

# ALCOHOL REFORM 2010: REGULATORY IMPACT STATEMENT

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## AGENCY DISCLOSURE STATEMENT

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Justice. It provides an analysis of regulatory interventions to lessen the harm associated with alcohol use in New Zealand. It incorporates major findings and recommendations from the Law Commission's review. It identifies objectives, considerations and key levers to guide the package of reforms.

The constraints around this RIS process include:

- Timing – the Government has committed to introducing legislation as quickly as possible following the release of the Law Commission's final report.
- Limited consultation – a wide range of options have been considered and extensively consulted on by the Law Commission. However, the timeframe has constrained the extent of independent consultation undertaken by the Ministry of Justice. As such, consultation on the final package of alcohol reforms will be targeted and wider consultation undertaken through the Select Committee process.
- Regulatory change focus – while the RIS makes mention of non-regulatory measures as appropriate, the alcohol reform focuses primarily on legislative measures. This reflects the regulatory environment's potential to address heavy episodic drinking and related harm.
- Complexity – rather than analyse the Law Commission's 153 recommendations separately and duplicate a large part of the Commission's report, this RIS focuses at an intermediate level on many of the recommendations, using seven levers and a package of options for reform to assess the proposals. Details regarding the relative impacts of specific interventions are provided where possible. Further work to determine the impact of specific proposals in regulation will be necessary prior to implementation.
- Moderate response – the Government has identified objectives and considerations to guide the reform, which create valuable tension. This RIS has outlined a moderate response package of feasible options for reform – maximising the impact on harm without impacting unduly on moderate drinkers and the economy. The Government Statement on Regulation has also been considered.
- A strong evidence base supports the use of internationally recognised levers to reduce alcohol-related harm, such as physical availability, price and minimum purchase age. However, the evidence in support of a direct influence for some levers, such as the relationship between restrictions on alcohol advertising and consumption patterns, is still building. As such, assumptions made throughout this RIS may differ in certainty depending on the evidence and information available.

Some of the interventions canvassed would impose costs on the alcohol industry, and there may be downstream impacts on market competition associated with certain interventions. The proposals will not over-ride fundamental common law principles (as referenced in Chapter 3 of the Legislation Advisory Committee Guidelines). Some proposals may impair the economic benefits associated with holding a liquor licence, although uncertainty exists as to the extent to which a licence confers a property right.



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**Ministry of Justice**  
**Date:**

## EXECUTIVE SUMMARY

1. The sale and supply of alcohol in New Zealand is regulated primarily by the Sale of Liquor Act 1989. Deregulation that occurred under the Act and subsequent amendments have shaped the highly competitive and thriving alcohol industry of today. The alcohol industry provides significant value and benefits to New Zealanders (for example, enhanced sociability and wellbeing) and the New Zealand economy, including employment, export value and international repute.
2. Alcohol is an integral part of our social lives, with 85 percent of the New Zealand adult population drinking at least occasionally. The reasons why we drink stem from our historical and cultural background, the perceived individual benefits of alcohol and environmental influences manifested in the regulatory environment.
3. How New Zealanders drink determines the types and levels of alcohol-related harm that we experience as a society. A significant proportion (approximately 13-25%) of New Zealanders drink large amounts of alcohol when they drink (heavy episodic drinking). This type of drinking behaviour is particularly prevalent among young people and Māori.
4. There is compelling evidence in our crime and injury statistics that heavy episodic drinking is a root cause of harm and costs borne by government, placing a significant burden on justice, health and social services. The harmful use of alcohol is estimated to cost the combined Justice sector (Police, courts, prison and probation service) \$716.5 million (in 2005/06 dollar terms).<sup>1</sup>
5. The regulatory environment for the sale and supply of alcohol is a modifiable means of changing drinking behaviour and reducing alcohol-related harm, and is the focus of this RIS. There are seven key approaches or levers within the regulatory environment that can be used:
  - regulation of the physical availability of alcohol;
  - implementation of price and taxation policies
  - restriction of advertising, sponsorship and promotion;
  - modification of the drinking context (environment);
  - introduction of drink-driving counter-measures;
  - education and awareness-raising; and
  - treatment and early-intervention services.
6. The following table provides an indicative summary of the analysis of impacts for the first four levers, based on the best available evidence. The final three levers are covered by other initiatives in different contexts, and are therefore not analysed further in this RIS.
7. Each of the four levers includes options that have the ability to impact on drinking behaviours, to a greater or lesser degree. Evidence regarding the existence of benefits is strong in many cases but the potential size of these benefits is uncertain and difficult to quantify. Levers involving restrictions on licensing hours, outlet density, purchase age, pricing and enforcement have the potential to produce the greatest impact. However, these interventions may also impact the most on the industry and more moderate drinkers. Some levers carry a small risk of unintended consequences such as theft of alcohol, greater use of illicit drugs and diversion of spending from essential items (e.g. food).
8. The government's intention is to address alcohol-related harm and the drivers of crime, without impacting unduly on the economy and moderate drinkers. The objectives and considerations for alcohol reform are deduced from this intention; these work against each other to some degree. A moderate response package is put forward in this RIS as an example of how a balance could be achieved. The package is indicative only and there are a myriad of possible options.
9. Ultimately it will be up to government to decide which levers will be used to reduce alcohol-related harm and the intensity with which the levers will be applied. Regardless of the package of options chosen, the impact of specific proposals in regulation will need to be monitored as implementation proceeds.

## INDICATIVE IMPACT ASSESSMENT

This table provides only an indicative assessment of the potential impacts when applying each of the levers. The individual options that fall under each of the levers could be applied at varying strengths, thus directly affecting the overall impact at a more detailed level. Generally, the more intensive application of each intervention will have more positive impacts on harm, but also more negative impacts on moderate drinkers and businesses.

