill.

2. SGF is the trade association for the Scottish Convenience Store Sector. It is the authoritative voice for the trade to policy makers. The SGF brings together retailers throughout Scotland, from the Scottish Co-operatives, SPAR, Keystore, Nisa and local independents. Our members sell a wide selection of products and services throughout local town centre, rural and community stores. According to recent statistics (2007) there are just over 5,600 convenience stores throughout Scotland, with annual sales in excess of £3.2 billion.

3. The SGF did respond to the Scottish Government’s consultation “Challenging Scotland’s relationship with alcohol: a discussion paper on our strategic approach”, held in June 2008. At that time we raised our concerns regarding the measures in the consultation and the impact they would have on small retailers.

4. It is difficult to predict what the possible outcome for retailers will be when we are unaware of the level the proposed minimum price and other restrictions, if introduced. However, we can provide some general comments.

5. The introduction of a minimum price would have a limited impact on small shops that are not able to offer very low cost promotions. Within the grocery market it has become common practice for the large supermarkets to loss lead on alcohol as a means of driving footfall and increasing market share. Minimum price would put an end to the practice used by some in the grocery trade of selling alcohol at very low prices.

6. There would be administrative costs associated with the introduction of minimum pricing as there would be a requirement to alter pricing both on the product, shelf edges and computer systems. For local shops operating with a small workforce the impact of the changes would be felt more acutely, as in all likelihood it would require a member of staff several days to make the changes to the computer system. In addition any subsequent changes to the minimum price would result in additional administration costs for retailers.

7. SGF is concerned the introduction of a minimum pricing policy in Scotland is likely to encourage cross border shopping to the North of England which would have damaging and lasting consequences for off-sales retailers, particularly those located in the south and central regions of Scotland.

8. Minimum pricing would lead to a growth of “white van man”, activity as consumers turn to other channels to purchase alcohol to avoid higher prices. This would have a damaging impact on small shops.

9. The introduction of minimum pricing is likely to benefit internet sales of alcohol. Clearly this would be damaging to the trade of many small retailers in Scotland without affecting the consumption of alcohol.

10. Promotional activity in a convenience store is designed to promote business not only on the product or products involved but also across the store generally. It is intended to increase footfall and increase a retailer’s market share. A supermarket will obtain lower prices from a supplier due to economies of scale and greater bargaining power, than a small shop can achieve. Small shops cannot compete with supermarkets on price. Promotions are one of the few marketing tools small shops can use to compete with the supermarkets. If promotions are to be restricted and a pricing mechanism is not introduced to prohibit below cost selling, supermarkets could circumvent promotional restrictions by offering lower unit prices. This would be extremely damaging for small shops that would be unable to compete. The closure of small shops would have a detrimental affect on many communities across Scotland.
11. In our response to the consultation we underlined the importance of window bills and promotional leaflets for the convenience store sector. For small independent convenience store retailers window bills, in-store point of sale cards, posters and promotional leaflets represent the only realistic method of advertising their special offers or promotions whilst large operators can afford radio, print and TV advertising. Any restrictions on promotional material relating to alcohol should apply across all forms of media or not at all. We are concerned the current measures in the Bill will have a disproportionate impact on small shops, especially as it could encourage the supermarkets to divert revenue to additional radio and TV advertising.

12. Retailers affiliated to a symbol group e.g. SPAR often take part in national promotions which are supported by point of sale material. Restrictions on promotions in Scotland would result in Scotland specific promotions. This would increase costs for Scottish retailers as separate promotional materials would have to be produced. However, as we do not know the exact detail of any of these restrictions it is difficult to measure what the exact effect might be.

13. The Financial Memorandum refers to a Social Responsibility Levy and ongoing discussions between the Scottish Government and stakeholders to develop the detail of the levy. SGF is concerned the Scottish Government is proposing to give a broad power to Ministers to allow local authorities enabling powers to raise supplementary taxes via the licensed trade, without adequate scrutiny. We are concerned at the uncertainty surrounding this issue. Due to the lack of detail we have no way of measuring the impact this would have on small shops. Whilst not supportive of such a tax, if one were to be introduced, it should be fair, reasonable and proportionate.

14. The financial impact for retailers of increasing the age to purchase alcohol in off-sales depends on the extent to which Licensing Board choose to establish such conditions and the geographical area of the ban. The financial impact on a retailer will depend on the behaviour of customers and if they choose to shop in a different area which is not affected by a ban. If customers do switch to a different shop or alternative forms of shopping it could be extremely damaging for a retailer. For this reason SGF is extremely concerned that Section 9 in the Bill which enables licensing boards to apply new conditions on all or certain licences at one time would give boards the ability to make unilateral decisions with no recourse for retailers. This is disproportionate and unfair for retailers running highly responsible businesses, who through no fault of their own are located within a geographical area in which the licensing board believes off-sales to under 21s is resulting in a detrimental impact on that community.

John Drummond
SGF Chief Executive
1. The SRC and WSTA thank the Finance Committee for the invitation to submit written evidence on the Financial Memorandum for the Alcohol etc (Scotland) Bill. The SRC represents general retailing in Scotland whilst the WSTA is a UK-wide organisation for the wine and spirits trade which includes retailers among its members, many of them also members of SRC.

2. However, the SRC and WSTA are not submitting detailed evidence on this occasion. As recorded in the Financial Memorandum, the two organisations were among those consulted on the financial assumptions but likewise did not comment at that stage on the estimated costs to the retail sector, although clearly there are very substantial implications for retailers. It might be helpful briefly to explain the reasons why.

3. The main proposals in the Bill as far as the retail sector is concerned are:
   - Minimum pricing
   - Restrictions on multi-buy discount promotions and on promotional materials
   - Social responsibility levy
   - Local raising of the legal purchase age to 21.

4. As trade associations the SRC and WSTA are constrained by competition law from having any involvement in pricing and promotion which are properly matters for individual companies. All companies have different product ranges, pricing models, promotional practices, customer loyalty schemes etc. Each retailer would therefore be affected in substantially different ways by the proposed pricing and promotional restrictions. These effects could include consumers switching to different products or price points, and to/between different retail outlets and channels; and the retailers themselves continuing to try and compete with each other, switching to alternative forms of promotion, dropping certain products/categories from their ranges, amending price points and so on.

5. The planning and modelling of such effects would be exceptionally complex. Even within each company, the level of analysis, to assess and project what might happen, would be very significant. These matters are commercially confidential and are rightly not shared with representative bodies. It would in any event be beyond the scope of our current resources to conduct a meaningful or accurate sector-level analysis of such data – the SRC for example has to deal with a very wide range of policy developments impinging on both grocery and non-grocery retailing as a whole.

6. Before investing in such substantial research, individual retailers might also be forgiven for wanting, first, to be certain that minimum pricing, and/or the promotional restrictions, are definitely going to happen; and secondly, to have the crucial piece of the jigsaw which is to know exactly what the proposed minimum price and other restrictions are going to be. Without final details it is very difficult for them to assess the effects; and even then they would, again, have constraints on sharing their analysis.

7. Similar uncertainty surrounds the social responsibility levy. It is recognised in the Financial Memorandum that the short clauses in the Bill represent only an enabling power and do not contain detail on who will pay the levy, how it will work and how much will be raised. Indeed concerns about this lack of clarity and the use of delegated powers were raised at this week’s meeting of the Subordinate Legislation Committee in its scrutiny of the Bill.

8. On local raising of the legal purchase age to 21, the SRC and WSTA endorse the comment in the Financial Memorandum that the impact on retailers will depend on the extent to which local Licensing Boards do decide to impose restrictions and in what areas. There is scope for them to apply to one shop, one street, one district, a whole town or to an entire Licensing Board area – it is almost impossible to predict the economic and competitive effect which could be very variable depending upon the scope of any bans. There is then further uncertainty of impact depending on the degree to which affected consumers will
switch their purchasing to shops in neighbouring areas which are not subject to restrictions, to alternative sales channels such as the Internet (or even to illicit suppliers), and to the on-trade.

9. The SRC and WSTA hope that the above will help to explain why, in responding to the Bill, the retail sector has concentrated not on the uncertain financial impacts but on the fundamental principles underlying the Bill, about which very detailed written evidence has been submitted to the Health & Sport Committee. It is assumed that copies of these submissions will be available to the Finance Committee if needed.

10. The SRC and WSTA would only make a couple of comments on other assumptions within the Financial Memorandum:

- The Committee’s attention is drawn to paragraph. 51 which explains that the modelling of the effects of the promotional restrictions included price reduction promotions (which are not proposed to be restricted under the Bill) as well as quantity discount promotions (which are), and which notes that it is therefore not possible to quantify accurately the impact of that aspect of the Bill – especially since, as noted earlier, there will inevitably be a shift in the types of promotions and in promotional practices if these clauses were enacted.

- This is perhaps a specific example of a general comment which has been made, that the modelling is by its nature theoretical and does not necessarily take account of all the real complexities of the market and the ways in which, as outlined earlier, both consumers could switch their spending habits, and individual companies would model their own business plans, in response to the changed market dynamics which would follow the enactment of the Bill.

Scottish Retail Consortium
Wine & Spirit Trade Association
28 January 2010
Introduction

The Scotch Whisky Association (SWA) is the industry's representative organisation. Its 55 member companies – Scotch Whisky distillers, blenders, and bottlers – account for over 90% of the industry.

The SWA recognises the need to address alcohol misuse in Scotland. We are committed to playing our part to reduce alcohol-related harm, promoting a culture where responsible alcohol consumption is the accepted norm and misuse is minimised.

A key objective of the Scottish Government’s approach is a reduction in total alcohol consumption. We believe the focus should be on a reduction in the number of those drinking at harmful and hazardous levels. Targeting such drinkers would lead to a reduction in total consumption, without requiring blunt measures that penalise all drinkers.

The SWA supports many of the proposals being brought forward in the Alcohol Bill. The industry is, however, fundamentally opposed to the introduction of minimum pricing. By way of summary, we believe minimum pricing:

- will be ineffective. There is no evidence that it will reduce the number of hazardous and harmful drinkers in Scotland.
- is illegal, being contrary to EU Single Market rules and international trade law.
- will seriously damage the competitiveness of the Scotch Whisky industry at home and in export markets, at a time when the sector continues to face major economic challenges.

We would welcome the opportunity to discuss the points set out in our submission in more detail with the Committee.

Response to Finance Committee questions

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

The SWA responded to the Scottish Government’s June 2008 consultation ‘Changing Scotland’s relationship with alcohol: a discussion paper on our strategic approach’. The Association is also a leading member of the Scottish Government Alcohol Industry Partnership (SGAIP). Following publication of the Government’s March 2009 consultation response, the proposals for the Bill were included as a regular agenda item at SGAIP meetings. Regrettably, the Sheffield University modelling work on which much of the Financial Memorandum is based was not discussed at any of these meetings.

On 3 September 2009, the SWA received a Scottish Government questionnaire seeking input as officials prepared the draft Regulatory Impact Assessment (RIA) for the Alcohol Bill. The Association submitted its response to this request on 6 November. At no time was the SWA given the opportunity to comment on any financial assumptions made in the Financial Memorandum.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

No. The SWA was not consulted on any financial assumptions made. As the Financial Memorandum states, the Association was consulted on various questions relating to minimum pricing and a discount ban. The responses to these are referred to in the RIA published on 14 December. However, it is unclear to what, if any, assessment or consideration was given to the points raised in the SWA submission.

3. Did you have sufficient time to contribute to the consultation exercise?
There was no consultation with the Association, or as far as we understand any other part of the alcohol industry, on any of the financial assumptions made in relation to the Financial Memorandum.

4. **If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.**

(a) International Implications

The minimum pricing proposal will have significant financial implications for the Scotch Whisky industry and the wider economy which relies on the sector. This impact will be exacerbated by the continuing economic uncertainty. Such costs have not been reflected in the Financial Memorandum.

Scotch Whisky is a key industry and driver of the Scottish economy, representing 22% of manufactured exports and 90% of Scotland’s food and drink exports. Market access restrictions threaten industry competitiveness.

