

Final Business and Regulatory Impact Assessment

**Alcohol (Minimum Pricing)
(Scotland) Act 2012**

**The Alcohol (Minimum Price per
Unit) (Scotland) Order 2018**

Final Business and Regulatory Impact Assessment (BRIA)

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1. Summary

Scale of the problem (section 5¹)

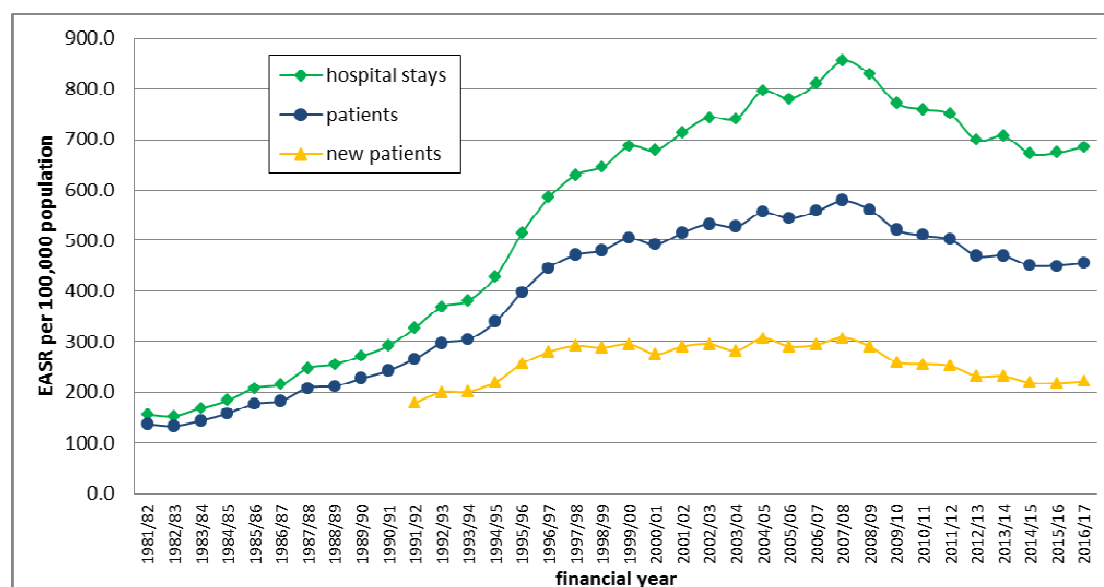
1.1 The most recent monitoring report from NHS Health Scotland shows that Scotland continues to have high levels of alcohol-related harm as a result of consuming high levels of alcohol by global standards. In 2016, in Scotland:

- enough alcohol was bought for every adult to substantially exceed the low risk weekly drinking guideline (14 units)²: 10.5 litres (L) of pure alcohol were sold per adult in Scotland - equivalent to 20.2 units per adult per week;
- 17% more alcohol was bought, per adult, than in England and Wales (equivalent to 1.5L pure alcohol per adult).

1.2. The average consumption of alcohol in a population is directly linked to the amount of harm as evidenced in a number of systematic reviews. The more we drink, the greater the risk of harm^{3 4 5}. As overall consumption has increased in Scotland, so have the resultant harms.

1.3. As seen in the graph, in 2016/17, the alcohol-related stay rate in general acute hospitals was 685 per 100,000 population - 4.4 times higher than in 1981/82.

Alcohol-related acute hospital stays, Scotland 1981/82–2016/17



¹ This refers to the substantive section in the main body of the Business and Regulatory Impact Assessment (BRIA)

² Giles L, Robinson M. *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland; 2017.

³ Nostrom, T. (ed) (2002) *Alcohol in Postwar Europe: consumption, drinking patterns, consequences and policy responses in 15 European countries*, Sweden: National Institute of Public Health

⁴ Babor, T. et al. (2003) *Alcohol: No Ordinary Commodity*, Oxford. Oxford University Press

⁵ Anderson, P. and Baumberg, B. (2006) *Alcohol in Europe*, London: Institute of Alcohol Studies

1.4. In terms of deaths due to alcohol (wholly alcohol-specific causes⁶), although there has been a 26% decrease in mortality rates from 2006 to 2016, rates are far higher than they were in the 1990s and Scotland remains the country of the UK with the highest rate of wholly alcohol-specific deaths⁷.

1.5. Alcohol consumption is one of the 3 commonest causes of Chronic Liver Disease (CLD)⁸. The proportion of mortality associated with alcoholic liver disease has increased from 37% in 1979⁹ to 82% in 2015.

1.6. There is a strong social gradient associated with alcohol-related harm. By far the greatest harm is experienced by those who live in the most deprived areas:

- in 2016/17 the rate of alcohol-related hospital stays was nearly 9 times higher in the 10% most deprived areas of Scotland compared with the 10% least deprived areas (as measured by the Scottish Index of Multiple Deprivation, SIMD)¹⁰;
- alcohol-related mortality rates for those aged 45 – 74 years in 2015/16 were 9 times higher in the most deprived areas compared with the least¹¹;
- consistent with this, the rates for CLD were almost 6 times higher in the most deprived decile (34 per 100,000 population) compared to the least deprived decile (6 per 100,000).

1.7. Alcohol also contributes to a significant number of additional causes of death and illness: a recent report¹² estimated that 1 in 15 deaths in Scotland in 2015 was attributable to alcohol (6.5%); and that more than 1 in 4 of these was due to cancer.

⁶ Revised definition from ONS and NRS 2017: deaths which are known to be a direct consequence of alcohol misuse <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/alcohol-deaths/alcohol-specific-deaths-new-definition>

⁷ ONS (2017) *Alcohol-specific deaths in the UK: registered in 2016* <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/alcoholrelateddeathsintheunitedkingdom/registeredin2016>

⁸ The others are blood borne viruses (e.g. hepatitis B or C) and obesity

⁹ [Scottish Government 2008](#)

¹⁰ ISD Alcohol-related Hospital Statistics Scotland 2016/17; <http://www.isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Publications/2017-11-21/2017-11-21-ARHS-Report.pdf>

¹¹ Scottish Government (December 2017) *Long-term Monitoring of Health Inequalities*. <http://www.gov.scot/Resource/0052/00529436.pdf>

¹² Tod E, Grant I, Wyper G, et al. (2018) *Hospital Admissions, death and overall burden of disease attributable to alcohol consumption in Scotland*. ScotPHO NHS Health Scotland. <http://www.scotpho.org.uk/publications/reports-and-papers/hospital-admissions-deaths-and-overall-burden-of-disease-attributable-to-alcohol-consumption-in-scotland>

1.8. In terms of other harms:

- in Scotland in 2015, two in five prisoners (41%)¹³ and 60% of young offenders¹⁴ reported being drunk at the time of their offence;
- an Institute of Alcohol Studies report¹⁵ concluded that 37% of ambulance time and 25% of Emergency Department Consultants' time (in the UK) was spent dealing with alcohol-related incidents;
- in 2014 a survey found over half (60%) of people in Scotland believe alcohol is the drug which causes most problems for Scotland as a whole, compared with 19% saying heroin¹⁶. This has increased from 46% in 2004 and 51% in 2007;
- harms are not solely experienced by the drinker – damage can and does occur to family and friends, communities, employers, and Scotland as a whole.

1.9. Alcohol misuse acts as a brake on Scotland's social and economic growth, costing an estimated £2.5bn to £4.6bn in 2007, with a midpoint estimate of £3.6bn¹⁷. For the midpoint estimate, this includes around £870m in lost productivity, a cost of around £270m to the NHS and around £730m in crime costs.

Scotland's Alcohol Strategy (section 4)

1.10. The Scottish Government's alcohol strategy¹⁸ sets out over 40 measures aimed at addressing alcohol-related harm, and is closely aligned with the World Health Organization's *Global strategy to reduce harmful use of alcohol*¹⁹. The 4 key themes in the strategy are:

- reducing consumption,
- creating positive attitudes and choices,
- supporting families and communities; and
- providing effective support and treatment.

¹³ Carnie, J. and Broderick, R. (2016) *Prisoner Survey 2015*, Scottish Prison Service

¹⁴ Carnie, J. and Broderick, R. (2016) *Young people in custody 2015* Scottish Prison Service

¹⁵ Institute of Alcohol Studies (IAS) (2015) *Alcohol's impact on emergency services*. IAS

¹⁶ Sharp C, Marcinkiewicz A and Rutherford L (2014) *Attitudes towards alcohol in Scotland: results from the 2013 Scottish Social Attitudes Survey* Health Scotland

http://www.healthscotland.com/uploads/documents/23453_SSA%202013%20Alcohol%20Report.pdf

¹⁷ York Health Economics Consortium (2010) *The Societal Cost of Alcohol Misuse in Scotland for 2007*, Edinburgh: Scottish Government <http://www.scotland.gov.uk/Publications/2009/12/29122804/0>

¹⁸ *Changing Scotland's Relationship with Alcohol: A Framework for Action*, published in 2009 <http://www.gov.scot/Publications/2009/03/04144703/0>

¹⁹ World Health Organization (2010) *Global strategy to reduce harmful use of alcohol*, Geneva: World Health Organization http://www.who.int/substance_abuse/alcstratenglishfinal.pdf

1.11. In recent years the Scottish Government has:

- invested £689m since 2008 in tackling alcohol and drug misuse, with the bulk of this funding (£628m) going directly to NHS Health Boards for use in line with local priorities identified by Alcohol and Drug Partnerships (ADPs);
- introduced legislation which contains measures such as banning quantity discounts and restricting alcohol promotions in off-sales²⁰ premises;
- through NHS Scotland, delivered over 753,000 alcohol brief interventions (ABIs) to individuals who are drinking at a level that is endangering their health, to help them cut down;
- published refreshed advice for parents and carers;
- improved substance misuse education in schools through Curriculum for Excellence and improved identification of, and support for, children affected by parental substance misuse (CAPSM);
- continued to work with industry partners on joint initiatives to promote responsible drinking such as increasing the availability of 125ml wine measures in the on-trade; and encouraged safer drinking environments through initiatives such as Best Bar None;
- committed £92 million to CashBack (since 2008) and other community initiatives, funding community activities and facilities largely for young people;
- increased awareness and improved diagnosis and support for Foetal Alcohol Spectrum Disorder (FASD) which is the leading known preventable cause of permanent learning disability worldwide. It is caused by maternal use of alcohol during pregnancy;
- reduced the drink driving limit from December 2014 to 50mg of alcohol per 100ml of blood (was previously 80mg);
- tackled alcohol-related violence through initiatives such as Mentors in Violence Prevention programme and Medics Against Violence.

1.12. These actions have built on the tightening of licensing arrangements and the introduction of restrictions in the off-trade. These measures are not being taken in isolation. This comprehensive alcohol strategy is underpinned by wider policy initiatives across health, education, justice and the economy, which seek to address the underlying causes of poor health and social disadvantage.

²⁰ Off-sales and off-trade refers to alcohol that is bought from retailers such as supermarkets, small shops and is for consumption off these premises.

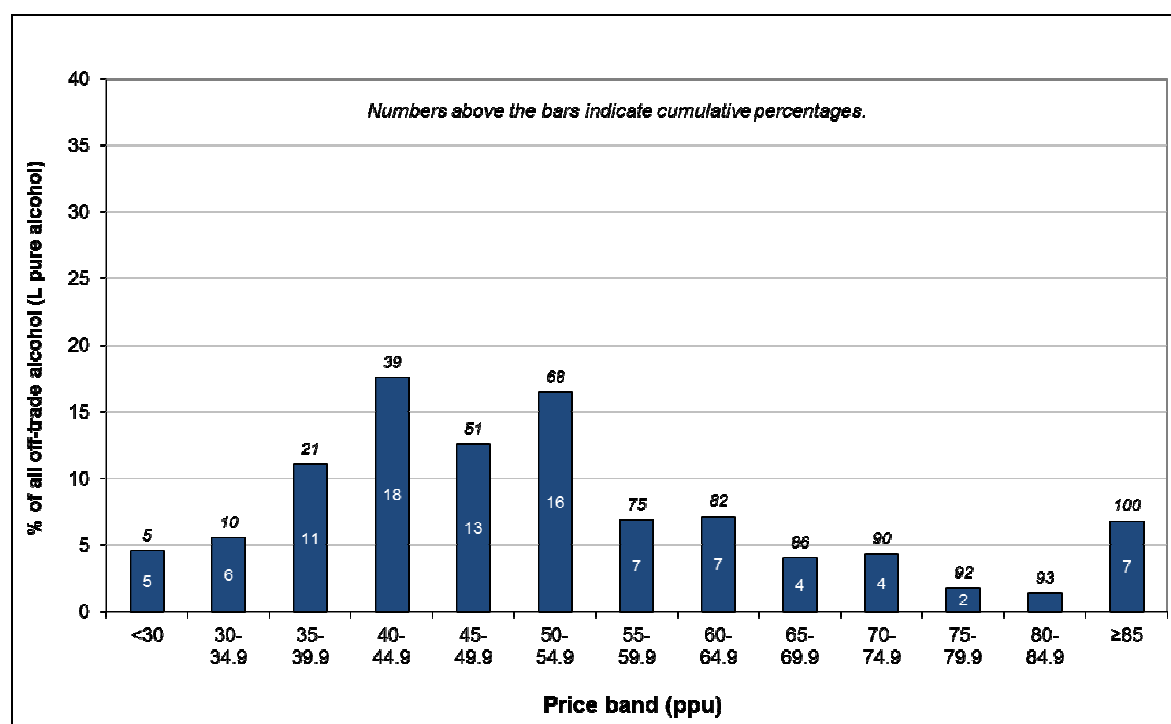
Alcohol Affordability (section 5)

1.13. Despite these actions, and an economic downturn, Scotland’s consumption and harm remain at unacceptably high levels. The key component missing from Scotland’s alcohol strategy has been an intervention to address the affordability of alcohol, especially alcohol that is cheap relative to its strength. There is strong evidence from a breadth of international studies that levels of alcohol consumption in the population are closely linked to the retail price of alcohol.

Evidence tells us, as alcohol becomes more affordable, consumption increases; as consumption increases, harm increases.

1.14. In the UK, alcohol was around 60% more affordable in 2015 than in 1980, with changes varying by sector and drink types. Since 2000, the average price per unit in the on-trade has increased by 88% whilst the increase in the off-trade is 36%. In 2016, 51% of alcohol sold in the off-trade in Scotland was sold at less than 50p per unit.

Price distribution (%) of off-trade sales in Scotland, 2016, by pure alcohol



1.15. It is possible in Scotland today to exceed the lower risk weekly guideline of 14 units for around £2.50. This is roughly the same as the cost of a cup of coffee from a high street chain.

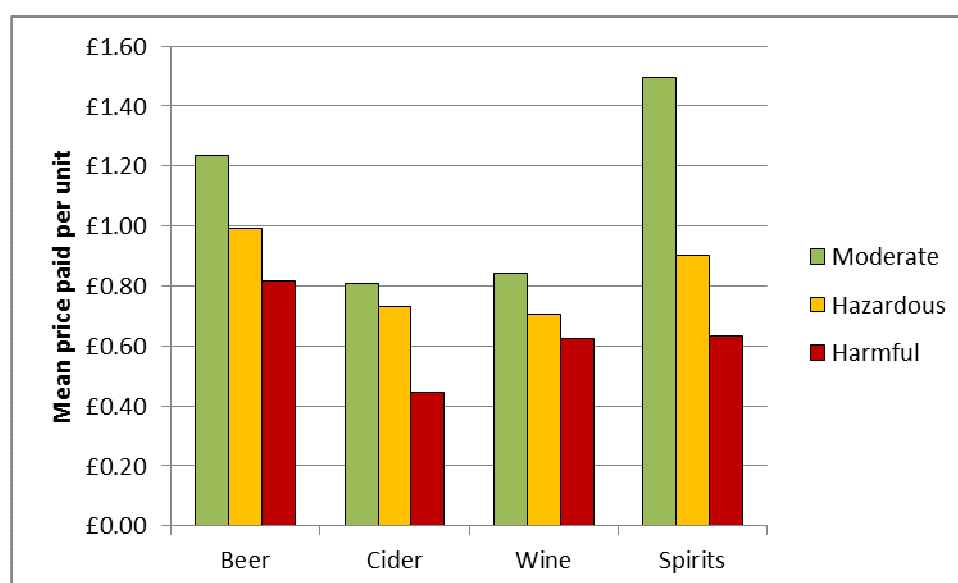
Why minimum pricing? (sections 5 and 7)

1.16. The sale of alcohol products at retail level in Scotland is subject to a premises (or occasional) licence. Minimum pricing will be a mandatory condition of a premises (or occasional) licence and so, for those holding a premises (or occasional) licence, alcohol will not be permitted to be sold below 50p per unit.

1.17. Scotland's minimum pricing policy aims to reduce alcohol consumption and, in particular, targets a reduction in consumption of alcohol which is cheap relative to its strength. Minimum pricing achieves this aim because it is both a whole population approach and a targeted intervention – it applies to the whole population, but hazardous and harmful drinkers²¹ are likely to be affected more than moderate drinkers, in terms of the amount they drink, how much they spend and how much they benefit from reductions in harm.

1.18. Hazardous and harmful drinkers drink proportionately more of the alcohol which is cheap relative to its strength. Those who drink more heavily tend to spend less per unit on their alcohol.

Mean prices paid per unit by beverage type and drinker group



1.19. The measure is able to target this type of product because the minimum price is determined by, and is directly proportionate to, the number of units of pure alcohol in an alcoholic product. Furthermore, it is not possible to absorb the effect of minimum pricing, as might be done with tax, as it results in a mandatory price floor. Minimum pricing per unit is simple to understand, measure and enforce.

²¹ Those who drink above UK CMO lower risk guidelines

1.20. Minimum price will apply equally to both domestic and imported products. It does not discriminate. It may mean that low costs of production are not able to be reflected in retail prices. The minimum price depends on the number of units of alcohol, regardless of the type of alcohol product or the place/country of production. It applies to all holders of a premises (or occasional) licence to retail alcohol in Scotland.

1.21 The policy objective of protecting and improving public health would not be achieved through increasing alcohol duty and taxation for a number of reasons:

- broad taxation increases do not have a targeted effect on the consumption of those most at risk (i.e. hazardous and harmful drinkers) because those that drink the most consume a disproportionate amount of cheaper products;
- substantially more alcohol is consumed in the off-trade than in the on-trade and the price of a unit of alcohol is far less in the off-trade, so a measure that predominantly affects the off-trade is likely to be more effective at tackling alcohol harms (duty affects both on and off-trade);
- an increase in existing duty would impact on all products and all prices, so would have a proportionately greater effect on moderate drinkers than a minimum unit price;
- increases in taxation do not necessarily result in a proportionate, or indeed any, rise in price as increases are not always passed on to the consumer – cross-subsidisation of products can occur, particularly in supermarket multiples;
- a tax increase based on price would disproportionately affect consumers because the prices of high price, relatively low strength products would increase disproportionately to that of the prices of low price, relatively high strength products;
- a scheme of taxation that was levied directly proportionate to the number of units of alcohol per litre, is not compatible with the current system of excise duty under the relevant EU Directives; and
- even if it was possible to formulate a scheme of taxation proportionate to the number of units of alcohol in a product, and to prohibit sales at less than cost plus tax, absorption could not be prevented. This is because cost is susceptible to variation, manipulation and cross-subsidisation, and so the declared cost price might bear little relationship to the actual cost. Taxation would have to be set at a level similar to a minimum price per unit of alcohol in order to achieve the same reduction in harms. This would result in a tax rate across all alcohol products at a considerably higher rate than is currently in place;

- the level of tax increase estimated by the Sheffield Model which would be required to achieve a similar impact on alcohol-related health harms as minimum pricing, would be at an unprecedented level (relative to annual increase in UK duty).

1.22. Minimum pricing has the advantage over taxation in that moderate drinkers (who disproportionately come from low income groups) will be largely or completely unaffected, by virtue of the fact that they drink very little and do not tend to purchase the type of products that will be affected by minimum pricing.

1.23. There are also likely to be significant reductions in health, criminal justice and productivity costs brought about by minimum pricing. The greatest health benefits are estimated to be seen amongst hazardous and harmful drinkers as they disproportionately consume the alcohol most affected and experience most harm.

Minimum pricing, therefore, effectively targets those individuals whose drinking puts them most at risk of harm.

1.24. A form of minimum alcohol pricing has been used in some Canadian provinces since the 1920s and is now in place to some degree in all 10 provinces. Research findings from Canada provide empirical evidence of the effectiveness of minimum pricing in reducing consumption²², alcohol-related morbidity²³ and mortality, where a 10% increase in average minimum price for all alcoholic beverages was associated with a 32% reduction in wholly alcohol attributable deaths²⁴. More recent studies have found that increases in minimum alcohol prices produce greater impacts on alcohol-related hospitalisations in areas of low income (where the rates of harm are known to be greater²⁵) and may contribute to reductions in certain types of crime: in this study²⁶, alcohol-related traffic and violent crimes carried out by men.

²² Stockwell, T., Auld, M. C., Zhao, J. and Martin, G. (2012) *Does minimum pricing reduce alcohol consumption? The experience of a Canadian province*, *Addiction*, Volume 107, Issue 5, pp 912-920

²³ Stockwell, T., Zhao, J. Martin G, Macdonald S, Vallance K et al. (2013) Minimum alcohol prices and outlet densities in British Columbia, Canada, estimated impacts on alcohol attributable hospital admissions. *Am J Public Health* 103 p 2014-20

²⁴ Stockwell, T., Zhao, J. Martin G, Macdonald S, Vallance K et al. (2013) The relationship between minimum alcohol prices, outlet densities, and on alcohol attributable deaths in British Columbia 2002-09. *Addiction* 108 p 1059-69

²⁵ Stockwell, T., Zhao (2017). The impacts of minimum alcohol pricing on alcohol attributable morbidity in regions of British Columbia, Canada with low, medium and high family income. *Addiction*. Research report

²⁶ Stockwell, T., Zhao J, Sherk A, Callaghan R, Macdonald S, Gatley J, (2017). Assessing the impacts of Saskatchewan's minimum alcohol pricing regulations on alcohol related crime. *Drug and Alcohol review*. 36.p 492 -501

Consultation²⁷ (section 6)

1.25 Following the favourable outcome from the legal challenge, a consultation on the Scottish Ministers' proposed minimum unit price of 50p was undertaken from 1 December 2017 to 26 January 2018. Out of the total number of responses of 130, 70 responded to the proposed price directly. Of these 70 (48 organisations; 22 individuals), 52 (74.3%) indicated that they are in favour of the 50p minimum unit price. Sixty-four of the 70 respondents (91.4%) who commented on the proposed price are either in favour of a 50p per unit minimum price or a higher minimum unit price. Taking account of a range of factors, including the responses to the consultation, the Scottish Government concludes that a minimum price of 50p per unit provides a proportionate response to tackling alcohol misuse, as it strikes a reasonable balance between public health and social benefits and intervention in the market. Scottish Ministers have confirmed that a minimum price of 50p per unit is what they will propose to the Scottish Parliament be introduced from 1 May 2018.

1.26. Several meetings with key stakeholders took place to discuss issues related to the implementation of minimum pricing both during and following the consultation period. These included retailers, wholesalers, producers, trade bodies, Licensing Standards Officers, Police Scotland.

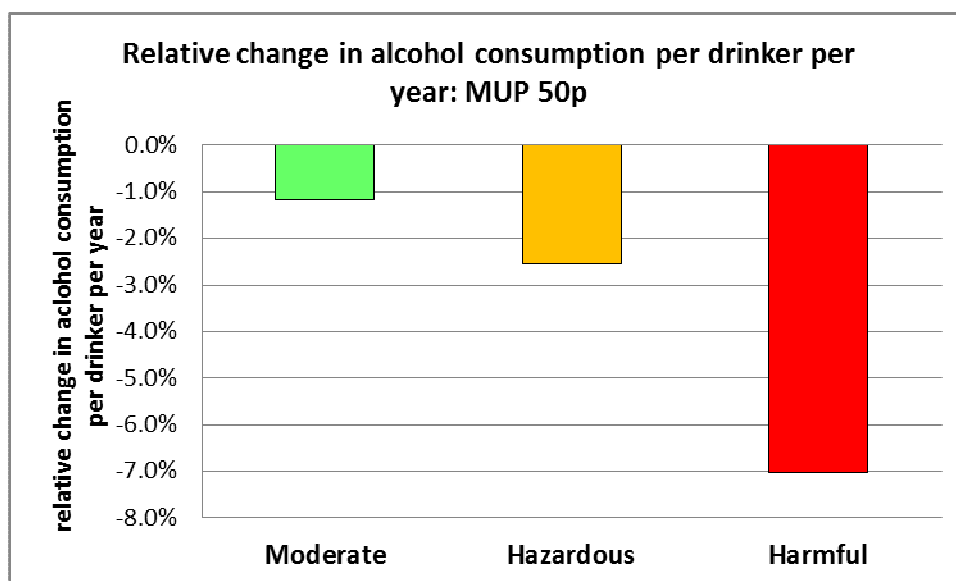
Anticipated benefits (sections 7 & 8)

1.27. The Scottish Government is introducing minimum pricing for the public health, criminal justice and productivity benefits it will bring for the people of Scotland. After careful consideration, the Scottish Government considers that the proposed minimum price of 50p per unit provides a proportionate response to tackling alcohol-related harm, as it strikes a reasonable balance between public health and social benefits and intervention in the market.

1.28. As this is a novel intervention, modelling was undertaken by the University of Sheffield to estimate the level of benefits. This is a sophisticated 2 stage model: the first stage, econometric and the second, epidemiological. The model estimates that a 50p minimum price per unit will lead to a reduction in consumption and consequent harms. The reduction in consumption is seen disproportionately in those who drink the most – as illustrated below.

²⁷ Consultation undertaken in order to comply with EU law (article 9 of (EC) Regulation 178/2002)

Relative change in alcohol consumption per drinker per year for a 50p minimum unit price



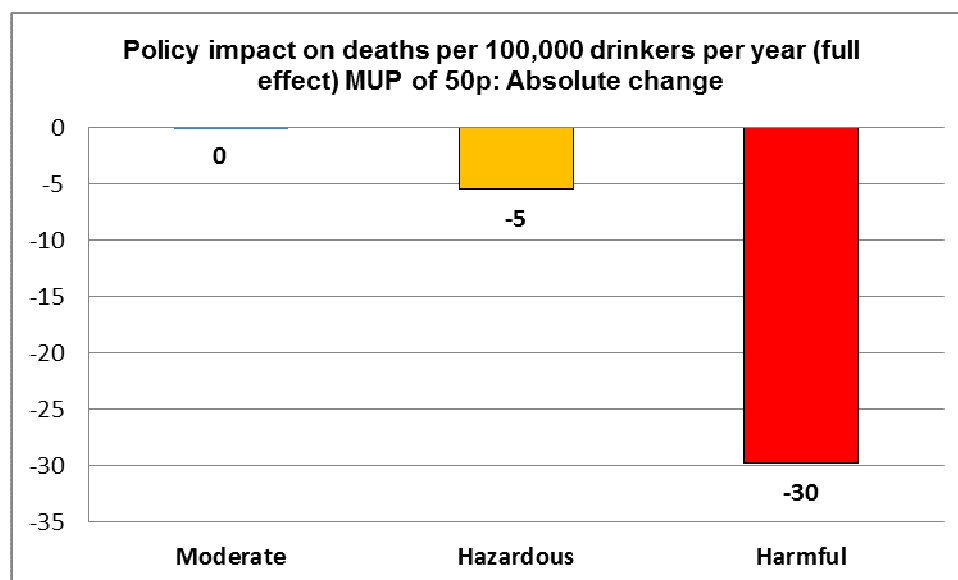
1.29 The model estimates:

- an overall fall in consumption of 3.5%, with hazardous drinkers reducing their intake by 2.5% and harmful drinkers by 7% (seen in figure);
- around 60 fewer deaths in the first year after implementation, rising to over 100 fewer deaths per annum in year 10 and a full effect of a reduction of over 120 deaths per year²⁸ (this represents a fall in deaths of over 7%);
- 1,300 fewer hospital admissions in year 1, rising to over 2,000 per annum in year 10 onwards (the equivalent of a fall per annum in alcohol-related admissions of just under 7%);

1.30. It is clear that these impacts are seen most acutely in those who drink the most.

²⁸ Full effect is estimated to be at 20 years: gains in acute conditions are expected to accrue immediately, while those from chronic conditions take longer to develop due to the 'time lags' between reductions in consumption and reductions in corresponding risks of harm.

Policy impact on deaths per 100,000 drinkers per year (full effect) for a 50p minimum unit price: absolute change²⁹



1.31. Earlier iterations of the modelling also estimated a reduction in crime and in the number of days lost to alcohol related absence from work. There may also be a reduction in unemployment amongst those who drink most heavily.

Impact on the market (sections 5 & 8, and Annex A)

1.32. Scottish consumers benefit from a wide range of alcohol products available to them. These are sourced both domestically and across a number of countries worldwide and cover a range of prices. The legislation sets a minimum price based on the unit content of the product and applies to all products equally, and does not discriminate between domestic or imported products. Of those alcohol products which were priced below the proposed minimum unit price in 2016, 40% were spirits (the majority of which are produced in the UK); 18% were wines (which are generally imported); 29% were beer and ales (which vary in their country of origin but with very significant UK production); and 10% were ciders (which are generally domestically produced).

1.33. The legislation does not lay down requirements in relation to the characteristics of alcoholic products; it simply refers to those characteristics (strength and volume) to calculate how many units of alcohol are in a product and then multiplies that by the price per unit, to determine the minimum price of the product when sold at retail level.

²⁹ Table 4.12 (or Figure 4.13) in the Sheffield 2016 report, page 60.

1.34. The formula for the calculation is set out in the legislation and is transparent and straightforward to use. This means that both domestic and importing producers remain free to determine the characteristics of alcohol products. Products already on the market will need to comply with minimum pricing, but the legislation does not require the producer to change the characteristics of those products, but nor does it prevent such change if the producer prefers.

1.35. There should be minimal negative impact on innovation for both existing products and the introduction of new products into the market. There may even be an incentive for the market to innovate, with one possible effect of minimum pricing being the production of lower strength alcoholic products. These could be sold at a relatively lower price, because they contain fewer units of alcohol per litre. This would be consistent with the Scottish Government's aim of drinkers consuming less alcohol, whilst leaving the market free to determine the characteristics of products. New, high-strength products would have to be sold at or above the minimum price, but this would not prevent them from being introduced.

Monitoring and evaluation (section 9)

1.36. This is an innovative and largely untested policy, albeit one based on a wealth of international evidence on the relationship between price, consumption and harm. The legislation therefore includes a provision requiring the Scottish Ministers to evaluate the effect of minimum pricing 5 years after implementation and report to the Scottish Parliament. The Act also provides that minimum pricing will cease to have effect after 6 years unless the Scottish Parliament agrees an order for it to continue.

1.37. NHS Health Scotland, under the MESAS³⁰ programme, has been tasked with leading the evaluation of minimum pricing³¹ and producing the review report required by the Scottish Parliament. A portfolio of studies has been developed with which to assess the impact of minimum pricing. This includes research to identify any possible displacement/substitution effects; assessing the impact on the alcohol industry; and whether the policy leads to unintended consequences (for example, an increase in cross-border trade or a rise in the use of illicit substances).

³⁰ Monitoring and Evaluating Scotland's Alcohol Strategy

³¹ <http://www.healthscotland.scot/health-topics/alcohol/evaluation-of-minimum-unit-pricing>

Conclusion

1.38. Societal problems require societal solutions. There is clear evidence of the harm caused by the misuse of alcohol. In response to a recent survey, the vast majority (96%) of Scots saw 'alcohol abuse' as a problem. Minimum pricing has the strong support of the public health community in Scotland, the police, faith groups, children's charities, and significant parts of the alcohol industry. Within the Scottish Parliament, the legislation was voted through unopposed.

1.39. The Welsh Assembly is now also seeking to introduce minimum unit pricing for alcohol. Northern Ireland and the Republic of Ireland have also given consideration to the policy. Minimum pricing alone will not address Scotland's damaging relationship with alcohol but it is a vital part of a wider strategic approach.

1.40. Lord Mance in delivering the decision of the Supreme Court concluded:

Para 63: ...“That minimum pricing will involve a market distortion, including of EU trade and competition, is accepted. However, I find it impossible, even if it is appropriate to undertake the exercise at all in this context, to conclude that this can or should be regarded as outweighing the health benefits which are intended by minimum pricing.”

2. Title of Proposal – The Alcohol (Minimum Price per Unit) (Scotland) Order 2018

2.1. This draft Order sets the minimum unit price of alcohol at 50 pence (50p), and is made in exercise of the powers conferred by paragraph 6A(4) of schedule 3, and paragraph 5A(4) of schedule 4, to the Licensing (Scotland) Act 2005 by the Alcohol (Minimum Pricing) (Scotland) Act 2012³² (“the Act”).

2.2. The draft Order is accompanied by this Business and Regulatory Impact Assessment and laid before the Scottish Parliament for approval, prior to it being made by Scottish Ministers. Without the Order specifying a minimum price per unit, the formula in the Act is not operative, and cannot have any legal effect upon individuals. The draft Order sets out Scottish Ministers’ proposed minimum unit price of 50p.

2.3. A previous Business and Regulatory Impact Assessment³³ was completed in 2012 for the Act and the previous draft Order. Due to a legal challenge, the legislation was not enacted. That challenge has now been dismissed by the UK Supreme Court (for details see paragraph 3.5). The substantive case for the legislation remains the same. Where applicable, statistics, data and modelling outcomes used in the supporting evidence have been updated. In addition, where relevant, information on the court processes or evidence presented to the courts is included.

2.4. Minimum pricing is a new mandatory condition of a premises licence and an occasional licence, to be inserted by the Act into the Licensing (Scotland) Act 2005. If a premises licence holder or an occasional licence holder breaches a mandatory licence condition, there are penalties in place³⁴.

2.5. The Act contains a formula for calculating the minimum price of an alcohol product based on, and proportionate to, the number of units of alcohol contained in the product. The formula works out the number of units of alcohol in the product (strength³⁵ multiplied by volume in litres and then multiplied by 100³⁶) and then multiplies this by the “minimum price per unit” (which is the price specified by Order, i.e. 50p).

2.6. There is also a power in the Act that enables the Scottish Ministers to specify which pieces of existing legislation are to be the “relevant labelling provisions”. This is intended to be used to enable the “declared” strength by volume of an alcohol product, which is marked or labelled on that product in accordance with law, to be taken as the strength of the product for the purposes of the formula in the Act (as opposed to relying on the actual strength of the product).

³² <http://www.legislation.gov.uk/asp/2012/4/contents>

³³ <http://www.gov.scot/Topics/Health/Services/Alcohol/minimum-pricing/Impact-Assessment>

³⁴ Sections 14 and sections 36-40 of the Licensing (Scotland) Act 2005.

³⁵ This is strength by volume (ABV).

³⁶ This is based upon a “unit” of alcohol in the UK being 10 millilitres (8g) of pure alcohol.

2.7. The Act contains a review and ‘sunset’ provision. This means that the Scottish Ministers are required to review the effect of minimum pricing five years after implementation and report this to the Scottish Parliament. Minimum pricing will cease to have effect after six years unless the Scottish Parliament approves an Order, to be made by the Scottish Ministers, for it to continue.

3. Legal challenge

3.1. The previous draft Order, The Alcohol (Minimum Price per Unit) (Scotland) Order 2013, was notified on 25 June 2012 (ref 2012/0394/UK³⁷) under the provisions of the Technical Standards & Regulations Directive 98/34/EC (now Directive 2015/1535/EU), and was accompanied by the 2012 Business and Regulatory Impact Assessment. Various Member States responded with opinions or observations. The European Commission responded with a detailed opinion on 26 September 2012³⁸, and the Scottish Government responded to the European Commission on 21 December 2012³⁹ addressing the points raised by the Commission. Given the decision of the Inner House of the Court of Session of Edinburgh to refer the case to the Court of Justice of the European Union (CJEU), the Commission presented its observations during Court proceedings.

3.2. In July 2012, shortly after notifying the previous draft Order, the Scotch Whisky Association (SWA) in conjunction with the European Spirits Organisation and the Comité Européen Des Enterprises Vins sought a judicial review, which was held in January 2013. In May 2013, the Outer House of the Court of Session of Edinburgh found comprehensively in favour of the Scottish Government⁴⁰, recognising the overwhelming evidence supporting the legitimate aims of minimum pricing to reduce alcohol consumption, with a particular focus on reducing consumption by hazardous and harmful drinkers who experience so much of the alcohol-related harm seen in Scotland.

3.3. The SWA (and others) appealed the judgment to the Inner House of the Court of Session. Following a hearing held in February 2014, the Court of Session, in April 2014, referred the case to the CJEU to clarify six points of EU law⁴¹. The CJEU held an oral hearing on the case on 6 May 2015. At the heart of the case was the question of whether minimum pricing is proportionate in terms of EU law.

³⁷<http://ec.europa.eu/growth/tools-databases/tris/en/index.cfm/search/?trisaction=search.detail&year=2012&num=394&mLang=EN>

³⁸ http://www.eurocare.org/resources/policy_issues/minimum_unit_price_mup

³⁹ <http://www.gov.scot/Topics/Health/Services/Alcohol/minimum-pricing>

⁴⁰<http://www.scotcourts.gov.uk/search-judgments/judgment?id=be2c86a6-8980-69d2-b500-ff0000d74aa7>

⁴¹<http://curia.europa.eu/juris/document/document.jsf?text=&docid=157554&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=531141>

3.4. The CJEU's Advocate General provided his Opinion in September 2015⁴², which was followed by the Preliminary Ruling of the Court in December 2015⁴³. The Preliminary Ruling provided guidance to the domestic court in respect of the six points of EU law on which it sought clarity. The ruling indicated that it was for the domestic courts to take a final decision on minimum pricing, but noted that minimum pricing could be legal but would be contrary to EU law if less restrictive tax measures could be used to achieve the aim of the legislation.

3.5. The case returned to the Court of Session Inner House, and a hearing was held over four days in June and July 2016. In October 2016, the Opinion of the Inner House upheld the decision of the Outer House⁴⁴. The SWA then sought permission from the Inner House to appeal to the UK Supreme Court and, in December 2016, the Inner House granted SWA permission to appeal to the UK Supreme Court. The UK Supreme Court hearing was held over two days in July 2017, and the judgment was delivered on 15 November 2017⁴⁵. All seven judges upheld the findings of the lower courts: that the legislation is proportionate to the public health aim which it pursues, and that fiscal measures would not be as effective in achieving the targeted aims achievable by minimum pricing. In the judgment, Lord Mance concludes:

“63. The Lord Ordinary and First Division decided that it could reasonably be concluded, on an objective examination of the differing material put before them and now before the Supreme Court, that the proposed system of minimum pricing was proportionate in the sense required by European Union law and now explained by the Court of Justice. It is for the Supreme Court to determine whether this was a judgment that they were entitled to reach. Despite the forceful and very well presented submissions of Mr O’Neill, I consider that they were. A critical issue is, as the Lord Ordinary indicated, whether taxation would achieve the same objectives as minimum pricing. Although not all of the points on which he relied for his conclusion on this issue can still stand, the main point stands, that taxation would impose an unintended and unacceptable burden on sectors of the drinking population, whose drinking habits and health do not represent a significant problem in societal terms in the same way as the drinking habits and health of in particular the deprived, whose use and abuse of cheap alcohol the Scottish Parliament and Government wish to target. In contrast, minimum alcohol pricing will much better target the really problematic drinking to which the Government’s objectives were always directed and the nature of which has become even more clearly identified by the material more recently available, particularly the University of Sheffield’s April 2016 study. As to the general advantages and values of minimum pricing for health in relation to the benefits of free EU trade and competition, the Scottish Parliament and Government

⁴²<http://curia.europa.eu/juris/document/document.jsf?text=&docid=166846&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=203295>

⁴³<http://curia.europa.eu/juris/document/document.jsf?text=&docid=173249&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=586956>

⁴⁴<http://www.scotcourts.gov.uk/search-judgments/judgment?id=9a1821a7-8980-69d2-b500-ff0000d74aa7>

⁴⁵ <https://www.supremecourt.uk/cases/uksc-2017-0025.html>

have as a matter of general policy decided to put very great weight on combatting alcohol-related mortality and hospitalisation and other forms of alcohol-related harm. That was a judgment which it was for them to make, and their right to make it militates strongly against intrusive review by a domestic court. That minimum pricing will involve a market distortion, including of EU trade and competition, is accepted. However, I find it impossible, even if it is appropriate to undertake the exercise at all in this context, to conclude that this can or should be regarded as outweighing the health benefits which are intended by minimum pricing. In the overall context of the Scottish or, on the face of it, any other market, it appears that it will be minor, though it will hit some producers and exporters to the Scottish market more than others. Beyond that, the position is essentially unpredictable. Submissions that the Scottish Government should have gone further to predict the unpredictable are not realistic. The system will be experimental, but that is a factor catered for by its provisions for review and “sunset” clause. It is a significant factor in favour of upholding the proposed minimum pricing régime.

64. For these reasons, I consider that the appeal should be dismissed.”

The judgment also sets out that it is for national authorities to set out the level of protection they decide to put on health. At paragraph 48, Lord Mance states:

“48. Would or should a court intervene because it formed the view that the number of deaths or hospitalisations which the member state sought to avoid did not “merit” or was not “proportionate to” the degree of EU market interference which would be involved? I very much doubt it. Any individual life or well-being is invaluable...”

4. Purpose and intended effect

4.1. In June 2008, the Scottish Government issued the consultation paper *Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach*⁴⁶, which set out the scale of the alcohol misuse problem in Scotland, the Scottish Government's approach to tackling it and a range of proposals aimed at reducing alcohol-related harm, drawing on the best available international evidence. Responses to this consultation are available on the Scottish Government's website⁴⁷.

4.2. The Scottish Government published its response *Changing Scotland's Relationship with Alcohol: A Framework for Action*⁴⁸ on 2 March 2009. This identified that sustained action was required in four areas:

- reduced alcohol consumption;
- support for families and communities;
- positive public attitudes towards alcohol and individuals better placed to make positive choices about the role of alcohol in their lives; and
- improved support and treatment.

4.3. Scotland's alcohol strategy sets out over 40 actions aimed at addressing alcohol-related harm, with minimum pricing a key component of that approach. The actions set out in the *Framework* reflect the need for a whole population approach to tackling alcohol misuse – an approach which recognises that, as a country, we need to drink less, as well as to drink more responsibly. Scotland's alcohol strategy is closely aligned with the *World Health Organization's (WHO) Global Strategy to reduce harmful use of alcohol*⁴⁹, and also WHO's approach of placing affordability alongside availability and attractiveness as the three key areas for effective prevention. Affordability focuses on pricing measures, including minimum pricing.

4.4. Considerable progress has been made on implementing key aspects of the *Alcohol Framework*, including:

4.5. Investment of £689 million since 2008 in tackling alcohol and drug misuse, with the bulk of this funding (£628 million) going directly to NHS Health Boards for use in line with local priorities identified by Alcohol and Drug Partnerships (ADPs). ADPs were established in 2009, and bring together local partners which include health boards, local authorities, police and voluntary agencies. They are responsible for developing local strategies and commissioning services which meet the needs of local people.

⁴⁶ Scottish Government (2008) *Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach*, Edinburgh: Scottish Government <http://www.scotland.gov.uk/Publications/2008/06/16084348/0>

⁴⁷ Available at: <http://www.scotland.gov.uk/Publications/2008/11/26115423/Contents>

⁴⁸ Scottish Government (2009) *Changing Scotland's Relationship with Alcohol: A Framework for Action*, Edinburgh: Scottish Government <http://www.scotland.gov.uk/Publications/2009/03/04144703/0>

⁴⁹ World Health Organization (2010) *Global strategy to reduce harmful use of alcohol*, Geneva: World Health Organization http://www.who.int/substance_abuse/alcstratenglishfinal.pdf

4.6. The commencement of the Alcohol etc. (Scotland) Act 2010⁵⁰ in October 2011 contained measures such as banning quantity discounts and restricting alcohol promotions in off-sales premises. The quantity discount ban stops off-trade retailers discounting alcohol based on the volume of alcohol sold, such as ‘buy one, get one free’; ‘three for the price of two’; ‘three bottles of wine for £10’; and ‘buy six, get 20% off’, and has been associated with a 2.6% reduction in consumption⁵¹. A similar ban on promotions in the on-trade was introduced through the Licensing (Scotland) Act 2005.

4.7. NHS Scotland has delivered over 753,000 alcohol brief interventions (ABIs) to individuals who are drinking at a level that is endangering their health, to help them cut down.

4.8. Refreshed advice for parents and carers⁵² was published in January 2011. This provides information and supports parents and carers to talk to young people about the effects of alcohol consumption. It also encourages adults to reflect on their own consumption.

4.9. Improved substance misuse education in schools through Curriculum for Excellence. Good practice guidance has been developed for practitioners and commissioners, based on a literature review taken from international evidence on the prevention of drug and alcohol misuse ‘*What works in drug education and prevention*’ (Scottish Government, 2016)⁵³. We are now aligning the interventions we directly support with this evidence, and good practice guidance will provide valuable advice on evidence-based approaches to drug and alcohol education and prevention.

