

SPICe Briefing

Alcohol (Minimum Pricing) (Scotland) Bill: Stage 3

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This briefing provides a summary of the parliamentary scrutiny of the Alcohol (Minimum Pricing) (Scotland) Bill prior to the Stage 3 proceedings, due on the 24 May 2012. The briefing outlines in more detail:

- The Health and Sport Committee's Stage 1 report recommendations and the Scottish Government's response
- Amendments agreed to at Stage 2
- Issues that were raised at Stage 2 but did not result in amendment to the Bill
- The proposed minimum price per unit of alcohol



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EXECUTIVE SUMMARY

The [Alcohol \(Minimum Pricing\) \(Scotland\) Bill](#) seeks to introduce a price, below which alcohol cannot be sold. The total minimum price will be set according to the strength of the alcohol, the volume of the alcohol and the minimum price per unit. The Scottish Government considers that minimum pricing will help reduce alcohol consumption in Scotland, in particular reducing consumption by harmful drinkers, and reduce the impact that alcohol misuse and overconsumption has on public health, crime, public services, productivity, and the economy as a whole (Policy Memorandum, para 2 and 3). The minimum price is not specified in the Bill – Scottish Ministers are to specify by order the minimum price per unit

The Health and Sport Committee, in its [Stage 1 Report](#), supported the general principles of the Bill. The Committee's recommendations in the Stage 1 report focused on evaluation of the impact of the provisions, amendment to the minimum price, duration of the minimum pricing provisions (sunset clause) and EU law.

Two amendments were agreed to at Stage 2. Amendment 1, in the name of Jackson Carlaw MSP, introduced a sunset clause into the Bill. This means that minimum pricing will cease to have effect six years after it comes into force, unless Scottish Ministers make an order providing that these provisions should continue in force. Amendment 2, in the name of Nicola Sturgeon MSP, will require Scottish Ministers to evaluate the effect of minimum pricing five years after it comes into force and report to the Parliament (Scottish Parliament, 2012b).

The amendments that were not moved or not agreed to at Stage 2 focused on the calculation of the minimum price (amendments 3 to 10), recovery of windfall profits from retailers (amendment 11) and an amendment on the evaluation of minimum pricing provisions (amendment 12).

In the discussion on amendment 12 which sought to set out an evaluation package on the operation and effect of minimum pricing and provision of statistical information, the Cabinet Secretary stated that she would be happy to have further discussions prior to Stage 3 on the issue of evaluation.

On the 14 May 2012 the Cabinet Secretary [announced](#) that she is minded to set the minimum price per unit of alcohol at 50p. It is proposed that the minimum price per unit would remain at 50p for at least two years following implementation in order to allow the market to react and settle. After this time it is proposed that a policy review would be carried out on a regular basis (biennially) in order to ensure the minimum price remains proportionate (Scottish Government, 2012b and 2012c).

The Stage 3 debate is scheduled to take place on 24 May 2012. The deadline for amendments is Friday 18 May at 4.30pm.

INTRODUCTION

The [Alcohol \(Minimum Pricing\) \(Scotland\) Bill](#) (the Bill) was introduced to the Scottish Parliament on 31 October 2011 by Nicola Sturgeon MSP, Cabinet Secretary for Health, Wellbeing and Cities Strategy. The Bill was accompanied by [Explanatory Notes](#) including a Financial Memorandum, a [Policy Memorandum](#) and a [Delegated Powers Memorandum](#).

This Bill seeks to make provision about the price at which alcohol may be sold from licensed premises, and for connected purposes. Section 1 of the Bill seeks to amend the Licensing (Scotland) Act 2005 to make it a mandatory condition of a licence that a unit of alcohol will not be sold under a certain price. Section 2 of the Bill seeks to remove section 1 of the Alcohol etc. (Scotland) Act 2010 which is the “sunset clause” on the original minimum pricing provision that was contained in that Bill. This section of the Act was mistakenly voted through during stage 3 of the Bill after the minimum pricing section was removed. Therefore it is a sunset clause on a provision that does not exist (Robson, 2012).

[SPICe briefing 12/01 Alcohol \(Minimum Pricing\) \(Scotland\) Bill](#) (Robson 2012) provides further information on the Bill as introduced.

