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*Number 24 of 2018*

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**Public Health (Alcohol) Act 2018**

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**PUBLIC HEALTH (ALCOHOL) ACT 2018**

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ACTS REFERRED TO

Broadcasting Act 2009 (No. 18)  
Child and Family Agency Act 2013 (No. 40)  
Child Care Act 1991 (No. 17)  
Companies Act 2014 (No. 38)  
Companies Acts  
Courts (No. 2) Act 1986 (No. 26)  
Education Act 1998 (No. 51)  
Finance Act 2003 (No. 3)  
Intoxicating Liquor Act 1943 (No. 7)  
Intoxicating Liquor Act 2003 (No. 31)  
Intoxicating Liquor Act 2008 (No. 17)  
Licensing Acts 1833 to 2011  
Local Government Act 2001 (No. 37)  
Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c.93)  
Railway Safety Act 2005 (No. 31)  
Registration of Clubs Acts 1904 to 2007  
Registration of Clubs Acts 1904 to 2008  
Road Traffic Act 1961 (No. 24)  
Trade Marks Act 1996 (No. 6)  
Transport (Railway Infrastructure) Act 2001 (No. 55)





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Number 24 of 2018

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## **PUBLIC HEALTH (ALCOHOL) ACT 2018**

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An Act to provide for the minimum price per gram of alcohol, to confer the power on the Minister for Health to, by order, increase that price, to provide for the labelling of alcohol products including the inclusion of health warnings and the alcohol content and energy content of alcohol products on alcohol product containers, to provide that an applicant for the grant or renewal of a licence under the Licensing Acts 1833 to 2011 and an applicant for the grant or renewal of a licence under the Registration of Clubs Acts 1904 to 2008 shall notify the Health Service Executive of the application, to provide for restrictions in relation to the advertising and sponsorship of alcohol products, generally and in relation to children, to provide procedures in relation to the exposure for sale and advertising of alcohol products in specified licensed premises, to confer power on the Minister for Health to make regulations for the purpose of prohibiting or restricting the sale of alcohol products in certain circumstances, to provide for enforcement measures, to provide for the repeal of certain provisions of the Intoxicating Liquor Act 2003 and the Intoxicating Liquor Act 2008, and to provide for related matters. [17th October, 2018]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title and commencement**

1. (1) This Act may be cited as the Public Health (Alcohol) Act 2018.
- (2) Subject to *subsections (3) to (6)*, this Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) *Section 12* (other than *subsections (10) to (12)*), *subsections (7) to (11) of section 13*, *sections 15 and 16* and *subsection (3)(d) of section 18* shall come into operation on such day or days as the Minister may by order or orders appoint (being a day or days not earlier than 3 years after the date on which the order concerned is made).

- (4) *Subsections (1) to (3) of section 13 and sections 14, 19 and 20* shall come into operation on such day or days as the Minister may by order or orders appoint (being a day or days not earlier than one year after the date on which the order concerned is made).
- (5) *Section 18 (other than subsection (3)(d))* shall come into operation on such day or days as the Minister may by order or orders appoint (being a day or days not earlier than 18 months after the date on which the order concerned is made).
- (6) The Minister shall, before making an order under this section in relation to—
- (a) *section 13*, insofar as it relates to broadcast advertisements, or
  - (b) *section 19*,
- consult with the Minister for Communications, Climate Action and Environment and the Broadcasting Authority of Ireland.

### **Interpretation**

**2.** In this Act—

“Act of 2003” means the Intoxicating Liquor Act 2003;

“Act of 2009” means the Broadcasting Act 2009;

“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 related merchandise” means a product (other than an alcohol product) bearing the brand name or emblem, the corporate name or emblem, or the trade mark or logo, by reference to which an alcohol product is sold and includes—

- (a) clothing (other than children’s clothing),
- (b) confectionery and sauces,
- (c) glassware, crockery, cloths and bottle openers,



- (d) cigarette lighters and ashtrays,
- (e) stationery, bags and wallets, and
- (f) other decorative and novelty items;

“alcoholic strength by volume” means the ratio, expressed as a percentage, of the volume of alcohol present in the alcohol product concerned to the total volume of the product at a temperature of 20° Celsius;

“alcohol product” has the same meaning as it has in section 73 of the Finance Act 2003;

“authorised officer” means a person appointed under *section 24*;

“broadcast” has the same meaning as it has in the Act of 2009;

“child” means a person under the age of 18 years;

“clothing” includes footwear;

“compliance notice” has the meaning assigned to it by *section 30*;

“container” means, in relation to an alcohol product, a bottle or other container and where such bottle or container is accompanied by any additional packaging, also includes such packaging;

“designated analyst” has the meaning assigned to it by *section 27*;

“designated laboratory” has the meaning assigned to it by *section 27*;

“Executive” means the Health Service Executive;

“fixed payment notice” has the meaning assigned to it by *section 29*;

“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;

“licensed premises” means a premises in relation to which a licence is in force and in relation to a licensee means the licensed premises of the licensee;

“licensee” means the holder of a licence;

“marketing” means any form of commercial communication that is intended to increase or has the effect of increasing, the recognition, appeal or consumption of a particular product or service;

“minimum price of an alcohol product” shall be construed in accordance with *section 11*;

“Minister” means the Minister for Health;

“off-licence” means a licence for the sale of intoxicating liquor for consumption off the premises;

“on-licence” means a licence for the sale of intoxicating liquor for consumption either on or off the premises;

“premises” includes any land, building or part of a building, tent, caravan, or other temporary or moveable structure, ship or other vessel, aircraft, railway wagon or other

vehicle (whether stationary or otherwise) and any storage container used to transport alcohol products or relevant things;

“prescribed” means prescribed by regulations made by the Minister;

“publication” means a newspaper, magazine or any other periodical, brochure or leaflet and includes a supplement or insert to, or cover of the publication;

“relevant thing” means—

- (a) any article or substance used in the manufacture, preparation or storage of an alcohol product,
- (b) any label, labelling, packaging or container (including a reusable container) used or intended for use in relation to an alcohol product,
- (c) any advertisement or material related to the advertising, marketing, promotion, sponsorship or sale of an alcohol product,
- (d) any product or service supplied with an alcohol product, and
- (e) any publication, article of children’s clothing or article of alcohol related merchandise;

“reusable container” means a bottle, keg, cask or other container (other than a glass) that is intended to be refilled with an alcohol product for resale by the holder of a licence;

“sell” means sell by retail or wholesale and includes—

- (a) offer or expose for sale,
- (b) invite the making by a person of an offer to purchase,
- (c) distribute free of charge, and
- (d) supply for any of these purposes (whether or not for profit);

“trade mark” has the same meaning as it has in the Trade Marks Act 1996.

### **Application of Act to registered clubs**

**3.** This Act shall apply to a club registered under the Registration of Clubs Acts 1904 to 2008, subject to the modifications that—

- (a) references in this Act to a holder of a licence shall be construed as references to the secretary of the club concerned, and
- (b) references in this Act to a licensed premises shall be construed as references to the premises of the club concerned,

and any other necessary modifications.