4.10. Working with industry partners on joint initiatives to promote responsible drinking, such as increasing the availability of 125ml wine measures in the on-trade, and encouragement of safer drinking environments through initiatives such as Best Bar None.

4.11. Since 2008, committed £92 million to CashBack and other community initiatives, funding community activities and facilities largely for young people. This has delivered nearly two million free, positive and healthy opportunities and activities for young people. Projects range from diversionary work to more long-term potentially life-changing intervention projects, which aim to turn an individual’s life around and provide the opportunity of a positive destination such as employment, education or volunteering. CashBack helps to build better, safer, healthier communities, improving facilities, running projects that would not have existed otherwise and giving our young people something positive, purposeful and constructive to do. In addition, our CashBack partner Scottish Sports Futures deliver Jump2It – taking health and wellbeing messages into primary schools covering areas such as alcohol awareness, knife crime, bullying, etc. The

⁵⁰ <http://www.legislation.gov.uk/asp/2010/18/contents>

⁵¹ Robinson M, Geue C, Lewsey J, et al. Evaluating the impact of the alcohol act on off-trade alcohol sales: a natural experiment in Scotland. *Addiction* 2014;109:2035-2043.

⁵² NHS Health Scotland (2011) *You, Your Child and Alcohol*, Edinburgh: NHS Health Scotland <http://www.drinksarter.org/media/14397/parents-guide.pdf>

⁵³ <http://www.gov.scot/Publications/2016/12/4388>

programme is supported by inspirational sporting role models who will help to communicate the key messages to 10,500 young people over a three-year period. Action for Children deliver CashBack Positive Choices Plus, which provides intensive 1:1 mentoring and group work to those young people furthest from the work force. The programme includes themed sessions and guest speakers focusing on topics such as relationships, alcohol and managing money.

4.12. Worked to improve the early identification and assessment of children affected by parental substance misuse issues (CAPSM). We published *Getting our Priorities Right*⁵⁴, which provides a best-practice framework for all child and adult service practitioners working with vulnerable children and families affected by problematic parental alcohol and/or drug use. In addition, we are currently undertaking a Child Protection Improvement Programme.

4.13. Increased awareness of, and improved diagnosis and support for, Fetal Alcohol Spectrum Disorder (FASD) which is the leading known preventable cause of permanent learning disability worldwide and is caused by maternal use of alcohol during pregnancy.

4.14. Reduced the drink driving limit from December 2014 to 50mg of alcohol per 100ml of blood (it was previously 80mg, and remains so in the rest of the UK), with equivalent changes to the limits for alcohol in breath or urine, bringing Scotland into line with the majority of other European countries.

4.15. Tackling alcohol-related violence through initiatives such as the Mentors in Violence Prevention programme and Medics Against Violence.

4.16. The final report and recommendations (*Quality Alcohol Treatment and Support*⁵⁵) from the Scottish Ministerial Advisory Committee on Alcohol Problems (SMACAP) Essential Services Working Group were published in March 2011. This led to the development and publication of *The Quality Principles: Standard Expectations of Care and Support in Drug and Alcohol Services*⁵⁶ to ensure anyone looking to address their alcohol or drug use receives high-quality treatment and support that assists long-term, sustained recovery and keeps them safe from harm. The Principles are central to implementation of our Quality Improvement Framework for drug and alcohol treatment and recovery services. In 2016, we commissioned the Care Inspectorate to undertake a programme of work to provide an evidence-informed assessment of local implementation, measurement and quality assurance of ADP and service compliance with the Principles. The Care Inspectorate has now finalised publication of their national report in relation to a programme of supported self-assessment. The supported self-validation has provided a national picture of how the Quality Principles are being implemented, provided detail on the extent to which service-users' own voices are incorporated into service design, delivery and evaluation, and worked to strengthen a culture of continuous improvement and quality assurance, ultimately improving the

⁵⁴ <http://www.gov.scot/Publications/2013/04/2305/0>

⁵⁵ Scottish Government (2011) *Scottish Ministerial Advisory Committee on Alcohol Problems (SMACAP) Essential Services Working Group: Quality Alcohol Treatment and Support (QATS)*, Edinburgh: Scottish Government

⁵⁶ <http://www.gov.scot/Publications/2014/08/1726>

experience and outcomes for people towards achieving their own recovery journey. The Care Inspectorate report noted that the majority of ADPs are actively embracing and working towards implementing the Quality principles, though this was variable across the country. It also identified a positive shift towards a recovery philosophy. The Partnership Action on Drugs in Scotland (PADS) Quality and Consistency group is now moving this work forward by operationalizing the principles, developing the workforce and integrated service models of delivery.

4.17. Although not a specific commitment within the *Alcohol Framework*, the HEAT⁵⁷ (A11) drug treatment waiting times target was expanded to incorporate alcohol in 2011, and this has evolved to become the present NHS Local Delivery Plan Standard⁵⁸, one of a set of performance standards agreed by the Scottish Government and the NHS. Performance on alcohol treatment waiting times has consistently exceeded the national standard of providing treatment within three weeks for 90% of individuals.

4.18. The Scottish Government commissioned a monitoring and evaluation programme of the *Alcohol Framework*, which was independently undertaken by NHS Health Scotland⁵⁹. It consisted of several independent assessments from the *Monitoring and Evaluating Scotland's Alcohol Strategy* (MESAS) programme with the final report being published in March 2016⁶⁰. The report demonstrates the successes of the *Framework* and makes recommendations for future improvements. In addition, the *Alliance for Useful Evidence Four Nations Report*, published November 2015⁶¹, compares alcohol policies across the UK and shows that Scotland has the strongest approach to evidence-based policies in the UK.

4.19. A refreshed *Alcohol Framework* will be published in 2018. It will build on the progress already made and retain the focus on evidence-based policies. The four key themes will remain: reduced alcohol consumption; supporting families and communities; positive public attitudes towards alcohol and individuals better placed to make positive choices about the role of alcohol in their lives; and improved support and treatment.

4.20. These measures are not being taken in isolation. We recognise the need to tackle the underlying causes of poor health and social disadvantage in Scotland, and as such our alcohol strategy is aligned with initiatives across the health, young people, education, justice and economy policy portfolios. The outcomes we seek will only be delivered through close partnership working – including the NHS, Police Scotland, local ADPs, the voluntary sector and the alcohol industry.

⁵⁷ HEAT targets were NHS Scotland targets for performance in the areas of Health Improvement, Efficiency, Access and Treatment. They have been replaced by LDP standards. These help NHS Boards set priorities for their work.

⁵⁸ <http://www.gov.scot/Topics/Health/Quality-Improvement-Performance/NHS-Performance-Targets>

⁵⁹ <http://www.healthscotland.scot/health-topics/alcohol/monitoring-and-evaluating-scotlands-alcohol-strategy>

⁶⁰ <http://www.healthscotland.scot/publications/mesas-final-report>

⁶¹ <http://www.alliance4usefulevidence.org/publication/four-nations/>

5. Objective

5.1. Since the publication of our *Framework*, progress has been made in tackling alcohol misuse. However, the Scottish Government considers that the scale of alcohol problems in Scotland is such that further action is required if we are to reduce alcohol-related harm. Whilst recognised as a problem across the UK, the evidence shows that alcohol-related harm through alcohol misuse is greater in Scotland (see paragraphs 5.43 and 5.44). Despite an economic recession, austerity and investment in prevention and treatment initiatives in Scotland, consumption and harm remain at levels higher than in the early 1980s. We need a cultural change in order to influence future attitudes and relationships with alcohol, and bold, effective measures are required in order to trigger these changes. The policy aim of minimum pricing is to reduce alcohol-related harm by acting in two ways: to reduce, in a targeted way, the consumption of alcohol by consumers whose consumption is hazardous or harmful, and also to reduce the overall population level of consumption of alcohol. The policy will target a reduction in consumption of cheaper alcohol relative to its strength, and evidence shows that this type of product is more favoured by hazardous and harmful drinkers.

5.2. Prior to the revision of the guidance on risks⁶² associated with drinking alcohol which resulted in the UK Chief Medical Officers' (CMOs) advice on low risk drinking levels, published in 2016⁶³, data on consumption and harm categorised drinkers into three groups – moderate, hazardous and harmful:

- Moderate drinkers: those drinking no more than 21 units⁶⁴ per week for men and no more than 14 units per week for women.
- Hazardous drinkers: between 21 and 50 units per week for men and between 14 and 35 units per week for women.
- Harmful drinkers: more than 50 units per week for men and more than 35 units per week for women.

5.3. Most of the analyses and data used to support minimum pricing in this document (and throughout the Judicial Review process) was carried out using this typology. The terms hazardous and harmful illustrate the increasing risk of harm as the amount of alcohol consumed increases. The new guidelines now refer to a lower risk threshold, for both men and women, of 14 units per week. Under the new guidelines, hazardous and harmful drinkers means those drinking at levels associated with a higher risk of alcohol-related harm, i.e. those drinking more than 14 units per week.

⁶² UK Chief Medical Officers revised the lower risk drinking guidelines in August 2016 so that, in order to keep health risks from alcohol to a low level, it is safest not to drink more than 14 units a week on a regular basis for both men and women. Previously the advice was no more than 14 units a week for women and 21 units a week for men.

⁶³ <https://www.gov.uk/government/publications/alcohol-consumption-advice-on-low-risk-drinking>

⁶⁴ 1 unit in the UK = 10 millilitres (8g) of pure alcohol

5.4. The low price of high strength alcohol is now part of the culture that has to be addressed, and this cannot be tackled without addressing price. Culture is a result of a complex and dynamic interaction of legislation, formal and informal controls, general and specific environmental influence and personal belief systems. The increasing levels of alcohol-related harm in recent decades demonstrates that education alone is not a powerful enough tool to change behaviour and culture. We already know from experience on seatbelts and on smoking in public places that such culture change is possible, and that legislation can make a significant contribution by encouraging changes in behaviour.

5.5. We recognise that no single action will bring about cultural change, which is why our *Framework for Action* sets out a package of over 40 measures. We are firmly of the view that minimum pricing is a key measure in the *Framework* and, without it, we will be unable to address the historic rates of alcohol-related harm and change our relationship with alcohol.

5.6. We are not alone in seeing the potential public health, social and economic gains from introducing a mechanism to increase the price of alcohol. The WHO report *Alcohol: No ordinary commodity*⁶⁵, published in 2003, covering a review of 32 alcohol strategies and interventions found that, considering the degree of effectiveness, the breadth of research support, the extent to which they have been tested cross-culturally and the relative expense of implementation, the most effective alcohol policies include alcohol control measures (price and availability), drink-driving laws, and brief interventions for hazardous and harmful drinkers. At the other end of the spectrum, those alcohol policies for which it was difficult to find a direct positive effect on drinking patterns or problems include education in schools, public service announcements and voluntary regulation by the alcohol industry. WHO has recommended that, if these latter measures are used, they should form only part of a comprehensive strategy to tackle alcohol-related harm. We consider that the introduction of minimum pricing will have a high impact on reducing harm, through a reduction in consumption, because it involves changes in the pricing of alcohol.

5.7. The WHO's *Global Strategy on Alcohol*⁶⁶, published in 2010, adds to this by acknowledging the link between affordability and consumption and concludes that "*increasing the price of alcoholic beverages is one of the most effective interventions to reduce harmful use of alcohol*" and encourages Member States to consider implementing minimum pricing.

5.8. In addition, the UK's National Institute for Health and Clinical Excellence (NICE), commissioned by the UK Government, published public health guidance on the prevention and early identification of alcohol-use disorders in adults and adolescents in June 2010. The guidance, *Alcohol-use disorders: preventing*

⁶⁵ Babor, T. et al. (2003) *Alcohol: No Ordinary Commodity*, Oxford: Oxford University Press

⁶⁶ World Health Organization (2010) *Global Strategy to Reduce the Harmful Use of Alcohol*, Geneva: World Health Organization http://www.who.int/substance_abuse/alcstratenglishfinal.pdf (para 32)

*harmful drinking*⁶⁷, set out a number of recommendations including consideration of introducing a minimum price per unit. NICE further advises that the unit price should be reviewed regularly to ensure alcohol does not become more affordable over time.

5.9. The Scottish Government has used other legislative measures over recent years to tackle alcohol misuse. The Licensing (Scotland) Act 2005 (the “2005 Act”), which came fully into force in September 2009, introduced a new licensing system setting out five objectives, tackling under-age drinking, and cracking down on binge drinking. It largely focused on the on-sales environment and availability of alcohol with irresponsible drinks promotions, such as quantity discounts, in the on-trade being banned and a ‘premises by premises’ approach to opening hours. The Alcohol etc. (Scotland) Act 2010 (the “2010 Act”), which came into force in October 2011, focussed on the off-sales environment. The main measures in the 2010 Act are a ban on quantity discounts in off-sales that encourage customers to purchase more than they might have; a restriction on where material promoting alcohol may be displayed; the involvement of health boards in licensing issues; and a requirement for an age verification policy which is to be set at a minimum of age 25. The first of these, the quantity discount ban, replicates what was already in place for the on-trade environment through the 2005 Act.

5.10. Other legislation includes reducing the drink driving limit from 80mg of alcohol per 100ml of blood to 50mg of alcohol per 100 ml of blood, with equivalent changes to the limits for alcohol in breath or urine, from December 2014. In 2017, the Air Weapons and Licensing (Scotland) Act 2015 brought in provisions to further protect children and young people from underage drinking.

5.11. The Scottish Government’s original intention had been to introduce a ban on quantity discounts in the off-trade together with minimum pricing in the 2010 Act, as it was considered that, without minimum pricing alongside a quantity discount ban, retailers could offer straight discounts from list prices by simply lowering the price of individual alcohol products. Indeed, after the 2010 Act had come into force, retailers sold individual bottles of wine for £3.33, where previously they sold them as a multi-buy of three bottles for £10. Without a minimum price, retailers are able to offer straight discounting⁶⁸ as low as they wish as there is no ‘floor’ price. Minimum pricing was not supported during the passage of the previous Alcohol etc. (Scotland) Bill 2010.

⁶⁷ National Institute for Health and Clinical Excellence (2010) *Alcohol-use disorders: preventing harmful drinking*, London: National Institute for Health and Clinical Excellence <http://guidance.nice.org.uk/PH24/Guidance/pdf/English>

⁶⁸ The University of Sheffield modelling carried out was for all discounted alcohol as the collection of data on sales was not able to distinguish between straight discounting and quantity discounting. Powers devolved to the Scottish Parliament meant that only a ban on quantity discounts could be implemented.

5.12. NHS Health Scotland carried out a review⁶⁹ of the quantity discount ban and found that it was associated with a 2.6% reduction in consumption. Using different methodology, another study found no impact⁷⁰. A recent paper⁷¹ concluded that the implementation of the 2010 Act in Scotland in October 2011, although probably associated with a fall in off-trade alcohol sales in the year after its implementation, has not been clearly associated with a reduction in alcohol-related deaths or hospital admissions in the three-year period since. Arguably, the quantity discount ban will only be able to achieve its maximum effectiveness when working in conjunction with a minimum unit price.

Minimum price per unit of alcohol

5.13. The Scottish Government is proposing that alcohol must not be sold on licensed premises at a price below its minimum price. This will be a mandatory condition for all premises and occasional licences issued under the 2005 Act.

5.14. The formula for calculating the minimum price of alcohol is set out in section 1 of the Act. The minimum price of alcohol takes account of the strength of alcohol, which is determined by the Alcohol By Volume (ABV) measure, and the volume of the alcohol in litres. The formula for calculating the minimum price will apply to all products equally, regardless of whether the products are domestically produced or imported, or whether sold in the on-trade or the off-trade.

5.15. The minimum price for a product is calculated as follows:

price per unit of alcohol x strength of product (ABV) x volume of product x 100*

* Note: the need to multiply by 100 is because ABV is expressed as a percentage

For example, for a 50p minimum price, a standard sized bottle of spirits (70cl) at 40% ABV would be £14.00 ($0.50 \times 40.0/100 \times 0.7 \times 100$). A bottle of wine (75cl) at 12% would be £4.50 ($0.50 \times 12.0/100 \times 0.75 \times 100$).

Rationale for Government intervention

5.16. *The Scottish Government's National Performance Framework*⁷² provides a clear vision for Scotland with broad measures of national wellbeing covering a range of economic, health, social and environmental indicators and targets. The *Scottish Government's Purpose* sets out the direction and ambition for Scotland, which is to focus government and public services on creating a more successful

⁶⁹<http://www.healthscotland.com/uploads/documents/21101-Alcohol%20Act%20Report%20May%202013.pdf>

⁷⁰ Nakamura R., Suhrcke M., Pechey R., Morciano M., Roland M., Marteau T. M. (2014) Impact on alcohol purchasing of a ban on multi-buy promotions: a quasi-experimental evaluation comparing Scotland with England and Wales. *Addiction* 2014; 109: 558–567

⁷¹ Robinson M et al (2017) The short-term impact of the alcohol act on alcohol-related deaths and hospital admissions in Scotland: a natural experiment *Addiction* online 2 Oct 2017.

⁷² <http://www.gov.scot/About/Performance/purposestratobjis>

country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.

5.17. Building a healthy and sensible relationship with alcohol will significantly contribute to realising our *Purpose* and four out of five of our Strategic Objectives. We must help and support people to make better choices about alcohol if we are to attain our ambitions for Scotland. There is strong evidence that increases in health harms over recent decades have been driven by increased consumption and that this, in turn, is driven by the price and affordability of alcohol. That is why the introduction of a minimum price per unit of alcohol is an essential component of our alcohol strategy.

5.18. *Scotland's Economic Strategy*⁷³ supports our *Purpose* to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth, by focusing on two main pillars to achieving this objective: increasing competitiveness and tackling inequality. In order that everyone in Scotland can enjoy the opportunities that economic growth provides, it is vital to boost the competitiveness of the Scottish economy. Over the long-term, increased levels of productivity are essential to support the economic growth needed to ensure rising living standards. Promoting competitiveness and addressing inequality are important interdependent ambitions; reducing inequality in itself is beneficial for economic growth.

5.19. Underpinning the Government's *Purpose* and *Economic Strategy* are five Strategic Objectives: to make Scotland Wealthier and Fairer, Safer and Stronger, Healthier, Smarter and Greener. Tackling alcohol misuse contributes to four out of the five objectives.

WEALTHIER & FAIRER – Enable businesses and people to increase their wealth and more people to share fairly in that wealth. Developing a more mature and balanced relationship with alcohol will reduce the burden of alcohol misuse on business, public services and our most deprived communities, and thus contribute to a Wealthier and Fairer Scotland.

SAFER & STRONGER – Help local communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life. Reducing consumption and alcohol misuse in Scotland will help to underpin the development of more resilient, cohesive and successful communities – by tackling alcohol misuse, we will be able to reduce crime and anti-social behaviour, making Scotland Safer and Stronger.

HEALTHIER – Help people to sustain and improve their health, especially in disadvantaged communities, ensuring better, local and faster access to health care. Adopting a balanced approach to alcohol will contribute to increased physical and mental wellbeing amongst Scots, especially in our most disadvantaged communities, making Scotland Healthier.

⁷³ <http://www.gov.scot/Publications/2015/03/5984>

SMARTER – Expand opportunities for Scots to succeed from nurture through to life-long learning, ensuring higher and more widely shared achievements. Preventing young people misusing alcohol and enabling them to make positive choices and fulfil their potential while addressing the effects of alcohol misuse within families will make Scotland Smarter.

5.20. The Strategic Objectives themselves are supported by 16 National Outcomes, which describe in more detail what the Scottish Government wants to achieve. Policies to tackle alcohol misuse will make a positive contribution to delivering half of our published National Outcomes:

- we live longer and healthier lives;
- we have tackled the significant inequalities in Scottish society;
- we have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others;
- we live our lives safe from crime, disorder and danger;
- we realise our full economic potential with more and better employment opportunities for our people;
- our young people are successful learners, confident individuals, effective contributors and responsible citizens;
- we have improved the life chances for children, young people and families at risk; and
- our children have the best start in life and are ready to succeed.

5.21. In addition, in recognition of the need to build a healthier relationship with alcohol in pursuit of our objectives, we also have a specific national indicator, related to excessive consumption, to reduce alcohol-related hospital admissions.

Alcohol-related harm in Scotland: the scale of the problem

5.22. Alcohol is not an ordinary commodity – it is a psychoactive and potentially toxic and addictive substance and is a contributory factor in around fifty different causes of death, ranging from cancers and strokes to assaults and road deaths^{74 75}. The most recent estimate indicates that alcohol consumption accounts for 8% of the total burden of disease in Scotland (as expressed in Disability Adjusted Life Years (DALYs)). This includes, in 2015, 3,705 deaths and 41,161 adults admitted to hospital at least once⁷⁶.

5.23. The harms are not limited to health and not experienced solely by the drinker. Damage can, and does, occur to family and friends, communities, employers and Scotland as a whole. Alcohol misuse acts as a brake on Scotland's social and economic growth, costing an estimated £2.5 billion to £4.6 billion in 2007, with a midpoint estimate of £3.6 billion⁷⁷. For the midpoint estimate, this

⁷⁴ Jones, L, Bellis M (2013) *Updating England-Specific Alcohol-Attributable Fractions*. Centre for Public Health' Liverpool John Moore's University.

⁷⁵ Tod E, Grant I, Wyper G, et al. (2018) *Hospital Admissions, death and overall burden of disease attributable to alcohol consumption in Scotland*: ScotPHO NHS Health Scotland

⁷⁶ Ibid

⁷⁷ York Health Economics Consortium (2010) *The Societal Cost of Alcohol Misuse in Scotland for 2007*, Edinburgh: Scottish Government <http://www.scotland.gov.uk/Publications/2009/12/29122804/0>

includes around £870 million in lost productivity, a cost of around £270 million to the NHS and around £730 million in crime costs.

Consumption

5.24. It is well established that harms attributable to alcohol are related to both the quantity of alcohol consumed and the pattern of drinking⁷⁸. Accurate data with which to estimate per capita alcohol consumption are vital to quantify the relationship between alcohol consumption and consequent harms, to design appropriate policy measures to minimise adverse alcohol-related health and social effects and to evaluate the effects of any policy or other changes on alcohol consumption.

5.25. WHO advises that the volume of alcohol use in a country is best estimated from national sales, production and/or taxation data, since population surveys invariably underestimate total alcohol consumption^{79 80}. These can come from sales data and supply data (e.g. data on production and trade such as Food and Agriculture Organization of the United Nations (FAO) and World Drink Trends (WDT))⁸¹ or tax receipts, e.g. Her Majesty's Revenue and Customs (HMRC) data in the UK.

5.26. The most recent monitoring report from NHS Health Scotland shows that, as a nation, Scotland continues to buy enough alcohol for every adult in Scotland to substantially exceed the low risk weekly drinking guideline of 14 units⁸². In 2016, 10.5 litres (L) of pure alcohol were sold per adult in Scotland. This is equivalent to 20.2 units of pure alcohol per adult per week. It is 17% higher, per adult, than in England and Wales (equivalent to 1.5L pure alcohol per adult).

5.27. The volume of pure alcohol sold per adult in Scotland increased through the 1990s and early 2000s, stabilised between 2005 and 2009, and then declined until 2013. It then increased for two years before returning to a similar level as in 2013 (this can be seen in Figure 1). Despite the slight decrease from 2015 to 2016, there is persistently higher consumption in Scotland per head of population than in England and Wales.

⁷⁸ Rehm, J. et al. (2009) *Global burden of disease and injury and economic cost attributable to alcohol use and alcohol-use disorders*, Lancet; 373: 2223–33.

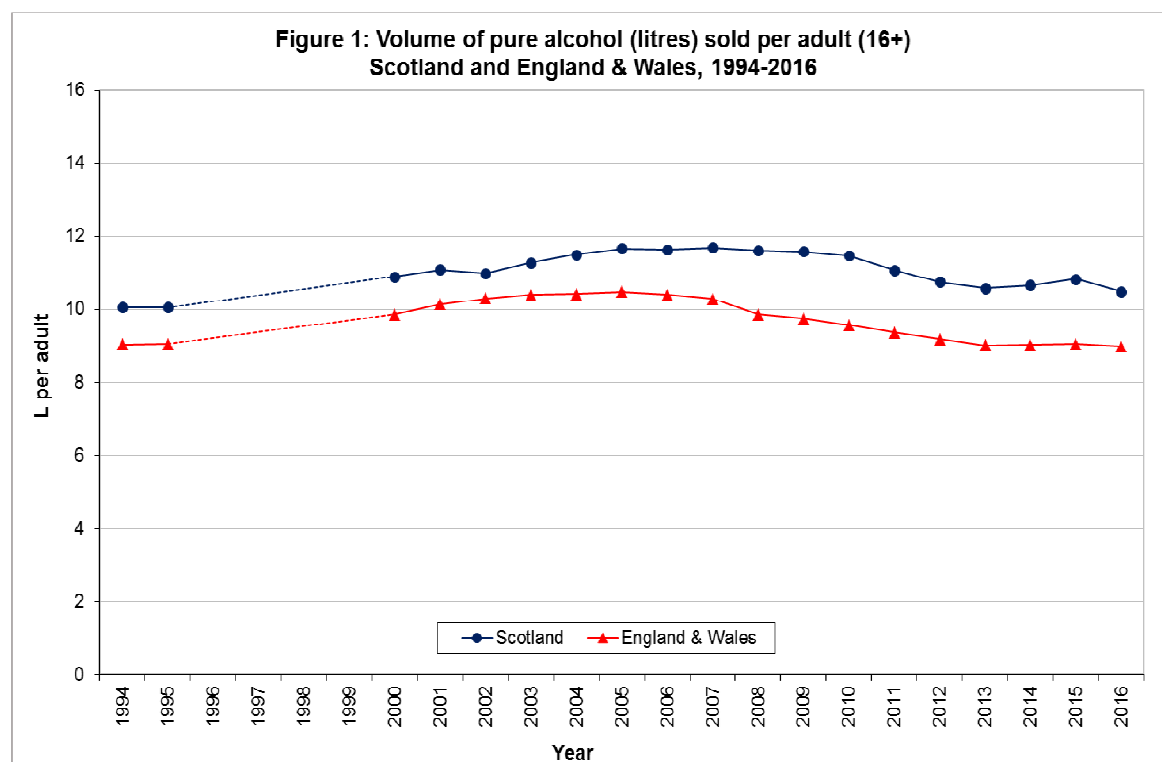
⁷⁹ World Health Organization (2000) *International Guide for Monitoring Alcohol Consumption and Related Harm*, Geneva: World Health Organization

⁸⁰ Catto, S. and Gibbs, D. (2009) *How much are people in Scotland really drinking?*, Edinburgh: NHS Health Scotland <http://www.scotpho.org.uk/alcoholreport>

⁸¹ World Health Organization (2004) *Global Status Report on Alcohol 2004*, Geneva: World Health Organisation

⁸² Giles L, Robinson M. *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland; 2017.

Figure 1: Volume of pure alcohol (Litres) sold per adult (16+): Scotland and England & Wales 1994-2016⁸³



5.28. Over time, the prevalence of non-drinkers in Scotland has been increasing. This results in a much higher level of consumption if sales are expressed per adult drinker (12.5L) rather than per adult (10.5L).

5.29. A study by NHS Health Scotland on the validity and reliability of alcohol industry sales data found that these data provide a robust measure of population consumption in Scotland. The data are subject to typical under and over-estimating influences⁸⁴ and, in the 2010 data, the range of uncertainty was estimated to be from an overestimate of 0.3L to an underestimate of 2.4L per adult. Assuming a similar percentage variation for 2016 data, this implies that between 10.2L and 12.6L alcohol was sold for every adult in Scotland. This represents between 20 to 24 units per adult per week.

⁸³ Giles L, Robinson M. *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland; 2017.

⁸⁴ Thorpe, R., Robinson, M., McCartney, G., and Beeston, C. (2011) *Monitoring and Evaluating Scotland's Alcohol Strategy: A review of the validity and reliability of alcohol retail sales data for the purpose of Monitoring and Evaluating Scotland's Alcohol Strategy*, Edinburgh: NHS Health Scotland

5.30. Whilst it is challenging to produce robust comparisons of consumption levels across countries, the upper estimate of 12.6 pure litres of alcohol per adult over the age of 16 would put Scotland in the top five European countries with the highest per capita consumption, according to the WHO Regional Office for Europe, *Alcohol control database*⁸⁵.

5.31. In addition to sales or taxation data, population survey data is needed to understand drinking levels and patterns by different sub-groups of the population (such as age, gender and socio-economic group). Compared to supply data, population surveys where alcohol consumption is self-reported usually show much lower overall consumption figures^{86 87}. The Scottish Health Survey (SHeS) 2016 showed that, in 2016, 35% of men and 17% of women exceeded the lower risk weekly guideline of 14 units⁸⁸. SHeS only captures around 50% of actual sales, suggesting it may miss many very heavy drinkers⁸⁹. Survey data suggest consumption in Scotland is only slightly higher than in England, but sales data continue to show a significant gap, with sales per adult 17% higher in Scotland⁹⁰. This higher consumption level in Scotland would appear to explain, at least in part, why alcohol-related harm continues to be significantly worse in Scotland.

Consumption as a driver of harm: the evidence

5.32. The average consumption of alcohol in a population is directly linked to the amount of harm as evidenced in a number of systematic reviews. The more we drink, the greater the risk of harm^{91 92 93}. As overall consumption has increased in Scotland, so have the resultant harms. Equally, for individuals, there is a dose-response relationship; that is, the more alcohol is consumed, the greater the risk of alcohol-related harm.

5.33. New evidence around the health harms from regular drinking have emerged in recent years. In the short term, excessive drinking increases the risk of being involved in accidents resulting in injury, alcohol poisoning, risky sexual behaviours and miscarriage. Alcohol was associated with 33% of major trauma patients and 25% of all trauma patients in Scotland in 2015⁹⁴. In the longer term, regularly

⁸⁵ World Health Organization (WHO) Regional Office for Europe, *Alcohol control database* <http://data.euro.who.int/alcohol/?TabID=2420>, accessed on 14 August 2017. Note the WHO database use population 15+ but this makes a very marginal difference to the per capita figure.

⁸⁶ World Health Organization (2000) *International Guide for Monitoring Alcohol Consumption and Related Harm*, Geneva: World Health Organization

⁸⁷ Catto, S. and Gibbs, D. (2009) *How much are people in Scotland really drinking?*, Edinburgh: NHS Health Scotland <http://www.scotpho.org.uk/alcoholreport>

⁸⁸ Scottish Government (2017) *The Scottish Health Survey 2016: Volume 1: Main Report*

⁸⁹ The Scottish Health Survey 2017 estimates mean (aged 16 and over) consumption of 12.8 units per week; sales data suggest 24.1 units. These are both based on *adult drinker* population, **not** total population.

⁹⁰ *MESAS Monitoring Report 2017*. Health Scotland

⁹¹ Nostrom, T. (ed) (2002) *Alcohol in Postwar Europe: consumption, drinking patterns, consequences and policy responses in 15 European countries*, Sweden: National Institute of Public Health

⁹² Babor, T. et al. (2003) *Alcohol: No Ordinary Commodity*, Oxford. Oxford University Press

⁹³ Anderson, P. and Baumberg, B. (2006) *Alcohol in Europe*, London: Institute of Alcohol Studies

⁹⁴ Scottish Trauma Audit Group (STAG) (2016) *Audit of trauma management in Scotland. Annual report* NSS

drinking above the lower risk drinking guidelines of 14 units per week increases the risk of cancers of the mouth, throat and breast; stroke and heart disease; liver disease; damage to the brain and nervous system; depression and anxiety. It can also cause fertility problems and harm to the unborn foetus^{95 96}. WHO has identified that the WHO European Region has the highest proportion in the world of total ill health and premature death due to alcohol⁹⁷ and that, in the European Region, alcohol is the third leading risk factor for disease and mortality after tobacco and high blood pressure⁹⁸.

5.34. In late 2012, the UK Chief Medical Officers (UK CMOs) commissioned an expert group to consider whether the alcohol guidelines should be reviewed⁹⁹. This group took account not only of the risk of early death from drinking regularly, but also the risk of suffering from alcohol-related chronic diseases and cancers. The supporting analysis considered 43 alcohol-related conditions.

5.35. The evidence for the revised UK CMOs guidelines¹⁰⁰ suggests that the net benefits from small amounts of alcohol are less than previously thought (with substantial uncertainties around the level of protection) and are significant only in women over the age of 55 with the maximum benefit realised at a low level of consumption (five units per week). The risk of cancer associated with alcohol consumption is also now much better understood. Drinking alcohol increases the risk of developing cancers of the mouth and throat, voice box, gullet, large bowel, liver, breast cancer in women and probably also cancer of the pancreas. These risks start from any level of regular drinking and, the more that is drunk, the higher the risk¹⁰¹.

5.36. Consequently, in 2016 and as referred to previously, the UK CMOs published revised lower risk alcohol guidelines¹⁰². The UK CMOs' guidelines for both men and women are that:

- To keep health risks from alcohol to a low level it is safest not to drink more than 14 units a week on a regular basis.
- If you regularly drink as much as 14 units per week, it is best to spread your drinking evenly over three or more days.
- If you are pregnant or think you could become pregnant, the safest approach is not to drink alcohol at all, to keep risks to your baby to a minimum.

⁹⁵ <http://www.nhs.uk/Livewell/alcohol/Pages/Effectsofalcohol.aspx>

⁹⁶ <https://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>

⁹⁷ <http://www.euro.who.int/en/health-topics/disease-prevention/alcohol-use/data-and-statistics>

⁹⁸ WHO Europe *Alcohol in the European Union: Consumption, harm and policy approaches* http://www.euro.who.int/_data/assets/pdf_file/0003/160680/e96457.pdf?ua=1

⁹⁹ *Alcohol Guidelines Review – Report from the Guidelines development group to the UK Chief Medical Officers*. 2016. Department of Health UK

¹⁰⁰ Evidence emerging since the previous guidelines were published in 1995

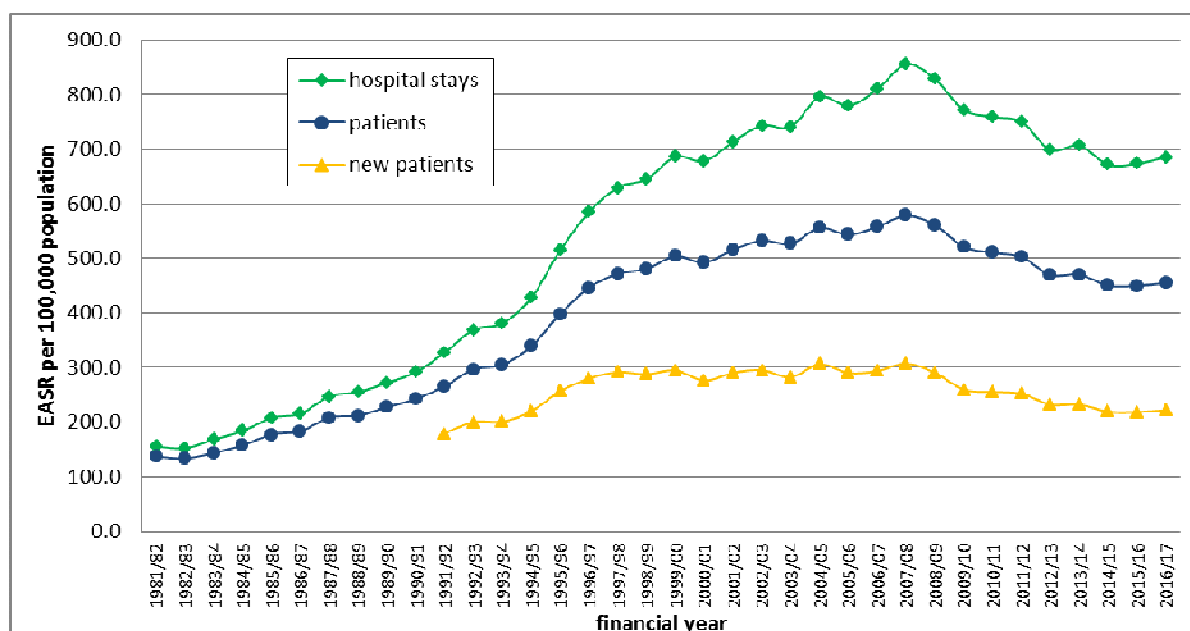
¹⁰¹ <https://www.gov.uk/government/publications/consumption-of-alcoholic-beverages-and-risk-of-cancer>

¹⁰² *UK Chief Medical Officers' Low Risk Drinking Guidelines* 2016

5.37. There are diseases and causes of death which are directly related to consuming alcohol, i.e. these only occur as a result of drinking. There are also deaths and disease which are considered partly attributable to alcohol, such as accidents, violence and certain forms of cancer. The following section deals with the former: health harm that is directly related to alcohol consumption.

5.38. In 2016/17, there were 36,235¹⁰³ general acute inpatient stays in Scottish hospitals with an alcohol-related diagnosis. Rates of alcohol-related hospital stays rose steadily during the 1980s and early 1990s, then steeply through the 1990s and 2000s peaking in 2007/08. Since then, the trend had been downward, however 2016/17 has seen an increase over the previous year. In 2016/17, the alcohol-related stay rate per 100,000 population in general acute hospitals was 685, whereas in 2015/16 it was 673. The 2016/17 rate is 4.4 times higher than in 1981/82. The rates, and changes over time, are illustrated in Figure 2.

Figure 2: Alcohol-related acute hospital stays, Scotland 1981/82–2016/17¹⁰⁴



5.39. Alcohol-related hospital admissions to psychiatric hospitals have decreased since 1997/98¹⁰⁵. The age and sex adjusted rate of stays fell by 47% between 1997/98 and 2015/16 (the latest year for which data is available) from 103.0 to 54.4 stays per 100,000 population. This decrease has to be seen in the context of similar reductions having been seen for all psychiatric hospitalisations, and a shift towards an increasing amount of care for mental illness taking place in the community.

¹⁰³<http://www.isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Publications/2017-11-21/2017-11-21-ARHS-Report.pdf?>

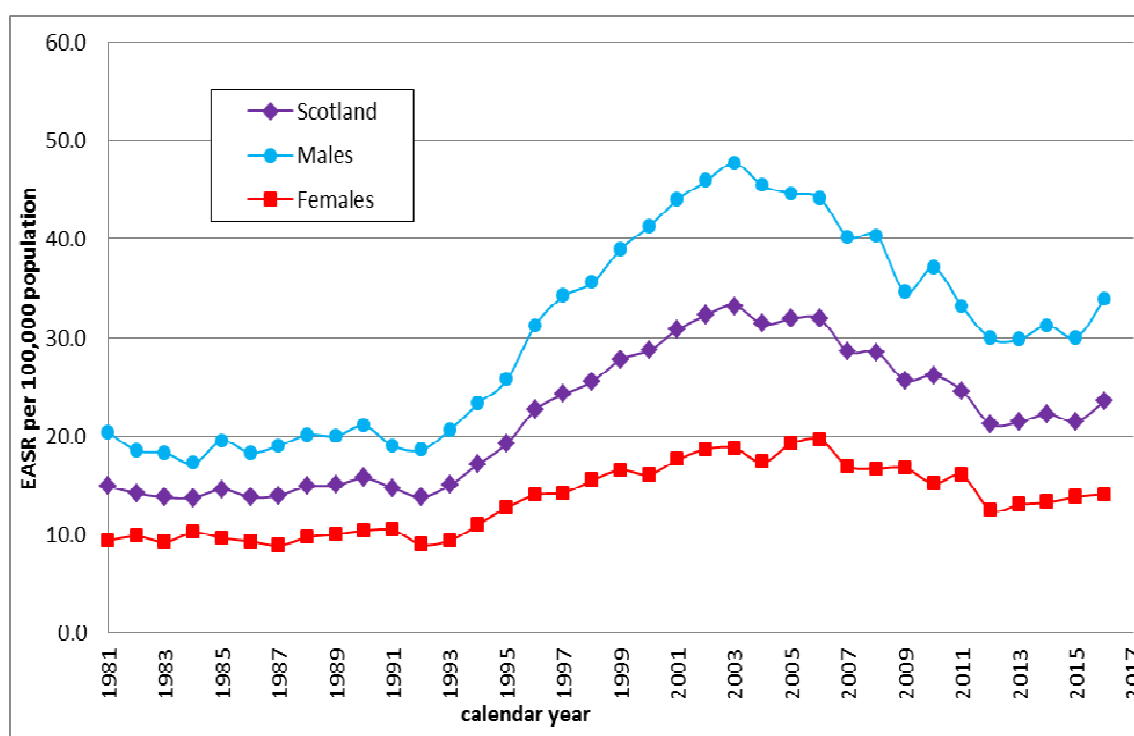
¹⁰⁴ *Ibid*

¹⁰⁵<http://www.isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Publications/2017-11-21/2017-11-21-ARHS-Report.pdf?>

5.40. In December 2017, the Office for National Statistics introduced a new definition for calculating alcohol mortality¹⁰⁶. The previous definition of alcohol-related mortality included causes which were wholly attributable, and also a very small number which were partly attributable, to alcohol misuse. The new definition includes only wholly alcohol-specific causes, i.e. deaths which are known to be a direct consequence of alcohol misuse. Previous years' mortality numbers and rates have been restated using the new definition, but retrospective analysis by National Records of Scotland is only able to go back to 2000.

5.41. Using the previous definition, Figure 3 illustrates the peak in mortality rates that occurred in the early 2000s (42.6/100,000 for men in 2003) and a 12% increase in 2016 over the previous year. Rates for women show a peak of 19.6 deaths per 100,000 in 2006, and a 1% increase in 2016 over the previous year. This also provides comparison with the 1980s and 1990s.

Figure 3: Alcohol-related mortality rates, Scotland 1981– 2016¹⁰⁷



5.42. Under the new definition, there has been a 26% decrease in mortality rates from 2006 to 2016 – with an 8% increase from 2015 to 2016. (The equivalent changes under the previous definition were a 25% decrease from 2006 to 2016, and a 9% increase from 2015 to 2016.) From 1994 to 2016, under the previous definition, there has been a 41% increase in alcohol mortality. Whilst rates from

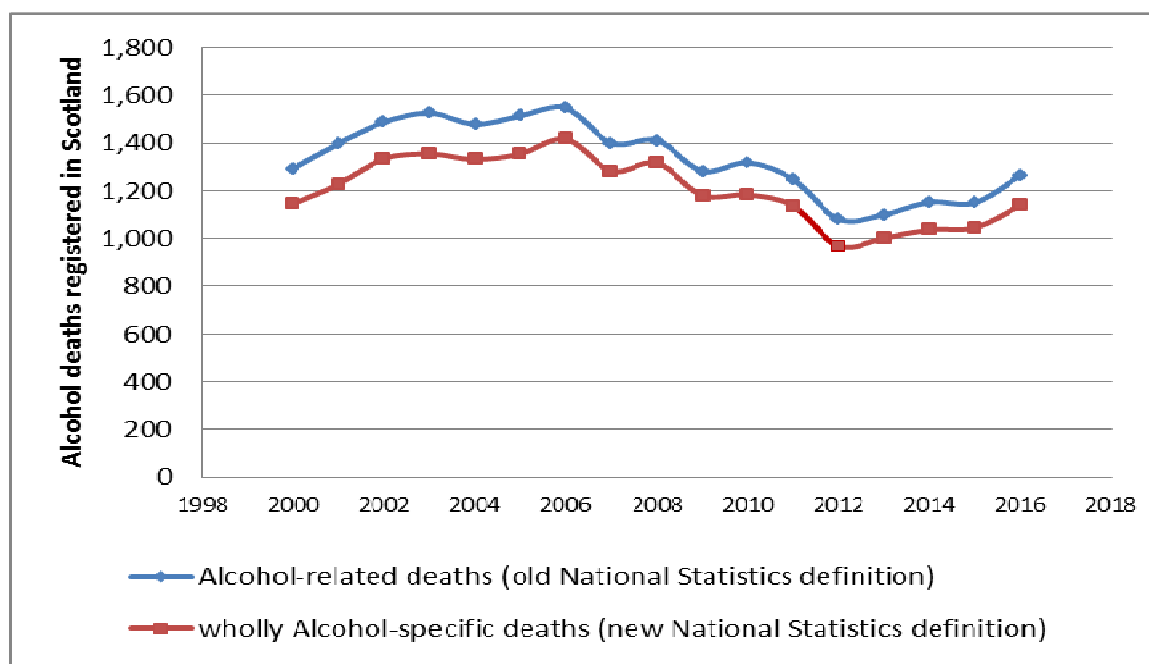
¹⁰⁶<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/alcoholrelateddeathsintheunitedkingdom/registeredin2016>

<https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/alcohol-deaths/alcohol-specific-deaths-new-definition>

¹⁰⁷<https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/alcohol-related-deaths/tables>

1994 have not been restated using the new definition, it is likely that the scale of the increase is similar to the 41% using the previous definition. Rates of wholly alcohol-specific mortality are therefore far higher than in the early 1990s. Figure 4 illustrates the relationship between the new (wholly alcohol-specific) and previous (alcohol-related) definitions.

