

# *West Dunbartonshire Licensing Board*

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To all members of West Dunbartonshire  
Licensing Board and West Dunbartonshire  
Local Licensing Forum

13 February 2020

**THE LICENSING (SCOTLAND) ACT 2005  
JOINT MEETING BETWEEN LICENSING BOARD AND LOCAL  
LICENSING FORUM  
25 FEBRUARY 2020**

Dear Sir/Madam

In terms of Section 10(3) of the Licensing (Scotland) Act 2005 each Licensing Board is required to hold a joint meeting with the Local Licensing Forum for the Board's area at least once in each calendar year.

Notice is hereby given that a Joint Meeting between West Dunbartonshire Licensing Board and West Dunbartonshire Local Licensing Forum will be held on **Tuesday, 25 February 2020 at 2.00 p.m. in The Bridge, Council Offices, Church Street, Dumbarton.**

The purpose of the meeting will be to discuss the operation of the Licensing (Scotland) Act 2005 during the previous 12 month period, the relationship between the Forum and the Licensing Board and any matters arising.

The Annual General Meeting of the Local Licensing Forum will be held immediately after the Joint Meeting and all members of the Licensing Board are welcome to remain for that meeting.

I shall be obliged if you will advise Nuala Borthwick on 01389 737594 or [nuala.borthwick@west-dunbarton.gov.uk](mailto:nuala.borthwick@west-dunbarton.gov.uk) should you be unable to attend the meeting.

Yours faithfully

**PETER HESSETT**

Clerk to the Licensing Board

**WEST DUNBARTONSHIRE LICENSING FORUM AND  
LICENSING BOARD JOINT MEETING**

**25 FEBRUARY 2020**

**AGENDA**

**1. APOLOGIES**

**2. OPERATION OF THE LICENSING (SCOTLAND) ACT 2005 DURING  
THE PREVIOUS 12 MONTH PERIOD**

Members of the Licensing Board and Licensing Forum are requested to discuss the operation of the Licensing (Scotland) Act 2005 during the previous 12 month period.

**3. RELATIONSHIP BETWEEN THE LICENSING BOARD AND LICENSING  
FORUM**

Members are requested to consider the relationship between the Board and the Forum during the previous 12 month period.

**4. MINIMUM UNIT PRICING EVALUATION 3 - 10**

Submit briefing paper by NHS Health Scotland providing an analysis of off-trade alcohol sales data for the 12 month period since the implementation of minimum unit pricing (MUP) in Scotland.

**5. WHOLESALERS: MINIMUM PRICING OF ALCOHOL AND 11 - 18  
SALES TO TRADE CONSULTATION REPORT: ANALYSIS OF  
RESPONSES**

Submit for consideration, a Scottish Government report:-

- (a) providing a summary to the analysis of the responses to the Scottish Government's consultation on clarifying the position for certain wholesalers with regard to compliance with Minimum Unit Pricing; and
- (b) providing a response from the Scottish Government on the matter.

## **Sales-based consumption: a descriptive analysis of one year post-MUP off-trade alcohol sales data – briefing paper**

### **Introduction**

Minimum unit pricing (MUP) came into effect in Scotland on 1 May 2018. From that date every drink containing alcohol has a minimum price based on the amount of pure alcohol it contains. The minimum price in Scotland is currently set at 50 pence per unit of alcohol (ppu).

The Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS) MUP Evaluation Portfolio comprises a number of research studies that are being undertaken to assess the impact of MUP. The portfolio contains studies assessing compliance with and implementation of MUP, its impact on the alcoholic drinks industry in Scotland, changes in alcohol consumption, and changes in health and social harms.

### **The aim of this report**

This report provides an analysis of off-trade alcohol sales data for the 12-month period since the implementation of minimum unit pricing (MUP) in Scotland. We provide a descriptive analysis of the:

- volume of pure alcohol sold per adult in Scotland both before and after MUP was implemented
- percentage change in per-adult alcohol sales over time
- change in average price per unit of alcohol sold.



We have provided comparisons over time and with England & Wales, where the legislation was not implemented. This is the first in a suite of studies looking at the impact of MUP on sales-based consumption. Further reports will provide statistical analyses of the impact of MUP on sales-based consumption at both one and three years post-MUP. These are expected to report in late-2020 and mid-2022, respectively.

