

PROTECTION OF WORKERS (RETAIL AND AGE-RESTRICTED GOODS AND SERVICES) (SCOTLAND) BILL

FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill, introduced in the Scottish Parliament on 10 October 2019. It has been prepared by the Non-Government Bills Unit (NGBU) on behalf of Daniel Johnson MSP, the member who introduced the Bill.

2. The following other accompanying documents are published separately:

- statements on legislative competence by the Presiding Officer and the member who introduced the Bill (SP Bill 58–LC);
- Explanatory Notes (SP Bill 58–EN);
- a Policy Memorandum (SP Bill 58–PM).

BACKGROUND

3. The Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill (“the Bill”) aims to increase the protection for workers in the retail sector and those applying or enforcing an age-restriction in relation to the sale or supply of goods or services.

Main provisions of the Bill

4. The Bill seeks to increase the protection given by criminal law for the relevant workers by:

- creating a new statutory offence of assaulting, threatening, abusing, obstructing or hindering a retail worker who is engaged, at the time, in retail work; and
- creating a statutory aggravation of that offence where the retail worker is enforcing a statutory age restriction.

5. The maximum penalty for the offence is, on summary conviction, imprisonment for a period not exceeding 12 months, or a fine not exceeding the “prescribed sum” (currently £10,000), or both.

Scope of offence

6. The new offence protects retail workers who are, at the time, engaged in retail work. Taking account of the definitions in sections 5 and 6 of the Bill, this covers:

- a person who usually works in retail premises and who is, at the time, working in those premises – regardless of whether that work involves selling or supplying goods or services to customers;
- a person who does not usually work in retail premises but who is, at the time, selling or supplying goods, or selling or supplying an age-restricted service, to the public.

7. As a result, everyone working in a shop or a pub is protected – not just those making sales (e.g. at a checkout or at the bar). Workers within larger (mostly non-retail) premises are protected while making sales (or otherwise supplying goods to the public) – for example, a hairdresser in a salon would be protected while selling hair-gel, but not while cutting hair; a hotel worker would be protected while serving drinks in the bar but not while making up beds. Workers selling or supplying age-restricted services – for example, tattooists or casino workers – would be protected, but other workers on those premises (assuming they are not retail premises) would not be.

8. The statutory age restrictions covered by the Bill are listed in Annex A to the Policy Memorandum. A statutory age restriction means not just that there is legislation restricting sale by reference to age, but that the age-limit itself is set out in the legislation – for example, the Licensing (Scotland) Act 2005 makes it an offence to sell alcohol to anyone under 18. By contrast, cinema workers may be required to restrict access to screenings according to the customer's age, but the age-restriction in each case is set by the British Board of Film Classification (BBFC) certificate rather than by legislation.

A NEW STATUTORY OFFENCE OF ASSAULTING, THREATENING, ABUSING, OBSTRUCTING OR HINDERING A RETAIL WORKER

9. Assaults against retail workers can already be prosecuted under common law and, where that happens, there will be costs associated with prosecuting those offences. The Bill, by drawing attention to the specific problem of retail-sector assault, is likely to improve reporting and prosecution rates of offences. At the same time, there is likely to be some deterrent effect, leading to some fall in the level of assaults and abuse against retail staff. If those two elements were to balance out, then the Bill should be cost-neutral, while still achieving a positive outcome – i.e. fewer assaults directed at retail workers, but more of those that do still happen being prosecuted.

10. “Threatening and abusive” behaviour is also already a criminal offence under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.¹ It might also constitute breach of the peace. Here, too, having an offence specific to retail workers could improve reporting and

¹ Criminal Justice and Licensing (Scotland) Act 2010: Section 38
<https://www.legislation.gov.uk/asp/2010/13/section/38>

prosecution rates and could also have a deterrent effect – making it difficult to anticipate the net financial impact.

11. The “obstruct or hinder” element of the offence is new, allowing people who deliberately obstruct or hinder retail workers to be prosecuted for the first time. (At present, only a few workers are protected in this way. In particular, section 1 of the Emergency Workers (Scotland) Act 2005² makes it a criminal offence to assault, obstruct or hinder an individual performing a role as part of the emergency services.)

Methodology used to develop estimates

12. To project the costs associated with the creation of this new offence, it is necessary first to establish the number of retail workers in Scotland, along with the number of assaults carried out against them, as well as the number of these that are reported, prosecuted, and convicted.