Figure 4: Alcohol deaths registered in Scotland: figures based on old and new National Statistics definitions¹⁰⁸



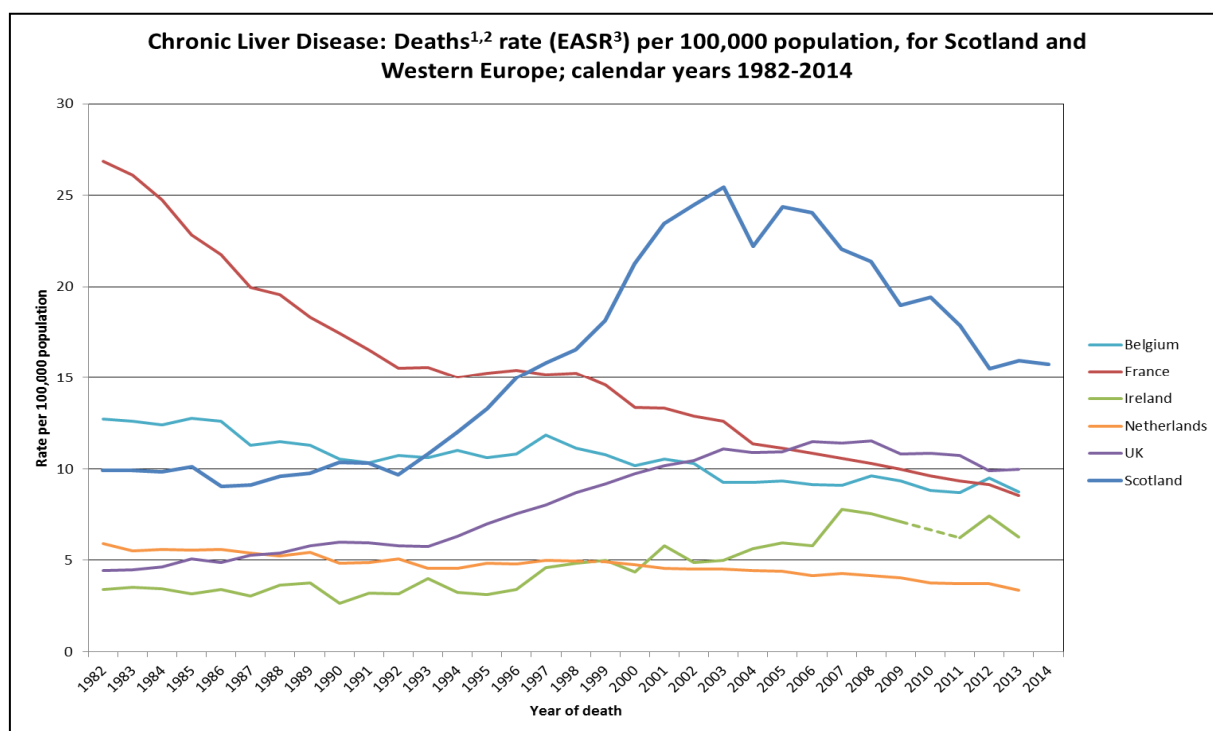
5.43. Scotland remains the country of the UK with the highest rate of wholly alcohol-specific deaths¹⁰⁹. Since 2001, alcohol-specific death rates in Scotland have been higher for both sexes compared with other countries in the UK. However, Scotland has also seen the largest decrease in its rates in this time period. In particular, for males, since peaking in the early 2000s, there has been a marked decrease in rates of alcohol-specific deaths in Scotland. In particular, the rate in Scotland was 21% lower in 2016 (30.9 deaths per 100,000 males) than that observed in 2001 (39.0 deaths per 100,000 males). Despite the decrease, in 2016 the alcohol-specific deaths rate in Scotland was significantly higher than those observed in England (14.5 deaths per 100,000 males), Wales (17.4 deaths per 100,000 males) and Northern Ireland (22.2 deaths per 100,000 males).

¹⁰⁸<https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/alcohol-deaths>

¹⁰⁹ ONS (2017) *Alcohol-specific deaths in the UK: registered in 2016* <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/alcoholrelateddeathsintheunitedkingdom/registeredin2016>

5.44. Alcohol consumption is one of the three most common causes of Chronic Liver Disease (CLD)¹¹⁰. In Scotland, rates of CLD and cirrhosis increased markedly and rapidly between 1982/83 and 2006/07, at a time when rates in many other European countries were falling. Rates in Scotland remained relatively stable until around 2012/13, and have since been increasing. In 2012, Scotland, along with Hungary and Finland, had the highest CLD mortality rates among countries from Central, Western, Northern and Southern Europe. Figure 5 illustrates the mortality rates in Scotland compared to those in Western Europe¹¹¹.

Figure 5: Chronic liver disease mortality rates in Western European countries¹¹²



5.45. The majority of CLD mortality and morbidity in Scotland is due to alcoholic liver disease. The proportion of mortality associated with alcoholic liver disease has increased from 37% in 1979¹¹³ to 82% in 2015.

Inequalities in health outcomes

5.46. Although impacting on all socio-economic groups, morbidity and mortality associated with alcohol is not distributed evenly across the Scottish population. As illustrated in Figure 3, men suffer more illness and death related to alcohol than

¹¹⁰ The others are blood borne viruses (e.g. hepatitis B or C) and obesity

¹¹¹ <http://www.scotpho.org.uk/health-wellbeing-and-disease/chronic-liver-disease/data/international-comparisons> data sourced from HfA data base

¹¹² <http://www.scotpho.org.uk/health-wellbeing-and-disease/chronic-liver-disease/data/international-comparisons> data sourced from HfA data base

¹¹³ [Scottish Government 2008](#)

women. For CLD, rates of both morbidity and mortality are almost twice as high for men as for women¹¹⁴.

5.47. In addition, there is a strong social gradient associated with alcohol-related harm. By far the greatest harm is experienced by those who live in the most deprived areas. The reasons why alcohol has a more harmful effect on people living in deprived communities are complex and not fully understood. Risky and harmful alcohol use is likely to be both a cause and effect of social deprivation. What is clear is that the level of alcohol-related harm in deprived communities is substantial.

5.48. Relative inequalities in alcohol-related acute hospital admissions in Scotland have persisted. In 2016/17, the rate of alcohol-related hospital stays was nearly nine times higher in the 10% most deprived areas of Scotland compared with the 10% least deprived areas (as measured by the Scottish Index of Multiple Deprivation (SIMD))¹¹⁵. Inequalities in alcohol-related psychiatric admissions are even starker, with rates just over 15 times higher in the most deprived decile compared with the least deprived. Similarly, alcohol-related mortality rates for those aged 45-74 in 2015/16 were also nine times higher in the most deprived areas compared with the least¹¹⁶. Consistent with this, for CLD the rates were almost six times higher in the most deprived decile (34 per 100,000 population) compared to the least deprived decile (6 per 100,000).

5.49. Research suggests that the data presented in Figures 2 to 5 and discussed in this section may significantly underestimate the true scale of the problem, as they are based on cases where alcohol use is considered to be the direct cause of death. As mentioned in paragraphs 5.33 to 5.35, there are a number of causes of death and illness for which alcohol use is partly responsible¹¹⁷. A recent report¹¹⁸ estimated that one in 15 deaths in Scotland in 2015 was attributable to alcohol (6.5%), and that more than one in four of these was due to cancer.

Wider alcohol-related socio-economic harm

5.50. As well as the impact on health, there are significant social and economic costs of excessive alcohol consumption. There is a long-standing body of evidence linking alcohol consumption (at both individual and population level) with crime, especially violent crime^{119 120}. Many prisoners are incarcerated because of alcohol-

¹¹⁴ <http://www.scotpho.org.uk/health-wellbeing-and-disease/chronic-liver-disease/key-points>

¹¹⁵ ISD Alcohol-related Hospital Statistics Scotland 2016/17; <http://www.isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Publications/2017-11-21/2017-11-21-ARHS-Report.pdf>?

¹¹⁶ Scottish Government (Dec 2017) *Long-term Monitoring of Health Inequalities*.

<http://www.gov.scot/Resource/0052/00529436.pdf>

¹¹⁷ Grant, I., Springbett A., and Graham L. (2009) *Alcohol attributable mortality and morbidity: alcohol population attributable fractions for Scotland*. Edinburgh: NHS National Services Scotland

¹¹⁸ Tod E, Grant I, Wyper G, et al. (2018) *Hospital Admissions, death and overall burden of disease attributable to alcohol consumption in Scotland*: ScotPHO NHS Health Scotland. <http://www.scotpho.org.uk/publications/reports-and-papers/hospital-admissions-deaths-and-overall-burden-of-disease-attributable-to-alcohol-consumption-in-scotland/>

¹¹⁹ Martin SE (2001) The links between alcohol, crime and the criminal Justice system: explanations, evidence and interventions. *American Journal of Addiction*. 10 136 - 58

related crime¹²¹. In Scotland in 2015, two in five prisoners (41%)¹²² and 60% of young offenders¹²³ reported being drunk at the time of their offence. One in five of adult prisoners reported that drinking affected their ability to hold down a job (19%) and one third admitted that their drinking affected their relationship with their family (32%)¹²⁴. Of those who responded to the AUDIT screening questions, almost a third (32.9%) had scores which suggested possible alcohol dependence. Nearly two thirds of young offenders (64%) said that either they, or someone else, had been injured as a result of their drinking.

5.51. The number of homicides in Scotland has been decreasing over the last decade. However, in that ten year period between 2006/07 and 2015/16, around half (48%) of all accused were reported to have been under the influence of alcohol and/or drugs at the time of the homicide. (The drug/alcohol status for the majority, 66%, is unknown). In addition, in 78% of cases where the main accused was under the influence of alcohol and/or drugs, the victim was also known to have been under the influence of alcohol and/or drugs. An Institute of Alcohol Studies report¹²⁵ concluded that 37% of ambulance time and 25% of Emergency Department Consultants' time (in the UK) was spent dealing with alcohol-related incidents.

5.52. Although alcohol use by adolescents has been decreasing, its misuse at that age continues to put individual users and others at risk of harm. More than one third of 15 year olds (36%) who drank said that they had done something that they later regretted after drinking alcohol: 16% reported getting into trouble with the police and 17% said they had tried drugs as a consequence of drinking¹²⁶.

5.53. As well as direct harms to the drinker, alcohol misuse results in significant psycho social harm to others. Parenting capacity is affected by alcohol use and children living with parental alcohol misuse may experience neglect or abuse¹²⁷. Parental alcohol problems are associated with negative outcomes in children such as poorer physical and psychological health, poor educational achievement and eating disorders¹²⁸. A UK report suggested a disproportionately large number of calls received by ChildLine from children concerned about a significant other person's (e.g. parent, carer) drinking, were from Scotland¹²⁹. Previous estimates

¹²⁰ Booth, A. et al. (2008) *Independent Review of the Effects of Alcohol Pricing and Promotion Part A: Systematic Reviews*, Sheffield: University of Sheffield

¹²¹ Graham L, Parkes T, McAuley A, Doi L, *Alcohol problems in the criminal justice system: an opportunity for intervention*. 2012 WHO Europe

¹²² Carnie, J. and Broderick, R. (2016) *Prisoner Survey 2015*, Scottish Prison Service

¹²³ Carnie, J. and Broderick, R. (2016) *Young people in custody 2015* Scottish Prison Service

¹²⁴ Carnie, J. and Broderick, R. (2016) *Prisoner Survey 2015*, Scottish Prison Service

¹²⁵ Institute of Alcohol Studies (IAS) (2015) *Alcohol's impact on emergency services*. IAS

¹²⁶ Scottish Government (2016) *Scottish School Adolescent Lifestyle and Substance Use Survey (SALSUS) 2015: Alcohol Report*, Edinburgh: NHS National Services Scotland

¹²⁷ Jones L, Sumnall H (2016) *Understanding the relationship between poverty and alcohol abuse*. Centre for Public Health: John Moore's University Liverpool.

¹²⁸ The National Association for Children of Alcoholics *The effects of parental alcohol problems* <http://www.nacoa.org.uk/concerned-others-and-professionals/research.html>

¹²⁹ Scottish Health Action on Alcohol Problems (SHAAP) / Childline (2009) *Untold Damage: Children's accounts of living with harmful parental drinking*

suggested that between 36,000 and 51,000 children in Scotland are living with parents or guardians whose alcohol use is potentially problematic¹³⁰.

5.54. Marriages where there are alcohol problems are twice as likely to end in divorce¹³¹. A quantitative research study from New Zealand demonstrated that individuals who were exposed to others' heavy drinking (e.g. as a friend or relative) had reduced wellbeing and health status. It suggested that living with a heavy drinker may place a burden similar to being a carer for someone with a chronic illness such as Parkinson's¹³².

5.55. Communities may suffer from antisocial behaviour fuelled by excessive alcohol consumption. In 2014, a survey found over half (60%) of people in Scotland believe alcohol is the drug which causes most problems for Scotland as a whole, compared with 19% saying heroin¹³³. This has increased from 46% in 2004 and 51% in 2007.

The relationship between consumption and price: International evidence

5.56. When other factors remain unchanged, an increase in alcohol prices generally leads to a decrease in alcohol consumption, and a decrease in alcohol prices usually leads to an increase in alcohol consumption. There is a substantial body of literature indicating that increasing the price of alcohol reduces both acute and chronic harm related to drinking among people of all ages. This kind of evidence indicates that heavy or problem drinkers are no exception to the basic rule that alcohol consumers respond to changes in alcohol prices¹³⁴. The Wagenaar¹³⁵ study, for example, considered 100 separate studies reporting over 1,000 statistical estimates over the last 30 years, and found that there was a consistent relationship between price and consumption of alcohol.

5.57. The OECD publication *Tackling Harmful Alcohol Use*¹³⁶ concluded, that in addition to policies aimed solely at heavy drinkers, broader policy approaches may be required as a complement to them. It advised that raising alcohol prices can improve population health, and doing so in the cheaper segment of the market may be more effective in tackling harmful drinking. One of the ten areas that the WHO has identified for national action to address the harmful use of alcohol is pricing

¹³⁰ <http://www.gov.scot/Resource/0039/00395549.pdf> 2012 BRIA, page 25.

¹³¹ Prime Minister's Strategy Unit (2003) *Alcohol project: interim analytical report*. London: Cabinet Office.

¹³² Casswell, S., You R., and Huckle, T. (2011) *Alcohol's harm to others: reduced well being and health status for those with heavy drinkers in their lives*, *Addiction* 106. 1087-1094

¹³³ Sharp C, Marcinkiewicz A and Rutherford L (2014) *Attitudes towards alcohol in Scotland: results from the 2013 Scottish Social Attitudes Survey* Health Scotland
http://www.healthscotland.com/uploads/documents/23453_SSA%202013%20Alcohol%20Report.pdf

¹³⁴ *Alcohol in the European Union. Consumption, harm and policy approaches*. Copenhagen, WHO Regional Office for Europe, 2012.

¹³⁵ Wagenaar, A.C., Salois, M.J., and Komro K.A (2009) *Effects of beverage alcohol taxes and prices on consumption: a systematic review and meta-analysis of 1003 estimates from 112 studies*, *Addiction*, 104, 2009

¹³⁶ OECD (2015). Sassi F (ed). *Tackling Harmful Alcohol Use: Economics and Public Health Policy* OECD

policies¹³⁷. Its *European action plan to reduce the harmful use of alcohol 2012–2020*¹³⁸ presents several policy options to manage the affordability of alcohol. These include increasing alcohol taxes, introducing a legal minimum price per litre of alcohol, and restricting the use of direct and indirect price promotions.

5.58. A recent systematic review assessing the evidence for the effectiveness of minimum pricing of alcohol concluded that “...*price based policy interventions such as MUP are likely to reduce alcohol consumption, alcohol-related morbidity and mortality*”¹³⁹.

5.59. In Switzerland in 1999, a 30% to 50% reduction in taxation on foreign spirits led to a 28% increase in consumption of spirits. There was no significant change in the consumption of wine or beer¹⁴⁰. In Finland in 2004, reduced tax on alcohol (by one third) and increased access to much cheaper alcohol from Estonia, offered a ‘natural experiment’ on the impact of taxation and price on drinking and harm. Following the change, liver cirrhosis deaths rose by 30% in just one year, as alcohol consumption increased by 10%¹⁴¹. A 2012 study further found significantly increased mortality among harmful drinkers after the price reductions of 2004¹⁴². Room et al¹⁴³ similarly found that alcohol attributable harms increased in Finland after the 2004 change, especially in people with low socio-economic status. The authors also found that the impact of tax changes in Denmark and the opening up of borders across the Nordic countries, all of which happened at the same time as the Finnish tax rises, were dampened in the more affluent countries.

5.60. Finland subsequently reversed the fiscal policy in 2008, raising taxes by 15% for strong alcoholic beverages and by 10% for other alcoholic beverages, with further tax increases in 2009. Total consumption of alcoholic beverages fell by around 2%, there was a 5% reduction in alcohol-related periods of care in hospital and a drop in the number of alcohol-related deaths. These trends continued in 2010, with a 2% decrease in consumption, an 8% reduction in alcohol-related periods of hospital care and 189 fewer alcohol-related deaths¹⁴⁴.

¹³⁷ WHO Alcohol Fact sheet (2015) <http://www.who.int/mediacentre/factsheets/fs349/en/>

¹³⁸ *European action plan to reduce the harmful use of alcohol 2012–2020*. Copenhagen, WHO Regional Office for Europe, 2012.

¹³⁹ Boniface S, Scannell JW, Marlow S (2017) . Evidence for the effectiveness of minimum unit pricing of alcohol: a systematic review and assessment using the Bradford Hill criteria for causality. *BMJ Open* 2017 | 7:e013497

¹⁴⁰ Heeb, J.L. et al. (2003) *Changes in alcohol consumption following a reduction in the price of spirits: a natural experiment in Switzerland*. *Addiction*, Volume 98 (10) Pgs: 1433-1446

¹⁴¹ Herttua, K. et al. (2008) *Changes in alcohol-related mortality and its socio-economic differences after a large reduction in alcohol prices: a natural experiment based on register data*, *American Journal of Epidemiology*

¹⁴² Vaarmo K, Puljula J, Tetru S, et al (2012) Mortality of harmful drinkers increase after reduction of alcohol prices in northern Finland: a 10 year follow up of head trauma subjects. *Neuroepidemiology* 2012.39 p 156 - 162

¹⁴³ Room R , Bloomfield K et al (2013) What happened to alcohol consumption and problems in the Nordic countries when alcohol taxes were decrease nad the borders opened? *International Journal of Alcohol and Drug Research*.2013: 2(1) 77 – 87

¹⁴⁴ National Institute for Health and Welfare, Official Statistics of Finland (2012) *Statistical Yearbook of Alcohol and Drug Statistics 2011*

5.61. Russia, and the former USSR, have long had high levels of alcohol-related health harm. A study found that variation in vodka prices, both over time and geographically, closely matches variation in mortality¹⁴⁵. A minimum price for vodka was introduced in Russia in 2009, and minimum prices for alcohol products also now exist in Belarus, Kyrgyzstan, the Republic of Moldova and Ukraine¹⁴⁶.

5.62. Minimum alcohol pricing has been used in some Canadian provinces since the 1920s and is now in place, to some degree, in all ten provinces. Research findings from Canada provide empirical evidence of the effectiveness of minimum pricing in reducing consumption¹⁴⁷, alcohol-related morbidity¹⁴⁸ and mortality, where a 10% increase in average minimum price for all alcoholic beverages was associated with a 32% reduction in wholly alcohol attributable deaths¹⁴⁹. More recent studies have found that increases in minimum alcohol prices produce greater impacts on alcohol-related hospitalisations in areas of low income (where the rates of harm are known to be greater)¹⁵⁰ and may contribute to reductions in certain types of crime: in this study¹⁵¹, alcohol-related traffic offences and violent crimes carried out by men.

Consumption, price and affordability: Scottish data

5.63. In 2016, alcohol sales in Scotland were 15% higher than in 1994. As can be seen in Figure 6, this increase is driven by off-trade sales, which are 61% higher than in 1994.

¹⁴⁵ Treisman D (2010) Death and Prices : *Economics of Transition* vol 18(2) 281-331

¹⁴⁶ WHO (2014) *European status report on alcohol and health 2014. Pricing policies.* http://www.euro.who.int/_data/assets/pdf_file/0003/244902/Pricing-policies.pdf?ua=1

¹⁴⁷ Stockwell, T., Auld, M. C., Zhao, J. and Martin, G. (2012) *Does minimum pricing reduce alcohol consumption? The experience of a Canadian province*, *Addiction*, Volume 107, Issue 5, pp 912-920

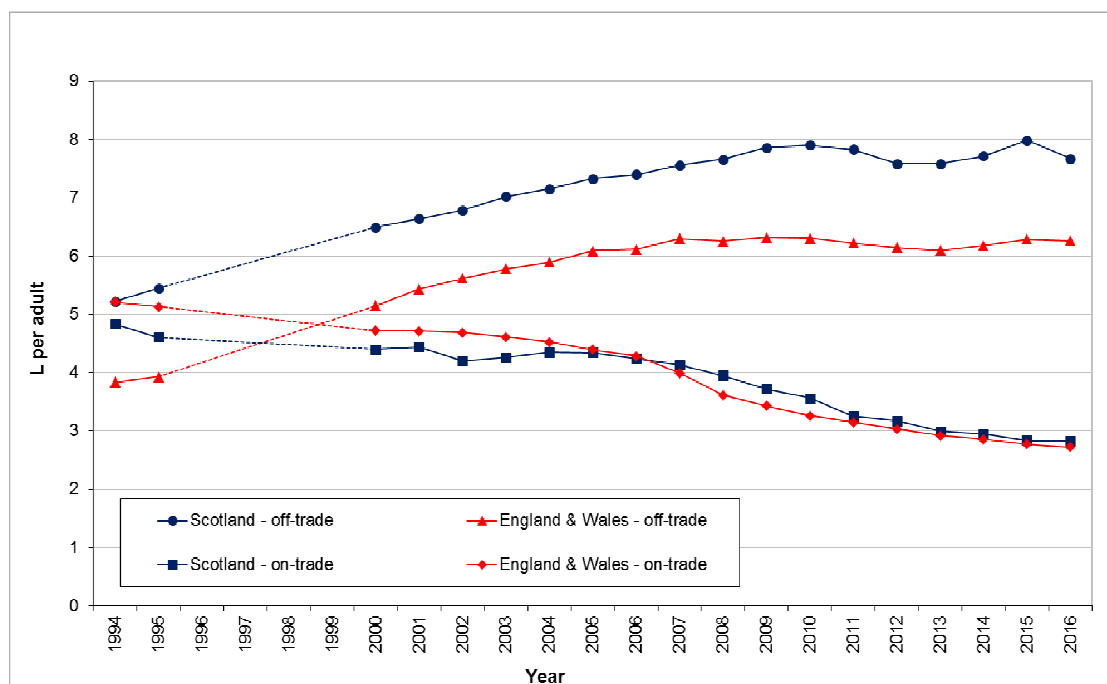
¹⁴⁸ Stockwell, T., Zhao, J. Martin G, Macdonald S, Vallance K et al. (2013) Minimum alcohol prices and outlet densities in British Columbia, Canada, estimated impacts on alcohol attributable hospital admissions. *Am J Public Health* 103 p 2014-20

¹⁴⁹ Stockwell, T., Zhao, J. Martin G, Macdonald S, Vallance K et al. (2013) The relationship between minimum alcohol prices, outlet densities, and on alcohol attributable deaths in British Columbia 2002-09. *Addiction* 108 p 1059-69

¹⁵⁰ Stockwell, T., Zhao (2017). The impacts of minimum alcohol pricing on alcohol attributable morbidity in regions of British Columbia, Canada with low, medium and high family income. *Addiction*. Research report

¹⁵¹ Stockwell, T., Zhao J, Sherk A, Callaghan R, Macdonald S, Gatley J, (2017). Assessing the impacts of Saskatchewan's minimum alcohol pricing regulations on alcohol related crime. *Drug and Alcohol review*. 36.p 492 -501

Figure 6 : Volume of pure alcohol (litres) sold per adult (16+) Scotland and England & Wales, by trade sector, 1994–2016¹⁵²



5.64. In 2016, 73% of all alcohol sold in Scotland was sold through the off-trade (supermarkets and other off-licences) compared with 27% sold through the on-trade (such as pubs, clubs and restaurants)¹⁵³.

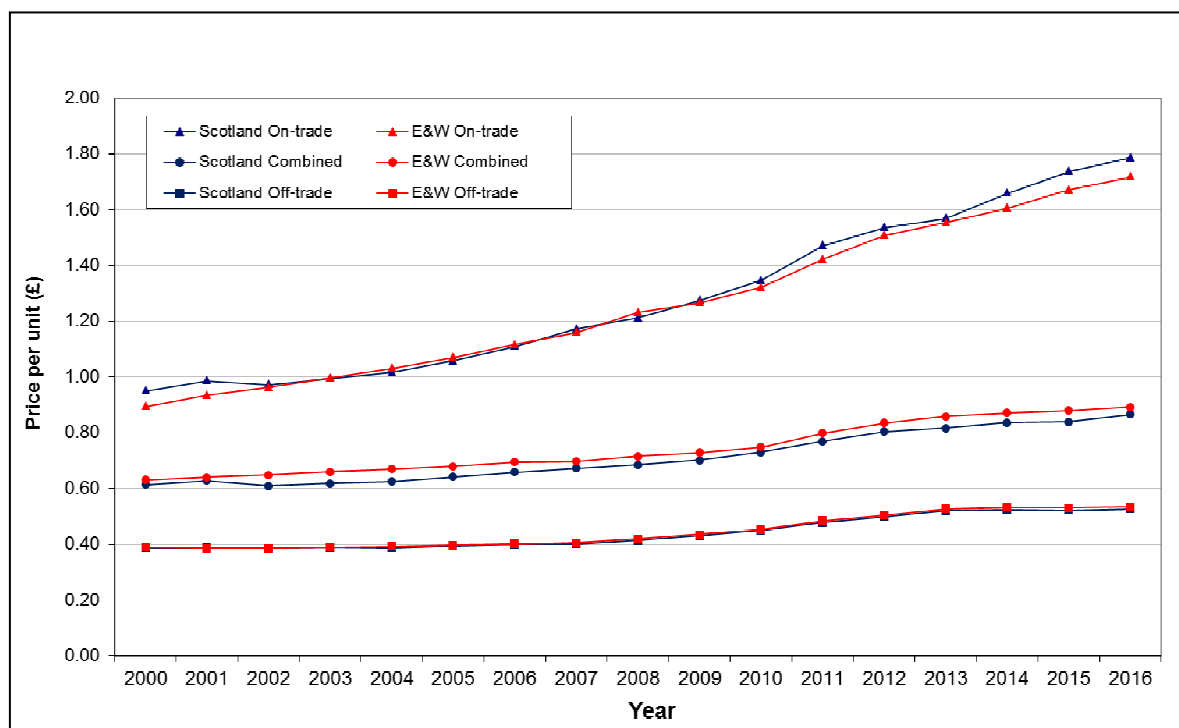
5.65. There is a considerable price differential between the on and off-trade sectors in Scotland. In 2016, the average price per unit of alcohol was 53 pence in the off-trade and £1.79 in the on-trade¹⁵⁴. Since 2000, on-trade prices have been steadily increasing, in contrast to those in the off-trade where, although there was some increase between 2007 and 2013, prices have been fairly flat. This can be seen in Figure 7.

¹⁵² NHS Health Scotland: *MESAS monitoring report 2017*

¹⁵³ *Ibid*

¹⁵⁴ *Ibid*

Figure 7: Price per unit of alcohol in Scotland and England & Wales, by trade sector, 1994-2016¹⁵⁵



5.66. The on-trade has experienced an 88% increase in average price per unit since 2000, whilst in the off-trade the increase is 36%. Notably, the difference in average price between the two sectors has increased by 124%.

5.67. Whilst average price is one indication of what is happening in the market, when considering the potential impact of minimum pricing it is necessary to examine the distribution of price. Data from the Nielsen Company¹⁵⁶ on the price of alcohol sold through the off-trade have been published annually by NHS Health Scotland since 2010. Nielsen obtain weekly price data from most large multiple retailers and a stratified random sample of independent and smaller multiple retailers^{157 158 159}.

¹⁵⁵ NHS Health Scotland: *MESAS monitoring report 2017*

¹⁵⁶ Nielsen is a global measurement and data analytics company that provides data on consumers and markets worldwide.

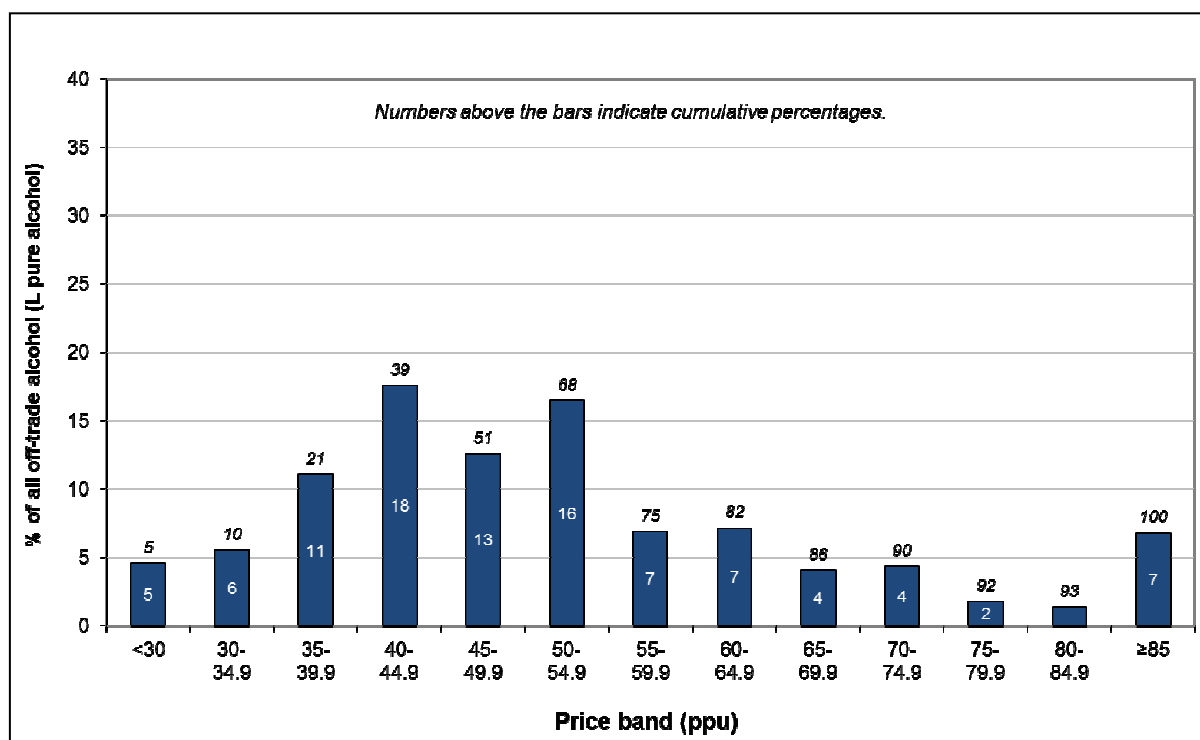
¹⁵⁷ Beeston, C., Robinson, M., Craig, N., and Graham, L. (2011) *Monitoring and Evaluating Scotland's Alcohol Strategy. Setting the Scene: Theory of change and baseline picture - Glossary and Appendices*, Edinburgh: NHS Health Scotland

¹⁵⁸ For a discussion on the validity of this data see: Thorpe R, Robinson M, McCartney G, Beeston C. (2011) *Monitoring and Evaluating Scotland's Alcohol Strategy: A review of the validity and reliability of alcohol retail sales data for the purpose of Monitoring and Evaluating Scotland's Alcohol Strategy*. Edinburgh: NHS Health Scotland.

¹⁵⁹ Nielsen do not collect data from the discount retailers and an adjustment is made to the data to account for this: see NHS Health Scotland (2017) Appendix 1 in *MESAS Monitoring Report 2017*.

5.68. The 2016 data show that there is still a considerable amount of alcohol sold cheaply within the off-trade in Scotland. Figure 8 illustrates that 10% of all alcohol (as measured by volume of pure alcohol) in the off-trade was sold at less than 35p per unit; 39% at less than 45p per unit and just over half (51%) at less than 50p per unit¹⁶⁰.

Figure 8: Price distribution (%) of pure alcohol sold off-trade in Scotland, 2016¹⁶¹



5.69. The price distribution varies with different products. In 2016, in Scotland:

- 15% of vodka was sold at below 35p per unit, 72% below 50p per unit;
- <1% of whisky was sold at below 35p per unit, 59% below 50p per unit;
- 3% of wine was sold at below 35p per unit, 29% below 50p per unit;
- 20% of beer was sold at below 35p per unit, 64% below 50p per unit;
- 44% of cider was sold at below 35p per unit, 71% below 50p per unit.

5.70. This implies that, for example, 72% of vodka was sold at less than £13.13 for a 70cl bottle (assuming ABV of 37.5%), and that 44% of cider retailed at the equivalent of £1.75 for 1 litre at 5% strength.

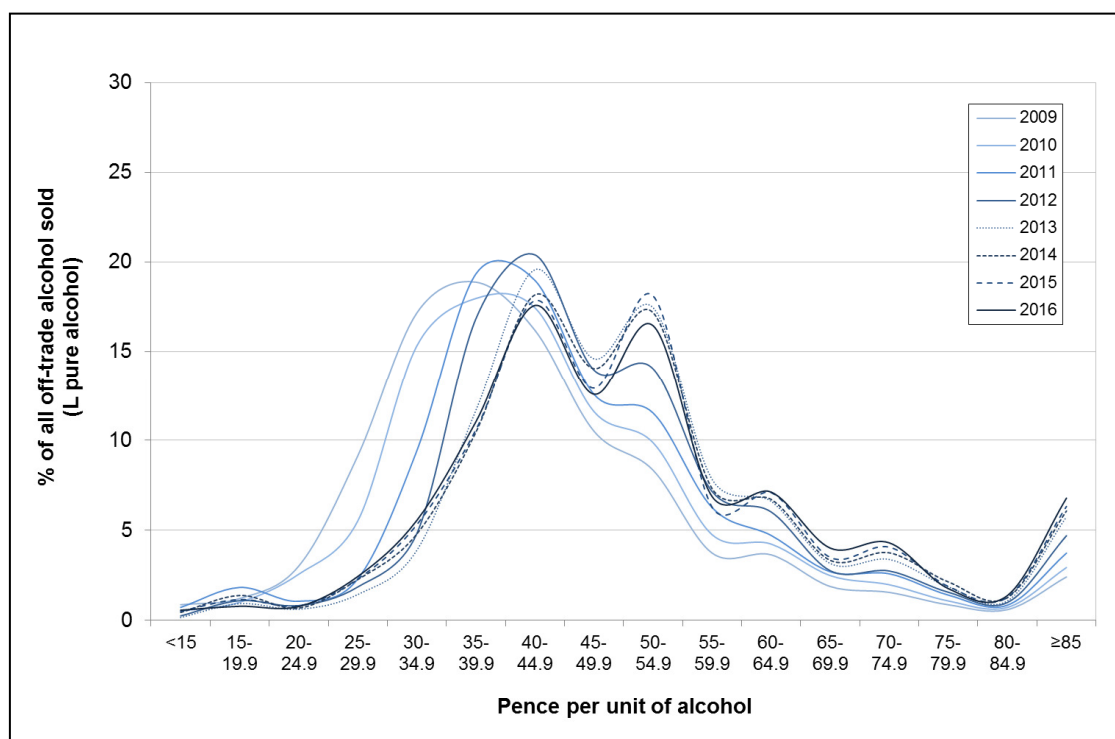
¹⁶⁰ A 2017 briefing note from the Institute of Fiscal Studies suggested that, using a different data source, almost 70% of off-trade alcohol units purchased (i.e. those bought in supermarkets and off-licences) in Britain between October 2015 and September 2016 were priced below 50p per unit <https://www.ifs.org.uk/publications/10252>

¹⁶¹ NHS Health Scotland *MESAS Monitoring report 2017*; Nielsen price band data set

5.71. Whilst Figure 7 illustrates that the average price in the off-trade had been relatively stable, Figure 9 shows how the price distribution has been shifting to the right during the period 2009-2016. This means that, for any given price per unit (e.g. 50p per unit), the amount sold below that is diminishing over time. At the lower end of the distribution, in 2009, 14% of alcohol was sold at less than 30p; in 2016 it was 5%, and 77% was sold under 50p per unit in 2009, compared with 51% in 2016. Conversely, at the top end of the market, in 2009, only 2% of alcohol was sold at 85p per unit or dearer; in 2016, that had grown to 7%.

5.72. The changing shape of the distribution (from a broadly normal distribution to a bimodal one) shows the impact of substantial numbers of products clustering around price points, e.g. a bottle of spirits (ABV 37.5%) retailing at £11 is equivalent to 42p per unit, and a bottle of wine (ABV 12.5%) retailing at £5 is equivalent to 53p per unit.

Figure 9: Price distribution (%) of pure alcohol sold off-trade in Scotland, 2009-2016¹⁶²

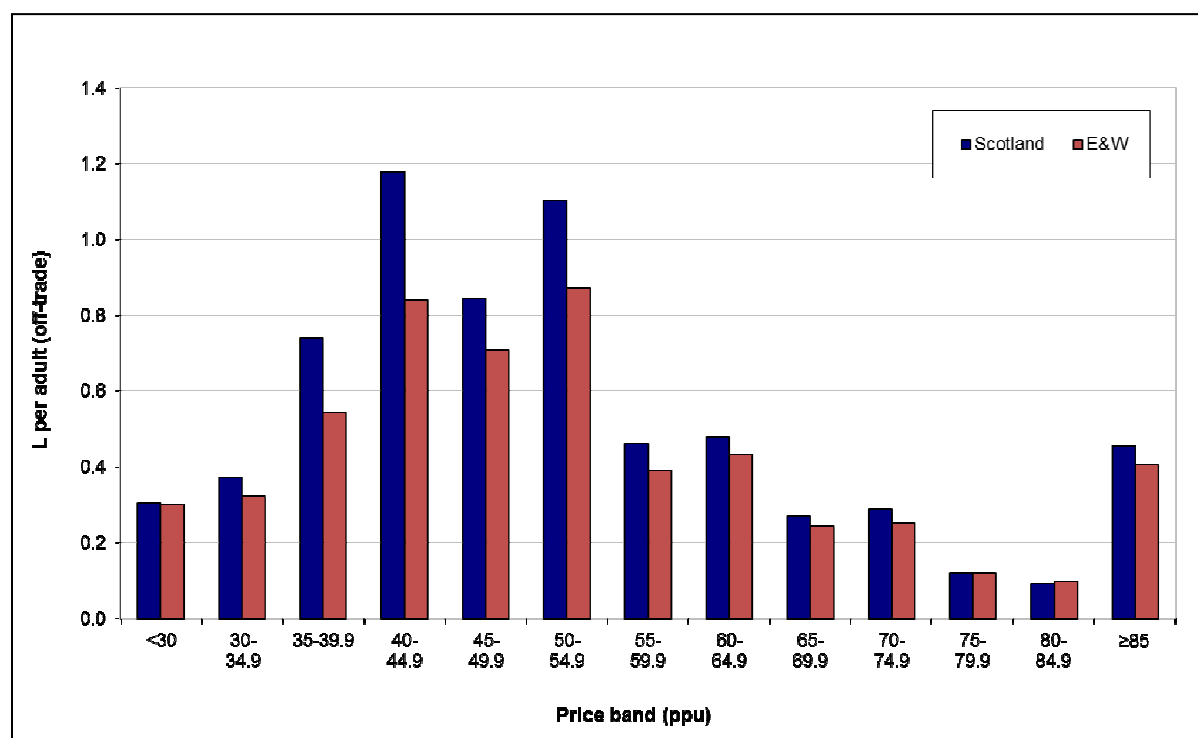


5.73. The sales data already illustrated in Figure 6 show the disparity between consumption in Scotland and England & Wales. The price distribution data allow further analysis. As in previous years, the difference is driven by the off-trade, with 93% of the total difference in per adult sales between Scotland and England & Wales in 2016 being due to higher off-trade sales in Scotland.

¹⁶² NHS Health Scotland *MESAS Monitoring report 2017; Nielsen price band data set*

5.74. Figure 10 further illustrates that much of this difference is driven by higher sales of cheap alcohol. NHS Health Scotland analysis found that 63% of the off-trade difference was due to higher per adult sales of spirits in Scotland¹⁶³. Vodka explains 36% of the difference in off-trade sales, with per adult sales via off-trade in Scotland more than twice that of England (2.1 times higher).

Figure 10: Price distribution (L per adult) of pure alcohol sold off-trade in Scotland and England & Wales, 2016¹⁶⁴

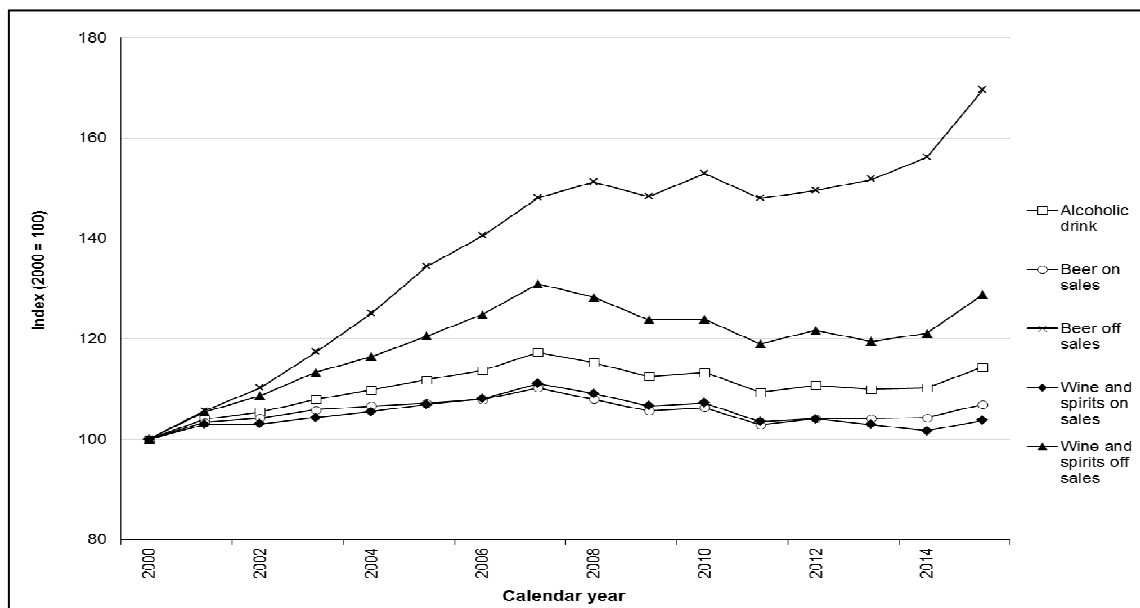


5.75. Price is a key component of affordability, and it is relative affordability that drives consumption. In real terms, alcohol sold in the UK was 60% more affordable in 2015 than it was in 1980. However, changes in affordability have not been uniform across sectors or drink types. Affordability in the on-trade sector has increased little over the period in contrast to off-trade products, as seen in Figure 11.

¹⁶³ MESAS monitoring report 2017

¹⁶⁴ Ibid

Figure 11: Drink type-specific alcohol affordability, United Kingdom, 2000-2015¹⁶⁵



¹⁶⁵ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017> Nielsen Price Band Dataset: alcohol price and affordability

6. Consultation

Within Government

6.1. The following areas in Scottish Government were consulted in the preparation of this Business and Regulatory Impact Assessment:

- Scottish Government Licensing Team in Justice, in relation to minimum unit pricing becoming a mandatory condition of a premises and occasional licence and the enforcement of the measure;
- Scottish Government Health and Social Care Analysis, Population Health, for analytical support and advice; and
- Scottish Government Legal Directorate for legal advice.

6.2. *Within Local Government and Public Bodies*

- Licensing Standards Officers, who will enforce minimum pricing; and
- Police Scotland, who will enforce minimum pricing.

Public consultation

6.3. A public consultation *Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach*¹⁶⁶ was carried out from 17 June 2008 to 9 September 2008. This included seeking views and comments on the principle of minimum pricing. Following the UK Supreme Court judgment in November 2017, the Scottish Government undertook a consultation on Scottish Ministers' proposed minimum unit price of 50p from 1 December 2017 to 26 January 2018. A total of 130 responses were received and analysed¹⁶⁷.

6.4. The number of responses received from **individuals** was 64 – this represents 49.2% of the total number received (130). The number of responses received from **organisations** was 66, representing 50.8% of the total number received (130). Of the total number of organisations that responded, 54.5% were from health organisations (both public and third sector). Responses from alcohol industry bodies, producers and retailers represented 31.8% of the total number responding from organisations, and 12.1% from non-health public sector bodies.