### **Applicant to provide written notice to Executive**

**4.** (1) An applicant for—

- (a) a certificate for the grant or renewal of a licence under the Licensing Acts 1833 to 2011, or
- (b) the grant or renewal of a certificate of registration under the Registration of Clubs Acts 1904 to 2007,

shall give one month's notice in writing (or such shorter period of notice as the Executive may in the special circumstances of the case agree to accept) of the application to the Executive, and the Executive may appear, be heard and adduce evidence in respect of the application at the hearing.

- (2) In any case where a certificate is not required for the renewal of a licence under the Licensing Acts 1833 to 2011, the applicant for such renewal shall give one month's notice in writing (or such shorter period of notice as the Executive may in the special circumstances of the case agree to accept) of the application for renewal to the Executive and if the Executive objects to such application, the Executive may appear, be heard and adduce evidence in respect of the application for a certificate provided for by section 4(7) or 4(8) (as the case may be) of the Courts (No. 2) Act 1986.

### **Regulations and orders**

5. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (3) Every order (other than an order under *subsection (2), (3), (4) or (5) of section 1*) and regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

### **Expenses**

6. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

### **Service of documents**

7. (1) A notice or other document that is required to be served on or given to a person under this Act shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:
  - (a) by delivering it to the person;

- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address; or
  - (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.
- (2) For the purpose of this section, a company within the meaning of the Companies Acts or the Companies Act 2014 shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

### Offences

8. (1) A person guilty of an offence under *section 11(6), 13(3), 13(10), 14(2), 15(4), 16(1), 18(4), 19(3), 20(1), 22(4), 22(7)* or *section 23(4)* shall be liable—
- (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 6 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 3 years, or both.
- (2) A person guilty of an offence under *section 12(1)* or *12(3)* shall be liable—
- (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 6 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 2 years, or both.
- (3) A person guilty of an offence under *section 12(6), 12(9), 17(1), 25(6)* or *30(9)* shall be liable on summary conviction to a class A fine, or imprisonment for a term not exceeding 6 months, or both.
- (4) If the contravention in respect of which a person is convicted of an offence under *section 11(6), 13(3), 13(10), 14(2), 15(4), 16(1), 17(1), 19(3), 20(1), 22(4)* or *22(7)* is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €2,000.
- (5) In proceedings for an offence under this Act, it shall be a defence for a person against whom such proceedings are brought to show that he or she made all reasonable efforts to ensure compliance with such provisions of this Act as are alleged to have been contravened.
- (6) Where a person is convicted of an offence under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person to pay to the prosecution the costs and expenses, measured by the court, incurred by the prosecution in relation to the investigation, detection and prosecution of the offence.

- (7) Summary proceedings for an offence under this Act may be brought and prosecuted by the Executive.
- (8) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under *section 12(6), 12(9), 17(1), 25(6) or 30(9)* may be instituted at any time within 12 months from the date on which the offence was committed or alleged to have been committed.
- (9) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (10) Where the affairs of a body corporate are managed by its members, *subsection (9)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

#### **Remote sale of alcohol products**

9. (1) Subject to *subsection (2)*, the sale of an alcohol product is deemed, for the purposes of this Act, to take place at the premises where an agreement is made for the sale of the alcohol product concerned.
- (2) Where—
  - (a) the premises where the agreement for the sale of the alcohol product is made is not in the State, and
  - (b) the premises from which the alcohol product is despatched is in the State,the sale is deemed, for the purposes of this Act, to take place at the premises from which the alcohol product is despatched.

#### **Repeals**

10. (1) The following provisions are repealed:
  - (a) section 20 of the Act of 2003;
  - (b) section 22 of the Act of 2003;
  - (c) section 9 of the Act of 2008;
  - (d) section 16 of the Act of 2008.
- (2) In this section “Act of 2008” means the Intoxicating Liquor Act 2008.

## PART 2

## ALCOHOL PRODUCTS

**Minimum price of alcohol products**

11. (1) The minimum price per gram of alcohol for the purposes of this Act shall be €0.10.
- (2) The minimum price of an alcohol product shall be calculated using the following formula:

$$A \times B = C$$

where—

- A is the minimum price per gram of alcohol,
- B is the quantity in grams of alcohol contained in the alcohol product, and
- C is the minimum price of the alcohol product expressed in euro and cent.
- (3) Subject to *subsection (4)*, the Minister may, from time to time, by order increase the minimum price per gram of alcohol for the purposes of this Act.
- (4) The Minister shall not make an order under *subsection (3)* earlier than—
- (a) in the case of the first such order, 3 years after the commencement of this section, or
- (b) in the case of a second or subsequent such order, 18 months after the previous order made under *subsection (3)*.
- (5) When making an order under *subsection (3)*, the Minister shall take into account any expert research available to him or her on the effectiveness of the introduction of the minimum price per gram of alcohol for the purposes of this Act, and shall have regard to—
- (a) the rate of alcohol consumption,
- (b) patterns of alcohol consumption,
- (c) health-related risks caused by alcohol consumption,
- (d) data from health services relating to alcohol related presentations at health facilities,
- (e) other societal harm caused by alcohol consumption,
- (f) the price and affordability of alcohol products, and
- (g) such other matters he or she considers appropriate.
- (6) A person who—
- (a) sells or causes to be sold an alcohol product at a price that is below the minimum price of the alcohol product concerned, or

(b) advertises, promotes or causes to be advertised or promoted the sale of an alcohol product at a price that is below the minimum price of the alcohol product concerned,

shall be guilty of an offence.

- (7) Where an alcohol product is supplied or offered for sale together with another product (other than an alcohol product) or service, for a single price, this section shall apply as if the alcohol product concerned is supplied or offered for sale on its own for that price.
- (8) Subject to any regulations under *section 23*, where an alcohol product is supplied or offered for sale together with another alcohol product for a single price, the quantity in grams of alcohol contained in each of the alcohol products concerned shall be included when calculating the minimum price of the first mentioned alcohol product.
- (9) The quantity in grams of alcohol contained in an alcohol product shall be calculated using the following formula:

$$A \times B \times .789 = C$$

where—

A is the volume, expressed in millilitres, of liquid contained in the alcohol product,

B is the alcoholic strength by volume of the alcohol product, and

C is the quantity in grams of alcohol contained in the alcohol product.

- (10) For the purposes of this section—
- (a) the quantity in grams of alcohol contained in an alcohol product shall, after the commencement of *section 12* be presumed, unless the contrary is shown, to be—
- (i) the quantity in grams of alcohol displayed on the container of the alcohol product concerned pursuant to *section 12*,
  - (ii) the quantity in grams of alcohol specified in a document referred to in *section 12(4)(e)* in respect of the alcohol product concerned, or
  - (iii) where an alcohol product is sold on-line, the quantity in grams of alcohol in respect of the alcohol product concerned displayed on the relevant website in accordance with *section 12(5)*,
- (b) the volume of liquid contained in an alcohol product shall be presumed, unless the contrary is shown, to be the volume stated on the label of the alcohol product concerned, and
- (c) the alcoholic strength by volume of an alcohol product shall be presumed, unless the contrary is shown, to be the alcoholic strength by volume stated on the label of the alcohol product concerned.
- (11) (a) This section shall not apply to the sale of alcohol products in a tax-free shop to travellers departing the State.

