

Island of Jersey



At the Assembly of Governor, Bailiff and Jurats

In the year 2025, the 29th day of May.

IN THE MATTER OF ARTICLE 9 OF THE LICENSING (JERSEY) LAW 1974
AND IN THE MATTER OF H.M. ATTORNEY GENERAL'S GUIDANCE ON DRINKS
PRICING AND PROMOTIONS

The Assembly sat to consider His Majesty's Attorney General's Representation dated 23rd May 2025, submitted by virtue of Article 9 of the Licensing (Jersey) Law 1974, in respect of current guidance on Island-wide pricing of alcohol and drinks promotions, and summarised as follows:

Summary

1. The Jersey Hospitality Association (the "JHA") seeks the removal of restrictions on drinks promotions applicable to holders of on-licences.
2. The current restrictions applicable to holders of on-licences are contained in the Attorney General's guidance on drinks pricing and promotions (the "Guidance").
3. The views of the Assembly are sought as to whether the current restrictions on drinks pricing and promotions applicable to holders of on-licences should be reduced in the Guidance.
4. The views of the Assembly are additionally sought as to whether the Minimum Unit Price (MUP) should be increased to 65 pence.

History of the Guidance

5. By way of background, the Guidance has been in place for many years, and reflects the Assembly's consistent approach to drinks promotions in respect of on-licences, which is summarised below.
6. That approach dates back to 1987 when the Assembly made a decision pursuant to a reference by the then Attorney General under Article 9 of the Licensing (Jersey) Law 1974 (the "Law") in relation to marketing or advertising practices which might constitute an inducement to consume alcohol to excess. It appears that the decision of the Assembly in 1987 was preceded by an investigation and report by the Attorney General regarding promotional practices.

7. In February 1999, in an Attorney General's reference under Article 9 of the Law, the Assembly suspended the licence of Quids Inn (a seventh category licensee) due to its pricing policy and encouraged the Attorney General to refer the licences of other similar establishments to the Assembly where there is evidence of excessive consumption of alcohol and consequential public disorder in and around the premises to the detriment of the public interest.
8. In March 1999 the then Solicitor General sent a letter to the Licensing Unit of the States of Jersey Police ("SOJP") which identified inappropriate marketing practices.
9. In January 2002 the then Magistrate was sufficiently concerned by the number of offences coming before him which had their origin in the excessive consumption of alcohol that he raised the matter with the SOJP who then circulated the letter of the Solicitor General to licensees.
10. On 19 December 2002 the then Attorney General made a statement to the Assembly on drinks promotions which *inter alia* identified the inappropriate marketing practices which had been set out in the Solicitor General's letter of March 1999.
11. A further Attorney General's Statement on Promotional Practices was issued on 13 December 2004.
12. A further amended version (which became the Attorney General's Guidance on drinks promotions) was issued on 23 November 2010.
13. In the 2013 decision of *In re Club (Dragon) Ltd*, [2013] JRC069, the Assembly stated, at para. 5, that it had reviewed the Guidance in force at that time, and endorsed it.
14. On 19 December 2019, following an Attorney General's reference under Art. 9 of the Law, the current Guidance was issued (as the *Attorney General's guidance on drinks pricing and promotions*), which introduced minimum unit pricing, of 50 pence per unit of alcohol, in respect of off-licences only. The Guidance came into effect on 14 April 2020.
15. On 6 October 2020, the States Assembly voted to adopt parts (a) and (c) of proposition P.105/2020 lodged by Deputy Ash (the "Proposition"):
(a) that, in light of the effects of the Covid-19 crises on the hospitality industry, bars, pubs and restaurants should be permitted to offer and advertise promotions on drinks for a limited period until 31st December 2021, and that the Minister for Economic Development, Tourism, Sport and Culture should take the necessary steps to ensure the Licensing Assembly is informed of the States Assembly's decision, and to request that the Licensing Assembly take that decision into immediate consideration; [...]

(c) to request the Minister for Economic Development, Tourism, Sport and Culture to bring forward amendments to the Licensing (Jersey) Law 1974 by 31st December 2021 to establish a framework whereby licensing policy decisions are vested in the States Assembly.

