



BRIEFING PAPER

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Alcohol: minimum pricing

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Summary

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

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

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

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

Policy in Scotland

Alcohol licensing is a devolved matter. In June 2012, the Scottish Government passed the *Alcohol (Minimum Pricing) Scotland Act 2012*. This would enable the introduction of MUP.

The Scottish Whisky Association challenged the legislation in the European and Scottish courts. On 15 November 2017, the UK Supreme Court [said](#) that the 2012 Act did not breach EU law.

The Scottish Government [plans](#) to introduce MUP from 1 May 2018. A public [consultation](#) on the preferred price of 50p per unit ran from 1 December 2017 to 26 January 2018.

Policy in England and Wales

On 22 November 2017, the Government [said](#) that it “noted the ruling of the UK Supreme Court in favour of the Scottish Government. Minimum unit pricing will continue to remain under review pending the impact of its implementation in Scotland.”

In May 2014, the Coalition Government introduced a ban on the sale of alcohol below cost price. This followed its decision not to go ahead with the [alcohol strategy's](#) (March 2012) commitment to introduce MUP. A [consultation](#) (November 2012) on the strategy recommended a price of 45p per unit. The commitment was dropped in July 2013. The then Government claimed that its [analysis](#) of consultation responses showed there was not enough “concrete evidence” that MUP would be effective in reducing the harms associated with problem drinking without penalising responsible drinkers.

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

Alcohol charities (e.g. Alcohol Concern) and public health groups continue to argue for MUP, claiming that this would have more of an impact on alcohol-related harm than the ban on below cost selling.

1. Policy in England and Wales

The debate about a minimum price for alcohol has been prompted by concerns about high levels of drinking, its effect on public health and public order, and a widespread belief that most of the alcohol that contributes to drunken behaviour is irresponsibly priced and sold.¹

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

1.1 Current position

A ban on selling alcohol below a “permitted price” has been in place since 28 May 2014. This was introduced through the *Licensing Act 2003 (Mandatory Conditions) Order 2014*. The permitted price is defined as the level of alcohol duty plus VAT. This means that a can of average strength lager cannot be sold for less than 41p and a standard bottle of vodka cannot be sold for less than £9.06.²

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

Minimum unit pricing?

On 22 November 2017, the Government [said](#) that it “noted the ruling of the UK Supreme Court in favour of the Scottish Government. Minimum unit pricing will continue to remain under review pending the impact of its implementation in Scotland.”³ Section 2 of this Paper looks at policy in Scotland.

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

A December 2016 [report](#) by Public Health England looked at MUP and said that “empirical evidence and modelling studies have shown that setting a minimum price for alcohol can reduce alcohol-related harm while saving health-care costs.”⁴

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

¹ See, for example, Public Health England, [The public health burden of alcohol and the effectiveness and cost-effectiveness of alcohol control policies: an evidence review](#), December 2016; Home Office, [Impact Assessment on a minimum unit price for alcohol](#), November 2012

² Home Office [Guidance on banning the sale of alcohol below the cost of duty plus VAT: for suppliers of alcohol and enforcement authorities in England and Wales](#), March 2017, p5

³ [PO 113464](#) [on MUP], answered 22 November 2017; See also [PO 122527](#) [answered 23 January 2018]

⁴ Public Health England, [The public health burden of alcohol and the effectiveness and cost-effectiveness of alcohol control policies: an evidence review](#), December 2016, p92

Wales.⁵ The Government's [response](#) to the report was published on 6 November 2017 (i.e. before the Supreme Court's judgment on the Scottish legislation) and said:

Subject to the outcome of the legal case between the Scottish Government and the Scotch Whisky Association and any subsequent decision of the Scottish Government to introduce a minimum unit price for alcohol, the Government will consider the evidence of its impact once it is available.⁶

The Health and Home Affairs Select Committees held a one-off oral evidence session on MUP on 22 January 2018.⁷ The evidence is available from the Health Committee's [website](#).

Local initiatives on alcohol pricing?