Number of retail workers

13. There are estimated to be 259,350 retail workers³ and up to 117,000 relevant hospitality workers⁴ in Scotland. Taken together, these 376,350 workers equate to 6.9% of the Scottish population.⁵

Number of assaults and extent of abuse against retail workers

14. The Union of Shop, Distributive and Allied Workers (USDAW), as part of its UK wide “Freedom from Fear” campaign, found that, in 2018, 64% of the retail workers surveyed had been verbally abused whilst performing their duties, 40% had been threatened with physical violence and 3.5% had been physically assaulted within the last year.⁶

15. In its 2019 Crime Report, the Association of Convenience Stores (ACS) estimated that around 83% of staff in convenience stores had experienced verbal abuse. ACS also estimated that within the convenience store sector there were around 9,782 instances of violence against staff in 2018⁷, which (based on wider sector statistics, also published by the ACS) equates to 2.68% of convenience store staff in the UK facing violence at work.⁸

² Emergency Workers (Scotland) Act 2005: Section 1 <https://www.legislation.gov.uk/asp/2005/2/section/1>

³ <https://www2.gov.scot/Topics/Statistics/Browse/Business/Corporate/tabled07>

⁴ For the purposes of this analysis, workers in hotels and similar accommodation (47,000), licensed restaurants (35,000), licensed clubs (6,000), public houses and bars (29,000) have been classed as “hospitality workers” (total 117,000). Source: ONS’s Business Register and Employment Survey, accessed through NOMIS, available at <https://www.nomisweb.co.uk/>

⁵ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2018>

⁶ <http://www.usdaw.org.uk/2018FFFFReport> (Page 3)

⁷ https://www.acs.org.uk/sites/default/files/acs_crimereport2019_online_version.pdf (Page 6)

⁸ https://www.acs.org.uk/sites/default/files/local_shop_report_2018.pdf (Page 5)

16. The British Retail Consortium (BRC)'s Annual Retail Crime Survey estimated that in 2017/18 around 32 incidents of violence and abuse occurred per 1,000 workers across the retail sector (3.2%). The BRC also reported 42,000 violent incidents, which equates to 1.3%.⁹

17. For the purposes of estimating the general level of abuse against retail workers in Scotland a mid-point figure of 25% will be used, and to estimate the overall number of assaults against retail workers a mid-point of 2% will be used.¹⁰

18. There are currently no published statistics on instances of abuse or assault within the hospitality industry. For the purposes of this document, it is assumed, however, that similar levels take place in this sector, and that levels of assault in Scotland are broadly similar to those across the UK.

19. On this basis, it can be estimated that the annual number of incidents of either violence or abuse against Scottish retail workers is around 94,000, with around 8,000 of them involving violence.¹¹

Number of assaults and extent of abuse against retail workers reported to the police

20. Unlike other crimes, such as domestic abuse or racially motivated assaults, assaults against, and abusive behaviour towards, retail workers are not assigned a specific marker, making it problematic to collect statistics on their numbers.¹²

21. There is significant evidence to suggest that cases of abuse or assault of retail workers are currently under-reported. A recent UK wide survey found that only 15% of incidents of workers being verbally threatened or abused in connection with age-restricted sales are reported to police and only 37% of incidents of assault in that connection are currently reported.¹³ Based on these findings, and using the estimated instances of abuse and assault on retail workers above, it can be estimated that around 14,000 incidences of abuse¹⁴ and 3,000 assaults¹⁵ were reported to the police by retail workers.¹⁶

⁹ <https://brc.org.uk/media/404253/brc-annual-crime-survey-2019.pdf>

¹⁰ The 25% figure attempts to reconcile the very high estimates of (non-violent) abuse cited in paragraphs 14 and 15 (64% and 83%) with the much lower figure cited in paragraph 16 (3.2%); the 2.5% figure is a mid-point between 3.5% (paragraph 14), 2.68% (paragraph 15) and 1.3% (paragraph 16).

¹¹ $376,350 \text{ (from paragraph 15)} \times 25\% \text{ (from paragraph 19)} = 94,087$; $376,350 \times 2\% = 7,527$.

