ALCOHOL (MINIMUM PRICING) (SCOTLAND) BILL

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

Purpose

1. This Memorandum has been prepared by the Scottish Government to assist the Subordinate Legislation Committee in its consideration of the Alcohol (Minimum Pricing) (Scotland) Bill. This Memorandum describes provisions in the Bill conferring power to make subordinate legislation which were either introduced to the Bill or amended at Stage 2. The Memorandum supplements the Delegated Powers Memorandum on the Bill as introduced.

PROVISIONS CONFERRING POWER TO MAKE SUBORDINATE LEGISLATION INTRODUCED OR AMENDED AT STAGE 2

Section 1A(2) – Duration of minimum pricing provisions: power to make an order to continue the minimum pricing provisions

Power conferred on: the Scottish Ministers
Power exercisable by: order made by Scottish statutory instrument
Parliamentary procedure: affirmative procedure

Provision

2. Section 1A(2) of the Bill (as introduced at Stage 2) enables the Scottish Ministers to make an order five years after the minimum pricing provisions have come into force to continue their effect. Otherwise they would expire after six years by virtue of section 1A(1).

Reason for taking power

3. Section 1A(1) of the Bill (as introduced at Stage 2) provides for the minimum pricing provisions in section 1 to fall after a period of six years from the commencement of those provisions.

4. If the Scottish Ministers wish the minimum pricing provisions to continue, this power enables them to make an order providing for their continuation after the end of the six-year period.

Reason for choice of procedure

5. Given the significance of allowing the minimum pricing provisions to continue and the fact that these provisions and the provision for expiry are set out in primary legislation, it is...
considered that this power should be subject to the level of parliamentary scrutiny and approval available under the affirmative procedure.

Section 1A(3) – Duration of minimum pricing provisions: power to make an order to make such provision as may be necessary or expedient

Power conferred on: the Scottish Ministers
Power exercisable by: order made by Scottish statutory instrument
Parliamentary procedure: affirmative procedure

Provision

6. Section 1A(3) of the Bill (as introduced at Stage 2) enables the Scottish Ministers to make an order to make such provision (including provision modifying any enactment) as may be necessary or expedient in consequence of the expiry of the minimum pricing provisions by virtue of section 1A(1).

Reason for taking power

7. If the Scottish Ministers have not made an order under section 1A(2) of the Bill (as introduced at Stage 2) then by virtue of section 1A(1) of the Bill (as introduced at Stage 2), the minimum pricing provisions will expire after a period of six years from the date that those provisions commenced. As a consequence of those provisions expiring, provision may be needed to ensure that the licensing system continues to operate properly in the absence of minimum pricing and enactments that refer or relate to the minimum pricing provisions may require to be modified to keep the statute book in good order.

Reason for choice of procedure

8. Given the significance of the expiry of the minimum pricing provisions and the difficulty at this time of anticipating what provisions may be needed in six years’ time, this power confers limited discretion – only in so far as that which may be necessary or expedient – to make provision by order including provision to modify any enactment. In view of the discretion granted and the potential for amendment of primary legislation, it is appropriate that the power should be subject to parliamentary scrutiny (and approval) by the affirmative procedure.
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