- (b) In this subsection “tax-free shop” means a tax-free shop within the meaning of Article 14 of Council Directive 2008/118/EC of 16 December 2008<sup>1</sup> concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.
- (12) In this section, “sell” does not include—
- (a) sell by wholesale, or
  - (b) distribute free of charge.

### Labelling of alcohol products and notices in licensed premises

12. (1) Subject to *subsection (2)*, it shall be an offence for a person to sell, to a person who is in the State, an alcohol product the container of which does not bear in the prescribed form—
- (i) a warning that is intended to inform the public of the danger of alcohol consumption,
  - (ii) a warning that is intended to inform the public of the danger of alcohol consumption when pregnant,
  - (iii) a warning that is intended to inform the public of the direct link between alcohol and fatal cancers,
  - (iv) the quantity in grams of alcohol contained in the container concerned,
  - (v) the energy value expressed in kilojoules and kilocalories contained in the container concerned, and
  - (vi) details of a website, to be established and maintained by the Executive, providing public health information in relation to alcohol consumption.
- (2) *Subsection (1)* shall not apply to the sale of an alcohol product in a reusable container.
- (3) It shall be an offence for a person to sell, to a person who is in the State, an alcohol product in a reusable container unless the container is accompanied by a document in such form as may be prescribed specifying the matters set out in *paragraphs (i) to (vi)* of *subsection (1)*.
- (4) The holder of a licence shall, in the prescribed manner, inside the premises to which the licence concerned relates, display a notice or notices in the prescribed form, which shall include in the prescribed form, in both the English and Irish language—
- (a) a warning that is intended to inform the public of the danger of alcohol consumption,
  - (b) a warning that is intended to inform the public of the danger of alcohol consumption when pregnant,
  - (c) a warning that is intended to inform the public of the direct link between alcohol and fatal cancers,

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<sup>1</sup> OJ No. L 9, 14.01.2009 p.12.



- (d) details of a website, to be established and maintained by the Executive, providing public health information in relation to alcohol consumption, and
  - (e) confirmation that a document specifying the matters set out in *subsection (7)(a)* is available for inspection on request at the premises concerned.
- (5) The holder of a licence who sells or causes to be sold an alcohol product on-line shall ensure that—
- (a) a warning under *subsection (1)(i)*,
  - (b) a warning under *subsection (1)(ii)*,
  - (c) a warning that is intended to inform the public of the direct link between alcohol and fatal cancers,
  - (d) the quantity in grams of alcohol of each alcohol product that he or she sells or causes to be sold,
  - (e) the energy value expressed in kilojoules and kilocalories of each alcohol product that he or she sells or causes to be sold, and
  - (f) details of a website referred to in *subsection (1)(vi)*,
- are prominently displayed, in both the English and Irish language, in the prescribed form on the website of the person concerned.
- (6) A person who contravenes *subsection (4)* or *(5)* shall be guilty of an offence.
- (7) (a) Subject to *paragraph (b)*, a document referred to in *subsection (4)(e)* shall specify the following:
- (i) the quantity in grams of alcohol of each quantity, measure or unit of every alcohol product that is for sale in the licensed premises concerned, and
  - (ii) the energy value expressed in kilojoules and kilocalories of each quantity, measure or unit of every alcohol product that is for sale in the licensed premises concerned.
- (b) *Paragraph (a)* does not apply to an alcohol product that is sold in a container that complies with *paragraphs (i) to (vi)* of *subsection (1)*.
- (8) The holder of a licence, or his or her employee, shall when requested by any person in the premises to which the licence relates, furnish for inspection a document referred to in *subsection (4)(e)* to the person who made the request.
- (9) A person who contravenes *subsection (8)* shall be guilty of an offence.
- (10) For the purposes of this section, the Minister may prescribe:
- (a) the form of a warning under *paragraphs (i), (ii) and (iii)* of *subsection (1)*, including its size and colour and the size, colour and font type of the printed material on the warning concerned;

- (b) the form of the information under *paragraphs (iv), (v) and (vi) of subsection (1)*, including the size, colour and font type of the printed material in respect of the information concerned;
  - (c) the form of a notice under *subsection (4)*, including its size and colour and the size, colour and font type of the printed material on the notice concerned;
  - (d) details of where in a licensed premises a notice or notices under *subsection (4)* is to be located, and the manner in which it is to be displayed;
  - (e) the form of the accompanying document referred to in *subsection (3)*, including its size and colour and the size, colour and font type of the printed material on the document concerned;
  - (f) details in relation to how the matters specified in *paragraphs (a) to (f) of subsection (5)* will be displayed on the website of a person who sells or causes to be sold alcohol products on-line, including the size, colour and font type of the printed material concerned.
- (11) When making regulations under *subsection (10)*, the Minister shall take into account any expert research available to him or her on the effectiveness of including the matters referred to in *paragraphs (i) to (vi) of subsection (1)* on alcohol product containers, documents under *subsections (3) and (4)(e)*, notices under *subsection (4)* and websites referred to in *subsection (5)* and shall have regard to—
- (a) the rate of alcohol consumption,
  - (b) patterns of alcohol consumption,
  - (c) health-related risks caused by alcohol consumption,
  - (d) data from health services relating to alcohol related presentations at health facilities,
  - (e) other societal harm caused by alcohol consumption, and
  - (f) such other matters as he or she considers appropriate.
- (12) Regulations under *subsection (10)* may be expressed to apply either generally or by reference to one or more of the following:
- (a) a class or classes of alcohol product;
  - (b) a class or classes of licensed premises;
  - (c) a class or classes of alcohol product container.
- (13) This section shall not apply to an alcohol product offered for retail sale or supply before this section comes into operation.
- (14) In a prosecution of an offence under this section, the onus of proving that the alcohol product concerned was offered for retail sale or supply before this section comes into operation lies on the defendant.
- (15) This section is in addition to, and not in substitution for, any other statutory provision in relation to the labelling of alcohol products.

(16) For the purposes of this section—

- (a) the quantity in grams of alcohol contained in an alcohol product shall be calculated using the following formula:

$$A \times B \times .789 = C$$

where—

A is the volume, expressed in millilitres, of liquid contained in the alcohol product,

B is the alcoholic strength by volume of the alcohol product, and

C is the quantity in grams of alcohol contained in the alcohol product,

- (b) the energy value contained in an alcohol product shall be calculated using the conversion factors set out in Annex XIV of Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October 2011<sup>2</sup> on the provision of food information to consumers, and
- (c) the alcoholic strength by volume of an alcohol product shall be presumed, unless the contrary is shown, to be the alcoholic strength by volume stated on the label of the alcohol product concerned.
- (17) (a) This section shall not apply to the sale of alcohol products in a tax-free shop to travellers departing the State.
- (b) “Tax-free shop” means a tax-free shop within the meaning of Article 14 of Council Directive 2008/118/EC of 16 December 2008<sup>3</sup> concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.
- (c) A tax-free shop shall, in the prescribed manner, inside the premises, display a notice or notices in the prescribed form, which shall include in the prescribed form, in both the English and Irish language—
- (i) a warning that is intended to inform the public of the danger of alcohol consumption,
- (ii) a warning that is intended to inform the public of the danger of alcohol consumption when pregnant,
- (iii) a warning that is intended to inform the public of the direct link between alcohol and fatal cancers,
- (iv) details of a website, to be established and maintained by the Executive, providing public health information in relation to alcohol consumption, and
- (v) confirmation that a document specifying the matters set out in *paragraph (d)* is available for inspection on request at the premises concerned.
- (d) The document referred to in *paragraph (c)(v)* shall specify the following:

<sup>2</sup> OJ No. L 304, 22.11.2011 p.18.

