

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
<p>1. If a retailer does not sell an alcoholic product in singles, for example, a can of beer, is there any restriction on the price that multi-packs can be sold for?</p> <p>How does this scenario change if a retailer does sell single cans?</p>	<p>Section 2(2) of the Alcohol etc. (Scotland) Act 2010 (the “Alcohol Act”) refers.</p> <p>Paragraph 5 of the explanatory note to the Alcohol Act states: “Section 2 makes provision in respect of the minimum price of a package containing two or more alcoholic products (for example, a case containing 12 bottles of wine, or a pack containing 6 cans of beer). The price of such packages must be equal to or greater than the sum of the prices at which each product is for sale. This provision only applies where each alcoholic product in the package is available for sale on the premises. This provision means the retailer cannot both sell an alcoholic product individually and offer a discount to the buyer for buying a package containing a multiple of alcoholic products which includes that product.</p> <p>For example, if a bottle of wine is sold at £4, then a retailer would not be able to sell a package of 2 of those bottles for less than £8. If one bottle of wine is sold for £4 and another bottle of wine is sold for £4.50, a retailer would not be able to sell a package of one of each of those bottles for less than £8.50.</p> <p>Similarly, a case of 24 x 440ml cans of beer may not be sold at a price less than the cost of buying 24 of those cans (provided that individual 440ml cans of that beer were available for sale on the premises).”</p> <p>There is only a restriction on the price you can sell multi-packs at if you sell the product individually. If the product is sold individually, any multi-pack must be sold at a price at least equal to the multiple of the single product. So if a single can is sold at £1, then a 4-pack of the same size of can must sell for at least £4 and a 6-pack for at least £6.</p>

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
<p>2. If a retailer stocks a 15 x 275ml pack, are they required to stock smaller pack sizes i.e. 4 x 275ml or 6 x 275ml?</p>	<p>There is no restriction in the Alcohol Act on the size of multi-pack a retailer is able to stock.</p>
<p>3. If a retailer sells 15 x 275ml pack for £9.99, and breaks the packs into singles, does this mean the price for each 275ml product needs to be 67p?</p>	<p>Answer to query 1 refers. If the retailer sells 275ml of a single product for 67p and also a 15-pack of the same size of product, then the 15-pack must be sold for at least 15 x 67p i.e. £10.05. If the retailer breaks down a pack of 15 and sells them individually and also in a 15-pack, then the 15-pack will need to be 15 times the price of the individual product.</p>
<p>4. If a retailer stocks the following packs - 4 x 440ml, 8 x 440ml, 12 x 440ml, and the 4 x 440ml is priced at £4, what price would the 8 and 12 pack be?</p>	<p>Answer to query 1 refers. There will only be a restriction on the price of the multi-packs if the product is sold individually. If the product is sold individually then the 4-pack will need to be at least 4 times the price of the individual product, the 8-pack will need to be at least 8 times the price of the individual product and the 12-pack will need to be at least 12 times the price of the individual product.</p> <p>If the product is not sold individually then there is no restriction on the price of the multi-packs.</p> <p>"Alcoholic product" means "a product containing alcohol and includes the container in which alcohol is for sale." Given that "alcoholic product" includes the container which holds the alcohol then a 500ml bottle of an alcoholic drink is a different alcoholic product to a 500ml can of the same alcoholic drink.</p>
<p>5. An alternative interpretation put forward by the industry of the legislation on the price of multi-packs is that a retailer would not be able to sell 12 single cans of beer for less than they would sell 1 individual can of beer but they could sell a multi-pack of 12 cans for less than 12 single cans as these are regarded as different Stock Keeping Unit (SKU) in retailer terms.</p>	<p>Section 2 refers to the minimum price of packages containing more than one alcoholic product. Section 2(2)(3) of the Alcohol Act refers.</p> <p>Paragraph 6 of the explanatory notes states “Sub-paragraph (3) of inserted paragraph 6B provides that the packaging of the bottles or cans in a case does not make the bottle or can a different product. That is, the product is the bottle or can and its contents, not the case. This means that under sub-paragraph (1), a pre-packed package containing multiples of an alcoholic product is not a</p>