6.5. Out of the 130 responses, 70 (53.8%) commented on the proposed minimum unit price of 50 pence. This was broken down into 48 organisations and 22 individuals. The majority of the respondents who commented on the 50p minimum unit price were in support: 74.3% in total. Support for the proposed 50p minimum unit price was higher among organisations (79.2%) than individuals (63.6%).

¹⁶⁶ <http://www.gov.scot/Publications/2008/06/16084348/0>

¹⁶⁷ Minimum Unit Pricing of Alcohol, Consultation Report: Analysis of Responses <http://www.gov.scot/Publications/2018/02/8164>

6.6. The main issues raised by both individuals and organisations were more focused on the principle and implementation of the policy rather than on the proposed 50p per unit price itself. These were:

- Evidence base;
- Evaluation;
- Implementation;
- Impact on cost of living/ lower income households;
- Increased revenue to the alcohol industry;
- Impact on harmful drinkers;
- Education/ awareness;
- Treatment and recovery services; and
- Cross border/ illicit sales/ online sales.

6.7. There were three responses which are more critical of the evidence base and raise particular concerns. One of these respondents disputed aspects of the econometric modelling work undertaken by the University of Sheffield, thought that the proposed 50p per unit would have negative economic impacts and proposed an alternative mechanism of minimum pricing, based on banded rates according to strength.

6.8. The consultation report states that, taking into account a range of factors, including the responses to this consultation, the Scottish Government concludes that a minimum unit price of 50p provides a proportionate response to tackling alcohol misuse, as it strikes a reasonable balance between public health and social benefits and intervention in the market.

6.9. The Scottish Government held several meetings and discussions with **businesses** and **business organisations** involved in the alcohol industry, during and following the consultation period, to discuss issues related to the implementation of a proposed 50p per unit minimum price.

6.10. Two **retailer** meetings were held and attendees were:

- Asda
- C J Laing
- Booker Wholesale
- Lidl
- Majestic Wine
- Sainsbury's
- The Co-operative
- J W Filshill
- United Wholesale Grocers
- Scottish Grocers Federation
- Scottish Retail Consortium
- Scottish Wholesale Association
- NHS Health Scotland

6.11. Following the retailers meetings, it was decided that a separate meeting with wholesalers would be useful. The attendees for this meeting were:

- Costco
- Booker Wholesale
- United Wholesale Grocers
- Federation of Wholesale Distributors
- Scottish Wholesale Association
- Scottish Grocers Federation
- Bestway
- TLT Solicitors
- NHS Health Scotland

6.12. Separate discussions were held with the following **businesses** and **business organisations** on a one to one basis:

- Tesco
- National Federation of Regional Newsagents
- Sainsbury's
- C & C Group
- Association of Convenience Stores
- One-Stop Stores
- Wine & Spirits Trade Association
- Scottish Retail Consortium
- Scottish Grocers Federation
- Federation of Wholesale Distributors
- Booker Wholesale
- Aston Manor Cider

6.13. One **producers** meeting was held and attendees were:

- C & C Group
- Pernod Ricard UK
- Scotch Whisky Association
- Molson Coors
- Loch Lomond Group
- Whyte & Mackay
- Maxxium
- AB InBev
- Diageo
- Chivas Brothers Ltd
- Aston Manor Cider
- National Association of Cider Makers
- Wine & Spirits Trade Association
- British Beer & Pub Association
- Scottish Beer & Pub Association
- Heineken UK
- Glenmorangie Co.

6.14. The engagement with businesses and business organisations raised issues – some of which were already highlighted in the consultation responses:

- Short lead in time to implementation;
- Impact on stock already in the system and priced at below the proposed minimum price;
- Pre-price marked stock which is priced below the proposed minimum price;
- Online sales;
- Black market/ illicit alcohol sales;
- Cross-border sales;
- Discounts/ vouchers/ reward points;
- Levies on industry;
- Changes in minimum price;
- Labelling;
- Raising awareness with retailers;
- Raising awareness with consumers/ customers;
- Staff training; and
- Enforcement.

7. Options

7.1. Various options were considered when the Bill was going through the legislative process. A key issue in the legal challenge was whether increasing alcohol duty could achieve the same aims as minimum pricing but be less restrictive on trade. The alcohol duty option is considered in this section for this reason.

‘Increase the tax on alcohol products’ option

7.2. The Scottish Government has always been aware that increasing alcohol duty would be likely to reduce consumption at a population level, but it would be unable to target the consumption that causes the greatest harm in the way that a minimum price can, and so using alcohol taxation alone would not meet the aim of the legislation.

7.3. The Scottish Government commissioned the University of Sheffield to model the impacts of a minimum unit price policy. In total, four reports were published between 2009 and 2016. At the time of the first three University of Sheffield reports to the Scottish Government (2009, 2010, 2012), the Sheffield Model¹⁶⁸ was able to compare the impacts of a general increase in price with the introduction of a minimum price, but it was not able to calculate the tax required to replicate the estimated benefits from minimum pricing. By the time the last report for the Scottish Government was commissioned, the model had been developed so it was now possible to disaggregate the impact by income group and to use the model to estimate the level of tax rise required to achieve a similar impact on health harms as the introduction of a minimum price (equivalisation).

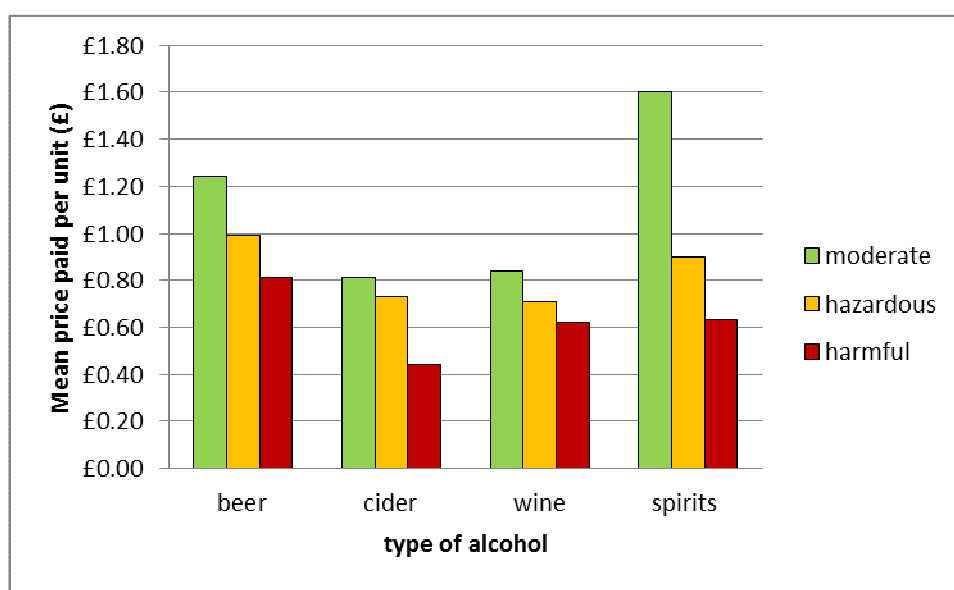
7.4. The commissioning of the model to produce this particular output was mainly driven by the continuing need to demonstrate to the courts the differential impacts of minimum pricing and taxation.

7.5. Within the countries of the UK, alcohol products are subject to the application of both excise duty (tax) and value added tax (VAT). The UK must comply with EU Directives 92/84/EEC and 92/83/EEC, which make provision, respectively, for minimum rates of excise duty on alcohol and the structure of the duty regime and the basis on which excise duty is calculated. Even if the UK was not subject to these constraints, there are considerable difficulties in designing a tax system which would have the same impact as a minimum price. Whilst an increase in taxation would also be likely to result in an increase in government revenue, the Scottish Government rejects the use of taxation alone for the reasons discussed in the following paragraphs 7.6 to 7.15.

¹⁶⁸ The modelling is discussed in more detail in paragraphs 8.5-8.20

7.6. There is evidence that across the board taxation increases do not have a targeted effect on the consumption of alcohol of those most at risk of alcohol-related harm¹⁶⁹. This finding is replicated in all the modelling carried out by the University of Sheffield¹⁷⁰. This is because those who drink the most (hazardous and harmful drinkers) consume a disproportionate amount of cheaper products¹⁷¹. Figure 12 illustrates that heavier drinkers pay less across all beverage types, with moderate drinkers paying noticeably more, on average, for spirits, and harmful drinkers paying considerably less, on average, for cider.

Figure 12: Mean prices paid by beverage type and drinker group¹⁷²



7.7. The volume of alcohol sales in Scotland is driven by sales in the off-trade. Recent sales data estimate that almost three quarters (73%) of all pure alcohol sold in Scotland in 2016 was sold through the off-trade, with 42% of sales in large multiples sold on promotion¹⁷³. The average price of a unit of alcohol sold through the off-trade in Scotland was 53p per unit and, through the on-trade, £1.79 per unit. Minimum pricing and duty increases apply equally to both the on and off-trade. However, given that substantially more alcohol is consumed in the off-trade than the on-trade and the price of a unit of alcohol is far less in the off-trade, a pricing measure that predominantly affects that sector is likely to be more effective at tackling alcohol harms.

¹⁶⁹ E.g. Gruenwald et al. (2006) developed a model which shows that price increases targeted at the lowest cost brand would produce a greater reduction in sales than across the board price increases; Gruenwald, P.J., Ponicki, W.R., Holder, H.D., and Romelsjö, A. (2006) *Alcohol Prices, Beverage Quality, and the Demand for Alcohol: Quality Substitutions and Price Elasticities*, *Alcoholism Clinical and Experimental Research* 30 1: 96-105

¹⁷⁰ <https://www.sheffield.ac.uk/scharr/sections/ph/research/alpol/publications#modellingreports>

¹⁷¹ Booth, A. et al. (2008) *Independent Review of the Effects of Alcohol Pricing and Promotion Part A: Systematic Reviews*, Sheffield: University of Sheffield

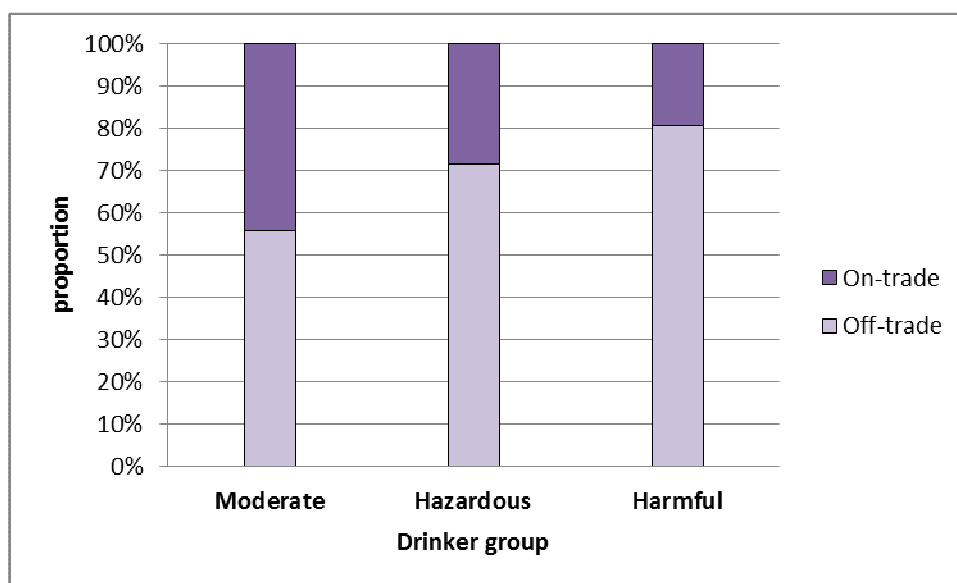
¹⁷² Table 4.4 in the 2016 University of Sheffield report for the Scottish Government

¹⁷³ MESAS monitoring report 2017

7.8. Figure 13 shows that hazardous and harmful drinkers consume proportionately more of their alcohol in the off-trade than moderate drinkers.

7.9. A straightforward increase in existing duty would affect the whole market, and all drinkers¹⁷⁴, impacting on high price products as well as cheap ones and so would have a proportionately greater effect on moderate drinkers than a minimum price.

Figure 13: proportion of alcohol consumed in on and off-trade by drinker type, drinker group¹⁷⁵



7.10. A tax regime allied to the strength of the product (volumetric taxation) has been suggested as a logical way to apply tax to alcohol products¹⁷⁶ and is one of the three dominant tax structures used internationally, along with ad valorem tax (based on the value of the product) and a unitary tax (based on product volume). The ability to do this within the UK is constrained, currently, by the relevant EU Directives. But even where the rate of taxation is already allied to the strength of the product, e.g. spirits, taxation cannot target products that have a low cost of production and retail cheaply relative to their strength. A cheap bottle of white spirits (e.g. vodka) attracts the same tax per unit of alcohol as an expensive bottle of malt whisky. To raise the price of the former, through taxation, would also affect the latter – and all products in between.

¹⁷⁴ Hunt, P., Rabinovich, L., and Baumberg, B. (2011) *Preliminary assessment of economic impacts of alcohol pricing options in the UK*, RAND Europe

¹⁷⁵ Extrapolated from table 4.3, 2016 University of Sheffield report for Scottish Government

¹⁷⁶ Meier PS, Holmes J, Angus C, Ally AK, Meng Y and Brennan A. (2016) '[Estimated effects of different alcohol taxation and price policies on health inequalities: A mathematical modelling study](#)', *PLOS Medicine*, 13 (2), e1001963. (Open Access)

7.11. Other products (under the EU Directives) cannot be taxed according to the amount of alcohol within them. For some products, the rate of duty remains the same across a range of alcoholic strength, for example, wines between 8.5% and 15%, and the tax due is calculated on the volume of the product.

7.12. The European Commission has conducted a public consultation¹⁷⁷ on the structures of excise duties applied to alcoholic beverages as set out in Directive 92/83/EEC. The aim of the Directive is to ensure the proper functioning of the European internal market, including the avoidance of distortions of conditions of competition, ensuring the free movement of products in this sector. A report¹⁷⁸ from the European Commission to the European Council on the evaluation of the Directive states that *“In practice, only a few Member States mentioned health policy objectives in connection with the overall relevance of the provisions; accordingly, no definitive conclusions can be drawn in this area. However, public health considerations should be included in any further process.”* The conclusion to be drawn here is that the evaluation of the Directive is not designed with public health considerations in mind. The European Council has asked the European Commission to undertake further studies to inform potential legislative change, and this work is ongoing. The current evaluation of the whole Directive is the first that has taken place since the Directive was introduced in 1992.

7.13. An increase in Value Added Tax would not be able to tackle low cost, high strength products as it is applied to the financial value of the products and would have the greatest impact on the most expensive products, which are not those that the policy aims to target.

7.14. For a tax system to result in increases in the price of low-priced products but not in the price of high-priced products, the rate of tax would have to be higher for low-priced products. A tax increase based on price would distort the market whilst not achieving the desired effect because low-priced, low strength products would increase as much as that of low-priced, relatively high strength products and, depending on the level at which the tax is set, only the price of some alcohol products sold cheaply relative to their strength may increase.

7.15. There is evidence that increases in taxation of alcohol will not necessarily be reflected in the price the consumer pays. A study undertaken in 2014¹⁷⁹ concluded that, for lower cost products, tax increases tended to be “under shifted” (price increases are less than the duty increase) and for high cost products “over shifted” (price increases are higher than the duty increase). The Competition Commission’s paper¹⁸⁰ on pricing practices noted that ten grocery retailers (nine of whom operated across Scotland) engaged in below-cost selling to varying extents. The

¹⁷⁷https://ec.europa.eu/taxation_customs/consultations-get-involved/customs-consultations/public-consultation-structures-excise-duties-applied-alcohol-and-alcoholic-beverages_en

¹⁷⁸ https://ec.europa.eu/taxation_customs/sites/taxation/files/com_2016_676_en.pdf

¹⁷⁹ Ally, A., Meng, Y., Chakraborty, R., Dobson, P.W., Seaton, J.S., Holmes, J., Angus, C., Guo, Y., Hill-McManus, D., Brennan, A. and Meier, P.S. (2014) ‘[Alcohol tax pass-through across the product and price range: do retailers treat cheap alcohol differently?](#)’, *Addiction*, 109 (12), pp.1994-2002.

¹⁸⁰ Competition Commission (2008) *Grocery inquiry: below cost selling*, See appendix 5.6 http://www.competition-commission.org.uk/rep_pub/reports/2008/fulltext/538_5_6.pdf

Competition Commission also found that, for most grocery retailers, the majority of below-cost sales relates to two or three product groups, with alcohol being one¹⁸¹. This suggests that tax increases are sometimes absorbed by the retailer, absorbed by the producer or offset against other products. To the extent that prices are offset, customers are paying more for other groceries to subsidise alcohol consumption. Absorption also means that the level of tax needed to achieve the same reduction in harms as a minimum price per unit of 50p is complex.

7.16. The most recent modelling undertaken by the University of Sheffield for the Scottish Government (April 2016), *Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland: An adaptation of the Sheffield Alcohol Policy Model version 3*¹⁸², was able to estimate the level of tax increase which would be required to achieve a similar impact on alcohol-related health harms as minimum pricing. To achieve a similar reduction and a similar distribution of harm reduction across drinker and income groups, defined either as the change in alcohol attributable deaths or alcohol attributable hospital admissions, would require unprecedented increases in the rates of duty¹⁸³.

'Introduce a prohibition on sales of alcohol below a minimum price per unit' option

7.17. This is the option being progressed by the Scottish Government as it is considered to be the most robust option available in meeting our goals of reducing alcohol-related harm in Scotland whilst simultaneously targeting where harm is greatest. In addition, it is the simplest price based option to understand, and enforce, and it is transparent.

7.18. Each of the reports commissioned by the Scottish Government from the University of Sheffield, reporting the results of modelling using the Sheffield Model, have estimated that a 50p minimum price will lead to reductions in alcohol-related harms, including health, crime and employment harms¹⁸⁴, with the greatest health benefits accrued from minimum pricing coming from hazardous and harmful drinkers who disproportionately consume more of the lower cost, high strength products. The most recent modelling has further demonstrated that the greatest impact is on harmful drinkers in poverty, who are also those who experience the greatest harm.

¹⁸¹ In England and Wales, from May 2014, selling alcohol products below the cost of duty + VAT was banned.

¹⁸² Angus C, Holmes J, Pryce R, Meier P, Brennan A. (2016) '[Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland: An adaptation of the Sheffield Alcohol Policy Model version 3](#)', SchARR: University of Sheffield.

¹⁸³ Duty rises in the UK over the last 20 years have rarely exceeded 5%

¹⁸⁴ Crime and employment impacts are excluded from the most recent (2016) report but can be found in the 2012 report.

7.19. Table 1 summarises some of the main health benefits estimated from a range of minimum unit prices based on the modelling carried out by the University of Sheffield¹⁸⁵.

Table 1: Example of health benefits from various minimum unit price scenarios

Policy: minimum price per unit	Policy impact on deaths per year (full effect ¹⁸⁶)		Policy impact on hospital admissions per year (full effect)	
	numbers	%	numbers	%
30p	-13	-0.8%	-255	-0.9%
40p	-49	-3.0%	-919	-3.1%
50p	-121	-7.4%	-2,042	-6.8%
60p	-236	-14.5%	-3,812	-12.8%
70p	-393	-24.2%	-6,315	21.1%

7.20. Table 1 also illustrates that, despite the reduction in the effect of a 50p minimum unit price since 2012, as demonstrated by the shift in the price distribution of off-trade alcohol (Figure 9), 50p per unit is still estimated to have a significant impact on alcohol-related deaths and hospitalisations.

7.21. As a pricing measure, the key features of minimum unit pricing are:

- A minimum unit price is a measure that is targeted at products priced cheaply relative to their high strength.
- A minimum unit price has the advantage of certainty. It is not open to absorption. It does not encourage cross-subsidisation between different products and product groups. Due to its simplicity, it is easier to understand, measure and enforce.
- A minimum unit price impacts only marginally on moderate drinkers. The Scottish Government recognises that many people in Scotland have a balanced, positive and enjoyable relationship with alcohol.
- Evidence suggests that minimum unit pricing may increase revenue across the drinks industry.

¹⁸⁵ Angus C, Holmes J, Pryce R, Meier P, Brennan A. (2016) '[Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland: An adaptation of the Sheffield Alcohol Policy Model version 3](#)', ScHARR: University of Sheffield

¹⁸⁶ For chronic health conditions, there will be a 'time lag' between a reduction in consumption and the associated reduction in harm. This time lag is likely to vary across conditions. Following a review of the international literature in v3 of the model the University of Sheffield adopted a mean lag time of 20 years for all health conditions. The full effect of minimum pricing in reducing chronic health harms is therefore assumed to accrue after 20 years.

Minimum Unit Price vs. Taxation – additional data

7.22. In response to the ruling from the CJEU, and acknowledging the methodological developments that the Sheffield Model had undergone¹⁸⁷, the Scottish Government commissioned the Sheffield Alcohol Research Group (SARG) to appraise the potential impact of minimum unit pricing on levels of consumption in different population subgroups defined by level of drinking and income: further, to estimate the increase in taxation required to match the reduction in health harms (in these subgroups) as would be achieved by the full effect of a minimum unit price of 50p. The methodology required to carry out this modelling had not been developed at the time of earlier commissioned reports (2009-12).

7.23. The modelling demonstrated that it required a significant level of tax (duty+VAT) increase in order to achieve similar total health benefits to that predicted by the model from a minimum unit price of 50p. Moreover, in order to achieve the targeting desired, i.e. a disproportionate impact on those who suffer a disproportionate amount of the harm, would require even higher levels of taxation.

7.24. In terms of a reduction in alcohol-related deaths, Table 2¹⁸⁸ illustrates the increasing level of tax required to achieve that targeted impact.

¹⁸⁷ In particular the ability to account for variation of impact on different socio demographic groups and a range of taxation policies.

¹⁸⁸ Table 4.17 in the 2016 Sheffield report for Scottish Government

Table 2: Equivalisation of mortality impacts of taxation increases with a 50p minimum unit price

Drinker group		Income group	Baseline deaths per year	Change in annual deaths attributable to alcohol at full effect					
				50p MUP	27% tax rise	28% tax rise	36% tax rise	55% tax rise	70% tax rise
Consumption breakdown									
All drinkers	All incomes	1,626	-121	-121	-127	-162	-255	-330	
Moderate	All incomes	-188	-4	-10	-10	-13	-20	-26	
Hazardous	All incomes	798	-46	-59	-61	-78	-122	-157	
Harmful	All incomes	1,016	-71	-53	-56	-71	-113	-146	
Hazardous and harmful	All incomes	1,814	-117	-111	-117	-149	-235	-304	
Income group breakdown									
All drinkers	In poverty	419	-58	-30	-31	-39	-61	-79	
	Not in poverty	1,207	-63	-92	-96	-123	-194	-251	
Moderate	In poverty	3	-2	-3	-3	-4	-6	-7	
	Not in poverty	-190	-2	-7	-7	-9	-15	-19	
Hazardous	In poverty	172	-19	-13	-14	-18	-27	-35	
	Not in poverty	626	-27	-45	-48	-61	-95	-123	
Harmful	In poverty	244	-37	-14	-14	-18	-29	-37	
	Not in poverty	772	-34	-39	-41	-53	-84	-109	
Hazardous and harmful	In poverty	416	-56	-27	-28	-36	-56	-72	
	Not in poverty	1,398	-61	-85	-89	-114	-179	-232	

7.25. The table illustrates the differential impact that minimum pricing has on harmful drinkers. For a 50p per unit minimum price, out of a total of 121 deaths prevented, 71 are from harmful drinkers. A reduction of 121 deaths can be achieved by a tax rise of 27%, but to achieve the targeting on harmful drinkers the rise has to be 36%.

7.26. In addition, although in Table 2 the impact of a 28% tax rise on alcohol-related mortality appears very similar to the profile for a 50p minimum unit price, there are differences in the health conditions from which deaths are averted. A 50p minimum unit price has a greater impact on deaths from alcoholic liver disease, while a 28% tax rise leads to greater reductions in cardiovascular mortality. Liver disease, as already described in paragraph 5.48, and deaths associated with it, are far more prevalent in areas of deprivation.

7.27. It should be noted that duty rises in the UK (which already has very high alcohol duty rates when compared internationally) over the last 20 years have rarely exceeded 5%. For the four years from 2013, some rates actually reduced or were frozen. Only in 2017 was there a duty increase across all products.

7.28. A similar equalisation exercise was carried out using alcohol-related hospital admissions.

Table 3: Estimated impacts of taxation and minimum unit price policies on hospital admission rates by drinker and poverty group¹⁸⁹

		Baseline annual admissions per 100,000 drinkers	Change in annual hospital admissions attributable to alcohol per 100,000 drinkers at full effect					
Drinker group	Income group		50p MUP	27% tax rise	28% tax rise	36% tax rise	55% tax rise	70% tax rise
Consumption breakdown								
All drinkers	All incomes	798	-55	-62	-64	-81	-123	-158
Moderate	All incomes	-100	-5	-12	-12	-16	-25	-32
Hazardous	All incomes	1,839	-84	-103	-108	-138	-217	-281
Harmful	All incomes	7,120	-497	-469	-488	-605	-893	-1,123
Income group breakdown								
All drinkers	In poverty	1,689	-180	-108	-113	-144	-218	-278
	Not in poverty	674	-37	-55	-58	-72	-110	-141
Moderate	In poverty	103	-22	-25	-26	-33	-51	-65
	Not in poverty	-130	-3	-10	-10	-13	-21	-27
Hazardous	In poverty	4,563	-359	-252	-264	-335	-521	-669
	Not in poverty	1,539	-54	-87	-91	-116	-184	-238
Harmful	In poverty	11,555	-1,440	-641	-667	-861	-1,253	-1,578
	Not in poverty	6,454	-356	-443	-462	-567	-839	-1,055

¹⁸⁹ Table 4.22 in the 2016 University of Sheffield report for Scottish Government

Sectors and groups affected

7.29. The proposal is intended to reduce alcohol-related harm through the reduction in consumption which is anticipated as a response to the rise in price for products currently retailing at below a minimum price of 50p per unit. As such, it has the potential to impact on society as a whole. Harms are not experienced solely by the drinker, but also by family and friends, communities, employers and the economy.

7.30. Minimum pricing will directly impact on consumers of alcohol and those involved in the alcohol industry: producers, distributors and retailers in both the off and on-trade. There will also be effects on those in the public sector responsible for enforcing the proposals such as Licensing Standards Officers, Licensing Boards, and the police. Any change in the volume of alcohol purchased will affect the UK Exchequer in the form of the duty and taxation collected by the UK Government. Alcohol-related harm affects rates of ill health, crime and employment. There are therefore potential savings for the NHS through a change in the number of deaths, hospital admissions for acute and chronic illnesses and primary care consultations for alcohol problems; on the justice system including the police, the criminal justice system and victims of crime; and on the workplace in the form of the number of unemployed due to alcohol misuse and the sickness absence rate. Alcohol misuse is estimated to have cost £2.5 billion to £4.6 billion (with a midpoint estimate of £3.6 billion) in Scotland in 2007. The midpoint estimate of £3.6 billion includes estimates of £870 million in lost productivity, £270 million to the NHS and £730 million in crime costs.

Consumers

7.31. Consumers who currently purchase alcohol priced at less than the minimum price per unit will be directly affected. Although all groups of consumers are predicted to alter their behaviour, modelling has demonstrated that those likely to be most affected are those drinking above UK CMOs guidelines¹⁹⁰. This is supported by the findings from literature that young people and hazardous and harmful drinkers (see paragraph 8.8) are most likely to consume low cost alcohol. Consumers will also be affected by any change in the level of societal harm associated with alcohol.

On and off-sales

7.32. Both on-sales and off-sales premises will be affected by the introduction of a minimum unit price for alcoholic drinks. It is likely to have a greater impact on off-sales premises than on on-sales, as the price of off-sales alcohol is generally lower than the price of on-sales alcohol (see paragraph 5.65).

7.33. In the UK, the retail sector (off-trade) consists of a small number of large supermarkets who dominate alcohol sales, a number of smaller supermarkets, a decreasing number of specialist retailers, and a large number of smaller grocers

¹⁹⁰ When the modelling was undertaken the terms “hazardous and harmful” were used to distinguish levels of drinking above guidelines.

and convenience stores. The hospitality sector (on-trade) consists of a small number of national chains and a large number of small pubs, clubs and restaurants. Independent pubs are increasingly being taken over by large beer producers¹⁹¹. In Scotland in 2016, there were 16,704 premises licences in force: 11,593 for the off-trade and 5,110 for the on-trade¹⁹².

Wholesalers

7.34. Although not directly impacted, as the price restriction is imposed on the retail price, their pricing structure may be impacted by the changes in the market. Wholesalers holding premises licences will be impacted in a similar way to the off-trade.

Producers

7.35. Producers of alcoholic drinks sold in the domestic market will be affected as the volume of alcohol purchased is expected to decline. The extent of the impact will depend on a number of factors including the quantity of alcohol they produce and sell that is currently priced at less than the minimum unit price.

7.36. Within Scotland, production consists of a number of multinationals producing a range of products for worldwide markets and a large number of smaller producers. These firms source inputs from a number of smaller firms both in Scotland and abroad.

Production supply chain

7.37. Both spring and winter barley are grown in Scotland and the UK. Spring barley is the dominant barley crop grown in Scotland and production is reliant on the strength and long-term confidence of the Scotch Whisky industry.

Local government

7.38. Local government will be affected as it will be the responsibility of Licensing Standards Officers to ensure compliance with minimum pricing and Licensing Boards to take action against businesses breaching the conditions.

UK Exchequer

7.39. The UK Exchequer will be affected through a change in the level of the duty and VAT collected associated with any changes in the volume and pattern of purchasing of alcohol products.

¹⁹¹ Petrie, D. et al. (2011) *Scoping study of the economic impact on the alcohol industry of pricing and non-price policies to regulate the affordability and availability of alcohol in Scotland*. Edinburgh: NHS Health Scotland

¹⁹² *Scottish liquor licensing statistics on premises and personal licences in force, applications and reviews/proceeding 2015-16*.
<http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/PubLiquor/LiquLic201516>

8. Costs and benefits

8.1. The Scottish Government is pursuing the introduction of a minimum price per unit of alcohol. The proposed level of minimum price is 50p per unit. Following careful consideration of the available evidence on the continued scale of alcohol-related harms, the price distribution of alcohol sold in Scotland, the potential benefits accrued from different minimum unit prices and the judgment from the UK Supreme Court, the Scottish Government considers a 50p per unit minimum price provides a proportionate response to tackling alcohol misuse in Scotland. It strikes a reasonable balance between public health and social benefits and intervention in the market. This section examines the costs and benefits of this option.

8.2. In developing an understanding of how the implementation of a minimum price set out in the Act might impact on the various sectors affected, the Scottish Government found that the information which might have assisted this process is often not in the public domain because it is commercially sensitive information held by individual companies.

8.3. In the costs section (paragraphs 5.52 to 6.24) of the 2012 BRIA, the Scottish Government reflected the views of the alcohol industry which had been asked to provide information on what they considered the likely impact of minimum pricing would be on the market. The Scottish Government received a breadth of responses from the alcohol industry setting out a range of views. These indicated that there was no consensus on how the market would respond to the introduction of a minimum price. The views expressed included:

- All products in the market would be affected, i.e. both those priced below and those priced above the minimum unit price;
- Only prices below the minimum unit price would be affected;
- There would be a mixture of an impact on prices; unable to be precise;
- The introduction of a price floor would distort the market;
- The value attached to premium brands over value brands would reduce and consumers might switch to other drinks categories;
- Consumers likely to switch to premium brands if the differential between premium and value was reduced;
- The own/ private label¹⁹³ market would be decimated and likely de-listed; or
- Supermarkets could maximise profits by continuing to stock own/ private label at the expense of brands.

8.4. The unpredictability of the market response is recognised in the UK Supreme Court judgment, where Lord Mance concludes:

That minimum pricing will involve a market distortion, including of EU trade and competition, is accepted. However, I find it impossible, even if it is appropriate to undertake the exercise at all in this context, to conclude that this can or should be regarded as outweighing the health benefits which are intended by minimum pricing. In the overall context of the Scottish or, on the

¹⁹³ Own/ private label is a brand owned by a retailer or supplier (e.g. Tesco) who gets its goods made by a contract producer under its own label.

face of it, any other market, it appears that it will be minor, though it will hit some producers and exporters to the Scottish market more than others. Beyond that, the position is essentially unpredictable. Submissions that the Scottish Government should have gone further to predict the unpredictable are not realistic. The system will be experimental, but that is a factor catered for by its provisions for review and “sunset” clause. It is a significant factor in favour of upholding the proposed minimum pricing régime.

Estimating the impact of minimum unit pricing: the Sheffield Model

8.5. As this form of minimum unit pricing is untested, it is necessary to rely on modelling to estimate the potential impact of the policy (as is often done with new initiatives, e.g. the statutory minimum wage). Starting in 2010, the Scottish Government commissioned the School of Health and Related Research (ScHARR) at the University of Sheffield to undertake analyses using Scottish data, wherever possible, to model the impact of minimum unit pricing using the Sheffield Alcohol Policy Model (hereafter referred to as the Sheffield Model). To date, the University of Sheffield academics have published four reports for the Scottish Government, two of which post-date the passing of the legislation¹⁹⁴. These were carried out during the period when implementation of the policy had been delayed, utilised new data that had become available and were used to provide the court with contemporary analysis of potential impact.

8.6. The Sheffield Model is a complex two-stage econometric and epidemiological model linking changes in price to changes in consumption and subsequent harms. The first report using this methodology was commissioned by the UK Government, based on data relating to alcohol consumption in England, and was published in December 2008¹⁹⁵. It followed a UK Government commissioned systematic review of the evidence, an *Independent Review of the Effects of Alcohol Pricing and Promotion, part A*¹⁹⁶. The review found strong and consistent evidence to suggest that pricing policies can have a significant effect in reducing demand for alcohol.

8.7. The model has consistently found that:

- There is a strong and consistent link between the price of alcohol and the demand for alcohol. Increasing the price of alcohol is estimated to reduce consumption and alcohol-related harm.
- There is a link between price increases, reduced consumption and subsequent reductions in chronic and acute health harms.

¹⁹⁴ <https://www.sheffield.ac.uk/scharr/sections/ph/research/alpol/publications#scottish>

¹⁹⁵ *Independent Review Of The Effects Of Alcohol Pricing And Promotion: Part B. Modelling the Potential Impact of Pricing and Promotion Policies for Alcohol in England: Results from the Sheffield Alcohol Policy Model Version 2008*, http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Publichealth/Healthimprovement/Alcoholmisuse/DH_4001740

¹⁹⁶ *Independent Review of the Effects of Alcohol Pricing and Promotion, part A*, http://www.dh.gov.uk/en/Publichealth/Healthimprovement/Alcoholmisuse/DH_4001740.

- Minimum unit pricing targets price increases at alcohol that is sold cheaply. Cheaper alcohol tends to be bought more by harmful drinkers than moderate drinkers.

8.8. A minimum pricing policy might, therefore, be seen as beneficial in that it targets the drinkers causing most harm to themselves and society. Studies also show that cheaper alcohol is attractive to young people¹⁹⁷. 'Moderate drinkers' (defined by the University of Sheffield report as those who drink within the lower risk drinking guidelines in place in April 2016¹⁹⁸) are estimated to be only marginally affected, simply because they consume only a small amount of alcohol and also because they do not tend to buy as much of the cheap, strong alcohol that would be most affected by minimum pricing.

8.9. Although the driver for minimum pricing is the protection and improvement of public health, we note that the effects of price increases may not be disadvantageous to the alcohol industry as a whole, because the estimated decrease in sales volume may be more than offset by the unit price increase, leading to overall increases in revenue.

8.10. The economy is likely to benefit through a reduction in sick days per year for all categories of drinker (moderate, hazardous and harmful) and less unemployment among harmful drinkers.

8.11. The Sheffield Model has been further developed and refined since the initial publications. The latest version, version 3, has been used to model the effectiveness of alcohol pricing policies and of screening and brief intervention policies. The impacts of pricing interventions are the outputs of interest to the Scottish Government in relation to this legislation.

8.12. The model is complex and comprises two main elements. The first element uses an econometric approach to model consumer responses to changes in the prices of alcoholic beverages. This allows appraisal of how consumers change consumption levels, drink in alternative settings or switch to alternative beverages following a pricing policy change. It does so using own price elasticities (a measure of responsiveness to price changes) and cross-price elasticities (a measure of switching behaviour in response to price change).

8.13. The second element uses epidemiological data¹⁹⁹ on the relationship between alcohol consumption and various harms to model how those changes in consumption change the consumers' risk of harm. This allows for estimates of the change in incidence of alcohol-related harms and the costs associated with those harms to be calculated.

¹⁹⁷ Booth, A. et al. (2008) *Independent Review of the Effects of Alcohol Pricing and promotion Part A: Systematic Reviews*, Sheffield: University of Sheffield
http://www.sheffield.ac.uk/polopoly_fs/1.95617!/file/PartA.pdf

¹⁹⁸ UK Chief Medical Officers revised the lower risk drinking guidelines in August 2016 so that, in order to keep health risks from alcohol to a low level, it is safest not to drink more than 14 units a week on a regular basis for both men and women. Previously the advice was no more than 14 units a week for women and 21 units a week for men.

¹⁹⁹ Epidemiology deals with the incidence, distribution, and control of diseases in specific populations.

8.14. In the first three reports prepared for the Scottish Government, impacts on alcohol-related harm related to health, crime and employment were reported. In the most recent (2016)²⁰⁰, the focus was on alcohol-related health harms²⁰¹.

8.15. Analyses are carried out on population subgroups defined by age, sex, consumption level and income or socio-economic status. This means the model is able to present results describing the impact of alcohol policies on particular subgroups of interest²⁰².

8.16. The model and its methodology has had support from leading academics in the field and articles based on it have been published in peer reviewed journals²⁰³, such as the Lancet, whose editorial commented that the Sheffield Model provides “evidence on which to base fair and effective pricing” and it was “imperative” that it should be used²⁰⁴.

8.17. At the time of the first three University of Sheffield reports to the Scottish Government (2009, 2010, 2012) the model was able to compare the impacts of a general increase in price with the introduction of a minimum unit price, but it was not able to calculate the tax required to simulate the impact of minimum unit pricing. Neither was the original modelling able to disaggregate the impact by income groups. In the intervening years, the methodology was refined and became more sophisticated. The model retains its two-stage structure (econometric and epidemiological) but, by 2015, when the last report for the Scottish Government was commissioned, it was possible to disaggregate the impact by income group (in poverty vs. not in poverty²⁰⁵) and to use the model to produce the level of tax rise required to achieve a similar impact on health harms as the introduction of a minimum price (equivalisation).

8.18. The commissioning of the model to produce this particular output was mainly driven by the continuing need to demonstrate to the court the differential impact of minimum pricing and taxation. The model was also used to update the impact of a range of values of minimum unit price using the most contemporary data available.

8.19. ScHARR specialises in health services and public health research and the application of health economics and decision science to the development of health services and the improvement of public health. In addition to producing reports for Scotland, their academics have completed work for both the Department of Health in England and Public Health England; and for the jurisdictions of Sweden, Wales, Northern Ireland and British Columbia. The results of the 2014 Research

²⁰⁰ Angus C, Holmes J, Pryce R, Meier P, Brennan A. (2016) '**Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland: An adaptation of the Sheffield Alcohol Policy Model version 3**', ScHARR: University of Sheffield.

²⁰¹ As measured by alcohol related deaths and alcohol related hospitalisations

²⁰² For a discussion of the methodology see: Brennan, A., Meier, P., Purshouse, R., Rafia, R., Meng, Y., Hill-McManus, D., Angus, C. and Holmes, J. (2015) '**The Sheffield Alcohol Policy Model: A Mathematical Description**', *Health Economics*, 24 (10), 1368-88 (Open access)

²⁰³ Peer reviewed publication remains the gold standard for academic credence

²⁰⁴ The Lancet, 375 (9723),editorial

²⁰⁵ Poverty is defined as an individual having an equivalised household income below 60% of the population median.

Excellence Framework confirmed that ScHARR is ranked in the top four in the UK²⁰⁶ for the volume of world leading health research being conducted there. It was also noted that their research demonstrated outstanding impact in terms of reach and significance.

8.20. Both the most recent University of Sheffield report commissioned by the Scottish Government²⁰⁷, and that from 2012²⁰⁸, form part of this impact assessment. It should be noted that, while this is a model (with both an econometric and epidemiological component), it is based on strong empirical evidence on the relationship between price, consumption and harm. Estimates of the harm reduction estimated to result from a 50p minimum unit price are provided throughout the following section.

BENEFITS

Benefits to consumers

Health

8.21. In terms of health, the evidence shows that increasing the price of alcohol (thereby reducing affordability) leads to a reduction in consumption and a subsequent reduction in harm²⁰⁹. The Sheffield Model estimates that there will be a reduction in both death and illness, and consequently hospital admissions, for a range of minimum prices from 30p to 70p per unit (see Table 1, paragraph 7.19). For a 50p per unit minimum price, the model estimates that deaths will reduce by 121 per annum at full effect (20 years)²¹⁰ and hospital admissions will reduce by 2,042 per annum at full effect, as shown in Table 4.

²⁰⁶ <https://www.sheffield.ac.uk/scharr>

²⁰⁷ Angus C, Holmes J, Pryce R, Meier P, Brennan A. (2016) '**Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland: An adaptation of the Sheffield Alcohol Policy Model version 3**', ScHARR: University of Sheffield.

²⁰⁸ Meng, Y. et al. (2012) *Model-based appraisal of alcohol minimum pricing and off-licensed trade discount bans in Scotland using the Sheffield Alcohol Policy Model (v.2): Second update based on newly available data*, Sheffield: University of Sheffield

²⁰⁹ Booth, A. et al. (2008) *Independent Review of the Effects of Alcohol Pricing and Promotion Part A: Systematic Reviews*, Sheffield: University of Sheffield

²¹⁰ Full effect refers to the impact of the policy on health in the 20th year following policy implementation.

Table 4: Estimated impacts of a 50p per unit minimum price on health outcomes at full effect²¹¹

	Policy impact of MUP 50p on hospital admissions per year (full effect)			Policy impact of MUP 50p on hospital admissions per year (full effect)		
	Acute	Chronic	Total	Acute	Chronic	Total
Baseline level of alcohol-attributable harm per year	743	883	1,626	25,631	4,236	29,867
absolute change	-28	-93	-121	-779	-1,263	-2,042
relative change	-3.8%	-10.5%	-7.4%	-3.0%	-29.8%	-6.8%

8.22. Table 5 again shows that reductions in alcohol-related harms are concentrated in the heaviest drinkers.

Table 5: Estimated impacts of a 50p per unit minimum price on death and hospital admission rates by drinker group²¹²

	Policy impact on deaths per 100,000 drinkers per year (full effect)			Policy impact on hospital admissions per 100,000 drinkers per year (full effect)		
	Moderate	Hazardous	Harmful	Moderate	Hazardous	Harmful
Baseline level of alcohol-attributable harm per year	-7	95	424	-100	1,839	7,120
Absolute change 50p MUP	0	-5	-30	-5	-84	-497
Relative change 50p MUP	2.1%	-5.7%	-7.0%	5.5%	-4.6%	-7.0%

8.23. In the full effect, rates of deaths are differentially distributed across the drinker and poverty groups and show that health gains are greatest in hazardous and particularly harmful drinkers in poverty, with an estimated 119 deaths per year averted per 100,000 harmful drinkers in poverty under a minimum price of 50p per unit (Table 6), compared to 16 deaths averted per 100,000 harmful drinkers not in poverty. Similarly, for hospital admissions, the model estimates 1,440 fewer

²¹¹ Angus C, Holmes J et al (2016) table 4.11

²¹² Angus C, Holmes J et al (2016) table 4.12

admissions per year per 100,000 harmful drinkers in poverty under a 50p per unit minimum price, compared to 356 fewer admissions per year per 100,000 harmful drinkers not in poverty.