As an industry, Scotch Whisky faces over 600 trade barriers worldwide. It is therefore important to understand how a Scottish minimum pricing mechanism would encourage increased barriers to the trade of Scotch Whisky overseas. Econometric analysis, and an assessment of countries which may seek to use the Scottish example as justification for increasing discrimination against spirits, suggests a potential £150 million reduction in exports (based on a minimum price of 50p per unit increasing in price by 30%). Widening that assessment, minimum pricing could result in an annual loss which could potentially reach up to £600 million in reduced Scotch Whisky exports, equivalent to 20% of global sales.

It has been suggested that the Scottish minimum pricing scheme would not discriminate or be protectionist and thus not present a precedent for governments abroad. We believe such a claim misunderstands the global market in which the industry operates. It is the breach of international trade law, not the nature of the Scottish system, that threatens Scotch Whisky exports and the wider Scottish economy.

The Scottish system need not be replicated abroad. If a precedent of overriding trade rules is secured we believe this will lead to a domino effect of ‘health-based’ restrictions on Scotch being applied in our export markets.

Whilst the RIA states no information was provided on countries contemplating the introduction of such measures, case studies were included in our submission. These focused on the potential negative impact overseas, for example in South Korea. Since the start of 2010, at least three markets (Russia, Moldova, and Uzbekistan) have announced the introduction of minimum pricing. The SWA is investigating their specific nature but it would appear that two schemes discriminate against spirit drinks. The SWA previously warned that copycat measures were likely. Also, as a ‘unit of alcohol’ is very much a UK concept, it is unlikely these countries will be copying the Scottish approach of a minimum price on a unit of alcohol basis.

(b) Domestic Implications

The ‘Sheffield’ report on which the minimum pricing policy is based did not consider supply side impacts, which was stated as being outside its scope. However, the SWA’s draft RIA submission to the Government set out the potential implications for the Scotch Whisky market in Scotland (p43 para 5.49 – 5.52 of RIA refers). These include:

- An assessment on the impact on those companies whose business model is heavily weighted towards supplying own-label and value brands. These are likely to be significantly impacted by the introduction of minimum pricing. We estimate this could put at risk around 400 jobs.
Minimum pricing would not solely impact on ‘low cost, high strength products’ as claimed by the Scottish Government. Brands that seek to maintain a premium to value brands will be forced to increase their prices in order to maintain the differential. Given the price sensitivity of Scotch Whisky this may be difficult to achieve. Alternately, we could see commoditisation or compression of the market where the differential between value brands and premium brands is removed.

Minimum pricing gives retailers considerable control. It could be that with reduced shelf space due to the Licensing Act provision restricting display areas, retailers stock branded Scotch Whiskies exclusively, removing own label and value products (30% of sales) from shelves. Alternatively, own label brands facing price increases may provide a source of incremental retailer margin, who may lift the price of premium spirits beyond the minimum to maximise the return available. This may encourage consumers to trade down to value brands sold at the minimum price, or to switch to other categories of alcohol. A brand’s premium position may also be threatened if retailers hold price close to the minimum, reducing brand value in the eyes of the consumer.

The RIA (para 5.52) acknowledges the supply side reaction to the introduction to minimum pricing is unknown. It suggests producers may be incentivised to produce lower strength products. This is simply not an option open to Scotch Whisky which, as required by law, has a minimum strength of 40% vol.

Both the Sheffield researchers and the Government funded health lobby organisation, Scottish Health Action on Alcohol Problems, acknowledge there are unintended consequences resulting from the introduction of minimum price. These are likely to include an increase in cross-border shopping, illicit production, smuggling and opportunities for organised crime. Unfortunately, no assessment of such impacts is included in the Financial Memorandum.

The RIA (para 5.29) does, however, highlight the experience of Northern Ireland which has seen an explosion in cross-border shopping from Eire. The RIA suggests this is primarily due to the depreciation of the euro. It is important to note in December last year the Irish Government cut excise tax on all alcoholic beverages by 20% and VAT by 0.5% with the explicit objective of cutting cross-border shopping with Northern Ireland.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

If minimum pricing is introduced in Scotland this will require producers to amend the bar code information on all products destined for the Scottish market, creating separate stock keeping units (SKUs) for north and south of the Border. This would generate additional logistical costs for managing separate stock. As set out above, we strongly believe minimum pricing will fundamentally damage the financial well being of the Scotch Whisky industry going forward, with consequences for the wider Scottish economy. A negative impact on employment is likely, as is reduced spend with suppliers and a decline in investment.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

No. The information presented in the Financial Memorandum presents no margins of uncertainty or range of costs for any of the policy measures.

Significant reliance is placed on one study, the so-called ‘Sheffield’ report. This modelled minimum pricing, and minimum pricing in combination with a discount ban. A range of minimum prices was modelled from 25p to 70p per unit of alcohol in 5p increments. The costs and benefits set out in the Financial Memorandum are a range based on the lowest and highest minimum unit prices modelled as the Scottish Government has not specified the minimum price.
that would be set. There is no indication of the margin of error related to the output figures derived from the Sheffield modelling work.

Indeed the figures derived from the Sheffield model are surprisingly very precise and absolute. They are point estimates rather than a range being presented. As to whether these figures would actually be achieved in reality is a different matter.

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The RIA makes clear the Bill is part of a wider policy initiative. The provisions in the Bill are aimed at two of the four areas set out in the Government’s framework for action: 1) to reduce alcohol consumption and 2) to support families and communities.

We welcome the Scottish Government’s increased allocation of funds to tackle alcohol-related harm. Much of the additional funding included in the increased budget of £120 million over years 2008-09 to 2010-2011 is targeted at the roll out and delivery of brief interventions. We also support the recognition that the brief intervention technique is as an evidence-based, cost-effective intervention in reducing alcohol-related harm.

As far as we can ascertain, the associated costs of delivering the other two areas of the Framework for Action – positive public attitudes, positive choices and improved support and treatment - have not been included within the Financial Memorandum.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

The Social Responsibility Fee will impose further costs on industry. How the fee is introduced and applied will determine the size of these costs. The SWA would support a fault-based approach, targeted at irresponsible licensees, which are shown to be contributing to alcohol-related harm.

Additional Comments on the Financial Memorandum

Much of the information in the Financial Memorandum on the costs and benefits of minimum pricing is based on modelling work commissioned by the Scottish Government from the University of Sheffield. We believe this study to be flawed and limited in a number of ways.

- The study is based on limited empirical evidence. It is an academic modelling study relying heavily on estimates and assumptions. Key parts of the report are not based on Scottish data. Instead, simplistic assumptions are made that drinking patterns and costs are the same in Scotland as elsewhere.

- Despite 2008 figures being available, five year old consumption data is used (Scottish Health Survey 2003). 2008 data showing a fall in consumption has been ignored.

- The report acknowledges the general lack of evidence in the international literature between consumption and specific harms. The literature shows heavy (harmful) drinkers are less responsive to price increases than moderate drinkers, indicating the Government proposals will influence the behaviour of moderate drinkers not heavy consumers.

- The potential impact of price changes on hazardous/harmful consumers is overstated. It assumes harmful drinkers purchase cheaper alcoholic beverages most impacted by minimum pricing. The Scottish Government claims hazardous/harmful drinkers are found in all income groups not just those purchasing lower cost alcohol.
• The study makes no assessment of unintended law and order or economic consequences, i.e. an increase in cross border shopping, illicit production, smuggling and opportunities for organised crime as a result of introducing a minimum price.

• The study uses higher average wages than are to be found in Scotland to estimate direct benefits to the economy; this is likely to overstate the benefits claimed.

• Any fall in overall consumption will not lead to a significant fall in harm. The proportion of hazardous and harmful consumers, and associated harm, remains unchanged. Yet, these drinkers consume nearly 80% of total volume.

• There is no assessment of how minimum pricing will impact on different socio-economic groups. Hazardous/harmful consumers exist across the deprivation spectrum from least deprived to most deprived. Affluent harmful/hazardous drinkers will already choose to purchase alcoholic drinks based on their preference not cost. They will not be impacted by minimum pricing. This is not factored into the claimed impact of the modelling.

• Households experiencing problem drinking are likely to face increased expenditure of several hundred pounds and this is likely to especially impact those on lower incomes. The significant additional projected expenditure is likely to drive cross border sales and black market supply.

• The effectiveness of minimum pricing and off-trade promotion bans is overstated. The report claims the policies modelled are more effective in reducing consumption in Scotland as off-trade sales are a higher proportion of the market than England. But, the report acknowledges the Expenditure & Food Survey used means in the modelling based on a higher proportion of off sales than shown in the real world Nielsen report commissioned by the Scottish Government. The Nielsen Report shows sales of pure alcohol in the off-trade in Scotland accounts for 63.3% compared to 62.8% in England & Wales. The figures used from the Expenditure & Food Survey are much higher (73% and 69% respectively).

The Scotch Whisky Association
January 2010
SUBMISSION FROM WEST DUNBARTONSHIRE COUNCIL

Thank you for your letter of 22 December 2009 inviting comments on the financial implications to local authorities of the Alcohol etc (Scotland) Bill. The likely costs to the local authorities will arise in the following areas:

1. **Minimum Pricing**

   Paragraph 59 of the financial memorandum suggests that the additional work for local authorities will generally a rise in ensuring compliance and in taking enforcement action. It suggests that as the additional number of new conditions is small in relation to the number presently being checked the additional work is considered to be small in relation to the overall work of Licensing Standards Officers, and as such costs are likely to be marginal. It also states that the cost of running the licensing system, including the costs of the LSOs are generally recovered by Licensing Boards from fee income in line with the Licensing (Fees)(Scotland) Regulations 2007.

   These assumptions are not entirely correct. The first assumption assumes that Licensing Standards Officers visit all premises and that a check on minimum pricing can be carried out when checking on other items. In practice LSOs, like all other regulatory regimes carry out a targeted approach to enforcement, in line with the Hampton Principles of Better Regulation. This means that the introduction of minimum pricing is likely to result in visits to premises which would not otherwise be visited, resulting in additional workload.

   The second assumption is that the costs of running a licensing system are generally recovered by the Board from fee income under the 2007 Regulations. It is probably correct that the costs of Boards in dealing with the transitional period prior to September 2009 were fully recovered by fees. Thereafter costs are to be recovered by an annual fee levied on premises, plus minor licence applications. In the case of West Dunbartonshire Council it is expected that the annual fees will bring in £60,000 per annum. At best other fees will bring in £30,000.

   This has to fund the salary costs of two Licensing Standards Officers of nearly £80,000 including employer National Insurance and superannuation contributions their travel and training expenses, plus the costs of the Clerk to the Board, administrative and clerical support and support from Environmental Health, Planning and Building Standards as required. There are also costs in supporting and training Members of the Licensing Board and Licensing Forum. Accordingly the annual fees barely recover the costs of the Licensing Standards Officers let alone any other costs of the Board. While noting the high costs which the licensing trade incurred during the transitional period (of which the fees formed part along with applicant’s own solicitors and architects fees) and the concerns of the trade at the level of fees during the transitional period, the annual fees require to be urgently examined. Otherwise the principle that licensing should be self funding will be breached. Given the financial climate facing local authorities it is inevitable that the support offered to Licensing Boards will be scaled back, potentially prejudicing both the implementation of the Act and the parliament’s aims of alcohol reduction.

2. **Off-Sales Drinks Promotions**

   The foregoing comments also apply to drinks promotions. However, it should also be noted that there may be significant legal costs if local authorities take action against major supermarkets. Allowance needs to be made for this.

3. **Sale of Alcohol to Under 21s**

   The comments under point 1 are also relevant.

4. **Social Responsibility Levy**
In principle any costs arising from this should be met from the levy and the cost impact on local authorities should be neutral.

As will be evident the primary problem for local authorities lies with the rate of the annual fees. The new duties imposed under the Alcohol etc (Scotland) Bill are with the exception of legal costs against supermarkets, potentially small. However they compound an existing problem.

