

Public Health (Alcohol) Act 2018

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Guidance for Industry

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An Roinn Sláinte
Department of Health



HE Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

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Contact details

Department of Health
Tobacco & Alcohol Control Unit
Miesian Plaza
Baggot Street Lr, Dublin 2
D02 XW14
E-mail: alcohol@health.gov.ie
Website: www.health.gov.ie

Health Service Executive
National Environmental Health
Oak House, Limetree Avenue
Millennium Park, Naas
Co. Kildare
E-mail: ehs.alcoholunit@hse.ie
Website: www.hse.ie

Introduction

The [*Steering Group Report on a National Substance Misuse Strategy*](#) (NSMS) published in 2012 states that “alcohol has major public health implications and it is responsible for a considerable burden of health and social harm at individual, family and societal levels”. The Report contains a range of recommendations to reduce the consumption of alcohol in general.

In October 2013, the Government approved a comprehensive suite of measures to reduce excessive patterns of alcohol consumption and resultant social, economic and health harms as set out in the NSMS including the drafting of a Public Health (Alcohol) Bill.

The enactment of the Public Health (Alcohol) Bill was included in the Programme for a Partnership Government in 2016. [The Public Health \(Alcohol\) Act](#) was enacted on 17 October 2018.

The primary policy objectives of the legislation are to:

- reduce alcohol consumption to 9.1 litres of pure alcohol per person per annum by 2020,
- delay the initiation of alcohol consumption by children and young people,
- reduce the harms caused by the misuse of alcohol, and
- regulate the supply and price of alcohol in order to minimise the possibility and incidence of alcohol related harm.

These objectives were developed in recognition that alcohol causes harms to health, significant costs to the Exchequer and that alcohol consumption in Ireland remains high.

The principles guiding the objectives are that the harms of alcohol make it unlike other grocery products, that consumers should be able to make informed choices about their drinking and that children and young people’s relationship with alcohol be addressed.

Guidance Document

The aim of this publication is to provide guidance in relation to the provisions of the Public Health (Alcohol) Act 2018 which will come into effect from 12th November 2019 to persons who have responsibilities under this legislation.

As interpretation of the law is a matter for the Courts, this guidance is intended to provide general information on the Public Health (Alcohol) Act 2018 and should not be construed as legal advice. It is without prejudice to any other legal obligations under criminal or civil law.

Data Protection and Freedom of Information

The Health Service Executive (HSE) fully respects your right to privacy. Any personal information attained for the purposes of the Public Health (Alcohol) Act will be treated in accordance with the Data Protection Acts, 1988 and 2003 (and any amending or substituting legislation). Your personal information will be used only for the purposes for which it is provided, for example, for conducting regulatory checks or requirements or to comply with a legal process. You are entitled to access information that the HSE holds relating to you and can do so by applying to the HSE in writing and on payment of the prescribed statutory fee. The HSE reserve the right to charge a reasonable administration fee for each access request. The HSE are entitled to take reasonable steps to establish your identity in relation to any query, amendment, access or deletion request in respect of the *Alcohol Non-Compliance List*.

Overview of the Public Health (Alcohol) Act 2018

The Act proposes to achieve its objectives through the introduction of:

- minimum pricing of alcohol products;
- labelling of alcohol products and notices in licensed premises;
- prohibitions and restrictions on advertising and sponsorship;
- separation and visibility of alcohol products and advertisements for alcohol products in specified licensed premises; and
- the regulation of the sale and supply of alcohol products in certain circumstances.

Minimum Pricing of Alcohol Products

The Act will prohibit the advertising or sale of alcohol products below a set minimum price (10 cent per gram of alcohol in the product). This is a targeted measure designed to prevent the sale of alcohol at very cheap prices and aimed at those who drink in a harmful and hazardous manner.