16. Further to the Proposition, the Attorney General referred the matter to the Assembly pursuant to Art. 9 of the Law, to seek the Assembly's directions regarding pricing and promotions generally.
17. The Attorney General also requested the Jersey Competition Regulatory Authority (the "JCRA") conduct a review of the Guidance and the pricing of alcohol in Jersey, and to prepare a report for the Assembly to consider. Thereafter, the JCRA commissioned Frontier Economics to support a market study to assess the impact of the Guidance on alcohol drinks pricing and promotions. The JCRA/Frontier Economics final report was published in early 2022 (the "Report") and, *inter alia*, favoured removal of the restrictions as regards the on-licence trade.
18. Following the publication of the Report, the Art. 9 referral was heard by the Assembly in May 2022. The decision of the Assembly was to decline to alter the Guidance at that stage. By way of summary, the Assembly's decision noted that the intention in the Proposition, in particular part c), was for policy in this area to be set by the States Assembly. The Licensing Assembly did not consider itself to be in a position at that stage to give effect to paragraph a) of the Proposition, because the time period specified in it had already expired. The Licensing Assembly emphasised that it was respectful of the States Assembly's decision on the Proposition, and of enforcing such a decision, but that as regards drinks pricing and promotions there would need to be a clear statement of policy for it to enforce aside from the limited change set out at part a) of the Proposition, which had expired. Such a statement of policy could be a decision which has been voted on by the States Assembly, or could be one which is otherwise agreed. The Licensing Assembly observed that there were differing views, including from economic and health perspectives, and that any statement on policy would need to speak with one voice for the Licensing Assembly to give effect to it.
19. Following the Assembly's decision, the Attorney General wrote to the Minister for Health and Social Services and the Assistant Minister for Economic Development, Tourism, Sport and Culture, to convey the decision and outline the reasons for it. However, no agreed position was forthcoming.

Consultation

20. Further to the letter received by the Attorney General from the JHA dated 7 February 2025, and the apparent concurrence of the Minister for Sustainable Economic

Development, the Attorney General has written to the following bodies in order to seek their views in relation to amendments to the Guidance:

- a) The Minister for Health and Social Services; and
- b) The SOJP.

21. In a letter dated 18 March 2025, the Minister for Health and Social Services has confirmed that he would “*strongly support the proposals outlined*” whilst also highlighting the importance of taking action to balance the removal of restrictions on price promotions. The Minister notes that a strong option would be to make changes to the MUP and highlights that evidence “*points to the importance of ensuring that any MUP policy includes an escalating price mechanism as affordability shifts with inflation*”.

History of Minimum Unit Pricing (MUP)

22. The MUP came into force in April 2020. This means that no alcoholic drink can be sold below the MUP of 50 pence per unit of alcohol. The rationale for setting a MUP is that it directly targets the cost of the cheapest, high strength drinks that are associated with alcohol related disorder, whilst having a relatively low impact on other products/consumers. The MUP on the Island has not been reviewed since its introduction 5 years ago.
23. A MUP was introduced in Scotland in May 2018 and was set at 50 pence. Following a public consultation by the Scottish Government, the MUP was increased to 65 pence in September 2024 to counteract the effects of inflation and ensure the policy remains effective. Prior to the public consultation, the Scottish Government commissioned the Sheffield Alcohol Research Group (SARG) in 2022 to examine *inter alia* how inflation and the COVID-19 pandemic eroded the effectiveness of MUP for alcohol in Scotland.
24. A MUP was first introduced in Wales in March 2020, and it is currently set at 50 pence per unit. A report from the Welsh Government, published in January 2025, recommended renewing the policy and increasing the minimum price to 65 pence. The report concluded that the effectiveness of the 50 pence MUP has been eroded over time by inflation, meaning that to have the same effect in 2025, the MUP would need to be closer to 65 pence, and without uprating the MUP in Wales will inevitably decline in impact and eventually become meaningless.

Proposal

The Guidance

25. It could be said that the Guidance goes somewhat beyond preventing the consumption of alcohol to excess, and that arguably it is disproportionate to the objective. Although

it prevents the most egregious schemes, equally it prohibits more benign initiatives which might simply allow hospitality businesses to continue to operate, or which might allow consumers to make savings, but which do not have as their objective or effect, drinking to excess.