Lever	Reduces harmful consumption by heavy episodic drinkers	Effect on moderate drinkers	Effect on business & economic performance	Reduces cost of harm borne by Government sectors <sup>i</sup>	Comments
<b>Lever 1 – regulate the physical availability of alcohol:</b> Collectively an influential set of levers, particularly for heavy drinkers. Based on evidence showing that changes in alcohol availability affect alcohol consumption relating to harm, however studies do not tend to focus on impacts on moderate drinkers.					
Criteria for obtaining a licence	Insufficient evidence	Insufficient evidence	Low negative impact	Uncertain	Stricter criteria should improve quality and mix of premise type and thus provide for safer drinking environments. Higher costs for some applicants to enter the market.
Density of outlets	Yes	Universal but low	Low negative impact	Yes	Strong link between outlet density and alcohol consumption and related harm. Reductions in crime indicated as density is reduced. Limiting for prospective retailers but impact on existing retailers may be neutral. May be risk of drink-driving, home-production and theft as a result of fewer outlets.
Types of premises	Yes	Universal but low	Low negative impact	Uncertain	Limited evidence available regarding harms linked to types of premises; however flow-on effect on number of outlets likely to reduce consumption and harm. Large impact on a few businesses.
Licensing hours	Yes	Universal but low	Low negative impact	Yes	Low impacts on moderate drinkers likely if the change in hours is small.
Minimum purchase age and restrictions on supply to minors	Yes (age specific)	High negative impact (age specific)	Low negative impact	Yes	Age and parental controls help delay onset of alcohol use and lessen likelihood of heavy drinking. Effective in reducing traffic fatalities and other harms among young people; enforcement increases effectiveness. Some reduction in size of the market although many 18/19 year olds etc will continue to access alcohol via social suppliers. Small risk of increase in theft and illegal supply to minors.
<b>Lever 2 – implementation of price and taxation policies:</b> Shown to be an influential lever for reducing alcohol consumption and related harm, although impact is dependent on level of price increase.					
Minimum pricing	Yes	Universal but low	High positive impact	Yes	Logic for effect based on price theory, but little practical evidence of actual effectiveness. Any financial benefits will go to alcohol industry. Possible risk of substitution with illicit drugs and other goods by drinkers. Note that impacts to business are generally but not always highly positive.
Excise	Yes	Universal but low	High negative impact	Yes	Absolute reduction in consumption largest for heavy drinkers (because they drink a greater proportion of total alcohol relative to moderate drinkers). Risk of switching to cheaper (and/or illegally produced) products, although this would be less for heavy drinkers who tend to favour cheaper products. Government receives increased revenue to cover social costs. Overly large increase in excise likely to risk increases in home production and theft. Some potential for excise increase to be absorbed in price margins.
<b>Lever 3 – restriction of advertising, promotion and sponsorship of alcohol:</b> Evidence base is building. Generally shows a link between advertising exposure and young people's attitudes towards alcohol and drinking behaviours.					
Advertising and promotion content and format control	Uncertain	Universal but low	High negative impact	Insufficient evidence	Evidence that advertising content affects longer term drinking patterns (particularly for young people) but no evidence of impact of restrictions imposed by industry self-regulation. New technologies and risk of switch to non-traditional media likely to partly confound effect of stronger restrictions. Impacts on consumers' ability to choose products and determine best price. Impact on industry dependent on severity of restrictions. Large loss of revenue for advertising industry and recipients of alcohol sponsorship with stronger restrictions.
<b>Lever 4 – modify the drinking context:</b> Enforcement settings prevent and control alcohol consumption and related harm. Depends on effectiveness of appropriate offences, penalties and improved enforcement.					
Expanding scope of licence conditions	Insufficient evidence	Insufficient evidence	Uncertain	Insufficient evidence	Appropriate conditions should widen the focus and ability to address potential harm. Heavy on-premise drinking likely to be curtailed with increased compliance. Note: difficult to evidence precise effects.
Broadening enforcement agency powers	Uncertain	Uncertain	Uncertain	Uncertain	Sustained effects depend on enforcement becoming part of ongoing practice by enforcement agencies; increase in compliance and safety over time if enforcement is effective.
Altering the penalty regime	Uncertain	Uncertain	Uncertain	Uncertain	Efficient penalty structures and targeted offences could create a system that will deter and prevent opportunities for future harm to occur. Options in this area may also place or maintain costs on the Justice system.
Restricting alcohol-related behaviour in public places	Yes	Low impact	Low impact	Uncertain	Affects young or marginalised high risk drinkers; may displace harm. May catch some moderate drinkers who pose low risk of harm. Effectiveness increased by appropriate sanctions and action taken by enforcement agencies. Risk of having selective enforcement applied (especially among young people).
Licence fees	Insufficient evidence	Insufficient evidence	High negative impact	Uncertain	Risk-based fees should improve premise management and thus potential for harm. Higher compliance costs for new and existing applicants than may have been otherwise.

<sup>i</sup> Compliance/administration, enforcement, health, policing etc.

## PART 1 – ALCOHOL IN NEW ZEALAND

### Alcohol regulation

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10. The Sale of Liquor Act 1989 is the primary legislation that places controls on the sale and supply of alcohol in New Zealand. Other legislation deals with particular aspects of alcohol use, such as offences relating to consumption of alcohol in public places (Summary Offences Act 1981 and Local Government Act 2002), blood alcohol concentration limits for drivers (Land Transport Act 1998) and alcohol excise rates (Customs and Excise Act 1996).
11. This Regulatory Impact Statement (RIS) is informed by the Law Commission's *Review of Liquor Legislation*. The RIS provides an intermediate level of analysis to support decision-making by Cabinet as it considers the significant number of options put forward in the Commission's final report.

### Other alcohol-related initiatives

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12. Alcohol reform is related to other projects underway across government, including:
  - Drivers of Crime: Reform of alcohol legislation is one of the major actions included under the umbrella of the Drivers of Crime initiative.
  - Drinking culture change campaign: Part of the work programme of the Alcohol Advisory Council of New Zealand (ALAC) is a marketing campaign to highlight the problems associated with alcohol use in New Zealand.
  - *Safer Journeys*, New Zealand's Road Safety Strategy 2010-2020: The Ministry of Transport is considering interventions such as changes to blood alcohol concentration limits for drivers as part of *Safer Journeys*.
  - Improvements to treatment services: The Ministry of Health is working to improve treatment services as part of the Te Tāhuhu and Te Kōkiri (the mental health and addiction strategy plan and action plan).

### New Zealand's alcohol industry

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13. New Zealand's alcohol industry is a multi-billion dollar sector comprising manufacturers, exporters, retailers and the hospitality industry. It provides many benefits to New Zealand, such as export value, employment and international repute.
14. Changes in the regulatory environment since 1989 and subsequent amendments have shaped the highly competitive and thriving alcohol industry that exists today:
  - In 2009, alcohol manufacturers and importers made 471.1 million litres of alcoholic beverages available for consumption in New Zealand.<sup>2</sup> Although the 2009 figure was a decline on 2008 production, down 3.1 percent (2008 was the largest volume in 20 years);<sup>3</sup> it followed eight years of annual increases.
  - The number of liquor licenses increased dramatically from 6,295 in 1990 to 14,691 in February 2010.<sup>4</sup> Licence numbers have approximately doubled in per capita terms over this period.<sup>5</sup>
  - Overall, alcohol has become more affordable relative to our incomes.<sup>ii</sup> Over the last 20 years New Zealanders' average weekly earnings rose by 82 percent, while the price of alcohol rose by 76 percent.<sup>6</sup>

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<sup>ii</sup> There is some variability between types of beverages and the location of purchase. Wine has seen the greatest improvement in affordability, while alcohol purchased from off-licences is relatively more affordable than alcohol purchased from on-licences.