## **What we did**

We used weekly off-trade alcohol sales data to estimate alcohol consumption at a population level. The volume of alcoholic beverages (natural volume) sold from most supermarkets and a sample of convenience stores was collated and aggregated from electronic point of sale (EPOS) data. The natural volume was adjusted to account for the lack of data from discount stores using their estimated market share. Natural volumes were converted to pure alcohol volume using category-specific percentage alcohol by volume (ABV). Per-adult alcohol sales were calculated using mid-year population estimates for the adult population aged 16 years and over and presented in litres of pure alcohol per adult.

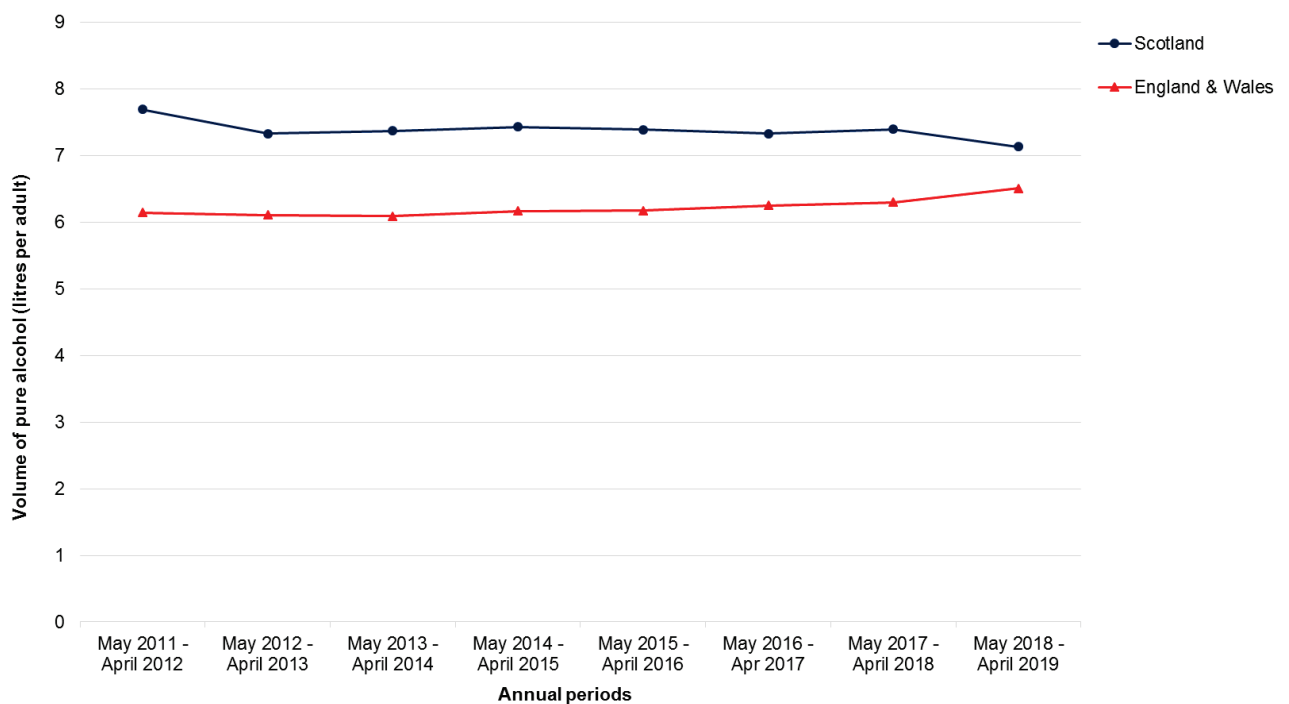
We also used EPOS data to calculate the average sales price of alcohol, by dividing retail sales value by pure alcohol volume. The average sales price was expressed as the price per unit of alcohol.

The total time period covered in this report is from the beginning of May 2011 to the end of April 2019.

## What we found

In the 12 months following the implementation of MUP the volume of pure alcohol sold in the off-trade in Scotland fell by 3.6%, from 7.4 to 7.1 litres per adult, compared to the 12 months before MUP was implemented (Figure 1). In England & Wales, over the same period, the volume of alcohol sold in the off-trade rose by 3.2%, from 6.3 to 6.5 litres per adult (Figure 1). The combined fall in Scotland and rise in England & Wales resulted in the smallest difference in per-adult alcohol sales (0.6 litres per adult; 9.6%) between the two areas in this time series.

