

PUBLIC HEALTH (MINIMUM PRICE FOR ALCOHOL) (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 5 to 7: Supply of alcohol as part of a special offer

27. These three sections set out rules relevant to determining the applicable minimum price in relation to alcohol supplied through a variety of special offers, for the purpose of ascertaining whether an offence has been committed under section 2.
28. The special offers captured by these sections fall into two broad categories: multi-buy alcohol transactions (section 5) and alcohol supplied together with other goods and services (section 6). Section 7 makes supplementary provision about both of these.

Multi-buy alcohol transactions (section 5)

29. The first category is the “multi-buy alcohol transactions” defined by section 5; these are transactions which may offer customers incentives to purchase higher volumes of alcohol than might otherwise be the case. These kinds of deals are commonly known as multi-buy deals, including “buy one, get one free” offers.
30. This section applies where some of the alcohol supplied in a transaction was described as being supplied free of charge where other alcohol was supplied; and where alcohol was supplied at a discounted or fixed price when purchased with other alcohol, or where other alcohol had already been supplied. It is likely that most multi-buy alcohol transactions would involve a single exchange of cash between supplier and customer, but this won’t always be the case. For instance, the price of a subsequently purchased drink might be reduced by reference to earlier purchases of drinks. The effect of this section is that in these circumstances the subsequently purchased drink and the earlier drinks will all need to be treated as a single transaction and the applicable minimum price calculated as set out in the section.
31. **Section 5** requires all of the alcohol supplied in a multi-buy alcohol transaction to be taken into account when determining the applicable minimum price. This requirement avoids doubt about how the offence in section 2 affects cases where a portion of the alcohol being supplied in a transaction has no identifiable selling price, or a selling price which has been distorted by the operation of a discount.

Alcohol supplied together with other goods and services (section 6)

32. The second of the two categories of special offers involves deals where alcohol is supplied together with goods other than alcohol, or services; either where the other goods or services and the alcohol are supplied at a single, fixed, price, or where alcohol is supplied at a discounted price if other goods or services are supplied.

- 33. [Section 6\(2\)](#) would, for example, apply where a cocktail was supplied, with mixer, for a fixed price (the non-alcoholic portion of the cocktail constituting a good other than alcohol).
- 34. Many of the offers to which this section will apply are likely to be offers involving the supply of alcohol together with food, but it is not limited to such cases.

Special offers: supplementary ([section 7](#))

- 35. Where the alcohol being supplied in a special offer is of different strengths, [section 7\(2\)](#) requires separate calculations to be made to determine the applicable minimum price in relation to the different strengths of alcohol. The aggregate of those calculations provides the applicable minimum price
- 36. [Section 7\(3\)](#) ensures that the requirements of [section 6](#) apply where the alcohol supplied with other goods or services is described as supplied free of charge. For example, an offer where the purchase of a particular combination of food included a “free” bottle of wine.

Practical examples of how [sections 5 – 7](#) apply

- 37. [Sections 5](#) and [6](#) of the Act include examples of how the applicable minimum price would operate in relation to special offers. But additional examples have been provided below.
- 38. An applicable minimum price of £0.50 is to be assumed for the purposes of what follows.

Multi-buy alcohol transactions

Example 1

- 39. In the case of a “buy one, get one free” offer where two boxes of 4% lager are described as being supplied for the price of one box, and assuming each box includes 10 cans at a volume of 330 ml for each can, the two boxes would be treated as having been supplied at the price paid for the single box.
- 40. Taking the selling price at which a single box was supplied as £14, the applicable minimum price in relation to the lager would be calculated as follows:
- 41. M is £0.50; S is 4 (the strength by volume of the lager); V is 6.6 litres (the total volume of the 20 cans).
- 42. $0.5 \times 4 \times 6.6 = £13.20$
- 43. In this example, the selling price of £14 for the two boxes would be above the applicable minimum price for the alcohol supplied, and no offence under [section 2](#) would have been committed.

Example 2

- 44. Where 3 boxes of beer, lager or cider were available for purchase at a single selling price of £30, the minimum price for each box would need to be calculated in order to work out whether the selling price of £30 was lower than the applicable minimum price for the different combinations of alcohol which could be supplied.
- 45. Assuming the box of beer comprised 10 440 ml cans of 6% strength by volume; the box of lager comprised 12 440 ml cans of 4% strength; and the box of cider comprised 12 330 ml bottles of 5% strength:
- 46. The minimum price for the box of beer would be £13.20 (£0.50 X 6 X 4.4 litres, the aggregate volume for the box).
- 47. The minimum price for the box of lager would be £10.56 (£0.50 X 4 X 5.28 litres).

- 48. The minimum price for the box of cider would be £9.90 (£0.50 X 5 X 3.96 litres).
- 49. Where a customer chose to purchase two boxes of beer and a box of cider, the applicable minimum price for the alcohol supplied would be £36.30 (that sum being the aggregate of the £26.40 minimum price for the two boxes of beer and the £9.90 for the cider).
- 50. So, in this example, the selling price would have been £6.30 below the applicable minimum price for the alcohol being supplied, and, assuming the absence of a defence, the retailer would be liable to prosecution for committing the offence under section 2.
- 51. But the purchase of 3 boxes of cider by the same customer would not give rise to the offence under section 2, since the applicable minimum price for the alcohol being supplied would be £29.70 (the aggregate of the minimum price of £9.90 for each box of cider).

Offers involving alcohol together with other goods or services

Example

- 52. Where three food items and a bottle of wine are supplied at a single price of £10, the selling price for the wine would be treated as being £10.
- 53. If the volume of the wine was 0.75 litres and its strength by volume 14%, the applicable minimum price for the wine would be £5.25 (£0.50 X 14 X 0.75).
- 54. In this example, the selling price of £10 would be above the applicable minimum price for the wine, and the retailer would not have committed the offence in section 2.