STAGE 1 PROCEEDINGS

Stage 1 scrutiny of the Bill was undertaken by the Health and Sport Committee (the Committee). During Stage 1 proceedings the Committee took evidence at four meetings between 10 January and 31 January 2012. The Stage 1 debate took place on 14 March 2012. Details of the oral evidence sessions and the written evidence received by the Committee can be accessed from the Alcohol (Minimum Pricing) (Scotland) Bill section of the Committee’s [website](#).

Table 1: Summary of Parliamentary Consideration

Stage 1: Health and Sport Committee call for written evidence	Closed 12 December 2011
Stage 1: Finance Committee evidence session	21 December 2011
Stage 1: Subordinate Legislation Committee evidence session	20 December 2011
Stage 1: Health and Sport Committee evidence sessions	10, 17, 24 and 31 January 2012
Stage 1: Health and Sport Committee report published	7 March 2012
Stage 1 Plenary Debate	14 March 2012
Government Response to the Stage 1 Report	4 April 2012
Stage 2: Health and Sport Committee	1 May 2012
Stage 3: Plenary Debate and consideration of amendments	Scheduled for 24 May 2012

STAGE 1 REPORT

The Committee supported the general principles of the Bill in its [Stage 1 Report](#) (Scottish Parliament Health and Sport Committee, 2012). In the overall conclusion the report noted that a majority of the Committee considered that the Bill would help reduce alcohol consumption in particular in relation to harmful drinkers and reduce the impact of alcohol misuse on public health, crime, public services, productivity and the economy as a whole (para 338). It also outlined the concerns of a minority of Members who remained unconvinced by the efficacy of minimum pricing and believe that a universal approach may penalise moderate drinkers and those in lower income groups. They note, amongst other concerns, that the response of the market to the windfall from profits from a minimum unit price has not been assessed and may undermine the policy intentions of the Bill (2012a, para 339).

Table 2 highlights the key recommendations in the Stage 1 Report where the Committee sought an action from the Scottish Government with paragraph references and the subsequent [response](#) of the Scottish Government (Scottish Government, 2012a).

Table 2: Stage 1 Report Recommendations and Subsequent Response of the Scottish Government

Committee Recommendation and Reference	Government Response	Outcome
Evaluation		
<p>In relation to measuring the impact of minimum pricing the Committee recommended that this should include the extent to which savings may be made in the areas of health, care and justice (para 288). It should also reflect the varying impact that the policy may have on individual services (para 292).</p> <p>The Committee recommended that evaluation of the Bill should include a study of the response of hazardous and harmful drinkers, the impact on low-income groups, the industry response, review of any substitution effect, assessment of the funding of brief intervention and family support services, the impact on young people's consumption habits and an examination of any unintended consequences (para 245).</p>	<p>In its response the Scottish Government referred to the Monitoring and Evaluating Scotland's Alcohol Strategy programme. This includes studies to assess the impact of minimum pricing on individuals, communities, business and Scotland as a whole.</p> <p>The response also made reference to the study being undertaken by Queen Margaret University determining the impact of minimum pricing on heavy drinkers in contact with specialist services.</p>	<p>The Scottish Government lodged amendment 2 at Stage 2. This requires Scottish Ministers to, after five years, lay before Parliament a report on the operation and effect of the minimum pricing provisions (Scottish Parliament, 2012a).</p>

Committee Recommendation and Reference	Government Response	Outcome
Evaluation		
<p>(Continued)</p> <p>The Committee called on the Scottish Government to continue the dialogue with representatives of business organisations to monitor the impact of minimum pricing (para 308).</p> <p>The Committee noted requests for better access to industry data to inform the policy evaluation and hoped that the Scottish Government would explore all avenues to secure this information (para 246).</p> <p>The Committee was concerned about the lack of evidence presented to evaluate the impact of the policy on whisky exports (para 309). The Committee recommended that the Scottish Government should undertake regular reporting of whisky export volumes and values (para 310).</p> <p>The Committee requested that an analysis of the economic impact of the policy be prepared by the Scottish Government when the minimum price is announced and recommends that the economic impact of the measure features in the Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS) programme (para 319).</p>	<p>The Scottish Government did not explicitly address this point instead general comments were made in relation to evaluation.</p> <p>In relation to the Committee's comments on industry data (para 246) the Scottish Government stated that there is limited data available and that they would welcome more detailed information from the industry.</p> <p>In response to comments regarding reporting of whisky export volumes and value (para 310) the Scottish Government stated that the Scottish Government and Scottish Whisky Association regularly publish data.</p> <p>In relation to points regarding economic impact (para 319) the Scottish Government stated that in the absence of minimum pricing a full study of the economic impact was not warranted or feasible. It was intended that this decision would be revisited in the coming months.</p>	