Table 6: Estimated impacts of a 50p per unit minimum price on death rates by drinker and poverty group²¹³

	moderate		hazardous		harmful	
	In poverty	Not in poverty	In poverty	Not in poverty	In poverty	Not in poverty
Baseline alcohol-attributable deaths per year per 100,000 drinkers	1	-8	206	83	781	371
impact of 50p MUP						
Absolute change per year per 100,000 drinkers	-1	0	-22	-4	-119	-16
impact of 50p MUP						
Relative change per year per 100,000 drinkers	-83.0%	0.9%	-10.8%	-4.4%	-15.3%	-4.4%

Table 7: Estimated impacts of a 50p per unit minimum price on hospital admission rates by drinker and poverty group²¹⁴

	moderate		hazardous		harmful	
	In poverty	Not in poverty	In poverty	Not in poverty	In poverty	Not in poverty
Baseline alcohol-attributable hospital admissions per year per 100,000 drinkers	103	-130	4,563	1,539	11,555	6,454
impact of 50p MUP						
Absolute change per year per 100,000 drinkers	-22	-3	-359	-54	-1,440	-356
impact of 50p MUP						
Relative change per year per 100,000 drinkers	-21.9%	2.2%	-7.9%	-3.5%	-12.5%	-5.5%

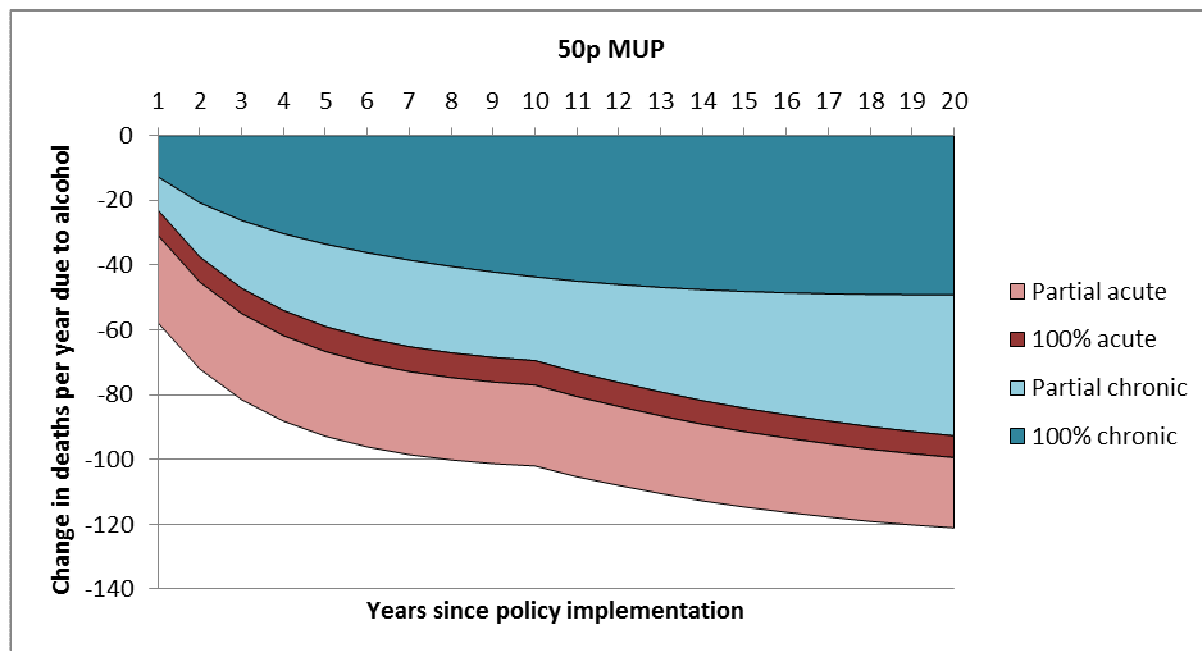
8.24. The full effect of a minimum price is not expected to be realised until 20 years following policy implementation. Figure 12 shows the estimated change in deaths by condition type across the 20 years to full effect. Most of the impact of the policy on deaths is estimated to be achieved in the early years of implementation. This Figure also highlights differences in the types of harms averted over time, with gains in acute conditions expected to accrue immediately, while those from chronic

²¹³ Angus C, Holmes J et al (2016) table 4.13

²¹⁴ Angus C, Holmes J et al (2016) table 4.14

conditions take longer to develop due to the ‘time lags’ between reductions in consumption and reductions in corresponding risks of harm.

Figure 12: Impact of a 50p minimum unit price on annual deaths over 20 years by condition type²¹⁵



8.25. Table 8 presents the estimated cumulative impact across five, ten, 15 and 20 years in terms of reductions in alcohol-related deaths and hospital admissions. These highlight the full extent of the estimated impact of minimum pricing policies on health harms over time, with a 50p minimum unit price estimated to avoid 392 alcohol-related deaths and 8,254 hospital admissions over the first five years following implementation and 2,036 deaths and 38,859 admissions over 20 years.

Table 8: Estimated cumulative changes in deaths and hospital admissions under a 50p minimum unit pricing policy²¹⁶

Cumulative change in alcohol-related deaths following implementation of 50p minimum unit price				Cumulative change in alcohol-related hospital admissions following implementation of 50p minimum unit price			
5 years	10 years	15 years	20 years	5 years	10 years	15 years	20 years
-392	-890	-1,441	-2,036	-8,254	-18,245	-28,575	-38,859

²¹⁵ Angus C, Holmes J et al (2016) Figure 4.20

²¹⁶ Angus C, Holmes J et al (2016) table 4.16

8.26. The modelling shows that those drinking at hazardous and harmful levels and in poverty are estimated to gain the most in terms of health benefits from a 50p per unit minimum price. The MESAS baseline²¹⁷ and final report²¹⁸ confirmed strong income/ deprivation patterns to alcohol-related health harm.

8.27. Using data from the Scottish Health Survey (SHeS), the 2016 report from the University of Sheffield showed that, although those in poverty were more likely not to drink than those not in poverty (25% vs. 13%), if they did drink, they were more likely to drink harmfully. In addition, average consumption among low income harmful drinkers was higher than among other harmful drinkers. For those in poverty who were moderate drinkers, they drank less per annum than those who were not in poverty; for those who were hazardous drinkers, their consumption was similar; but, conversely, for those who drank at harmful levels, those in poverty drank a third more than those not in poverty (equivalent to 87 units per week vs. 64 units per week). This helps to explain the differential harm patterns described above²¹⁹. In addition, those on low incomes are likely to be more responsive to minimum pricing²²⁰. Given this, it is therefore likely that those in lower income/ more deprived groups will benefit from the greatest reduction in health harms.

8.28. Cost savings are associated with a reduction in health harms. As already shown in tables 4, 5, and 7, there are estimated to be reductions in the number of hospital admissions. The 2012 report commissioned by the Scottish Government estimated that a minimum price of 50p per unit was likely to result in a reduction in healthcare service costs of around £6.7 million in the first year, and a full ten-year²²¹ cumulative effect of around £114 million. This was based on a reduction in admissions of 1,600 in the first year, rising to 6,500 after ten years. Whilst these numbers have now been revised downwards, it is still estimated there would be a significant reduction in health care costs.

8.29. The first three University of Sheffield reports for the Scottish Government also gave financial valuations for the reductions in harm using Quality Adjusted Life Years (QALYs). In 2012, the value of the reduction in health harms was estimated to be £17.2 million in year one, with a cumulative value of £492 million after ten years²²². Again, although the estimated impact has lessened, a financial valuation of the reduction in health harm would still be sizeable.

²¹⁷ Beeston, C., Robinson, M., Craig, N., and Graham, L. (2011) *Monitoring and Evaluating Scotland's Alcohol Strategy. Setting the Scene: Theory of change and baseline picture*, Edinburgh: NHS Health Scotland

²¹⁸ Beeston C, McAdams R, Craig N, Gordon R, Graham L, MacPherson M, McAuley A, McCartney G, Robinson M, Shipton D, Van Heelsum A. (2016) *Monitoring and Evaluating Scotland's Alcohol Strategy. Final Report*. Edinburgh: NHS Health Scotland;

²¹⁹ Table 4.3 in 2016 Sheffield report for the Scottish Government

²²⁰ Hunt, P., Rabinovich, L., and Baumberg, B. (2011) *Preliminary assessment of economic impacts of alcohol pricing options in the UK*, RAND Europe

²²¹ The full effect of minimum pricing in reducing chronic health harms in the 2012 Sheffield Model is assumed to accrue after 10 years, whereas in the 2016 Sheffield Model, this is 20 years.

²²² Calculated using the value of 1 QALY as £50,000: this was the valuation used at the time by the UK Department of Health.

Crime

8.30. The 2016 University of Sheffield report for the Scottish Government concentrated on the comparative impact of minimum price and taxation scenarios on alcohol-related health harms. Alcohol-related harm associated with crime and employment were reported in the first three reports from the University of Sheffield to the Scottish Government (2009, 2010, 2012).

8.31. The 2012 report²²³ estimated the effect of minimum pricing on crime. This report showed that, overall, crime volumes were estimated to fall following the introduction of a minimum price. For a value of 50p per unit, this would be by around 3,500 offences per annum. The distribution of the effect varies across the drinker groups with reductions, in this case, of around 800 offences from moderate drinkers, around 900 from hazardous drinkers and around 1,700 offences from harmful drinkers. The harm avoided in terms of victim quality of life²²⁴ is valued at around £2.2 million in the first year and around £20 million over ten years. Direct costs of crime were estimated to reduce by around £2.9 million in the first year and by around £24 million over ten years. Given this modelling was carried out five years ago, the benefits listed are likely to be overestimated. We would anticipate that, in line with the findings for health-related harm, these will be reduced, although it is not possible to quantify by how much.

Employment

8.32. The 2012 University of Sheffield report²²⁵ is the most recent which enables Scottish Government to estimate the effect of minimum pricing on employment. This report estimated that workplace harms would reduce for all minimum unit prices modelled in 2012²²⁶. The economy was estimated to benefit from a reduction in alcohol-related absence and from a reduction in the number of unemployed. For a minimum price of 50p per unit, the estimate was around 1,300 fewer unemployed people and around 32,300 fewer sick days per year. The estimated reduction in unemployment was modelled for the harmful drinking group only. Sick days were differentially distributed across the groups, with a reduction of around 11,000 amongst moderate drinkers, around 8,900 amongst hazardous drinkers and around 12,200 amongst harmful drinkers. For the first year after implementation, the cost of sick days was estimated to fall by around £3 million and the cost of unemployment by £32.1 million. The cost of sick days and unemployment was estimated to reduce by around £292 million over ten years. Like the impact on crime, this modelling was carried out five years ago, and we would anticipate that the magnitude of the benefits listed is likely to be less, although it is not possible to quantify by how much.

²²³ https://www.sheffield.ac.uk/polopoly_fs/1.150021/file/scotlandupdatejan2012.pdf , Tables 3.8, 3.10

²²⁴ Following on from Dubourg et al (2005), direct physical and emotional impacts on victims of crime are valued at £81,000 per QALY.

²²⁵ https://www.sheffield.ac.uk/polopoly_fs/1.150021/file/scotlandupdatejan2012.pdf , Tables 3.8, 3.10

²²⁶ https://www.sheffield.ac.uk/polopoly_fs/1.150021/file/scotlandupdatejan2012.pdf , Tables 3.8, 3.10

Benefits to consumers: sensitivity analyses

8.33. The University of Sheffield carried out a number of sensitivity analyses²²⁷. Sensitivity analysis is carried out on variables in a model in order to explore the impact of key uncertainties in the evidence base. In the 2016 model, the University of Sheffield focused on three aspects of the model: underreporting of alcohol consumption in surveys, price elasticities and the protective effects of drinking on health. They undertook three distinct sensitivity analyses in which they tested the impact of alternative assumptions in these areas on the modelled impact of a 50p minimum unit price.

Adjusting for underreporting

8.34. Alcohol consumption as estimated in population surveys routinely underreports known alcohol consumption taken from sales or excise clearance data by around 40% (i.e. the survey consumption accounts for only 60% of all alcohol sold). There may be many explanations for this discrepancy, both in the survey, including missing or under-represented populations, recall bias in respondents and a tendency to underestimate the size or alcohol content of home-poured drinks and in the sales or clearance data, including illicit alcohol and wastage. A range of methods were proposed to account for this observed underreporting, and details are in the report.

Alternative elasticity estimates

8.35. Elasticities measure differential price-responsiveness across a range of beverage types, including the on-trade and off-trade, and account for the full range of complement and substitution effects. There are different methodologies that can be used to calculate elasticities, and the model was run using elasticities from Meng et al (section 3.2.6 in the report). Sensitivity analyses was carried out using elasticities estimated and used by Her Majesty's Revenue and Customs (HMRC).

Protective effects of alcohol on health

8.36. There is no clear consensus on whether alcohol may have a protective effect on specific health conditions and overall mortality. The modelling includes the protective effects as identified in the most recent high quality systematic reviews and meta-analyses²²⁸. In the sensitivity analysis, all protective effects were removed from the model.

²²⁷ https://www.sheffield.ac.uk/polopoly_fs/1.5653731/file/Scotland_report_2016.pdf , section 3.5

²²⁸ Consistent with the work done to inform the CMOs review of drinking guidelines.

Holmes J, Angus C et al (2016) *Mortality and morbidity risks from alcohol consumption in the UK: Analyses using the Sheffield Alcohol Policy Model (v.2.7) to inform the UK Chief Medical Officers' review of the UK lower risk drinking guidelines Final report*. ScHARR, University of Sheffield

Results

8.37. Accounting for underreporting and using HMRC elasticities, both lead to larger estimates of reductions in consumption, both absolutely and relatively. Underreporting does not change the spending results substantially, but HMRC elasticities reverses the estimated direction of effect, with a 50p minimum unit price now estimated to save all drinkers £5.49 per year on average, although the magnitude of this effect is still small (<1%).

8.38. As for consumption, underreporting and HMRC elasticities both increase the estimated absolute and relative reductions in alcohol-related mortality and hospital admissions compared to the base case. Removal of the protective effects from the model leads to larger estimates of baseline harm than the base case (as alcohol is no longer protecting those drinking at low levels from some health conditions), but marginally smaller absolute (and thus significantly smaller relative) reductions in harm.

8.39. Table 9 shows that the overall distribution of effects across drinker groups is similar under all sensitivity analyses with two main exceptions. The first is the impact of using alternative elasticities on spending, where spending in all groups is estimated to reduce, with greater reductions in heavier drinkers. The second is the impact of adjusting for underreporting on harm reductions, with alcohol-related mortality in harmful drinkers estimated to reduce by twice as much in the base case (62 fewer deaths per year per 100,000 drinkers vs. 30) and a similar conclusion for hospital admissions (1,064 fewer per year per 100,000 drinkers vs. 497). The effect on moderate and hazardous drinkers is considerably smaller and thus under the underreporting adjustment, a 50p minimum unit price is estimated to be substantially more targeted at harmful drinkers in terms of harm reductions (i.e. they make up a greater proportion of the total reduction in harm).

Table 9: Impact of alternative assumptions on modelled effects of 50p minimum unit price by drinker group²²⁹

	Consumption (units per drinker per year)		Spending (per drinker per year)		Alcohol-related deaths per 100,000 drinkers per year		Alcohol-attributable hospital admissions (per 100,000 drinkers per year)	
	Baseline	Absolute change	Baseline	Absolute change	Baseline	Absolute change	Baseline	Absolute change
Moderate	Baseline	312	-4	359	2	-7	-100	-5
	Underreporting (SA1)	363	-5	422	1	-9	-161	-5
	HMRC Elasticities (SA2)	312	-8	359	-3	-7	-100	-13
	No protective effects (SA3)	312	-4	359	2	17	453	-7
Hazardous	Baseline	1,402	-36	1,194	15	95	1,839	-84
	Underreporting (SA1)	1,500	-45	1,291	13	94	1,838	-125
	HMRC Elasticities (SA2)	1,402	-65	1,194	-10	95	1,839	-166
	No protective effects (SA3)	1,402	-36	1,194	15	127	2,582	-85
Harmful	Baseline	3,498	-246	2,360	6	424	7,120	-497
	Underreporting (SA1)	3,644	-247	2,556	6	866	15,185	-1,064
	HMRC Elasticities (SA2)	3,498	-249	2,360	-19	424	7,120	-773
	No protective effects (SA3)	3,498	-246	2,360	6	425	7,241	-440

²²⁹ Angus C, Holmes J et al (2016) table 4.24

Benefits to retailers – off-trade

8.40. Minimum pricing is estimated to result in increased revenue to the alcohol industry as a whole. Table 10 shows that, for a minimum unit price of 50p, there is estimated to be increased revenue (excluding VAT and duty) of around £34 million per annum.

Table 10: Estimated impact of minimum price of 50p per unit on exchequer revenue and retailer revenue²³⁰

	Estimated change in duty & VAT revenue to Government of MUP 50p			Estimated change in revenue to retailers (after accounting for duty & VAT) of MUP 50p		
	Off-trade	On-trade	Total	Off-trade	On-trade	Total
Baseline receipts (£ million)	666	469	1,136	428	961	1,389
Absolute change in revenue per annum (£ million)	-12	-4	-15	41	-7	34
Relative change in revenue per annum	-1.8%	-0.7%	-1.3%	9.6%	-0.7%	2.5%

8.41. These are high-level estimates of revenue changes, and it is important to note that this is revenue and not profit. We do not know where change in revenue may accrue, i.e. whether the estimated increases would benefit retailers, wholesalers or producers, or all of them to some extent. The alcohol market is highly segmented, and this makes it particularly difficult to identify potential effects. For different products, where the additional revenue accrues will depend, to some extent, on the relative market power of different parts of the supply chain. The total increase in revenue at a minimum unit price of 50p represents 0.8% of the estimated value of total alcohol sales for both the on and off-trade sectors (£4,079 million²³¹) in Scotland in 2016. It is worth noting that, in the discussions on implementation with the alcohol industry, some considered minimum pricing would not result in additional revenue to the industry.

8.42. A minimum pricing policy is likely to affect predominantly the off-trade sector, as the average price of alcohol is considerably lower in the off-trade sector than in the on-trade. The average price of a unit of alcohol in the on-trade in 2016 was £1.79, whilst for the off-trade it was 53p²³². The proportion of alcohol sold in the off-trade has increased over the years: in 2016, 73% of all alcohol sold in Scotland was sold through the off-trade, compared with 52% in 1994. The overall trend in alcohol sales is driven by the off-trade sales, which are 47% higher than in 1994. The majority of off-sales are from the large supermarket chains. Nielsen estimates

²³⁰ Angus C, Holmes J et al (2016) table 4.10

²³¹ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

²³² Ibid

that over 80% of all alcohol off-sales are from “large multiple retailers” such as Asda, Morrison’s, Tesco and Sainsbury’s²³³.

8.43. The off-sales market is increasingly split between supermarket purchases at low prices (supermarkets have substantial buying power and the ability to negotiate lower prices from suppliers and producers) and impulse and convenience purchases from small shops, with independent off-licence chains such as Haddows forced to exit the industry²³⁴. The remaining specialist market is dominated by Conviviality Retail (owners of Bargain Booze and Wine Rack) and Majestic Wine, with the number of enterprises continuing to decline²³⁵. In 2016, 42% of all alcohol sold off-trade through large multiple retailers (excluding discount retailers) was sold on promotion. A minimum price per unit may allow smaller chains and independent shops to better compete with supermarkets in terms of price.

8.44. The 2012 BRIA reflected the various views expressed by producers on what might happen to any increased revenue, including whether any additional revenue would be retained by retailers. Some considered that, if retailers were to hold down the price of premium products and so undermine a brand’s position in the market, producers would seek to raise prices to retailers in order to maintain the brand’s position. Others considered that how any additional revenue was shared would be part of a commercial conversation between retailers and suppliers. In discussions with retailers, they queried whether there would be any additional revenue. The RAND report for the Home Office²³⁶ in 2011 concluded that the evidence from the UK alcohol market suggested that major retailers of alcohol, operating in an oligopolistic market, have a relatively stronger bargaining position than producers. This situation has not changed.

8.45. For the 2012 BRIA, convenience stores’ representatives²³⁷ said that they needed to try to maintain low prices to compete with supermarkets, particularly as supermarkets continue to develop their “convenience store” format (such as Tesco Metro and Sainsbury’s Central). They suggested a minimum price would reduce the ability of large supermarkets to undercut prices in smaller shops, and allow the smaller shops to compete on non-price elements such as convenience. The convenience store sector could benefit through the creation of a ‘level playing field’ with supermarkets on alcohol.

8.46. Previously, as noted, some grocery retailers have sold goods, including alcohol, at below-cost as a competitive strategy²³⁸. If this practice occurs it means that those who drink moderately, or not at all, are subsidising those that drink heavily and purchase very low price alcohol. If this practice is no longer possible

²³³ As measured by “natural volumes” of product: Communication with NHS Health Scotland 2017

²³⁴ IBIS World Off-Licence Alcoholic Beverage Retailers Market Research Report | SIC G47.250 | July 2011 <http://www.ibisworld.co.uk/market-research/alcoholic-beverage-retailers.html>

²³⁵ IBIS world (2017) *Off-Licences in the UK: Market Research Report*. <https://www.ibisworld.co.uk/industry-trends/market-research-reports/wholesale-retail-trade/except-of-motor-vehicles-motorcycles/off-licences.html>

²³⁶ Hunt, P., Rabinovich, L., and Baumberg, B. (2011) *Preliminary assessment of economic impacts of alcohol pricing options in the UK*, RAND Europe

²³⁷ Op. cit., correspondence with Scottish Government, September 2011

²³⁸ Competition Commission (2008) *Grocery inquiry: below cost selling* (appendix 5.6), http://www.competition-commission.org.uk/rep_pub/reports/2008/fulltext/538_5_6.pdf

through the implementation of a minimum price per unit, it has been suggested that these retailers could consider lowering prices on other goods which are currently cross-subsidising low prices on alcohol²³⁹ such as CDs, DVDs, books, non-alcoholic beverages and health and beauty products.

8.47. In 2012, the Scottish Grocers Federation (SGF)²⁴⁰ considered it was unlikely that retailers would use any additional revenue to reduce the prices of other commodities. However, if this did happen, they would be concerned if these products included bread and milk, where there is near-price parity between supermarkets and smaller retailers.

8.48. Minimum pricing per unit could encourage an increase in advertising, which may run counter to the aims of the legislation. The Scottish Government acknowledges that the imposition of minimum pricing will constrain price competition and that this may lead to an increase in non-price competition, including increased advertising or marketing. Through the evaluation programme of studies (see paragraphs 9.26 – 9.32) research has already been commissioned to consider the impact on, and response of, the alcohol industry to minimum pricing.

Benefits to retailers – on-trade

8.49. On average, on-trade prices are well above any potential minimum price. Table 10 above shows that for a 50p per unit, revenue in the on-trade is estimated to decrease slightly (e.g. £7 million per year, a 0.7% reduction) while off-trade revenue is estimated to increase substantially (e.g. £41 million per year, a 9.6% increase). This is because, although prices in the on-trade are unaffected, the effect of cross-price elasticities²⁴¹ (i.e. people's switching behaviour) means that changes in off-trade prices lead to a slight reduction in total sales volumes. In the off-trade, total sales volumes decrease as consumers purchase less alcohol. However, this is offset by the additional revenue gained due to the higher prices following the implementation of minimum pricing.

8.50. The average price of a unit of alcohol in the on-trade in 2016 was £1.79, whilst for the off-trade it was 53p²⁴². A minimum pricing policy is therefore much more likely to affect the off-trade sector than the on-trade sector. In 2012, (reported in the BRIA) the Scottish Licensed Trade Association²⁴³ considered that few products in the on-trade would be affected at a 50p per unit minimum price. This position has not changed.

²³⁹ Record, C. and Day, C. (2009) *Britain's alcohol market: how minimum alcohol prices could stop moderate drinkers subsidising those drinking at hazardous and harmful levels*, Clinical Medicine vol 9(5), 2009

²⁴⁰ Op. cit., through correspondence with Scottish Government, September 2011

²⁴¹ Changes in demand for one good in response to a change in the price of another: discussed in para 8.63 and Annex A paragraph 73

²⁴² <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

²⁴³ Scottish Licensed Trade Association input to Business and Regulatory Impact Assessment through correspondence with Scottish Government, September 2011

Benefits to wholesalers

8.51. Minimum pricing is estimated to result in increased revenue to the alcohol industry as a whole. Wholesalers deal mainly with smaller retailers on a trade to trade basis, and considered they will see very little change. In the 2012 BRIA, in common with SGF, they considered that the introduction of minimum pricing may result in their customers being better able to compete with larger retailers.

Benefits to producers

8.52. A 50p minimum unit price is estimated to generate an overall increase (excluding VAT and duty) of £34 million per annum to the industry with an increase in the off-trade and a small decrease in the on-trade sectors. It was beyond the remit of the modelling to consider where the change in revenue may accrue. We do not know how any increased revenue would be distributed across the supply chain within this highly segmented market and the extent to which producers may benefit.

8.53. The 2012 BRIA reflected the various views expressed by producers on what might happen to any increased revenue, including whether any additional revenue would be retained by retailers. One view was that, if retailers were to hold down the price of premium products and so undermine a brand's position in the market, producers would seek to raise prices to retailers in order to maintain the brand's position. Others considered that how any additional revenue was shared would be part of a commercial conversation between retailers and suppliers.

Benefits to local government and public bodies

8.54. As outlined in paragraphs 8.21 to 8.32, there are likely to be substantial savings in terms of health, crime and employment. Local authorities, for example, would benefit from the estimated reductions in crime and associated police and court costs. It is not possible to place an accurate cost on the potential saving to local authorities and public bodies.

Benefits to central government

8.55. As outlined in paragraphs 8.21 to 8.32, there are likely to be substantial savings in terms of health, crime and employment. Central government, for example would benefit from the estimated reductions in NHS demand and an increase in the productivity of the workforce more generally. It is not possible to provide an accurate estimate of the amount of saving directly accrued by central government.

COSTS

Costs to consumers

8.56. On the introduction of a minimum price, consumers directly affected will be those who previously purchased products priced below this. In particular, the evidence suggests that this will mainly be hazardous and harmful drinkers. Using increased price to manage the demand for alcohol is recommended by the WHO as one of the most effective interventions available to reduce consumption and associated harm. However, without an accompanying increase in income (which would negate the effect) policies which increase price are likely to be regressive. The 2016 University of Sheffield report estimated that, in all taxation scenarios modelled, spending would increase across all groups of drinkers, including those in poverty. But for a 50p minimum unit price, harmful drinkers in poverty are actually estimated to reduce spending. This is because taxation affects the price of all products, whereas a minimum price affects only cheaper products, but to a greater extent, changing relative prices²⁴⁴.

8.57. Analysis of Scottish Health Survey 2016 data²⁴⁵ shows that 16% of adults over 16 years old were non-drinkers, 58% were moderate drinkers and 26% drank at hazardous/harmful levels²⁴⁶. Those who drink moderately should be largely unaffected by minimum pricing by virtue of consuming a relatively small amount of alcohol.

8.58. Analysis of SHeS 2015 and 2016 data by income quintiles found that 79% of men and 90% of women in the lowest income quintile did not drink or drank moderately. However, this group were also the most likely to drink at harmful levels (9% of men and 3% of women). Furthermore, and significantly, average weekly consumption among low income harmful drinkers was much higher than among other harmful drinkers. This was 91 units for men and 60 units for women, compared to 75 and 51 units respectively for harmful drinkers in the highest income group (data for 2013/14/15/16 combined)²⁴⁷.

8.59. The Scottish Government is aware that, for those who drink very heavily and/ or who are dependent drinkers, a minimum unit price of 50p could have a large impact on the cost of the alcohol they are currently consuming. There is also an awareness of the possible strategies that dependent drinkers might employ if unable to maintain their previous level of consumption (e.g. potential for substitute behaviours or an increase in acquisitive crime). None of these unintended consequences is a reason not to introduce the policy, and Alcohol and Drug partnerships (ADPs) are aware of the possible increase in demand for their services. The consultation response from the Scottish Directors of Public Health, along with Scottish Health Promotion Managers and the Public Health Special Interest Group, noted the potential for increased demand on specialist services but welcomed the introduction of a minimum unit price and, in particular, the potential

²⁴⁴ Section 4.3.4 from 2016 University of Sheffield report for the Scottish Government

²⁴⁵ Scottish Government (2017) *Scottish Health Survey 2016 - Volume 1: Main report*, Edinburgh: Scottish Government <http://www.gov.scot/Publications/2017/10/2970/0>

²⁴⁶ Above 14 units/week

²⁴⁷ Scottish Government statisticians analysis of Scottish Health Survey data.

to impact on health inequalities²⁴⁸. This recognition that there is the potential to have significant impact on the heaviest of drinkers is reflected in a specific research study within the evaluation portfolio looking at the impact on harmful drinkers²⁴⁹.

8.60. Analysis on expenditure data published by SHAAP²⁵⁰ showed that all income groups purchase low price off-sales alcohol and confirmed that low income households are less likely to purchase off-sales alcohol at all. Further, it concluded that the relationship between income group and the amount of alcohol purchased at the cheapest price (below 30p a unit) is not particularly strong, and that middle-to-higher income groups were the main purchasers of alcohol priced between 30p and 50p. When propensity to purchase alcohol is taken into account, the lowest income groups are among the least likely to buy cheap alcohol. However, for those in low income groups who do buy alcohol, cheap alcohol makes up a proportionally larger share of the total alcohol bought.

8.61. A further paper²⁵¹ also demonstrated that low-income households are not the predominant purchasers of any alcohol or even of cheap alcohol. It found that, at the population level, minimum pricing in the UK is unlikely to be significantly regressive. It concluded that minimum pricing will affect the minority of low-income households that purchase off-trade alcohol and, within this group, those most likely to be affected are households purchasing at a harmful level.

8.62. In oral evidence to the Health and Sport Committee of the Scottish Parliament, a senior research consultant at the Institute for Fiscal Studies (IFS) described how their work had estimated that, while minimum pricing could potentially have a slightly bigger effect on lower-income groups, this would not be substantial²⁵².

8.63. Consumers can be expected to respond to changes in price by reducing their consumption of an alcoholic product if the price increases, or by switching to alternative products (substitutes) whose relative price has decreased. The extent to which this happens will depend on consumers' price responsiveness, known as own-price elasticity (PED) and cross-price elasticities (XED) of demand, which will determine change in consumption and switching behaviour.

8.64. Knowledge of price elasticities is crucial in determining, for example, the impact of the change in duty rates. HMRC has a costing model in which price elasticities are one of the most important inputs. Their most recent work estimating elasticities, *Estimation of price elasticities of demand for alcohol in the United Kingdom*²⁵³, lists over 30 studies²⁵⁴ which they consider show that "there is fairly

²⁴⁸ Response to SG consultation January 2018

²⁴⁹ <http://www.healthscotland.scot/media/1677/mup-proposed-portfolio-nov-2017.pptx> slide 10

²⁵⁰ Ludbrook, A. (2010) *Purchasing patterns for low price off-sales alcohol: evidence from the Expenditure and Food Survey*; Edinburgh: SHAAP

²⁵¹ Ludbrook, A. at al. (2012) *Tackling Alcohol Misuse: Purchasing Patterns Affected by Minimum Pricing for Alcohol*, Applied Health Economics and Health Policy, Volume 10, Number 1

²⁵² Andrew Leicester, Senior Research Consultant, Institute for Fiscal Studies in oral evidence to the Health and Sport Committee, 24 January 2012

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6852&mode=pdf>

²⁵³ Sousa J. (2014) *Estimation of price elasticities of demand for alcohol in the United Kingdom HMRC Working paper 16*, London: HMRC

conclusive and longstanding evidence that price has a negative impact on alcohol consumption in the UK”²⁵⁵.

8.65. Estimates of elasticity are crucial to the Sheffield Model, which essentially works in two stages. The first stage models elasticities taking into account on and off-trade, different types of products and different categories of drinker. The analysis has found that most products are substitutes to each other so a price increase in one product leads to increased consumption of other goods (switching)²⁵⁶.

8.66. The Sheffield Model (2016) separated drinkers into the categories moderate, hazardous and harmful and by those in, and not in, poverty. The results show that, whilst the introduction of a minimum price for a unit of alcohol leads to a decrease in consumption, it would result in an increase in consumers’ spending for hazardous drinkers and harmful drinkers not in poverty, whilst harmful drinkers in poverty would see a decrease in spending. Hazardous and harmful drinkers would be most affected as they consume the most alcohol and tend to consume cheaper products. The effects are slightly larger for hazardous and harmful drinkers than for moderate drinkers, i.e. they are more responsive to price change. Table 11 shows the estimates for changes in consumption and spending for the proposed minimum price of 50p:

- the moderate drinker is estimated to reduce mean annual consumption by 4.1% (for those drinkers in poverty) with no increase in spend, and by 0.8% (for those drinkers not in poverty) with an increase of £2 per annum;
- the hazardous drinker is estimated to reduce mean annual consumption by 6.1% (for those drinkers in poverty) with an increase in spend of £1 per annum, and by 2.1% (for those drinkers not in poverty) with an increase of £16 per annum;
- the harmful drinker is estimated to reduce mean annual consumption by 15.1% (for those drinkers in poverty) with a decrease in spend of £88 per annum, and by 5.4% (for those drinkers not in poverty) with an increase of £20 per annum.

²⁵⁴ *Ibid*, Table 2A

²⁵⁵ *Ibid*, page 7

²⁵⁶ Tables 2.1 and 2.2 Purshouse, R. Meng Y, Rafia R, Brennan A. (2009) **‘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’**, *SCHARR, University of Sheffield*

Table 11: impact of a minimum unit price of 50p on consumption and spend by drinker & poverty groups²⁵⁷

	Moderate		Hazardous		Harmful	
	In poverty	Not in poverty	In poverty	Not in poverty	In poverty	Not in poverty
Drinker population	345,308	2,314,021	83,404	758,402	31,248	208,089
	Consumption					
Baseline consumption per drinker per year (units)	238	323	1,456	1,396	4,499	3,348
Absolute change per drinker per year (units)	-9.8	-2.7	-88.1	-29.7	-680.9	-180.9
Relative change per drinker per year	-4.1%	-0.8%	-6.1%	-2.1%	-15.1%	-5.4%
	Spend					
Baseline spending per drinker per year	£230	£378	£1,102	£1,204	£2,484	£2,341
Absolute change per drinker per year	£0	£2	£1	£16	-£88	£20
Relative change per drinker per year	-0.2%	0.6%	0.1%	1.4%	-3.5%	0.8%

8.67. In the 2012 BRIA, some producers considered product ranges could be reduced, thereby resulting in less choice for consumers. This could be in different ways, for example, retailers are only able to display alcohol in a pre-determined alcohol display area so they could choose to reduce the product range in order to concentrate on those products that deliver consistent sales. It is not known which products these might be, given it is not known what the shift in consumer behaviour might be. As many logistics operations are UK-wide, significant changes may have to be made as a result of minimum pricing which may incur excess cost to the industry and may result in a reduction in consumer choice.

²⁵⁷ Angus C, Holmes J et al (2016) tables 4.7 and 4.9

Costs to retailers – off-trade

Sales

8.68. For a 50p minimum unit price scenario, the Sheffield Model estimates an increase in revenue to the alcohol industry as a whole (note this is revenue, not profit). For a 50p minimum unit price, it is estimated to result in a net increase (excluding VAT and duty) of £34 million per annum, with £41m in increased revenue to the off-trade. Any effect on retailers would need to take into account that this overall impact is estimated to be as a result of a reduction in the volume of sales but with increased prices.

8.69. Alcohol industry sales data²⁵⁸ shows that 46.9 million litres of pure alcohol was sold through both the on and off-trade in Scotland in 2016. Of this, 73% was sold through the off-trade and just over a quarter (27%) through the on-trade.

Within the off-trade sector:

- 33% was sold as spirits (of which 40% was vodka and 21% blended whisky);
- 32% as wine;
- 23% as beer;
- 7% as cider; and
- <1% as RTD²⁵⁹.

93% of the difference in off-trade sales between Scotland and England & Wales, in 2016, was due to higher off-trade sales: 63% of the off-trade difference was due to spirits sales; and per adult sales of vodka through the off-trade in Scotland were 2.1 times higher than in England & Wales²⁶⁰.

8.70. The Sheffield Model's focus is on the impact on alcohol-related harm, in particular health harms (as discussed in paragraphs 8.21 to 8.29), not the impact on the industry.

8.71. However, it estimated that, on average, demand for alcohol would reduce by an average of 26.3 units per drinker per year, equivalent to 98.4 million units per year in total. Sales data shows that 51% of alcohol sold in the off-trade in 2016 retailed at less than 50p per unit. It is this alcohol that will require to rise in price and, subsequently, from which a reduction in demand is expected.

8.72. The 2016 sales data showed that 62% of spirits (of all kinds) were sold below 50p per unit. In terms of the scale of impact, if the reduction in demand was proportionate to the distribution of sales then that would represent a reduction in demand for spirits of around 1.2 million bottles (assuming an ABV of 37.5%).

²⁵⁸ Nielsen CGA Dataset: Alcohol Sales <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

²⁵⁹ Nielsen price Band Dataset op.cit . RTD = ready to drink, premixed products

²⁶⁰ MESAS monitoring report Sales <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

8.73. Sales data for 2016 indicate that, in terms of pure alcohol, the proportions sold below 50 pence per unit were as follows:

- 72% of vodka;
- 59% of whisky;
- 64% of beer;
- 71% of cider; and
- 29% of wine.

8.74. It is not just the proportion of sales affected that matters, but also the degree of price increase required to comply with legislation. This will vary with the product due to different price distributions. For example, as shown above, 71% of cider retailed at less than 50p per unit, with 56% at less than 40p per unit, whereas although 64% of beer retailed below 50p per unit, only 35% was below 40p per unit.

8.75. Large and small retailers are likely to be affected differently. Larger retailers sell large volumes of popular brands (often priced very competitively) and also a greater range of products. In the 2012 BRIA, convenience stores' representatives said that they needed to maintain low prices to compete with supermarkets, particularly as supermarkets continued to develop their "convenience store" format (such as Tesco Metro and Sainsbury's Central) putting pressure on independent retailers to compete with them on price. They considered it was unlikely that retailers would use the additional revenue to reduce the prices of other commodities. However, if this did happen, they would be concerned if these products included bread and milk, where there is near-price parity between supermarkets and smaller retailers.

Implementation costs

8.76. There will be costs to retailers associated with the implementation of a minimum pricing scheme such as re-pricing products, altering bar codes, shelf tickets and price lists. Retailers will also have to ensure staff are familiar with the legislation. In the short term, this is likely to mean local training to raise awareness and understanding amongst staff on complying with the mandatory condition of minimum pricing. The Licensing (Scotland) Act 2005 makes it mandatory for personal licence holders to undertake prescribed training every five years. Awareness of complying with the mandatory condition of minimum pricing will need to be included in the prescribed training.

8.77. Those retailers that operate on a UK-wide basis may incur costs associated with a different pricing and promotion regime operating in Scotland. These retailers are predominantly large supermarket chains who potentially have the resources available to investigate the most cost-effective method of implementing differential pricing across stores in different parts of the UK. Given large retailers may also increase their revenue on the introduction of minimum pricing, we do not believe the net cost of implementation costs will be substantial.

8.78. A study on how often prices change for products in supermarkets, using weekly scanning data collected by Nielsen (including alcohol), showed that around 40% of prices in supermarkets change frequently. Around 25% of changes are adjusting for temporary reductions and, in any one week, 29% of alcohol prices rose and 29% fell²⁶¹. Any changes in alcohol duty imposed by the UK Government also result in the need to re-price, and often at very short notice (for example, at midnight that same day). As stores adopt electronic pricing which can be easily varied (surge-pricing systems), changing prices is becoming more common. Retailers do state that manual re-pricing can still be required, even in larger outlets, for example for individual items that have come from a broken multipack.

8.79. The 50p per unit minimum price will determine the proportion of products which will require re-pricing following the introduction of a minimum price (the price distribution shown in Figure 8, paragraph 5.69 provides an indication). The Scottish Government is working with retailers in order to identify how best to achieve implementation, and is discussing any issues which might need addressed. The Scottish Government is in the process of producing guidance on the implementation of minimum unit pricing in consultation with relevant parties such as business organisations, retailers, wholesalers, producers, Licensing Standards Officers, Police Scotland, Licensing Clerks to the Licensing Boards. The Scottish Government will continue to work with retailers following implementation.

8.80. Additional costs are likely to be less for stores with head office support and/or electronic pricing. However, for independent and unaffiliated retailers, this may be equivalent to one member of staff for up to several days. If it is assumed that one shopfloor worker earning £7.50 per hour (national living wage for 25 years and over)²⁶² is employed for 16 hours, this would cost the employer approximately £145 per worker (including costs). It is unclear how many retailers would be affected in this way. It will also depend on the number of products in the shop that will be affected by the minimum price, as not all products will need to have a price change. In March 2017, there were around 16,678 premises licence in operation in Scotland²⁶³. Of these, 5,091 were for off-sales only. Assuming this cost applied to all gives a total incurred cost of around £738,000. The actual figure will be less than this given not all off-sales premises will be affected and not all products in off-sales will be affected.

8.81. Wholesalers may choose to increase prices in the knowledge that retail prices of certain goods have increased, but that will be for individual companies within the supply chain to determine. Where wholesalers hold a premises licence, they will need to ensure they comply with minimum pricing.

²⁶¹ Ellis, C (2009). *Do supermarket prices change from week to week?*, Bank of England Working Paper No. 378

²⁶² <https://www.gov.uk/national-minimum-wage-rates> accessed 10 November 2017

²⁶³ Scottish Government (2017) Statistical Bulletin Crime and Justice Series: Scottish Liquor Licensing Statistics 2016-17 Edinburgh: Scottish Government
<http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/PubLiquor/LiquLic201617>

8.82. The 2012 BRIA reflected the view that some producers considered there would be increased costs in allowing for two different pricing systems north and south of the border. Since the introduction of the multi-buy ban in Scotland (and not in England), there will already be different pricing systems to some extent. Arguably, multiple grocers would be able to absorb these costs, but independent and unaffiliated retailers would be potentially less able to, so their overall business performance could be impacted.

Cross-border sales

8.83. There may be a loss of trade for Scottish retailers due to an element of cross-border alcohol tourism in order to take advantage of those areas in the UK that do not have minimum pricing in place. Within the EU, according to Cnossen²⁶⁴, around 12% of the population of the EU live near a border with another member state. In other jurisdictions where there are different costs on either side of a border, which may be due to different currencies, different taxation regimes, or as in Canadian provinces, minimum pricing for alcohol, there is an incentive to cross the border to purchase goods. A paper examining cross-border shopping between Sweden and Finland confirmed that the lowering of alcohol taxes in Finland in 2004 had an effect on trade but, in common with evidence for the US, it found that those most likely to take advantage of it were the more affluent. These are not those at most risk of alcohol-related harm²⁶⁵.

8.84. Other Scandinavian studies have also analysed sales of alcohol and tobacco in Norway, both close to the border with Sweden (where the tax is lower) and further away. In one, revenue from these products was lower for Norwegian stores near the border, but consumers there reported higher consumption than those further away. This suggests cross-border shopping by a number of Norwegian households. They also found that measures of externalities were higher near the border. The authors concluded that large tax differentials near borders induce tax avoidance behaviour²⁶⁶. This behaviour was confirmed by two other studies²⁶⁷.

8.85. Cross-border shopping is most likely to occur when it is easy and convenient, thus incurring little cost, and/or where the incentive, i.e. the price differential, is great enough to counterbalance any additional cost incurred. In Scotland, this will be around the border where it is convenient to shop in England. Most of the Scottish population live a considerable distance from the English

²⁶⁴ Cnossen S (2007) Alcohol taxation and regulation in the European Union. *International Tax and Public Finance*. 14(6) 699-732

²⁶⁵ Johansson P, Pekkarinen T, Verho J, (2014) Cross border health and productivity effects of alcohol policies. *Journal of health economics*. 36 125-136

²⁶⁶ Beatty, T., Larsen, E., and Sommervoll D. (2009) *Driven to Drink. Sin taxes near a border*, Journal of Health Economics, 28, 1175 - 1184

²⁶⁷ Asplund M, Friberg R, and Wilander F. (2005). *Demand and Distance: Evidence on Cross-Border Shopping*. CEPR discussion paper. Agarwal S, et al (2013) Cross-Border Shopping: Do Consumers Respond to Taxes or Prices?

border, with only 5%²⁶⁸ of the population living in the areas adjacent to the English border, in the Scottish Borders and Dumfries and Galloway.

8.86. The majority of the population (around 70%) live in the Central Belt, with Glasgow and Edinburgh being the most populated cities. A round trip from Glasgow to Carlisle (the nearest large town across the English border) involves a journey of just under 200 miles. Assuming an average of 50 miles per gallon, and a fuel cost per gallon of around £5.36 (equivalent to 118p per litre²⁶⁹) the journey would cost over £21 in petrol/diesel alone and take around four hours. Additional variable running costs of around 8p per mile²⁷⁰ (based on an annual mileage of 15,000 miles and an engine size of 1.2-1.6l) adds £16 to the cost. The total travel cost is therefore £37. This excludes any valuation of the time cost of around four hours. On the east coast, Berwick upon Tweed is around 57 miles from Edinburgh, so a similar costing would result in a total travel cost of £21, with a time cost of around three hours.

8.87. Travel primarily to buy alcohol would be incentivised by a significant price differential between Scotland and England. As previously described, it is anticipated that certain products will be more affected than others. Assuming that alcohol products in England do not rise in price, for bottles of spirits, for which at the lower end of the market £11 is a common price point for vodka (ABV 37.5%), you would need to buy 17 bottles to break even for a trip to Carlisle and 10 bottles for a trip to Berwick. For cider, if buying the 2L bottles currently retailing at £2.05 (ABV 5%) you would have to buy 13 bottles for a trip to Carlisle and eight bottles for a trip to Berwick. Whilst this is possible, it represents a significant up-front cost (£224 for the vodka example for a trip to Carlisle, and £131 for a trip to Berwick).