## PART 2 – THE CASE FOR REFORM

### How we drink

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15. Over 85 percent of the New Zealand adult population (aged 16-64) of 2.98 million drink at least occasionally.<sup>7</sup> A significant proportion (approximately 13-25%) of New Zealanders drink large amounts of alcohol<sup>iii</sup> when they drink.<sup>8,9</sup> Different population groups exhibit different drinking patterns:<sup>10</sup>
  - Men are significantly more likely than women to have consumed a large amount of alcohol at least weekly in the past 12 months;
  - The prevalence of consuming a large amount<sup>iv</sup> of alcohol at least weekly is highest for 18-24 year olds, and decreases with age after that;
  - Māori are over 1.5 times more likely to have consumed a large amount of alcohol weekly in the previous year compared with the general population.
16. The amount of pure alcohol available for consumption per head of population provides a broad indicator of drinking trends.<sup>v</sup> In 2009 there was 9.3 litres available for every New Zealander over 15 years of age<sup>11vi.vii</sup> This amount was down 2.4 percent from 2008, which was the highest volume since 1994.<sup>12</sup> The bulk of alcohol consumption (about 80%) is concentrated in about one fifth of the New Zealand population.<sup>13</sup>
17. Further survey data suggests that there are spikes in consumption for individuals and sub-population groups, such as among young people. Between 1995 and 2004, the proportion of young people who reported drinking more than six drinks on a typical occasion increased by 11 percent among drinkers aged 14-17 years and by 9 percent among drinkers aged 18 to 19 years.<sup>14</sup>

### Links to alcohol-related harm

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18. The harm that we experience from alcohol is closely related to the quantity and frequency with which we typically drink. Drinking four drinks on one drinking occasion more than doubles the relative risk of an injury in the six-hour time period after drinking, for both men and women.<sup>15</sup> By this measure, a significant proportion of New Zealanders drink at levels that are potentially harmful. Particular concerns relate to young people and Māori, where disproportionate risk of harm is evident because of their drinking patterns.
19. Medical and crime research also indicates that the risk of harm begins with the onset of any drinking. There is no genuinely safe level of drinking although one-two standard drinks per session should result in a comparatively low elevation of the risk of harm.<sup>16,17</sup> This level is below what many New Zealanders regard as moderate drinking. Reductions of just a few percent in national consumption can lead to large reductions in harm and attendant costs. This is because aggregate decreases translate into examples such as where a person, who may have previously had eight beers in a sitting, now only has seven. The reduction in risk from this stepped change in consumption for all individuals responding in this manner leads to a considerable aggregate decrease in costs.

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<sup>iii</sup> Different surveys define the consumption of large amounts of alcohol in different ways. For example, large amount of alcohol is defined by the *Alcohol Use in New Zealand* survey as drinking more than six (for men) or four (for women) standard drinks on one drinking occasion, while ALAC categorises adult drinkers as “binge drinkers” if they have consumed seven or more standard drinks on the last drinking occasion they drank alcohol, or on any occasion in the last two weeks.

<sup>iv</sup> See previous footnote.

<sup>v</sup> The amount of alcohol available for consumption per capita provides only a partial insight into drinking trends, as these statistics do not readily show patterns and levels of consumption.

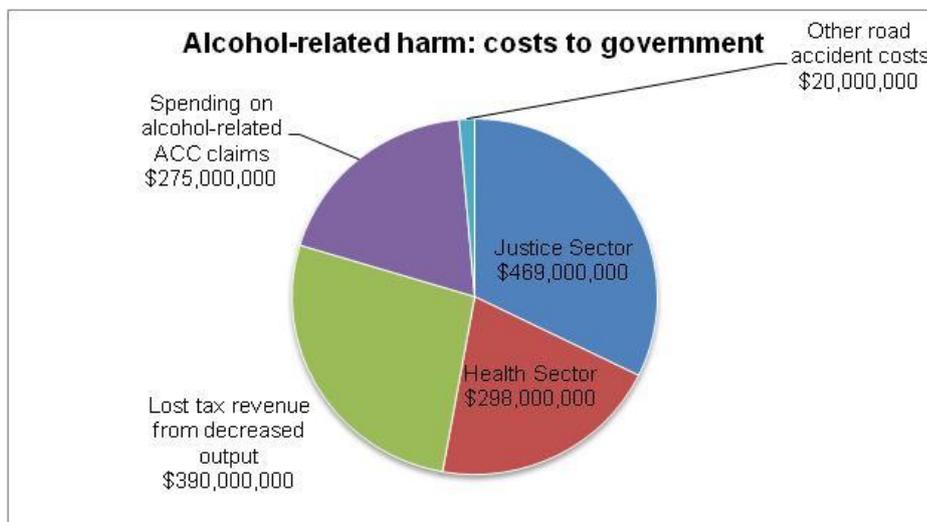
<sup>vi</sup> Alcohol consumption in New Zealand is comparable to the average consumption among countries in the Organisation for Economic Co-operation and Development (OECD).

<sup>vii</sup> 9.3 litres of pure alcohol is the equivalent of almost 120 bottles of wine at 13 percent strength by volume.

20. Heavy episodic drinking<sup>viii</sup> results in wide individual and social costs such as assaults, sexual offending, family violence and road trauma. The social costs from the harm associated with heavy episodic drinking place a significant burden on justice, health and social services.

## Costs to government

21. The chart below provides estimates of alcohol-related costs to different sectors of government, in 2005/06 dollar terms.<sup>18</sup>



Source: Adapted from Business and Economic Research Limited (BERL) (2009).

22. Alcohol is strongly implicated in crime and antisocial behaviour. It is also responsible for considerable costs borne by the health sector. Some key statistics include:

Alcohol & crime <sup>19</sup>
<ul style="list-style-type: none"> <li>• In 2007/08 over 21,000 people were driven home by police or taken to a safe place to sober up, due to their level of intoxication. This was an increase of nearly one quarter from 1998/99.</li> <li>• Alcohol is implicated in:               <ul style="list-style-type: none"> <li>- 30% of all Police recorded offences</li> <li>- 50% of all recorded homicides (1999-2008)</li> <li>- 34% of all recorded family violence assaults</li> <li>- 20% of all recorded sexual offences.<sup>ix</sup></li> </ul> </li> <li>• On average, 33% of all recorded offences are committed on Friday and Saturday nights and Sunday mornings. This coincides with peak apprehension times when alcohol is recorded as a factor.</li> <li>• Māori and Pacific people and young people (16-24 years) represent a higher proportion of offenders where alcohol was consumed prior to committing the offence.</li> </ul>

Alcohol & accidents, injury & disease
<ul style="list-style-type: none"> <li>• About 1,000 New Zealanders were estimated to have died in 2004 from alcohol-attributable causes.<sup>20</sup> About 50% of these are due to the intoxicant effects from heavy episodic drinking.</li> <li>• In 2008 there were 119 deaths, 582 serious injuries and 1,726 minor injuries from vehicle crashes where driver alcohol or drugs was a contributing factor.<sup>21</sup></li> <li>• Up to 22% of all ACC claims are estimated to have alcohol as a contributing factor.<sup>22</sup></li> <li>• 18-35% of injury-based Emergency Department presentations are estimated to be alcohol-related, rising to between 60-70% on the weekend.<sup>23, 24</sup></li> <li>• The 18-29 year age group has the highest rates of alcohol-related mortality and the highest rates of hospital presentations for alcohol-related injuries.<sup>25,26</sup></li> <li>• Māori bear a disproportionate amount of alcohol-related harm in comparison to other New Zealanders, including alcohol-related mortality rates, burden of disease and years of life lost.<sup>27</sup></li> </ul>

<sup>viii</sup> Throughout the remainder of this paper the term heavy episodic drinking is used to describe behaviour where large amounts of alcohol are consumed at a single sitting. It roughly encompasses other terms such as hazardous and binge drinking.

<sup>ix</sup> Police consider this figure to be conservative given the frequent delay in identifying and apprehending alleged sexual offenders.