¹² For example, offences under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 are recorded (for the purposes of criminal statistics) in the same category as breach of the peace. Reported assaults against retail workers are generally recorded as common assault. There is not a breakdown available of the number of incidences of breach of the peace or common assault reported to the police that relate specifically to abuse or assault of retail workers.

¹³ <https://www.underagesales.co.uk/user/Abuse%20and%20Violence%20Report%202.pdf> (Page 6)

¹⁴ $94,087 \times 15\% = 14,113$

¹⁵ $7,527 \times 37\% = 2,785$

¹⁶ It has been assumed that reporting rates for incidents directly connected to age-restricted sales will be similar to reporting rates for incidents against retail workers more generally.

Projected increase in reporting rates

22. It is expected that the creation of a specific statutory offence of assaulting, threatening, abusing, hindering or obstructing a retail worker will increase awareness of the kind of conduct that can be charged. As discussed, this may encourage more victims to report incidents, encourage the police to investigate reported incidents more often, and thus lead to an increase in prosecutions.

23. At the same time, the creation of a specific offence against a retail worker and the increased awareness of the kind of conduct that is unacceptable and can be charged using the new statutory offence, may have a deterrent effect, thus reducing the number of incidents that occur.

24. As incidents of abuse and assaults against retail workers in Scotland are significantly under-reported, it is reasonable to assume that the creation of a new offence could lead to an increase in the number of crimes reported to Police Scotland. For the purposes of this document, increases of 5%, 10% and 20% in reporting rates have been calculated.¹⁷

Table 1: Projected increases in reported crimes

	Reports of threatening, abusing or hindering	Reports of assault
Estimated current level¹⁸	14,113	2,785
Assuming a 5% increase	14,819 (706 increase)	2,924 (139 increase)
Assuming a 10% increase	15,524 (1,411 increase)	3,063 (278 increase)
Assuming a 20% increase	16,936 (2,823 increase)	3,342 (557 increase)

Current figures relating to prosecution and conviction for common assault

25. As has already been discussed, it is estimated that 2,785 instances of assault against a retail worker were reported in Scotland in 2017/18. This is around 5% of the 58,335 common assaults reported in that year.¹⁹

¹⁷ Reported abuse towards retail workers as projected in the previous section (14,113) and assault (2,785) multiplied by 5%, 10% and 20%.

¹⁸ See figures in footnotes 13 and 14.

¹⁹ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics-publication/2018/09/recorded-crime-scotland-2017-18/documents/recorded-crime-scotland-2017-18/recorded-crime-scotland-2017-18/govscot%3Adocument> (Table 7, Page 87)

26. There were 12,833 prosecutions and 9,810 convictions for “common assault” in Scotland in 2017/18,²⁰ meaning that, of cases reported to police, the prosecution rate was around 22%²¹ and that, of the cases prosecuted, the conviction rate was around 76%.²² Applying this to crimes against retail workers suggests that there are around 600 prosecutions and 470 convictions annually in relation to assaults against retail workers.²³

27. Due to the lack of equivalent statistics related to abusive behaviours, it is not possible to derive a similar figure for these types of behaviours.

28. As noted above, around 22% of all assaults reported to the police result in prosecution. It is, however, unlikely that a similar proportion of cases of abusive behaviours will result in prosecution (on the assumption that less serious offences are less likely to be reported). There are no statistics available for this type of behaviour, however it could be reasonable to assume that around 10% of all reported cases of abusive behaviours result in prosecution. It can therefore be estimated that around 1,400 cases of abusive behaviour against retail workers are prosecuted each year.²⁴

Projected increase in prosecution and conviction

29. If, as assumed above, the number of assaults on retail workers reported to the police increases, so too should the numbers of prosecutions and convictions.

30. Again, for current purposes, increases of 5%, 10% and 20% in prosecutions and convictions for assaults against retail workers have been calculated and are set out in the table below, assuming a conviction rate of 76% as detailed in paragraph 26.