8.88. In the 2012 BRIA, the example cited was of higher sales of alcohol in Northern Ireland due to the increase in the numbers of people travelling from the Republic of Ireland to Northern Ireland to take advantage of cheaper alcohol deals. This issue of cross-border shopping between Northern Ireland and the Republic of Ireland was addressed in a report conducted by the Office of the Revenue Commissioners and the Central Statistics Office for the Irish Department of Finance²⁷¹. The report noted that the main causes of price differentials between goods in Northern Ireland and the Republic are operating costs, profit margin, taxes and, in particular, the value of Sterling against the Euro (depreciation of around 30% between January and December 2008). These are specific circumstances where it is not just alcohol that is cheaper – people are travelling to do all their shopping. Intertrade Ireland confirm that the main drivers for cross-border shopping are economic factors, such as price differentials and exchange rate

²⁶⁸ From General Register Office for Scotland, *Mid 2016 Population Estimates Scotland*, Table 2. <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2016/list-of-tables>

²⁶⁹ UK and overseas petrol and diesel prices - October 2017
<http://www.theaa.com/driving-advice/driving-costs/fuel-prices>

²⁷⁰ AA Running Costs tables: <http://www.theaa.com/resources/Documents/pdf/motoring-advice/running-costs/petrol2014.pdf>

²⁷¹ Office of the Revenue Commissioners and the Central Statistics Office (2009) *The Implications of Cross Border Shopping for the Irish Exchequer*
<http://www.finance.gov.ie/documents/publications/reports/2009/crossborderrefb09.pdf>

fluctuations²⁷². The impact²⁷³ of fluctuations in exchange rates has been seen again in 2016, when the value of Sterling dropped after the vote to leave the European Union (with the subsequent 10-12 per cent rise in the value of the Euro against Sterling).

8.89. As set out in section 9, the Scottish Government is committed in legislation to evaluate the impact of minimum pricing five years after the implementation of the policy. Within the research portfolio²⁷⁴, a number of the studies will collect data and information which are expected to provide understanding of any cross-border effect.

Internet sales

8.90. Minimum pricing will apply to all sales of alcohol licensed under the 2005 Act. This includes premises in Scotland supplying internet sales. Therefore, consumers who regularly buy their weekly groceries online, including alcohol, would be affected by minimum pricing, as these orders are normally despatched locally, i.e. within Scotland. It is worth noting that, in 2016, Amazon was granted premises licences for two Scottish distribution centres, bringing them within the scope of the Licensing (Scotland) Act 2005²⁷⁵.

8.91. Where alcohol is purchased through the internet or mail order and despatched from outside Scotland, these sales are not subject to the 2005 Act and so minimum pricing will not apply. Like the potential for cross-border shopping, the incentive to buy from outwith Scotland via the internet will be greater the bigger the price differential between the price of alcohol in Scotland and elsewhere, combined with the volume of goods being purchased.

8.92. The Office for National Statistics (ONS) estimates that internet sales account for 16.9% of all retail sales values excluding automotive fuel²⁷⁶. A separate figure for alcohol sales via the internet is not available from ONS. Market research reports show around 21% of UK consumers had bought alcohol online, behind only China (27%) and Japan (22%). This compares to a global average of around 8%²⁷⁷. The report, from Profitero, cited factors including the continued migration from in-store to online as well as the expansion of click and collect, home delivery and the ability to compare products and check prices. It also referenced convenience and consumer access to an “endless aisle” of products as contributing to shoppers favouring online buying. None of these factors would necessarily

²⁷² Inter Trade Ireland <http://www.intertradeireland.com/researchandpublications/trade-statistics/cross-border-shopping/>

²⁷³ “Border towns boom time as southern shoppers flock to Northern Ireland” <http://www.belfasttelegraph.co.uk/business/news/border-towns-boom-time-as-southern-shoppers-flock-to-northern-ireland-35192961.html>

²⁷⁴ <http://www.healthscotland.scot/publications/minimum-unit-pricing-evaluation-portfolio>

²⁷⁵ Miller Samuel Hill Brown Solicitors Blog. *Alcohol to order...* <https://www.mshblegal.com/Licensing-Blogs/Licensing/alcohol-to-order.html>

²⁷⁶ ONS. Retail Sales – October 2017 <https://www.ons.gov.uk/businessindustryandtrade/retailindustry/bulletins/retailsales/october2017#whats-the-story-in-online-sales>

²⁷⁷ Arabella Mileham *UK LEADS EUROPE FOR ONLINE BOOZE SALES* The Drinks Business 2017 <https://www.thedrinksbusiness.com/2017/04/uk-leads-europe-for-online-booze-sales/>

preclude dispatch from within Scotland, although they do point to the possible growth of food and drink shopping online from, in particular, large retailers with access to wider ranges of goods.

8.93. The Scottish Government is aware of the possible purchasing route from other jurisdictions, via the internet, but considers that the type of alcohol that will be largely affected by a minimum pricing policy is not routinely purchased in this way. Much of the sales online are driven by demand for niche products such as craft beers – and also increasingly gins – from an audience of enthusiasts. Stores have also been able to increase sales by offering subscription bottle box schemes (similar to wine clubs) with a regular box of different beers determined by the retailer or the preferences of the customer²⁷⁸. The relatively expensive nature of these products, and the subscription cost, if applicable, means that a minimum price of 50p per unit is unlikely to impact on this service.

8.94. Purchasing from the internet involves a time lag between purchasing and receiving the goods which means it is not suitable for immediate or impulse purchases. This makes it less likely as a source for those for whom widely available cheap alcohol both facilitates and encourages regular and impulse purchases. Home delivery, if that is simply delivering from a local store to the customer's home (both within Scotland) via either a telephone or online order, would be subject to the legislation.

8.95. The Scottish Government is aware that this is a developing market, that online sales are increasing and that minimum pricing could provide an incentive to purchase alcohol via the internet from outwith Scotland. This makes it a market segment which will require careful monitoring, and it is included within the evaluating and monitoring programme for minimum pricing.

Illegal sales

8.96. Illicit alcohol could be either alcohol on which the appropriate tax and duty has not been paid or counterfeit alcohol products. The former could, at present, be goods brought in from other parts of the EU where duty is lower and sold on illegally. Under minimum pricing, these could include goods bought in other parts of the UK and sold on below the minimum price. This would be illegal. Police Scotland does not consider there is a significant problem with either the production or sales of illicit alcohol in Scotland. This is confirmed by both HMRC and Trading Standards²⁷⁹. It is worth noting that HMRC estimates that in 2015/16, for spirits, the illicit market was in the region of 6% of the spirits consumed in the UK, 12% for beer and 3% for wine in their respective markets²⁸⁰.

²⁷⁸Glynn Davis *UK's serious thirst for alcohol online* Retail Insider <http://www.retailinsider.com/2017/05/uks-serious-thirst-alcohol-online.html>

²⁷⁹ Scottish Government discussions with Police Scotland which also covered HMRC and Trading Standards

²⁸⁰ HMRC *Measuring tax gaps tables 2017*. <https://www.gov.uk/government/statistics/measuring-tax-gaps-tables>

8.97. Like individual purchases of alcohol from across the border, the incentive for trafficking on any scale would depend on the price differential between Scotland and the rest of the UK. The Scottish Government does not consider that the differential is likely to be such as to incentivise this kind of activity. In giving evidence to the Health and Sport Committee during 2010, Chief Constable Pat Shearer of Dumfries and Galloway stated that illegal sales have never been a major issue, but they would assess whether it was becoming one after the introduction of minimum pricing²⁸¹. Police Scotland has confirmed this view again to the Scottish Government in 2018. The potential for illegality is not a justification for failing to introduce a policy estimated to deliver significant individual and societal benefits, including a reduction in crime.

Home production

8.98. Home production of alcohol is currently considered to be undertaken on an insignificant scale, and it is unlikely that a minimum unit price of 50p will result in a major increase in this activity. Whilst home production of alcohol will result in cheaper alcohol in the longer term, it involves initial expenditure in purchasing the equipment and materials required²⁸². Time and effort from the individual will also be required during the production process, and it will take from days to weeks for the end result to be realised. The Scottish Government considers these factors are likely to make the home production of alcohol unattractive to those that are most likely to drink the alcohol affected by minimum pricing.

8.99. The 2016 sales data estimated that 51% of off-sales were retailing at below 50p per unit. Of these sales, 40% were spirits, 29% beer, 18% wine, and 10% cider. It is much more usual for wine, beer and cider to be made at home. As regards spirits, HMRC Excise Notice 39: spirits production in the UK²⁸³ states that the production of spirits by a person who does not hold a distiller's licence is an offence for which there are financial penalties, and that a licence will not be issued to produce spirits for individual use.

Costs to retailers – on-trade

8.100. The Scottish Government's proposed minimum unit price of 50p falls well short of the average price of £1.79²⁸⁴ per unit in on-trade premises in 2016, so any negative impact on the on-trade is likely to be marginal. The alcohol market is complex and changes in price induce changes in behaviour including switching between products and between on and off-sales. Overall, at a 50p minimum unit price, the most recent modelling estimates a decrease in revenue after duty and VAT of around £7 million per annum (0.7% of revenue)²⁸⁵.

²⁸¹ Chief Constable Pat Shearer in oral evidence to Health and Sport Committee on 17 March 2010, col 2982

²⁸² Information taken from <http://www.lovebrewing.co.uk/>

²⁸³ <https://www.gov.uk/government/publications/excise-notice-39-spirits-production-in-the-uk>

²⁸⁴ Giles L, Robinson M. *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland; 2017.

²⁸⁵ Angus C et al *Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland*. April 2016. SHARR University of Sheffield

Costs to wholesalers

8.101. Minimum pricing is a mandatory condition of a premises and occasional licence. Therefore, where a wholesale business has a licence, it will need to comply with minimum unit pricing. A wholesaler which sells to both trade and the public will have to ensure that it complies with the new mandatory condition on its licence. Wholesalers only selling alcohol trade-to-trade do not require a licence, so minimum pricing will not apply. Minimum pricing is estimated to result in increased revenue to the alcohol industry of £34 million as a whole. Wholesalers may benefit from a portion of this revenue, depending on their market power within the supply chain.

8.102. Wholesalers may be affected indirectly by the decrease in the volume of overall sales, although the modelling estimates that there will be an increase in their value. The extent of the decrease is likely to vary across different types of alcohol. For example, a minimum unit price of 50p is likely to impact on a larger proportion of cider, beer and spirits than of wine.

Costs to producers

8.103. Minimum pricing is estimated to result in increased revenue to the alcohol industry as a whole. For a 50p per unit minimum price, the modelling estimates increased revenue to the alcohol industry (excluding VAT and duty) of £34 million per annum. It was beyond the remit of the modelling to consider where the change in revenue may accrue, i.e. whether the estimated increases benefit retailers, wholesalers or producers, or all of them to some extent. The alcohol market is highly segmented and this makes identifying potential effects difficult. For different products, where the additional revenue accrues will depend, to some extent, on the relative market power of different actors in the supply chain and negotiations between them.

8.104. Producers considered that a reduction in sales could also have an effect on suppliers of such items as bottles, labels, cases, etc, and further back along the supply chain it would impact on transport, farmers, maltsters and ultimately investment.

8.105. The supply side reaction to the introduction of a minimum price is not known, and there are differing views within the industry resulting in different scenarios. It remains difficult to predict the impact on producers, including identifying which types of producer are likely to be most affected. It is possible that, in some sectors, minimum pricing will incentivise producers to produce lower strength alcohol products as these would retail more cheaply. For others, this is not an option; for example, Scotch Whisky production which must have a minimum bottling strength of 40%.

8.106. Producers that are likely to be most affected by a minimum price are those whose production consists of a significant volume of products which routinely retail below 50p per unit. One of the scenarios put forward by producers is that own/private label products will not exist in the market after the introduction of minimum

pricing. Whilst the market may respond in this way, it is likely that some alcohol will retail at the threshold determined by a minimum price of 50p per unit, i.e. the cheapest price allowed. Products may be branded differently; much will depend on decisions around marketing and retail pricing for brands. It is possible that the companies previously supplying own/ private label will continue to supply this alcohol, but perhaps in reduced quantities. It is also possible that companies may change their product emphasis, for example, moving from producing cheaper alcohol to premium products.

Cider

8.107. In the case of ciders, the market leader for cheaper ciders, Strongbow²⁸⁶ is made by a subsidiary of Heineken which is a major drinks company producing a whole range of alcohol products. It is likely to be affected to a very minimal extent by minimum price, due to the diversity of their products and their international sales base.

8.108. Frosty Jack's is one of the best known of the "white"²⁸⁷ ciders and is among the top five best-selling ciders in the UK. Its market is not confined to Scotland and, for example, it does not feature in the Scottish Grocer's list of Scotland's most valuable alcohol brands for 2016²⁸⁸. It is manufactured by an independent cider making company in England which includes own/ private label, and premium brands, within its portfolio of products²⁸⁹.

Spirits

8.109. For the 2012 BRIA, two companies were identified as being significantly involved in own/ private label whisky production in Scotland: Whyte & Mackay and Glen Catrine. Both of these companies produce branded products as well as own/ private label and both supply the UK market. Whyte & Mackay's blended whisky remains among the top 20 spirits brands (by natural volume) in Scotland. Glen Catrine produces a very successful brand of vodka (Glen's), which is now the UK's second best-selling spirit²⁹⁰.

8.110. The Sheffield Model estimates that there will be an increase in the value of sales but a decrease in the volume overall. The impact will vary across types of alcohol and between on and off-trade. For a 50p per unit minimum price, the modelling estimates that on average there would be a reduction of 26.3 units per drinker. Using the population and consumption data in the University of Sheffield report (a drinking population of 3,740,472), the total reduction would be over 98 million units in a year. Assuming the reduction was apportioned in the same way as sales, then approximately 30% of that reduction would come from spirits sales, equivalent to around 29 million units or 2% of sales. This represents around one,

²⁸⁶ This is *not* a strong white cider

²⁸⁷ "White Cider" is made by processing cider after the traditional brewing process is complete, resulting in a nearly white product. This allows the production of a strong (typically 7-8% ABV) cider cheaply, quickly, and on an industrial scale.

²⁸⁸ Scottish Grocer March 2017 *Off trade - Scotland's most valuable brands 2017*

²⁸⁹ <http://www.astonmanor.co.uk/about/>

²⁹⁰ <http://glensvodka.com/original-vodka.php>

million bottles of spirits a year across all types of spirits (vodka, gin, whisky, rum etc.) and both imported and domestic products.

8.111. It should be noted that around 93% of Scotch Whisky is exported²⁹¹. SWA has previously suggested that around 20% of the UK domestic sales are in Scotland, which implies only around 1.5% of total production is sold in Scotland²⁹². If the same percentage decrease applied across all spirit categories, this would mean a reduction of less than 0.2% of total whisky production as a result of the introduction of minimum pricing. This should be considered in the wider context of figures showing that, in 2016, the value of exports of Scotch whisky grew by 4% to over £4 billion²⁹³. This growth represented 56 million bottles of whisky. The value of Scotch Whisky exports increased by 3.4% in the first six months of 2017²⁹⁴, although the volume decreased by 2.2%.

Beer

8.112. A minimum price of 50p per unit is likely to result in an overall reduction in consumption of beer, but the impact on brewers is difficult to predict, as is their response to changing market conditions. The most popular well known brands, e.g. Tennents, Stella Artois and Budweiser, like many beers, are available in a variety of individual product and pack sizes. Most of the top selling versions of these brands (shown in Table 15), were, in 2017, selling at less than 50p per unit²⁹⁵. The growth in craft breweries is noted, and their products are unlikely to be affected directly by a minimum price. After the introduction of minimum pricing, their products may appear less expensive in relative terms, making it easier for them to compete.

8.113. The growth in zero alcohol and low strength products (e.g. Diageo's mid strength Guinness, Becks Premier Light and Carling C2) is likely to have been assisted by the 50% duty discount on beer with an ABV of 2.8% or less from 1 October 2011²⁹⁶. The increasing number of people, especially younger people, who drink little or no alcohol has meant both big brewing corporations and craft breweries are introducing new products²⁹⁷. CGA Strategy²⁹⁸ estimate that zero and low ABV beer is now worth nearly £30 million annually to the UK on-trade²⁹⁹. The

²⁹¹ Calculated from HMRC data on alcohol released for UK consumption & Export data for 2016/17

²⁹² Scotch Whisky Industry Review 2009, p.12

²⁹³ SWA Annual review 2015/16

<http://www.scotch-whisky.org.uk/news-publications/publications/documents/swa-annual-review-2016-17/#.WiAvYFI5Pcs>

²⁹⁴ SWA. *Value of Scotch exports grows in first half of 2017* <http://www.scotch-whisky.org.uk/news-publications/news/value-of-scotch-exports-grows-in-first-half-of-2017/#.WiAw5II5Pcs>

²⁹⁵ Nielsen ScanTrack, Scotland, Unit Sales Ranking, 52 weeks Data to 22.04.17

Nielsen ScanTrack, Scotland, Unit Sales Ranking, 52 weeks Data to 22.04.17

²⁹⁶ HMRC Alcohol Duty Rates from 1 October 2011, www.hmrc.gov.uk/budget2011/taxes-main-announcements.pdf

²⁹⁷ The Telegraph, 26 September 2017 *The best low-alcohol beers: craft brewers cut out the booze and boost the flavour.* <http://www.telegraph.co.uk/food-and-drink/beer/best-low-alcohol-beers-craft-brewers-cut-booze-boost-flavour/>

²⁹⁸ CGA Strategy is a company that specialises in market measurement, data and research consultancy of food and drinks brands.

²⁹⁹ <https://www.morningadvertiser.co.uk/Article/2017/05/05/Low-ABV-craft-beer-signals-category-growth>

introduction of a minimum price per unit may further accelerate this growth, given that such products are likely to be unaffected by minimum pricing by virtue of their low unit content.

Wine

8.114. In recent years, there has been a drift towards buying higher strength wine. The introduction of minimum pricing may help reverse this trend, given the price incentive in limiting the ABV. For instance, under a 50p minimum price per unit, a 75cl bottle of 12% ABV wine would retail for a minimum of £4.50 compared to £5.25 for a wine with a 14% ABV.

Raw materials; agriculture

8.115. Both spring and winter barley are grown in Scotland and the UK. Spring barley is the dominant barley crop grown in Scotland, and production is heavily reliant on the strength and long-term confidence of the Scotch Whisky industry. In 2015/16, it is estimated that Scottish grown barley supplied 80-90% of the demand from the Scotch Whisky industry, and Scottish produced malt supplied around 60% of the needs of the Scotch Whisky sector³⁰⁰.

Jobs

8.116. There are currently no specific estimates available on the Scotland-wide impact on employment of the introduction of a minimum price per unit of alcohol. There may be negative and/ or positive effects. Previous iterations of the Sheffield Model estimated that a minimum price of 50p per unit would reduce unemployment among harmful drinkers by 1,300 per annum through their increased ability to participate in the workforce.

8.117. Given the uncertainty in assessing the impact of minimum unit pricing on the market, it is difficult to estimate the impact on jobs in the alcohol industry. In the 2012 BRIA, producers considered there would be job losses for companies heavily involved in own/ private label production. Whilst it is not yet clear what will happen to own/ private label products, it is likely that value products (i.e. products currently priced at or below the minimum price) will still be sold, although in reduced quantities, and likely at the level of the minimum price.

8.118. In written evidence to the Health and Sport Committee in 2012, NHS Scotland³⁰¹ referred to evidence that declining alcohol consumption may not affect employment in the way described by the industry. While the analysis conducted by Anderson and Baumberg³⁰² was on the Europe-wide alcohol market, they stressed that, for each domestic market, there are a number of factors other than demand which will impact on the employment level in the drinks sector. Amongst these factors are consumer preferences (consumption of domestic versus foreign produced goods), consumers' choice of whether to drink in on-trade facilities or at

³⁰⁰ Bell J (2017) *Malting barley trade - UK and Scotland*. SRUC SAC Consulting Division

³⁰¹ Written evidence to the Scottish Government's Health and Sport Committee

³⁰² Anderson, P. and Baumberg, B. (2006) *Alcohol in Europe*, London: Institute of Alcohol Studies (page 57)

home, labour productivity, wage rates, the cost of capital associated with the production process, etc. While acknowledging that further research is needed, the study analysed Eurostat data and found no relationship between trends in employment in hotels, restaurants and catering (and bars) and alcohol consumption. In several countries (e.g. Italy) employment and consumption levels even went in opposite directions.

Effect on market

8.119. As previously reported (paragraphs 6.6 and 8.3), there is no consensus within the alcohol industry (either in 2012 or currently) on the future pricing structure within the market, or on the impact (including availability) on specific types of products or ranges of products after the introduction of a minimum price per unit of alcohol. A variety of views have been expressed by those in the alcohol industry:

- All products in the market would be affected, i.e. both those priced below and those priced above the minimum unit price;
- Only prices below the minimum unit price would be affected;
- There would be a mixture of an impact on prices; unable to be precise;
- The introduction of a price floor would distort the market;
- The value attached to premium brands over value brands would reduce and consumers might switch to other drinks categories;
- Consumers likely to switch to premium brands if the differential between premium and value was reduced;
- The own/ private label market will be decimated and likely de-listed; or
- Supermarkets could maximise profits by continuing to stock own/ private label at the expense of brands.

8.120. As previously referenced, the unpredictability of the market response is recognised in the UK Supreme Court judgment, where Lord Mance concludes:

That minimum pricing will involve a market distortion, including of EU trade and competition, is accepted. However, I find it impossible, even if it is appropriate to undertake the exercise at all in this context, to conclude that this can or should be regarded as outweighing the health benefits which are intended by minimum pricing. In the overall context of the Scottish or, on the face of it, any other market, it appears that it will be minor, though it will hit some producers and exporters to the Scottish market more than others. Beyond that, the position is essentially unpredictable. Submissions that the Scottish Government should have gone further to predict the unpredictable are not realistic. The system will be experimental, but that is a factor catered for by its provisions for review and “sunset” clause. It is a significant factor in favour of upholding the proposed minimum pricing régime.

The impact on the market forms part of the evaluation of minimum pricing.

8.121. The alcohol products that appear most likely to be directly affected by minimum pricing are own/ private label, for which there is no clear consensus on whether supermarkets would continue to sell these. This could be conditional on the price differential between own/ private label and the lower-priced premium brands which would result, so may vary with the product type. Not all own/ private label products are cheap. For example, Tesco Finest 12 year old Highland malt whisky retails at around £25 for a standard 70cl bottle, competes on price with mainstream brands and will not be directly affected by a 50p per unit minimum price.

8.122. In the 2012 BRIA, some producers believed retailers have considerable control over what is sold and have a number of options. They may decide to remove the own/ private label products from the shelves, or maintain the pricing differential between own/ private label and standard blends and so increase their return, or hold down the price of premium products thereby undermining the brand's position in the market. Much will depend on the negotiations between producers and retailers.

8.123. Producers also considered product ranges could be reduced. As retailers are only able to display alcohol in a pre-determined alcohol display area, they could choose to reduce the product range in order to concentrate on those products that deliver consistent sales. They were unable to identify which products these might be, given any shift in consumer behaviour is unknown. A reduced product range would result in reduced choice for consumers. It was also considered that suppliers would find it harder to bring new products onto the market, particularly where the costs of production of a new product are lower.

Off-sales market: product range

8.124. Scottish consumers have a wide range of alcohol products available to them. These are sourced across a number of countries worldwide and, as shown by the sales data, cover a range of prices. Minimum pricing will apply to all products, irrespective of which country produces them. As previously outlined, it is anticipated that the measure will impact mainly on the off-sales segment of the licensed trade. The 2016 sales data estimated that 51% of off-sales were retailing at below 50p per unit³⁰³. Of these sales, 40% were spirits, 29% beer, 18% wine, and 10% cider. It is extremely difficult to predict with any certainty which individual products are likely to be most affected, and the country of origin of such products. The following paragraphs summarise some publicly available information to provide a high-level description of various market segments.

³⁰³ A 2017 briefing note from the Institute of Fiscal Studies suggested that, using a different data source, almost 70% of off-trade alcohol units purchased (i.e. those bought in supermarkets and off-licences) in Britain between October 2015 and September 2016 were priced below 50p per unit <https://www.ifs.org.uk/publications/10252>

Spirits

8.125. Spirits sold in Scotland are both domestically produced and imported. The 2016 sales data shows that whisky was predominantly domestically produced (90%) and accounted for around 7% of total alcohol off-sales. Imported whisky accounted for 10% of sales of whisky. Across all types of whisky, 59% was sold at under 50p per unit with 77% of blended whisky (domestically produced) falling into this category and less than 1% of malt whisky (domestically produced) compared with 17% of imported whisky. A minimum price of 50p per unit would, therefore, impact on both domestic production and imports, with more of the former likely to be impacted.

8.126. Vodka, the majority of which (72%) retailed below 50p per unit in 2016, makes up 13% of total sales, and 19% of all sales below 50p per unit. The top selling vodka in Scotland in terms of sales value was Smirnoff Red, followed by Glen's vodka (produced by Glen Catrine in Scotland)³⁰⁴. These two brands were ranked 1st and 2nd in terms of the value of sales of brands in Scotland in 2016. A minimum price of 50p per unit would impact on both domestic production and imports. However, it is anticipated that it would predominantly be domestic production that is affected.

8.127. Gin accounted for 4% of total sales with more than half (60%) falling below 50p per unit. Gin is both domestically produced and imported. There is notable growth in the number of gin distilleries in Scotland, with these primarily producing premium brands which will be unaffected by minimum pricing. Rum, which is predominantly imported, although there is some domestic production, made up around 1% of sales, with golden rum generally retailing at higher prices than white or dark rum.

8.128. Table 12 shows the top 20 selling off-sales spirit products³⁰⁵ in Scotland in 2017. Of these, around half are currently retailing at a price equivalent to the minimum price of 50p per unit – the remainder were below the minimum price and, again, the popularity of vodka sales is evident.

³⁰⁴ Scottish Grocer March 2017 *Off trade - Scotland's most valuable brands 2017*
[https://issuu.com/peeblesmedia/docs/off trade - scotland s most valuabl](https://issuu.com/peeblesmedia/docs/off_trade_-_scotland_s_most_valuabl)

³⁰⁵ As measured by natural volumes

Table 12: top selling 20 spirits, off-trade, Scotland, 2017³⁰⁶

product		volume	production
SMIRNOFF RED LABEL	vodka	1 L	UK
GLEN'S	vodka	1 L	UK
SMIRNOFF RED LABEL	vodka	700 ML	UK
THE FAMOUS GROUSE	blended scotch	1 L	UK
GLEN'S	vodka	700 ML	UK
GORDONS	gin	1 L	UK
GLEN'S	vodka	350 ML	UK
WHYTE AND MACKAY	blended scotch	1 L	UK
BELLS ORIGINAL	blended scotch	1 L	UK
BACARDI CARTA BLANCA	white rum	1 L	non EU
CAPTAIN MORGANS SPICED	flavoured/spice rum	1 L	non EU
RUSSIAN STANDARD	vodka	1 L	UK
THE FAMOUS GROUSE	blended scotch	700 ML	UK
PRIVATE LABEL	vodka	1 L	UK
GORDONS	gin	700 ML	UK
PRIVATE LABEL	vodka	700 ML	UK
WHYTE AND MACKAY	blended scotch	700 ML	UK
BAILEYS ORIGINAL	cream liqueur	1 L	EU
RUSSIAN STANDARD	vodka	700 ML	UK
CAPTAIN MORGANS SPICED	flavoured/spice rum	700 ML	non EU

Wine

8.129. The vast majority of wine is imported and, in common with the rest of the UK, the off-sales market in Scotland includes a breadth of products from a large number of countries retailing across the range of prices. The UK is a key market for the global wine trade³⁰⁷.

8.130. In 2014, NHS Health Scotland published a briefing paper using 2013 alcohol sales data to describe the wine market in Scotland³⁰⁸. This showed the breadth of countries from which wine is imported and the dominance of New World wines.

³⁰⁶ As measured by natural volumes. Nielsen ScanTrack, Scotland, Unit Sales Ranking, 52 weeks Data to 22.04.17

³⁰⁷ Wilson J. *UK Wine Market Report 2016* USDA Foreign Agricultural Service <https://gain.fas.usda.gov/Recent%20GAIN%20Publications/UK%20Wine%20Market%20Report%202016%20London%20United%20Kingdom%202-19-2016.pdf>

³⁰⁸ Robinson M. *The price distribution of wine from different countries of origin sold in Scotland's off-trade: an update using 2013 data*. Edinburgh: NHS Health Scotland; 2014. <http://www.healthscotland.com/uploads/documents/24482-MESAS%20Wine%20Country%20of%20Origin%20Dec%202014%201.pdf>

Table 13 shows the percentage of total off-trade wine sales by country in 2013. At that time, around 32% of wine retailed at below 50p per unit. In 2016, that figure was 29%.

Table 13: Distribution of wines sold off-trade in Scotland, 2013, by country ³⁰⁹

Country of origin	% of total off-trade wine sales
Australia	18.6
Italy	12.6
South Africa	10.3
USA	10.1
Spain	9.9
France	9.2
Chile	8.5
New Zealand	3.5
Argentina	1.4
Germany	1.1
Portugal	0.6
Bulgaria	0.2
Romania	0.1
England	<0.1

8.131. The 2016 Wine & Spirits Trade Association Wine Report³¹⁰ confirms that, in 2015, Australia continued to lead off-trade sales of wine in the UK, by both value and volume (23% by either measure). Italy was again second with 15% of sales by volume. In contrast, in the on-trade, French and Italian wines take much larger shares (28% and 25% respectively, by volume).

8.132. In terms of individual products, Table 14 shows the most popular products in Scotland in 2017, which again illustrates the dominance of New World wines in off-trade sales (where origin can be attributed).

³⁰⁹ Robinson M (2014) op cit

³¹⁰ WSTA *Annual Wine Report 2016* <http://www.wsta.co.uk/images/2016WineReport.pdf>

Table 14: Top selling wines in off-trade, Scotland, 2017³¹¹

Brand/Product	Type	Grapes	volume	area of origin (if known)
PRIVATE LABEL	Sparkling		750 ML	EU
PRIVATE LABEL	white	Pinot Grigio	750 ML	
PLAZA CENTRO	Sparkling		750 ML	EU
PRIVATE LABEL	white		750 ML	
CAMPO VIEJO	red	Tempranillo	750 ML	EU
CASILLERO DEL DIABLO	red	Cabernet Sauvignon	750 ML	non EU
VILLA MARIA PRIVATE BIN	white	Sauvignon Blanc	750 ML	non EU
BLOSSOM HILL	rose	White Zinfandel	750 ML	non EU
PRIVATE LABEL	white	Soave	750 ML	EU
ISLA NEGRA RESERVA	white	Sauvignon Blanc	750 ML	non EU
PRIVATE LABEL	white	Sauvignon Blanc	750 ML	
BAREFOOT	white	Pinot Grigio	750 ML	non EU
PRIVATE LABEL	red	Tempranillo	750 ML	EU
PRIVATE LABEL	white	Sauvignon Blanc	750 ML	
CASILLERO DEL DIABLO	white	Sauvignon Blanc	750 ML	non EU
BRANCOTT ESTATE CLASSICS	white	Sauvignon Blanc	750 ML	
PRIVATE LABEL	red	Rhone	750 ML	
BLOSSOM HILL	white		750 ML	non EU
ECHO FALLS	rose	White Zinfandel	750 ML	non EU
PRIVATE LABEL	red	Blend	3 L	
WAIRAU COVE	white	Sauvignon Blanc	750 ML	non EU
PRIVATE LABEL	white	Chenin Blanc	750 ML	
PRIVATE LABEL	white		750 ML	
ISLA NEGRA SEASHORE	red	Merlot	750 ML	non EU
GALLO FAMILY VINEYARDS	rose	Grenache White	750 ML	non EU

8.133. The average price of a bottle of wine will vary by country, as will the ABV, and, consequently, the price required to comply with 50p per unit. In general, New World wines tend to be higher in alcohol than those produced in Europe. European wines may, therefore, find themselves better able to compete on price with the introduction of minimum pricing, or retailers may stock more products with a relatively lower strength.

³¹¹ As measured by natural volumes. Nielsen ScanTrack, Scotland, Unit Sales Ranking, 52 weeks Data to 22.04.17

Beer and Cider

8.134. Beers are both domestically produced and imported. In 2016, lager made up by far the largest proportion of beer sales (87%), constituting around 20% of total off-trade alcohol sales. More than two thirds (67%) sold for less than 50p per unit. Ales now make up around 11% of the beer category (2% of total sales) and are all domestically produced. Just under half (47%) were sold at below 50p per unit in 2016.

8.135. The top selling beers in the Scottish market have changed little since 2012, with Tennents, Stella and Budweiser remaining popular brands. In terms of product, Table 15 reflects the variety of ways in which beer is packaged. In 2017, only larger cans of Tennents and the 12 pack of Corona would have met the 50p per unit threshold.

Table 15: Top selling beers in off-trade, Scotland 2017³¹²

product	type of beer	volume	production
TENNENTS	standard	20 x 440mls	UK
STELLA ARTOIS	premium	4 x 568mls	UK
TENNENTS	standard	10 x 440mls	UK
TENNENTS	standard	15 x 440mls	UK
FOSTERS	standard	20 x 440mls	UK
TENNENTS	standard	12 x 440mls	UK
CARLING	standard	20 x 440mls	UK
BUDWEISER	premium	12 x 300mls	UK
STELLA ARTOIS	premium	18 x 440mls	UK
TENNENTS	standard	4 x 500mls	UK
BUDWEISER	premium	20 x 300mls	UK
STELLA ARTOIS	premium	10 x 440mls	UK
BUDWEISER	premium	24 x 300mls	UK
BUDWEISER	premium	4 x 568mls	UK
BUDWEISER	premium	10 x 440mls	UK
BUDWEISER	premium	18 x 440mls	UK
TENNENTS	standard	4 x 568 mls	UK
CORONA	premium	12 x 330 mls	UK
MCEWANS EXPORT ALE	premium	4 x 500mls	UK
MILLER GENUINE DRAFT	premium	20 x 275mls	EU

³¹² As measured by natural volumes: Nielsen ScanTrack, Scotland, Unit Sales Ranking, 52 weeks Data to 22.04.17

8.136. Cider, of which 71% retailed for under 50p per unit (a third below 30p per unit), accounts for 10% of sales under 50p per unit. There are over 500 cider makers in the UK³¹³. Despite a growing interest in craft products, increasing sales of fruit ciders and the entry of Carlsberg into the market (producing Sommersby cider), the market leader remains Strongbow, produced by Bulmers, which is a subsidiary of Heineken³¹⁴. Strong “white” ciders are those likely to experience the largest increase in price under a minimum unit price of 50p. Strong cider, as defined in the Nielsen data, made up less than 1.4% of off-sales³¹⁵.

8.137. Table 16 brings together some of the market information on alcohol products discussed in this section.

³¹³ <http://cideruk.com/uk-cider-market/>

³¹⁴ <https://www.beveragedaily.com/Article/2012/07/10/Our-first-ever-UK-cider-can-challenge-mainstream-brands-Carlsberg>

³¹⁵ Nielsen categorise strong/white cider as having ABV \geq 6.1%

Table 16: Scotland off-sales 2016 market shares³¹⁶

Drink category	production #		% of total sales by volume of pure alcohol	% of sales below 50p per unit	% of ALL sales below 50p per unit
	Domestic	Imported			
Total off-sales market				51%	
SPIRITS			33%	62%	40%
VODKA	Y	Y	13%	72%	19%
BLENDED WHISKY	Y		7%	77%	11%
GIN	Y	Y	4%	60%	4%
CREAM LIQUEUR	Y	Y	<1%	27%	<1%
BRANDY		Y	1%	66%	1%
WHITE RUM	Y	Y	1%	71%	2%
IMPORTED WHISKY		Y	1%	17%	<1%
LIQUEUR	Y	Y	1%	35%	<1%
MALT WHISKY	Y		1%	1%	<1%
DARK RUM	Y	Y	1%	47%	<1%
COGNAC		Y	<1%	0%	0%
GOLDEN RUM	Y	Y	1%	51%	1%
BEER			23%	64%	29%
LAGER	Y	Y	20%	67%	27%
ALES	Y	Y	3%	47%	2%
STOUT	Y	Y	<1%	30%	<1%
SUPER STRENGTH	Y	Y	<1%	11%	<1%
CIDER	Y	Y	7%	71%	10%
WHITE/STRONG	*	*	1%	100%	3%
REGULAR	*	*	6%	65%	8%
WINE			32%	29%	18%
TABLE WINE	Y	Y	28%	33%	18%
SPARKLING WINE	Y	Y	3%	4%	<1%
CHAMPAGNE		Y	<1%	0%	0%
FORTIFIED WINE	Y	Y	3%	27%	1%
RTD	Y		<1%	0%	0%
PERRY	Y	Y	<1%	96%	1%
ref: published Nielsen data set					
Price distribution of alcohol (L pure alcohol) sold off-trade (Scotland, 2016)					
* no information on imports : # information supplied by Nielsen					

³¹⁶ MESAS monitoring report 2017: Nielsen price band Data set

International markets: discrimination

8.138. In the 2012 BRIA, the SWA expressed concern that a minimum pricing policy runs the risk of encouraging international “copy-cat” discrimination which could affect Scotch Whisky exports. The assertion is that Scotch Whisky is already treated unfairly in many countries and such action is, and would remain, unjustifiable. No information has been provided in respect of any countries which may be contemplating or are likely to pursue such discriminatory action.

8.139. It is not possible to predict the reaction of other jurisdictions. The Scottish Government’s proposal treats all products fairly, whether imported or domestic. Where other countries have imposed barriers that are against international trade laws, trade bodies will continue to have the Scottish Government’s full support in tackling any discrimination and unlawful trade barriers.

Costs to local government and public bodies

8.140. The position of Licensing Standards Officers (LSOs) was created through the Licensing (Scotland) Act 2005. LSOs work on behalf of local authorities and are responsible for the monitoring and enforcement of the new licensing regime which became fully operational from 1 September 2009. Amongst other duties, LSOs ensure compliance with any conditions attached to premises licences. The Licensing (Scotland) Act 2005, and associated secondary legislation, sets out a number of conditions that are attached to a premises licence and an occasional licence including conditions covering an operating plan, premises manager, staff training, pricing and promotion of alcohol, payment of fees, display of notices and alcohol display areas. Minimum pricing will be added to these mandatory conditions.

8.141. The Scottish Government is in the process of producing guidance for those involved in the implementation of, and compliance with, minimum pricing, in consultation with relevant parties which include LSOs, Police Scotland and Licensing Clerks to the Licensing Boards. It is considered there would be an increase in demand for advice to licence holders from LSOs in the run up to introduction and in the period immediately after introduction. This may cause a reprioritisation of duties and resources. The Scottish Government, together with the Scottish Grocers Federation, has produced marketing material to raise awareness of minimum pricing prior to, and following, implementation. In the longer term, as licence holders and LSOs become more familiar with the minimum pricing provision, the workload associated with introduction should decrease. The cost of running the licensing system, including the costs of LSOs, are generally recovered by Licensing Boards from fee income in line with the Licensing (Fees) (Scotland) Regulations 2007 (SSI 2007 No. 553).

Costs to central government

8.142. The Sheffield Model estimates there will be an adverse impact on the level of UK Exchequer receipts (see Table 10 in paragraph 8.40). The actual effect will depend on the response of both consumers and the industry. Total receipts from VAT in the UK were £121,520 million in 2016/17, of which Scotland contributed

£10,193 million. Total receipts from alcohol duties in the UK were £11,117 million in 2016/17, of which Scotland's share was £1,038 million³¹⁷. A reduction of around £15 million to VAT and alcohol duty receipts is associated with a 50p minimum unit price, which represents 0.01% of total UK VAT and alcohol duty receipts, and 0.12% of total Scottish VAT and alcohol duty receipts.

8.143. There will be initial set-up costs for the Scottish Government in introducing a minimum price per unit of alcohol, in order to provide guidance and marketing materials to licence holders about the necessity to comply with the provision. The Scottish Government has budgeted funding of up to £50,000 for this. Discussions with relevant parties, including retailers and LSOs, will determine how this funding could best be used.

8.144. An updated Monitoring and Evaluation of Scotland's Alcohol Strategy (MESAS) portfolio of studies has been designed to assess the impact of minimum unit pricing³¹⁸. The legislation sets out what has to be included in the report to the Scottish Parliament five years after implementation, as specified by the Scottish Parliament in 2012. The monitoring and evaluation of minimum unit pricing is, therefore, spread out over five years: 2017/18 to 2022/23. The evaluation is comprehensive and includes a number of portfolio studies. The total cost over this period is estimated at approximately £1.1m.

³¹⁷ Government Expenditure and Revenue Scotland 2016-17, Table 1.1

<http://www.gov.scot/Publications/2017/08/7201/0>

³¹⁸ <http://www.healthscotland.scot/health-topics/alcohol/evaluation-of-minimum-unit-pricing>

9. Scottish Firms Impact Test

9.1. This section sets out, in general terms, the impact of a minimum price per unit on specific sectors of the alcohol industry. The alcohol industry is defined as the combination of alcohol manufacturing, the wholesale of alcohol, retail sale of alcohol and the sale of alcohol in beverage service establishments. In 2015, there were 11,100 jobs in the manufacture of beverages (both alcoholic and non-alcoholic) in Scotland³¹⁹, of which 8,100 were in the manufacture of spirits³²⁰. In 2015, the largest industry for exports in Scotland was the manufacture of food and beverages, worth £4.8 billion, 16.8% of all international exports. The majority of this sector continues to be whisky exports which accounted for 80% (£3.8 billion) in 2015³²¹. The industry also relies on Scottish agricultural commodities as inputs.

Production supply chain

9.2. Both spring and winter barley are grown in Scotland and the UK. Spring barley is the dominant barley crop grown in Scotland, and production is hugely reliant on the strength and long-term confidence of the Scotch Whisky industry. In 2015/16, it is estimated that Scottish grown barley supplied 80-90% of the demand from the Scotch Whisky industry and Scottish produced malt supplied around 60% of the needs of the Scotch Whisky sector³²². If the reduction in domestic sales as a result of any minimum unit pricing were large enough, there is the possibility of a reduction in demand for grain from Scottish farmers. However, over 90% of Scotch Whisky is exported, so any decline in Scottish sales is anticipated to have a minimal impact on grain producers.

9.3. In the UK, the retail sector (off-trade) consists of a small number of large supermarkets who dominate alcohol sales, a number of smaller supermarkets, a decreasing number of specialist retailers and a large number of smaller grocers and convenience stores. The hospitality sector (on-trade) consists of a small number of national chains and a large number of small pubs, clubs and restaurants. In Scotland in 2015, there were 140,000 people employed in food and beverage service activities³²³. Independent pubs are increasingly being taken over by large beer producers³²⁴. In Scotland in 2016, there were 16,704 premises licences in force: 11,593 for the off-trade and 5,110 for the on-trade³²⁵.

³¹⁹ Scottish Government August 2017 Scottish ABI statistics: Scotland by Division 2015

<http://www.gov.scot/Topics/Statistics/Browse/Business/SABS/ScotDiv>

³²⁰ Scottish Government August 2017. Scottish ABI statistics: the Spirits Sector

<http://www.gov.scot/Topics/Statistics/Browse/Business/SABS/SpiritsProfile>

³²¹ Scottish Government: (2017) Export Statistics Scotland

<http://www.gov.scot/Topics/Statistics/Browse/Economy/Exports/ESSPublication>

³²² Bell J (2017) *Malting barley trade - UK and Scotland*. SRUC SAC Consulting Division

³²³ Scottish Government August 2017 Scottish ABI statistics: Scotland by Division 2015

<http://www.gov.scot/Topics/Statistics/Browse/Business/SABS/ScotDiv>

³²⁴ Petrie, D. et al. (2011) *Scoping study of the economic impact on the alcohol industry of pricing and non-price policies to regulate the affordability and availability of alcohol in Scotland*. Edinburgh: NHS Health Scotland

³²⁵ *Scottish liquor licensing statistics on premises and personal licences in force, applications and reviews/proceeding 2015-16*.

<http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/PubLiquor/LiquLic201516>

9.4. Those areas of business most likely to be affected by a minimum price per unit in terms of costs are the off-trade sector and producers. Details of the costs and benefits for each of the sectors in the alcohol industry is set out in section 8. As mentioned in section 6 on consultation, businesses responded to the public consultation and the Scottish Government has held various meetings and discussions with both business organisations and individual businesses.

9.5. Specifically, the Scottish Grocers Federation (SGF), the Scottish Retail Consortium (SRC) and the National Federation of Regional Newsagents (NFRN) represent a significant element of small businesses that could potentially be impacted by minimum pricing. The SGF is the trade association for the Scottish convenience store sector, representing most of the Scottish Co-operatives, SPAR and local independent retailers. The SRC, whilst representing the larger retailers and supermarkets, also includes trade associations representing smaller retailers. The NFRN represents independent retail newsagents, which tend to be small, family newsagent businesses.

9.6. The 2012 BRIA reflected convenience stores representatives' view that they needed to try to maintain low prices to compete with supermarkets, particularly as supermarkets continue to develop their "convenience store" format (such as Tesco Metro and Sainsbury's Central). They suggested a minimum price would reduce the ability of large supermarkets to undercut prices in smaller shops and allow the smaller shops to compete on non-price elements such as convenience. Minimum pricing would create a level playing field.

