

Public Health (Alcohol) Act 2018

(Number 24 of 2018)

Guidance for Industry

Section 22

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An Roinn Sláinte
Department of Health



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

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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 2020 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 2020 section 22 separation and visibility of alcohol products and advertisements of alcohol products in specified licensed premises will come into operation.

Separation and visibility of alcohol products and advertisements of alcohol products in specified licensed premises

Section 22 of the Public Health (Alcohol) Act 2018 sets out the options for the separation of alcohol products and advertisements for alcohol products from other products in mixed retail outlets. It also sets out where these options shall not apply. Finally, Section 22 sets out the requirements for the sale of alcohol products for consumption off the premises in airports.

What does this mean?

Mixed Trade Retailers

(e.g. supermarkets, convenience stores and petrol stations selling alcohol)

From 12th November 2020 alcohol products and advertisements for alcohol products shall be separated from other products in mixed trade retailers by means of:

A closed storage unit behind the counter (at one point of sale area only),

- The unit may indicate that it contains alcohol products but shall not be accessible to members of the public.
- The unit shall not contain advertisements for alcohol products.
- The alcohol products shall not be visible to members of the public when the unit is closed.
- The unit shall remain closed when not in use.
- The unit can be of any size.

and/or by means of one of the following-options:

Option A - A single area reserved for alcohol and alcohol related products which is separated by a barrier:

- Advertisements for alcohol products and the exposure for sale of alcohol products shall be in a single area of the premises which is separated from the rest of the premises by means of a physical barrier.
- The barrier shall have a minimum height of not less than 1.2 metres.
- The entrance/exit to this area forms part of the barrier and must also comply with the requirements for the barrier.
- Alcohol products and advertisements for alcohol products shall not be visible through the barrier (the visibility of products and advertising caused by a temporary opening of the entrance or exit, for the purposes of a consumer or other person to enter or leave the area, is allowed).
- Advertisements for alcohol products shall be located within the separated area only.
- Advertisements for alcohol products shall not be displayed on the outside of the barrier.
- A member of the public shall not have to pass through the separated area to gain access to another area of the shop or to make a purchase of products other than alcohol products.
- The separated area can be served by one or more access points.
- The only products exposed for sale in the separated area shall be alcohol products and alcohol related products.
- Alcohol related products that are exposed for sale within this area (e.g. non alcoholic beverages, mixers, corkscrews, glasses) shall also be exposed for sale elsewhere in the shop.

An illustration of how this provision may be complied with is provided below.



Option B – Enclosed storage unit(s) adjacent to each other exposing for sale alcohol products and advertisements for alcohol products only and which have height and visibility restrictions:

- Alcohol products shall be exposed for sale in one or more enclosed storage units. There is no limit on the number of units.
- The unit(s) shall be adjacent to each other and may indicate that it or they contain alcohol products.
- The unit(s) shall not contain anything other than alcohol products and advertisements for alcohol products.
- Each unit shall be a maximum height of 2.2 metres and to a height of 1.5 metres from the lowest point of the unit shall be made of a material through which alcohol products and advertisements for alcohol products are not visible when the unit is closed.
- Each unit shall remain closed when not in use.

An illustration of how this provision may be complied with is provided below.



Option C - A display of alcohol products and advertisements for alcohol products within a maximum of three adjacent storage units with height and width restrictions on each unit:

- Advertisements for alcohol products and the exposure for sale of alcohol products shall be in not more than three adjacent storage units.
- The units may indicate that they contain alcohol products
- The units shall not contain anything other than alcohol products and advertisements for alcohol products.
- Each unit can be up to a maximum width of 1 metre and up to a maximum height of 2.2 metres.

An illustration of how this provision may be complied with is provided below.



A checklist for each of the options outlined above is included at Appendix A.

The sale of alcohol related merchandise (branded non-alcohol products e.g. stationery, confectionery, key rings) is permitted in all areas of mixed trade retail premises.