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
	<p>separate product but a package to which sub-paragraph (1) may apply.” So a 12-pack of beer would be regarded as a pre-packed package and if the beer was also sold in single cans then there would be a restriction on the selling price of the 12-pack i.e. it would need to be at least 12 times the price of a single can.</p> <p>There is no mention in the Alcohol Act of Stock Keeping Units.</p>
<p>6. What is the position regarding advertising such as a neon ‘Cold Beer Here’ sign displayed in the window / outside the alcohol display area / A boards?</p>	<p>Section 5 (off-sales: location of drinks promotions) of the Alcohol Act refers.</p> <p>Paragraph 17 of the explanatory notes states: “Section 5(3) inserts new sub-paragraphs into paragraph 13 of schedule 3 of the 2005 Act restricting the location of drinks promotions on the premises and prohibiting certain drinks promotions from taking place in the vicinity of the premises. These restrictions only apply to premises which, to the extent that they are used for the sale of alcohol, are used only or primarily for the sale of alcohol for consumption off the premises. As amended, paragraph 13 provides that any drinks promotion undertaken in connection with the premises in respect of off-sales of alcohol on the premises may take place only in the alcohol display areas or in a tasting room. A drinks promotion in the vicinity of the premises will only be prohibited under paragraph 13 if it is “in connection with the premises” ”. Exceptions are set out in section 5(5) and are a branded non-alcoholic product for sale on the premises or a free newspaper, magazine or other publication which does not relate only or primarily to alcohol.</p> <p>This scenario only raises an issue if the premises are used only or primarily for the sale of alcohol for consumption off the premises. If this is the case, then any signage would only be affected to the extent that it may be regarded as a drinks promotion. It will be for Licensing Standards Officers and Licensing Boards to take a view on whether any specific signage may be regarded as a drinks promotion.</p>

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
<p>7. What is the position regarding linking alcohol with food? For example, is a retailer permitted to advertise in the alcohol display area that the consumer is able to get a money off voucher for specific food on the purchase of a specific alcoholic product?</p> <p>What about the advertising of ‘meal deals’ – can the alcoholic product that goes with the food in the ‘meal deal’ be advertised in the food section?</p>	<p>It will be for Licensing Standards Officers and Licensing Boards to take a view on whether any such advertising may be regarded as a drinks promotion or signage informing customers where the particular products are located.</p>
<p>8. Are ‘money off next purchase’ vouchers permitted in the off trade?</p> <p>If so, what would be regarded as a responsible level of money off?</p> <p>Is it possible to provide ‘money off next purchase’ vouchers as prizes in the off trade?</p>	<p>There are no specific provisions in the Alcohol Act regarding money-off vouchers though the Act applies to them. The schemes under which these points are issued all operate differently and so it isn’t possible to give generic advice. For example, some money-off vouchers reduce the price of a product, e.g. a coupon for 10p off reduces the purchase price from 90p to 80p, whereas some money off vouchers are accepted in lieu of payment. The amendments made by section 2 of the Alcohol Act are only relevant to money-off purchase vouchers if these affect the price that the product is for sale.</p> <p>Section 2 of the Alcohol Act on the minimum price of packages containing more than one alcoholic product may be affected by money-off coupons and loyalty points. It will be for Licensing Standards Officers and Licensing Boards to take a view on whether any specific promotion falls within the irresponsible promotions set out in Schedules 3 and 4 of the Licensing (Scotland) 2005. The aim of section 2 of the Alcohol Act is to ensure customers are not encouraged to purchase alcohol packaged together because it is cheaper than purchasing the products individually. Any money-off coupons, loyalty points award or similar promotion that encourages customers to purchase packaged alcoholic products as opposed to purchasing the products individually may be considered an irresponsible promotion. It may be that in some cases the determination of what is and is not an irresponsible promotion will be left for the courts to determine.</p>