Andrew Fraser
Head of Legal, Administrative and Regulatory Services
SUBMISSION FROM THE NHS AYRSHIRE AND ARRAN

Over the next five to ten years, public services are likely to see real terms reductions in their budgets. The cost to these organisations, and society in general, of alcohol misuse is very high as demonstrated by the financial memorandum.

NHS Ayrshire and Arran would welcome reduced costs for public sector organisations arising from alcohol misuse (as estimated in the ScHARR report) and we believe that introduction of minimum pricing as proposed in the Bill will contribute towards this.
SUBMISSION FROM THE NHS DUMFRIES AND GALLOWAY

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

   NHS Dumfries and Galloway did not take part in the consultation exercise for the Bill.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

   N/A

3. Did you have sufficient time to contribute to the consultation exercise?

   N/A

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

   The financial implications for NHS Boards have concentrated on the general health benefits accruing from the proposals contained within the Bill and the associated cost savings with respect to the following:
   • reductions in alcohol-related deaths
   • reductions in the number of people suffering a chronic alcohol-related illness
   • reductions in hospital admissions
   • reductions in overall healthcare costs

   When these costs are considered alongside the cost savings anticipated for other services (e.g. Police) the sums are substantial.

   What is not quantified is the possible rise in numbers seeking treatment for their alcohol-related problems rather than continuing to drink at current levels or the possible rise in numbers seeking treatment for other health problems if they choose to spend a greater proportion of their income on alcohol. These factors may incur a financial cost to NHS Boards and need to be monitored before financial decisions based on current modelling are taken.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

   Subject to the possibilities mentioned in (4) above, we do not foresee any significant increase on the financial burden caused by alcohol misuse on NHS Boards being created by these proposals.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

   If the Bill becomes law we would expect the financial assumptions and estimates contained within the Financial Memorandum to be subject to continual re-assessment and funding decisions taken based on the outcome of such ongoing assessments.

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

   In respect of the NHS Boards, yes.
8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

It is possible that the Bill may produce unintended consequences in (e.g.) unemployment in the alcohol production industry or the off-sales trade. As employment status is an underlying determinant of health status this may produce additional costs to the NHS in the future. Again, we believe that the effects of the Bill being enacted needs to be monitored over time and that the monitoring should include other factors and not just the direct effects on alcohol consumption.
SUBMISSION FROM NHS FORTH VALLEY

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?
2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?
3. Did you have sufficient time to contribute to the consultation exercise?

As Director of Public Health I have not previously commented on the financial assumptions made regarding the alcohol bill.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The Bill does not place any additional financial implications on NHS Forth Valley. The Financial Memorandum of the Alcohol Bill provides evidence that implementation of the Bill would lead to a reduction in the harmful effects of alcohol on health and that this would lead to savings within healthcare. However the evidence is based on the assumption that consumer behaviour will respond to price changes and that those drinking harmful and hazardous amounts would reduce their consumption most. On page 23 paragraph 94 the memorandum states that healthcare costs are estimated to reduce by around £3 million in the first year. For the full 10 year effect the healthcare service costs are estimated to reduce by around £64 million. However the NHS would not be in a position to realise these savings as they are mainly based on staffing and other overheads.

However any reduction in alcohol related harm would be beneficial to society as a whole and improve the quality of healthcare for all involved. It is estimated that minimum pricing would lead to reduction in the harm to health and employment and reduce crime and the associated wider consequences.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

NHS costs are not expected to increase associated with the Bill.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

I believe that the uncertainty has been explained.

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

Impossible to predict at present.

Dr Anne Maree Wallace
Director of Public Health
SUBMISSION FROM NHS GRAMPIAN

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

Yes, NHS Grampian have previously indicated their support for the proposals with particular mention of the Minimum Pricing Policy and supporting evidence. There was no specific comment on the financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes, NHS Grampian has nothing to add to the information as outlined in the Financial Memorandum.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes, time was managed to ensure this.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

Yes, the explanatory notes to the Bill adequately explain the benefits to the Health system and the source of evidence to support introduction of the proposed changes, in particular minimum pricing of alcohol.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

Implementation of the proposed changes as outlined in the Bill will have a beneficial financial impact on the Health Service in Scotland. It is anticipated that this will apply also to NHS Grampian and is consistent with the public health evidence base available to clearly support almost all components of the Bill.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise? The Financial Memorandum provides a comprehensive assessment of the potential impact of the Bill.

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

NHS Grampian is unable to comment on this aspect at this time. It is not clear which associated costs are being referred to.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

NHS Grampian is unable to comment on this aspect at this time.

Dr Lesley Wilkie
Director of Public Health
SUBMISSION FROM THE NHS HEALTH SCOTLAND

Further to the letter from Kevin Woods, dated 12 January, in respect of the above, I can confirm that there are no financial implications for NHS Health Scotland associated with the Bill.
SUBMISSION FROM NHS HIGHLAND

Consultation

9. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

NHS Highland have submitted a response to the request for evidence to the Health & Sport Committee, the key focus was to respond to the questions and as such no direct comment was given on the financial assumptions made.

10. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

11. Did you have sufficient time to contribute to the consultation exercise?

The timescale was restrictive however NHS Highland considers the Alcohol etc (Scotland) Bill to be an important piece of legislation, which sets out a real opportunity to address the issues of high alcohol consumption to have a significant and positive impact on the health of our communities therefore responding, was considered a priority. In terms of commenting on the financial memorandum, perhaps this could have been more explicit at the time the initial call for evidence was made in order that a more in depth analysis could be made at local level.

Costs

12. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

NHS Highland believes that the Financial Memorandum has adequately covered the implications of the Bill. It is recognised the introduction of a minimum price in combination with a ban on discounted alcohol will have significant impact on the reduction of alcohol related harm.

13. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

NHS Highland agree with the conclusion contained within the memorandum that there will be a significant reduction in alcohol related admissions, therefore healthcare costs are estimated to reduce.

14. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The analysis contained within the Financial Memorandum would appear to have accurately captured this.

Wider Issues

15. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The Financial memorandum has considered the financial impact form a range of perspectives, including those areas where there may be considered the Bill will have a significant financial impact. NHS Highland believes that the gain for society in implementing the Bill out ways any financial outlay.
16. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

It would be difficult to quantify potential future costs although NHS Highland would suggest that that be an accepted risk in order to ensure improvement in public health.
SUBMISSION FROM NHS LANARKSHIRE

1 Purpose of Report

The attached report sets out NHS Lanarkshire’s response to the questionnaire designed to assess key stakeholders perspectives on the financial impact of the Alcohol Etc. (Scotland) Bill issued by the Scottish Parliament, Finance Committee. This information is in addition to the written response provided on the Bill to The Scottish Parliament’s Health and Sport Committee which was submitted on 15th January.

2 Nhs Lanarkshire Response

2.1 Consultation

Q1 Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

Yes, NHS Lanarkshire did take part in the consultation exercise for the Bill. NHS Lanarkshire supported the financial assumption made within the Bill and supported a minimum price of £0.50 per unit. The justification for this level was based on the University of Sheffield’s Report (2009) which suggests that as the minimum price threshold increases, alcohol-related hospital admissions and deaths are estimated to reduce.

At a national level this would see a reduction of 3,600 admissions per annum for a £0.40 price threshold compared to a fall of 8,900 alcohol related hospital admissions per annum for a £0.50 price threshold. In Lanarkshire alone this equates to a reduction of 367 hospital admissions and 907 hospital admissions respectively.

This report also notes that most of the prevented deaths over a ten year timeframe occur in harmful drinkers, while the majority of health related harms are reduced in middle or older age groups who are at significant risk of developing and potentially dying from chronic disease. The Sheffield Report concludes that as the minimum price threshold increases, healthcare costs are reduced. At a national level, health and social care costs will be reduced by approximately £60m for the £0.40 price threshold and £160m for the £0.50 price threshold over a ten year period. In Lanarkshire this equates to £6.1m and £16.3m savings in health and social care costs respectively.

Q2 Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes, these are clearly laid out and are primarily based on the work of the Sheffield Report (2009) referred to earlier.

Q3 Did you have sufficient time to contribute to the consultation exercise?

Yes, NHS Lanarkshire has been able to facilitate discussion with key stakeholders including the full membership of the Alcohol and Drug Partnership (ADP). Responses to the Bill have already been submitted on behalf of the NHS Board and the ADP.

2.2 Costs

Q4 If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

Yes the financial Memorandum incorporates the modelling carried out by the Sheffield Report (2009), referred to earlier which estimated that Alcohol misuse costs the National Health Service (NHS) £405m each year. Health harms are estimated to reduce by up to £88m in the first year, and by between £12m and £2,211m over 10 years. Financial considerations for NHS Lanarkshire are incorporated in our response to Q1.
The significant variation in these figures reflect the modelling of 21 separate scenarios conducted by the University of Sheffield. These modelling scenarios incorporate the estimated impact on reduction to health harms based on minimum price thresholds which range from £0.25 to £0.70 per unit of alcohol and the estimated effects of including a discount ban. Financial implications for NHS Lanarkshire are incorporated in Q1.

Q5 Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

The economic evaluation as set out in the Sheffield Report (2009) clearly indicates that the Bill will reduce costs to the NHS as set out in our response to Q1 and Q4. Other considerations are that as with Smoking legislation, the Bill may encourage more people to consider making lifestyle changes in respect of their alcohol consumption. Many will seek support in effecting this change through NHS services. It is our view, that the additional alcohol funding made available through the Scottish Government, will enable increased capacity to timeously support people wishing to review drinking behaviour.

Q6 Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes, the financial Memorandum provides an accurate reflection of these margins.

2.3 Wider Issues

Q7 If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

Yes, the financial Memorandum clearly sets out where a Regulatory Impact Assessment (RIA) was required. There were 3 topics within the Bill that carry a significant financial impact. For the purposes of the financial memorandum, a significant financial impact was defined as a topic having a financial impact of over £0.4m per annum once implemented:-

- introduction of a minimum price for a unit of alcohol (sections 1 and 2 of the Bill);
- introduction of a restriction for off-sales on supply of alcoholic drinks free of charge or at a reduced price (section 3 of the Bill);
- provision in respect of sale of alcohol to under 21s (section 8 of the Bill).

Chapter 1 of the Financial Memorandum draws out from the Bill and details the financial impact of these 3 topics with a significant financial impact, while Chapter 2 presents the financial impact of the remaining provisions of the Bill (i.e. those that do not have a significant financial impact). These include the restriction of the location of drinks promotions in off-sales premises (section 4 of the Bill) and a requirement for licence holders to operate an age verification policy (section 5 of the Bill).

The detail of the social responsibility levy was not included as it is currently being developed in conjunction with stakeholders so it was not possible to gauge the financial impact at this stage. The Financial Memorandum notes that a specific RIA will accompany any regulations that set out the detail of a social responsibility levy.

Q8 Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

At this stage NHS Lanarkshire is unable to quantify these costs, although anticipate that there will be no direct financial implications for the organisation which put a strain on current resources.
SUBMISSION FROM THE NHS LOTHIAN

Consultation

17. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

Yes, NHS Lothian did take part in the consultation but it did not comment on the financial assumptions made.

18. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Not applicable

19. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

20. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The main financial implication of the Alcohol Bill for NHS Lothian, taken as part of the wider population approach to tackling Scotland’s alcohol problem, is a potential reduction in alcohol related ill-health. The Sheffield Study estimated the potential financial savings which may result from different pricings. Currently it is estimated that alcohol misuse costs the NHS in Scotland £405m per year.

21. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

Not applicable. The Bill does not impose any immediate additional costs on NHS Lothian.

22. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Not applicable

Wider Issues

23. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The wider policy initiative of the Scottish Government is being evaluated by NHS Health Scotland in a serious of evaluation questions.

24. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

Section 10 of the Bill gives the Scottish Ministers a power through regulations to impose a charge on certain holders of licences under the 2005 Act and the Civic Government

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32 Meier P et al. Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland: A Scottish adaptation of the Sheffield Alcohol Policy Model version 2. School of Health and related Research, University of Sheffield, September 2009
(Scotland) Act 1982. Money raised by the charge will be for local authorities to use in contributing towards the costs of dealing with the adverse effects of the operation of these businesses, for example extra policing or street cleaning or in furthering the licensing objectives listed in section 4 of the 2005 Act. A levy that funds interventions such as the care of drunk and incapable people who do not require medical input may be of benefit to the NHS. Models of caring for people in this situation vary considerably and the relative effectiveness of each model has not been established. Models also have to address the particular circumstances of the city or town so quantification of these costs for the whole of Scotland would be difficult at the present time.