Stand-alone off-licences

The requirements of section 22 for mixed trade retailers do not apply to stand alone off-licences, airports or passenger aircraft. A standalone off-licence is considered to be one which sells solely or mainly alcohol products. [This exemption does not include mixed trade outlets such as supermarkets, convenience stores, and petrol stations with an element of alcohol sales]

Airports and passenger aircraft

Alcohol products sold for consumption off the premises in airports and passenger aircraft shall be displayed in storage units that contain only alcohol products. The alcohol storage units cannot adjoin storage units containing products other than alcohol products. Advertisements for alcohol products can be displayed only in, on or beside an alcohol storage unit. However, it is permitted to display packages or gift sets containing alcohol and non-alcohol products in alcohol storage units.

Offences and Penalties

A person who contravenes the separation and visibility of alcohol products and advertisements of alcohol products in specified licensed premises is guilty of an offence.

In the case of a person who commits an offence under section 22(4) or 22(7) relating to the separation and visibility of alcohol products and advertisements of alcohol products in specified licensed premises, 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.

If a person is convicted of an offence under section 22(4) or 22(7) relating to the separation and visibility of alcohol products and advertisements of alcohol products in specified licensed premises 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.

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;

i.e. alcohol product means beer, wine, other fermented beverage, spirits or intermediate beverage.

“non-alcoholic beverage” means any beverage not exceeding 0.5% alcohol by volume (ABV) Any product with an ABV (alcohol by volume) of greater than 0.5% is considered to be an alcohol product.

“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

supply for any of these purposes (whether or not for profit);

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.

Appendix A

Option A - A single area reserved for alcohol and alcohol related products separated by a barrier



Checklist

- Alcohol products and advertisements for alcohol products are restricted to this area.
- The area is separated from the rest of the premises by means of a physical barrier.
- The barrier shall have a minimum height of not less than 1.2 metres.
- The entrance/exit to this area must have a minimum height of 1.2 metres.
- Alcohol products and advertisements for alcohol products shall not be visible through the barrier.
- A member of the public shall not have to pass through the alcohol area to gain access to another area of the shop or to make a purchase of products other than alcohol products.
- Alcohol related products for sale within this area shall also be exposed for sale elsewhere in the shop.

Option B – Enclosed storage unit(s) adjacent to each other containing alcohol products and advertisements for alcohol products with height and visibility restrictions



Checklist

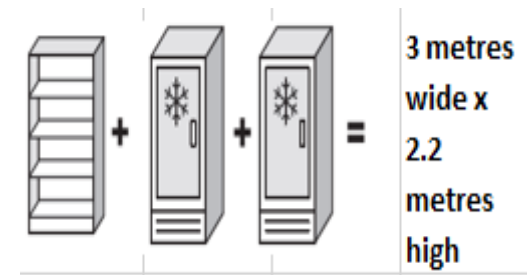
- Alcohol products must be contained in enclosed storage units.
- Unit(s) must be adjoining each other and may indicate that they contain alcohol products.
- Maximum height of 2.2 metres per unit.
- Alcohol products and advertisements for alcohol products must not be visible up to a height of 1.5 metres from the lowest point of the unit when the unit(s) is closed.
- Up to 1.5 metres from the lowest point of each unit(s) must be made of material through which alcohol products and advertisements for alcohol products are not visible when the unit(s) is closed.
- Each unit shall remain closed when not in use.
- There is no limit on the number of units.
- The unit(s) must contain only alcohol products and advertisements for alcohol products.
- The units may be a combination of refrigerated and non-refrigerated units, as required once they comply with size and visibility restrictions.

Option C - Display of alcohol products and advertisements



Checklist

- Maximum of 3 adjacent storage units.
- Maximum height of 2.2 metres per unit.
- Maximum width of 1 metre per unit.
- Advertisements and alcohol products must be exclusively confined to the storage units.
- Storage units shall not contain anything other than alcohol products and advertisements for alcohol products.
- Storage units may be open shelved as illustrated on the left or refrigerated or may include a combination of both once they comply with maximum height and width restrictions.



Closed Storage Unit



Checklist

- The unit must be confined to one sales point only in the premises.
- The unit may indicate that it contains alcohol products.
- The unit cannot be accessed by members of the public.
- The unit shall not contain advertisements for alcohol products.
- Alcohol products shall not be visible to members of the public when the unit is closed.
- The unit shall remain closed when not in use.
- The unit can be of any size