9.7. The University of Sheffield modelling study gives an insight into how categories of drinkers may switch between different types of products. However, the Scottish Government is not able to predict how individual companies and retailers will react to the introduction of a minimum price per unit. Amongst industry, there is no consensus on where any additional revenue arising from minimum pricing might accrue. A number of respondents consider it will end up with retailers, some consider producers might be able to gain a share and some consider there will be no additional revenue. The introduction of minimum pricing is likely to be of benefit to smaller retailers and independent stores, as they will be more able to compete on price with the larger retailers such as supermarkets. The on-trade is unlikely to be adversely affected by minimum pricing, as its prices are already likely to be above 50p per unit. As regards the effect on producers, again, there is no consistent view among industry representatives. Some respondents consider the price of own/ private label products are likely to increase due to minimum pricing; producers may raise the prices of their premium brands in order to maintain a differential between the two types of products; or supermarkets may de-list the own/ private label products; or the range of products may be reduced and this would depend on those products with most sales.

Benefits to industry

9.8. Minimum pricing is estimated to result in increased revenue to the alcohol industry as a whole. A 50p per unit minimum price is estimated to generate a net increase (excluding VAT and duty) of £34 million per annum, with an increase in the off-trade and a decrease in the on-trade sectors. This is a high-level estimate of revenue changes and does not directly equate to increased profit. It is difficult to predict how this increase might be distributed across the supply chain. It was beyond the remit of the modelling to consider where the change in revenue may accrue, i.e. whether the estimated increase benefits retailers, wholesalers or producers, or all of them to some extent. The alcohol market is highly segmented and this makes identifying potential effects difficult. For different products, where the additional revenue accrues will depend, to some extent, on the relative market power of different parts of the supply chain.

Costs to retailers – off-trade

9.9. A minimum price per unit is likely to affect the off-trade sector more than the on-trade sector due to the average price of a unit of alcohol in the on-trade in 2016 being £1.79, whilst for the off-trade it was 53p³²⁶. The off-trade is dominated by the large supermarket chains (Asda, Tesco, Morrisons, Sainsbury's and Waitrose) who compete aggressively on price across a range of products, including alcohol. They have been joined in the market by low cost retailers Aldi and Lidl, who are becoming increasingly important in terms of market share.

Sales

9.10. Identifying which part of the retail market will be most affected – supermarkets or small shops – is problematic. Large and small retailers are likely to be affected differently. Larger retailers sell large volumes of popular brands (often priced very competitively) and also a greater range of products. Nielsen states that at least 80% of off-sales are retailed through the large supermarket chains³²⁷. The Scottish Government is currently not aware of any retailers who specialise in selling only those low cost products likely to be below the proposed 50p per unit minimum price.

Pricing

9.11. There will be costs to retailers associated with the implementation of a minimum pricing scheme such as re-pricing products, altering bar codes and shelf tickets. Those retailers that operate on a UK-wide basis may incur costs associated with a different pricing and promotion regime operating in Scotland. These retailers are predominantly large supermarket chains.

³²⁶ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

³²⁷ Communication with NHS Health Scotland

9.12. In meetings with retailers and their representative bodies regarding implementation, the main issue raised was the short timescale for implementing, particularly for smaller, independent retailers. This was less of a concern for some of the larger retailers. In order to assist with readiness for implementation, the Scottish Government is in the process of producing guidance for those involved in the implementation of, and compliance with, minimum pricing in consultation with relevant parties. In addition, the Scottish Government has contributed funding to the SGF and the Scottish Wholesale Association for the production of marketing material and tailored guidance in order to raise awareness of minimum pricing prior to, and following, implementation.

Costs to wholesalers

9.13. Minimum pricing is a mandatory condition of a premises and occasional licence. Therefore, where a wholesale business has a licence, it will need to ensure it complies with minimum pricing. Wholesalers only selling alcohol trade-to-trade do not require a licence, so minimum pricing will not apply.

Costs to producers

9.14. Producers that will be most affected by a minimum price are those whose production consists of a significant volume of products which currently sell below the proposed minimum price of 50p per unit. As noted in section 8, these producers are likely to be the ones whose main production focuses on own/ private label products. In the case of ciders, some of the cheaper brands are produced by global companies such as Constellation Brands and Heineken, which are major drinks companies producing a whole range of alcohol products. These companies are likely to be affected to a minimal extent, due to the relatively small proportion of total sales that will come from the Scottish market

9.15. In the 2012 BRIA, for own/ private label spirits, two companies were identified as being significantly involved in own/ private label whisky production in Scotland: Whyte & Mackay and Glen Catrine. Both of these companies produce branded products, as well as own/ private label, and both supply the UK market. Both Whyte & Mackay and Glen Catrine produce spirit products which are very popular in Scotland, as shown in Table 12. Glen's vodka (produced by Glen Catrine) has a successful UK market base, being the 2nd most popular spirit product in the UK.

Jobs

9.16. Given the uncertainty in assessing the impact of minimum pricing on the market, it is not possible to estimate the impact on jobs in the alcohol industry. In the 2012 BRIA, producers considered there would be job losses for companies heavily involved in own/ private label production. Whilst it is not yet clear what will happen to own/ private label products, it is likely that value products (i.e. products currently priced at or below the minimum price) will still be sold although in reduced quantities, and likely at the minimum price.

Small retailers

9.17. The overall impact for small retailers is likely to be limited, as the proportion of their turnover made up of alcohol sales likely to be directly affected by minimum pricing is small in comparison to turnover from alcohol products not affected by minimum pricing and all other product lines. The University of Sheffield modelling, based on the responsiveness of consumers to changes in price, suggests that, although the volume of sales in off-sales premises will reduce, the value of sales will increase. Minimum pricing effectively sets a price floor and will reduce the ability of multiple retailers, such as the larger supermarkets, to use alcohol as a 'loss leader'. This may be advantageous to smaller retailers, as it will create a level playing field for alcohol and allow them to be more competitive on price compared to the larger supermarkets.

Small specialist retailers

9.18. Minimum pricing, by creating a price floor, may make small specialist retailers more able to compete on cheaper priced products. In addition, they may be better able to compete on non-price attributes, such as better product information and individual customer service.

9.19. For some small specialist retailers, such as wine merchants and whisky shops, their product range is such that they are unlikely to be directly affected by the introduction of a minimum price, as they tend to specialise in premium products.

Small producers

9.20. Scotland has a thriving craft brewery sector producing a variety of beers, supplying beers of varying styles and alcoholic strength³²⁸. The Campaign for Real Ale (CAMRA) now lists 80 craft breweries in Scotland³²⁹. These are generally premium products sold at relatively high prices compared to 'mainstream' high volume brands, and are therefore unlikely to be affected by a minimum price of 50p per unit.

9.21. There is also growth in independent distillers with 14 whisky distilleries starting production since 2013, and a further eight were planned to open in 2017. There were also up to 40 new distilleries at various stages of planning and development across Scotland³³⁰. However, these represent a very small proportion of the overall Scotch Whisky market. In addition, Scotland is also part of the growth in the market for gin, with UK gin brands more than doubling between 2010 and 2014. Scotland is now responsible for 70% of the UK's gin production. This follows a growing international trend in the spirits industry which is, in part, a reaction to the domination of the market by large companies and mainstream brands. The output from this activity tends to be premium products retailing at premium prices.

³²⁸ See: <http://www.scotland.org/about/entertainment-and-sport/features/culture/brewing-up-a-storm.html> & <http://www.scotland.org/features/item/brewing-up-a-storm/>

³²⁹ <http://glasgowcamra.org.uk/breweries.php>

³³⁰ Scotch Whisky Association (2017) <http://www.scotch-whisky.org.uk/news-publications/news/scotch-whisky-association-and-scottish-craft-distillers-association-launch-partnership/#.WenZbJILcs>

Small on-sales premises

9.22. On-sales premises, in general, are likely to be affected less than off-sales premises by the proposed 50p per unit minimum price, as the price of alcohol in on-sales premises is generally higher than in off-sales premises. In 2016, Nielsen data estimated that the average price per unit of alcohol in on-trade premises was £1.79, as compared to 53p for off-trade³³¹.

Competition Assessment

9.23. The Competition Assessment is provided at Annex A.

Test run of business forms

9.24. No new business forms will be introduced in the implementation of the proposed legislation.

Legal Aid Impact Test

9.25. We have consulted with the Scottish Government Legal Aid Policy Team. They have confirmed that they do not foresee any impact on the legal aid fund.

Enforcement, sanctions and monitoring

9.26. Minimum pricing will be enforced through legislation. It will become a mandatory condition of a premises and occasional licence – it does not create any new enforcement or monitoring mechanisms. As with the other conditions of licences issued under the 2005 Act, it will be monitored by Licensing Standards Officers who are able to report infringements to the Licensing Board. The Licensing Board is then able to apply a number of sanctions to the licence holder which are available through the 2005 Act, ranging from a warning to the revocation of the licence.

9.27. The Alcohol (Minimum Pricing) (Scotland) Act 2012 includes a provision under which the minimum pricing provisions cease to have effect after six years from when those provisions are fully in force (a “sunset clause”). However, the minimum pricing provisions can continue to have effect if, before that date, the Scottish Ministers make an Order using powers contained in the 2012 Act providing that these provisions should continue in force (before it can be made, that Order must first have been laid before and approved by the Scottish Parliament).

9.28. Complementary to this provision, the Act includes a provision requiring the Scottish Ministers to evaluate the operation and effect of minimum pricing five years after it comes into force and to report this to the Scottish Parliament. The report must include information on the effect of the operation of minimum pricing on the licensing objectives set out in the Licensing (Scotland) Act 2005. For example, protecting and improving public health and reducing crime and disorder. The report must also contain information about the effect the operation of minimum pricing has

³³¹ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

on premises licences holders such as the pub trade, retail sector and wider licensed trade and the impact on alcohol producers. In preparing the report, Ministers will also be required to consult persons having functions relating to health, crime prevention, children and young people, education and social work, and those representing premises licence holders and alcohol producers.

9.29. An evaluation report after five years is considered a suitable timeframe against which to measure the policy's effectiveness. While for acute conditions (such as alcohol-related injuries, drink driving and acute intoxication), an increase in price would be expected to have an immediate impact on prevalence rates, the relationship between changes in price, consumption levels and the incidence of chronic alcohol conditions is much more difficult to quantify. There is likely to be a 'time lag' between a reduction in consumption, due to the introduction of minimum pricing, and the full benefits in terms of reduced chronic health harms. The expected time lag is also assumed to vary across conditions and by individual.

9.30. In 2010, NHS Health Scotland was tasked by the Scottish Government with evaluating Scotland's alcohol strategy. This was carried out through the programme *Monitoring and Evaluating Scotland's Alcohol Strategy* (MESAS)³³². The final report was published in March 2016³³³. In order to continue to monitor key alcohol statistics, the MESAS work programme is continuing, and the 2017 report was published in June 2017³³⁴.

9.31. As regards minimum pricing, NHS Health Scotland, under the MESAS programme, has been tasked with leading the evaluation of minimum pricing³³⁵ and producing the review report required by the Scottish Parliament. A proposed portfolio of studies has been developed with which to assess the impact of minimum pricing. There are two overarching evaluation questions:

- To what extent has implementing minimum unit pricing in Scotland contributed to reducing alcohol-related health and social harms?
- Are some (people and businesses) more affected (positively or negatively) than others?

9.32. The portfolio of studies to address these questions covers a breadth of areas including implementation and compliance; price and product range; alcohol sales and consumption; alcohol-related harm; economic impact on the alcohol industry and attitudes to minimum price³³⁶. Full details are available on the NHS Health Scotland website³³⁷.

³³² <http://www.healthscotland.scot/health-topics/alcohol/monitoring-and-evaluating-scotlands-alcohol-strategy>

³³³ <http://www.healthscotland.scot/publications/mesas-final-report>

³³⁴ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

³³⁵ <http://www.healthscotland.scot/health-topics/alcohol/evaluation-of-minimum-unit-pricing>

³³⁶ This list is not exhaustive

³³⁷ <http://www.healthscotland.scot/publications/minimum-unit-pricing-evaluation-portfolio>

9.33. The report will be a key source of information for the Scottish Parliament when it decides whether to approve an Order, if laid by Scottish Ministers, to renew the minimum pricing provisions, and therefore the evaluation must be both comprehensive and robust.

10. Implementation and delivery plan

10.1. Minimum pricing will be implemented by all licensed premises. Prior to implementation, the Scottish Government worked with retailers in order to identify how best to achieve implementation and discussed any issues which might need addressed. The Scottish Government is in the process of producing guidance on the implementation of minimum pricing in consultation with relevant parties such as retailers, wholesalers, producers, Licensing Standards Officers, Police Scotland and Licensing Clerks to the Licensing Boards. In addition, the Scottish Government has contributed funding to the SGF and the Scottish Wholesale Association for the production of marketing material and tailored guidance in order to raise awareness of minimum pricing prior to, and following, implementation.

10.2. As noted previously, the Act includes a provision requiring the Scottish Ministers to evaluate the effect of minimum pricing five years after it comes into force and to report this to the Scottish Parliament. Minimum pricing will end after six years unless the Scottish Ministers make an Order providing that it should continue in force. Annual reporting of trends in consumption, price and harm will continue as part of the MESAS portfolio.

10.3. The minimum price has to be set and remain at a level that is proportionate.

11. Summary and recommendation

Summary Costs and Benefits Table

Minimum price per unit of alcohol

Recommendation

11.1. It is recommended that the Scottish Government introduces a proposed minimum price of 50p per unit of alcohol.

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
<p>Introduce a prohibition on sales of alcohol below a proposed minimum price of 50p per unit</p>	<p><u>Consumers</u> <u>Health harms:</u> 2016 University of Sheffield report estimated that deaths will reduce by 121 per annum at full effect (20 years) and hospital admissions will reduce by 2,042 per annum at full effect (paragraph 8.21 and Table 4).</p> <p>Harm is differentially distributed with health gains being greatest in hazardous and particularly harmful drinkers in poverty: an estimated 119 deaths per year averted per 100,000 harmful drinkers in poverty under a minimum price of 50p per unit; 16 deaths averted per 100,000 harmful drinkers not in poverty. Similarly, for hospital admissions, estimates of 1,440 fewer admissions per year per 100,000 harmful drinkers in poverty under a 50p per unit minimum price, compared to 356 fewer admissions per year per 100,000 harmful drinkers not in poverty (paragraph 8.23 and Tables 6 and 7).</p> <p>2012 report estimated a reduction in healthcare service costs of around £6.7m in the first year, and a full 10 year cumulative effect of around £114m. An update was not carried out in the 2016 modelling. It is likely that the reduction in healthcare costs will be reduced but will still be significant (paragraph 8.28).</p> <p>2012 report estimated the value of a reduction in health harms using Quality Adjusted life Years (QALYs) to be £17.2m in year 1 with a cumulative value of £492 million after 10 years. Again, although the estimated impact has lessened, a financial valuation of the reduction in health harm would still be</p>	<p><u>Consumers</u> The moderate drinker is estimated to reduce mean annual consumption by 4.1% (for those drinkers in poverty) with no increase in spend, and by 0.8% (for those drinkers not in poverty) with an increase of £2 per annum.</p> <p>The hazardous drinker is estimated to reduce mean annual consumption by 6.1% (for those drinkers in poverty) with an increase in spend of £1 per annum, and by 2.1% (for those drinkers not in poverty) with an increase of £16 per annum.</p> <p>The harmful drinker is estimated to reduce mean annual consumption by 15.1% (for those drinkers in poverty) with an increase in spend of £88 per annum, and by 5.4% (for those drinkers not in poverty) with an increase of £20 per annum (paragraph 8.66 and Table 11).</p> <p><u>Retailers – off-trade</u> A minimum unit price of 50p is estimated to result in increased revenue to the alcohol industry as a whole of around £34m per annum (excluding VAT and duty) – £41m of which would accrue to the off-trade (paragraph 8.68 and Table 10).</p> <p>Administrative costs of re-pricing and maintaining separate prices for Scotland and rest of UK will depend on size of retailer and whether they are UK or Scotland based. For smaller independent retailers, a maximum cost of around £738,000 has been estimated. The actual figure will be less than this given not all off-sales premises will be affected and not all products in off-sales will be affected (paragraph 8.80).</p>

	<p>sizeable (paragraph 8.29).</p> <p><u><i>Crime harms:</i></u> 2012 report estimated that crime volumes were estimated to fall by around 3,500 offences per annum. The distribution of the effect varies across the drinker groups with reductions in this case of around 800 offences from moderate drinkers, around 900 from hazardous drinkers and around 1,700 offences from harmful drinkers (paragraph 8.31).</p> <p>The harm avoided in terms of victim quality of life is valued at around £2.2m in the first year and around £20m over 10 years. Direct costs of crime were estimated to reduce by around £2.9m in the first year and by around £24m over 10 years. An update was not carried out in the 2016 modelling. It is likely that the reduction in crime costs will be reduced but will still be significant (paragraph 8.31).</p> <p><u><i>Employment harms:</i></u> 2012 report estimated that workplace harms would reduce by around 1,300 fewer unemployed people and around 32,300 fewer sick days per year. The estimated reduction in unemployment was modelled for the harmful drinking group only. Sick days were differentially distributed across the groups with a reduction of around 11,000 amongst moderate drinkers, around 8,900 amongst hazardous drinkers and around 12,200 amongst harmful drinkers (paragraph 8.32).</p> <p>For the first year after implementation, the cost of sick days was estimated to fall by around £3m and the cost of unemployment by £32.1m. The cost of sick days and unemployment was estimated to reduce by around £292m over 10 years. An update was not carried out in the 2016 modelling. It is likely that the reduction in workplace costs will be reduced but will still be significant (paragraph 8.32).</p> <p><u><i>Retailers – off-trade</i></u> A minimum unit price of 50p is estimated to result in increased revenue to the alcohol industry as a whole of around £34m per annum (excluding VAT and duty) – £41m of which would accrue to the off-trade (paragraph 8.40 and Table 10).</p>	<p><u><i>Retailers – on-trade</i></u> A minimum unit price of 50p is estimated to result in increased revenue to the alcohol industry as a whole of around £34m per annum (excluding VAT and duty) – with a reduction of £7m in the on-trade. This is due to consumers’ switching behaviour (paragraph 8.100 and Table 10).</p> <p><u><i>Wholesalers</i></u> It is estimated there will be a decrease in volume of sales and an increase in the value of sales, however it is not possible to ascertain where this increased revenue will end up in the supply chain (paragraphs 8.101 - 8.102).</p> <p><u><i>Producers</i></u> It is estimated there will be a decrease in volume of sales and an increase in the value of sales, however it is not possible to ascertain where this increased revenue will end up in the supply chain.</p> <p>The supply side reaction to the introduction of a minimum price is not known, and there are differing views within the industry resulting in different scenarios. Producers that are likely to be most affected by a minimum price are those whose production consists of a significant volume of products which routinely retail below 50p per unit (paragraph 8.103 – 8.115).</p> <p>SWA estimate that “copy-cat” discrimination in other jurisdictions could reduce Scotch Whisky exports. No information has been provided in respect of which countries are contemplating or are likely to pursue such discriminatory action (paragraph 8.138).</p> <p><u><i>Jobs</i></u> Given the uncertainty in assessing the impact of minimum unit pricing on the market, it is difficult to estimate any impact on jobs in the alcohol industry. In the 2012 BRIA, producers considered there would be job losses for companies heavily involved in own/ private label production. Whilst it is not yet clear what will happen to own/ private label products, it is likely that value products (i.e. products currently at or below the minimum unit price) will still be sold, although in reduced quantities and likely at the minimum price (paragraph 8.117 and 8.118).</p>
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	<p><u>Retailers – on-trade</u> A minimum unit price of 50p is estimated to result in increased revenue to the alcohol industry as a whole of around £34m per annum (excluding VAT and duty) – with a reduction of £7m in the on-trade (paragraph 8.49 and Table 10).</p> <p><u>Wholesalers</u> A minimum unit price of 50p is estimated to result in increased revenue to the alcohol industry as a whole of around £34m per annum (excluding VAT and duty). It is not possible to ascertain where this increased revenue will end up in the supply chain (paragraph 8.51).</p> <p><u>Producers</u> A minimum unit price of 50p is estimated to result in increased revenue to the alcohol industry as a whole of around £34m per annum (excluding VAT and duty). It is not possible to ascertain where this increased revenue will end up in the supply chain (paragraph 8.52).</p> <p><u>Local government and public bodies</u> Benefits from estimated reductions in health, crime and employment harms and associated costs (paragraph 8.54).</p> <p><u>Central government</u> Benefits from estimated reductions in health, crime and employment harms and associated costs (paragraph 8.55).</p>	<p>However, there is evidence that declining alcohol consumption may not affect employment in the way described by the industry (paragraph 8.118).</p> <p><u>Local government and public bodies</u> Minimal (paragraphs 8.140 – 8.141).</p> <p><u>Central government</u> A reduction of around £15m to VAT and alcohol duty receipts is associated with a 50p unit price, which represents 0.01% of total UK VAT and alcohol duty receipts, and 0.12% of total Scottish VAT and alcohol duty receipts (paragraph 8.142).</p> <p>There will be initial set up costs for the Scottish Government in introducing a minimum price per unit of alcohol in order to provide guidance to licence holders about the necessity to comply with the provision. The Scottish Government has budgeted funding of up to £50,000 for this (paragraph 8.143).</p> <p>The total cost of monitoring and evaluating minimum unit pricing is £1.1m. These costs are over a 5 year period (2017/18 – 2022/23) (paragraph 8.144).</p>
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Conclusions

11.2. There is strong and consistent evidence linking the price of alcohol to the demand for alcohol and that increasing the price reduces consumption and alcohol-related harm. The evidence supports the assertion that a minimum price per unit of alcohol will lead to reductions in health, crime and employment harms.

11.3. The policy aim is to reduce consumption generally but, in particular, to target a reduction in consumption of cheaper alcohol relative to its strength. Evidence shows that this type of product is more favoured by hazardous and, particularly, harmful drinkers. Minimum pricing achieves this because it is both a whole population approach and a targeted approach – it applies to the whole population, but hazardous and harmful drinkers are likely to be affected more than moderate drinkers, in terms of the amount they drink, how much they spend and how much they benefit from reductions in harm. In addition, hazardous and harmful drinkers in poverty are more likely to respond to minimum pricing and, given they are more likely to suffer greater harms, they will benefit from the greatest reduction in health harms.

11.4. The Scottish Government considers that the increased costs to individuals are outweighed by the benefits in the reduction of societal harms. It is estimated there will be administrative costs for the industry in setting up and maintaining a separate pricing structure to the rest of the UK (unless they voluntarily adopt the Scottish pricing arrangements across the UK). However, the alcohol industry as a whole is estimated to benefit from increased revenues. Some parts of the industry may incur costs; however, we consider this is offset by the benefits they are also likely to experience.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in black ink, appearing to read 'Shona Robison', is centered on the page.

Date: 26 February 2018

Minister's name: Shona Robison MSP

Minister's title: Cabinet Secretary for Health and Sport

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THE ALCOHOL (MINIMUM PRICE PER UNIT) (SCOTLAND) ORDER 2018 - COMPETITION ASSESSMENT

Introduction

1. This competition assessment analyses the likely economic impact of introducing a minimum price per unit of alcohol of 50p on the competitive ability of producers and retailers and the consequential impact on consumers.

Definition of competition

2. Competition is a process of rivalry between firms seeking to win customers' business. Effective competition encourages firms to deliver benefits to customers in terms of prices, quality and choice. Competition also provides strong incentives for firms to innovate and to improve productivity³³⁸. Where levels of rivalry are reduced (say because a proposal restricts the number of firms active in any market) consumers have less choice because they have fewer firms from which they can buy goods or services.

3. Firms compete for market share using both price and non-price competition. Competition between firms may focus on offering the lowest price, particularly where the product is standardised (either because of the characteristics of the product in question, or because of regulation). Most suppliers will try and compete in a number of ways in addition to price, including developing new 'improved' products, offering products of differing quality or characteristics, branding and advertising the differences in their products relative to their competitors', or using different sales channels.

4. However, left wholly unregulated markets will not necessarily deliver the best outcomes for consumers, companies, or the government³³⁹. Government has a legitimate role in intervening and shaping them: it also intervenes more widely to achieve other policy goals and correct market failures³⁴⁰.

Definition of markets

5. Markets and sectors which could potentially be affected both directly (downstream) and indirectly (upstream) have been identified and are listed below.

Directly affected markets/sectors (downstream):

- Sales of alcohol on off-licensed premises
- Sales of alcohol in licensed premises (on-trade)
- Market flows between on and off-licensed sales

³³⁸ CMA (2015) *Competition Impact Assessment. Part 1. Overview*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460784/Competition_impact_assessment_Part_1_-_overview.pdf

³³⁹ Office of Fair Trading (2009) *Government in Markets*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284451/OFT1113.pdf

³⁴⁰ Ibid

- Sales of other products by retailers which sell alcohol, including footfall
- Consumers ability to access low cost products.

Indirectly affected sectors (upstream) include:

- Distributors/wholesalers
- Producers
- Raw material suppliers

Overview of the Scottish drinks industry

6. The structure of the Scottish alcohol industry is complex. On the manufacturing side, broadly reflecting the global market, multinational companies producing multiple products for different worldwide markets dominate; and there are then a large number of smaller producers. These firms, in turn, use a large number of smaller firms, from Scotland or abroad, to supply the required inputs for the production process and in some cases may subcontract out part of the production process, such as bottling, to other firms.

7. Although global brands tend to dominate in terms of spirits and beer production, in common with the rest of the UK, there is growing interest in both craft distilling and brewing. Between 2010 and 2014, 73 new spirit distilleries opened in the UK with 56 between 2012-14³⁴¹. UK gin brands more than doubled during this four year period with Scotland responsible for 70% of the UK's gin production. This trend also applies to the Scotch Whisky industry with 14 distilleries starting production since 2013 and a further 8 were planned to open in 2017. There were also up to 40 new distilleries at various stages of planning and development across Scotland in 2017³⁴². Similarly there has been an upsurge in the number of craft breweries in Scotland, with the Campaign for Real Ale (CAMRA) listing over 80³⁴³.

8. The alcohol retail sector (off-sales) consists of a small number of large supermarkets, a decreasing number of smaller specialist retailers and a large number of other small grocers and convenience stores. In Scotland, in 2016, 73% of sales were through the off-trade. The hospitality sector (on-sales) consists of a small number of national chains and a large number of small pubs, clubs and restaurants. While previously there have been a large number of independent pubs, these are increasingly being taken over by mostly large beer producers. Although in Scotland there remain a higher proportion of independent free trade pubs, compared to England³⁴⁴. The retail sector and the hospitality sector sell products produced both within and outside Scotland³⁴⁵.

³⁴¹ WSTA (2016) http://www.wsta.co.uk/images/Spirits/GinTrail/Scotland_GinMap2016.pdf

³⁴² Scotch Whisky Association (2017) <http://www.scotch-whisky.org.uk/news-publications/news/scotch-whisky-association-and-scottish-craft-distillers-association-launch-partnership/#.WenZbJILcs>

³⁴³ <http://glasgowcamra.org.uk/breweries.php>

³⁴⁴ England has a higher proportion of managed and tied tenanted/lease pubs.

CGA 2016 *Research on the Pub Sector in Scotland – Phase 1 “Scoping Study”*. Business and Energy Scottish Government.

³⁴⁵ Petrie, D. et al. (2011) *Scoping study of the economic impact on the alcohol industry of pricing and non-price policies to regulate the affordability and availability of alcohol in Scotland*. Edinburgh: NHS Health Scotland <http://www.healthscotland.com/documents/5051.aspx>

Production

9. Table 1 provides data on the Scottish spirits sector which is an important industry for Scotland representing 10% of turnover and 16% of Gross Value Added (GVA)³⁴⁶ in Scottish manufacturing as a whole in 2015. The Scottish share of the spirits sector accounted for the vast majority of UK output (86% of turnover and 91% of GVA)³⁴⁷. This is in contrast to the whole of manufacturing where Scotland accounts for only around 7% to 8% of total UK output.

Table 1: Scottish Spirits Sector (SIC³⁴⁸11.01) (including whisky) 2015³⁴⁹

Totals				As % of UK spirits sector	
No. of units	Employment (000s) ³⁵⁰	Turnover (£m)	GVA (£m)	Turnover(%)	GVA(%)
186	8.1	3,233.2	2,056.7	86	91

10. In addition the average GVA per employee (£254,900) was over 3 and a half times greater than in the manufacturing sector as a whole (£68,800)³⁵¹. In terms of the wider sector (*Manufacturing of Beverages* SIC 11.01-11.07), as shown in Table 2, it contributes by far the most in all measures.

Table 2: manufacture of beverages, Scotland 2015: sector split ³⁵²

	% of beverages sector			
	Units	Employment	Turnover	GVA
Distilling, refining & blending of spirits	58	73	78	89
Manufacture of cider, fruit wines* & malt	4	3	4	2
Manufacture of beer	30	11	9	3
Manufacture of soft drinks #	8	13	10	6

* none from grapes # includes mineral and bottled water

³⁴⁶ Gross Value Added (GVA) estimates GDP and is measured in basic prices, which excludes taxes (including VAT and excise duties) but includes subsidies on products

³⁴⁷ Scottish Government 2017

<http://www.gov.scot/Topics/Statistics/Browse/Business/SABS/SpiritsProfile>

³⁴⁸ Standard Industrial Classification

³⁴⁹ Scottish Government 2017 op cit

³⁵⁰ Head count – not FTE

³⁵¹ Source: Office for National Statistics, Annual Business Inquiry (Compiled by Scottish Government)

³⁵² Ibid

Raw materials

11. Both spring and winter barley are grown in Scotland and the UK. Spring barley is the dominant barley crop grown in Scotland and production is hugely reliant on the strength and long-term confidence of the Scotch Whisky industry. In 2015/16, it is estimated that Scottish grown barley supplied 80 – 90% of the demand from the Scotch Whisky industry and Scottish produced malt around 60% of the needs of the Scotch Whisky sector³⁵³.

Exports

12. In 2015, the largest industry for exports in Scotland was the manufacture of food and beverages, worth £4.8 billion, 16.8% of all international exports. The majority of this sector continues to be whisky exports which accounted for 80% (£3.8 billion) in 2015³⁵⁴, although this is a slightly lower proportion than in previous years. Approximately 93% of all Scotch Whisky production is exported³⁵⁵.

Market concentration

13. It is not possible to estimate the exact market shares of the biggest companies and brands for Scotland, however by the industry's own admission, in 2009, the top 10 selling Scotch Whisky brands on the Scottish market by volume were estimated to account for approximately 70% of the market with own/ private label and low cost brands accounting for the remaining 30% of the market³⁵⁶. Based on 2015 market value, Forbes estimate that Diageo dominates whisky production with a 36% share; followed by Pernod Ricard with 19% and William Grant & Sons with 7%³⁵⁷.

14. The number of breweries in Scotland now exceeds 100³⁵⁸ although the majority of these are small, employing just a few full time employees. This growth in the craft beer sector has driven growth in sales of ale, up 8.9% in 2016³⁵⁹. Despite this, ales remain a small part of the overall market which remains dominated by lager products (over 87% of sales in 2016³⁶⁰). The most popular brands in terms of retail sales, remain those produced by multinational companies: Tennents (owned by C&C Group): Stella Artois and Budweiser (both owned by Anheuser Busch Inbev SA/NV).

³⁵³ Bell J (2017) *Malting barley trade - UK and Scotland*. SRUC SAC Consulting Division

³⁵⁴ Scottish Government: (2017) Export Statistics Scotland
<http://www.gov.scot/Topics/Statistics/Browse/Economy/Exports/ESSPublication>

³⁵⁵ <http://www.thewhiskymarketltd.com/the-market/facts-and-figures>

³⁵⁶ SWA response to 2009 consultation

³⁵⁷ <https://www.forbes.com/sites/felipeschriberg/2016/09/28/the-4-companies-behind-34-of-all-scotch-whisky-production/#74f6df6a2df5>

³⁵⁸ <https://www.scotsman.com/business/companies/number-of-scottish-breweries-at-highest-level-in-a-century-1-4331333>

³⁵⁹ <http://beertoday.co.uk/major-growth-scottish-beer-market-0317/>

³⁶⁰ Health Scotland 2017: Nielsen price Band Data set.
<http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

15. Tennents is brewed in Scotland for both the domestic and export markets. Stella is also brewed, in Scotland, by Tennents on behalf of AB InBev³⁶¹. Budweiser is brewed elsewhere in the UK but distributed by C&C on behalf of AB InBev.

Retail Sales

16. Analysis provided by NHS Health Scotland using Nielsen data³⁶² found that in 2016, 10.5L of pure alcohol (1,049 units) were sold per adult (aged over 16) in Scotland (20.2 units per adult per week). The volume of pure alcohol sold per adult in Scotland increased through the 1990s and early 2000s, stabilised between 2005 and 2009, and then declined until 2013. It then increased for 2 years before returning to a similar level as in 2013. Comparable sales in England and Wales were 9.0L in 2016 (17.3 units per adult per week), meaning sales in Scotland are 17% higher than in England and Wales³⁶³.

17. The 2016 industry sales data published by NHS Health Scotland further indicates that 46.9 million litres of pure alcohol were sold in Scotland that year. Analysis shows that 73% (34.3 million litres) of the total volume of pure alcohol sold was sold through the off-trade compared with just 27% (12.6 million litres) through the on-trade. The majority of spirits (80%), wine (83%) and cider (74%) were sold off-trade. Beer was the only category of drink for which the majority of alcohol was sold through the on-trade (54%).

Prices

18. The Nielsen data published by NHS Health Scotland estimates that the average price per unit of alcohol in Scotland in 2016 across the whole market was £0.87, almost identical to the figure in England and Wales (£0.89)³⁶⁴. The average price per unit in the on-trade in 2016 in Scotland was £1.79, compared to just 53p in the off-trade.

19. Figure 1 displays trends in average price, broken down by on-trade and off-trade, for both Scotland, and England & Wales.

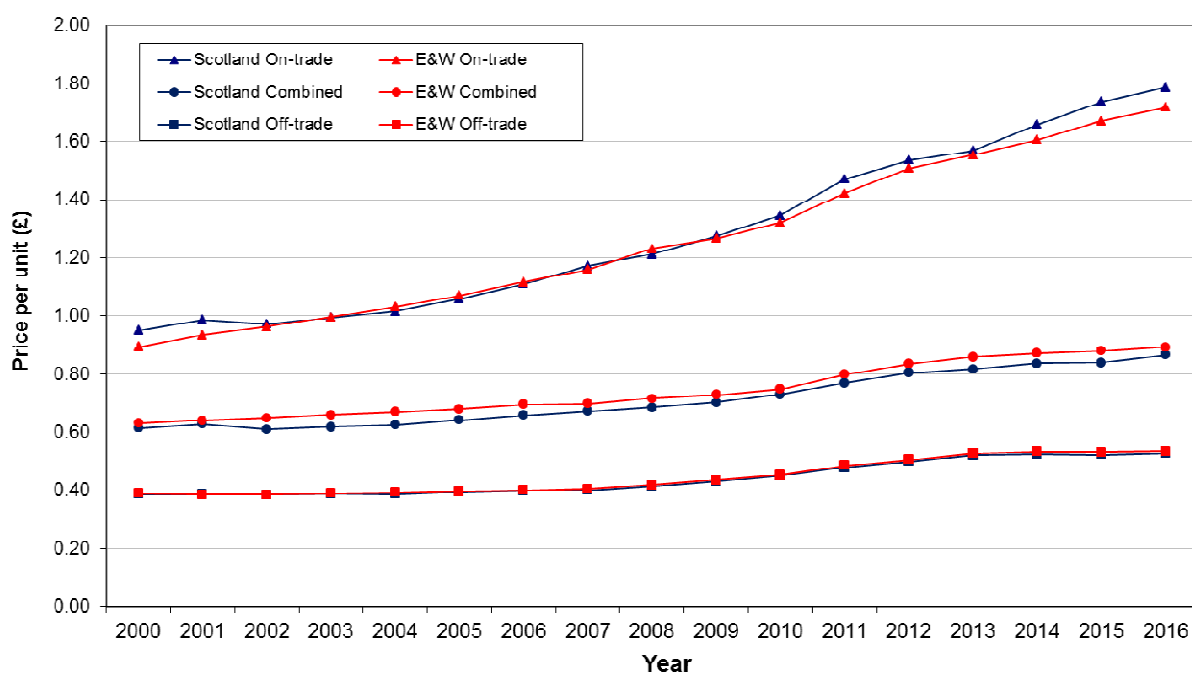
³⁶¹ http://www.heraldscotland.com/business_hq/14962164.Tennent_s_boosted_as_C_C_wins_renewal_of_Stella_deal/

³⁶² Giles L, Robinson, M., (2017) *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017* Edinburgh: NHS Health Scotland

³⁶³ *Ibid*

³⁶⁴ Nielsen-CGA dataset <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

Figure 1: Price per unit of alcohol in Scotland and England & Wales, by trade sector, 1994-2016³⁶⁵



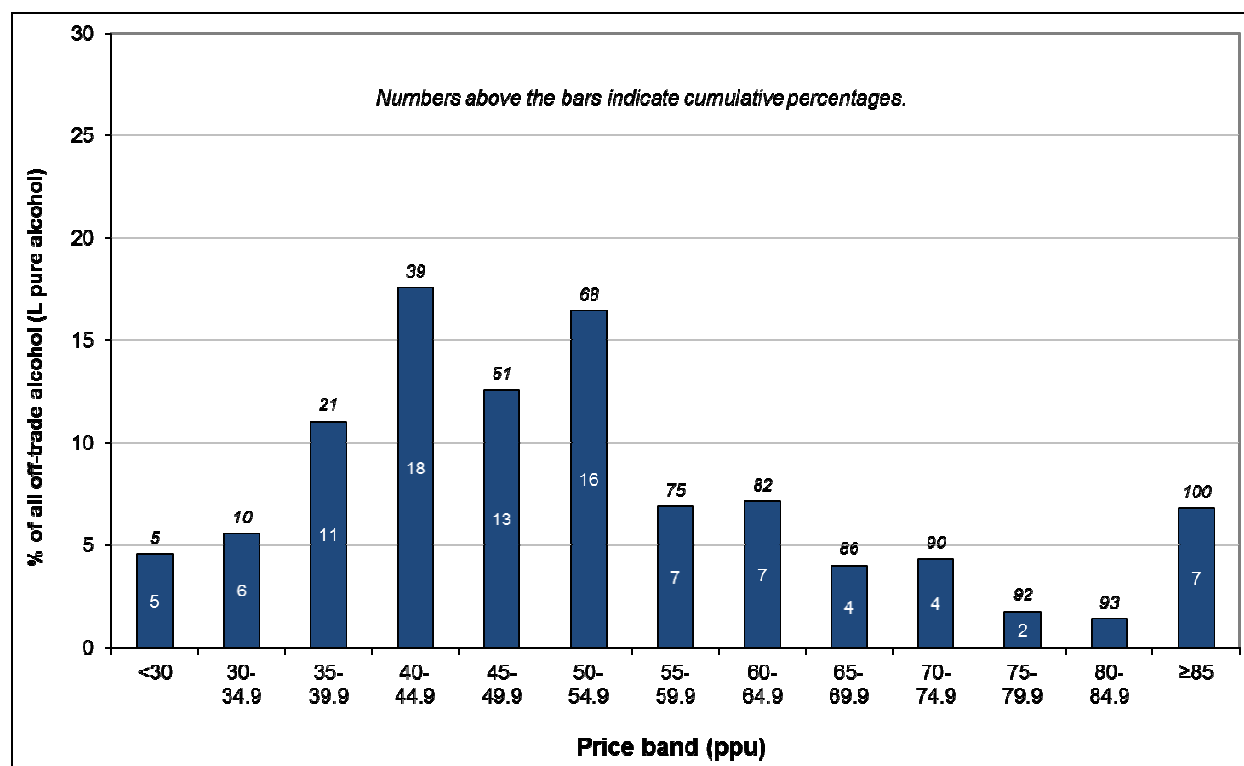
20. The chart shows that whilst on-trade prices have risen steadily since 2000, off-trade prices, with the exception of a slight rise between 2007 and 2013, have remained relatively stable. As a result the affordability of alcohol has risen. Alcohol sold in the UK is 60% more affordable in 2015 than it was in 1980³⁶⁶.

21. Average prices are one indicator of the price level in the market but are not sufficient to allow an assessment of the likely impact of the introduction of a minimum price. Data on the distribution of prices (expressed as the price of a unit of pure alcohol) is required. Nielsen data are available for the price distribution across the off-trade sector. This is the sector which will be predominantly affected. The on-trade sector is assessed to be affected only minimally, if at all.

22. Figure 2 shows the price distribution across the off-trade sector, in Scotland, in 2016. As can be seen, just over half the alcohol sold via the off-trade in 2016 (51%) was sold at under 50p per unit.

³⁶⁵ Nielsen-CGA dataset <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

³⁶⁶ Giles, Robinson (2017) op cit

Figure 2: Price distribution (%) of pure alcohol sold off-trade in Scotland, 2016³⁶⁷

The proportion of alcohol sold under 50p per unit varied with the type of alcohol.

23. An analysis of the cumulative off-sales volume of selected drink types and unit prices based on 2016 Nielsen data is presented in Table 3. The last column in the table (far right) provides market shares for the product categories as a proportion of total off-sales volume. The table demonstrates that the majority of sales for spirits, beer and cider were priced below 50p per unit. A minority of wine sales fell below the 50p per unit threshold.

³⁶⁷ NHS Health Scotland *MESAS Monitoring report 2017; Nielsen price band data set*

Table 3: Cumulative volume of off-sales of pure alcohol (volume) by price band and total market share, off-trade, Scotland 2016³⁶⁸

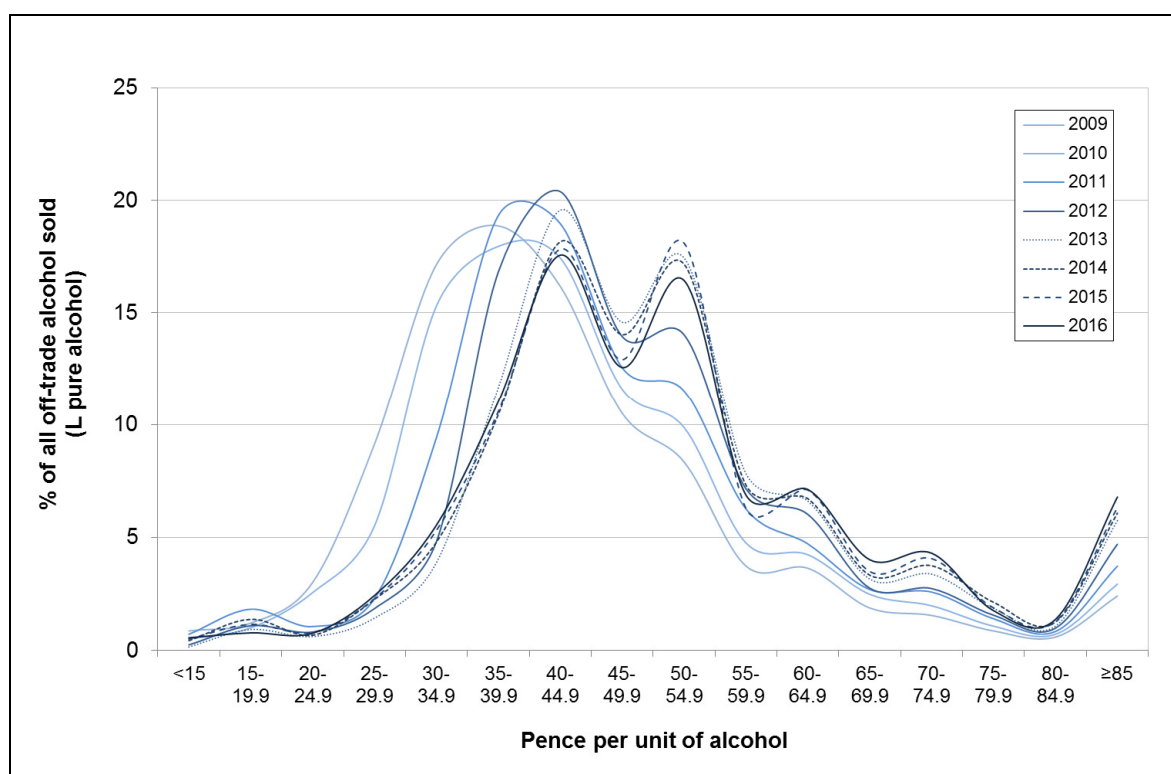
	Price per unit (pence)	<40p	<50p	<60p	<70p	% of total sales volume
Spirits		17%	62%	81%	88%	33%
of which	Vodka	13%	72%	93%	98%	13%
	Blended Whisky	30%	77%	61%	97%	7%
	Malt Whisky	<1%	1%	2%	5%	1%
	Gin	24%	60%	84%	91%	4%
	White Rum	7%	71%	96%	99%	1%
	Dark Rum	22%	47%	74%	87%	1%
	Golden Rum	<1%	51%	84%	94%	1%
Beer		35%	64%	83%	92%	23%
of which	Standard	49%	75%	93%	97%	9%
	Premium	26%	58%	78%	89%	14%
	Super Strength	5%	11%	48%	90%	<1%
Cider		56%	71%	80%	88%	7%
of which	White/ Strong	97%	100%	100%	100%	1%
	Regular	46%	65%	76%	85%	6%
Perry		93%	96%	100%	100%	1%
Wine (all)		7%	29%	62%	80%	32%
of which	table wine	9%	33%	69%	85%	28%
Fortified wine		15%	27%	98%	87%	3%

24. Over the period in which this policy has been developed, legislated for, and subject to judicial review, the price distribution illustrated in Figure 2 has been shifting to the right (see Figure 3). As might be expected, as prices have increased the amount sold below any particular price per unit has diminished. In 2008, 81% of all off-trade alcohol was sold at below 50p per unit. Between 2009 and 2013 the percentage declined steadily (e.g. to 73% in 2010). But this decline slowed thereafter with 52% sold under 50p per unit in 2014 and 51% in 2016.