**Figure 1: Annual (May to April) off-trade alcohol sales (litres of pure alcohol per adult), Scotland and England & Wales, May 2011 to April 2019**





Not all drink categories were affected in the same way. In Scotland, in the year following the implementation of MUP, per-adult sales of cider fell by the greatest percentage (-18.6%) followed by spirits (-3.8%) and wine (-3.0%). Per-adult sales of beer remained relatively stable (-1.1%) while fortified wine increased (16.4%). By contrast, in England & Wales per-adult sales of cider (8.2%), beer (7.0%) and spirits (5.6%), increased over the same timeframe. Per-adult sales of wine remained relatively stable (-1.3%) while fortified wine fell (-11.2%).

Weekly trends in per-adult alcohol sales demonstrate the seasonal variation in the volume of pure alcohol sold throughout the year, with notable peaks at Christmas and New Year. Per-adult alcohol sales have consistently been higher in Scotland than England & Wales over the festive period; following the implementation of MUP the difference in the volume of alcohol sold per adult in the off-trade between Scotland and England & Wales over Christmas and New Year was the smallest seen of any of the festive periods in the time series.

In the first two weeks of July 2018 both the latter half of the men's World Cup and a heatwave across the UK took place. These had an impact on per-adult alcohol sales in both Scotland and England & Wales in the three months immediately following the implementation of MUP. A peak in per-adult alcohol sales occurred in both areas at this time; this was driven largely by sales of beer and cider.

The implementation of MUP was followed by a step change in the average sales price of alcohol in Scotland that was not seen in England & Wales. In Scotland the average sales price rose by approximately 5 pence per unit (ppu) from 55ppu in April 2018 to 60ppu immediately following MUP implementation. This step change was seen in beer, spirits and, most markedly, in cider. A step change was not seen in wine or fortified wine, for which the average price per unit already exceeded the minimum unit price.



Analysis of alcohol sales data for the north-east and north-west regions of England suggest that the trends in these areas are similar to the rest of England & Wales; a sharper increase was observed in the north-east region in the post-MUP period. The ratio of off-trade sales between the northern regions and the rest of England & Wales in the post-MUP period was similar to that seen in the years prior to MUP implementation. It is therefore unlikely that cross-border sales activity can explain the difference in per-adult alcohol sales in Scotland and England & Wales in the year following the implementation of MUP.

## **Our understanding of the impact of MUP so far**

The MUP Evaluation Compliance (Licensing) Study<sup>1</sup>, published in August 2019, sought the views of licensing practitioners on the implementation of MUP. It showed that compliance with the legislation had been high in both large and small retailers, and that the on-trade had been unaffected. This is an important first step in the legislation realising its intended outcomes.

Both the Compliance Study<sup>1</sup> and the Economic Impact Baseline and Short Term Impacts Study<sup>2</sup>, published in October 2019, examined perspectives on cross-border sales activity. Evidence from the Economic Impact Baseline and Short Term Impacts Study<sup>2</sup> suggests that some cross-border purchasing did take place, although it was recognised that much of this purchasing pre-dated MUP. Neither study was able to demonstrate substantial cross-border activity such as bulk purchasing or purchasing with intent to sell illegally in Scotland. We are continuing to explore different ways of measuring whether cross-border purchases of alcohol have increased and we will report any evidence we find in due course.

In addition to the evaluation studies, the MESAS Monitoring Report 2019 showed that in 2018 the average sales price of alcohol rose in Scotland while the proportion

of alcohol sold at below 50ppu and the volume of pure alcohol sold per adult fell.<sup>3</sup> These findings are in line with those of a study<sup>4</sup> examining the impact of MUP on alcohol purchases recorded through shopping panel data. The study found an increase in price of 5.1 pence per unit of alcohol and a reduction in alcohol purchases of 1.2 units per adult per week in Scotland, relative to England, immediately following the implementation of MUP.

They also found that, in the period between MUP implementation and the end of 2018, the difference in alcohol price between Scotland and England began to fall while the difference in purchasing began to widen again. Similar trends have not been replicated using the Nielsen data as shown in the descriptive analysis of off-trade sales data in the 12 months following MUP implementation.