Labelling of Alcohol Products and Notices in Licensed Premises

The Act provides for the following information on the label of an alcohol product:

- A warning to inform the public of the danger of alcohol consumption;
- A warning to inform the public of the danger of alcohol consumption when pregnant;
- A warning to inform the public of the direct link between alcohol and fatal cancers;
- The quantity of grams of alcohol contained in the product;
- The energy value expressed in kilojoules and kilocalories contained in the alcohol product,
- Details of a website run by the Health Service Executive providing information on alcohol and related harms.

Alcohol products sold in kegs or casks will have an accompanying document with the above information. Licensed premises will have a notice(s) in the legally prescribed form with above warnings and website information, confirming that a document noting the alcohol content and energy value of every product for sale in the premises is available on request. Finally, the above information will also be required to be displayed on any website that sells alcohol online. The aim is to provide consumers with information on alcohol products regardless of the manner of purchase whether in a shop, in a pub or online.

Prohibitions and Restrictions on Advertising and Sponsorship

The Act provides for restrictions on the content, placement and volume of alcohol advertising. Advertisements for alcohol products will be required to include both health warnings and details of the HSE alcohol website.

Advertising of alcohol products will be prohibited in or on a sports area when a sports event is taking place, at an event aimed particularly at children, or at an event where the majority of individuals taking part are children.

Children's clothing which promotes alcohol consumption or is branded with an alcohol product name, trademark, emblem, marketing image or logo will also be prohibited.

The sponsorship by alcohol companies of events where the majority of individuals taking part are children, aimed particularly at children, or that involve driving or racing cars or motorbikes will be prohibited.

Separation and Visibility of Alcohol Products and Advertisements for Alcohol Products in Specified Licensed Premises

Mixed trade retailers can store alcohol products in a storage unit behind the counter at only one point of sale area and can also display and advertise alcohol products using one of the following three options:

- A separate area of the shop separated by a physical barrier which has a minimum height of not less than 1.2 metres and through which alcohol and advertisements for alcohol are not visible
or
- Enclosed adjacent storage units on the shop floor in which the products are not visible up to a minimum height of 1.5 metres
or
- A maximum of three adjacent units, each of 1 metre width and 2.2 metres high.

Separation of alcohol products is intended to achieve the following objectives:

- access to alcohol products will be more controlled in premises to which it applies;
- alcohol products are less likely to be on display near grocery products, thereby discouraging their purchase as part of everyday household grocery shopping;
- alcohol products will be less visible to children.

The Regulation of the Sale and Supply of Alcohol Products in Certain Circumstances

The Act provides for the Minister for Health to introduce regulations to prohibit or restrict certain types of promotions, for example, buy one alcohol product get another one free or Student Nights. The intention of the provision is to prohibit promotions which encourage risky drinking i.e. that encourage individuals to purchase or drink more than they intended or to drink faster than they intended.

Commencement

- [The Public Health \(Alcohol\) Act 2018 \(Commencement\) Order 2018](#) (S.I. No. 44 of 2018) commenced Sections 1 to 3 inclusive, 5 to 9 inclusive, 14 to 17 inclusive, Section 20 and 22 to 31 inclusive.
- Sections 4, 10 to 13 inclusive, 18 to 19, and 21 will be commenced at later dates.
- With effect from 12 November 2019:
 - section 14 prohibition on advertising in certain places,
 - section 17 children's clothing, and,
 - section 20 advertising in cinemas

will come into operation.

Definitions

The following definitions will apply for the purpose of this guidance document.