Table 2: Projected increase in prosecution and conviction for assault

	Prosecution (assuming around 22% of reported cases are prosecuted)	Conviction (assuming around 76% of prosecuted cases result in conviction)
Estimated current level	613	466
Assuming a 5% increase	644 (31 increase)	489 (23 increase)
Assuming a 10% increase	674 (61 increase)	513 (47 increase)
Assuming a 20% increase	736 (123 increase)	559 (93 increase)

²⁰ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/01/criminal-proceedings-scotland-2017-18/documents/criminal-proceedings-scotland-2017-18/criminal-proceedings-scotland-2017-18/govscot%3Adocumentt> (Table 4a, Page 55 and Table 4b, Page 56)

²¹ 12,833 / 58,335 = 22%²² 9.810 / 12.833 = 76%²³ $2,785 \times 22\% = 612.7$; $612.7 \times 76\% = 465.65$ ²⁴ 14,113 (from table 1) x 10% = 1,411.3

31. Similarly, it might be that case that, if the number of abusive behaviours that are reported increases, so too will the numbers of prosecutions and convictions.

32. Again, for current purposes, increases of 5%, 10% and 20% in prosecutions and convictions for abusive behaviours have been calculated and are set out in the table below, with the same assumed conviction rate as that for assault (76%).

Table 3: Projected increase in prosecution and conviction for abusive behaviours

	Prosecution	Conviction (assuming a 76% conviction rate)
Estimated current level	1,411	1,073
Assuming a 5% increase	1,482 (71 increase)	1,127 (54 increase)
Assuming a 10% increase	1,552 (141 increase)	1,180 (107 increase)
Assuming a 20% increase	1,693 (282 increase)	1,288 (215 increase)

Costs on the Scottish Administration

Crown Office and Procurator Fiscal's Office (COPFS) and the Scottish Courts and Tribunal Service (SCTS)

33. The costs of prosecution through the courts vary depending on the type of case and court used. The standard costs in Scotland are as follows:

Table 4: Criminal procedure costs²⁵

	High Court	Sheriff Court (Solemn procedure)	Sheriff Court (Summary procedure)	Justice of the Peace
Prosecution costs (COPFS)	£64,031	£4,238	£421	£421
Court Costs (SCTS)	£14,980	£2,234	£441	£225

²⁵ <https://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot/costcrimjustdataset> (Table 2). Costs for the Scottish Legal Aid Board (SLAB) have been removed from this table as these do not fall directly on the Scottish Administration. The first two columns are included for comparison only, as they refer to cases prosecuted on indictment (under solemn procedure), whereas the offence created by the Bill may only be prosecuted summarily.

	High Court	Sheriff Court (Solemn procedure)	Sheriff Court (Summary procedure)	Justice of the Peace
Total	£79,011	£6,472	£862	£646

34. The costs of individual court procedures will differ markedly from the average depending on the complexity of the case in question. For the purposes of this analysis it is assumed that most, or all, prosecutions for abusive behaviours against retail workers will take place in Justice of the Peace courts.

35. If the Bill led to an increase in prosecutions of between 5% and 20%, there could be an increase of between 31 and 123 prosecutions for assaulting retail workers, resulting in an increase of between £20,000 and £79,000 in court costs.²⁶

36. Similarly, if the Bill results in 5% to 20% more prosecutions for abusive behaviours, there could be 71 to 282 additional prosecutions for this type of behaviour, resulting in an increase of between £46,000 and £182,000 in court costs.²⁷

37. On the other hand, if the Bill succeeds in deterring people from assaulting, threatening or abusing retail workers, it may result in a decrease in such crimes taking place. Even if – as is anticipated – there is an increase in the proportion of crimes reported, the net result may be that the number of prosecutions and convictions, and hence the court costs, may not increase and could even decrease overall.

Scottish Prison Service

38. According to custody figures published by the Scottish Government, 1,630 people were given a custodial sentence for common assault in 2017/18, 17% of those convicted.²⁸ Of these, the average sentence for common assault was 226 days (7.4 months).²⁹ Taking account of automatic early release (where prisoners sentenced to less than four years are released on licence after serving half their sentence in prison), the average time actually served in prison is likely to be only 3.7 months. Based on the average cost per year per prisoner of £35,293³⁰ (£2,941 per month), it can be calculated that 3.7 months imprisonment for common assault would cost around £11,000.³¹

²⁶ 613 (from table 2) x 5% and 20% multiplied by court costs of £646 = £20,026, £39,406, and £79,458.

²⁷ 1,411 (from table 3) x 5%, 10% and 20% multiplied by court costs of £646 = £45,866, £91,086, and £182,172.