<sup>3</sup> OJ No. L 9, 14.01.2009 p.12.

- (i) the quantity in grams of alcohol of each quantity, measure or unit of every alcohol product that is for sale in the licensed premises concerned, and
- (ii) the energy value expressed in kilojoules and kilocalories of each quantity, measure or unit of every alcohol product that is for sale in the licensed premises concerned.

(18) In this section—

“employee” means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and includes a fixed term employee, a temporary employee, a person who is training for employment or receiving work experience and a member of the family of an employer and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

“holder of a licence” means the holder of an on-licence or the holder of an off-licence.

### **Content of advertisements**

**13.** (1) This section shall not apply to—

- (a) alcohol related merchandise,
- (b) a fixture or fitting on or attached to a premises the subject of an on-licence,
- (c) a premises where alcohol products are manufactured or sold by wholesale, or
- (d) a vehicle owned by a person who manufactures, or sells by wholesale, alcohol products.

(2) A person shall not advertise, or cause to be advertised, an alcohol product unless the advertisement includes, in the prescribed form—

- (a) a warning that is intended to inform the public of the danger of alcohol consumption,
- (b) a warning that is intended to inform the public of the danger of alcohol consumption when pregnant,
- (c) a warning that is intended to inform the public of the direct link between alcohol and fatal cancers, and
- (d) details of a website, to be established and maintained by the Executive, providing public health information in relation to alcohol consumption.

(3) A person who contravenes *subsection (2)* shall be guilty of an offence.

(4) For the purposes of this section, the Minister may prescribe—

- (a) the form of a warning referred to in *paragraphs (a), (b) and (c) of subsection (2)*, including its size and colour and the size, colour and font type of the printed material on the warning concerned,

- (b) the manner in which details of the website referred to in *subsection (2)(d)* shall be displayed including the size, colour and font type of the printed material concerned, and
  - (c) in relation to a broadcast advertisement, the prominence and duration of a warning referred to in *paragraphs (a), (b) and (c) of subsection (2)*, and the manner in which details of the website referred to in *subsection (2)(d)* shall be displayed.
- (5) When making regulations under *subsection (4)*, the Minister shall take into account any expert research available to him or her on the effectiveness of the inclusion in advertisements for alcohol products of the matters referred to in *paragraphs (a), (b), (c) and (d) of subsection (2)*, and shall have regard to—
- (a) the rate of alcohol consumption,
  - (b) patterns of alcohol consumption,
  - (c) health-related risks caused by alcohol consumption,
  - (d) other societal harm caused by alcohol consumption, and
  - (e) such other matters he or she considers appropriate.
- (6) Regulations under *subsection (4)* may be expressed to apply either generally or by reference to a class or classes of advertising.
- (7) An advertisement for an alcohol product shall not contain anything other than a warning under *subsection (2)(a)*, a warning under *subsection (2)(b)*, a warning under *subsection (2)(c)* and details of the website under *subsection (2)(d)* together with all or any of the following:
- (a) an image of, or reference to, one or more alcohol products (whether of the same or different kinds) either in a container or containers (which may be opened or unopened) or in a glass or glasses;
  - (b) details of whether the product concerned is intended to be diluted with a non-alcoholic beverage and where it is intended to so be diluted, an image of or reference to the non-alcoholic beverage;
  - (c) an image of, or reference to, the country and region of origin of the product concerned;
  - (d) an image of, or reference to, the method of production of the product concerned;
  - (e) an image of, or reference to, the premises where the alcohol product concerned was manufactured;
  - (f) the price of the product concerned;
  - (g) a brand name or variant thereof, trade mark and brand emblem of the product concerned;
  - (h) a corporate name and corporate emblem of the product concerned;

- (i) an objective description of the flavour, colour and smell of the product concerned;
  - (j) the name and address of the manufacturer (or his or her agent) of the product concerned;
  - (k) the alcoholic strength by volume of the product concerned;
  - (l) the quantity in grams of alcohol contained in the product concerned;
  - (m) the energy value expressed in kilojoules and kilocalories of the product concerned.
- (8) A person shall not advertise, or cause to be advertised, an alcohol product unless the advertisement complies with *subsection (7)*.
- (9) Subject to *subsection (11)*, a person shall not advertise or cause to be advertised—
- (a) any service, or
  - (b) any product (other than an alcohol product),
- in an advertisement that includes an image of an alcohol product or a reference to alcohol use.
- (10) A person who contravenes *subsection (8)* or *(9)* shall be guilty of an offence.
- (11) *Subsection (9)* shall not apply to—
- (a) an advertisement for a licensed premises provided such advertisement does not advertise or promote an alcohol product or brand,
  - (b) an advertisement or public service announcement in relation to road safety produced by the Road Safety Authority or the Department of Transport, Tourism and Sport, or
  - (c) an advertisement or public service announcement providing public health information in relation to alcohol consumption sponsored or produced by the Executive or the Department of Health.

#### **Prohibition on advertising in certain places**

- 14.** (1) A person shall not advertise, or cause the advertisement of, an alcohol product—
- (a) in a park or open space owned or maintained by a local authority or the Commissioners of Public Works in Ireland,
  - (b) in or on a public service vehicle (within the meaning of the Road Traffic Act 1961),
  - (c) in or on a train within the meaning of the Railway Safety Act 2005,
  - (d) in or on a light rail vehicle,
  - (e) in or at a train or bus station,

- (f) at a designated stopping place at which passengers may board or alight from buses,
  - (g) at a designated stopping place at which passengers may board or alight from light railway vehicles,
  - (h) in or at a school, including the grounds of the school, or within 200 metres of the perimeter of the grounds,
  - (i) in or at a place where an early years service is carried on or within 200 metres of the perimeter of a place where an early years service is carried on, or
  - (j) in or at a playground owned or maintained by a local authority or within 200 metres of the perimeter of such playground.
- (2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) In this section—

“advertise” means to advertise by—

- (a) the display of posters, billboards, hoardings, placards or other signage whether intended to be permanent or temporary, but does not include an advertisement on or attached to—
  - (i) a licensed premises, or
  - (ii) a premises where alcohol products are manufactured or sold by wholesale,
 or
- (b) the distribution free of charge, other than in a licensed premises or a premises where alcohol products are manufactured or sold by wholesale, of alcohol related merchandise;

“early years service” means an early years service within the meaning of Part VIIA (inserted by section 92 of the Child and Family Agency Act 2013) of the Child Care Act 1991, the address of the premises on which those services are provided which is contained in the register of prescribed early years services (within the meaning of section 58C of that Act);

“light rail vehicle” means a light rail vehicle within the meaning of the Transport (Railway Infrastructure) Act 2001;

“local authority” means a local authority within the meaning of the Local Government Act 2001;

“school” means a recognised school within the meaning of the Education Act 1998.

