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An Overview of Recent Developments in Alcohol and Licensing Reform in Other Jurisdictions

1 Introduction

On the 19 August 2010, the Minister for Social Development, outlined in a Departmental Press Release, his intention to introduce proposals to control irresponsible drinks promotions for pubs, clubs, supermarkets and other outlets. The proposals include a crackdown on promotions such as 'buy one get one free', 'women drink free' and 'all you can drink' for a set amount offers. The proposals will be subject to consultation and *may* be introduced as part of the new Justice Bill which will go through the Assembly in the autumn. In addition to this, the Minister has announced that he intends to explore issues such as minimum pricing for alcohol and the sale of alcohol below cost price¹.

¹ Department for Social Development (2010) 'Attwood makes moves to crack down on irresponsible alcohol sales'. 19 August 2010. www.northernireland.gov.uk/news/news-dsd/news-dsd-190810-attwood-makes-moves.htm

These proposals are additional to a number of liquor licensing reforms already contained within the current Licensing and Registration of Clubs (Amendment) Bill which was introduced to the Northern Ireland Assembly on 17 May 2010. This Bill includes, for example, new closure powers for the PSNI in respect of licensed premises and registered clubs; the introduction of a penalty points system for licences or certificates of registration; and a new statutory proof of age scheme (for further information on the Bill see Research and Library Service [Licensing and Registration of \(Amendment\) Bill Paper](#)).

Tackling alcohol misuse and related crime and disorder through the increased regulation is either under consideration, or has already been implemented, in other jurisdictions. The purpose of this short paper is to provide the Committee for Social Development with a brief overview, and references to further information, on some of the key proposals and latest developments in alcohol and licensing reform in other jurisdictions.

Key Points:

- In **England** (and Wales) a new Mandatory Practice for Licensed Premises published this year has introduced a range of restrictions on alcohol promotions such as “all you can drink for £10” and “women drink free” offers. Further to this, the Home Office recent [‘Rebalancing the Licensing Act’](#) consultation (launched on 28 July 2010) is seeking views on proposals such as banning the sale of alcohol below cost price and introducing more stringent measures for those premises repeatedly selling alcohol to children.
- In **Scotland**, the Scottish Government intends to introduce a minimum price for alcohol via the [Alcohol Etc. \(Scotland\) Bill](#) and has recently proposed that 45p per unit be set. In addition to minimum pricing, the Alcohol Etc. (Scotland) Bill (as introduced) also contained a range of other proposals including restricting irresponsible drinks promotions for ‘off-sales’ premises and the introducing a ‘social responsibility’ levy for certain licensed premises to meet additional costs associated with street cleaning and policing.
- In **Wales**, the Welsh Assembly Government Minister of Health and Social Services outlined in a Ministerial Statement in April that she felt there was now a strong case for the introduction of minimum pricing and called for stricter rules on the promotion of alcohol.
- In the **Republic of Ireland**, a National Substance Misuse Strategy Steering Group has reportedly been set up by Government to explore proposals to tackle alcohol misuse such as minimum prices for alcoholic drinks, new charges on retailers selling

large volumes of alcohol and laws requiring alcohol to be sold separately from other products.

2 Recent Developments in Alcohol and Licensing Reform in England

Restrictions on 'Irresponsible' Alcohol Promotions

In April 2010, the previous administration enacted a Mandatory Code of Practice (Mandatory Licensing Conditions) Order 2010 for Alcohol Retailers, which was intended to be introduced in two stages. The first stage, which took effect from April 2010, imposed conditions on licensed premises to:

- Ban **irresponsible promotions** such as “all you can drink for £10” offers, ‘women drink free’ deals and speed drinking competitions. It was suggested that these promotions encourage people to drink quickly or irresponsibly and could lead to crime or antisocial behaviour;
- Ban “**dentist’s chairs**” where drink is poured directly into the mouths of customers making it impossible for them to control the amount they are drinking; and
- Ensuring **free tap water is available for customers** - allowing people to space out their drinks and reduce the risks of becoming dangerously drunk.