## PART 3 – SHAPING THE REFORM

### Root causes of alcohol-related harm

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23. Heavy episodic drinking is influenced by a range of historical, individual, social and environmental factors. These factors complicate consideration of what may be the root causes of why we consume alcohol in this way and experience harm and social costs as a result.
24. Environmental influences on why we drink include legislative settings that impact on alcohol availability and incentives that promote alcohol use (such as alcohol price and advertising).<sup>28</sup> These features of the market influence our demand for alcohol, to varying degrees. The current regime could be improved to provide better mechanisms for addressing heavy episodic drinking and related harm. Adequate monitoring and enforcement is also an important adjunct to reduce potential harm.

### Objectives & considerations

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25. The government's intention is to address alcohol-related harm, while recognising the benefits arising from alcohol use. These dimensions are reflected in the following objectives and considerations.

#### Objectives

- 1 Reduce the harm caused by alcohol use, including crime, disorder and negative public health outcomes;
- 2 Target the key drivers of harm, with a focus on reducing heavy episodic drinking; and
- 3 Implement an efficient and sustainable solution to addressing alcohol-related harm.

#### Considerations

- 1 Minimise the regulatory impact of reform on New Zealand's economic performance overall; and
- 2 Minimise the negative impact of reform on low and moderate drinkers.

26. The objectives focus on reducing harm and addressing the drivers of crime. The considerations reflect the intention of the government to achieve the objectives, while minimising the negative impact. Implementing a sustainable solution refers to the need to introduce reforms that will have a lasting effect over time, through community acceptability and involvement in the licensing system and the development of regulations to future-proof decision-making.
27. Given the Government's intention that the outcome of the reform should balance the objectives against the considerations, and keeping in mind the Government's statement on improving the quality of regulation ("Better Regulation, Less Regulation"), a key question will be how to use different levers and options to achieve an appropriate balance.

## PART 4 – LEVERS FOR REFORM

28. Reducing heavy episodic drinking and related harm requires regulatory and non-regulatory levers. There are seven internationally recognised levers that the government has at its disposal, which are outlined below.<sup>29</sup>
- 1 Regulation of the physical availability of alcohol**
    - Criteria for obtaining a licence
    - Density of outlets
    - Types of premises
    - Licensing hours
    - Minimum purchase age and restrictions on supply to minors
  - 2 Implementation of price and excise policies**
    - Minimum price
    - Excise
  - 3 Restriction of advertising, sponsorship and promotion of alcohol**
    - Advertising and promotion content and format control
  - 4 Modification of the drinking context**
    - Expanding the scope of licence conditions
    - Broadening enforcement agency powers
    - Altering the penalty regime
    - Restricting alcohol-related behaviour in public places
    - Licence fees
  - 5 Introduction of drink-driving counter-measures**
  - 6 Education and awareness-raising**
  - 7 Treatment and early-intervention services.**
29. The last three levers (drink-driving countermeasures, education and awareness-raising and treatment and early-intervention services) are covered by other initiatives in different contexts, while the focus of this alcohol reform is on legislation. These levers are, therefore, not examined further in this RIS; however, it is acknowledged that they provide an important adjunct to regulatory interventions and need to be integrated and coordinated with regulatory changes to enhance the likelihood of effectiveness.<sup>30</sup>
30. The following section considers the first four levers and:
- outlines the status quo and problem definition;
  - illustrates the range of intervention options that have been considered during policy development for each lever;
  - analyses their impact in terms of the available evidence and key stakeholders; and
  - notes any key risks associated with the options under consideration.
31. The detailed options that sit under the levers are numerous and diverse, ranging from the more administrative, licensing aspects of the system, to levers designed to influence directly the affordability, availability and accessibility of alcohol at a population level. Where possible, options that match with the Law Commission's recommendations are identified.

**Table 1: Analysis of levers**

**Lever 1 Regulation of the physical availability of alcohol**  
 Reducing the overall availability and accessibility of alcohol principally lessens the supply and consumption of alcohol and consequent harm. Compared to the available knowledge in 1989 when the Sale of Liquor Act was passed, the links between alcohol availability, consumption and harm are now well-established.

Lever	Status quo & problem definition	Options	Evidence & impacts across options	Risks
<b>Criteria for obtaining a licence</b>	<p>Objection only if objector has a greater interest in the application than the public generally.<sup>31</sup></p> <p>Mandatory objection processes exist to mitigate harm.<sup>x</sup> Objections limited to matters specified by the Act as criteria for licences.<sup>xi</sup></p> <p>Communities have limited opportunity to object to licence applications and the grounds for objections are restricted.<sup>32</sup> District Licensing Agency (DLA) and Liquor Licensing Authority (LLA) decisions can only make limited reference to the views of the local community.</p> <p>Therefore, licenses are readily available with few restrictions.</p>	<p>Increase number and scope of criteria for objecting, no change to who can object;  <b>or</b></p> <p>Increase number and scope of criteria for objecting, mandate community to have a role in determining criteria through Local Alcohol Plans (LAPs) [Law Commission R4-R14].</p>	<p>More difficult for new entrants – trade competition in an area is lessened.</p> <p>Increased costs for applicants (investment and commitment).</p> <p>Greater control for the local community in licence decisions.</p> <p>LAPs will impose process costs on local authorities and ratepayers.</p>	<p>No research demonstrating the precise change in harm in this area.</p> <p>Assumption that local alcohol plans will favour a more conservative approach to licensing.</p> <p>Transition approaches need to be considered for current licence holders to ensure that existing property and economic rights are not unfairly impaired.</p>
<b>Density of outlets</b>	<p>No prescribed limits on outlet density.<sup>xii</sup></p> <p>Number and density of outlets (per capita licence rates) have approximately doubled<sup>33</sup> since explicit density test was lifted in 1989<sup>xiii</sup> (note that other factors are also behind this, for example more relaxed application criteria generally and more types of eligible premises).</p> <p>Relationships now very well established between increasing density and alcohol-related harm, although degree of causation unclear.<sup>34</sup></p>	<p>Community control of density specified in local alcohol policies [Law Commission R4-11]; <b>or</b></p> <p>Impose a national density control; <b>or</b></p> <p>Include density as a licence criterion determined case-by-case [Law Commission R13].</p> <p>Each option could include protection for existing licensees' rights.</p> <p>Community determination of density would be applied through a criterion allowing local alcohol policies to be taken into account in licensing decisions.</p>	<p>Much research suggests that lower density would reduce consumption and adverse behaviours (such as violent offending).</p> <p>Drink-driving problems mostly related to individual characteristics with lesser link to outlet density.</p> <p>Allows density to be controlled but does not set actual limits. Scale of impact dependent on limits imposed. Local control increases the likelihood that controls will be suitable for an area. Evidence indicates that density affects different communities in different ways.</p> <p>Barrier for new retailers protects incumbents from competition (if existing licensees are grand-parented<sup>xiv</sup>).</p> <p>The development of local alcohol policies is likely to carry significant costs for local government, which will be recovered through licensing fees. Increased fees may affect the viability of some licensed premises (which may in turn reduce alcohol availability).</p>	<p>New Zealand's obligations under the General Agreement on Trade in Services and other free trade agreements restrict outlet density controls, except where they can be justified in limited situations, most notably where they are 'necessary' to protect human health or to maintain public order.</p> <p>Substantial changes in numbers may be needed to alter markedly assaults and related behaviour given very high existing density levels in New Zealand. Community adoption of low level changes in density may not greatly alter adverse outcomes.<sup>35</sup></p> <p>Stronger controls on outlet density may carry a risk of increased home production and theft.</p>
<b>Types of premises</b>	<p>Businesses principally selling alcohol, supermarkets or grocery stores predominantly selling household foodstuffs may obtain a licence.</p> <p>Exemptions from licensing for on-licence consumption for certain government functions and agencies (Police, Parliament).</p> <p>Proliferation of premises (density) connected to probable deterioration in outcomes.</p>	<p>Tighten and clarify restrictions on grocery-type premises; for example require that food (excluding confectionary, ice-blocks, ice-creams and ready-to-eat takeaway food) comprises at least 50% of the annual sales turnover [Law Commission R15]; <b>and / or</b></p> <p>Remove exemptions for government functions and agencies (Police,</p>	<p>Indirect evidence that premise type controls are likely to relate to a lesser risk of adverse outcomes due to impact on density.</p> <p>Little evidence smaller outlets disproportionately impact on harm so stricter controls on specific premise types may not be very useful.</p> <p>Prevents new entrants obtaining licences. Also, without grand-parenting there could be an estimated 130 of approximately 650 existing grocery stores that become ineligible to hold a licence if the turnover test was applied. Some groceries may become unviable.</p>	<p>May be difficult to enforce licensing conditions in agencies currently not requiring a licence, particularly Parliament or Police bars.</p>