²⁸ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/01/criminal-proceedings-scotland-2017-18/documents/criminal-proceedings-scotland-2017-18/criminal-proceedings-scotland-2017-18/govscot%3Adocument> (Table 4b and 10a – 1,630/9,810 = 17%)

²⁹ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/01/criminal-proceedings-scotland-2017-18/documents/criminal-proceedings-scotland-2017-18/criminal-proceedings-scotland-2017-18/govscot%3Adocument> (Table 10c)

³⁰ <http://www.sps.gov.uk/Corporate/Publications/Publication-6017.aspx> (Page 82)

³¹ £2,941 (prison costs per month) x 3.7 months = £10,882.

39. Applying this to the assumed number of convictions that received a custodial sentence for common assault involving retail workers in 2017/18 of 79,³² and assuming an average custodial sentence of 7.4 months, and taking account of automatic early release, the national cost can be projected as £0.9 million.³³ Again, for the purposes of this document an assumed increase of 5%, 10% and 20% will be projected which is illustrated in the table below. It is also assumed that only those convicted of assaulting a retail worker, rather than the lesser components of the offence (threatening, abusing, obstructing or hindering a retail worker) will be given a custodial sentence.

Table 5: Projected increase in prison costs

	Number	Cost of increase
Current level	79	
Assuming a 5% increase	83 (4 increase)	£43,524
Assuming a 10% increase	87 (8 increase)	£87,048
Assuming a 20% increase	95 (16 increase)	£174,096

40. If the Bill leads to an increase in convictions of 5% to 20%, there could be between 4 and 16 additional convictions, resulting in an increase of between around £44,000 and £174,000 in cost to SPS. Again, however, if the Bill succeeds in deterring these crimes, there might be no overall increase in convictions, or even a net reduction – and hence no increase, or even a decrease, in the costs falling on SPS.

Costs on other bodies, individuals and businesses

Police Scotland

41. It is anticipated that an increased awareness amongst retail workers of the new offences may initially lead to higher levels of reporting of these crimes to the police than otherwise would have been the case.

42. Due to the nature of crime against retail workers and the range of circumstances surrounding it, it is difficult to project what the approximate cost of any increase in reporting rates will be for the police as the circumstances of each incident will be different.

43. Police Scotland estimate that a constable's time costs around £53 per hour.³⁴ The length of time spent dealing with an incident on retail premises will vary widely depending on the

³² Assuming 466 individuals were convicted of common assault after assaulting a retail worker (Table 2) and that 17% of these received a custodial sentence (466 x 17% = 79)

³³ Projected figures for conviction of common assault on retail workers is 79 x prison costs of £21,763 (£10,881 with early release) = £859,599.

³⁴ <http://www.scotland.police.uk/contact-us/organising-an-event/>

circumstances, and it is unlikely that there will be an overall increase in cost to the police, as any increase in incidents attended is likely to be absorbed within regular budgets.

Health Boards

44. The Bill may lead to some minor cost savings for Health Boards because of fewer individuals seeking treatment if fewer assaults are committed.

Individuals

45. There should be some cost benefits for individual retail workers and for retail businesses as a result of fewer staff absences and improved physical and psychological wellbeing.

Businesses

46. The Bill imposes no direct costs on businesses; however, businesses may choose to raise awareness amongst their staff of the new offence and provide them with appropriate training.

47. Due to the diverse nature of the retail industry it is impossible to estimate what the cost of this would be. These costs would be dependent on the size of the business and the approach they take. Larger companies operating across the whole of the country for example may opt to provide training sessions for their staff or produce posters and leaflets to raise awareness, both of which would have cost implications. Smaller businesses on the other hand, such as a small local off-license or grocer, may opt to take a simpler approach passing on the information directly to the staff via the owner or manager. Some businesses may opt to do nothing at all.

48. There are also some potential cost benefits for businesses associated with the Bill, especially to those businesses that promote the new law to their staff and customers. These potential benefits could include a decrease in staff turnover and a consequent increase in staff morale, more people applying to work for the business, a decrease in property damage or a reduction in security costs as levels of abuse reduce over time. These potential savings will be discussed later in this document.

A NEW STATUTORY AGGRAVATION FOR ASSAULTING, THREATENING, ABUSING, HINDERING OR OBSTRUCTING A WORKER UPHOLDING STATUTORY AGE-RESTRICTIONS

49. The second strand of the Bill introduces a new statutory aggravation if the assault, threat or abuse, obstruction or hinderance occurred because the retail worker was applying or enforcing a statutory age restriction in relation to the supply or sale of goods or services.