Committee Recommendation and Reference	Government Response	Outcome
Announcement of the Minimum Price		
<p>The Committee noted the assurance of the Cabinet Secretary that the level at which the minimum price will be set will be announced prior to Stage 3 (para 187).</p> <p>The Committee also noted the options for a proposed mechanism for adjusting the level at which the price is set and the frequency of review and noted the lack of consensus among stakeholders in relation to this (para 190 and 191).</p> <p>The Committee recommended that the Scottish Government states its preferred option and rationale by the end of Stage 2 (para 192).</p>	<p>In its response the Scottish Government confirmed that it will announce the minimum price prior to Stage 3 and that it will give an indication of the proposed approach for future price increases.</p>	<p>On the 14 May 2012 the Cabinet Secretary announced her intention to set the minimum price per unit of alcohol at 50p (Scottish Government, 2012b). In a letter to the Health and Sport Committee Nicola Sturgeon stated that the minimum price per unit would remain at 50p for at least two years following implementation. After this time it is proposed that a policy review would be carried out biennially (Scottish Government, 2012c).</p>
Duration of Minimum Pricing Provisions (sunset clause)		
<p>The Committee noted the view of some Members that a sunset clause should be added into the Bill to provide a specific timeframe for a review of the legislation. This would be intended to either allow the continuation of the provisions or remove the provisions from the statute book (para 249).</p>	<p>The Scottish Government outlined its view that it is right and proper for the Parliament to be able to review the impact of minimum pricing after it has been in place for five years.</p>	<p>Amendment 1, in the name of Jackson Carlaw MSP, introduced a sunset clause which provides for minimum pricing to cease to have effect after six years.</p>
EU Law		
<p>The Committee noted that the Bill could comply with EU law, but considers without knowing the level at which the minimum price is to be set, it is not possible to arrive at a view as to whether the policy is likely to meet the criteria set out by article 36 of the Treaty on the Functioning of the European Union (para 277).</p>	<p>In its response the Scottish Government remained of the view that the proposals are capable of complying with EU law.</p>	

Committee Reference and recommendation	Government Response	Outcome
EU Law		
<p>(Continued)</p> <p>The Committee also noted that the Cabinet Secretary did not rule out the Scottish Government notifying¹ the Bill and its policy intentions to the EU (para 278).</p>	<p>In relation to notification under the Technical Standards Directive to the EU the Scottish Government considered that the Bill does not need to be notified. However, it proposes to notify the Order setting the minimum price per unit of alcohol and that notification of the order will involve submitting a full legal analysis of the effect of the Bill and the Order.</p>	

¹ Notification refers to informing the European Commission of the intention to implement the policy.

STAGE 2 PROCEEDINGS

Stage 2 proceedings took place on 1 May 2012. The [Marshalled List of Amendments for Stage 2](#) ([Scottish Parliament, 2012a](#)) and [Grouping of Amendments for Stage 2](#) and the [Official Report](#) of the Health and Sport Committee 1 May 2012 ([Scottish Parliament, 2012b](#)) are available online.

Table 3 outlines the amendments agreed to by the Committee at Stage 2 and provides column references to the Official Report. Nicola Sturgeon MSP, Cabinet Secretary for Health, Wellbeing and Cities Strategy took forward the amendment on behalf of the Government.

Table 3: Summary of Amendments Agreed to at Stage 2.