“**advertising**” means any form of commercial communication with the aim or direct or indirect effect of promoting an alcohol product and includes, in relation to an alcohol product, every form of recommendation of the product to the public including—

- (a) (i) a statement of the name of a manufacturer or importer of an alcohol product, or the name of any brand of alcohol product, or
- (ii) a statement of any trade description or designation, or a display or other publication of a trademark, emblem, marketing image or logo, by reference to which the product is marketed or sold, in circumstances where such statement, display or publication may reasonably be regarded as a recommendation of the product to the public, and
- (b) a statement of the properties of the product on a label, container, wrapper or package used for the product or in a leaflet, circular, pamphlet or brochure issued to the public or given to a purchaser of the product;

“**alcohol**” means pure ethyl alcohol;

“**alcohol related merchandise**” means a product (other than an alcohol product) bearing the brand name or emblem, the corporate name or emblem, or the trade mark or logo, by reference to which an alcohol product is sold and includes—

- (a) clothing (other than children’s clothing),
- (b) confectionery and sauces,
- (c) glassware, crockery, cloths and bottle openers,
- (d) cigarette lighters and ashtrays,
- (e) stationery, bags and wallets, and
- (f) other decorative and novelty items;

“**alcohol product**” has the same meaning as it has in section 73 of the Finance Act 2003;

“**child**” means a person under the age of 18 years;

“**clothing**” includes footwear;

“**licence**” means a licence for the sale of intoxicating liquor, whether granted on production or without production of a certificate of the Circuit Court or District Court;

“**licensed premises**” means a premises in relation to which a licence is in force and in relation to a licensee means the licensed premises of the licensee;

“**marketing**” means any form of commercial communication that is intended to increase or has the effect of increasing, the recognition, appeal or consumption of a particular product or service;

“**Minister**” means the Minister for Health;

“**off-licence**” means a licence for the sale of intoxicating liquor for consumption off the premises;

“**premises**” includes any land, building or part of a building, tent, caravan, or other temporary or moveable structure, ship or other vessel, aircraft, railway wagon or other vehicle (whether stationary or otherwise) and any storage container used to transport alcohol products or relevant things;

“**prescribed**” means prescribed by regulations made by the Minister;

“**sell**” means sell by retail or wholesale and includes—

- (a) offer or expose for sale,
- (b) invite the making by a person of an offer to purchase,
- (c) distribute free of charge, and
- (d) supply for any of these purposes (whether or not for profit);

Prohibition on advertising in certain places

Section 14 of the Public Health (Alcohol) Act 2018 prohibits the advertisement of alcohol products in or at certain locations, in or on certain modes of transport, or within 200 metres of the perimeter of certain locations. Section 14 also defines certain terms.

What does this mean?

From 12th November 2019, the advertising of alcohol products will be prohibited:

- in a park or open space owned or maintained by local authority or the OPW;
- in or on a public service vehicle¹ (taxi, hackney, limo, bus);
- in or on a train² or light rail vehicle³ (luas);
- in or at a train station or bus station;
- at a bus stop or light rail vehicle stop;
- in or at a school (including its grounds);
- in or at an early years service;
- in or at a playground owned or maintained by a local authority⁴.

The advertising of alcohol products is also prohibited within 200 metres of the perimeter of:

- a school (including its grounds);
- an early years service;
- a playground owned or maintained by a local authority.

For the purposes of this section advertise means to advertise by:

(a) the display of posters, billboards, hoardings, placards or other signage whether intended to be permanent or temporary, but does not include an advertisement on or attached to—
(i) a licensed premises, or
(ii) a premises where alcohol products are manufactured or sold by wholesale,
or

¹ public service vehicle” means a mechanically propelled vehicle used for the carriage of persons for reward

² “train” means a vehicle with flanged wheels designed to operate on a railway for whatever purpose and includes carriages and rolling stock.

³ “light rail vehicle” means a vehicle with flanged wheels designed to run on a light railway;

⁴ local authority” means a county council, a city council, or a town council;

(b) the distribution free of charge other than in a licensed premises or a premises where alcohol products are manufactured or sold by wholesale, of alcohol related merchandise.