### **Restriction on advertising during events**

- 15.** (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.
- (5) 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.

### **Sponsorship**

16. (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.

### **Children’s clothing**

17. (1) It shall be an offence for a person to—
  - (a) manufacture, for sale in the State,
  - (b) import, for sale in the State, or
  - (c) sell to a person who is in the State,

an article of clothing intended to be worn by a child, where the article promotes alcohol consumption or bears the name of an alcohol product or the trade mark, emblem, marketing image or logo, by reference to which an alcohol product is marketed or sold.
- (2) This section shall not apply to clothing offered for retail sale or supply prior to 12 months after this section comes into operation.



- (3) In a prosecution of an offence under this section, the onus of proving that the clothing concerned was offered for retail sale or supply prior to 12 months after this section comes into operation lies on the defendant.

### Advertisements in publications

- 18.** (1) Subject to *subsections (5) and (6)*, a person shall not publish, or cause to be published, a publication where more than 20 per cent of the advertising space in the publication concerned comprises advertisements for alcohol products.
- (2) Subject to *subsections (5) and (6)*, a person shall not advertise, or cause to be advertised, an alcohol product—
- (a) in a publication aimed particularly at children,
  - (b) in a publication, or on a page of a publication which is intended or likely to include a readership of which more than 20 per cent comprise children,
  - (c) on the front or back cover of a publication, or
  - (d) on any wrapper, envelope or other covering of a publication.
- (3) Subject to *subsections (5) and (6)*, a person shall not import for sale in the State—
- (a) a publication where more than 20 per cent of the advertising space in the publication concerned comprises advertisements for alcohol products,
  - (b) a publication containing an advertisement that contravenes *subsection (2)*,
  - (c) a publication containing an advertisement that contravenes *subsection (2) of section 13*, or
  - (d) a publication containing an advertisement that contravenes *subsection (7) of section 13*.
- (4) A person who contravenes *subsection (1), (2) or (3)* shall be guilty of an offence.
- (5) This section shall not apply to a publication that is—
- (a) not intended for sale or distribution in the State,
  - (b) directed solely at persons who carry on, in whole or in part, the business of selling or distributing alcohol products, or
  - (c) a specialist publication the content of which relates solely to alcohol products.
- (6) *Subsection (1), paragraphs (c) and (d) of subsection (2) and paragraphs (a) and (b) of subsection (3)* shall not apply to a publication that is published by or on behalf of the holder of an off-licence attached to a premises in relation to which sales comprise wholly or mainly alcohol products, where such publication is intended to promote the sale of alcohol products in that premises.

**Broadcast watershed**

19. (1) A person shall not broadcast, or cause to be broadcast, an advertisement for an alcohol product on a television programme service between the hours of 3.00 a.m. and 9.00 p.m.
- (2) A person shall not broadcast, or cause to be broadcast, an advertisement for an alcohol product on a sound broadcasting services on a week-day between the hours of—
- (a) midnight and 10.00 a.m., or
  - (b) 3.00 p.m. and midnight.
- (3) A person who contravenes *subsection (1) or (2)* shall be guilty of an offence.
- (4) In this section—
- “sound broadcasting service” has the same meaning as it has in the Act of 2009;
- “television programme service” has the same meaning as it has in the Act of 2009.

**Advertising in cinemas**

20. (1) Subject to *subsection (2)*, it shall be an offence for a person to advertise an alcohol product in a cinema.
- (2) It shall not be an offence to advertise an alcohol product—
- (a) immediately before, or during an interval to, the screening of a film that has been certified by the Director of Film Classification as fit for viewing by persons aged 18 years or more, or
  - (b) in a licensed premises in a cinema.

**Review of operation of *section 13 to 20***

21. The Minister shall, not later than 3 years after the commencement of this section, carry out a review of *section 13 to 20*.

**Separation and visibility of alcohol products and advertisements for alcohol products in specified licensed premises**

22. (1) Subject to *subsection (3)* and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002), the holder of an off-licence shall ensure that, not later than 2 years after the commencement of this subsection—
- (a) advertisements for alcohol products and the exposure for sale of alcohol products are exclusively confined to—
    - (i) a single area in the premises to which the off-licence is attached—
      - (I) which is separated from the remainder of the premises by means of a physical barrier which has a minimum height of not less than 1.2 metres and through which alcohol products and advertisements for alcohol products are not visible,

- (II) to which members of the public do not have to pass through in order to gain access to, or make a purchase of, products other than alcohol products, and
  - (III) in which the only products exposed for sale are alcohol products and related products, and where a related product is exposed for sale, that product is also exposed for sale elsewhere in the premises concerned,
- or
- (ii) one point of sale area in the premises to which the off-licence is attached which shall contain a storage unit—
    - (I) that may indicate it contains alcohol products,
    - (II) that shall not be accessible to members of the public,
    - (III) that shall not contain advertisements for alcohol products, and
    - (IV) from which alcohol products shall not be visible to members of the public when closed, and which shall remain closed when not in use,
- or to both,
- (b) advertisements for alcohol products and the exposure for sale of alcohol products are exclusively confined to—
    - (i) one or more enclosed storage units (which shall be adjacent to each other) in the premises to which the off-licence is attached—
      - (I) that may indicate it or they contain alcohol products,
      - (II) that shall not contain anything other than alcohol products and advertisements for alcohol products,
      - (III) the maximum height of each of which shall be 2.2 metres and each of which shall, to a height of not less than 1.5 metres from the lowest point of the unit, be made of a material through which alcohol products and advertisements for alcohol products are not visible when the unit concerned is closed, and
      - (IV) which, when not in use, shall remain closed,
- or
- (ii) one point of sale area in the premises to which the off-licence is attached which shall contain a storage unit—
    - (I) that may indicate it contains alcohol products,
    - (II) that shall not be accessible to members of the public,
    - (III) that shall not contain advertisements for alcohol products, and
    - (IV) from which alcohol products shall not be visible to members of the public when closed, and which shall remain closed when not in use,

or to both,

or

(c) advertisements for alcohol products and the exposure for sale of alcohol products are exclusively confined to—

(i) not more than 3 storage units (which shall be adjacent to each other) in the premises to which the off-licence is attached—

(I) that may indicate that it or they contain alcohol products,

(II) that shall not contain anything other than alcohol products and advertisements for alcohol products,

(III) the maximum width of each of which shall not exceed 1 metre and the maximum height of each of which shall not exceed 2.2 metres,

or

(ii) one point of sale area in the premises to which the off-licence is attached which shall contain a storage unit—

(I) that may indicate it contains alcohol products,

(II) that shall not be accessible to members of the public,

(III) that shall not contain advertisements for alcohol products, and

(IV) from which alcohol products shall not be visible to members of the public when closed, and which shall remain closed when not in use,

or to both.