## **What other evidence on the impact of MUP on alcohol sales and price is still to come?**

This report presents a descriptive analysis of off-trade alcohol sales data for the 12-month period since the implementation of minimum unit pricing (MUP) in Scotland. A number of other studies will offer further insights into the impact of MUP on alcohol sales and price.

- The sales-based consumption study will statistically analyse pre- and post-MUP trends in alcohol sales to provide quantitative evidence of any change in population alcohol consumption (total, by market sector and by drink category) over the 12-month and three-year period following the implementation of MUP. These are expected to report in late-2020 and mid-2022 respectively.
- While not a part of the formal evaluation of MUP, the annual MESAS Monitoring Report will continue to present a wide range of alcohol indicators,





including sales and price. The next MESAS Monitoring Report is planned to be published in June 2020.

- The small retailers study will provide quantitative evidence on the extent of change to the price, characteristics and marketing of products available in the small and independent retailer sector. This study will report in early 2020.
- The alcohol price distribution study will provide quantitative evidence of the volume and proportion of alcohol sold at different price bands through the off-trade in Scotland pre- and post-MUP, and compared with England & Wales. This study will report in late 2020.
- The products and prices study will provide quantitative evidence on the extent of change to the characteristics of products available in the retail and wholesale sectors. This study will report in late 2021.

## Conclusion

Analysis of alcohol sales data has shown that, in the 12 months following the implementation of MUP, off-trade alcohol consumption at a population level fell in Scotland while it rose in England & Wales. The combined effect of these changes resulted in the smallest difference in per-adult off-trade alcohol sales between Scotland and England & Wales in the time series available. A step change, namely an increase, in the average sales price of off-trade alcohol was apparent in Scotland following the implementation of MUP. The changes in both per-adult sales and average sales price post-MUP have differed by drink category.

This builds on findings from the MESAS Monitoring Report 2019 that showed both a rise in the price of alcohol and a fall in population-level consumption in 2018. It also complements the findings that the degree of compliance with MUP has been high in both large and small retailers and that cross-border purchasing has not been substantial.

This descriptive analysis of alcohol sales and price in the off-trade is one of several studies that examine the impact of MUP on the price of alcohol and population-level alcohol consumption. Further studies looking at a range of outcomes and some over the longer term will report in due course.

## References

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<sup>1</sup> Dickie E, Mellor R and Beeston C. Minimum unit price for alcohol evaluation research protocol: Compliance (licensing) study. Edinburgh: NHS Health Scotland; 2019. Available at: [www.healthscotland.scot/media/2661/minimum-unit-pricing-for-alcohol-evaluation-research-protocol-compliance-study-english-july2019.pdf](http://www.healthscotland.scot/media/2661/minimum-unit-pricing-for-alcohol-evaluation-research-protocol-compliance-study-english-july2019.pdf)

<sup>2</sup> Frontier Economics. Minimum Unit Alcohol Pricing: Evaluating the impacts on the alcoholic drinks industry in Scotland: baseline evidence and initial impacts. Frontier Economics: London; 2019. Available at: [www.healthscotland.scot/media/2810/frontier-economics-mup-evaluating-the-impacts-on-the-alcoholic-drinks-industry-in-scotland.pdf](http://www.healthscotland.scot/media/2810/frontier-economics-mup-evaluating-the-impacts-on-the-alcoholic-drinks-industry-in-scotland.pdf)

<sup>3</sup> Giles L and Robinson M. Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2019. Edinburgh: NHS Health Scotland; 2019. Available at: [www.healthscotland.scot/publications/mesas-monitoring-report-2019](http://www.healthscotland.scot/publications/mesas-monitoring-report-2019)

<sup>4</sup> O'Donnell A, Anderson P, Jané-Llopis E et al. Immediate impact of minimum unit pricing on alcohol purchases in Scotland: controlled interrupted time series analysis for 2015–18. *British Medical Journal*. 2019 September; 366:l5274.