The legislation for the Mandatory Code contained two future conditions for licensed premises, which will be introduced on 10 October 2010. These conditions were delayed to enable businesses more time to prepare and will compel all licensed premises to:

- Require an **age verification policy** to be in place to prevent underage sales; and to
- Ensure that customers have the opportunity to choose **small measures of beers, ciders, spirits and wine**.

Recommended reading:

Home Office (2010) '[Selling Alcohol Responsibly: The New Mandatory Conditions Licensing Conditions – The New Mandatory Code for Alcohol Retailers in England and Wales](#)'

House of Commons Library Standard Note (2010) [Mandatory Conditions for Alcohol Sale](#).

‘Rebalancing the Licensing Act’ Consultation

Ahead of a major speech on anti-social behaviour in July 2010, the Home Secretary, Teresa May MP, announced that the coalition government intended to propose tough new measures to crack down on problem licensed premises and to give more powers to local communities and their representatives when considering licensing applications. The subsequent consultation paper [‘Re-balancing the Licensing Act - a consultation on empowering individuals, families and local communities to shape and determine local licensing’](#) contains the following key proposals^{2 3}:

- Overhauling the Licensing Act to give local authorities and the police much stronger powers to **remove licences** from, or **refuse to grant licences** to, **premises that are causing problems**;
- Allowing councils and the police to permanently shut down any shop or bar that is **repeatedly selling alcohol to children**;
- Doubling the **maximum fine for those caught selling alcohol to minors to £20,000**;
- Allowing local authorities to **charge more for late-night licenses** which will help pay for **additional policing**; and
- **Banning the sale of alcohol below cost price**⁴.

In addition to these measure the ‘Coalition Agreement’ has also given a commitment to **review alcohol taxation and pricing** to ensure it tackles binge drinking without unfairly penalising responsible drinkers, pubs and important local industries.

Home Office (2010) [‘Re-balancing the Licensing Act - a consultation on empowering individuals, families and local communities to shape and determine local licensing’](#)

HM Treasury [Review](#) of Alcohol Taxation and Pricing.

3 Scotland: Alcohol Promotions, Minimum Pricing and the Alcohol Etc. (Scotland) Bill

The Scottish Health Secretary, Nicola Sturgeon MSP announced, on the 2 September 2010, that the proposed minimum price for alcohol in Scotland is 45p per unit⁵. The proposals for a minimum price for alcohol were contained within the [Alcohol Etc.](#)

² Home Office News Release. ‘Overhauling the Licensing Act’. 28 July 2010.

³ Home Office (2010) Re-balancing the Licensing Act – a consultation on empowering individuals, families and local communities to shape and determine local licensing’ www.homeoffice.gov.uk/publications/consultations/cons-2010-licensing-act/alcohol-consultation?view=Binary

⁴ See also HM Treasury Review of Alcohol Taxation and Pricing - www.hm-treasury.gov.uk/alcohol_taxation.htm

⁵ Scottish Government News Release. ‘Minimum alcohol price named’. 2 September 2010. www.scotland.gov.uk/News/Releases/2010/09/02102755

[\(Scotland\) Bill](#) which was introduced to the Scottish Parliament on 25 November 2009. The Bill (as introduced) did not specify what that price should be, however, the Scottish Government has announced that it intends to table an amendment to the Bill to introduce the 45p per unit price.

The issue of minimum pricing has been widely debated in Scotland, however, as the following extract from an article from the Telegraph highlights, not all MSPs are in favour of the proposal:

In a vote at Holyrood, MSPs overwhelmingly agreed the general principles of the SNP's Alcohol Bill, which aims to tackle Scotland's drink problem, allowing it to continue its passage through parliament.

But they narrowly voted by a margin of 54 to 49 for Nicola Sturgeon, the Scottish health minister, to remove minimum pricing from the legislation at the earliest opportunity.

If she refuses, Opposition parties have vowed to scrap the controversial scheme themselves before the Bill becomes law.