Subject to the exemptions below, the definition of “advertise” for the purposes of this section is therefore restricted to:

- the display of posters, billboards, hoardings, placards or other signage, whether intended to be temporary or permanent;
- the distribution free of charge of alcohol related merchandise.

but does not include:

- an advertisement on or attached to a licensed premises or a premises where alcohol products are manufactured or sold by wholesale;
- the distribution free of charge of alcohol related merchandise in a licensed premises or a premises where alcohol products are manufactured or sold by wholesale.

A person who contravenes the prohibition of advertising in certain places is guilty of an offence. This potentially may include, although not exclusively, an advertising company, an alcohol manufacturer, a transport company e.g. Irish Rail, a local authority, school or creche or anyone who may have facilitated the prohibited advertisement.

Penalties

On summary conviction, a person shall be liable to a class A fine, up to a maximum of €5,000 or up to 6 months imprisonment or both.

On conviction on indictment, a person shall be liable to a fine of up to €250,000 or up to 3 years imprisonment or both.

If contravention continues following conviction, the person shall be guilty of a further offence for every day the contravention continues and for each offence the person shall be liable, on summary conviction, to a fine of €2,000 per day.

A list of parks or open spaces owned or maintained by the Commissioners of Public Works in Ireland can be accessed [here](#).

A list of schools can be accessed [here](#).

A list of early years service can be accessed [here](#)

A list of local authorities can be accessed [here](#)

Please note that these lists are updated and may be subject to change.

Children's clothing

Section 17 of the of the Public Health (Alcohol) Act 2018 prohibits the manufacture for sale in the State, import for sale in the State, or sale in the State of clothing intended to be worn by a child, which promotes alcohol consumption or is branded with an alcohol product name, trademark, emblem, marketing image or logo.

What does this mean?

From 12 November 2019, the manufacture or import of clothing for children intended for sale in the State which promotes alcohol consumption or is branded with an alcohol product name, trademark, emblem, marketing image or logo will be prohibited. It will also be prohibited to sell such clothing in the State.

The provision does not apply to clothing offered for retail sale or supply before the 12th November 2019.

In the case of a prosecution, the onus is on the defendant to prove that the clothing concerned was offered for retail sale or supply before the 12th November 2019.

A person who contravenes these prohibitions commits an offence and may potentially include, although not exclusively, the manufacturer of the product where they are within the State and if the product is to be sold within the State, the importer of the product if within the State and if the product is to be sold within the State, the wholesaler if within the State and selling to a retailer who is to sell the product within the State and the retailer of the product who sells the product within the State.

Penalties

A fixed payment notices (FPN) may be served for an offence under this provision. The amount of the fixed payment is to be determined. Where payment is made within the 28 days no prosecution will be initiated.

On summary conviction, a person shall be liable to a class A fine, up to a maximum of €5000 or up to 6 months imprisonment or both.

If contravention continues following conviction, the person shall be guilty of a further offence for every day the contravention continues and for each offence the person shall be liable, on summary conviction, to a fine of €2,000 per day.

Advertising in cinemas

Section 20 of the of the Public Health (Alcohol) Act 2018 prohibits the advertisement of an alcohol product in a cinema. It provides for an exemption for advertising alcohol products immediately before or during the screening of films classified as suitable for those aged 18 years or more. It also provides an exemption for a licensed premises in the cinema.

What does this mean?

From 12 November 2019, the advertisements of alcohol products in a cinema will be prohibited subject to the following exemptions:

- immediately before or during films which have been classified as suitable for persons aged 18 years and over;
- in a licensed premises in a cinema.

For the purposes of this section cinema includes open air and pop-up cinema events.

A person who contravenes these prohibitions commits an offence. This may include, although not exclusively, the person with responsibility for arranging the advertisement in the cinema, whether in the movie theatre, during movie intervals, or in the other areas of the cinema complex.

Penalties

On summary conviction, a person shall be liable to a class A fine, up to a maximum of €5000 or up to 6 months imprisonment or both.

On conviction on indictment, a person shall be liable to a fine of up to €250,000 or up to 3 years imprisonment or both.

