

Rebecca Evans AC/AM
Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol
Minister for Social Services and Public Health



Llywodraeth Cymru
Welsh Government

Our ref MA P L RE 607 17

Dai Lloyd AM
Chair
Health, Social Care and Sport Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

23 October 2017

Dear Dai,

Public Health (Minimum Price for Alcohol) (Wales) Bill

Following the introduction of the Public Health (Minimum Price for Alcohol) (Wales) Bill into the National Assembly for Wales today, please find attached a copy of the Statement of Policy Intent for Subordinate Legislation to be made under the Bill. This document is provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee in due course.

I am copying this letter to the Chair of the Constitutional and Legislative Affairs Committee.

A handwritten signature in black ink that reads "Rebecca".

Rebecca Evans AC/AM
Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol
Minister for Social Services and Public Health

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Llywodraeth Cymru
Welsh Government

PUBLIC HEALTH (MINIMUM PRICE FOR ALCOHOL) (WALES) BILL

Statement of Policy Intent for Subordinate
Legislation to be made under this Bill

October 2017

PUBLIC HEALTH (MINIMUM PRICE FOR ALCOHOL) (WALES) BILL

STATEMENT OF POLICY INTENT FOR SUBORDINATE LEGISLATION

This document provides an indication of the current policy intention for the subordinate legislation that the Welsh Ministers would be empowered or required to make under the provisions of the Public Health (Minimum Price for Alcohol) (Wales) Bill (the Bill). It has been prepared in order to assist committees during the scrutiny of the Bill and should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it.

The Bill provides for a minimum price for the sale and supply of alcohol in Wales by alcohol retailers and makes it an offence for alcohol to be sold or supplied below that price. The Bill proposes:

- The formula for calculating the applicable minimum price for alcohol by multiplying the percentage strength of the alcohol, its volume and the MUP;
- Powers for Welsh Ministers to make subordinate legislation to specify the MUP;
- To establish a local authority led enforcement regime with powers to bring prosecutions and to issue fixed penalty notices; and
- Powers of entry for Authorised Officers of a local authority and an offence of obstructing those officers.

For ease of reference, this document includes separate information for each provision in the Bill which involves subordinate legislation, although some of these may ultimately be combined and dealt with in one set of regulations.

The contents of this document correspond to the information provided in Chapter 5 of the Explanatory Memorandum.

Section 28 of the Bill provides that certain provisions will come into force on the day after the day on which the Bill receives Royal Assent. The other provisions in the Bill will be commenced by Order.

In developing subordinate legislation, the Welsh Government will work closely with stakeholders in order to ensure the provisions are relevant, valid and proportionate.

REGULATIONS RELATING TO	Specifying a Minimum Unit Price, for the purposes of the Bill.
SECTION	Section 1(1)(a)
PROCEDURE	Affirmative
DESCRIPTION OF THE REGULATIONS	
<p>This power permits the Welsh Ministers to make regulations which will specify the Minimum Unit Price (the MUP) for the purposes of the minimum pricing regime proposed by the Bill. The MUP, along with the strength of the alcohol and its volume, will be used in the formula for calculating the applicable minimum price for which alcohol is to be supplied in Wales by alcohol retailers. The formula included in section 1 of the Bill is: $M \times S \times V$ – with M being whatever price specified in regulations as being the MUP for the purposes of the Bill.</p> <p>It is considered appropriate to delegate the power to specify the MUP for which alcohol is to be supplied in Wales to the Welsh Ministers for reasons of flexibility, timeliness and accuracy. Doing so will ensure that Welsh Ministers are able to review and set the price considered most appropriate at the relevant time, subject to the approval of the National Assembly. The Welsh Government believes that this strikes a correct and proportionate balance between the acknowledged significance of the issue and the ability and flexibility to most effectively respond to any relevant change in economic and social circumstances.</p>	
WHAT CAN THE REGULATIONS ACHIEVE?	
<p>The regulations will specify the MUP for alcohol, which is needed to then calculate the applicable minimum price for which alcohol is to be supplied in Wales.</p>	
WHY THE REGULATIONS ARE REQUIRED?	
<p>So as to be able to calculate the applicable minimum price for which alcohol is to be supplied in Wales, in accordance with the formula set out in section 1 of the Bill.</p>	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
<p>The MUP will be specified in the regulations made under this section.</p> <p>Within the Explanatory Memorandum and Regulatory Impact Assessment which accompany the Bill, an example MUP of 50p is used to demonstrate anticipated impacts of minimum pricing (e.g. on health outcomes such as alcohol-related deaths and alcohol-related hospital admissions). However those documents also make it clear that the specified MUP may be higher or lower than these amounts.</p> <p>The Welsh Government consulted on a draft Public Health (Minimum Price for Alcohol) (Wales) Bill in 2015. The draft Bill also provided that the MUP for alcohol would be specified in regulations.</p>	