Murdo Fraser, Scottish Tory health spokesman, said: "This is the end of the road for minimum pricing. Today the Scottish Parliament has voted for the first time to reject the policy.

"Now it's time for the SNP to put its plans on hold and sit down and work with the UK Government and opposition parties on a joint approach which will have widespread political support.

The vote followed an ill-tempered debate during which Miss Sturgeon pleaded with her opponents to "rise above party politics" and introduce minimum pricing for the good of Scotland."⁶

Despite an appeal from the Health Minister, Nicola Sturgeon MSP, to 'to set aside party politics and do the right thing for the nation's health'⁷ a Conservative amendment calling on the Minister for Health to remove Section 1 of the Bill (which contains the minimum pricing proposal) was successfully moved. However, the Health Minister has stated that the amendment has "absolutely no legal effect" and that the Scottish Government will, at Stage 2, continue to persuade MSPs to support minimum pricing⁸.

More recently, the Scottish Government's Health and Sport Committee voted in favour of a Conservative amendment to strike plans for a minimum price from the Alcohol Bill. In a bid to gain support from MSPs, the Minister for Health offered to insert a sunset clause in the legislation, which would review the policy after six years. It is reported

⁶ Telegraph. 'MSPs reject alcohol minimum pricing'. 10 June 2010.

www.telegraph.co.uk/news/newstoppers/politics/7818581/MSPs-reject-alcohol-minimum-pricing.html

⁷ Scottish Government News Release. 'Appeal to back minimum pricing'. 9 June 2010.

www.scotland.gov.uk/News/Releases/2010/06/09124809

⁸ Scottish Government News Release. Alcohol Bill. 10 June 2010. www.scotland.gov.uk/News/Releases/2010/06/11084048

that the Minister will make one last attempt to re-insert minimum pricing into the Bill during its final stage in Parliament⁹.

Other proposals contained within the Bill

In addition to minimum pricing, the Alcohol Etc. (Scotland) Bill (as introduced) also contained provisions to¹⁰:

- Tackle the issue of **irresponsible alcohol promotions** by restricting discount promotions in *off-sales* premises (examples of such promotions include ‘buy one, get one free’, ‘three for the price of two’, ‘3 for £10’ etc).
- Introduce a **mandatory age verification policy** for all licensed premises.
- Require licensing boards to include a **statement** on the impact to an area of off-trade sales to under 21s. This “**detrimental impact statement**” should state the effect of off-sales to those under 21 and whether this is having a detrimental effect on one or more of the licensing objectives in the whole or part of the Licensing Board’s area.
- Provide Scottish Minister’s a power to make regulations imposing a ‘**social responsibility levy**’ on certain holders of licensed premises. 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.

Irresponsible Promotions for ‘On-Sales’ Premises

The [Licensing \(Scotland\) Act 2005](#) already prohibits ‘irresponsible drinks promotions’ for ‘on sale’ premises. Schedule 3 of the Act states defines a drinks promotion as irresponsible if it:

- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
- (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
- (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

⁹ BBC News. ‘Minimum pricing alcohol plan defeated’. 22 September 2010. www.bbc.co.uk/news/uk-scotland-11381608

¹⁰ Alcohol Etc. (Scotland) Bill. Financial and Explanatory Memorandum. www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-en.pdf

- (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
- (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
- (f) is based on the strength of any alcohol,
- (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
- (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

Recommended reading:

The Alcohol Etc. (Scotland) Bill, [Financial and Explanatory Memorandum](#)¹¹.

Scottish Parliament Information Centre (SPICe) Briefing on [Alcohol etc. \(Scotland\) Bill](#) (February 2010)¹².

The Scottish Parliament [plenary session](#) on the 1st Stage of the Alcohol etc. (Scotland) Bill¹³.

Scottish Parliament Health and Sports Committee [scrutiny](#) of the Alcohol Etc. (Scotland) Bill¹⁴.

Booth, et al (2008) Independent review of the effects of alcohol pricing and promotion¹⁵.