Issue and Reference	Amendment and Effect	Outcome
<p>Evaluation and duration of minimum pricing provisions (Col 2115).</p>	<p>Amendment 1, in the name of Jackson Carlaw MSP, was lodged in response to the view of some members that a specific timeframe should be given for a review of the legislation. Amendment 1 provides for minimum pricing provisions to cease to have effect after six years from when the provisions are fully in force; unless after five years Scottish Ministers make an order that these provisions should continue in force. Amendment 1 also enables Scottish Ministers to make an order making any consequential amendments that are necessary or expedient as a result of the expiry of the minimum pricing provisions.</p> <p>Amendment 2, in the name of Nicola Sturgeon MSP, sought to impose a reporting requirement on Scottish Ministers to evaluate impact of minimum pricing provisions five years after it comes into force and report on this to Parliament.</p> <p>The report must include information on the effect of minimum pricing on the licensing objectives as set out in Section 4 of the Licensing (Scotland) Act 2005, holders of premises licences and producers of alcohol. Scottish Ministers must consult people having functions relating to health, prevention of crime, education, social work, children and young people and licence holders and producers of alcohol or their representatives.</p>	<p>Amendment 1 was agreed to.</p> <p>Amendment 2 was agreed to after a vote (For- 6, Against-3, Abstentions-0).</p>

Table 4 provides a summary of the amendments which were not moved or not agreed to by the Committee at Stage 2 and provides column references to the Official Report.

Table 4: Summary of Amendments Not Moved or Not Agreed to at Stage 2.

Issue and Reference	Amendment and Effect	Outcome
Calculation of minimum price (Col 2106).	Amendments 3 to 10, in the name of Richard Simpson MSP, sought to simplify the process of calculating the minimum price where the number of units of alcohol is marked or labelled and to introduce a clear definition of what constitutes a unit.	Amendment 3 was not agreed to (For-3, Against-5, Abstentions-1). In light of amendment 3 not being agreed to amendments 4 to 10 were not moved.
Recovery of windfall profits from retailers (Col 2109).	Amendment 11, in the name of Richard Simpson MSP, sought to deal with additional money that the alcohol industry might benefit from as a result of the introduction of minimum pricing.	Amendment 11 was not agreed to (For-3, Against-6, Abstentions-0).
Evaluation and duration of minimum pricing provisions (Col 2118).	Amendment 12, in the name of Richard Simpson MSP, sought to set out an evaluation package on the operation and effect of minimum pricing and the provision of statistical information.	Amendment 12 was not agreed to (For-3, Against-5, Abstentions-1). The Cabinet Secretary stated that she would be happy to have further discussions with Richard Simpson MSP prior to Stage 3 with a view to possibly lodging amendments at Stage 3 that would incorporate into the Bill some of the provisions in amendment 12 (Col 2123) .

The [Bill as amended](#) at Stage 2 was published on 2 May 2012.

SPECIFIC MINIMUM PRICE PER UNIT OF ALCOHOL

On the 14 May 2012 Nicola Sturgeon MSP, the Cabinet Secretary for Health, Wellbeing and Cities Strategy, [announced](#) that the preferred minimum price for alcohol will be 50p per unit (Scottish Government, 2012b). The Scottish Government press release included information from a minimum pricing modelling study carried out by the University of Sheffield and information on the impact on prices of a minimum price of 50p per unit.

In a letter to the Health and Sport Committee Nicola Sturgeon explained that her decision to propose to set the minimum price per unit of alcohol at 50p takes into account factors that have been updated since the price of 45p was proposed in September 2010. These factors include the updated modelling carried out by the University of Sheffield, alcohol sales data, price band data, affordability of alcohol and harm data and that the earliest the policy is likely to be implemented is April 2013. The letter also stated that the minimum price per unit would remain at 50p for at least two years following implementation in order to allow the market to react and settle. After this time it is proposed that a policy review would be carried out on a regular basis (biennially) in order to ensure the minimum price remains proportionate (Scottish Government, 2012c).

STAGE 3

The Stage 3 debate is scheduled to take place on 24 May 2012. The deadline for amendments is Friday 18 May at 4.30 pm.

SOURCES

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- Scottish Parliament. (2012b) *Official Report 1 May 2012.* Col 2105 to Col 2125. Edinburgh: Scottish Parliament. Available at: <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7003&mode=pdf> [Accessed 08 May 2012]

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