<sup>x</sup> For instance, designated agencies must be notified of applications and have the opportunity to lodge objections.

<sup>xi</sup> These include applicant suitability, days and hours proposed for trading, supply of food and drink, and restricted or supervised areas.

<sup>xii</sup> Density is often expressed as premises or outlets per thousand people but are also described in geographical terms e.g. premises per unit area.

<sup>xiii</sup> A rough test in the 1962 Sale of Liquor Act of whether it was considered more licences were needed in an area.

<sup>xiv</sup> 'Grand-parenting' refers to a situation where existing rights are protected from any change in rules.

Lever	Status quo & problem definition	Options	Evidence & impacts across options	Risks
	<p>Concern at clarity of premise definitions allowing smaller premises to gain a licence.</p> <p>Perceived benefits from bringing unlicensed premises into the oversight of the licensing system.</p>	Parliament) [Law Commission R89-93].	Difficult to tell whether exempt premises have a worse level of drinking behaviour than licensed ones but would send a clear message about the importance of licences as a harm minimisation mechanism. Members of some exempt agencies may find it difficult to drink in a relaxed fashion in public premises.	
<b>Licensing hours</b>	<p>Hours determined on a case-by-case basis on application, with no national limitation. DLAs may impose restrictions on hours.</p> <p>About 900 licences currently issued permitting trading at any time of day.<sup>36</sup></p> <p>Largely unrestricted hours regime linked to harm.</p>	<p>Moderately more restricted national licence hours: 8am-10pm for off-licences, 8am-4am for club and on-licences, special licences within these hours; <b>or</b></p> <p>Strongly restricted national licence hours: 9am-10pm for off-licences, 9am-4am for club and on-licences, special licences within these hours [Law Commission R31, 83].</p> <p>Possible 'add-ons':</p> <ul style="list-style-type: none"> <li>Apply a mandatory one-way door for on-licences (for example, from 2 hours before closing) [Law Commission R32];</li> <li>Allow local control of hours within national limits.</li> </ul> <p>Note: purchase from on-licences late at night is more common than the late purchasing of alcohol for consumption off-premise, hence differentiated hours by premise type.</p>	<p>Evidence suggests heavier drinkers more likely to drink in the later hours.<sup>37</sup></p> <p>Relationships found between late-night trading hours and higher consumption, more crime near longer-opening bars, alcohol-related injuries, homicides,<sup>38</sup> vehicle accidents and alcohol overdoses.</p> <p>Temporal peaks in apprehensions for violence occur between 9pm and 3am on Friday nights and 6pm and 3am on Saturday nights. Up to 95 percent of these involve alcohol.<sup>39</sup></p> <p>Greater restrictions should reduce harm, but will begin to impact more on moderate drinkers' behaviour.</p> <p>Reducing off-licence hours could lessen pre-loading (drinking cheaper alcohol at private venue before going to a licensed bar).</p> <p>Impact on licensees is variable. A small proportion of premises would be affected by, for instance a 4am (on) or 10pm (off) closing time. Very few off-licences operate past 10 or 11pm.</p> <p>Some retailers will save on overheads but maintain similar sales levels so be better off. Bar staff likely to face reduced demand for their services.</p> <p>Setting hours at a national level takes a degree of decision-making out of the hands of local licensing agencies.</p>	<p>Drinkers may adapt to a change in hours, so that a significant decrease in overall consumption does not occur. However, the assumption is that heavier drinkers will be most likely to change their drinking patterns.</p> <p>Research on effects exists but more well-controlled studies on the effect of hours would be useful.<sup>40</sup></p> <p>Some risks associated with fixed closing times such as large numbers of patrons dispersing out onto streets simultaneously<sup>41</sup> and a spike in disorderly behaviour. However this is offset by overall increase in harm (including Police incidents) when hours are extended. This risk can be mitigated through the use of a 'one-way door' approach, Police re-aligning their shifts to meet demand and local transport providers ensuring their services meet demand.</p>
<b>Minimum purchase age and restrictions on supply to minors</b>	<p>Must be 18 to buy alcohol.</p> <p>People over 18 may supply alcohol to minors in certain circumstances.</p> <p>Forty percent of young people exhibit harmful patterns of heavy episodic drinking and this trend is increasing.<sup>42</sup></p> <p>Adverse consequences arise from the combination of alcohol consumption, youth influences and immature brain development.</p>	<p>A split purchase age (18 for on-licences and 20 for off-licences; <b>or</b></p> <p>20 years for both off and on licence purchase age [Law Commission R96 &amp; 97].</p> <p><b>Also:</b> could increase the responsibility attached to supply of alcohol to minors by requiring parents/ guardians to supervise consumption or to ensure that adult supervision occurs [Law Commission R98].</p> <p>The Sale and Supply of Liquor and Liquor Enforcement Bill proposes that consent by required from a parent or guardian to supply alcohol to their child.</p>	<p>Firm links between a higher purchase age and lower levels of problems (suicide, homicide, traffic accidents and vandalism).<sup>43</sup></p> <p>Raising the age likely to increase the age at which people start drinking and the amount they consume in their youth.<sup>44</sup> Lessens impact of alcohol on brain development in teenage years. Will impact negatively on the 60% of young drinkers who drink moderately.<sup>45</sup></p> <p>Highest proportion of alleged alcohol affected offenders are between 17 and 20.<sup>46</sup></p> <p>May not deliver the same aggregate benefit as an intervention that targets drinkers of all ages.</p> <p>Average consumption for younger people will decrease although data on consumption by age is unavailable to confirm this.</p> <p>The revenue reduction for the industry may vary. Those catering for young (currently legal) drinkers are likely to be most impacted as are those who rely on the sale of drinks aimed at younger people.</p>	<p>Will reduce, but not stop, consumption by young people. People under the minimum purchase age frequently obtain alcohol, with most getting it from their parents (60%) or friends aged over 18 years (30%).<sup>47</sup> It is likely that the majority of supply to minors will continue to come from these sources; however there may also be a small risk of theft of alcohol by minors and home production by minors.</p> <p>May be enforcement implications for Customs to monitor compliance with provisions for manufacture for personal use.</p> <p>Eighteen and 19 year olds are not minors, so they will not be affected by legislation attempting to enforce parental responsibility. Significant numbers of people under the purchase age could still consume alcohol.</p> <p>Potential impacts on 18 and 19 year old bar staff – existing staff may need to have transitional protections.</p>