(2) Nothing in *subsection (1)* shall be construed as prohibiting the exposure for sale of alcohol related merchandise in any area of the premises to which the off-licence concerned is attached.

(3) *Subsection (1)* shall not apply to—

(a) a premises to which an off-licence is attached in relation to which sales comprise wholly or mainly alcohol products, or

(b) a premises licensed under Part IV of the Act of 1943.

(4) A person who contravenes *subsection (1)* shall be guilty of an offence.

(5) Subject to *subsection (6)* and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002), the holder of a licence under Part IV of the Act of 1943 shall ensure that, not later than 2 years after the commencement of this subsection—

(a) subject to *subsection (6)*, alcohol products for sale for consumption off the premises shall not be displayed in a storage unit containing products other than alcohol products,

- (b) a storage unit containing alcohol products for sale for consumption off the premises shall not adjoin a storage unit containing products other than alcohol products, and
- (c) an advertisement for an alcohol product shall not be displayed except in, on, or adjacent to, a storage unit where alcohol products are contained.
- (6) Notwithstanding *subsection (5)(a)* a product other than an alcohol product may, if it is packaged with an alcohol product, be displayed in a storage unit containing alcohol products by the holder of a licence under Part IV of the Act of 1943.
- (7) A person who contravenes *subsection (5)* shall be guilty of an offence.
- (8) In this section “Act of 1943” means the Intoxicating Liquor Act 1943.

### Regulations relating to sale and supply of alcohol products

- 23.** (1) Subject to *subsection (2)*, the Minister may make regulations—
- (a) prohibiting or restricting a person from selling or supplying, or causing to be sold or supplied, an alcohol product at a reduced price or free of charge to any person on the purchase by that person, or by any other person, of—
    - (i) one or more other alcohol products (whether of the same or a different kind),  
or
    - (ii) any other product or service,
  - (b) prohibiting or restricting a person from selling or supplying, or causing to be sold or supplied, an alcohol product during a limited period at a price less than that being charged for the alcohol product on the day before the commencement of the limited period,
  - (c) prohibiting or restricting a person from doing or permitting, including for the purposes of promoting that person’s business or any event or activity taking place in a place other than a place used as an occupied private residence, anything that is intended or likely to encourage persons in that place to consume alcohol products in a harmful way,
  - (d) prohibiting or restricting a person from selling or supplying, or causing to be sold or supplied, an alcohol product at a reduced price or free of charge in a manner likely to encourage the consumption of alcohol products in a harmful way,
  - (e) prohibiting or restricting a person from advertising or promoting, or causing to be advertised or promoted, the sale, supply or consumption of alcohol products in a manner specified in *paragraph (a), (b), (c) or (d)*.
- (2) In making regulations under this section, the Minister shall have regard to the need to reduce alcohol consumption and, without prejudice to the generality of that need, he or she shall, in particular, have regard to—
- (a) the need to reduce health-related harm arising from the consumption of alcohol,

- (b) the need to reduce other societal harms arising from the consumption of alcohol and, in particular, the need to reduce public order offences arising from alcohol consumption, and
  - (c) in the case of advertising referred to in *subsection (1)* where the Minister is satisfied that the medium used for the advertising, or the nature of the advertising, or both, is intended or likely to encourage the consumption of alcohol products in a harmful way, the need to prohibit or restrict such advertising.
- (3) Regulations under this section may be expressed to apply by either generally or by reference to one or more of the following:
- (a) a class or classes of licensed premises;
  - (b) a class or classes of non-licensed premises (other than occupied private residences);
  - (c) a class or classes of alcohol product;
  - (d) a class or classes of advertising.
- (4) A person who contravenes a regulation under this section that is declared in the regulations to be a penal provision shall be guilty of an offence.
- (5) Section 9 of the Act of 2003 shall apply to an offence under *subsection (4)*, subject to the reference in subsection (4) of the said section 9 to “a member of the Garda Síochána” being construed as a reference to “an authorised officer” and any other necessary modifications.
- (6) For the purposes of this section, the sale or supply of alcohol products at a reduced price or free of charge includes—
- (a) the award, whether directly or indirectly, of bonus points, loyalty card points, or any similar benefit, to any person arising from the purchase by that person, or by any other person, of any alcohol product,
  - (b) permitting the use of any such points or benefit, whether directly or indirectly, to obtain alcohol products, or any other product or service, at a reduced price or free of charge, and
  - (c) permitting the use, whether directly or indirectly, of bonus points, loyalty card points, or any similar benefit, arising from the purchase of any product or service to obtain alcohol products at a reduced price or free of charge.
- (7) In this section—
- “limited period” means a period of 3 days or less;
- “sell” does not include sell by wholesale.

## PART 3

## ENFORCEMENT AND COMPLIANCE

**Appointment of authorised officers**

24. (1) The Executive may appoint such and so many persons, including members of the staff of the Executive, as it considers appropriate to be an authorised officer or authorised officers for the purposes of this Act.
- (2) A person appointed to be an authorised officer under this section shall on his or her appointment be furnished with a warrant of his or her appointment, and when exercising a power conferred by this Act shall, if requested by any person affected thereby, produce such warrant of appointment to that person for inspection.
- (3) An appointment under this section shall cease—
- (a) if the Executive revokes the appointment,
  - (b) if the appointment is for a fixed period, on the expiry of that period, or
  - (c) in the case of a person who is a member of the staff of the Executive, if the person ceases to be a member of the staff.

**Powers of authorised officers**

25. (1) For the purposes of this Act, an authorised officer may—
- (a) subject to *subsection (3)* enter (if necessary by the use of reasonable force) or, where the premises is a vehicle, stop and enter (if necessary by the use of reasonable force) at all reasonable times any premises—
    - (i) that he or she has reasonable grounds for believing has been or is being used in connection with any trade, business or activity connected with the manufacture, import, sale, supply, disposal, export, distribution, storage, packaging, labelling, marketing, advertising, promotion or sponsorship of alcohol products,
    - (ii) that he or she has reasonable grounds for believing has been used or is being used in connection with the manufacture, import or sale of children's clothing, or
    - (iii) at which he or she has reasonable grounds for believing that books, records, documents or relevant things in relation to that trade, business or activity are kept,and search and inspect the premises and any books, records, documents or relevant things at that premises,
  - (b) secure for later inspection any premises or any part of any premises at which an alcohol product or relevant thing is found or ordinarily kept, or such books, records or other documents are kept or there are reasonable grounds for believing that such alcohol products, relevant things, books, records or other documents are

kept, for such period as may reasonably be necessary for the purposes of his or her functions under this Act,