SUPPLEMENTARY SUBMISSION FROM THE SCOTTISH GOVERNMENT

Alcohol etc (Scotland) Bill

Your e-mail of 11 February helpfully flagged up action points following our evidence to the Committee on 9 February. Our response to each of these points is as follows:-

Re-run of the ScHARR modelling

You asked for clarification of the timings for the re-run of the ScHARR model being available. We would expect to publish the updated findings in late March or April.

Internet sales (column 1904)

Internet sales raise challenges in a number of areas, including alcohol, and the Cabinet Secretary for Justice raised this issue with the former Home Secretary, Jacqui Smith at a meeting in March 2009. Mr Brownlee asked about the impact of the proposals in the Bill on people in Scotland who buy alcohol on the internet. I confirmed that the Licensing (Scotland) Act 2005 does apply to internet sales, therefore minimum pricing and the ban on irresponsible promotions would apply to internet sales under the 2005 Act in the same way as they would apply to sales in a ‘regular’ store.

Mr Brownlee then noted that there was nothing to prevent a retailer in England dispatching alcohol to addresses in Scotland. I confirmed that was correct, but should also note that if alcohol is ordered over the internet from, for example, a company in England, but was despatched from a premises in Scotland, the 2005 Act would apply.

Any retailer in England is subject to the requirements of the 2003 Act and the Scottish Parliament has no locus in this area. There are already major differences between Scotland and England in the way alcohol can be sold and promoted. For example, the 2005 Act bans a range of promotions in on-sales and off-sales whereas the Licensing Act 2003 in England and Wales currently does not. The most effective way of addressing this point would be for greater consistency between the licensing regimes in Scotland and England. We were therefore pleased to note the recommendations of the Health Select Committee’s report on Alcohol in respect of minimum pricing and alcohol promotions. We await the UK Government’s response to the Select Committee with interest and can revert to the Committee once the UK Government’s position has been set out.

Comparison between ScHARR Report commissioned by the UK Government and the ScHARR Report commissioned by the Scottish Government (column 1905)

Comparing the results from the modelling for England with the modelling for Scotland does not suggest that price elasticities between the 2 countries are substantially different. The English results can be seen in tables 12 and 13 of the English report and those for Scotland in tables 2.1 and 2.2 of the Scottish report. These are attached as Annex A.

Table 1 shows the main own price elasticities for low and high priced products in the off trade, for moderate drinkers, generated by the model. Table 2 shows the comparative figures for hazardous and harmful drinkers.

<table>
<thead>
<tr>
<th>Product</th>
<th>Price elasticities of demand for low priced products</th>
<th>Price elasticities of demand for high priced products</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Scotland</td>
<td>England</td>
</tr>
<tr>
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<td>Wine</td>
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<td>-0.4127</td>
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<tr>
<td>Spirit</td>
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<td>-0.5129</td>
</tr>
<tr>
<td>RTD</td>
<td>-0.3433</td>
<td>-0.3146</td>
</tr>
</tbody>
</table>

Table 1: off trade price elasticities for hazardous and harmful drinkers
<table>
<thead>
<tr>
<th>Product</th>
<th>Price elasticities of demand for low priced products</th>
<th>Price elasticities of demand for high priced products</th>
</tr>
</thead>
<tbody>
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<td>Spirit</td>
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<tr>
<td>RTD</td>
<td>-0.4318</td>
<td>-0.3816</td>
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</table>

**Information on the criteria that would apply to determine interference in the market (column 1909).**

Mr Macdonald asked about the criteria that would be applied to determine whether [a particular minimum price] was interfering unduly in the market. As I noted in response to an earlier question from Mr Whitton, there is a careful process to go through to arrive at a price that will be a proportionate means of protecting public health. That process is running in parallel with the Bill and I am not in a position to give further details at this stage. Ultimately, ministers would need to take a decision on a price that they consider appropriate and explain the rationale when presenting a draft order to Parliament.

**Various issue raised by Mr Purvis (columns 1912-1913)**

Table 4 shows the expected increase in the total value of spend on alcohol sales across different groups of drinkers. Harmful drinkers are the group who do most in switching behaviour between products and between off and on-sales. However although they switch some of their consumption to on-sales they decrease consumption in off-sales to such an extent that overall, they reduce their consumption by 8.7%. On average, in a week, they drink 1 additional unit in on-sales and 7 units less from off-sales. This is still the group in which the largest reduction in alcohol consumption is seen in the model results – both in percentage and absolute terms.

Sales data shows that there is a considerable price differential between on and off trade price per unit of alcohol. Although the minimum price for 25 ml of spirits (37.5% ABV) in a pub, assuming a minimum price per unit of 40p, would, as quoted, be 38p, the average price of spirits in on-sales is currently £1.52p per unit. This equates to a cost of £1.43 for a 25ml measure. The average price of on trade alcohol has increased by 17% over the last five years from £1.12 per unit in 2005 to £1.31 in 2009. The average price of a unit of alcohol in off-sales is 43p. This is an increase of only 3 pence (7.5%) over the same five year period, 2005-09.

**Cost of illness response (Column 2014)**

The £405 million cost to the NHS is, as correctly identified, from the "Costs of Alcohol Use and Misuse in Scotland, Scottish Government, May 2008" which was a cost of illness study estimating the cost of alcohol misuse to Scotland in the financial year 2006/07. It is a stand alone cross sectional study. Cost of illness studies are a well-established means of estimating the economic burden attributable to a particular disease and are used by policy makers in helping to prioritise and plan.

The ScHARR model estimates that savings to the NHS will increase as the years progress due to many of the harms, with associated treatment costs, being due to chronic disease. Savings are generated using Scottish hospital activity data and English model inputs for costs as Scottish specific costs were not available in the format required. Unit costs for health services across the UK are comparable. Ten years is assumed to be required to see the full effect of the implementation of the policy. In year 10 for example the savings are estimated to nearly £21m compared to around £7m in year 1. (By way of illustration £21m would cover 75% of the cost of the

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34 Analysis of alcohol sales data 2005-2009 NHS Health Scotland
new maternity unit at the Southern General Hospital in Glasgow, or build 2 community hospitals such as that in Girvan).

The £115 million saving quoted as the cumulative saving over 10 years is the value discounted at 3.5% per annum (as per HM treasury guidance) back to current prices (i.e. a Net Present Value figure). The overall cost to the NHS over that time would also have to be discounted to make a fair comparison. In addition any reductions in the total NHS cost due to the policy over those 10 years need to be factored in. So to use a total (undiscounted) of 10 x £405 million as the 10 year cost is not valid. The suggested 2.8% is likely to be an underestimate.

I hope this assists the Committee’s consideration of the Bill but please let me know if further information is required.

GARY COX
Head of Licensing
## English model results

Table 12: Price-elasticity estimates from 5 years of EFS data for 16 alcohol categories (moderate drinkers)

<table>
<thead>
<tr>
<th>PRICE</th>
<th>CONSUMPTION</th>
<th>BEER</th>
<th>WINE</th>
<th>SPIRIT</th>
<th>RTD</th>
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<td>0.0075</td>
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<td>H</td>
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<td>0.0242</td>
<td>0.0451</td>
<td>0.0061</td>
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</table>

### Notes:
- All values are estimates calculated from the model.
- The elasticities are based on a dataset spanning 5 years.
- The categories include beer, wine, spirits, and ready-to-drink beverages.
- The table represents price-elasticity estimates for different price levels (low, high) across various alcohol categories.
Table 13: Price-elasticity estimates from 5 years of EFS data for 16 alcohol categories (hazardous and harmful drinkers combined)

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Scottish model results

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Table 2.1: Price elasticity of demand for 16 beverage categories (moderate drinkers)
SUPPLEMENTARY SUBMISSION FROM SCOTCH WHISKY ASSOCIATION

Minimum Pricing – The International Economic Cost

The Scotch Whisky Association opposes plans for a minimum pricing regime in Scotland\textsuperscript{35}. Such a system would harm Scotch Whisky at home and abroad, with Scotch a much more price sensitive product than other alcoholic drinks\textsuperscript{36}. A fall in Scotch Whisky sales would impact across the wider Scottish economy.

- **A Threat to Scotch Whisky Exports:** A minimum price regime for alcohol in Scotland seriously threatens Scotch Whisky sales overseas, undermining the industry’s £3 billion a year exports – 22% of all Scottish export manufactured earnings. Claims that as a ‘premium product’ Scotch has nothing to fear are wrong.

- **Minimum Pricing Illegal:** Minimum pricing on spirits was ruled illegal by the European Court of Justice in 1978. Article 28 of the EU Treaty and Article III.4 of the rules governing world trade (GATT) regard minimum pricing as a barrier to trade. Countries can take measures to tackle alcohol related harm but should use other less trade restrictive means, including tax or duty.

- **High Hurdle to Justify ‘Public Health’ Exemption:** To override this legal barrier requires a government to justify a ‘public health’ exemption – the harm being so great to allow rules governing international trade to be overridden. This exemption only applies where other less trade restrictive measures are not available. The EC is currently taking legal action against minimum pricing for tobacco.

- **Establishing a ‘Public Health’ Barrier to Trade:** Scotch is sold in 200 countries. It faces barriers to trade in 143 countries. A Scottish trade barrier would legitimise barriers against Scotch overseas. Spuriously based ‘health justified’ trade barriers would undermine decades of work to improve market access.

- **Setting a Precedent:** The Scottish Government has attacked the UK’s high excise duty policy as setting a poor example to governments abroad. Minimum pricing, if introduced in Scotland, would encourage similar trade restrictive policies in export markets and represent a major threat to industry sustainability, jobs and wider economic benefits. Suggestions that the Scottish system would not discriminate or be protectionist miss the point. It need not be replicated abroad. Once the precedent of overriding trade rules has been established, a domino-effect of ‘health-based’ restrictions on Scotch can be expected.

- **Undermining EC support:** Minimum pricing would have to be notified to the European Commission and endorsed by Member States. If endorsed, the EC, upon which Members States rely to protect EU and international trade interests, would be unable to protect Scotch within the EU and WTO against ‘health justified’ restrictions in other markets.

\textsuperscript{35} This paper is based on the Scottish Chief Medical Officer’s support for a 50p a unit price. This would increase the average price of Scotch Whisky in Scotland from £10.55 to a minimum of £14.00, a 33% rise.

\textsuperscript{36} Huang, Chao-Dong, (2003), Econometric Models of Alcohol Demand in the United Kingdom, UK Government Economic Service Working Paper No. 140. The report noted that the price elasticity of spirits (-1.31) is considerably higher than that of wine (-0.75) and of beer (off trade: -1.03, on trade: - 0.48).
Assessing the international financial implications of minimum pricing on Scotch Whisky

- It is estimated that International copy-cat practice would depress Scotch exports, which would fall by in the region of £600m a year, a 20% drop from current levels.

- A loss of exports worth £600m a year (£6bn over 10 years) compares to a total cumulative discounted financial value of minimum pricing of £540m over 10 years, according to the government-commissioned Sheffield study.

- This SWA assessment is based on the mean international elasticity of spirits found in a meta-analysis by Wagenaar et al.37. This study is recognised by both the Scottish Government and the Sheffield research team as a valid and well constructed analysis.

- Wagenaar et al. examined over 100 international elasticity studies and suggest the average price elasticity of demand for spirit drinks is -0.80. This suggests that for every 10% rise in price, there will be an 8% fall in sales.

- At a 50p a unit minimum price, as called for by the CMO and others, a bottle of Blended Scotch Whisky would rise to £14.00, an increase in price of some 30%. Based on the Wagenaar analysis this suggests the industry would see a 24% fall in sales.