## Lever 2 Implementation of price and taxation policies

This lever targets the price of alcohol as a means to reduce demand, consumption and alcohol-related harm. Research shows that increasing alcohol prices will reliably reduce demand (including among young drinkers and heavy drinkers), all things being equal. A rule-of-thumb is that a 10 percent price rise results in an approximately five percent decrease in consumption with variations for different drinker groups and types of beverages.<sup>48</sup>

Moderate drinkers will tend to reduce consumption by a greater proportion than heavier drinkers. Heavy drinkers less so but pay by far the bulk of any increase in price by virtue of the quantity of alcohol they purchase. Drinkers on lower incomes tend to bear a greater burden from alcohol price increases as a result of spending a larger share of their income on alcohol. This may influence this group of drinkers to consume less than seems reasonable. Because consumption generally falls less than price, many drinkers will give up other purchases including, in some cases, essential goods, to maintain consumption levels. Price increases impact on alcohol retailers, producers, their employees and the short-term productivity of that industry. However, since this is discretionary spending, the money is likely to be spent on other goods and services elsewhere in the economy. This means that the overall output of the economy is unlikely to reduce noticeably.

Lever	Status quo & problem definition	Options	Evidence & impacts across options	Risks
<b>Minimum pricing</b>	Alcohol prices are currently unregulated.	<p>Impose a minimum price; <b>or</b></p> <p>Require collection of price data from retailers and producers to inform need for future minimum price [Law Commission R103].</p>	<p>Should impact on harm but there is little empirical evidence of the actual effects as very rarely implemented internationally.<sup>xv</sup></p> <p>Some evidence that it targets and reduces consumption by youth and heavier drinkers more accurately due to focus on cheap beverage.</p> <p>A legal requirement on retailers to provide sales data may be needed to inform the minimum price in lieu of existing market data being provided voluntarily.<sup>xvi</sup> This would impose compliance costs.</p> <p>Alcohol industry benefits from any imposed price increase as drinkers do not on average reduce their consumption by as much as the price increase, so a bigger revenue 'pie' to industry is available.</p> <p>Enforcement and monitoring of the minimum price places an additional burden on agencies.</p>	<p>Small risk of increases in home production and likelihood of theft.</p> <p>May be some risk of substitution with illicit drugs and other goods by drinkers.</p> <p>In lieu of better price/volume data, difficulties for regulators to ascertain what minimum price to apply.</p> <p>Enforcement may prove cumbersome.</p>
<b>Excise</b>	<p>Two tiered system with higher strength beverages (&gt;14% strength) levied at about 80% more than beverages in the lower strength band. Two 'bands' of alcoholic strength beverage also exist and are taxed at one rate for each band (6-9, 9-14%). Very low strength drinks are excise free.</p> <p>Design of current system means a blanket percentage increase will not necessarily result in an even change to excise or subsequent price levels. This is because excise typically makes up a noticeably higher proportion of the total cost for stronger beverages.</p>	<p>Increase excise rates by 30 percent (high strength) and ten percent (low strength); <b>or</b></p> <p>Increase excise rates by 50 percent on all beverages [Law Commission R100].</p> <p>Possible 'add-ons':</p> <ul style="list-style-type: none"> <li>Adjust unique 'banded' rates applying to beverages between 6-14 percent alcoholic strength by volume.</li> <li>Raise the excise free band for very low strength beverages [Law Commission R101].</li> </ul>	<p>The impact of excise changes on alcohol-related harm is proportional to the size of any increase (if fully reflected in price).</p> <p>Increasing excise tax even at significant levels (for example, by 100%) may provide net benefits to the community and to government.<sup>49</sup> Impact on acute alcohol-related health conditions and injury would occur immediately while impact on chronic conditions may take longer.</p> <p>Higher revenue for government.<sup>xvii</sup></p> <p>Heavy drinkers pay the bulk of any increase in excise because they purchase the majority of alcohol. However also penalises moderate drinkers who will reduce their consumption as a result, but do not necessarily cause harm.</p> <p>Can also target low-cost alcohol as excise comprises a larger proportion of the sale price of cheap alcohol beverages - more effective in targeting young and heavy drinkers.<sup>50,51,xviii</sup></p> <p>Reduces producers and retailers' revenue. Realignment in the fixed band rate for fermented drinks (especially wine) would lead to a slightly bigger negative impact on sales revenue for producers and or retailers of those products. Raising the excise free band for low strength alcohol products could encourage new product development.</p>	<p>Substantial increase in excise carries risk of increases in home production for personal use and the intention to supply to others, as well as the likelihood of theft.</p> <p>May be enforcement implications for Customs to monitor compliance with provisions for manufacture for personal use.</p> <p>May be some risk of substitution with illicit drugs and other goods by drinkers.</p>

<sup>xv</sup> The major source of work on what could occur with a minimum price relies on overseas modelling based on United Kingdom price and volume data which imposes a theoretical minimum price on consumer behaviour. Source: SCHARR, University of Sheffield (2009). *Independent review of the effects of alcohol pricing and promotion: Parts A-C*. Sheffield: University of Sheffield.

<sup>xvi</sup> It should be noted that useful price data is collected currently by business information companies but has not been easily accessible to date.

<sup>xvii</sup> Indicative modelling by the Ministry of Justice based on advice from the Treasury of the highest, fifty percent increase shows that the government would collect almost \$300 million more than under the status quo.

<sup>xviii</sup> Note that evidence that young drinkers prefer cheaper drinks is not wholly conclusive. RTDs are preferred by young people but are not the cheapest alcoholic beverage available.

**Lever 3 Restriction of advertising, sponsorship and promotion of alcohol**

This lever affects the regulatory environment for alcohol advertising, sponsorship and promotion as a means to influence demand, consumption and alcohol-related harm.

