

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2092](#): Change the law and prevent children aged 5 to 17 from drinking alcohol in their home or other private premises, lodged by Jamie-Lee Dougal

Brief overview of issues raised by the petition

The petition calls on the Scottish Parliament to urge the Scottish Government to introduce legislation to ensure that children under 18 years old cannot legally drink alcohol in their home or other private premises.

The petitioner notes that there is a focus on increasing the cost of alcohol to help tackle the problems of alcohol use in Scotland. They believe the situation where children are legally able to consume alcohol in their home does not help this.

Background Information

Current legal position

Licensing (Scotland) Act 2005

The main piece of legislation that controls the sale of alcohol in Scotland is the [Licensing \(Scotland\) Act 2005](#) (“the 2005 Act”). One of the Act’s five objectives is protecting children and young people from harm.

The 2005 Act makes it an offence to sell alcohol to someone under the age of 18, or for someone under the age of 18 to buy or attempt to buy alcohol either for themselves or another person. It also means it is an offence for under 18s to consume alcohol on licensed premises, however there is an exception so that 16 and 17-year olds can drink beer, wine, cider or perry bought by an adult with a meal.

Sections 104A and 104B of the 2005 Act were introduced by the Air Weapons and Licensing (Scotland) Act 2015. It made it illegal for an adult to buy alcohol for, or supply alcohol to, a child or young person. The exception to this is where this is to be consumed somewhere other than in a public place or for the purposes of religious worship. The intention of this provision was to close the loophole which allowed adults to buy and share alcohol with a person under 18 in a public place and was intended to tackle outdoor drinking by groups of children and young people.

The [Stage 1 Report for the Licensing \(Scotland\) Bill](#) by the Local Government and Regeneration Committee noted that:

“...it would also criminalise behaviour which some respondents to the Scottish Government’s consultation characterised as “responsible”, such as parents introducing children to alcohol at a family picnic. Other respondents called for the supply of alcohol to children to be illegal in any circumstances.”

There were no amendments introduced at Stage 2 or Stage 3 of the Bill process which addressed the supply of alcohol to children being illegal in any circumstances.

Children and Young Person’s (Scotland) Act 1937

There are no legal restrictions on the age that a child or young person can consume alcohol at home, or in other private premises. There was previously a minimum age of 5 years old, set out in the Children and Young Person’s (Scotland) Act 1937, however this was repealed by the 2005 Act. There is no record of a discussion of this matter during the passage of the Bill.

While there are no specific offences relating to allowing the consumption of alcohol in the home by a child, an adult could be prosecuted, depending on the circumstances, on the grounds of child cruelty [under section 12 of the Children and Young Person’s \(Scotland\) Act 1937](#).

Alcohol use by children in Scotland

The latest [Scottish Schools Adolescent Lifestyle and Substance Use Survey \(SALSUS\)](#) was carried out in 2018 with results published in 2019. Key findings in relation to alcohol use of children were as follows:

- Just over a third of 13-year-old pupils (36%) and 71% of 15 year olds have ever had an alcoholic drink.
- Just over half of 13 year olds (53%) and around two-thirds of 15 year olds (70%) who had ever had alcohol, had been drunk at least once.
- The most common drinking location for both 13 and 15 year olds was at their own home (60% and 51% respectively).
- Among both age groups, pupils were most likely to get alcohol from their home, from a friend or from a relative. Direct purchase of alcohol from a business was rare.

Alcohol, health and wellbeing

The National Records of Scotland’s [Alcohol-specific deaths](#) publication shows that there were 1,276 alcohol-specific deaths registered in Scotland in 2022. This is the highest number of alcohol-specific deaths registered in a year since 2008 (1,316).

Public Health Scotland's [Alcohol related hospital statistics](#) show that there were 31,206 alcohol-related hospital admissions (stays) in Scotland in 2022-23. This number has been falling from a high of 46,815 in 2007-08.

The Scottish Government produced a [Review of Existing Literature and Evidence on Young People Experiencing Harms from Alcohol and Drugs in Scotland](#) in October 2021. This identified risk factors including:

- Adverse Childhood Experiences (ACEs)
- interpersonal relationships
- individual-level risk factors (e.g. using drugs and alcohol at an early age).

The review concluded that policies to address problem alcohol and drug use among children should focus on tackling the structural determinants. Addressing the impacts of poverty and the costs of living were among suggested actions.

Child protection

The Scottish Government's [National Guidance for Child Protection in Scotland](#) (2021, updated 2023) does not deal specifically with the issue of children and young people's alcohol use.

Local authorities have a legal duty to investigate concerns raised about a child and to "safeguard and promote the welfare of children in their area who are in need" by providing appropriate services and support. Where alcohol use by a child under the age of 18 was causing a concern, the risks of significant harm to the child would be a key consideration.

Anyone who is concerned about a child's welfare can contact the police, the child's local children and families social work team or make a referral to the Scottish Children's Reporter.

Scottish Government action

- **Minimum Unit Pricing (MUP)** – A minimum unit price for alcohol was implemented by the Scottish Government on 1 May 2018. This was set at 50 pence per unit and means that alcohol cannot be legally sold for lower than this amount. The MUP was continued and increased to 65 pence per unit following a vote in the Scottish Parliament on 17 April 2024. This rise will take effect from 30 September 2024.
- **Alcohol advertising and promotion** – The Scottish Government carried out a consultation on restricting alcohol advertising and promotion in 2022-23. Respondents acknowledged that children and young people should not be unduly exposed to the marketing of age-

restricted products such as alcohol but in the main did not think the proposals as set out would achieve the intended outcomes of reducing alcohol consumption or harm and/or were disproportionate to the scale of the problem. The [Scottish Government stated they intended](#) to hold more talks with public health stakeholders and the alcohol industry early in 2024 to discuss ways of limiting young people's exposure to alcohol promotions.

- **Alcohol Framework 2018** – The Scottish Government's [Alcohol Framework 2018: Preventing Harm](#) sets out their national prevention aims on alcohol, including the activities that will reduce consumption and minimise alcohol-related harm arising in the first place. The Framework recognises the effects of alcohol on children and young people stating:

“The scientific evidence is clear that an alcohol-free childhood is the healthiest and best option. Children and young people are particularly vulnerable to the effects of alcohol. The earlier a young person begins to drink alcohol, the more likely they are to drink in ways that can be risky later in life. Underage drinking can cause short and long term harm to health, as well as put young people in dangerous situations. We must continue to take forward actions to prevent children and young people from gaining access to alcohol and therefore putting themselves in risky situations.”

Kirsty Deacon
Senior Researcher
13 May 2024

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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