As part of the consultation on the draft Bill, a draft Explanatory Memorandum and Regulatory Impact Assessment was also published. This included analysis undertaken by the University of Sheffield in 2014 on the modelled impacts of different levels of an MUP. This analysis is currently being updated. It was not possible to update the modelling any earlier as the University of Sheffield are using self-reported data on the consumption of alcohol from the National Survey for Wales, which was published in June 2017. The updated analysis by the University of Sheffield is expected to be published in early 2018. The updated analysis, along with other relevant factors, will be used to inform decisions on the level of the MUP to be specified in regulations.

REGULATIONS RELATING TO	The continuation of the Bill's minimum pricing provisions.
SECTION	Section 22(2)
PROCEDURE	Affirmative
DESCRIPTION OF THE REGULATIONS	
This power permits the Welsh Ministers to make regulations which would allow the minimum pricing provisions to continue, after the end of a five year period.	
WHAT CAN THE REGULATIONS ACHIEVE?	
<p>Section 22(1) of the Bill provides that the minimum pricing provisions (as defined in section 22(4)) will be repealed after a period of six years from the commencement of section 2 unless regulations are made by the Welsh Ministers providing otherwise. Section 2 will introduce the offence of the sale and supply of alcohol below the applicable minimum price in Wales.</p> <p>If the Welsh Ministers consider that the minimum pricing provisions should continue, the power in section 22(2) enables them, with the Assembly's approval, to make regulations providing for their continuation.</p>	
WHY THE REGULATIONS ARE REQUIRED?	
In accordance with section 21 of the Bill, the Welsh Ministers will be able to review the operation and effect of the legislation and make regulations should they consider that the minimum pricing provisions should continue. Without these regulations, the provisions in the Bill will be repealed after a period of six years from the commencement of section 2 of the Bill.	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
<p>The consultation on the draft Public Health (Minimum Price for Alcohol) (Wales) Bill in 2015 asked consultees whether the Welsh Government should review the initial level of minimum unit price to maintain its effectiveness. The vast majority of those who responded to this question, whether they supported or opposed the proposal, said that if legislation was introduced then the level of the MUP set should be reviewed.</p> <p>In addition to the responses received about the review of the legislation, the suggestion that the Bill should include a 'sunset' clause was also raised – so that after a period of time and following detailed evaluation, if the legislation was found to be ineffective, the legislation should cease to have effect.</p>	

REGULATIONS RELATING TO	Provisions considered necessary or expedient if the minimum pricing provisions are repealed at the end of the six year period.
SECTION	Section 22(3)
PROCEDURE	Affirmative
DESCRIPTION OF THE REGULATIONS	
<p>If the minimum pricing provisions are repealed at the end the six year period, the Welsh Ministers may make provision (through regulations made under this section) which they consider to be necessary or expedient as a result of that repeal.</p> <p>This would include any transitional, transitory or saving provision. So for instance, if before the repeal of the minimum pricing provisions another Act cross-referred to them, this power could be used to remove that reference.</p>	
WHAT CAN THE REGULATIONS ACHIEVE?	
The regulations will ensure that a repeal of the minimum pricing provisions would take effect appropriately. For example, to ensure fairness to those affected by the proposed minimum pricing regime by making any transitional, transitory or saving provision that might be considered necessary or expedient at that point.	
WHY THE REGULATIONS ARE REQUIRED?	
Transitional, transitory or saving provision may be considered necessary or expedient at the point of repeal.	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
N/A	