IMPROVING  
SCOTLAND'S  
HEALTH



# Wholesalers: Minimum Unit Pricing of Alcohol and Sales to Trade

**Consultation Report: Analysis of responses**



## Contents

<b>1. Executive summary</b>	<b>3</b>
<b>2. Introduction</b>	<b>3</b>
<b>3. Analysis</b>	<b>4</b>
Demographics	4
Responses to the proposed method	5
Other comments	5
<b>4. Conclusion and Scottish Government response</b>	<b>7</b>

## 1. Executive summary

1.1 The purpose of this report is to provide a summary to the analysis of the responses to the Scottish Government's consultation on clarifying the position for certain wholesalers as regards compliance with Minimum Unit Pricing, and to provide a response from the Scottish Government. The consultation and responses can be accessed on the Scottish Government Citizen Space portal – see paragraph 3.4.

1.2 A total of 11 responses were received – five from organisations and six from individuals. Of the 11 responses, 10 (91%) commented on the Scottish Government's proposed clarification for wholesalers. Of these 10, five were responses from organisations and five were from individuals.

## 2. Introduction

2.1 Minimum Unit Pricing was introduced on 1st May 2018. The relevant legislation is the Alcohol (Minimum Pricing) (Scotland) Act 2012 (“the 2012 Act”) which amended the Licensing (Scotland) Act 2005 (“the 2005 Act”), and makes Minimum Unit Pricing a mandatory condition of a premises and occasional licence. This means that, in order to comply with a premises and occasional licence, alcohol cannot be sold on those premises below the Minimum Unit Price. The 2012 Act also mentioned the 2005 Act to give the Scottish Ministers the power to specify by order the minimum price per unit. The Alcohol (Minimum Price per Unit) (Scotland) Order 2018 (“the 2018 Order”) came into force on 1st May 2018 and set the minimum price at 50 pence per unit of alcohol.

2.2 Prior to the implementation of Minimum Unit Pricing, the Scottish Government held discussions with various representatives in the alcohol industry on the process of implementation. During some of these discussions a very specific issue relating to wholesalers and the operation of the 2005 Act came to light. It was also raised at the Cabinet Secretary for Health and Sport's appearance at the Health and Sport Committee on 17th April 2018<sup>1</sup> in connection with the scrutiny of the 2018 Order.

2.3 The issue which arose is that there are differing views within the licensing community on whether a wholesaler with a premises licence should apply Minimum Unit Pricing to sales to trade or whether sales to trade from those licensed premises are exempt from Minimum Unit Pricing. There is no intention, and there never has been any intention, by the Scottish Government that Minimum Unit Pricing would apply to sales to trade. The policy is that only sales of alcohol which are not sales to trade should be subject to the minimum price.

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1 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11472>

2.4 The Scottish Government considers a legislative change is helpful to clarify the position for certain wholesalers as regards compliance with Minimum Unit Pricing. The Scottish Ministers ran a public consultation from 3 August to 26 October 2018 on the text of the proposed draft amendment contained in a draft amending instrument. The consultation asked for comments on the proposed draft amendment to the 2018 Order which set the Minimum Unit Price at 50 pence. The consultation was carried out through the Citizen Space online portal with one response received separately by email.

2.5 This report sets out a summary of the responses received to the consultation and provides an analysis of these. The findings presented summarise the views of those who participated in the consultation. Given that this was a self-selected group, these findings should not be seen as representing the views of the wider population. This report aims to provide a balanced account of the views submitted by respondents. However, the findings only provide a relatively high-level summary of a range of more detailed responses.

### 3. Analysis

3.1 There was only one open ended question in this consultation. Quantitative analysis of the responses was undertaken using frequency analysis. This categorised participants by sector/individual and their support of the suggested change. The results are presented in the report. Qualitative, thematic analysis was used on all responses to identify key themes in response to the question.

#### Demographics

3.2 A total of 11 written responses were received as part of the consultation. Of these 11 responses, five (45%) were from organisations and six (55%) were from individuals. The respondents were asked to comment on the proposed draft amendments to the 2018 Order. The 2018 Order set the Minimum Unit Price at 50 pence. Article 2 of the draft amending instrument proposes to amend the 2018 Order as follows:

“(2) In article 1(2) (interpretation), before the definition of “schedule 3”, insert—

““sales to trade” means the selling of alcohol to trade to a person for the purposes of the person’s trade;”.

