

# **THE ROAD TRAFFIC ACT 1988 (PRESCRIBED LIMIT) (SCOTLAND) REGULATIONS 2014**

## **FINANCIAL IMPACT ASSESSMENT**

### **Background**

1. This note sets out the Scottish Government's assessment of the financial impact of the Road Traffic Act 1988 (Prescribed Limit) (Scotland) Regulations 2014. These regulations provide for "drink drive" limit to be lowered from 80mg of alcohol in 100ml of blood to 50mg of alcohol in 100ml of blood, and for equivalent changes to be made to the limits for the concentration of alcohol in breath and urine.

### **Financial impact on the Scottish Administration**

2. A reduction in the drink-drive limit will require that the evidential breath testing instruments (EBTIs) used by Police Scotland to enforce the drink-drive limit have to be recalibrated for use at the lower limit. Police Scotland estimate that the one-off costs associated with recalibrating and recertifying the EBTIs currently in use will be around £90,000. The Road Traffic Act 1988 requires that specimens of breath must be taken using a device of a type approved by the Secretary of State. It has therefore been necessary to obtain type approval of the EBTIs currently used by Police Scotland at the lower limit. This work has been undertaken by the Centre for Applied Science and Technology (CAST) on behalf of the UK Government's Home Office and cost £25,000. The introduction of the lower limit has also necessitated the re-writing of the software used to calibrate the EBTIs at the lower limit. The cost of this is £5,000. All these one-off costs, which total approximately £120,000, will be met by the Scottish Government.

3. There will also be a need to take steps to ensure that the public are aware of the change to the drink-drive limit. However, there are regular Festive and Summer campaigns to highlight the dangers of drink driving and this year's Festive Campaign will provide the opportunity to incorporating awareness raising of the lower drink-drive limit without incurring additional costs over and above that of the annual seasonal campaigns.

### **Prosecution, Courts and Legal Aid Costs**

4. Respondents to the Scottish Government's consultation on proposals to lower the drink drive limit were asked about the financial impact of lowering the drink-drive limit. A few respondents indicated that they considered that additional costs would fall on the Police, COPFS, and Scottish Court Service as there would be more prosecutions resulting from the lower drink-drive limit.

5. It is difficult to ascertain the extent to which lowering the drink-drive limit will result in additional prosecutions for drink-driving offences. The underlying policy aim is to discourage people from drinking and driving. Clearly, if drivers do not modify their behaviour as a result of the introduction of the lower drink-drive limit, there will be additional prosecutions as drivers who are breath-tested and have a

breath/alcohol concentration which is below the current limit and above the proposed lower limit would, in future, face prosecution whereas at present they do not.

6. However and as noted above, we consider that it is extremely likely that driver behaviour will change as a result of the reduction in the drink-drive limit. We consider that some drivers who might currently risk driving after having consumed alcohol will be dissuaded from doing so by the introduction of a lower drink-drive limit.

7. We have looked at the recent experience in the Republic of Ireland to help understand what may happen following a reduction in the drink drive limit. The Republic of Ireland lowered its drink drive limit on 28 October 2011 from 80mg/100ml of blood to 50mg/100ml of blood (the same change as is provided for in these regulations). In Ireland, a further lower limit of 20mgs/100ml of blood was introduced for “specified drivers” – learner drivers, those who have recently passed their test and those driving in a professional capacity (e.g. bus or truck drivers) which is not provided for in these regulations.

8. The Road Safety Authority in the Republic of Ireland undertook a Review of the Lower Drink Driving Limits, which they published in December 2012<sup>1</sup>. It found that following the introduction of lower drink drive limits on 28 October 2011, the total number of arrests for drink-driving in the period 28 October 2011 to 27 October 2012 fell when compared with 2010, the last calendar year in which the higher limit was in force throughout.

9. Furthermore, the proportion of drivers breath tested at Mandatory Alcohol Testing checkpoints who were above the legal limit in 2012 – the first full year in which the lower limit was in force - was slightly lower than in 2010 (2.1% of all drivers tested as compared to 2.2% of all drivers tested) – the last full year in which the higher limit was in force. The Chief Executive of the Road Safety Authority, Noel Brett, commented that *“Since 2007, the number of drivers being detected driving under the influence of alcohol has more than halved. Clearly, the introduction of Random Breath Testing in July 2006 and the lowering of the Drink Drive Limits in October of 2011 have been the principal factors behind this drop.”*

10. The experience of the Republic of Ireland following the decision to reduce their drink-drive limit indicates that reducing the drink-drive limit in Scotland is unlikely to lead to a sustained increase in arrests and prosecutions for drink-driving. This is because we expect drivers will adjust their behaviour to take account of the reduced drink-drive limit. Indeed, it is possible that the lower limit will help to reinforce the message of not drinking any alcohol at all before driving and serve to reduce the volume of drink-drive offences processed by the Scottish Courts.