There has been some discussion of whether licensing authorities can set a minimum price. Home Office [guidance](#) on the *Licensing Act 2003* states that licensing authorities should not impose fixed prices through blanket licence conditions.⁸

⁵ House of Lords Select Committee on the Licensing Act 2003, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146, 4 April 2017, para 86

⁶ Home Office, [Government response to The Licensing Act 2003: post-legislative scrutiny](#), Cm 9471, November 2017, p11

⁷ ["Committees assess Government position on alcohol Minimum Unit Pricing"](#), Health Select Committee News, 19 January 2018

⁸ Home Office, [Revised Guidance issued under section 182 of the Licensing Act 2003](#), April 2017, para 10.21

1.2 Coalition Government policy

The Coalition Government said that it would ban the sale of alcohol below cost price.⁹ A [consultation](#) (July 2010) sought views on how to define the cost of alcohol, effective ways to enforce a ban, and the feasibility of using the mandatory code of practice to set a licence condition that no sale could be below cost price.¹⁰

Responses to the consultation “indicated a wide range of views...with no overall consensus”.¹¹

In January 2011, the Government [set out](#) plans to ban the sale of alcohol below the rate of duty plus VAT.¹² It was intended that the ban would come into force in April 2012 and would be a new condition of the mandatory code of practice.¹³

Alcohol strategy (March 2012) – MUP?

The Government’s [alcohol strategy](#) (March 2012) set out a range of proposals to address binge drinking and alcohol-fuelled violence and disorder. One of the strategy’s commitments was to introduce MUP instead of the proposed ban on below cost sales.¹⁴

The Prime Minister’s foreword to the strategy claimed that MUP would reduce crime and alcohol-related deaths.¹⁵

Reaction

Alcohol Concern welcomed the Government’s plans,¹⁶ as did the [Alcohol Health Alliance](#).¹⁷

The BBC reported that some in the drinks industry, such as C&C Group, had given the Government’s proposal a “cautious welcome”.¹⁸ Greene King and Waitrose, in evidence to the Health Select Committee, strongly supported MUP.¹⁹ However, the British Retail Consortium claimed it would be “a tax on responsible drinkers”.²⁰

The Health Select Committee welcomed plans for MUP while remarking that it was “struck by how little evidence has been presented about the

⁹ HM Government, [The Coalition: our programme for government](#), May 2010, p13

¹⁰ Home Office, [Rebalancing the Licensing Act: a consultation on empowering individuals, families and local communities to shape and determine local licensing](#), July 2010, consultation question 24 on p20

¹¹ Home Office, [Responses to consultation: Rebalancing the Licensing Act](#), 2010, p11

¹² [HC Deb 18 January 2011 c34WS](#)

¹³ [HC Deb 27 October 2011 c312W](#)

¹⁴ HM Government, [The Government’s Alcohol Strategy](#), Cm 8336, March 2012, p7

¹⁵ *Ibid*, p2

¹⁶ Alcohol Concern, [Briefing paper on the Government’s alcohol strategy](#), March 2012, p1; Alcohol Concern favours a minimum price of 50p per unit.

¹⁷ “Health bodies say government must stand firm on minimum unit pricing”, [Alcohol Health Alliance news release](#), 13 March 2013

¹⁸ [“Minimum alcohol price planned for England and Wales”](#), *BBC News*, 23 March 2012

¹⁹ Health Select Committee, [Government’s Alcohol Strategy](#), HC 132 2012-13, July 2012, para 46

²⁰ [“Minimum alcohol price planned for England and Wales”](#), *BBC News*, 23 March 2012

specific effects anticipated from different levels of minimum unit price”.²¹ The Committee also said that an appropriate mechanism would be needed to monitor and adjust the minimum price over time and recommended that there should be a “sunset clause” on any provisions for setting a price.²²

The [Wine and Spirit Trade Association](#) told the Committee that it was “inconsistent with the operation of the free market for the state to intervene on price” and that minimum pricing could “therefore represent a barrier to trade and be illegal under EU law.”²³

The Office of Fair Trading also said that minimum pricing legislation could be incompatible with European law.²⁴

Alcohol strategy consultation (November 2012)

A [consultation](#) (November 2012) on the Government’s alcohol strategy sought views on, among other things, a minimum unit price of 45p.²⁵ According to estimates in the consultation paper, such a price would result in a reduction in consumption across all product types of 3.3%, 5,240 fewer crimes per year, a reduction in 24,600 alcohol-related hospital admissions and 714 fewer deaths per year after ten years.²⁶

An Impact Assessment (IA) was published by the Home Office.²⁷ This used version 2 of a model²⁸, developed by the [University of Sheffield’s School of Health and Related Research](#), for assessing the impact of alcohol pricing policies.²⁹ The IA gave the following costs of alcohol misuse in England:

- NHS costs, at about £3.5bn per year at 2009-10 costs
- Alcohol-related crime, at £11bn per year at 2010-11 costs
- Lost productivity due to alcohol, at about £7.3bn per year at 2009-10 costs (UK estimate).³⁰

The IA acknowledged that no other country had yet implemented MUP but said there was a “range of evidence that supports increasing the price of alcohol in order to reduce alcohol consumption and leading to reductions in alcohol harms, particularly with regard to health harms”.³¹ The IA referred to recent analysis of the effectiveness of “social reference pricing” in Canada which found that a 10% increase in the minimum price of any given alcoholic product reduced its consumption by between 14.6% and 16.1%.³²

