

Retail implications of Ireland's Public Health (Alcohol) Act 2018

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| The Public Health (Alcohol) Act 2018

The primary policy objectives of The Public Health (Alcohol) Act 2018 (the “Act”) are to:

1. Reduce alcohol consumption to 9.1 litres of pure alcohol per person per annum by 2020;
1. Delay the initiation of alcohol consumption by children and young people;
1. Reduce the harms caused by the misuse of alcohol; and
1. Regulate the supply and price of alcohol in order to minimise the possibility and incidence of alcohol related harm.

Alongside the introduction of minimum pricing and stark labelling of alcohol products, Section 22 of the Act requires mixed trade retailers (supermarkets, convenience stores and petrol stations selling alcohol) to separate alcohol products from other type products within the store, a measure cleverly termed a “booze curtain”. The rationale for separation is to discourage the purchase of alcohol as part of the everyday grocery shopping.

The Guidance for Industry issued by the Government in July 2019, prescribes minimal detail as to how retailers can comply with this requirement. According to the guidance, mixed trade retailers may now store alcohol products in storage units behind the counter at only one point of sale area. As well as behind the counter, alcohol may also be displayed in one of three ways:

1. in a separate area of the shop to be sectioned off by a physical barrier with a minimum height of 1.2 meters, through which the products are not visible;
1. in enclosed storage units on the shop floor in which the products are not visible up to a height of 1.5 metres; or

1. within a maximum of three adjacent units, each of 1 metre width and 2.2 metres height.

The deadline for retailers to adhere to these separation requirements is 12 November 2020, and the Minister for Health, Stephen Donnelly has said there will be no extension to this deadline.

Although retailers are willing to comply with the requirements of the Act, the information from the Government as to how this can be achieved has been said to have been underwhelming, leaving retailers in the dark as to what equipment they need to install before 12 November. There is a lack of guidance as to what these “physical barriers”, or “booze curtains” should look like and retailers are concerned that by hastening to take measures to meet the deadline, they may in fact breach health and safety legislation, create fire hazards or jeopardize COVID-19 protocols.

While the larger supermarket chains are likely to have dedicated legal and health and safety teams to advise, it is the smaller corner shops that may struggle to interpret and comply with the requirements, especially as Minister Donnelly has also indicated that there will be no financial assistance afforded to retailers to assist with compliance.

If you have any queries regarding liquor licensing in Ireland, please contact Elaine White by emailing elaine.white@ogier.com

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