(3) After article 2 insert the following article—

**“Sales to trade**

**2A.** The minimum price per unit specified in article 2 does not apply for the purpose of sales to trade.”.

3.3 The table below summarises the type of respondent to the consultation.

**Table 1.1 Type of respondent to the consultation**

Type of response	Number	Percentage (%)
Third Sector Health Body	1	9
Public Sector Body (non-Health)	1	9
Retailer	2	18
Other	1	9
Individual	6	55
Total	11	100

### Responses to the proposed method

- Eight (73%) of the respondents who commented on the proposed clarification for wholesalers were in agreement with the proposed method.
- One (9%) of the respondents who commented on the proposed clarification for wholesalers was not in agreement with the proposed method, and considered the method should be more restrictive in terms of the definition of sales to trade.
- One (9%) of the respondents who commented on the proposed clarification for wholesalers did not consider the method proposed would achieve the required clarification and that this would only be achieved through primary legislation.
- One (9%) of the respondents did not directly address the question asked, but commented on Minimum Unit Pricing.

### Other comments

3.4 Some of the respondents to the consultation mentioned specific queries, issues or concerns that they had with the proposed method of clarifying Minimum Unit Pricing and sales to trade. These were not directly related to the proposed Scottish Statutory Instrument but are reported on below for completeness.

- One respondent welcomed confirmation of dual pricing being permissible within the licensing regime set out by the 2005 Act.
- One respondent approved the requirement for dual pricing.
- Two respondents called for a clarification of the definition of 'sales to trade'.
- One respondent considered that the 2005 Act does not provide powers under which the proposed secondary legislation can be made, and that the best way to resolve the issue is to make a change to relevant primary legislation.

- One respondent called for the consolidation of the 2005 Act.
- One respondent commented that increasing the price would not help those with an addiction.
- One respondent called for Minimum Unit Pricing to be abolished.
- One respondent queried how a wholesaler would know they were selling to trade.
- One respondent commented that they considered the timescale for implementation of Minimum Unit Pricing was too short.

#### **How to access background or source data**

The data collected for this social research publication:

are available via the Citizen Space online portal at:

<https://consult.gov.scot/alcohol-policy/wholesalers-minimum-unit-pricing/>



## 4. Conclusion and Scottish Government response

4.1 The consultation invited comments on the Scottish Government's proposed method of clarifying the position for certain wholesalers as regards compliance with Minimum Unit Pricing. A total of 11 responses were received – five from organisations and six from individuals. Of the 11 responses, 10 (91%) commented on the Scottish Government's proposed clarification for wholesalers. Of these 10, five were responses from organisations and five were from individuals.

4.2 The issue which arose is that there are differing views within the licensing community on whether a wholesaler with a premises licence should apply Minimum Unit Pricing to sales to trade or whether all sales to trade from those licensed premises are exempt from Minimum Unit Pricing.

4.3 The Scottish Government considers a legislative change is helpful to clarify the position for certain wholesalers as regards compliance with Minimum Unit Pricing. The consultation asked for comments on the draft amendment to the 2018 Order which set the Minimum Unit Price at 50 pence.

4.4 Taking into account the preference to clarify the legislation, the method of achieving this, and the responses to this consultation, the Scottish Government concludes that the proposed method of clarifying the position for certain wholesalers as regards compliance with Minimum Unit Pricing is appropriate and is justified in order to achieve the necessary clarification. This includes using an order (secondary legislation) to achieve this rather than primary legislation, and also including the definition of "sales to trade" in the order rather than referencing the definition of "selling alcohol or other goods to trade" in section 147(2) of the 2005 Act.

4.5 One respondent made some technical suggestions in relation to the drafting of the draft amending Order. The Scottish Government has considered these suggestions and concluded that these are not required.

4.6 The Scottish Government proposes a minor adjustment to the wording of the draft Order consulted on, in order to more closely mirror the definition in the 2005 Act. The relevant text of the draft amending Order consulted on is Article 2, which stated:

“(2) In article 1(2) (interpretation), before the definition of “schedule 3”, insert—

““sales to trade” means the selling of alcohol to trade to a person for the purposes of the person's trade;”.

4.7 The proposed minor adjustment removes the second reference to 'to trade'. The minor adjustment means that the text becomes:

“(2) In article 1(2) (interpretation), before the definition of “schedule 3”, insert—

““sales to trade” means the selling of alcohol to a person for the purposes of the person's trade;”.



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**OGL**

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