²¹ Health Select Committee, [Government’s Alcohol Strategy](#), para 54

²² Ibid, para 57

²³ Ibid, para 43

²⁴ Ibid, para 44

²⁵ Home Office, [A consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour](#), November 2012, chapter 5

²⁶ Ibid, p16

²⁷ Home Office, [Impact Assessment on a minimum unit price for alcohol](#), November 2012

²⁸ University of Sheffield Alcohol Research Group website, [The Sheffield Alcohol Policy Model](#) [accessed 9 February 2018]

²⁹ Home Office, [Impact Assessment on a minimum unit price for alcohol](#), p8

³⁰ Ibid, pp5-6

³¹ Ibid, p6

³² Ibid, p6

The IA claimed that MUP would help to curb the increase in “pre-loading” – drinking at home - which studies had linked with alcohol-related crime and disorder.³³

Government response to the consultation (July 2013)

In July 2013 the Government announced that it would not be introducing MUP after all:

[The] consultation has been extremely useful. But it has not provided evidence that conclusively demonstrates that Minimum Unit Pricing (MUP) will actually do what it is meant to: reduce problem drinking without penalising all those who drink responsibly. In the absence of that empirical evidence, we have decided that it would be a mistake to implement MUP at this stage. We are not rejecting MUP – merely delaying it until we have conclusive evidence that it will be effective.³⁴

The Government said it would go ahead with a ban on selling alcohol below cost price.

A number of other measures to tackle excessive drinking and alcohol-related crime were set out in the Government’s plans. These included making the mandatory licensing conditions more effective, particularly those regulating irresponsible sales and promotions.³⁵

A detailed [analysis](#) of consultation responses is available.³⁶

Reaction

Alcohol Concern said the “best chance” of tackling the problems caused by cheap drink had “been kicked into the long grass” and that the Government had “caved in to industry lobbying.”³⁷ [Alcohol Research UK](#) also accused the Government of changing policy following “sustained pressure from sections of the alcohol industry” rather than on the basis of any new evidence.³⁸

[Public Health England](#) said it shared “the disappointment of the public health community” that MUP was not being taken forward and noted that the evidence base for it was “strong and growing”.³⁹

The [Portman Group](#), the “responsibility body for drinks producers in the UK”, welcomed the Government’s decision and gave details of the voluntary pledges that alcohol producers had made to promote responsible drinking.⁴⁰

³³ Ibid, p7

³⁴ Home Office, [Next steps following the consultation on delivering the Government’s alcohol strategy](#), July 2013, p3

³⁵ Ibid, chapters 1 & 2

³⁶ Home Office, [Analysis of responses to the consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour](#), July 2013

³⁷ [“Minimum unit price for alcohol proposal shelved”](#), *Guardian*, 17 July 2013

³⁸ [“Government alcohol strategy response – Alcohol Research UK comment”](#), News release, 17 July 2013

³⁹ [“Alcohol Strategy consultation report”](#), Public Health England response, 17 July 2013

⁴⁰ [“Portman Group Response to Government’s Alcohol Strategy Consultation Response”](#), Portman Group news release, 29 August 2013

Ban on sales below cost price (May 2014)

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

The “permitted price” is defined as the level of alcohol duty plus VAT. This means that a can of average strength lager cannot be sold for less than 41p and a standard bottle of vodka cannot be sold for less than £9.06.⁴¹

⁴¹ Home Office [*Guidance on banning the sale of alcohol below the cost of duty plus VAT: for suppliers of alcohol and enforcement authorities in England and Wales*](#), March 2017, p5

2. Policy in Scotland

Alcohol licensing is a devolved matter. The Scottish Government [plans](#) to introduce MUP from 1 May 2018. This follows an unsuccessful legal challenge to the *Alcohol (Minimum Pricing) (Scotland) Act 2012*.

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

The *Alcohol (Minimum Pricing) (Scotland) Act 2012* received Royal Assent in June 2012. The Act paves the way for the introduction of MUP in Scotland. The Government's "preferred" price is 50p per unit.⁴²

Background to the 2012 Act is available in a Scottish Parliament Information Service (SPICe) [briefing paper](#)⁴³ and from the Scottish Government [website](#).