26. The Guidance as currently worded states that there will likely be a referral to the Assembly where advertising practices or drinks promotions are “*intended to or may have the effect of encouraging consumers to increase their consumption of alcohol*” (emphasis added). The wording covers practices which *may* have the effect, including potentially where those practices are not reasonably likely to have the effect, of increasing consumption, and increasing it to any degree; it does not include any notion of excess.
27. Consequently, the Attorney General proposes to amend the Guidance, to remove specific or absolute restrictions in respect of drinks pricing and promotions, but maintaining the key principle, i.e. that practices or promotions which encourage, or are likely to encourage, customers to drink to excess will be referred to the Assembly. That key principle would be applicable to all licences, whether on- or off- licences.
28. A copy of the draft amended guidance (“Amended Guidance”) in respect of the Representation is attached at Schedule 1. In the proposal, the list of prohibited promotional practices (para. 5(a) of the current Guidance) has been removed, along with the rule which prohibits businesses charging prices that are significantly lower than their competitors (para. 5(b) thereof). The rule on minimum unit pricing, applicable to off-licences, is retained.

Minimum Unit Price

29. There has been a 30.4% rise in the Retail Prices Index (RPI) since the MUP was first introduced in April 2020. As RPI is the main measure of inflation in Jersey, applying it as the appropriate measure by which to uprate the MUP would increase the current 50 pence per unit to 65 pence per unit.
30. The Attorney General is seeking the views of the Assembly on whether the MUP should be increased in line with inflation to 65 pence per unit.

WHEREFORE the Attorney General has the honour to bring the above facts to the notice of the Assembly so that it may, by virtue of the provisions of Article 9(1) of the Law, take such action and give such directions as it may think fit.

Upon hearing the Attorney General and having noted the attendance and observations of PC Celio Abreu on behalf of the States of Jersey Police and Mr Marcus Calvani on behalf of the Jersey Hospitality Association, the Assembly, having confirmed that all relevant documentation had been read in advance of the sitting:

1. approved the amendments as set out at paragraphs 1) to 7) inclusive and paragraph 9) of the Attorney General's Amended Guidance, as attached hereto at Schedule 1;
2. approved in principle the amendment as set out at paragraph 8) of the Attorney General's Amended Guidance, it being noted that the Attorney General will notify all Sixth Category Off Licence holders that the MUP is to be increased to 65 pence, with liberty to return the matter to Assembly; and
3. directed that in respect of paragraph 10) of the Attorney General's Amended Guidance, the Attorney General shall determine when the said Amended Guidance shall take effect.



Greffier Substitute

Schedule 1



Attorney General's Guidance

Licensing (Jersey) Law 1974

Drinks pricing and promotions

- 1) The holder of a licence granted under the Licensing (Jersey) Law 1974, and any person acting on their behalf, such as registered manager, is expected to operate the licence in a responsible manner.
- 2) Whenever the Attorney General is of the opinion that any matter relating to a licence should be referred to the Licensing Assembly, the Attorney General may submit the matter to the Assembly, which having regard to all the circumstances of the case, may suspend or revoke the licence or may attach conditions to it. The Assembly also has power to issue fines and to award costs.
- 3) When considering such a referral, the Assembly will have regard to the interests of the public in general.
- 4) The Assembly's approach to drinks promotions was established in 1987 when giving judgment following a referral by the then Attorney General in relation to marketing or advertising practices which might constitute an inducement to consume alcohol to excess:

"In our opinion licensees who use blatant schemes of this kind are not fit and proper persons to hold a licence and these marketing practices are contrary to the public interest, but we accept that they are a small minority of the total number and we stop short of imposing a general condition on all. However, in any case where from this day on any licensee does persist in the practice, we ask that the licensee individually be referred to us and in such an event the Assembly would give serious consideration to the removal of the licence altogether as an alternative to imposing a condition."

- 5) In that particular case, the licence was suspended.
- 6) The Attorney General's position, in respect of any category of licence, is that he will have little hesitation in referring a licensee to the Assembly if presented with evidence that advertising practices or drinks promotions have been or are being pursued which encourage, or are likely to encourage, customers to drink to excess.

- 7) The Police continue to monitor licensed premises, review advertisements including those placed on the internet or sent by text messages, and provide reports to the Attorney General.
- 8) As regards 6th category licences only (i.e. off-licences), in respect of sales to members of the public, other than by a duty free retailer, a referral to the Assembly is likely if the sale price of any alcoholic drink is below 65 pence per unit of alcohol.
- 9) This guidance is without prejudice to the generality of the power of the Attorney General to refer to the Assembly any matter relating to a licence.
- 10) This guidance shall have immediate effect. The Attorney General's guidance dated 19 December 2019 and all previous guidance on this subject is revoked with immediate effect