

Making powdered and vaporised alcohol part of the definition of alcohol under the Licensing Act 2003

Home Office

RPC rating: fit for purpose

Description of proposal

Currently, there is legal ambiguity whether powdered and vaporised alcohol are covered by the legal definition of alcohol under the Licensing Act 2003. The proposal is to include powdered and vaporised alcohol in the definition of alcohol under the Licensing Act 2003. The policy aim is to ensure that legal ambiguity does not undermine public safety and that members of the public continue to be protected from potential harmful sales of these new forms of alcohol.

Impacts of proposal

Powdered alcohol is currently not manufactured, distributed, or sold in the United Kingdom. Under the proposal, anyone wishing to sell powdered alcohol would need a premises licence. Since any retailer selling other forms of alcohol will already have a licence, the proposal would affect only retailers who wish to sell only powdered alcohol and not any other alcohol products. These businesses would incur costs for the application and maintenance of the licence. There could also be a potential small loss of sales in relation to retailers who might have sold the product, but judge it not sufficiently worthwhile to buy an alcohol licence. The impact assessment (IA) explains that it is particularly difficult to estimate the number of businesses that could be affected because powdered alcohol is currently not for sale and there are no other similar products available. However, based upon consultation, the department expects the number of businesses affected to be very small.

Vaporised alcohol: the IA explains that licensing authorities are already treating vaporised alcohol as if it were covered by the 2003 Act. The Government are not aware of any businesses selling it without a licence. The department expects the impact on businesses to be minimal, given that the regulation would have no impact on the market as it currently exists.

The proposal will potentially benefit the public by restricting any harmful sales of these forms of alcohol. Clarification of the definition of alcohol under the 2003 Act will also avoid any potential legal challenge and associated costs to both licensing authorities and businesses.

Quality of submission

The IA explains the difficulty in monetising the potential impacts and why, in any case, they are likely to be very low. This difficulty is mainly due to the department not being able to estimate the baseline 'do nothing' option. The department explains that this is because powdered alcohol is currently not sold in the UK so it is not clear how supply and demand might develop.

The IA correctly classifies the proposal as a qualifying regulatory provision for business impact target purposes. The RPC accepts that it is not proportionate to monetise the impacts, given the difficulty in establishing the baseline, the uncertainty of the market, the reliability of the potential estimates and the likelihood that impacts will be very small. In line with the Better Regulation Framework Manual (March 2015) for measures where costs and benefits cannot be monetised, the proposal will be recorded as having an equivalent annual net cost to business (EANCB) of zero.

Small and micro business assessment

The SaMBA is sufficient. The IA explains that alcohol licensing applies to all businesses regardless of size and effective regulation would not be achieved if any businesses were exempted from these measures. As powdered alcohol does not yet exist to buy, extended transition and temporary exemption are not required.

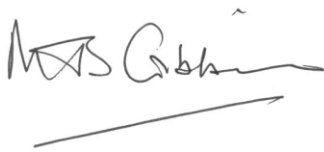
Fees for alcohol licences already differ depending on the size of the business, which ensures that the cost of regulation for small and micro businesses is lower than that for larger businesses.

Initial departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net cost to business (EANCB)	Not monetised
Business net present value	Not monetised
Societal net present value	Not monetised

RPC assessment

Classification	Qualifying regulatory provision
EANCB – RPC validated	Zero
Small and micro business assessment	Sufficient



Michael Gibbons CBE, Chairman