- This impact is consistent with work undertaken by Oxford Economics for the alcoholic drinks industry in 2009. This considered the impact of the UK Government’s duty escalator on Scotch Whisky. Under the Government’s escalator plan the price of a bottle of Scotch Whisky will rise to £14.00 by 2013. Oxford Economics estimated at that level 23% of Scotch sales would be lost.38

- Certain key export markets can be expected to follow a Scottish health ‘justified’ trade barrier precedent sooner rather than later. Assuming a similar 30% rise in price and around a 20% fall in exports in these selected markets, which have tried or do discriminate against Scotch Whisky, the anticipated impact on the industry includes:
  - **South Korea** has a history of looking to protect the local spirit, Soju, from Scotch imports. For example, it recently tried to introduce a health tax on Scotch. Minimum pricing in South Korea would reduce Scotch Whisky exports by £36m a year.
  - **France** already has higher taxes on drinks over 22% vol. on health grounds and does not tax wine. French minimum pricing would reduce exports to Scotch’s second largest market by £86m a year.
  - **Thailand** is currently trying to impose restrictions on Scotch Whisky on health grounds. A Thai minimum pricing regime would reduce whisky exports by nearly £10m year.
  - **Venezuela** has frequently looked to penalise Scotch Whisky producers through the use of exchange controls and taxation. A Scottish-inspired minimum pricing regime in Venezuela would lower Scotch Whisky exports by £16m a year.

- These estimates draw on empirical work on international trade showing how marginal changes in price affect demand – this does not fully account for some countries adopting a strategic response targeted at making Scotch Whisky prohibitively expensive in their markets.

- There is considerable potential for Scotch Whisky in **Brazil, Russia, India and China** (BRIC countries). However, Scotch faces trade barriers in each market protecting local production.

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37 Wagenaar, A., Salois, M. & Komro, K. (2009). Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies, *Addiction* 104, 179-180. This examines a wide range of international elasticity studies and suggests the average price elasticity of demand for spirit drinks is -0.80. This means that for every 10% rise in price, there will be an 8% reduction in sales.

38 Oxford Economics, The economic outlook for the UK drinks sector and the impact of the changes to excise duty and VAT announced in the 2008 Budget and Pre-Budget Report.
Minimum pricing across the BRICs, encouraged by action in Scotland, would increase the price locally, make Scotch less competitive, and prevent Scotch expanding in these important markets of the future.

- These lost opportunities for new industry growth could cost the Scottish economy dear. In India alone a reduction in current discrimination is expected to result in export growth from the current £32m a year to at least five times this figure. A health barrier justified by Scottish action or refusal to remove tax discrimination to make the price of a bottle of Scotch Whisky more affordable to the Indian consumer would close out this growth potential for Scotch to the world’s largest spirits market.

- Industry concerns are already being borne out. Russia, Moldova and Uzbekistan have taken steps towards minimum pricing since the start of 2010, the latter two discriminating against spirit drinks. At a recent WHO gathering, Chile, a country that has previously discriminated against Scotch Whisky, indicated it was looking at the policy.

- Increased discrimination and failure to gain access to new markets underlies the expected 20% fall in exports based on current export values. With exports at £3.1bn, the impact of Scotch from copycat action is c.£600m.

- At home the Scottish off-trade is the key domestic channel for Scotch Whisky, representing some 30% of the local market. It is estimated that off-trade retail sales in Scotland would fall by around £30m a year. This would exacerbate the 20% fall in Scotch Whisky consumption in Scotland since 2000.

- These costs do not include the wider negative impact on the whisky industry’s supply chain. Sectors of the Scottish economy that would inevitably be harmed by a significant reduction in whisky exports include farmers, bottle manufacturers, packaging and labelling firms, hauliers, and tourism.

LETTER TO THE FINANCE COMMITTEE FROM SCOTCH WHISKY ASSOCIATION, 19 FEBRUARY 2010

Alcohol (etc) Scotland Bill

Thank you for providing the Association the opportunity to appear before the Finance Committee to set out some of the concerns the Scotch Whisky industry holds with regard to minimum pricing and to answer the questions posed by Committee members.

I promised to write and supply additional information to the Committee.

Value brands

As we noted to the Committee, some 30% of Scotch Whisky sales in Scotland is accounted for by value brands or by own label brands.

While there are a number of companies involved in this trade, two companies in particular rely heavily on this segment of the market. If minimum pricing were to be introduced, even at 40p, the business model of each would be severely undermined across their entire business. The Scottish market is fundamental to their future.

Whyte & Mackay is the leading supplier of own label brands to retailers. 60% of the company’s core business is the UK market, with a significant skew to Scotland. The company believe that minimum pricing, especially at 50p a unit, would remove the rationale for own label to exist, with retailers delisting such brands.

Whyte & Mackay have said this would decimate their business; their sole bottling plant located in Grangemouth and the viability of their Invergordon distillery (see jobs below) would be put at risk.

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39 Based on AC Neilsen retail figures for the year to 13 June 2009.
Glen Catrine, based in Ayrshire, is the bottler of Scotland’s leading value brand, High Commissioner. High Commissioner accounts for almost 10% of the Scottish Blended Scotch Whisky market. The company is a member of a group of companies that includes Loch Lomond distillery. A loss of sales of High Commissioner and the company’s other value brands could undermine the viability of the business and put the distillery and the bottling plant in Ayrshire at risk of closure.

Jobs

Whyte and Mackay has said that minimum pricing would lead to closure of their Grangemouth bottling plant, a business they recently upgraded at a cost of £20m. Closure would result in the loss of 200 jobs.

A further 100 jobs at Invergordon distillery would be at severe risk, with knock on effects across the chain of suppliers to the company, including farmers, maltsters and transport firms.

Glen Catrine is a very private company and has not made any public statement. However, the company’s business model and the 140 jobs at their Ayrshire bottling plant is based upon the sustainability of value brands. A further 60 people are employed at the company’s Loch Lomond distillery.

Some of the sales lost to these companies may be picked up by other brands of Blended Scotch Whisky. However, the surplus of bottling capacity in Scotland and modern bottling processes mean that any transfer of sales would not deliver an increase in jobs elsewhere in the industry. And, because Blended Scotch Whisky utilises whisky from a range of malt distilleries from different companies, reductions in production and employment may spread to other firms and to the supply chain.

Lost exports

The basis for our assessment that £600m of exports would be put at risk is attached at Appendix 1.

The Scottish Government has consistently agreed with the Scotch Whisky industry that high and discriminatory UK excise duty policy encourages discrimination against Scotch Whisky overseas, hindering the industry’s ability to tackle such trade barriers abroad. We find it hard to understand why the Scottish Government does not see that its minimum pricing proposals would have the same negative effect for Scotch Whisky sales abroad. Affordability of Scotch Whisky to the local consumer is vital to our export success.

The Government seems not to have appreciated that the threat to Scotch abroad is not the structure of the Scottish Government’s proposal, a minimum unit price across all drinks, but that to introduce such a measure the Scottish Government would have to secure, (and be the first administration to do so), an exemption from EU trade rules and WTO regulations.

Such an exemption would provide a precedent and justification currently not available to other countries to apply their own ‘public health’ rationale for keeping Scotch Whisky out of the market, no matter how spurious that ‘public health’ claim may be.

The Government may find it inconvenient to ignore the consequences of its action, but in pursuing a policy that undermines a significant section of the country’s leading export industry, we urge the Government and Parliament to pause and reflect more closely on the consequences, including any that may be unintended. 90% of Scottish food and drink exports is Scotch Whisky.

Contrary to the established view of the Scottish Government, some will suggest that Governments overseas do not take note of what happens in the UK/Scotland in driving their own policies. The industry has real world experience of UK domestic policy being used as justification for measures detrimental to Scotch abroad.
If minimum pricing were introduced here, the Government would be unable to stand beside and fight for the industry overseas.

During our appearance before the Committee it was put to us that the Sheffield model has been subject to peer review. It is our understanding that the Sheffield model has not to date been peer reviewed.

We were concerned to learn that in answering questions to the Scottish Parliament's Health Committee the lead author of the Sheffield model described the outcome of her work as akin to a "weather forecast" with no degree of certainty that the model predictions would turn out to be correct. That seems a dangerous basis for taking policy forward.

**Tax on Scotch Whisky**

Excise on Scotch Whisky in the UK is the fourth highest in the EU.

The excise duty on a 70cl bottle of Scotch Whisky is £6.34. VAT at 17.5% is applied to that duty lifting the tax (excise duty and VAT on that duty) to £7.45. A further 50-55p VAT is levied on the sales element of the final price of a typical standard Blended Scotch Whisky making the total tax c. £8.00, representing more than 70% of the average retail price.

If the Chancellor of the Exchequer maintains his current duty escalator policy in next month’s Budget, duty per bottle will rise to £6.66. Assuming no change to the VAT rate, this raises the total tax by a further 38p.

I believe the points above cover the issues upon which the Committee requested further information. I hope these additional comments are useful to the Committee. I would be happy to answer any further queries on these or any other aspect of our evidence already submitted.

**Gavin Hewitt**
**Chief Executive**
Dear Mr Byrne

ALCOHOL ETC. (SCOTLAND) BILL – FINANCIAL MEMORANDUM

The Finance Committee of the Scottish Parliament is currently considering the Financial Memorandum (FM) produced to accompany the Alcohol etc. (Scotland) Bill. The Committee agreed that it would be useful to seek the view of the UK Treasury on whether it will seek to apply the relevant provisions under the statement of funding policy if the Alcohol etc (Scotland) Bill is enacted. The Committee would also be interested in any other comments you have on how the financial implications of the Bill may impact on the Treasury.

A copy of the Bill and accompanying documents is enclosed with this letter (the FM is contained within the explanatory notes) and can be found on the Parliament's website, at: http://www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/index.htm.

It would be extremely helpful to the Committee’s scrutiny of the FM to receive any comments you may have on the relevant elements of the FM by Wednesday 3 February.

Yours sincerely

Andrew Welsh MSP
Convener
Subordinate Legislation Committee

12th Report, 2010 (Session 3)

Alcohol etc. (Scotland) Bill at Stage 1
Subordinate Legislation Committee

12th Report, 2010 (Session 3)

Alcohol etc. (Scotland) Bill at Stage 1

Published by the Scottish Parliament on 11 February 2010
Subordinate Legislation Committee

Remit and membership

Remit:

1. The remit of the Subordinate Legislation Committee is to consider and report on-

   (a) any-

      (i) subordinate legislation laid before the Parliament;

      (ii) Scottish Statutory Instrument not laid before the Parliament but classified as general according to its subject matter;

      (iii) Pension or grants motion as described in Rule 8.11A.1;

   and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

   (b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

   (c) general questions relating to powers to make subordinate legislation; and

   (d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation.

   *(Standing Orders of the Scottish Parliament, Rule 6.11)*

Membership:

Jackson Carlaw
Margaret Curran
Bob Doris
Helen Eadie
Rhoda Grant
Ian McKee (Deputy Convener)
Jamie Stone (Convener)

Committee Clerking Team:

Clerk to the Committee
Douglas Wands

Assistant Clerk
Jake Thomas

Support Manager
Stephen Fricker
INTRODUCTION

1. At its meetings on 12 January, 26 January and 9 February 2010 the Subordinate Legislation Committee considered the delegated powers provisions in the Alcohol etc. (Scotland) Bill (“the Bill”) at Stage 1. The Committee submits this report to the Health and Sport Committee as the lead committee for the Bill under Rule 9.6.2 of Standing Orders.

2. The Scottish Government provided the Parliament with a memorandum on the delegated powers provisions in the Bill (“the DPM”).

3. Scottish Government officials also provided oral evidence to the Committee at its meeting on 26 January 2010.

OVERVIEW OF THE BILL

4. The Alcohol etc. (Scotland) Bill was introduced in the Scottish Parliament on 25 November 2009. It is a Government Bill which reintroduces the alcohol licensing provisions contained in the Criminal Justice and Licensing (Scotland) Bill (“CJL Bill”) at introduction. The Bill also contains additional measures concerning minimum pricing of alcohol products and restrictions on drinks promotions, which the Government previously intended to introduce through the exercise of existing delegated powers in the Licensing (Scotland) Act 2005.