2.2 Scottish Whisky Association legal challenge

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

The SWA claimed that MUP is contrary to EU law, would not be effective in tackling alcohol misuse, and would penalise responsible drinkers. In July 2012, the SWA lodged a complaint with the European Commission and filed a petition for judicial review with the Scottish Court of Session.⁴⁴

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

The SWA appealed the decision. In April 2014, the Scottish Court of Session ruled that the case should be referred to the European Union's Court of Justice (ECJ).⁴⁵

In September 2015, the Advocate General to the ECJ said that MUP could only be justified to protect public health if no alternative measure

⁴² ["Alcohol minimum pricing bill passed"](#), Scottish Government press release, 24 May 2012

⁴³ SPICe Briefing 12/01, [Alcohol \(Minimum Pricing\)\(Scotland\) Bill](#), 5 January 2012; An earlier attempt was made to introduce MUP through the *Alcohol etc (Scotland) Act 2010*, SPICe also published a [briefing paper](#) on this Bill

⁴⁴ ["Scotch Whisky industry challenges minimum pricing of alcohol"](#), SWA press release, 19 July 2012

⁴⁵ ["Legal challenge against Scottish Government's minimum alcohol pricing policy referred to European court"](#), *Daily Record*, 30 April 2014

- such as tax increases - could be found.⁴⁶ However the ECJ said this was a matter for the Scottish Courts to decide.

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

On 15 November 2017, the Supreme Court [said](#) that the 2012 Act did not breach EU law and that minimum pricing was "a proportionate means of achieving a legitimate aim".⁴⁷ The [full judgment](#) is available online.

2.3 MUP to be introduced from May 2018

Following the Supreme Court's judgment, the Scottish Government has [said](#) that it plans to introduce MUP from 1 May 2018.

A public [consultation](#) on the preferred price of 50p per unit ran from 1 December 2017 to 26 January 2018.⁴⁸

⁴⁶ Europa website, [Opinion of Advocate General Bot](#), delivered 3 September 2015 (1), Case C-333/14, The Scotch Whisky Association and Others v The Lord Advocate & The Advocate General for Scotland;

⁴⁷ ["Scotch Whisky Association and others \(Appellants\) v The Lord Advocate and another \(Respondents\)\(Scotland\) \[2017\] UKSC 76"](#), Supreme Court press summary, 15 November 2017

⁴⁸ Scottish Government website, [Minimum unit pricing](#) [accessed 9 February 2018]

3. Further reading

Discussion and research on minimum pricing includes:

- Public Health England, [*Public health burden of alcohol and the effectiveness and cost-effectiveness of alcohol control policies: an evidence review*](#), December 2016, pp88-101
- House of Lords Select Committee on the Licensing Act 2003, [*The Licensing Act 2003: post-legislative scrutiny*](#), HL Paper 146, 4 April 2017
- Alcohol Policy website: [Minimum pricing](#)
- Alan Brennan et al, ["Potential benefits of minimum unit pricing for alcohol versus a ban on below cost selling in England 2014: modelling study"](#), *British Medical Journal*, 30 September 2014
- John Holmes et al, ["Effects of minimum unit pricing for alcohol on different income and socioeconomic groups: a modelling study"](#), *Lancet*, 10 February 2014
- Jinhui Zhao et al, ["The relationship between minimum alcohol prices, outlet densities and alcohol-attributable deaths in British Columbia, 2002–09"](#), *Addiction*, vol 108 (6), June 2013, pp1059-69
- Alan Brennan et al, [A public response to the Adam Smith Institute's critique of the Sheffield Alcohol Policy Model](#), University of Sheffield Alcohol Research Group, January 2013; a [technical appendix](#) to the response was also published
- Tim Stockwell et al, ["The Raising of Minimum Alcohol Prices in Saskatchewan, Canada: Impacts on Consumption and Implications for Public Health"](#), *American Journal of Public Health*, vol 102 (12), December 2012, pp103-110
- John C Duffy and Christopher Snowdon, [The minimal evidence for minimum pricing: the fatal flaws in the Sheffield alcohol policy model](#), Adam Smith Research Trust, November 2012
- Tim Stockwell et al, ["Does minimum pricing reduce alcohol consumption? The experience of a Canadian province"](#), *Addiction*, vol 107 (5), May 2012, pp912-20
- Home Office, [The likely impacts of increasing alcohol prices: a summary review of the evidence base](#), January 2011
- BDRC Continental, [Public perceptions of alcohol pricing: market research report](#), November 2010
- Priscilla Hunt et al for the Home Office, [Preliminary assessment of the economic impacts of alcohol pricing policy options in the UK](#), June 2010

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- University of Sheffield School of Health and Related Research, [*Alcohol pricing and criminal harm: a rapid evidence assessment of the published research literature*](#), c2010
- Lila Rabinovich et al, [*The affordability of alcoholic beverages in the European Union: understanding the link between alcohol affordability, consumption and harms*](#), RAND Europe, 2009

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