The impact of further restricting advertising and promotion of advertising depends on the link between liquor advertising exposure, individual levels of consumption and associated harm. This link appears to be quite complex, and results of some studies examining the link are mixed. The most recent surveys of evidence, however, indicate that advertising plays a consistent role in alcohol-related harm, particularly for young people.<sup>52,53,54</sup> There is increasing evidence that exposure to marketing can speed up the onset of drinking and increase consumption volumes in young people.<sup>55</sup>

Lever	Status quo & problem definition	Options	Evidence & impacts across options	Risks
<b>Advertising and promotion content and format control</b>	<p>Self-regulation with the Advertising Standards Authority (ASA) setting standards for what can be advertised (content) and a separate and independent (but not government) complaints body.</p> <p>The Broadcasting Standards Authority (BSA) sets standards and hears complaints about alcohol promotion within actual broadcast programmes.</p> <p>The Sale of Liquor Act also provides for restrictions on irresponsible promotions for on-licences.<sup>56</sup></p> <p>Problems identified are:</p> <ul style="list-style-type: none"> <li>• A limited ability to reduce the exposure of children and young people to alcohol advertising;</li> <li>• Controls on promotion are limited and not sufficiently enforced; and</li> <li>• Sponsorship establishes a pro-alcohol culture while underplaying the risks of alcohol.</li> </ul> <p>The Sale and Supply of Liquor and Liquor Enforcement Bill proposes a system of enforced self-regulation (self-regulation backed up by legislative sanctions for serious or persistent non-compliance).</p>	<p>Impose explicit content regulations e.g. banning of sponsorship; <b>and/or</b></p> <p>Tighten compliance and enforcement mechanism e.g. enforced self-regulation; <b>and/or</b></p> <p>Directly regulate media use (e.g. television hours or use of billboards).</p> <p>Increased content restrictions could be phased in over time [Law Commission R104-109].</p>	<p>Lack of cases where a complete or strong bans have been applied so effect sizes of actual imposed restrictions are small.</p> <p>Government adjudication may impose costs on government depending on approach chosen.</p> <p>Immediate impacts on retailers and manufacturers ability to continue to attract new custom.</p> <p>Difficult for new entrants to alcohol market to make customers aware of their existence and products.</p> <p>Loss of direct revenue to advertising companies, broadcasters and sponsorship of about \$30 million.<sup>57</sup></p> <p>Banning of sponsorship (estimated at \$50 million in 2006)<sup>58</sup> would take away support for sports and cultural clubs, organisations and events with resulting financial and social upheaval. Replacement of this funding would be difficult in current economic climate.</p> <p>Limits the consumer's ability to access information increasing 'search costs' associated with each purchase.</p>	<p>Could breach the New Zealand Bill of Rights Act.</p> <p>May not be enforceable or increasingly able to be circumvented with the use of internet and text-based 'viral' advertising mechanisms.</p> <p>Risks can be mitigated by observing the effects of overseas changes to advertising frameworks.</p>

#### Lever 4 Modification of the drinking context

This lever covers a range of interventions that can be used to create safer drinking environments and limit the possibility of, and harm due to, heavy episodic drinking in particular. It includes interventions that tend to be of two types – enforcement actions and limitations on permitted activities. Options considered and discussed below are largely informed by experience with existing approaches in this area.

Lever	Status quo & problem definition	Options	Evidence & impacts across options	Risks
<b>Expanding scope of licence conditions</b>	<p>Licensing bodies have the discretion to impose certain conditions for managing harm.</p> <p>Conditions in the Act are narrow and limited in their ability to address potential alcohol-related harm.<sup>59,xix</sup></p>	<p>Widen the defined range of mandatory and discretionary conditions [Law Commission R24 &amp; R25]; <b>and/or</b></p> <p>Boost management requirement conditions for licensed premises [Law Commission R76]; <b>or</b></p> <p>Allow decision makers to impose any reasonable condition that will reduce harm or facilitate enforcement [Law Commission R28].</p>	<p>Increases the level of control within the drinking environment (e.g. overcrowding is associated with increased levels of problem behaviour).<sup>60</sup></p> <p>Likely to constrain or mitigate adverse drinking behaviours on premises especially (assaults and disorder).<sup>61</sup></p> <p>The specific impacts on the local community and retailers can only be determined on a case-by-case basis depending on the conditions that were imposed on each.</p> <p>Some additional costs are likely for retailers, but potentially leads to benefits for patrons and neighbours because of a better drinking environment.</p>	<p>New mandatory conditions would apply to all licensees, so there are challenging transitional approaches to be considered for current licence holders.</p>
<b>Broadening enforcement agency powers</b>	<p>Police, Licensing Inspectors and Medical Officers of Health have differing powers and functions for reporting, inspection and enforcement. This can limit the ability for some agencies to prevent or reduce potential for alcohol-related harm.<sup>62</sup></p>	<p>Empower licensing inspectors to sanction non-compliance by issuing infringement notices; <b>and/or</b></p> <p>Expand the role of Medical Officers of Health within the licensing system; <b>and/or</b></p> <p>Strengthen enforcement of evidence of age documents by introducing registration requirements for door staff; <b>and/or</b></p> <p>Relax existing identification requirements for licensing inspectors on entering premises [Law Commission R127].</p> <p>Possible 'add-ons': encourage collaboration between enforcement agencies [Law Commission R128 &amp; 129].</p>	<p>Better decisions to apply conditions or reject applications based on the likelihood of future problems.</p> <p>Increases the likelihood that adverse behaviour is identified by inspections.</p> <p>Costs with linking agencies other than Police into infringement notice systems</p> <p>May be additional work for Medical Officers of Health.</p>	<p>Potential implementation problems from altering powers of enforcement agencies. Costs likely to be involved with linking licensing inspectors into infringement notice systems.</p> <p>Impact on the extent to which licensees are prepared to work collaboratively with inspectors and medical officers of health.</p> <p>Duplication and costs to licensees if more than one agency inspects premises.</p> <p>No assurance that more or improved enforcement would occur – this depends on the capacity, capability and targeting of resources applied by key enforcement agencies.</p>
<b>Altering the penalty regime</b>	<p>Sale of Liquor Act penalties mostly for breaches of licence conditions, and dealt with by the LLA by cancellation or suspension or addition of more restrictive conditions.</p> <p>Some summary offences heard in the District Court – most attract fines. One infringement-only offence.</p> <p>No penalties for repeat offences. Concerns at the lack of appropriate penalties and their limited application.<sup>63</sup> Penalties need to be enforceable and appropriate to both punish and deter.</p>	<p>Increase the level of fines; <b>and/or</b></p> <p>Adjust the level of fines to allow for young people's ability to pay; <b>and/or</b></p> <p>Compulsory loss of licence after repeated offending [Law Commission R121 &amp; 122]; <b>and/or</b></p> <p>Converting lower-level summary offences to infringement notices [Law Commission R118 &amp; 119].</p>	<p>Changes to penalty levels could strike a more realistic impact between what offenders can afford while still levying a sanction.</p> <p>Tighter enforcement and easier ways of paying fines would support this and may improve the deterrent effect.</p> <p>Increasing fines/sanctions on licensees is likely to improve compliance as non-compliance puts a greater burden on the retailer.</p> <p>Changing summary offences to infringement notices would allow faster and more proportionate justice with lower costs.</p>	<p>Questionable how effective changes in penalties are for altering behaviour. Risk mitigated by ensuring that penalties are more certain, consistently applied and immediate (e.g. increased infringement offences for licensees).</p> <p>Extra costs imposed on Courts to collect unpaid fines.</p> <p>Differential fees based on the age of the offender raise human rights issues.</p>

<sup>xix</sup> Examples of conditions that can or must be imposed currently include provision of non-alcoholic drinks, restrictions on days and hours, and designation of areas where minors may or may not enter