5. In the Policy Memorandum, the Scottish Government states that the Bill will help reduce alcohol consumption in Scotland and reduce the impact that alcohol misuse and overconsumption has on public health, public services, productivity, and the economy as a whole. The measures in the Bill concern—

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1 Alcohol etc. (Scotland) Bill. Delegated Powers Memorandum. Available at: http://www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-dpm.pdf
2 Alcohol etc. (Scotland) Bill. Policy Memorandum, paragraph 2. Available at: http://www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/ b34s3-introd-pm.pdf
• minimum pricing to protect and improve public health by reducing alcohol consumption
• further restrictions on off-sales promotions and promotional activity
• a requirement for an age verification policy
• provisions concerning the modification of licence conditions
• provisions in respect of assessing the impact of off-sales to people under 21
• provisions in respect of a social responsibility levy.

6. The Bill makes various changes to the Licensing (Scotland) Act 2005 (“the 2005 Act”).

DELEGATED POWERS PROVISIONS

7. The Committee considered each of the delegated powers provisions in the Bill.

Criminal Justice and Licensing (Scotland) Bill

8. The Committee had previously considered the powers in sections 9 and 10 of the Alcohol etc. (Scotland) Bill in its consideration of the CJL Bill. These powers have not altered in substance from those set out in sections 129(4) and 140 of that Bill. The Government did not address the Committee’s questions on sections 129(4) and 140 in its response to the Committee’s Stage 1 report on the CJL Bill. It simply indicated that it would seek to remove these powers from the CJL Bill at Stage 2 and reintroduce them in the present Bill.

Section 1 – Minimum price of alcohol

Section 1(2) and (3) – power to specify the minimum price of alcohol (inserted paragraph 6A(4) and paragraph 5A(4))

9. Section 1 makes provision in relation to the prohibition on the sale of alcohol below the minimum price. This is achieved through the imposition of a new mandatory licence condition – whether in relation to a premise licence (new paragraph 6A of schedule 3 to the 2005 Act) or an occasional licence (new paragraph 5A of schedule 4 to the 2005 Act).

10. The minimum price is calculated by multiplying together the following:

- the Minimum Price per Unit (MPU)
- the strength of the alcohol
- the volume of the alcohol in litres
- 100.

11. The MPU is the price specified by the Scottish Ministers by affirmative order.
12. The Committee noted that the explanation contained in the DPM for taking the power is very brief. It states that "further consideration of modelling work and other research" is required before the minimum price is set. It is also suggested that a mechanism will be required to allow the MPU to be varied in the future to keep pace with inflation or following evaluation of the effects of the policy.³

13. The Committee acknowledges that there may be a need to change the MPU in future for the reasons given. However, the reason for not setting out the initial MPU in the Bill as introduced was not clear from the information contained in the DPM. Given the complexity of the issue and its importance in the context of the operation of the Bill, the Committee sought further information from the Scottish Government on this point during its oral evidence session with officials.

14. When asked why the Bill had been introduced before consideration of the evidence was complete, and thus before a minimum price per unit could be included, Gary Cox, Head of Licensing Team, replied—

"We took the view that it would be sensible to invite Parliament to consider the principle of minimum pricing and the formula for setting that price as set out in the bill. Once the principle is accepted and the mechanics of minimum pricing are agreed, we will invite Parliament to consider the merits of a particular price and the research and modelling that form the basis of that price."⁴

15. With regard to the question of the specific evidence and modelling which the Scottish Government was considering, officials explained that the University of Sheffield (which had prepared modelling on a range of different minimum prices per unit of alcohol) had been asked to rerun its model, to factor in up-to-date information, in particular the revised Scottish health survey and some new crime data. The Scottish Government hoped to have those data available within the next few months.⁵

**Super-affirmative procedure**

16. The Committee raised a concern that the use of affirmative procedure to set the initial MPU and any subsequent variation of the price would not give the Parliament sufficient time to scrutinise the Government’s proposals. The Committee raised with officials the option of super-affirmative procedure, which would provide an extended period for consultation and scrutiny prior to the laying of a final affirmative instrument. Officials confirmed that they would raise this option with Ministers.

**Legislative competence**

17. Members also explored with officials whether minimum pricing is compatible with Community law when a price is not specified in the Bill as introduced. Rachel Rayner, Senior Principal Legal Officer, responded to this point—

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³ Delegated Powers Memorandum, paragraph 8.
“European law does not ban minimum pricing as such. Whether a particular measure is contrary to European law will depend on whether it interferes with trade between or discriminates against products from member states. If such interference or discrimination can be justified in certain cases, there is no breach of European law. The grounds on which that can be done include protection of public health and reduction of crime, but it also has to be shown that any interference is proportionate, so that there is a balance between the interference to trade and the protection of health.”

18. Ms Rayner continued—

“Section 1 of the Bill enables minimum pricing, and we think that that complies with European law because it does not, in itself, bring minimum pricing into force. The issue hits when the minimum price order is made. At that point, we will have to ensure that the minimum price formula complies with European law.”

19. When asked who would judge whether the order that sets a minimum price is compliant with European law, Rachel Rayner explained—

“The Scottish Ministers will form a view. When the order is laid before Parliament, Parliament will, no doubt, receive advice from its lawyers. Ultimately, the matter will be decided by the European Court of Justice. If a minimum price is set, an order is laid, Parliament approves it, the order comes into force and someone challenges it, it will be for the court to decide whether the evidence base is sufficient to ensure that the order complies with European law.”

20. The Committee notes that the question of whether minimum pricing of alcohol is within the legislative competence of the Parliament can only be answered when the MPU is set. By delaying the introduction of minimum pricing until the power to specify the MPU is exercised, the Committee considers that the Scottish Government is postponing determination of the fundamental question of whether minimum pricing is within the legislative competence of the Parliament. The Committee is content that the power to set a minimum price is not incompatible with Community law as it stands, but it is not yet clear to the Committee whether it will indeed be possible, in due course, to exercise the power in a manner which would be compatible. In the Committee’s view, it would not be desirable to introduce powers which are then not able to be exercised due to lack of competence.

21. This is of importance to the Committee’s consideration of delegated powers for two reasons.

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22. Firstly, given that the important issue of legislative competence can only be answered when the minimum price is known, the Committee considered whether, as a matter of principle, this should be set out in the Bill and debated by the Parliament when determining whether to approve minimum pricing as a strategy, rather than a matter which is engaged subsequently through the exercise of delegated powers. The Committee notes that it is the forum provided by the Parliament at Stage 1 that best allows interested and affected parties to participate in the legislative process. This is therefore considered to be the appropriate forum for discussing measures of this kind where the practical implications of the measure are of central importance.

23. The Committee notes that it was political concern as to whether the use of existing delegated powers to introduce minimum pricing was appropriate which led the Scottish Government to introduce a separate Bill on alcohol measures. The Committee is not clear that the Parliament’s objective in requiring separate primary legislation to consider this issue has been fully achieved.

24. The Committee also notes that as a result of the Bill requiring the use of delegated powers to introduce minimum pricing, it is no longer possible for the Parliament to receive the benefit of the Presiding Officer’s opinion on whether the proposed initial minimum would be within the legislative competence of the Parliament before it debates the matter.

25. Secondly, the Committee considered whether varying the initial MPU through the exercise of delegated powers is appropriate. The importance of ensuring that questions of the legislative competence of any subsequent instruments are fully explored is relevant to determining the parliamentary process which should apply to the exercise of the power. As part of that process, the Committee believes that there would need to be an evaluation of evidence as to the potential health benefits anticipated by adoption of a particular minimum price, weighed against the potential impact on competitiveness of imports and trade within the Community to establish that this is a proportionate approach. There will also require to be an assessment of whether an alternative approach would produce similar benefits without interfering with trade. As Gary Cox said—

“... we will need to consider the wider impact of different prices, as well as looking at the evidence and modelling with our lawyers and economists before we come back to Parliament.”

26. The Committee believes that granting the Scottish Ministers a power to set the initial MPU by affirmative procedure could seriously constrain the ability of the Parliament to effectively scrutinise the data and modelling used by the Scottish Government to arrive at the proposed minimum price and to test whether that decision is within devolved competence. The Parliament would have only 40 days from the date of laying in which to consider whether to approve the instrument.

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27. Given the significance of the issues at stake, and in order to protect the Parliament from exposure to the risks inherent in acting in a manner incompatible with Community law, the Committee has concluded that the power in section 1 to set the initial minimum price of alcohol by affirmative order does not provide sufficient safeguards to permit adequate scrutiny of any proposed measure.

28. Should the Bill be enacted, the Committee accepts that once the initial MPU is set, it would be reasonable to allow the Scottish Ministers to vary that price using secondary rather than primary legislation in order to ensure that it continues to deliver its objectives and that the restriction on trade which it imposes continues to be compatible with Community law. However, the Committee considers that granting a power to change the MPU by order subject to the affirmative procedure would not provide adequate time for the Parliament to scrutinise fully the change proposed by the Scottish Ministers. In order to address this, the Committee considers that the power to do so should be subject to super-affirmative procedure. This would require a draft instrument to be laid before the Parliament, for consultation purposes, for sufficient period as would permit the Parliament to take evidence from relevant sources and to reach its own conclusions on whether the measure is appropriate and compatible with Community law. A final draft instrument could then be laid before the Parliament for approval. The Committee recommends that this should be a period of not less than 60 days when the Parliament is in session.

Conclusion

29. The Committee draws to the attention of the lead committee that it is apparent, from evidence given by Scottish Government officials, that a careful and complex assessment of any particular minimum price and alternative options will be required in order to determine whether any exercise of the power will be compatible with Community law and therefore within devolved competence. In the absence of a proposed minimum price and supporting evidence it is not clear to the Committee that it has been shown by the Government that the power introduced by section 1 can be exercised within competence, although the Committee accepts that it could be possible to do so.

30. In the Committee’s opinion, the use of affirmative procedure, which would allow only a 40 day period for the consideration of an instrument, would not afford the Parliament sufficient opportunity to conduct full and proper scrutiny of the minimum price of alcohol proposed by the Scottish Ministers. The Committee therefore recommends that the initial MPU should be set out in the Bill so that the supporting evidence can be subject to full parliamentary scrutiny. This could be facilitated if the Scottish Ministers were to announce the proposed initial MPU prior to the commencement of Stage 2 proceedings. Subsequent orders varying the MPU should be subject to super-affirmative procedure.
Section 6 – Premises licences: modification of mandatory conditions

Section 6(2) and (3) (in relation to regulations under section 27(2) of the Licensing (Scotland) Act 2005) – power to delete or amend licence conditions

31. Section 6 amends the power currently available under section 27 of the 2005 Act to vary the mandatory conditions which apply to all premise licences and which are set out in schedule 3 to that Act. Subsection (2) is amended to make clear that any conditions set out in the schedule may, from time to time, be deleted, amended or added to.

Comment

32. The Committee recalled that questions arose as to the scope of the existing power to vary the mandatory conditions in the context of the Committee’s consideration of the draft of SSI 2009/270 – the Licensing (Mandatory Conditions) (Scotland) Regulations 2009. Since the power as currently expressed only allows regulations to “add such further conditions” considered necessary or to “extend the application of any such condition specified in the schedule” it was considered that there was a doubt as to whether the power could be used to remove conditions or to restrict the application of existing conditions.11

33. In the case of SSI 2009/270 the Scottish Ministers wished to restrict the application of existing conditions in relation to where alcohol for sale for consumption off the premises could be sold so as to relax restrictions in relation to visitor attractions. While the Scottish Ministers defended the ability to make the regulations in that particular case, the DPM explains that this amendment is intended to address the Committee’s concerns for the future.12

34. Regulations made under section 27(2) remain subject to affirmative procedure by virtue of section 146 of the 2005 Act.

35. No explanation is provided as to why it is appropriate for Ministers to delete or amend existing conditions other than that otherwise “this would mean that such mandatory licence conditions could only be amended or repealed by an Act of the Scottish Parliament”.13 The Committee understands that the intention behind the power in the 2005 Act was to permit flexibility to extend the mandatory conditions, although we remain of the view that there is a significant doubt over whether the wording employed in the 2005 Act permits “rowing back” from the original conditions set out in the 2005 Act.