Meier, P. et al (2010) Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland Using The Sheffield Alcohol Policy Model (V 2):- An Update Based on Newly Available Data¹⁶.

4 Wales

The Welsh Assembly Government Minister for Health and Social Services, highlighted in a [Ministerial Statement](#)¹⁷ (on 27 April 2010), that she believed that there was now a strong case for the introduction of a minimum price for alcohol and called for:

- Stricter rules on the promotion of alcohol;

¹¹ See www.scottish.parliament.uk/s3/bills/34-AlcoholEtc/b34s3-introd-en.pdf

¹² www.scottish.parliament.uk/business/research/briefings-10/SB10-13.pdf

¹³ See http://news.bbc.co.uk/1/hi/scotland/newsid_8726000/8726514.stm

¹⁴ See www.scottish.parliament.uk/s3/committees/hs/inquiries/AlcoholBill/AlcoholBill.htm

¹⁵ See www.eurocare.org/resources/policy_issues/pricing/resources_1/independent_review_of_the_effects_of_alcohol_pricing_and_promotion

¹⁶ See www.scotland.gov.uk/Publications/2010/04/20091852/1

¹⁷ See www.wales.nhs.uk/newsitem.cfm?ContentID=16202

- Consideration of reduced demand by introducing minimum pricing; and
- Increased taxation, i.e. linking levels of tax more closely to alcohol strength.

The Minister also went on to state that a focus has been made on stating a case to the UK Government for minimum pricing,

“We do not currently have the powers to implement these changes ourselves. Our focus has been on making the case to the UK Government, and I and my Ministerial colleagues have written on a number of occasions to highlight these issues. And I believe that opinion is swinging our way. In recent months we have seen calls for minimum pricing from the BMA, the National Institute for Health and Clinical Excellence, and the Parliamentary Health Select Committee.....

We do not have specific figures for Wales, but this evidence suggests that after 10 years, a minimum unit price of between 40p and 50p could reduce the number of alcohol-related deaths in Wales by 20-25%. This would equate to 200-250 fewer deaths per year after 10 years. That is why my own Chief Medical Officer, Dr Tony Jewell, has also called for the introduction of minimum pricing.”

5 Republic of Ireland

According to the Irish Times a National Substance Misuse Strategy Steering Group are exploring draft proposals to tackle alcohol misuse such as minimum prices for alcoholic drinks, new charges on retailers selling large volumes of alcohol and laws requiring alcohol to be sold separately from other products. The steering group, set up by Government in 2009 to explore new approaches in tackling alcohol misuse is said to comprised of 33 members including representatives from Government departments, industry and health groups¹⁸.

An earlier [report](#)¹⁹ by the Government Alcohol Advisory Group (set up by the Irish Government’s Department of Justice and Law Reform) made a number of recommendations relating to the issue of alcohol pricing and promotion, including:

- alcohol products must be priced and sold on the basis of a unit price; this means that the promotion, supply or sale of alcohol products either free of charge or at a reduced price on purchase of one or more units of the product, whether for consumption on or off the premises, should be prohibited;
- an ban on the award of bonus points, loyalty card points or any other benefit on sales of alcohol products, directly or indirectly, and the use of any such points or benefits for the sale at a reduced prices of alcohol or any other product;

¹⁸ Irish Times. ‘Industry cool on proposals to restrict alcohol sales’. 28 April 2010.

¹⁹ www.justice.ie/en/JELR/Report%20of%20the%20GAAG.pdf/Files/Report%20of%20the%20GAAG.pdf

- promotional or advertising materials may only contain the unit price of the product and may not mention any other price or any reference to sale at a reduced price; and
- promotional and advertising materials in mixed trading premises should only be displayed in the specified area where alcohol is exposed for sale.

Recommended reading:

Government Alcohol Advisory Group (2008) Report of the Government Alcohol Advisory Group²⁰.

²⁰ See www.justice.ie/en/JELR/Report%20of%20the%20GAAG.pdf/Files/Report%20of%20the%20GAAG.pdf