25. The shift to a bimodal distribution is due to the impact of substantial numbers of products clustering around price points e.g. a bottle of spirits (ABV 37.5%) retailing at £11 is equivalent to 42p per unit; a bottle of wine (ABV 12.5%) retailing at £5 is equivalent to 53p per unit.

³⁶⁸ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

Figure 3: Price distribution (%) of pure alcohol sold off-trade in Scotland, 2009-2016³⁶⁹



Cross-border sales

26. Since the legislation will be introduced in Scotland only there is some potential for Scottish consumers to purchase alcoholic products in off-licences across the border in England, thereby shifting market demand away from Scottish supply (cross-border effects). The extent to which this might happen is difficult to predict as it will depend on consumers' willingness to travel for their alcohol purchases and on the scale of the price differential. The products most likely to be affected are high-strength, low price products and potential savings from purchasing these products in England would have to be weighed against the travel and transport costs incurred.

27. The issue is similar to that where countries on either side of a border have different tax regimes for goods. Within the EU, according to Clossen³⁷⁰, around 12% of the population of the EU live near a border with another member state. Different tax regimes in Scandinavian countries have led to flows of goods across borders. For example, one study analysed sales of alcohol and tobacco in Norway both close to the border with Sweden (where the tax is lower) and further away. Revenue from these products was lower for Norwegian stores near the border but consumers there report higher consumption than those further away. This suggests cross-border shopping by a number of Norwegian households. They also found that

³⁶⁹ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017> Nielsen Price Band Dataset

³⁷⁰ Clossen S (2007) Alcohol taxation and regulation in the European Union. *International Tax and Public Finance*. 14(6) 699-732

measure of externalities were higher near the border. The authors concluded that large tax differentials near borders induce tax avoidance behaviour³⁷¹. This behaviour was confirmed by 2 other studies³⁷².

28. The issue of cross-border shopping between Northern Ireland and the Republic of Ireland was addressed in a report conducted by the Office of the Revenue Commissioners and the Central Statistics Office for the Irish Department of Finance³⁷³. The report noted that the main causes of price differentials between goods in Northern Ireland and the Republic are operating costs, profit margin, taxes and, in particular, the value of Sterling against the Euro (depreciation of around 30% between January and December 2008). These are specific circumstances where it is not just alcohol that is cheaper – people are travelling to do all their shopping. *Intertrade Ireland* confirm that the main drivers for cross-border shopping are economic factors, such as price differentials and exchange rate fluctuations³⁷⁴. The impact³⁷⁵ of fluctuations in exchange rates has been seen again in 2016 when the value of Sterling dropped after the vote to leave the European Union (with the subsequent 10-12 per cent rise in the value of the Euro against Sterling).

Internet sales

29. Another potential consequence of introducing minimum pricing in Scotland only is an increase in internet sales. If the alcohol is despatched from within Scotland, minimum pricing (as it will be a condition of the licence) will apply e.g. weekly grocery shop or local home delivery service. If despatched from outwith Scotland e.g. a wine club based in England, it will not apply. Similar to cross-border shopping, the incentive to buy from outwith Scotland via the internet will be greater the bigger the price differential between the price of alcohol in Scotland and elsewhere, combined with the volume of goods being purchased. At present, from the information available, the Scottish Government believes that the type of alcohol typically bought over the internet, currently, is unlikely to be affected by minimum pricing.

30. However it is acknowledged that the market is diversifying and growing, including the entry of the international internet sales company Amazon. A 2017 report by *Profitero*³⁷⁶, whilst commenting that alcohol is a much less developed ‘online’ category compared to many others, proportionally, found that more UK consumers are buying

³⁷¹ Beatty, T., Larsen, E., and Sommervoll D. (2009) *Driven to Drink. Sin taxes near a border*, Journal of Health Economics, 28, 1175 - 1184

³⁷² Asplund M, Friberg R, and Wilander F. (2005). *Demand and Distance: Evidence on Cross-Border Shopping*. CEPR discussion paper. Agarwal S, et al (2013) *Cross-Border Shopping: Do Consumers Respond to Taxes or Prices?*

³⁷³ Office of the Revenue Commissioners and the Central Statistics Office (2009) *The Implications of Cross Border Shopping for the Irish Exchequer*
<http://www.finance.gov.ie/documents/publications/reports/2009/crossborderrefb09.pdf>

³⁷⁴ Inter Trade Ireland <http://www.intertradeireland.com/researchandpublications/trade-statistics/cross-border-shopping/>

³⁷⁵ “Border towns boom time as southern shoppers flock to Northern Ireland”
<http://www.belfasttelegraph.co.uk/business/news/border-towns-boom-time-as-southern-shoppers-flock-to-northern-ireland-35192961.html>

³⁷⁶ Anderson K (2017) *How Alcohol Brands Can Tap the eCommerce Opportunity*. Profitero

alcohol online than in any other market in Europe. The report also noted that Pernod Ricard's online sales in the UK are 5% compared to 2% globally, fuelled by its collaboration with Amazon, Asda and Tesco to push digital sales. It is worth noting however that Amazon, in 2016, applied for and were granted, premises licences for 2 Scottish distribution centres, bringing them within the scope of the Licensing (Scotland) Act 2005³⁷⁷ ³⁷⁸. Nevertheless this remains a market segment which will require careful monitoring.

Impact on retailers, suppliers and wholesalers

31. Guidance produced by the Competition and Markets Authority³⁷⁹ recommends the consideration of four key questions in order to discuss whether the legislation on alcohol products would have an impact on competition. Each of these questions is discussed in turn for the proposal of a 50p minimum price for a unit of alcohol.

The four questions are as follows. In any affected market, would the proposals:

1. Directly or indirectly limit the number or range of suppliers?
2. Limit the ability of suppliers to compete?
3. Limit suppliers' incentives to compete vigorously?
4. Limit the choices and information available to the consumer?

1. Would the proposals directly or indirectly limit the number or range of suppliers?

32. Minimum pricing will not award exclusive rights to supply or restrict procurement processes to a single supplier or restricted group of suppliers. There will also be no direct impact or limitation (quota) on the number of suppliers or retailers as a consequence of any of the proposals.

33. A licensing scheme is already in place for the retail of alcohol in off-sales and on-sales premises. Minimum pricing will affect all off and on-sales licensed premises as it will be a condition of a licence, however, it will not affect the existing licensing scheme or require the introduction of a new licensing scheme.

34. A minimum price will essentially establish a price floor. This could potentially make it harder for firms to enter or exit the market for retailing alcohol if the price floor is binding, i.e. if the free market price for products lies below the price floor. This could prevent low cost producers from using their cost advantage to enter the market. New entrants would no longer be able to attract demand by challenging existing firms on price, and below that price floor would be left with the ability to compete only on non-price factors such as brand, quality, range, advertising, etc. So it may, indirectly, act as a barrier to entry for new firms.

³⁷⁷ Miller Samuel Hill Brown Solicitors Blog. *Alcohol to order* <https://www.mshblegal.com/Licensing-Blogs/Licensing/alcohol-to-order.html>

³⁷⁸ Amazon might have the option of despatching from a distribution centre outwith Scotland

³⁷⁹ CMA (2015) *op cit*

35. Although conversely, for low cost producers, retailers may continue to be attracted to their products. If the low cost of production continues to be reflected in the price charged to the retailer, there will be the potential for increased levels of profit per item.

36. Products that currently retail below the preferred minimum price of 50p per unit will require to raise their price to comply with the legislation. This could result in a number of brands of a similar product retailing at an identical price such as supermarket own/ private label spirits, brands currently associated with a low retail price and those recognised as more premium brands. If there was no price differential it may be that demand for the own/ private label product or value product diminishes leading ultimately to a reduction in the number of suppliers.

37. Minimum pricing may provide an incentive to innovate. One possible effect of minimum pricing could be the introduction of alcohol products containing lower strength alcohol which could be sold at a relatively lower price in larger quantities due to them containing fewer units of alcohol per litre³⁸⁰.

International competition

38. The legislation would apply equally to international producers, wholesalers and retailers trying to enter the Scottish market. Any firms wanting to import high strength, low price products would have to raise their retail prices to comply with the minimum price per unit legislation. This could impact on a foreign company's ability to compete in the domestic market if the company was currently benefitting from low costs of production and selling at very low margins relative to other imports or domestic products.

39. Analysis by the Scottish Government demonstrated that by far the largest share of the impact will be in domestically produced (i.e. from within the UK) products. Whilst we cannot exclude the possibility that there will be both EU and non EU products affected, this is not a disguised restriction on trade. Annex B contains information provided to the Court of Justice of the European Union in 2015, based on the best information available to the Scottish Government at the time, on the extent of the impact in terms of the whole market (i.e. on and off-trade) and the likely source of production for various categories of alcoholic product.

40. The products most likely to be affected, as shown in Table 3, are spirits, beer and cider. The whisky would, by definition, be produced in Scotland; the most popular white spirits (by value) (Smirnoff vodka, Glen's Vodka and Gordon's gin³⁸¹) remain domestically produced brands; the majority of beer and cider affected is also likely to be domestic production³⁸².

41. The Scottish Government recognises that there are certain imported products which may be disproportionately affected, although they make up a very small part of

³⁸⁰ Note that for some products this is NOT possible – e.g. Scotch whisky must be 40% ABV or higher

³⁸¹ Scotland's top brands by sales value (2017) *The Grocer* in https://issuu.com/peeblesmedia/docs/off_trade_-_scotland_s_most_valuabl

³⁸² Annex B

the overall Scottish market. In 2016, although brandy constitutes only 1% of off-sales, 66% of it was sold under 50p per unit. No cognac, conversely, would be affected by a minimum price of 50p per unit. Analysis by NHS Health Scotland³⁸³ of wine sales in Scotland in 2013, showed differing amounts sold under 50p per unit by country of origin. The vast majority of imports from Eastern Europe (Bulgaria & Romania) sold at below 50p per unit; their share of the off-trade market was around 0.3%. (The amount retailed below 50p per unit is likely to have diminished as the price distribution has shifted since 2013 as described in paragraph 24).

2. Would the proposal limit the ability of suppliers to compete?

42. Minimum pricing will restrict the ability of retailers to price alcohol products. Since the limitation will act as a price floor, retailers will not be able to out-compete through undercutting one another on price across some or all of their product range or through loss-leading. This could have a weakening effect on competition between retailers.

43. Identifying which part of the retail market will be most affected – supermarkets or small shops – is problematic. Large and small retailers are likely to be affected differently. Larger retailers sell large volumes of popular brands (often priced very competitively) but also, a greater range of products. Convenience stores' representatives have previously said that they need to maintain low prices to compete with supermarkets, particularly as supermarkets continue to develop their "convenience store" format (such as Tesco Metro and Sainsbury's Central) putting pressure on independent retailers to compete with them on price. The retail market is continuing to evolve as the importance of the low cost supermarkets (Aldi, Lidl) and their market share, increases.

44. Some small retailers may depend on alcohol sales for a significant proportion of their turnover. The initial consultation response by the Scottish Grocers' Federation estimated that the imposition of a minimum price of between 40p to 70p per unit could reduce sales by between 10% and 25%³⁸⁴. However, this will have to be weighed up against the additional (off-sales) turnover predicted to be generated.

45. It is very unlikely that the minimum price legislation will force any small retailers out of the market. In the exceptional circumstances where this was the case, there would be a potential competition impact since it could lead to a more consolidated market, and hence less competition between firms even on products where the minimum price floor does not have a direct effect.

46. Table 4 illustrates the potential impact on the price of a selection of products following the introduction of a minimum unit price of 50p. These are examples taken as a snapshot from a comparison website³⁸⁵ and represent products at low and medium price range, (including many which are also amongst the most popular brands by value in Scotland 2016) in different drinks categories. The table indicates the minimum unit retail price and those products for which there would be no change.

³⁸³ Robinson M. (2014) *MESAS Wine Country of Origin* Dec 2014 NHS Health Scotland

³⁸⁴ Scottish Grocers' Federation (SGF) response to 2009 consultation

³⁸⁵ www.mysupermarket.co.uk, accessed February 2018

Table 4: Retail prices of a sample of products from Tesco (on 16 February 2018) and the impact of a 50p minimum price per unit³⁸⁶

Product	ABV	Units	Prices as at 16 Feb 2018*	Price per unit of alcohol	Minimum price at 50p/unit	Increase (£)
Cider						
Tesco Crofter's dry cider, 2 litres	5.0	10.0	£2.05	21p	£5.00	£2.95
Strongbow, 4x440ml	5.3	8.8	£4.00	45p	£4.66	£0.66
Strongbow dark fruits 4x440ml	4.0	7.0	£4.50	64p	£3.52	Not affected
Magners, 4x440ml	4.5	7.9	£3.75	47p	£3.96	£0.21
Kopperberg raspberry cider 500mls	4.0	2.0	£2.20	1.10p	£1.00	Not affected
Vodka and Gin						
Tesco Imperial vodka, 70cl	37.5	26.2	£10.00	38p	£13.13	£3.13
Glen's vodka, 70cl	37.5	26.2	£12.50	48p	£13.13	£0.62
Smirnoff Red Label, 70cl	37.5	26.2	£14.50	55p	£13.13	Not affected
Russian standard vodka 70cl	40.0	28.0	£14.50	70p	£14.00	Not affected
Tesco London dry Gin 70cl	37.5	26.2	£11.00	42p	£13.13	£2.13
Gordon's gin, 70cl	37.5	26.2	£14.50	50p	£13.13	£0.13
Bombay Sapphire 70cl	40.0	28.0	£21.00	54p	£14.00	Not affected
Whisky						
Scots Club 70cl	40.0	28.0	£11.00	39p	£14.00	£3.00
Tesco Special Reserve, 70cl	40.0	28.0	£12.50	45p	£14.00	£1.50
Bell's, 70cl	40.0	28.0	£15.00	54p	£14.00	Not affected
Whyte and MacKay, 70cl	40.0	28.0	£15.00	54p	£14.00	Not affected
Famous Grouse, 70cl	40.0	28.0	£15.00	54p	£14.00	Not affected
Glenfiddich single malt 12 yrs, 70cl	40.0	28.0	£35.00	1.25p	£14.00	Not affected
Jack Daniels 70cl	43.0	30.1	£26.00	86p	£15.05	Not affected
Beer and lager						
Tesco Lager 4x440ml	3.8	6.7	£2.55	38p	£3.34	£0.79
Carlsberg Special Brew 4x440ml	8.0	14.1	£7.60	54p	£7.04	Not affected

³⁸⁶ Prices sources via price comparison site <http://www.mysupermarket.co.uk/>

Tennents Lager 4x 440mls	4.0	7.2	£3.60	50p	£3.52	Not affected
Budweiser 4x440mls	5.0	8.8	£4.10	47p	£4.40	£0.30
Stella Artois 4x568ml	5.0	11.4	£5.10	45p	£5.68	£0.58
Tesco everyday value bitter 4x440ml	2.1	3.7	£1.00	27p	£1.85	£0.85
Carling 4x440ml	3.7	6.5	£3.60	55p	£3.26	Not affected
Wine (75cl bottles)						
Tesco Spanish white wine	11.0	8.3	£3.65	44p	£4.13	£0.48
Tesco Australian Chardonnay	12.0	9.0	£4.15	46p	£4.50	£0.36
Echo Falls Pinot Grigio	13.0	9.8	£6.00	62p	£4.88	Not affected
Brancott Estate Sauvignon Blanc Marlborough	13.0	9.8	£9.50	96p	£4.88	Not affected
Blossom Hill Californian Rose	11.0	8.3	£5.25	94p	£4.13	Not affected
Tesco Rioja	13.0	9.8	£5.00	51p	£4.88	Not affected
Hardy's Crest Cabernet Shiraz Merlot	14.0	10.5	£7.00	67p	£5.25	Not affected
Tesco Cote du Rhone	13.5	10.1	£4.30	42p	£5.06	Not affected
Isla Negra Seashore merlot	12.5	9.4	£5.00	53p	£4.69	Not affected

47. The initial change in the market is likely to be in the quantities sold of a specific alcoholic product if the original price lies below 50p per unit. The change in revenue to retailers and wholesalers will be determined by consumers' elasticity of demand for that product – the more inelastic the demand, the greater the increase in revenue. This leads to a transfer of 'rents' from consumers to retailers. In effect, retailers can charge higher prices for the same goods than they otherwise could under free and unrestricted competitive markets.

48. The Scotch Whisky Association point out that there could be another form of market distortion as a result of obligatory price increases in some of the low price, high strength products. Such an increase would reduce the price gap between low quality products (in this case own/ private label whiskies) and higher quality products such as branded blended whiskies and, to a lesser extent, single malts. The SWA claim this could potentially lead to a 'commoditisation' of the market, with consumers expected to switch to alternative, higher quality, but now similarly priced products.

49. An alternative scenario could be a proportionate increase in prices of higher quality products by retailers in order to maintain product differentiation, which would then result in a higher level of prices throughout the alcohol product segment presented to the consumer. Evidence from British Columbia shows that when the minimum price for alcoholic drinks was raised, prices rose across all of the price

distribution, including those well above the minimum price. The scale of price increases reduced the higher the original price of the product³⁸⁷.

50. The likely behavioural response to the increase in price is discussed in detail in the section on elasticities (paragraphs 72 & 73). Overall demand for alcohol tends to be inelastic. This means that an increased price leads to a proportionately smaller decrease in demand and an increase in revenue.

51. The most recent estimates from the Sheffield Model are that, after accounting for duty and VAT, a minimum unit price of 50p will lead to an increase in revenue in the off-trade of around £41m (9.6%) and a marginal decrease in the on-trade of £0.7m (0.7%)³⁸⁸. The change in spend will also impact on Exchequer receipts. It is estimated that there will be a reduction of £15m in duty and VAT.

52. The likely distribution of these increased revenues for the industry across the supply chain is not known. If the majority of profits are retained by retailers, those margins could be used to become more competitive in other areas, e.g. fruit and vegetables. It might lead to loss-leading activities on staple items such as bread and milk. This might put smaller retailers, who would not have the same flexibility of margins, at a competitive disadvantage. If producers raise their prices accordingly following the imposition of a minimum price, this could negate any profit margin increase for retailers³⁸⁹.

53. The Loi Galland, passed in France in 1997, meant that large supermarkets could not pass on discounts negotiated with wholesalers to consumers, the equivalent to allowing industry-wide price floors. Any deals made by retailers with wholesalers would only result in an increase in the retailer's margins, and not benefit consumers. In France, between 1997 and 2002, food prices increased faster than general inflation – 11.8% compared to 6%. Before the Loi Galland food prices increased at a slower rate than inflation³⁹⁰.

54. Similarly, between 1987 and 2005 Ireland's Groceries Act (1987) provided very similar restrictions on retailers' pricing by outlawing below-cost selling in Ireland. Collins et al. (2001)³⁹¹ identified the Act as a key influence on the behaviour of retailers, and as a significant variable in the explanation of retail gross margins. They show a positive relationship between the banning of below-cost selling and retail gross margins, which indicates that the law resulted in a reduction in price

³⁸⁷ Professor T. Stockwell *Alcohol pricing for public health: alcohol general principles, the devil and the detail*. Presentation to Scottish Health Action on Alcohol Problems, Edinburgh, 28 September 2012

³⁸⁸ Angus et al (2016). *Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland*. ScHARR. University of Sheffield.
https://www.sheffield.ac.uk/polopoly_fs/1.565373!/file/Scotland_report_2016.pdf

³⁸⁹ Scottish Grocers' Federation input to draft Regulatory Impact Assessment; SGF response to 2011 consultation

³⁹⁰ Biscourp, Boutin and Vergé (2008) "The Effects of Retail Regulations on Prices; Evidence from the Loi Galland", INSEE Working paper 2008/2

³⁹¹ Collins, Burt, and Oustapassidis (2001), "Below-cost Legislation and Retail Conduct: Evidence from the Republic of Ireland", British Food Journal

competition between retailers. A study by the Irish Competition Authority in 2005³⁹² estimated that removing the restriction on below-cost selling could save households nearly €500 per year.

55. An Organisation for Economic Co-operation and Development (OECD) roundtable in 2005 on resale below cost³⁹³ further noted that restrictions on selling below cost are associated with slower economic growth and higher unemployment.

56. In some cases, there is a risk that Government-imposed restrictions on pricing could encourage rent-seeking activity e.g. lobbying by firms to maintain or increase restrictions. This could lead retailers to divert resources away from developing and improving their products and services. In the long-run this can result in higher costs.

Specialists

57. In the case of specialists who sell alcohol products only, there would not be the opportunity to use any increase in revenue to reduce prices of other products such as fruit and vegetables in order to enhance competitiveness. However the aggressive low cost competition between the supermarkets in the off-sales sector is likely to have contributed to the failure of mid-size off-sales chains such as Threshers and Haddows. In terms of lower priced products, a minimum price might increase the ability of independent shops and smaller chains to compete in this market.

Production methods and innovation

58. The producers that will be most affected by a minimum price are those whose production consists of a significant volume of products which currently sell below that minimum price threshold. These producers are likely to be the ones whose main production focuses on own/ private label products, as these generally sell at lower prices.

59. In the case of ciders, some of the cheaper brands are produced by global companies such as Constellation Brands and Heineken which are major drinks companies producing a whole range of alcohol products. These companies are likely to be affected, overall, to a very minimal extent by minimum pricing in Scotland. Some own/ private label cider is produced by Aston Manor, a company with production based in Birmingham whose portfolio includes a range of cider products.³⁹⁴

60. For own/ private label spirits, it appears that there are two companies that are significantly involved in own/ private label whisky production: Whyte & Mackay and Glen Catrine. Whyte & Mackay claim to be a leading supplier of own/ private label whisky for the UK, with an estimated 80% share of that market. Glen Catrine's

³⁹² Irish Competition Authority (2005), 'Submission to the Minister for Enterprise, Trade and Employment on the Groceries Order, Submission: S/05/006', July 2005

http://www.tca.ie/PromotingCompetition/Submissions.aspx?selected_item=9

³⁹³ Organisation for Economic Co-operation and Development (2006) *OECD Policy Roundtables: Resale Below Cost, 2005* <http://www.oecd.org/dataoecd/13/30/36162664.pdf>

³⁹⁴ <http://www.astonmanor.co.uk/>

website³⁹⁵ states it now has the largest independent bottling plant in Scotland. Amongst a multitude of brands, they produce the 5th highest selling whisky in the UK (High Commissioner Scotch Whisky) and the 2nd highest selling vodka in the UK (Glen's Vodka). The strength of these companies in own/ private label spirit production is borne out by the Scotch Whisky Association's letter of 19 February 2010³⁹⁶ to the Finance Committee in which they state that "*while there are a number of companies involved in this trade [cheap or own label] two companies in particular rely heavily on this segment of the market*". The letter goes on to mention Whyte & Mackay and Glen Catrine³⁹⁷.

59. There should be minimal negative impact on innovation or the introduction of new products. New, high-strength products would have to comply with a minimum price, but would not be prevented from being introduced. As mentioned at paragraph 37, there may even be an incentive to innovate. One possible effect of minimum pricing could be the introduction of alcohol products containing lower strength alcohol which could be sold at a relatively lower price in larger quantities due to them containing fewer units of alcohol per litre. This would constitute an introduction of a new product in line with proposed legislation and would not change the characteristics of existing products. However, reducing the alcohol content will not be an option for some products such as Scotch Whisky, where legal definitions dictate that the product has to be of strength of at least 40% or higher³⁹⁸.

61. It is not anticipated that the proposals will limit suppliers' freedoms to organise their own production processes or their choice of organisational form.

International competition

63. There is some concern by the industry³⁹⁹ that the establishment of minimum price legislation in Scotland sets a precedent which could lead to legislation being introduced in other countries under the protection of a public health rationale. Depending on how these measures were implemented, there could potentially be a detrimental effect on the export segment of Scottish drinks producers, in particular for Scotch Whisky. Scotch Whisky is already subject to a number of imposed duties and restrictions in other countries, so it is difficult to see how minimum pricing introduces a precedent.

³⁹⁵ <http://www.lochlomonddistillery.com/>

³⁹⁶ Scottish Parliament reference FI/S3/10/7/2

³⁹⁷ Glen Catrine Bonded Warehouse Ltd. (established 1974), is now the largest independent bottling plant in Scotland, but was originally created to bottle whisky for their own chain of retail shops. Its current annual production is in excess of 36.5 million bottles of whisky, vodka, gin, rum and brandy. Amongst a multitude of brands, they produce the 5th highest selling whisky in the UK (High Commissioner Scotch Whisky) and the 2nd highest selling vodka in the UK (Glen's Vodka). They also bottle Whisky, Rum, Brandy, Gin & Vodka for many of the leading own/ private labels available in a variety of multiple retail outlets.

³⁹⁸ Definition of Scotch Whisky, 3.1.i http://www.opsi.gov.uk/si/si2009/uksi_20092890_en_1#1g3

³⁹⁹ SWA response to 2009 consultation

3. *Would the proposals reduce suppliers' incentives to compete vigorously?*

64. The primary effect of a price floor is to reduce the ability of retailers to compete on price grounds in a certain section of the market. Instead, retailers might switch to competing on other factors, such as customer service, quality, heritage, taste or origin. Some of this could be positive for consumers. However, other forms of competition can be less positive (e.g. competition on advertising). One unintended consequence of the legislation might be an increase in this type of non-price competition facilitated by the increase in revenue and any resultant impact on sales.

65. The previous section (section 3: "limits the ability of suppliers to compete") established that there could be increases in revenue to retailers following the introduction of a minimum price depending on the elasticity of demand for alcohol. This could remove pressure on retailers to be efficient as it may reduce the ability to compete on price grounds.

66. It is important to ensure that the introduction of a minimum price does not inadvertently allow or encourage competitors to share information on their commercial matters (e.g. future price or demand projections) during the process of setting their price according to the regulations. If this was the case, it could also lead to reduced incentives to compete.

67. Biscourp et al. (2008) found that before the Loi Galland, retail prices were significantly lower in concentrated markets in France but, two years after the enactment of the law, the correlation vanished. This indicates that retail chains were no longer competing fiercely, and consumers would have been losing out. The larger retailers benefited the most in terms of ability to increase prices.

4. *Limit the choices and information available to the consumer?*

68. A minimum price for a unit of alcohol can be expected to have direct and indirect impacts on consumers. A price floor will lead to price changes for affected products. This means that relative prices of different alcoholic products would change as the minimum price floor would affect some products (whose price would increase), but not others (whose original price was already set above the minimum price per unit).

69. It may limit consumer choice in a particular market segment as the ability to retail alcohol at prices which are cheap relative to the strength of the product will be curtailed. Those who drink most heavily will be most impacted as they are highly likely to buy these products. As shown in Table 3, the volume of alcohol affected will vary with the type of alcohol. (Note, the data does not allow identification of the number of products that will be affected⁴⁰⁰.)

70. As mentioned in paragraphs 47 and 48, consumer choice may be reduced as, depending on the market response to the imposition of a price floor, products which previously retailed below that may disappear from the market; or they may displace

⁴⁰⁰ This WILL be monitored and analysed in one of the studies within the evaluation portfolio

those previously retailing at the new price required. Alternatively, all products may remain in the market with adjustment occurring across a wide range of price points.

71. In terms of pricing information it will be possible for consumers to calculate the minimum price below which a product cannot be sold. It is estimated that the change will result in increased income to the industry via the off-trade. If firms choose to spend this on additional marketing and advertising then consumers could, potentially, have more information about the products that are available.

72. Consumers can be expected to respond to the change in price in either of two ways, either by reducing their consumption of an alcoholic product if the price increases, or by switching to alternative products (substitutes) whose relative price has decreased. The extent to which this happens will depend on consumers' price responsiveness, i.e. the own-price elasticity (PED) and cross-price elasticities (XED) of demand, which will determine change in consumption and switching behaviour. It is not expected that minimum pricing will affect the ease with which customers can switch between competing products.

73. *Own-price and cross-price elasticities:*

- Own-price elasticity of demand is defined as the measure of responsiveness in the quantity demanded for a commodity as a result of a change in its own price. It is a measure of how consumers react to a change in price.
- If demand for a good is inelastic, a change in the good's price will invoke a proportionately smaller change in demand for that good ($0 < PED < 1$). If the demand for a good is elastic, then a change in price will result in a relatively larger change in quantity demanded ($1 < PED < \infty$).
- Elasticities will vary with the level of drinking, and individual's level of income. Aggregate analysis tends to suggest that heavier drinkers have relatively more inelastic elasticities of demand for alcohol than moderate drinkers, meaning that an overall change in the price of alcohol will cause heavier drinkers to change their consumption behaviour by relatively less than moderate drinkers. However, since heavier drinkers, by definition, consume more in *absolute* terms, the total quantities of alcohol consumed could change more than for moderate drinkers.
- The Sheffield Model found that heavier drinkers were more responsive to price change. This is because the analysis is based on disaggregated equations rather than aggregated. The model takes into account cross-price impacts which vary in a very complex way between moderate and hazardous/harmful drinkers and across the different drink and price groups of goods.
- Cross-price elasticities of demand (XED) measure the responsiveness of the demand for one good, to a change in the price of another good. If the XED between two alcohol products is high, this means that consumers would switch easily to an alternative if the price of one product increased.

74. As alcohol is both mind altering and addictive it might be reasonable to suggest alcohol has relatively few substitutes⁴⁰¹. The PED for alcoholic beverages is therefore likely to be inelastic. Estimates of the PED will vary, however, depending on how the beverage is defined, e.g. it could reasonably be argued the most important substitute products for beer are wine and spirits. As there are relatively few substitute products, it is likely the absolute value of the own-price elasticity of beer is quite low. The same is obviously also true for wine and spirits.

75. The more narrowly defined the market of a product (e.g. alcohol), the greater the flexibility to switch to alternative products, i.e. the greater the elasticity. For any given brand of beer, or beer sub-market category, e.g. imported beer, there are therefore many substitute beer products. As such, it is reasonable to expect the absolute value of the PED for a specific beer brand or beer sub-market category to be relatively high.

76. Estimates of own price elasticities calculated and used in the most recent version of the Sheffield Model for the Scottish Government are shown in Table 5 below. For comparison, examples of price-elasticities from other studies are given in Table 6.

Table 5: own price elasticities for off and on-trade beer, cider, wine, spirits and RTDs in Great Britain⁴⁰²

	Beer	Cider	Wine	Spirits	RTDs
Off-trade	-0.980	-1.127	-0.384	-0.082	-0.585
On-trade	-0.786	-0.591	-0.871	-0.890	-0.187

⁴⁰¹ Fogarty, J. (2008) *The demand for beer, wine and spirits: Insights from a meta analysis approach*, American Association of Wine Economists, Working paper No.31, November 2008

⁴⁰² Angus et al (2016) op cit

Table 6: Examples of price elasticities in international studies

Study	Region	Period/type	Mean own-price elasticities			
			Alcohol (aggregate)	Beer	Wine	Spirits
Huang ⁴⁰³ (HMRC)(2003)	UK	1970-2002, on-trade		-0.48	-0.75	-1.31
		1970-2002, off-trade (beer only)		-1.03		
Fogarty ⁴⁰⁴ (2004)	UK	Meta analysis		-0.47	-0.72	-0.76
Gallet ⁴⁰⁵ (2007)	International	Meta analysis	-0.54			
Wagenaar ⁴⁰⁶ (2009)	International	Meta analysis (harmful drinkers only)	-0.51 (-0.28)	-0.46	-0.69	-0.8
Collis, Grayson & Johal ⁴⁰⁷ (HMRC) (2010)	UK	2001-2006, on-trade		-0.77	-0.46	-1.15
		2001-2006, off-trade		-1.11	-0.54	-0.89
Sousa J ⁴⁰⁸ (HMRC) (2014)	UK	2007-2012 on-trade		-0.34	-0.24	-1.25
		2007-2012 off-trade		-0.74	-0.08	-0.45

⁴⁰³ Huang, C. D. (2003) *Econometric models of alcohol demand in the United Kingdom*, Government Economic Service Working paper 140, London: HM Customs & Excise

⁴⁰⁴ Fogarty, J. (2004) *The own price elasticity of alcohol: a meta analysis*, Programme Working Papers, University of Western Australia

⁴⁰⁵ Gallet, C. A. (2007) *The Demand for Alcohol: A Meta-analysis of Elasticities*, Australian Journal of Agricultural and Resource Economics, 51, 2, 121-135

⁴⁰⁶ Wagenaar, A.C., Salois, M.J., and Komro K.A (2009) *Effects of beverage alcohol taxes and prices on consumption: a systematic review and meta-analysis of 1003 estimates from 112 studies*, Addiction: 2009, 104

⁴⁰⁷ Collis, A., Grayson, A., and Johal, S. (2010) *Econometric Analysis of Alcohol Consumption in the UK: HMRC Working paper 10*, London: HMRC

⁴⁰⁸ Sosa. J (2014) *Estimation of price elasticities of demand for alcohol in the United Kingdom. HMRC working paper 16*. London: HMRC

77. Although there is little consistency in estimates, these tables show that demand for wine and beer is generally inelastic in the UK. Exceptions are on-trade spirits in the HMRC studies; and off-trade cider in the Sheffield Model. (Note that many studies do not split into on and off-trade.) Findings in own-price elasticity for spirits range from very inelastic in the off-trade to elastic in the on-trade. The estimates used in the Sheffield Model are in line with other studies.

78. A possible increase in the price of alcoholic products following the introduction of a minimum price proposal will therefore have different effects on consumption depending on these elasticities. For the more inelastic products, it can be expected that consumers will spend more. For the relatively more elastic products, like off-trade cider, consumers would be expected to reduce their consumption in response to price increases.

79. The own price elasticities in tables 5 and 6 do not take into account switching behaviour. This issue is addressed by the XEDs between different alcoholic products as defined above. The values show both whether products are substitutes or complements and the strength of the relationship. The extent of switching is likely to be limited⁴⁰⁹.

80. The average increase in consumer spending is estimated to be around £5 per drinker per year. This amount will vary with the level of drinking and income and estimates by level of drinking, and income, and are shown in Table 7.

Table 7: Estimated impact of 50p minimum unit price on consumer spending by drinker and poverty group⁴¹⁰

Drinker group	Moderate		Hazardous		Harmful	
	In poverty	Not in poverty	In poverty	Not in poverty	In poverty	Not in poverty
Baseline spending per drinker per year	£230	£378	£1,102	£1,204	£2,484	£2,341
Absolute change per drinker per year	£0	£2	£1	£16	-£88	£20
Relative change	-0.2%	0.6%	0.1%	1.4%	-3.5%	0.8%

81. This shows that, on average for the consumer, there is a small impact, particularly if they are moderate drinkers. The largest impact is on those who are most likely to buy the products liable to be affected: those on low incomes who drink at harmful levels.

⁴⁰⁹ Values are in Angus et al (2016), table 3.2 page 21

⁴¹⁰ Angus C, Holmes J et al (2016) table 4.9

1. *The Scottish Government and the United Kingdom are requested to express their views on the specific effects of the national measure requiring the imposition of a minimum retail price (calculated according to the number of units of alcohol in products), on the imports of all alcohol products, subject to that measure and originating in other Member States, sold in Scotland below the MPU. They are in particular requested to produce the percentages of sales of alcoholic drinks other than wine which are effected at prices lower than the MPU.*

The Scottish Government's view on the specific effects of the national measure on the imports of all alcohol products, subject to Minimum Unit Price (MUP) and originating in other Member states sold in Scotland.

1. Table 1 below details by product category the data we have on the effects MUP would have on the imports of alcoholic drink from other Member States.

Primary effects

2. The imposition of MUP will apply to all alcohol products whether UK or imported and irrespective of where they are sold. The legislation will apply equally to all producers and retailers. It is a feature of the statutory requirement that direct impacts will fall solely on those products retailing below the MUP, with the impact being progressive, so that the products which have the cheapest cost per unit of alcohol will be required to introduce the largest price increases.
3. Table 1 taken with the information set out in the Business and Regulatory Impact Assessment (BRIA) show why the Scottish Government is clear that by far the larger share of the impact of the introduction of MUP in Scotland will fall on domestically-produced (i.e. UK) goods compared to imported products. Even within wine, we have data to show that the greater part of the impact falls on non-EU imported goods (<http://www.healthscotland.com/documents/24482.aspx>).
4. University of Sheffield modelling (January 2012), which informed the BRIA, estimates the effect of a 50p per unit minimum price on different alcoholic drink types. It estimates a reduction of 5.7%¹ in consumption of all alcoholic units, albeit without any reduction in the overall value of the market. The reduction breaks down per alcoholic drink type as 8.9% of spirits; 6.3% of beer and cider and 3.2% of wine (as measured by pure alcohol content).

Secondary effects

5. In addition to its own modelling, the Scottish Government consulted the industry about the impacts of MUP on the market, but found no consensus from any sector of the industry. That accords with a market for alcohol in Scotland which is mature and highly competitive. In the light of the impossibility of predicting with any certainty the market response, the Scottish Government agreed it should be under a statutory obligation to commission research to monitor the impact of the legislation on the market following the introduction of MUP.

6. In summary, the Scottish Government accepts there will be market impacts; these are primarily on domestically produced alcohol but in some sectors also affect imports (EU and non-EU). The effects are not, and could not be, a disguised restriction on trade. The immediate market effects are clear but the Scottish Government's main analysis and views are focused not on producing particular market results within or across categories but on health impacts.

Percentage of sales of drinks affected by minimum unit price of 50p per unit (50ppu)

Table 1 provides information on the sales of alcoholic drinks other than wine which are affected at prices lower than the MUP of 50ppu.

This table employs data from Nielsen² which demonstrates the market situation. The data is compiled by reference to volume of pure alcohol (i.e. ethanol content) and sales values. Data using a single measure is not available.

The total market comprises both the off trade and the on trade. Approximately 72% of the market relates to the off trade (shops, supermarkets) with 28% relating to the on trade (bars, pubs, restaurants, hotels). More detailed price data is only available for the off trade.

Column 3 shows the market share of each type of drink. The data used here relates to the total market and is measured in terms of the volume of pure alcohol.

Column 4 also uses data based on the volume of pure alcohol. It gives an estimate for each type of drink of the proportion of that type sold at below 50ppu. This column uses price data that is available only for alcohol sold in the off trade. It is highly unlikely that any alcohol will be sold at below 50ppu in the on trade because the average price of alcohol sold in the on trade is high³.

Column 5 contains observations on the impact on EU imports. Comprehensive data on the impact on imports does not exist. The data that is available is published by Nielsen in “SG off-trade – Scotland’s most valuable brands” *The Scottish Grocer*, March 2014. The data relates solely to the off trade and provides a breakdown between imports and domestic (UK) production of the top selling brands in Scotland by sales value. Data on “own label” alcohol (which is alcohol that is sold in the off trade under the supermarkets’ own brand names) was also obtained from Nielsen.

Table 1: percentage of sales of drinks affected by minimum unit price of 50p per unit (50ppu)

1	2	3	4	5
Product		Total Market Share (%) (by pure alcohol)	Proportion of product type retailing below 50ppu (%) (by pure alcohol)	Impact on imported products : off-trade sales
All spirits		29	51	
Whisky ⁴				
	blended	7	57	All blended whisky is produced in Scotland. EU imports are, thus, not affected.
	malt	1	0.8	All malt whisky is produced in Scotland. EU imports are, thus, not affected.
	imported	0.6	7	Of the top 15 selling imported whiskies in the off trade in Scotland (representing 95% of sales of this product), EU (Ireland) represents 12% of sales by value and retails above 50ppu. Other imports are from Canada and the USA which retail at above and below 50ppu. The Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.

Vodka	12	61	Of the top 15 selling vodkas in the off trade in Scotland (representing 98% of sales of this product), 90% by value are produced in the UK. Of these sales, imports from the EU (Sweden and France), retail above 50ppu and would be unaffected. The Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.
Gin	3	54	Of the top 15 selling gins in the off trade in Scotland (representing 98% of sales of this product), all are produced in the UK. The Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.
Rum	2.5	45	Of the top 15 selling rums in the off-trade in Scotland (representing 98% of sales of this product), all are imported from the Caribbean and North and South America. However, the Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.
Brandy	1	44	All brandy is imported from the EU – mainly from France and Spain. EU imports are, thus, affected.
	0.3	1.4	cognac All cognac is imported from France and almost all retails above 50ppu although some retails below 50ppu. EU imports are, thus, affected.
Liqueurs, cream	0.1	36	The Scottish Government does not have detailed information on these categories. It is highly likely that most of these drinks will be

liqueurs, minor spirits				<p>sold at above 50ppu but some will be sold at below 50ppu. There are imports from the EU and non-EU. The Scottish Government cannot exclude the possibility that some EU imports may be affected.</p>
Speciality drinks		0.5	27	<p>Of the top 15 selling specialities in the off trade in Scotland (representing 74% of sales of this product), only 2 (representing 4% of sales) retail at under 50ppu and both are produced in the UK. The Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.</p>
Beer⁵		31	31	<p>Nielsen estimate 86% of branded lager sold in the UK is brewed in the UK.</p>
	lager	27	33	<p>Of the top 15 selling lagers in the off trade in Scotland (representing 82% of sales in this product), 82% by value are produced in the UK. Imports from the EU represent 15% of sales (EU, Italy, Germany, Netherlands, France). EU imports are, thus, affected.</p>
	ales	3	25	<p>Of the top 15 selling ales in the off trade in Scotland (representing 69% of sales of this product), all are produced in the UK. The Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.</p>
	stout	0.6	13	<p>Of the 15 top selling stouts in the off trade in Scotland (representing 99% of sales of this product), 87% by value are produced in Ireland with most selling at above 50ppu, although some sell below 50ppu. EU imports are, thus, affected.</p>

Cider		7	53	Of the top 15 selling ciders in the off trade in Scotland (representing 78% of sales), 36% by value are imported from the EU (Ireland, Sweden, Belgium) and sell at above and below 50ppu. EU imports are, thus, affected.
Other				
Fortified wines		2	35	Fortified wine includes sherry and port, and production is mainly in UK, Spain and Portugal. Most products retail above 50ppu with some below 50ppu. EU imports are, thus, affected.
Ready To Drink (RTDs, alcopops)		1	1	Of the top 15 selling RTDs in the off trade in Scotland (representing 74% of sales of this product), 95% by value are produced in the UK. Imports from the EU (Italy) are 5% by sales value and retailed at above 50ppu. The Scottish Government cannot exclude the possibility that there may be niche products from the EU retailing below MUP, but think it highly probable that EU imports will not be affected.
Perry		0.5	96	The Scottish Government does not have detailed information on this category. Products retail at above and below 50ppu, and production is both UK and EU. The Scottish Government cannot exclude the possibility that some EU imports may be affected.

¹ Measured in terms of pure alcohol

² Nielsen is a leading international consumer market analysis company

³ The average price per unit for all alcohol sold in the on trade in 2013 was £1.57, and the average price in the off trade was £0.52. Within each different type of alcohol, the average price in the on trade is as shown in Table 2:

Table 2: average price per unit of types of alcohol in on trade (2013)

Product type	Average price per unit (£)
Spirits	2.24
RTDs	2.03
Fortified wine	3.25
Wine	1.55
Cider	1.33
Beer	1.32
Perry	0.82

⁴ The calculation of the percentage of the market selling at under 50ppu for different **types** of spirits (e.g. whisky) or beer (e.g. lager) assumes that the split between the on and off trade is the same as for the overall category (e.g. spirits). We do not have this data by type of product.

⁵ In the on trade beer is generally sold in volumes as pints and half pints when in draught and in bottles , normally 330mls. In the off trade beer is sold in a wider variety of different packages: these include individual bottles and cans, and multipacks (which are considered as a single purchase). This means that the price per unit of alcohol will vary across an individual brand with the differing packaging. Popular brands often have a wide variety of packaging, e.g. 330ml bottle, 500ml can, 500ml can, 4 x 330ml multipack, 4 x 440 mls multipack, 4 x 500ml multipack, 12 x 330mls multipack, 12 x 440ml multipack, 24 x 440 ml multipack.