36. The Committee considers that if it is the desired policy that all of the mandatory conditions may be amended then it is preferable to use this opportunity to clarify the scope of the power in section 27(2).

37. The Committee noted that this proposed amendment goes further than necessary to address the defect in 2009/270 which concerned the restriction of conditions subsequently added using delegated powers. In evidence to the Justice Committee, the Scottish Government legal advisers agreed with this

12 Delegated Powers Memorandum, paragraph 11.
13 Delegated Powers Memorandum, paragraph 12.
Committee’s view that section 27(2) could not be used in its current form to modify mandatory conditions which were set out in the 2005 Act as originally enacted. This power, as amended, permits the modification (including the repeal) of mandatory conditions regardless of whether they were originally enacted in the 2005 Act or were subsequently added to the Act using delegated powers.

38. The experience of SSI 2009/270 demonstrates that sometimes changes to mandatory conditions are required for practical reasons. The Committee sees no reason in principle why a distinction should be drawn between the weight or value of mandatory conditions by reference to whether they were original or subsequently added. Accordingly the Committee considers that the amendment is acceptable in principle.

39. Given that the exercise of the power allows amendment of primary legislation in a significant way, the Committee considers that it is appropriate that affirmative procedure is required.

40. The Committee considers that the proposed amendment to the power to modify mandatory conditions in relation to premises licences is acceptable in principle and that it is appropriate that the power remains subject to affirmative procedure.

Section 7 – Occasional licences: modification of mandatory conditions

Section 7(2) and (3) (in relation to regulations under section 60(2) of the Licensing (Scotland) Act 2005) – power to delete or amend licence conditions

41. Section 7 amends the power currently available under section 60 of the 2005 Act to vary the mandatory conditions which apply to all occasional licences and which are set out in schedule 4 to that Act. Subsection (2) is amended to make clear that conditions set out in the schedule from time to time may be deleted and amended as well as new conditions being added.

Comment

42. The Committee noted that the reason given in the DPM for amending the power in section 60 of the 2005 Act is the same as that described above in relation to section 27 and the mandatory conditions in relation to premises licences.

43. The only difference of note is that regulations modifying the mandatory conditions in relation to occasional licences are subject to negative procedure rather than affirmative procedure. This reflects the current position in relation to the power under section 60.

44. The Committee noted from Scottish Government evidence to the Justice Committee in support of SSI 2009/270 that this power is considerably broader than previously and permits, for the first time, amendment to conditions set out in schedule 4 as originally enacted. The Committee therefore sought further justification from the Scottish Government for the use of negative procedure to amend primary legislation in this way.

15 Delegated Powers Memorandum, paragraph 15.
45. In oral evidence, the Committee asked officials why the Government considered that negative procedure remained appropriate and why a similar approach to section 27(2) had not been adopted. Gary Cox explained the difference—

“The procedure that is to be used in respect of premises licences—licences for shops or pubs—is affirmative procedure; for occasional licences, negative procedure will be used. That is a feature of the 2005 Act. I am not aware of the thinking that led Parliament to take that view in the previous session, but there is a difference. The use of the negative resolution procedure is a consequence of the 2005 Act, rather than the Bill.”

46. The Committee is not clear why a distinction was made between the powers contained in sections 27 and 60 of the 2005 Act. Looking back to the scrutiny conducted by the Subordinate Legislation Committee in Session 2, it would appear that it had expected that both powers would be made subject to the affirmative procedure although this was not subsequently delivered by the then Executive. However, in considering the changes proposed in this Bill, the Committee believes that it would be appropriate for a consistent approach to be taken to regulations modifying the mandatory conditions in relation to premises and occasional licences. There is no distinction to be made in principle between the significance of the respective powers. In each case the terms of the mandatory condition in question have previously been agreed by the Parliament. Amendments to its terms should therefore be similarly subject to parliamentary approval.

47. The Committee recommends that the power currently available under section 60 of the Licensing (Scotland) Act 2005 to vary the mandatory conditions which apply to all occasional licences should be made subject to the affirmative procedure.

Section 9 – Premises licences: variation of conditions

Section 9 – new section 27A Licensing (Scotland) Act 2005 – power to prescribe those areas in respect of which licensing boards may vary all or a particular group of premises licences’ conditions of operation

48. Section 9 introduces a new section 27A(1) into the Licensing (Scotland) Act 2005 which confers on the Scottish Ministers the power to prescribe, by regulations, the matters in respect of which licensing boards may vary the conditions of operation for all or a particular group of premises’ licences.

49. The Committee noted the explanation in the DPM that under new section 27A(1), licensing boards will be able to vary the conditions of all or a group of premises licences in their area. These conditions, in effect, control how licensed premises will operate. A licensing board can impose licence conditions when granting the premises licence or following a hearing concerning the conduct of individual premises. New section 27A(1) enables licensing boards to impose a

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18 Delegated Powers Memorandum, paragraph 18.
condition *en bloc* which is a significant increase in their power. This provision does not enable the Scottish Ministers to specify what conditions are to be imposed. Instead the power enables the Scottish Ministers to set out the *subject matter* of the variations that a licensing board may apply. The DPM explains that this will ensure a consistency within the national framework within which licensing boards operate.

50. Most significantly from a policy perspective, the DPM explains that—

“At present Ministers intend to make regulations enabling licensing boards to impose conditions restricting the purchase of alcohol at off-sale premises for people aged under 21.”

51. Whether a power for licensing boards to vary licensing conditions is required and the role of the Scottish Ministers in setting out the framework within which those variations can be made is a matter of policy. However, the Committee considers that it is within its remit to consider whether there are adequate reasons for using subordinate legislation to deliver that policy and whether or not the power is appropriately framed and subject to the appropriate level of parliamentary control.

52. The Committee noted that the power is very broadly framed. It would give Ministers a complete discretion to specify those conditions which licensing boards can vary by describing their subject matter. There is no justification given in the DPM as to why subordinate legislation is to be used for this purpose rather than adopting the alternative approach of specifying in primary legislation (by amendment of the 2005 Act) what sort of conditions may be varied. The DPM gives only a single, very specific, example of how it is intended the power will be used. No explanation is given as to why, given this limited policy intention, a broad discretionary power is proposed which could extend greatly the discretion of licensing boards.

53. The Committee therefore sought an explanation from Scottish Government officials before reaching a view on whether the power is appropriate in principle. Gary Cox explained the purpose of the proposed power—

“... section 9 is intended to facilitate the introduction of an age 21 policy, but it has a wider application. The provision is trying to fill a gap. As a result of the 2005 Act, Ministers have the power to apply conditions on a blanket basis across the country or to certain types of premises. At the other end, licensing boards are able to apply conditions on a premises-by-premises basis, but there is nothing in the middle that would allow a licensing board to say that there is a problem in its area with X, Y or Z and that a particular condition would be appropriate. They cannot apply such a condition in their area without going through the process of having a hearing in respect of every single premises. The power attempts to fill the gap between those two extremes. The intention was certainly to facilitate the application of the age 21 policy, but the power is not limited to that. Licensing boards will be able to

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19 Delegated Powers Memorandum, paragraph 18.
54. The Committee also asked whether the Government had other intended uses for the power and, if not, why such a broad power was being sought. Gary Cox responded—

“There is no intention to use the power for anything specific. The power is more about future proofing. It is to allow licensing boards to think about how they might want to respond to particular issues in their area. … There is certainly nothing in our minds beyond the age 21 policy, but the power will allow licensing boards to come to us with any areas that they want to consider in the longer term.”

55. The Committee was concerned that the Scottish Government could offer no further justification for seeking such a broad power. From the evidence received, it is clear to the Committee that the provision is intended to address a specific issue; that is, to impose conditions restricting the purchase of alcohol at off-sale premises for people aged under 21. In this context, the Committee is not convinced that an order-making power is required to achieve this policy objective. Should the Scottish Government wish to pursue this policy, the Committee considers that a specific amendment to the 2005 Act would be a more appropriate means of implementation.

56. The Committee invites the lead committee to seek further evidence from the Scottish Government for the power in section 9, to prescribe those areas in respect of which licensing boards may vary the conditions of operation for all or a particular group of premises’ licences.

57. Should the power remain in the Bill, the Committee will consider its scope again after Stage 2.

Section 10 – Licence holders: social responsibility levy

Section 10 – power to make provision for the imposition on relevant licence-holders of a social responsibility levy

58. Section 10 provides a free-standing power for the Scottish Ministers to make regulations imposing and setting out the detail of a social responsibility levy. Under the levy, charges are to be imposed on the persons mentioned in subsection (2) for the purposes set out in subsection (3). The Explanatory Notes state that “money raised by the charge will be for the local authorities to use in contributing towards the cost of dealing with the adverse effects of the operation of these businesses, for example extra policing or street cleaning or in furthering the

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licensing objectives [under the 2005 Act]. 22 Subsection (4) sets out in more detail what the regulations may include.

59. The Committee acknowledges that whether there should be a social responsibility levy is a matter of policy. However, it is within the Committee’s remit to consider whether there are adequate reasons for using subordinate legislation to deliver that policy and whether or not the power is appropriately framed and subject to the appropriate level of parliamentary control.

60. The DPM explains the reason for seeking the power—

“Taking a regulation making power will allow the Scottish Government to discuss further with the licensed trade and other interests the detail of how the levy should be imposed, applied and collected. These discussions will continue in parallel with the Bill process. It will further allow flexibility for the detail of the levy to be revised in the future to keep pace with the changing nature of the licensed trade.” 23

61. The Committee considered that, in the context of a revenue raising measure such as this, full justification should be provided by the Government for the decision not to specify in primary legislation certain key elements of the taxation scheme. The Committee therefore decided to seek further information on this provision from Scottish Government officials.

62. Officials were asked why the Government had decided not to set out the general principles of the proposed levy in the Bill and put only the administrative detail in subordinate legislation. Gary Cox responded—

“With the social responsibility levy, we have taken the view that we do not want to dream up a particular scheme, present it to Ministers and the Parliament, and present it to the licensed trade as a fait accompli. Experience of working on licensing issues has taught us that it is far better to involve the licensed trade and retailers in the development of policy, and that is the view that we took in this case. During the past year, we have met a group that comprises the main licensed trade organisations, some of the supermarkets and representatives of the restaurant and hospitality industry to consider different models and get their contributions on how the levy might work in practice. We are continuing those discussions.” 24

63. Mr Cox confirmed that discussions with interest groups including COSLA were still at an early stage.

64. When presented with the proposition that the use of subordinate legislation to establish the levy would involve a lesser degree of parliamentary scrutiny, Mr Cox refuted the suggestion—

22 Alcohol etc. (Scotland) Bill. Explanatory Notes, paragraph 32. Available at http://www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-en.pdf
23 Delegated Powers Memorandum, paragraph 21.
“I challenge the view that it involves the least scrutiny. When we come back with the administrative detail, regulations that have been developed with the licensed trade will be subject to the affirmative resolution procedure. If, when the regulations come forward, Parliament is unhappy with the detail of the social responsibility levy, we will have to take that into account. In splitting the principles from the administrative details, we have taken the right approach.”

65. The Committee also asked whether the issues surrounding the proposed use of subordinate legislation had arisen because the Bill had been introduced prematurely. Mr Cox replied—

“… there are differences of opinion between different parts of the licensed trade on how the arrangement might work in practice. We need to continue those discussions to get something workable. Had we tried to accelerate the process or pushed the licensed trade in a particular direction, the end result would have been that the proposals were less satisfactory than, hopefully, those that we will bring forward in regulations.”

66. Members of the Committee were concerned that the Parliament was being asked to reach a decision on the principle of the social responsibility levy without a clear understanding of how it would operate in practice, including whether it would be proportionate, effective and fair, and how it would affect certain sectors of the trade such as small businesses.

67. It was suggested to officials that, in order to ensure adequate consultation with all interest groups, use of super-affirmative procedure might offer one way of addressing that issue. Officials agreed to take the issue back to Ministers.