11. All this should be seen in the context of the fact that the number of persons convicted of drink-drive offences in Scotland has steadily fallen over the last ten years. For example, the number of people with a charge proven against them for a

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<sup>1</sup> See <http://www.rsa.ie/en/Utility/News/2012/Review-of-Lower-Drink-Driving-Limits/>

drink or drug driving offence in 2012/13 was 4,730, compared with 8,145 in 2003/04<sup>2</sup>.

12. The Scottish Government considers that the experience of the Republic of Ireland is the most likely scenario. However, an alternative scenario is that it is possible that, notwithstanding the above, the introduction of a lower drink-drive limit in Scotland may lead, at least initially, to a small rise in the number of prosecutions and convictions for drink-driving offences. For the purposes of considering this alternative scenario, the table below illustrates the estimated cost of an increase in the number of persons prosecuted for drink-driving for the Courts, COPFS, Scottish Legal Aid Board and Scottish Prison Service.

<b>Cost</b>	<b>£</b>
Legal Aid costs per case (Source: Scottish Legal Aid Board Annual Report 2012-13).	610
Prosecution costs per case (Estimate)	400
Court costs per case (Estimate)	335
Annual cost per prison place (Source: Scottish Prison Service Annual Report and Accounts, 2012-13).	42,620
% Custodial sentence imposed (Source: Criminal Proceedings in Scotland, 2012-13. Table 9)	2
Average sentence length for drink driving offences (Source: Criminal Proceedings in Scotland, 2012-13. Table 10)	147 days
Actual time Served	74 days
% fine/other disposal for drink driving offences (Source: Criminal Proceedings in Scotland 2012-13. Table 8a).	98%

11. Using the assumptions above, a summary of the projected costs/savings arising from an increase or decrease in the number of drink-drive cases is shown below.

<b>Cost per case</b>	<b>10% increase</b>	<b>20% increase</b>	<b>10% decrease</b>
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<sup>2</sup> Criminal Proceedings in Scotland, 2012-13. Table 4a: <http://www.scotland.gov.uk/Publications/2013/11/2711/4#table4a>

		(additional 500 cases)	(additional 1,000 cases)	(500 fewer cases)
Legal aid	£610	£305,000	£610,000	-£305,000
Prosecution	£400	£200,000	£400,000	-£200,000
Court costs	£335	£167,500	£335,000	-£167,500
Additional prisoners	(assuming 2% custodial sentences)	5	10	-5
Sentence length	147 days (0.4 years)	2 years total	4 years total	-2 years total
Increase in average daily prison population <sup>3</sup>		1	2	-1
Annual cost of prison places		£42,650	£85,300	-£42,650
<b>Total annual cost or saving</b>		<b>£715,150</b>	<b>£1,430,300</b>	<b>£715,150 saving</b>

13. In the context of the total volume of cases dealt with by the courts, and in particular given that there has been a substantial reduction in the total number of drink-driving offences prosecuted by the courts in recent years, this alternative scenario does not translate to a significant new burden on (or saving for) the Scottish Court Service, the Crown Office and Procurator Fiscal Service or the Scottish Prison Service.

### Financial impact on other bodies, individuals and businesses

14. Respondents to the Scottish Government's consultation on lowering the drink-drive limit were asked for their views on the likely financial impact of a lower limit. A number of those responding to the consultation stated that they considered that lowering the drink-drive limit would result in savings for the NHS, social services and employers (through reduced absenteeism) as a result of there being fewer alcohol-related road accidents. Most did not attempt to quantify these savings (but see paragraphs 17-21 below).

15. Some consultation respondents suggested that lowering the drink-drive limit would result in a loss of business to the licensed trade, including public houses, restaurants and social clubs. However, respondents did not provide information on the extent to which such businesses might be affected.

16. There will also be a potential financial impact upon those convicted of drink-driving at the lower limit, with driving bans and the possible ensuing job loss for the individual. As noted above, the Irish experience suggests that the number of persons convicted of drink-driving offences will not necessarily increase as a result of the introduction of the lower limit. Any loss experienced by an individual would, of course, be as a direct result of breaking the law by drinking and driving and therefore

<sup>3</sup> Taking account of automatic early release at half-way point of sentence for offenders sentenced to less than 4 years in prison.

the responsibility would lie with the individual for the financial costs that may arise from such conduct.

