

Public Health (Alcohol) Act 2018

(Number 24 of 2018)

Guidance for Industry

Section 15 & 16

October 2021



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,
- 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 Section 15 and Section 16 of the Public Health (Alcohol) Act 2018 which come into effect 12th November 2021 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.

The manufacture and/or sale of 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 alcohol promotions, for example, “buy one get one free” or student night promotions. 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. 448 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, 12, 13, 18, 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 cinemashave come into operation.
- With effect from 10th May 2021, the provision relating to minimum price of alcohol products was commenced and will be introduced 4 January 2022.

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 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;

Restriction on advertising during events

Section 15 of the Public Health (Alcohol) Act 2018 prohibits the advertisement of alcohol products in or on a sports area, at events that are aimed particularly at children, or where the majority of participants or competitors are children.

Section 15 of the Public Health (Alcohol) Act 2018

Restriction on advertising during events

- (1) During a sports event a person shall not advertise, or cause to be advertised, an alcohol product in or on a sports area.
- (2) Subject to *subsection (3)*, nothing in *subsection (1)* shall be construed as prohibiting, during a sports event, a person in or on a sports area from wearing clothing containing the name, trademark or logo of any brand of alcohol product.
- (3) A person shall not advertise, or cause to be advertised, an alcohol product—
 - (a) at an event aimed particularly at children, or
 - (b) at an event in relation to which the majority of participants or competitors are children.
- (4) A person who contravenes *subsection (1)* or *(3)* shall be guilty of an offence.

In this section “sports area” means an area, whether indoors or outdoors, where participants participate in sporting activities, or competitors compete in sporting competitions, and includes a playing pitch or area, a swimming pool, an athletics track, a dog or horse racing track or a motor racing track.

What does this mean?

From 12th November 2021, the advertising of an alcohol product will be prohibited:

- in or on a sports area during a sports event
- at an event aimed at children
- at an event in which the majority of participants or competitors are children.

The wearing of clothing bearing the name, trademark or logo of any brand of alcohol product will not be prohibited except at events aimed particularly at children or where the majority

of participants or competitors in the event are children.

For the purpose of this section ‘sports area’ means an indoor or outdoor area where people participate in sport or where sporting competitions take place and includes:

- a playing pitch or area
- a swimming pool
- an athletics track
- a dog or horse racing track
- a motor racing track

The examples given in the definition illustrate that it refers to the space which participants or competitors use when engaged in the sport event.

Alcohol advertising on a sports area e.g. a football pitch is prohibited under Section 15 (1). However the prohibition does not include the hoardings around the perimeter of the pitch.

The Section 15 definition of the “sports area” limits the prohibition to the area where people participate in sport and doesn’t provide for beyond that area and so does not include the perimeter hoardings. It includes advertising directly applied to or superimposed or projected onto the sports area.

The prohibition applies for the duration of the sporting event only. This means that alcohol can be advertised on the sports area before or after an event.

Definition of advertising

Advertising is defined in Section 2 of the Act as follows:

“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;

A person who contravenes the prohibition of advertising during events is guilty of an offence. This potentially may include, although not exclusively, an advertising company, an alcohol manufacturer, a sporting organisation 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 €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.

Q&As

Q. What is the definition of a child under this legislation?

A. A child means a person under the age of 18 years.

Q. Is alcohol advertising prohibited in all areas related to an event aimed particularly at children or where the majority of participants or competitors are children?

A. Yes. The prohibition of alcohol advertising is not limited to a specific area of an event aimed particularly at children or where the majority of participants or competitors are children

Q. What does “an event where the majority of participants or competitors are children” mean?

A. An event where the majority of participants or competitors are children includes an event where more than 50% of participants or competitors are children.

Q. Can sportswear with an alcohol branding, trademark or logo be worn at a sports event where that sports event is aimed particularly at children or where the majority of participants or competitors are children?

A. No, this provision prohibits the wearing of sportswear with an alcohol branding, trademark or logo on or in the sports area during a sports event where that sports event is aimed particularly at children or where the majority of participants or competitors are children.

Restriction on Sponsorship

Section 16 of the Public Health (Alcohol) Act 2018 prohibits the sponsorship of an event aimed at children or where the majority of participants or competitors are children or at an event that involves driving or racing mechanically propelled vehicles Sponsorship means any contribution which promotes either directly or indirectly - alcohol products, alcohol brands or alcohol consumption.

Section 16 of the Public Health (Alcohol) Act 2018 Sponsorship

- (1) It shall be an offence for a person to sponsor or cause the sponsorship of—
 - (a) an event in relation to which the majority of participants or competitors are children,
 - (b) an event aimed particularly at children, or
 - (c) an event that involves driving or racing mechanically propelled vehicles.
- (2) Nothing in this section shall prevent the sponsorship of an event referred to in *paragraph (a), (b) or (c) of subsection (1)* by the holder of a licence, provided such sponsorship does not include the advertising or promotion of an alcohol product or brand.
- (3) In this section “sponsorship” means any form of public or private contribution to any event with the aim or direct or indirect effect of promoting an alcohol product or brand or alcohol consumption.

What does this mean?

From 12th November 2021, the sponsorship of alcohol products will be prohibited:

- at an event aimed at children
- at an event in which the majority of participants or competitors are children
- at an event that involves driving or racing mechanically propelled vehicles.

The prohibition applies only to the events set out above.

The sponsorship of an event by the holder of a licence is not prohibited provided such sponsorship does not include the advertising or promotion of an alcohol product or brand.

For the purposes of this section ‘sponsorship’ means any form of public or private contribution to any event with the aim or effect whether directly or indirectly of promoting

an alcohol product or brand or alcohol consumption.

A person who contravenes the prohibition of sponsorship during events is guilty of an offence. This potentially may include, although not exclusively, an advertising company, an alcohol manufacturer, a sporting organisation 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 €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.

Q&As

Q. What is the definition of a child under this legislation?

A. A child means a person under the age of 18 years.

Q. What does “an event where the majority of participants or competitors are children” mean?

A. An event where the majority of participants or competitors are children includes an event where more than 50% of participants or competitors are children.

Q. Does the prohibition of sponsorship include sports events in relation to which the majority of participants or competitors are children, events which are aimed particularly at children or involving the driving or racing of motorised vehicles?

A. Yes. Sponsorship is prohibited for all events in which the majority of participants or competitors are children, events aimed particularly at children or involving the driving or racing of motorised vehicles including sports events.

Q. Can a licence-holder sponsor a children’s event as set out in section 16 (1) (a) (b)?

A. Yes as per section 16 (2) as long as such sponsorship does not promote an alcohol product, an alcohol brand or promote alcohol consumption.

Q. Can a licence-holder sponsor an event involving driving or racing mechanically

propelled vehicles as set out in Section 16 (1) (c)?

A. Yes. A licence-holder may sponsor an event involving motorised vehicles as per section 16 (1) (c) as long as such sponsorship does not promote an alcohol product, an alcohol brand or promote alcohol consumption.

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.