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
<p>9. Is a retailer able to award loyalty points on the purchase of alcoholic products?</p> <p>If so, is there a restriction on how many loyalty points could be awarded?</p>	<p>There are no specific provisions in the Alcohol Act regarding loyalty / bonus points. See answer at query 8 for further comments.</p>
<p>10. Are producers able to have competitions on multi-packs?</p>	<p>There are no specific provisions in the Alcohol Act regarding competitions. It may be that in some cases the determination of what is and is not an irresponsible promotion will be left for the courts to determine.</p>
<p>11. Are internet sales involving quantity discounts caught under Alcohol etc (Scotland) Act 2010?</p>	<p>This depends on where the alcohol is despatched from. If the despatch location is in Scotland then the Licensing (Scotland) Act 2005 applies so quantity discounts would not be permitted. If the despatch location is outwith Scotland then the Act does not apply.</p>
<p>12. Will pre-priced flash packs still be manufactured and provided to retailers?</p>	<p>There is nothing specific in the Alcohol Act that refers to pre-priced flash packs. So long as these packs comply with the provisions set out in the Alcohol Act, we would consider they would still be able to be manufactured and provided to retailers.</p>
<p>13. Are there restrictions on drinks likely to appeal to under 18's in the Alcohol Act?</p>	<p>There is nothing specific in the Alcohol Act that refers to drinks likely to appeal to under 18s.</p>
<p>14. What is the effect of mandatory condition 8(2)(b) of Schedule 3 to the Licensing (Scotland) Act 2005?</p>	<p>Paragraph 8(2)(b) provides that one of the ways in which a drinks promotion can be irresponsible is if it “involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks).” This previously applied only to on-sales but the Alcohol Act now applies this to off-sales as well. This in effect is the quantity discount ban.</p>
<p>15. In relation to the location of drinks promotions, is there a difference between factual information in text and imaging, for example window vinyls?</p>	<p>The form a promotion takes (whether text, imaging or other) is not relevant to the consideration of whether the promotion constitutes a drinks promotion or not.</p>
<p>16. Does a promotion need to promote a specific brand or simply generic alcohol promotion /</p>	<p>A promotion is not limited to specific brands – it relates to all drinks promotions. A “drinks</p>

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
consumption?	promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is— (a) a branded non-alcoholic product for sale on the premises, or (b) a newspaper, magazine or other publication—(for sale on the premises, or if not for sale on the premises, which does not relate only or primarily to alcohol.)”
17. In relation to the location of drinks promotions, are tannoy announcements in stores permitted?	Irrespective if price is mentioned, if the announcement is about a drinks promotion (as defined in the legislation –see answer to question 16),we would consider this would not be permissible as it would be audible outwith the alcohol display area.
18. For stores with pre-agreed display areas that include a window (for example dedicated off-sales) can the licence holder place promotions in their window facing out?	The general provision (with some exceptions) is that any promotional material has to be within the alcohol display area. There is no reason why an alcohol display area cannot include a window.
<p>19. If promotional leaflets don't reference specific stores, can they be distributed to neighbours within the vicinity of the premises (200m)?</p> <p>Is a billboard by a producer acceptable?</p>	<p>As the Alcohol Act stands just now, promotional leaflets/flyers/mail shots are not permitted to be displayed within the vicinity of the premises which is defined as 200m from the boundary of the premises. It is intended to pass regulations prior to the commencement of the Alcohol Act on 1 October 2011 which will allow retailers to carry out mail shots in their area provided the leaflets etc. do not relate only or primarily to alcohol (on the same basis as those made available in store). The intention would also be to not restrict the leaflets etc. so they could reference a specific store.</p> <p>It would be acceptable for a producer to have a billboard as it wouldn't relate to the specific premises. A retailers billboard would not be acceptable.</p>
20. What is the definition of when a promotional leaflet etc. is 'only or primarily' promoting off sale consumption i.e. is it the percentage of the surface area or the prominence of the alcohol promotion?	The definition of whether a promotional leaflet is used 'primarily' for the sale of alcohol for consumption off the premises will be open to interpretation. At this stage, however, we would consider that if the surface area was devoted to

Some possible queries relating to the provisions in the Alcohol Act

Query	Response
	50% or more on drinks promotions then this would be likely to not comply with the proposed provisions.
21. What about delivery vans within the vicinity of the premises (200m)?	If a delivery van has a drinks promotion (as defined in the legislation – see question 16) in connection with the premises on it, then it would not be allowed within 200m of the boundary premises.