ORDER RELATING TO	Providing that the majority of the provisions in the Bill come into force on a day appointed by the Minister.
SECTION	Section 28(2)
PROCEDURE	No procedure
DESCRIPTION OF THE ORDER	
The Bill provides that the majority of its provisions will come into force on a day appointed by Welsh Ministers in an order.	
WHAT CAN THE ORDER ACHIEVE?	
The Order will provide a date for when the majority of the Bill's provisions come into force.	
WHY THE ORDER IS REQUIRED?	
The Order will ensure that the Bill's provisions come into force on a day appointed by the Welsh Ministers. This delegated power is both necessary and appropriate as it will ensure that commencement can align with the transition and implementation arrangements which will also be made by Welsh Ministers to accompany the Bill and vice versa.	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
N/A	

REGULATIONS RELATING TO	Updating provision as to what the content or form of a fixed penalty notice must contain.
PROVISION	Paragraph 4 of Schedule 1
PROCEDURE	Negative
DESCRIPTION OF THE REGULATIONS	
Provision as to what a fixed penalty notice must contain is set out on the face of the Bill. However, the Welsh Ministers may also make supplementary provision, in relation to the content or form of a notice, by regulations.	
WHAT CAN THE REGULATIONS ACHIEVE?	
The regulations could provide for any ancillary provision or matters which might need to be updated from time to time.	
WHY THE REGULATIONS ARE REQUIRED?	
Changing circumstances or evidence based practice might mean that additional or different content or form of a notice is required. Therefore, supplementary delegated powers are appropriate.	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
N/A	

REGULATIONS RELATING TO	Amending the amount of a fixed penalty notice.
PROVISION	Paragraph 5(2) of Schedule 1
PROCEDURE	Affirmative
DESCRIPTION OF THE REGULATIONS	
The Bill specifies the amount of a fixed penalty which may be given in respect of an offence committed under section 2. Namely, £200. It also provides that regulations may amend that amount.	
WHAT CAN THE REGULATIONS ACHIEVE?	
The penalty amount may need to be amended from time to time to reflect changing circumstances. It is, therefore, suitable for delegated powers.	
WHY THE REGULATIONS ARE REQUIRED?	
The penalty amount may need to be amended from time to time to reflect changing circumstances.	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
In 2015, the Welsh Government consulted on a draft Public Health (Minimum Price for Alcohol) (Wales) Bill. The draft Bill specified the amount of a fixed penalty (namely £200) which it was proposed would be given in respect on an offence committed under section 2. The specified amount is also consistent with that specified in other recent legislation.	

REGULATIONS RELATING TO	Amending the discounted amount of a fixed penalty notice.
PROVISION	Paragraph 9 of Schedule 1
PROCEDURE	Affirmative
DESCRIPTION OF THE REGULATIONS	
The Bill specifies the discounted amount of a fixed penalty which may be given in respect of an offence committed under section 2, namely £150. However, it also provides that regulations may amend that amount.	
WHAT CAN THE REGULATIONS ACHIEVE?	
The discounted penalty amount may need to be amended from time to time to reflect changing circumstances. It is, therefore, suitable for delegated powers.	
WHY THE REGULATIONS ARE REQUIRED?	
The discounted penalty amount may need to be amended from time to time to reflect changing circumstances.	
Other relevant information (work done to date, policy documents, Ministerial Statements etc.)	
In 2015, the Welsh Government consulted on a draft Public Health (Minimum Price for Alcohol) (Wales) Bill. The draft Bill specified the discounted amount of a fixed penalty which it was proposed would be payable in respect of an offence committed under section 2, namely £150.	