Costs on the Scottish Administration

COPFS and the Scottish Courts and Tribunal Service

50. The statutory aggravation will require courts to take into account in determining sentence the fact that the offence was committed against someone who was upholding a statutory age-

restriction, and whether a more severe sentence is therefore required. The aggravation does not increase the maximum sentence available for the given offence. Furthermore, the courts already take a range of facts and circumstances into account in considering each case, before deciding the appropriate sentence. This could include assault against someone in their workplace or in the course of carrying out their responsibilities to uphold a statutory age-restriction, or both.

51. In the Financial Memorandum for the Domestic Abuse (Scotland) Bill,³⁵ published in 2017, the Scottish Government concluded that there was unlikely to be any increase in costs resulting from the creation of a statutory aggravation in relation to a child as the aggravation would not increase the maximum sentence available and the courts would already be considering all the facts and circumstances in each case to decide the appropriate sentence.

52. A similar assumption was made in the Financial Memorandum to the Offences (Aggravation by Prejudice) (Scotland) Bill³⁶ which was published in 2008. That Bill aimed to tackle prejudice relating to disability and sexual orientation or transgender identity. The Financial Memorandum, while highlighting that there was a lack of statistical information about the extent of hate crime in Scotland, noted that, as the Bill did not create any new offences, it should not place any significant burden on COPFS and the Scottish Court Service.

Costs on other bodies, individuals and businesses

Scottish Prison Service

53. Offenders convicted of an aggravated offence under the provisions of the Bill may spend longer in custody than if the offence had not been aggravated. However, it is anticipated that the overall impact on the Scottish Prison Service is likely to be slight.

54. Currently, 29% of all those convicted of common assault are convicted with a statutory aggravator recorded against the main charge.³⁷

55. Based on the above it may be reasonable to assume that the addition of this new aggravation will not result in an increase in the number of people receiving custodial sentences. It is however expected that individuals convicted under this aggravation may receive a slightly longer sentence than those convicted without it. It is expected that this will be accommodated within normal fluctuations in prison population, the costs of which would be met from within existing SPS budgets and would not require additional funding.

³⁵ http://www.parliament.scot/S5_Bills/Domestic%20Abuse%20Scotland%20Bill/SPBill08FMS052017.pdf (Page 12)

³⁶ [http://www.parliament.scot/S3_Bills/Offences%20\(Aggravation%20by%20Prejudice\)%20\(Scotland\)%20Bill/b9s3-introd-en.pdf](http://www.parliament.scot/S3_Bills/Offences%20(Aggravation%20by%20Prejudice)%20(Scotland)%20Bill/b9s3-introd-en.pdf)

³⁷ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/01/criminal-proceedings-scotland-2017-18/documents/criminal-proceedings-scotland-2017-18/criminal-proceedings-scotland-2017-18/govscot%3Adocument> (Table 13) Total number of aggravations associated with common assault (2,845) divided by the total number of convictions for common assault (9,810) (table 4b) = 29%

56. USDAW’s “Freedom from Fear” report stated that in 33% of cases, the enforcement of age restricted sales legislation was the trigger for violent behaviour.³⁸ Based on earlier projections it can therefore be argued that around 26 of those previously estimated to be convicted of assaulting a retail worker were triggered to carry out the assault by the enforcement of age-restricted sales legislation.³⁹

57. Table 5 in the previous section estimated the approximate increase in costs for the Scottish Prison Service should the number of people given a custodial sentence rise as a result of the Bill. The following table is based on these figures and estimates the cost increases associated with the aggravation, assuming again a 5%, 10% and 20% increase in sentencing as well as sentences being increased by around 10% to reflect the aggravation.

Table 6: Projected increase in prison costs because of aggravation

Projected cost increase from table 5	Estimated number of custodial sentences to which aggravation could apply	Estimated cost increase attributable to the aggravation ⁴⁰
Estimated current level	26	
Assuming a 5% increase in custodial sentences, costing an additional £43,524	27 (1 increase)	£1,436
Assuming a 10% increase: £87,048	29 (3 increase)	£2,872
Assuming a 20% increase: £174,096	31 (5 increase)	£5,745

58. Based on the assumptions outlined above, it can be projected that there would be an increase of between 1 and 5 cases each year in which the offender’s custodial sentence is increased to reflect the aggravation, at an additional annual cost to the Scottish Prison Service of around £1,400 to £5,700.