- (c) require any person who carries on such trade, business or activity or any person employed in respect of such trade, business or activity to produce to the authorised officer such books, records or other documents and where such books, records or other documents are kept in non-legible form to reproduce in a legible form and to give him or her any information as the officer may reasonably require in relation to such books, records or other documents,
- (d) inspect and take copies of, or extracts from, any such books, records or other documents at the premises, including in the case of information in non-legible form, copies of or extracts from such information in a permanent legible form,
- (e) make a record whether in writing, by photography or otherwise of any book, record or other document at the premises,
- (f) remove and retain such book, record or other document for such periods as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,
- (g) require any such person to give to the authorised officer any information which the authorised officer may reasonably require regarding such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity,
- (h) require any such person to give to the authorised officer any other assistance or information which the authorised officer may reasonably require in respect of such trade, business or activity,
- (i) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the authorised officer all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material,
- (j) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give the authorised officer any information which the authorised officer may reasonably require in relation to such trade, business or activity and to produce to the authorised officer any records which are in control of that other person,
- (k) carry out, or arrange to have carried out, inspections and such checks of the premises and any alcohol products or relevant things as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,
- (l) without payment, take for analysis or examination samples of such alcohol products, or relevant things as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,



- (m) carry out, or arrange to have carried out such analysis or examinations and tests on samples taken under *paragraph (l)* and alcohol products taken under *paragraph (r)* as he or she reasonably considers to be necessary, for the purposes of his or her functions under this Act,
  - (n) pay or make tender of payment for the purchase of an alcohol product, or confirm, by such other manner as he or she considers appropriate, the price at which an alcohol product is for sale,
  - (o) require a person, who makes available facilities such as post office boxes, telecommunications or electronic mail addresses or other like facilities, to give him or her such assistance and information as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act in any case where the officer has reasonable grounds for believing that any alcohol product or relevant thing is being supplied by mail or other means of delivery,
  - (p) direct that such alcohol products or relevant things found at the premises, the sale of which he or she, upon reasonable grounds, believes would contravene a provision of this Act not be sold or distributed or moved from the premises, without his or her consent,
  - (q) serve fixed payment notices and compliance notices, and
  - (r) take possession of and remove from the premises for examination and analysis any alcohol products or relevant things, and detain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act.
- (2) When performing a function under this Act, an authorised officer may, subject to any warrant under *subsection (5)*, be accompanied by such number of authorised officers or members of the Garda Síochána as he or she considers appropriate.
- (3) An authorised officer shall not enter a dwelling, other than—
- (a) with the consent of the occupier, or
  - (b) pursuant to a warrant under *subsection (5)*.
- (4) Where an authorised officer is, in the exercise of his or her powers under this section, prevented from entering any premises an application may be made under *subsection (5)* authorising such entry.
- (5) Without prejudice to the powers conferred on an authorised officer under this section, where a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds to suspect that—
- (a) there is information required by an authorised officer for the purposes of his or her functions under this Act on or at any, or any part of any, premises,
  - (b) books, records other documents (including documents stored in non-legible form) or relevant things referred to in *subsection (1)(a)* are being stored or kept in any dwelling, or

(c) a dwelling is occupied in whole or in part by an undertaking engaged in any trade, business or activity referred to in *subsection (1)(a)*,

the judge may issue a warrant authorising an authorised officer (accompanied, where appropriate, by such other authorised officers or members of the Garda Síochána or both) at any time or times within one month of the date of issue of the warrant, on production if so requested of the warrant, to enter the premises or dwelling as the case may be, using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer under this section.

(6) A person who—

(a) falsely represents himself or herself as an authorised officer,

(b) obstructs or interferes with an authorised officer or a member of the Garda Síochána in the course of exercising a power under this section,

(c) fails or refuses to comply with a requirement of an authorised officer or a member of the Garda Síochána under this section,

(d) fails or refuses to comply with a request of the Executive or an authorised officer under *subsection (9)*,

(e) fails or refuses to comply with a direction of an authorised officer under *subsection (1)(p)*, or

(f) in purported compliance with such a requirement, request or direction gives information that is false or misleading in a material respect,

shall be guilty of an offence.

(7) Where an authorised officer, upon reasonable grounds, believes that a person has committed an offence under this Act he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides and, if the authorised officer considers it necessary, to produce corroborative evidence of his or her name and address.

(8) Where the Executive is satisfied that an authorised officer or other member of the staff of the Executive has discharged his or her duties in relation to the enforcement of this Act in good faith, the Executive shall indemnify the authorised officer or other member of staff against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.

(9) Where an advertisement in relation to alcohol is published and does not include the name and address of the person who procured such publication or his or her agent, the publisher of the advertisement shall, if the Executive or an authorised officer so requests within 12 months of the publication of the advertisement, give to the Executive or the authorised officer, the name and address of such person or his or her agent.

(10) A statement or admission made by a person pursuant to a requirement under *subsection (1)* shall not be admissible as evidence in proceedings brought against the

person for an offence under this Act (other than an offence under *paragraph (b), (c), (d), or (f) of subsection (6)*).

(11) Where an authorised officer has—

- (a) directed that alcohol products not be sold, distributed or moved, pursuant to *subsection (1)(p)*, or
- (b) taken possession of and removed any alcohol product pursuant to *subsection (1)(r)*,

he or she may apply to the District Court for an order that any such alcohol product be destroyed, and the judge of the District Court may grant such an order if he or she is satisfied that such product contravenes a provision of this Act.

(12) The costs (including ancillary costs) of any possession, detention or destruction carried out by the Executive under *paragraph (p) or (r) of subsection (1)* shall be recoverable as a simple contract debt in any court of competent jurisdiction from a person convicted of an offence under this Act.

(13) In this section—

“data equipment” means any electronic, photographic, magnetic, optical or other equipment for processing data;

“record” includes, in addition to a record in writing—

- (a) a disc, tape, sound-track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,
- (b) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and
- (c) a photograph,

and any reference to a copy of a record includes—

- (i) in the case of a record to which *paragraph (a)* applies, a transcript of the sounds or signals embodied therein,
- (ii) in the case of a record to which *paragraph (b)* applies, a still reproduction of the images embodied therein, and
- (iii) in the case of a record to which *paragraph (a) and (b)* apply, such a transcript together with such a still reproduction.

### **Taking of samples by authorised officers**

26. (1) Where an authorised officer takes a sample of an alcohol product or a sample of any substance or article used in the manufacturing, processing or storage of alcohol products, pursuant to *section 25*, he or she shall divide the sample into 3 approximately equal parts, and place each part into separate containers which he or

she shall forthwith seal and mark in such a manner as to identify it as part of the sample taken by that authorised officer.

- (2) Where an authorised officer has complied with *subsection (1)* he or she shall—
  - (a) offer one of the sealed containers to the owner or person for the time being in charge or possession of the alcohol product, substance or article from which the sample concerned was taken,
  - (b) retain one of the sealed containers, and
  - (c) forward, or cause to be forwarded, one of the sealed containers to a designated laboratory for the purposes of analysis.
- (3) Where an alcohol product, substance or article is contained in a container and its division into parts is (for whatever reason) not practicable, an authorised officer, who wishes to take samples of such alcohol product, substance or article for the purposes of analysis, shall take possession of 3 such containers belonging to the same batch, and each such container shall be deemed to be part of a sample for the purposes of *subsection (1)*, and the provisions of *subsections (1)* and *(2)* shall apply thereto accordingly.