### **Financial impact of drink-driving**

17. When considering the financial impact of lowering the drink-drive limit in Scotland, it is important to consider it in the context of the impact of drink-driving more generally. The publication 'Reported Road Casualties in Scotland: 2012' estimates that for the years 2007-2011, there were on average 20 fatal accidents, 110 accidents resulting in serious injury and 470 accidents resulting in slight injury, which were attributable to drink-driving<sup>4</sup>. It should be borne in mind that there are no estimates for Scotland of the number of alcohol-related injury road accidents where legal alcohol levels were involved, or of non-injury accidents where the driver was above the legal limit.

18. The UK Government Department for Transport have estimated the average financial cost of road casualties and accidents. They estimate that the cost<sup>5</sup> (consisting of lost output, pain, grief, suffering, medical/ambulance costs, police/administration costs, insurance and damage to property), of a fatal road accident is £1,951,042, the cost of an road accident resulting in serious injury is £224,578, and the cost of a road accident resulting in slight injury is £22,512. Applying these figures to the estimates of the number of accidents resulting in injury caused by drink-driving indicates that the annual cost of drink-driving accidents in Scotland is more than **£74m** (the real figure will be higher as this figure takes no account of accidents resulting only in damage to property).

19. The Scottish Government's consultation on proposals to lower the drink-drive limit noted that the North Report of the Review of Drink and Drug Driving Law indicated that a lower drink limit of 50mg of alcohol in 100ml of blood would help save lives:

20. Paragraph 4.17 of the North Report stated:

*"The estimates of the potential for a lower limit of 50 mg/100 ml to save lives vary. On the one hand, Professor Richard Allsop estimates, with conservative assumptions, that 43 lives could be saved in Great Britain annually, NICE on the other hand makes more ambitious estimates, based on the experience of research conducted in Europe and in Australia. NICE applies their model to all road traffic casualties in England and Wales rather than just those reported as drink drive-related. Based on the Albalade study of European countries, although without a defined time horizon, 77 – 168 lives could be saved each year in England and Wales whereas, based on the Australian experience, 144 lives could be saved after the first year in England and Wales, progressively increasing by the 6th year to a total of up to 303 deaths avoided.*

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[http://www.transportscotland.gov.uk/sites/default/files/documents/rrd\\_reports/uploaded\\_reports/j285660/j285660.pdf](http://www.transportscotland.gov.uk/sites/default/files/documents/rrd_reports/uploaded_reports/j285660/j285660.pdf) - Table 22

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[http://www.transportscotland.gov.uk/sites/default/files/documents/rrd\\_reports/uploaded\\_reports/j285660/j285660.pdf](http://www.transportscotland.gov.uk/sites/default/files/documents/rrd_reports/uploaded_reports/j285660/j285660.pdf) - Table 9

*These estimates for England and Wales take no account of the possible casualty savings for Scotland. It should be noted that Scotland represented 7% of all drink drive-related casualties in Great Britain in 2008”*

21. As can be seen, a range of studies are mentioned in the North Report and an analysis applied to England and Wales figures. Apportioning these figures for a lower Scottish drink driving limit would suggest a range of **between 3 and 17 fewer deaths per year** – a reduction of between 10% and 60%<sup>6</sup>. Assuming that the lower drink-drive limit brings about a proportionate reduction in accidents resulting in injury, in financial terms, the reduced drink-drive limit would result in savings of between £7.4m and £44.4m each year.

## Summary

22. The main costs for the Scottish Administration will arise from the need to adapt and recalibrate the evidential breath testing devices used by the police to enforce the drink-driving law. We estimate that the total cost of this work will be around £120,000. The experience of the Republic of Ireland, which lowered its drink-drive limit in 2011, suggests that the lower drink-drive limit will not result in an increase in prosecutions for drink-driving offences as drivers will adapt their behaviour to take account of the lower limit. However, if there is an initial rise in the number of people prosecuted for drink-driving, the costs will be manageable within the context of the total volume of cases dealt with by the courts in Scotland and can be accommodated within existing workloads.

23. The most serious impact of drink driving is the loss of life and serious injuries suffered by people involved in accidents caused by drivers under the influence of alcohol. However, drink-driving also has a significant financial impact and we estimate that reducing the drink-drive limit will result in savings to the Scottish economy of between £7.4m and £44.4m per year.

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<sup>6</sup> The number of drink-drive deaths is higher than the number of fatal drink-drive accidents as some accidents result in multiple fatalities. Table 22 of Reported Road Casualties in Scotland 2012 estimates that an average of 30 people died in alcohol-related road traffic accidents per year between 2007-2011.