³⁸ <http://www.usdaw.org.uk/2018FFFFReport> (Page 5) (Refusing alcohol sale 11%, age related sales 22%)

³⁹ Estimated number of people receiving a custodial sentence each year for assaulting a retail worker, 79 (Table 5) x 33% = 26

⁴⁰ Projected increase in prison costs from table 5 x 33% (number of people likely to be convicted with aggravation) x 10% (projected increased sentence because of aggravation). E.g. £43,524 x 33% x 10% = £1,436.

Local authorities

59. It is not anticipated that there will be any significant costs falling on local authorities as a result of this part of the Bill.

Police Scotland

60. The addition of an aggravation to the new offence should not place any significant additional burden on the police in terms of caseload.

61. The cost of a police investigation into any crime will inevitably vary depending on the circumstances of each individual case. Given that the investigation of crime already includes consideration of the motive, as well as the fact that it is likely to be apparent whether an assault has been motivated by a worker upholding statutory age restrictions, any additional cost incurred as a result of this aggravation is likely to be minimal.

62. There are however likely to be some logistical and practical implications for the police relating to this aggravation with regards to IT modifications as well as training and guidance for officers. These one-off costs are expected to be minimal and should be capable of being absorbed in existing budgets.

SAVINGS

A deterrent effect

63. As previously discussed, it is anticipated that the Bill will act as a deterrent and that over time the number of assaults committed against retail workers will decrease. This would result in some modest savings being made by the police, COPFS, the courts and the SPS.

Health Boards

64. It is reasonable to assume that if there are fewer assaults on retail workers then there are likely to be fewer people seeking medical treatment through A&E departments or their GP as a result of an assault. Health Boards will therefore potentially realise some savings as a result. There are, however, no published figures relating to the costs on the NHS due to assaults and it is therefore not possible to forecast what these savings may be.

Businesses

65. If the Bill has a deterrent effect and results in a reduction of assaults on retail workers then it follows that there will be a reduction in staff absenteeism related to assaults in the workplace.

66. Similarly, if a reduction in assaults on retail workers is realised then staff will feel safer at work and consequently less likely to leave their organisation, taking with them their valuable skills and experience. This would also have the added benefit of reducing the amount of time and money that employers spend on recruiting new staff to cover vacancies resulting from high turnover of staff due to instances of violence or abuse.

67. If a retail business has a reputation for being a place where staff are regularly subject to verbal abuse or assault it may discourage people from using the business or wanting to work for the business. If the Bill, as anticipated, results in an eventual decrease in the number of these instances, then businesses may see an improvement in customer numbers or the number of people applying for positions when advertised.

68. Additionally, the amount of money spent on security staff and additional security measures may also decrease over time due to fewer instances of assault against retail workers.

SUMMARY OF PROJECTED ADDITIONAL ANNUAL COSTS ASSOCIATED WITH THE BILL

Costs on the Scottish Administration	
COPFS	£66,000 to £261,000 ⁴¹
Costs on other bodies, individuals and businesses	
Scottish Prison Service	£45,000 to £180,000 ⁴²
Estimated total	£111,000 to £449,000

69. Assuming the Bill is passed in late 2020, it will come into force in early 2021, with costs beginning in the financial year 2021-22.

70. Based on the assumptions made in this analysis it can be projected that the total costs associated with this Bill will be within the range £0.1 million to £0.5 million. As has been previously noted, however, it is likely that the Bill will have a deterrent effect and that instances of abuse or assault against retail workers will decrease over time, resulting in actual costs being lower than projected and the Bill being cost neutral or even resulting in net savings over the longer term.

⁴¹ Derived from the figures in paragraphs 35 and 36.

⁴² Derived from the figures in paragraphs 40 and 58.

This document relates to the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill (SP Bill 58) as introduced in the Scottish Parliament on 10 October 2019

PROTECTION OF WORKERS (RETAIL AND AGE-RESTRICTED GOODS AND SERVICES) (SCOTLAND) BILL

FINANCIAL MEMORANDUM

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