68. The Committee does not consider that the question of the appropriateness of using subordinate legislation for the purpose of establishing a social responsibility levy has been adequately addressed by the Scottish Government. The Bill and accompanying documents provide only limited information about the principles of the levy; the details of the policy are still being developed by the Scottish Government. As a minimum, the Committee would expect details of the levy, such as who is to be responsible for administering it, the basis on which liability to pay it will be determined, the maximum charge permitted, the implications for non-payment and any right of appeal to be set out in the Bill itself.

69. The Committee draws to the attention of the lead committee the evidence received from the Scottish Government regarding the proposed use of subordinate legislation for the purpose of establishing a social responsibility levy.

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responsibility levy. Should the power remain in the Bill, the Committee will consider its scope again after Stage 2.

Section 11 – Regulations under section 10(1): further provision

Section 11(1) – Power to make incidental, consequential, transitional, transitory or saving provision appropriate for the purposes of, or in connection with section 10 of the Bill

70. Section 11(1) of the Bill provides that the power given to the Scottish Ministers to make regulations under section 10 may include such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider appropriate. This must be read strictly, however, in the context of the exercise of the powers in section 10 itself. This power is not considered separately for the purposes of the DPM.

71. Regulations making ancillary provision are subject to affirmative procedure.

72. In light of the recommendation made in relation to the power in section 10, the Committee makes no comment on this associated power at this stage.

Section 14 – Commencement and short title

Section 14(1)(2) – Commencement

73. Section 14 provides for all sections of the Bill, other than sections 13 and 14 which make general provision, to come into force on such day as the Scottish Ministers appoint by order. Sections 13 and 14 of the Bill come into force on the Bill receiving Royal Assent.

74. As this is a Scottish Government Bill, it is for the Scottish Ministers to determine on what date or dates they wish one or more of the Bill's provisions to come into force. In accordance with the normal practice, no provision is made for laying a commencement order in the Parliament as the power is to commence provisions which have already been subject to parliamentary scrutiny. It should be noted that commencement orders may make transitional, transitory or saving provision considered appropriate in connection with commencement. This Committee will have the opportunity to scrutinise an order or orders made under this provision.

75. The Committee considers that the proposed power is acceptable in principle and that, in accordance with the normal practice with respect to commencement orders, no procedure is appropriate.
ANNEXE A: EXTRACT FROM MINUTES

5th Meeting, 2010 (Session 3), Tuesday 9 February 2010

Alcohol etc. (Scotland) Bill (in private): The Committee considered a draft report on the delegated powers provisions in this Bill at Stage 1. After discussion, and two divisions, the report was agreed for publication.

Record of division

Bob Doris proposed that paragraphs 29 and 30 be deleted and replaced with—

The Committee draws to the attention of the lead committee that the use of the affirmative procedure, which would allow only a 40 day period for the consideration of an instrument, would not afford the Parliament sufficient opportunity to conduct full and proper scrutiny of the minimum price of alcohol proposed by the Scottish Ministers. The Committee therefore recommends that if the power is approved by the Parliament, in this or amended form, the level of scrutiny should be increased through use of super-affirmative procedure under which Ministers would require to lay a draft order before the Parliament for a period of not less than 60 days when the Parliament is in session before a final draft could be laid for approval.

The proposal was disagreed to by division: For 2 (Bob Doris and Ian McKee), Against 4 (Jamie Stone, Margaret Curran, Helen Eadie and Rhoda Grant), Abstentions 0.

The conclusions at paragraphs 29 and 30 were agreed to by division: For 4 (Jamie Stone, Margaret Curran, Helen Eadie and Rhoda Grant), Against 2 (Bob Doris and Ian McKee), Abstentions 0.
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Agenda Item 1  
Wednesday 5 May 2010

Health & Sport Committee

Comparison Paper on the Sheffield Alcohol Modelling Reports

The following paper outlines the key differences between the first and second versions of the Scottish minimum pricing model. The following tables compare the results of the modelling for:

- ‘scenario 4’ - the application of a minimum price per unit of 40p;
- ‘scenario 11’ – an off trade discount ban, and;
- ‘scenario 15’ – the application of a minimum price per unit of 40p plus an off trade discount ban.

‘Scenario 4’ – 40p Minimum Price per Unit (MPU)

<table>
<thead>
<tr>
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<th>Previous Model</th>
<th>New Model</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Overall Weekly Consumption</strong></td>
<td>-2.7%</td>
<td>-2.3%</td>
</tr>
<tr>
<td><strong>Change in Units per Year</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(all drinkers)</td>
<td>-22.3</td>
<td>-18.0</td>
</tr>
<tr>
<td>(harmful drinkers)</td>
<td>-194.0</td>
<td>-180.3</td>
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<tr>
<td><strong>Change in Units per Year</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(moderate drinkers)</td>
<td>-4.1</td>
<td>-2.9</td>
</tr>
<tr>
<td><strong>Alcohol Attributable Deaths (first year)</strong></td>
<td>-39</td>
<td>-26</td>
</tr>
<tr>
<td><strong>Alcohol Attributable Deaths (ten years)</strong></td>
<td>-213 (9 in moderate drinkers 64 in hazardous drinkers 141 in harmful drinkers)</td>
<td>-119 (6 in moderate drinkers 51 in hazardous drinkers 62 in harmful drinkers)</td>
</tr>
<tr>
<td><strong>Alcohol Attributable Morbidity (year 1)</strong></td>
<td>-631 (-478 acute illnesses -153 chronic illnesses)</td>
<td>-501 (-414 acute illnesses -88 chronic illnesses)</td>
</tr>
<tr>
<td><strong>Hospital Admissions (year 1)</strong></td>
<td>-840</td>
<td>-640</td>
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<tr>
<td><strong>Hospital Admissions (year 10)</strong></td>
<td>-3,600</td>
<td>-2,230</td>
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<tr>
<td><strong>Healthcare Service Costs (year 1)</strong></td>
<td>£3.5m</td>
<td>£2.8m</td>
</tr>
<tr>
<td><strong>Value of QALYs gained</strong></td>
<td>£8.6m</td>
<td>£7.3m</td>
</tr>
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</table>
The updated report shows a smaller reduction in alcohol consumption. There is also a smaller impact on cost savings and most of the alcohol related harms, especially mortality and morbidity. The exception to this is with criminal offences and workplace sick days which, in the new model, would reduce by a greater margin under a 40p MPU.

Other points of note:

- The value of Quality Adjusted Life Years (QALYs) gained would be less
- The direct cost of crime would reduce by a greater amount
- The increased spend by consumers is smaller
- The loss of revenue to the Treasury is smaller

### ‘Scenario 11’ – Off Trade Discount Ban

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<td>Overall Weekly</td>
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<tr>
<td>Consumption</td>
<td>-3.0%</td>
<td>-3.1%</td>
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<tr>
<td>Change in Units per Year</td>
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<tr>
<td>(all drinkers)</td>
<td>-24.5</td>
<td>-24.4</td>
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<tr>
<td>(harmful drinkers)</td>
<td>-127.8</td>
<td>-145.5</td>
</tr>
<tr>
<td>(moderate drinkers)</td>
<td>-6.6</td>
<td>-6.5</td>
</tr>
<tr>
<td>Alcohol Attributable Deaths (first year)</td>
<td>-37</td>
<td>-37</td>
</tr>
<tr>
<td>Alcohol Attributable Deaths (ten years)</td>
<td>-182</td>
<td>-162</td>
</tr>
<tr>
<td>Alcohol Attributable Morbidity (year 1)</td>
<td>-670 (-545 acute -125 chronic)</td>
<td>-743 (-630 acute -112 chronic)</td>
</tr>
</tbody>
</table>
### In the updated model, consumption would reduce by a greater margin with a discount ban alone, especially in harmful drinkers. There would also be a greater effect on hospital admissions (after 1 year), health service costs, QALYs gained, sick days, unemployment and a smaller loss to the Treasury. However, there would be a smaller effect on deaths, hospital admissions after 10 years, morbidity, offences, societal costs and the cost to consumers would be greater.

### ‘Scenario 15’ – 40p Minimum Price per Unit + Discount Ban

<table>
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<tr>
<th></th>
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<th>New Model</th>
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<tr>
<td>Overall Weekly Consumption</td>
<td>-5.4%</td>
<td>-5.1%</td>
</tr>
<tr>
<td>Change in Units per Year</td>
<td>-43.7</td>
<td>-39.6</td>
</tr>
<tr>
<td>(all drinkers)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in Units per Year</td>
<td>-293.9</td>
<td>-296.4</td>
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<tr>
<td>(harmful drinkers)</td>
<td></td>
<td></td>
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<tr>
<td>Change in Units per Year</td>
<td>-10.1</td>
<td>-9.1</td>
</tr>
<tr>
<td>(moderate drinkers)</td>
<td></td>
<td></td>
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<tr>
<td>Alcohol Attributable Deaths</td>
<td>-71</td>
<td>-59</td>
</tr>
<tr>
<td>(first year)</td>
<td></td>
<td></td>
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<tr>
<td>Alcohol Attributable Deaths</td>
<td>-365</td>
<td>-261</td>
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<tr>
<td>(ten years)</td>
<td></td>
<td></td>
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<tr>
<td>Alcohol Attributable Morbidity</td>
<td>-1,224</td>
<td>-1,173</td>
</tr>
<tr>
<td>(year 1)</td>
<td>(968 acute illnesses)</td>
<td>(987 acute illnesses)</td>
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<tr>
<td></td>
<td>Previous Model</td>
<td>New Model</td>
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<tr>
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<td>-----------</td>
</tr>
<tr>
<td>256 chronic illnesses)</td>
<td>186 chronic illnesses)</td>
<td></td>
</tr>
<tr>
<td>Hospital Admissions (year1)</td>
<td>-1,600</td>
<td>-1,490</td>
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<tr>
<td>Hospital Admissions (year 10)</td>
<td>-6,300</td>
<td>-4,850</td>
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<tr>
<td>Healthcare Service Costs (year 1)</td>
<td>-£6.9m</td>
<td>-£6.6m</td>
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<tr>
<td>Value of QALYs gained</td>
<td>£17.5m</td>
<td>£17.4m</td>
</tr>
<tr>
<td>Overall Offences</td>
<td>-3,200</td>
<td>-3,100</td>
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<tr>
<td>Value of Harm Avoided (Victim Quality of Life)</td>
<td>£1.9m</td>
<td>£1.8m</td>
</tr>
<tr>
<td>Direct Costs of Crime</td>
<td>-£2.7m</td>
<td>-£2.7m</td>
</tr>
<tr>
<td>Unemployment (people)</td>
<td>-1,240</td>
<td>-1,220</td>
</tr>
<tr>
<td>Sick Days</td>
<td>-28,600</td>
<td>-30,500</td>
</tr>
<tr>
<td>Societal Value of Harm Reductions</td>
<td>£947m</td>
<td>£824m</td>
</tr>
<tr>
<td>Cost Impact to Drinkers (per annum)</td>
<td>Harmful drinkers - £137</td>
<td>Harmful drinkers - £126</td>
</tr>
<tr>
<td></td>
<td>Hazardous - £58</td>
<td>Hazardous - £55</td>
</tr>
<tr>
<td></td>
<td>Moderate - £11</td>
<td>Moderate - £10</td>
</tr>
<tr>
<td>Total change in population spend (sales per annum)</td>
<td>+£120m (split 55% off trade: 45% on trade)</td>
<td>+£103m (split 60% off trade: 40% on trade)</td>
</tr>
<tr>
<td>Overall Revenue to the Treasury</td>
<td>-£12m</td>
<td>-£9.9m</td>
</tr>
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</table>

The updated report shows a smaller reduction in alcohol consumption with a 40p MPU plus an off trade discount ban. There is also a smaller impact on most of the cost savings and alcohol related harms, especially mortality, morbidity and hospital admissions. The exception to this is in relation to unemployment and sick days which show a slightly greater reduction in the new model. There would also be a smaller cost for the consumer and a smaller loss for the Treasury.

Kathleen Robson
SPICe Research
30 April 2010

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