### **Laboratories**

27. (1) The Minister may, for the purposes of this Act designate, by notice in writing published in *Iris Oifigiúil*—
- (a) a laboratory as a laboratory at which samples taken under this Act may be analysed (in this Act referred to as a “designated laboratory”), and
  - (b) a person as being a person who, or a class of persons the members of which, may, at a designated laboratory, analyse samples taken under this Act, and each such person or member is in this Act referred to as a “designated analyst”.
- (2) As soon as practicable after a sample taken by an authorised officer has been received at a designated laboratory, the sample shall be analysed and the quantity in grams of alcohol, the energy value, the alcoholic strength by volume and any other properties of the sample shall be determined by a designated analyst at that laboratory.
- (3) As soon as practicable after compliance with *subsection (2)*, a designated analyst engaged in the analysis of samples at the designated laboratory concerned shall forward the results of the analysis carried out on the sample concerned to the Executive.

### **Evidence in proceedings for an offence**

28. (1) In proceedings for an offence under this Act, a certificate purporting to be signed by a person employed or engaged at a designated laboratory stating the capacity in which that person is so employed or engaged and stating any one or more of the following, namely:
- (a) that the person received a sample submitted to the designated laboratory;

- (b) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted; or
- (c) that the person gave to such other person as is specified in the certificate a sample so submitted;

shall unless the contrary is proved be evidence of the matters stated in the certificate.

- (2) In proceedings for an offence under this Act, a certificate purporting to be signed by a designated analyst stating any one or more of the following, namely:
  - (a) that he or she carried out any procedure for the purpose of detecting the presence of any substance in the sample so submitted; or
  - (b) that the sample concerned contained such substance or such amount thereof as is specified in the certificate;

shall unless the contrary is proved be evidence of the matters stated in the certificate.

- (3) In proceedings for an offence under this Act the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under this section be given and the court may, for the purpose of receiving oral evidence, adjourn the proceedings to a later date.
- (4) A certificate under this section shall be in such form as may be prescribed by regulations made by the Minister.
- (5) In proceedings for an offence under this Act, an alcohol product container that purports to bear the name of the manufacturer or importer of that product shall, unless the contrary is proved, be evidence that the alcohol product was manufactured or imported, as the case may be by the person concerned.
- (6) In proceedings for an offence under this Act, an alcohol product container that bears a trade mark shall unless the contrary is proved be evidence that the alcohol product was manufactured by the person who at the time of the alleged commission of the offence owned that trade mark.

### **Fixed payment notice**

- 29.** (1) Where an authorised officer has reasonable grounds for believing that a person is committing, or has committed, a relevant offence, the authorised officer may serve on the person a notice in writing (in this Act referred to as a “fixed payment notice”) in the prescribed form stating—
- (a) that the person is alleged to have committed the relevant offence concerned,
  - (b) where and when the person is alleged to have committed the relevant offence concerned,
  - (c) that the person may, during the period of 28 days beginning on the date of the fixed payment notice, make to the Executive at the address specified in the notice a payment of such amount as may be prescribed, being an amount of not more than €2,000 accompanied by the notice or a copy thereof,

- (d) that the person is not obliged to make the payment specified in the notice,
  - (e) that a prosecution of the person to whom the notice is given in respect of the alleged relevant offence will not be instituted during the period of 28 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted, and
  - (f) that in default of such payment, the person shall be prosecuted for the alleged relevant offence.
- (2) Where a fixed payment notice is served under *subsection (1)*—
- (a) the person to whom it applies may make a payment in accordance with *subsection (1)(c)*,
  - (b) the Executive shall, subject to *subsection (4)*, receive and retain the payment and issue a receipt for the payment,
  - (c) any payment received by the Executive shall not be recoverable by the person who made it, and
  - (d) a prosecution in respect of the alleged relevant offence to which the notice relates shall not be instituted during the period specified in *subsection (1)(c)* and, if the payment so specified is made during that period, no prosecution in respect of the alleged relevant offence shall be instituted.
- (3) In proceedings for a relevant offence it shall be a defence for the defendant to prove that he or she has made a payment in accordance with this section, pursuant to a fixed payment notice issued in respect of the offence.
- (4) Payments received by the Executive under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.
- (5) In this section “relevant offence” means an offence under *section 12(6), 12(9), or 17(1)*.

### **Compliance notice**

- 30.** (1) Where an authorised officer is satisfied that a person has contravened a provision to which this section applies, the authorised officer may serve a notice (in this Act referred to as a “compliance notice”) on the person.
- (2) A compliance notice shall—
- (a) state the grounds for the authorised officer being satisfied that there has been a contravention referred to in *subsection (1)*,
  - (b) for the purpose of ensuring compliance by the person concerned with a provision to which this section applies, require the person to do or refrain from doing such act or acts as is or are specified in the notice by such date as is so specified, and

- (c) contain information regarding the bringing of an appeal under *subsection (5)* against the notice, including the manner in which an appeal shall be brought.
- (3) A compliance notice shall not specify a date in accordance with *subsection (2)(b)* that falls on or before the date by which an appeal under *subsection (5)* may be brought.
- (4) An authorised officer may—
  - (a) withdraw a compliance notice at any time, as he or she consider appropriate, or
  - (b) where no appeal is brought under *subsection (5)*, specify a date extending the period specified in the notice for the purposes of *subsection (2)(b)*, and notify the person in writing accordingly.
- (5) A person may appeal a compliance notice served on him or her to the District Court not later than 14 days after the service of the compliance notice concerned.
- (6) The authorised officer and the appellant concerned shall be entitled to be heard and to adduce evidence at the hearing of an appeal under *subsection (5)*.
- (7) The District Court shall, upon an appeal under *subsection (5)*, do one of the following:
  - (a) affirm the compliance notice concerned; or
  - (b) direct the authorised officer to withdraw the compliance notice concerned.
- (8) An authorised officer shall comply with a direction under *subsection (7)(b)*.
- (9) A person who fails to comply with a compliance notice by the specified date shall be guilty of an offence.
- (10) This section shall not operate to prevent or restrict—
  - (a) the entitlement of any person to bring proceedings for the purpose of securing compliance with this Act by a person, or
  - (b) the bringing or prosecuting of any proceedings for an offence under this Act.
- (11) In this section “specified date” means, in relation to a compliance notice—
  - (a) the date specified in the notice in accordance with *paragraph (b)* of *subsection (2)*, where no appeal against the notice is brought under *subsection (5)*, or
  - (b) the day falling immediately after the expiration of the period of 7 days from the date on which the District Court so affirms the notice, where an appeal against the notice is brought under *subsection (5)* and the District Court affirms the notice in accordance with *paragraph (a)* of *subsection (7)*.
- (12) This section applies to *sections 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22* and any regulation under *section 23* that is declared to be a penal provision.

**Executive may publish information respecting certain persons**

- 31.** (1) The Executive shall establish and maintain a list (in this section referred to as the “alcohol non-compliance list”) of the names and addresses of the persons on whom a fine or other penalty was imposed by a court under this Act.
- (2) The alcohol non-compliance list shall specify, in relation to each person named in the list, such particulars as the Executive considers appropriate in respect of the matters occasioning any fine or penalty imposed on the person by the court and the amount or nature of that fine or penalty.
- (3) The Executive may, at any time and in any form or manner the Executive considers appropriate, publish or cause to be published all or any part of the alcohol non-compliance list.