If contravention continues following conviction, the person shall be guilty of a further offence for every day the contravention continues and for each offence the person shall be liable, on summary conviction, to a fine of €2000 per day.

Appointment of authorised officers and enforcement.

Section 24 of the Public Health (Alcohol) Act 2018 provides that the Health Service Executive (HSE) may appoint persons, including members of its staff, as authorised officers for the purposes of the Act. Subsection (2) provides that authorised officers appointed by the HSE shall be given a warrant of appointment and shall produce the warrant or copy of it if requested when exercising any power conferred on him or her under the Act.

Section 25 sets out the powers of authorised officers.

What does this mean?

The authorised officers for the purposes of enforcing this legislation will be the Environmental Health Officers (EHOs) of the HSE.

An EHO will produce a warrant of appointment or copy of it, if requested, when carrying out an inspection or when exercising any power conferred on him or her under the Act.

A person who is subject to the provisions of the Act shall:

- allow authorised officers entry into their premises to facilitate an inspection to verify compliance with the Public Health (Alcohol) Act 2018;
- co-operate with authorised officers in the course of their duties and provide any information or other assistance to the authorised officer in respect of their trade, business or activity.

It will be an offence for a person to obstruct or impede an authorised officer or without reasonable cause, to refuse to comply with an officer's request or to give false or misleading information to an officer.

Alcohol Non-Compliance List

Section 31 of the Public Health (Alcohol) Act 2018 provides that the HSE may publish information respecting certain persons in the Alcohol Non-Compliance List.

What does this mean?

The HSE must keep and maintain the *Alcohol Non-Compliance List*.

Where convictions are secured, the *Alcohol Non-Compliance List* will set out the name and address of the person concerned, details of the offence and the amount of the fine or other penalty.

The HSE may publish, all or any part, of the *Alcohol Non-Compliance List* at any time, in any form or manner, it considers appropriate.

Offences

Section 8 of the Public Health (Alcohol) Act 2018 sets out the offences under the Act. It also empowers the Health Service Executive to prosecute summary offences under the Act. It provides that notwithstanding section 10(4) of the Petty Session (Ireland) Act 1851, a prosecution for an offence under the section 17(1) Children's clothing, 25(6) Powers of Authorised Officers or 30(9) Compliance notice may be brought within 12 months from the date of the alleged commission of the offence. Finally, section 8 Offences, also deals with offences under the Act committed by a body corporate.

What does this mean?

Summary proceedings for offences may be brought by the HSE.

In the case of a person who commits an offence under section 14(2) Prohibition on advertising in certain places or 20(1) Advertising in cinemas, he or she is liable on summary conviction to a Class A fine (not exceeding €5,000) or imprisonment for up to 6 months, or both, or, on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 3 years or both.

In the case of a person who commits an offence under section 17(1) Children's clothing, 25(6) Powers of authorised officers or 30(9) Compliance notice, he or she is liable on summary conviction to a Class A (not exceeding €5,000) fine or imprisonment for up to 6 months, or both.

If a person is convicted of an offence under section 14(2) Prohibition on advertising in certain places, 17(1) Children's clothing or 20(1) Advertising in cinemas and that contravention continues after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable on summary conviction to a fine not exceeding €2,000.

When a person is convicted of an offence under this Act, the court shall (unless it is satisfied that there are special and substantial reasons for not doing so) order the person to pay to the prosecution the costs and expenses incurred by the prosecution in relation to the investigation, detection and prosecution of the offence. Such costs will be measured by the court.

The classes of fines are set out in the Fines Act 2010 (*Number 8 of 2010*) which may be revised.

Contact Details

For further information or enquiries regarding enforcement or to make a complaint please contact the HSE at ehs.alcoholunit@hse.ie.

For further information regarding the Public Health (Alcohol) Act please contact the Tobacco and Alcohol Control Unit of the Department of Health at alcohol@health.gov.ie.