Lever	Status quo & problem definition	Options	Evidence & impacts across options	Risks
<b>Restricting alcohol-related behaviour in public places</b>	<p>Possession and consumption of alcohol in public places is currently controlled through liquor bans (additional restrictions apply to minors).<sup>xx</sup></p> <p>Not clear whether the possession of alcohol is objectionable per se or whether the issue is the heightened potential for problems following alcohol consumption.</p>	<p>Streamline the criteria for setting liquor bans [Law Commission R137, 138 &amp; R140]; <b>and/or</b></p> <p>Increase police powers to deal with intoxication in public places; <b>or</b></p> <p>Introduce a national ban on drinking in public places; <b>and/or</b></p> <p>Introduce a civil cost-recovery system to allow Police to serve a notice of debt on people requiring care due to intoxication [Law Commission R133].</p>	<p>Benefits difficult to determine – studies do not indicate clear impact on harm from bans alone.<sup>xxi</sup></p> <p>Putting liquor bans in place is expensive for local authorities. However the fact that so many local authorities have implemented them implies that they consider them to be beneficial.</p> <p>Impacts of making public intoxication an offence are doubtful – previous legislation in this area did not stop public intoxication.</p> <p>Significant costs incurred by the Police from taking intoxicated people into custody or transporting home.<sup>xxii</sup></p>	<p>Risks having selective enforcement applied (especially targeting youth).</p> <p>Risks criminalisation of people who would not otherwise come into contact with the criminal justice system, with costs shifting from Police to the Court system when more fines are issued and not paid.</p> <p>Imposing a charge may recoup costs of custody, but the deterrent effect is untested as is the cost of following through on the civil debt. Many debts will not be paid immediately and lead to extra work for Courts and Collections.</p>
<b>Licence fees</b>	<p>Licence fees are set centrally by regulation. Fees cover costs for DLAs and licensing inspectors to process and review applications for licences and managers' certificates. They are set nationally at the same rate for all areas although the amount set by type of application varies. Fees are paid when applications for or renewals of licences or certificates are made. A portion of fees cover LLA expenses.</p> <p>Centralised system does not allow local authorities to cover the costs of running the necessary licensing system, and rates are sometimes used to top up these costs.<sup>64</sup></p>	<p>Allowing local authorities to set licence fees to cover system costs [Law Commission R68]; <b>and/or</b></p> <p>Weighting licensing fees by assessed risk of alcohol-related harm for premises [Law Commission R68].</p> <p>Possible 'add-on': mandating annual licence fee payments rather than three yearly [Law Commission R69].</p>	<p>Most or all licence holders would be likely to face an increase in fees.</p> <p>Risk-based fees may encourage a change in the nature of premises to lessen fees. The mix of premises might alter to reflect settings that lead to lower fees.</p> <p>Increased fees might simply result in higher prices.</p> <p>Increase in money collected could be used to more adequately resource DLA duties, possibly resulting in improved enforcement and monitoring.</p>	<p>A careful analysis of which factors were used to determine how risk loadings operated would be needed and consulted on.</p>

<sup>xx</sup> Legislation allows for local authorities to define public areas in which alcohol is prohibited ('liquor ban areas'). A breach of these bylaws is a prosecutable offence which attracts a fine. Minors are specifically prevented from drinking alcohol in a public place under the Summary Offences Act 1981.

<sup>xxi</sup> See for example: Hart, M (2004) *Havelock North liquor ban: and impact and outcome evaluation*. Hastings District Council.

<sup>xxii</sup> About 21,000 intoxicated people were taken into custody or home by Police in 2007/08.

## PART 5 – PACKAGING OF OPTIONS FOR REFORM

32. There is an inherent yet valuable tension between the objectives and considerations identified for the reform. It is not possible to implement a package of options for reform that will have a maximal impact on reducing harm and addressing the drivers of crime without affecting moderate drinkers and the wider economy. Conversely, while it is possible to implement a package of options that will have a minimal impact on New Zealand's economic performance overall and on low and moderate drinkers, this is unlikely to meet the objectives for the reform.
33. In order to balance the two extremes, the packaging of options for reform needs to focus on levers that might fall within the 'moderate response' area – maximising the impact on harm without impacting unduly on moderate drinkers and the economy.

### Optimising effectiveness of a reform package

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34. Alcohol reform is highly complex and the levers are likely to be interactive at times. Recent research has concluded that there is an "extremely limited understanding of how different interventions affect each other, and how to optimize their mix to obtain improved outcomes" in terms of reduced harm.<sup>65</sup> However, it is likely that complementary shifts are likely to have at least an additive effect. This is in addition to a wealth of international research that provides evidence of effectiveness for each lever separately, which have been previously employed as an instrument of alcohol policy in other parts of the world to reduce consumption and related harm.<sup>66</sup> The strongest levers include restrictions on affordability, availability and accessibility of alcohol.<sup>67</sup>
35. Most countries do not have a single, comprehensive policy towards alcohol, and reforms are often moulded to existing conditions in a way that is fragmented and lacks coordination and cohesion.<sup>68</sup> However, New Zealand is not alone in seeking to address alcohol-related harms in a comprehensive and coordinated way at the current time. The United Kingdom and Australia are also undertaking similar inquiries and formulating responses in an effort to curb alcohol-related harms.<sup>69</sup>
36. A complementary and carefully coordinated package of levers that seeks to restructure the total drinking environment is more likely to be effective than single strategies.<sup>70</sup> The Law Commission also noted in its final report that "picking and choosing from among the various elements put forward will lessen the power of the package to reduce the harm at which it is aimed".<sup>71</sup> Ultimately, it will be up to Parliament to decide where the balance should lie in terms of the levers chosen and the strength at which they will be applied.
37. One risk associated with implementing a package is that post-reform, it will be difficult to determine whether there are specific levers that were more effective than others in terms of changing drinking behaviours. This is a trade-off that the government will have to consider, particularly in light of objective three (implementing a sustainable and efficient solution to reducing alcohol related harm). Options for mitigating this risk include staggering introduction of measures;<sup>xxiii</sup> conducting a post-implementation review; and/or trialling measures in local areas prior to consideration on a national scale.
38. The Law Commission proposed a package of reforms through its 153 recommendations. The main focus of that package is on harm reduction, with a focus on the evidence and views of submitters, and arguably less concern about the considerations for government. The Law Commission package uses all the levers that are available to Government, and in general proposes to use them quite intensively.<sup>xxiv</sup>
39. A variation on that package of options is outlined below, in order to illustrate how different options might fit together in order to form a more moderate response. The package aims to achieve an

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<sup>xxiii</sup> For example, the government could consider implementing changes to alcohol excise at a later time, as it will involve amending different legislation to the Sale of Liquor Act (the Customs and Excise Act).

<sup>xxiv</sup> The Law Commission's final report 'Alcohol in Our Lives: Curbing the Harm' is available at <http://www.lawcom.govt.nz>.

appropriate balance in line with the intention of Government, focusing on different areas or levers in varying levels of intensity. The package has also been compiled keeping in mind the government's statement on improving the quality of regulation, i.e. that regulation is only introduced when it is required, reasonable, and robust, and that existing regulation is reviewed in order to identify and remove requirements that are unnecessary, ineffective or costly.

40. The package combines different groupings of the options under each of the levers outlined above, and is defined by the following factors:
- The options are designed to address heavy episodic drinking, because this is where the main concern lies (crime, disorder and public health costs).
  - The focus is on legislative options, reflecting the ability to influence one of the root causes of heavy episodic drinking: the regulatory environment.
41. The package is, of necessity, indicative only. The actual combinations of options that would sit within a desirable package can be adapted depending on the value that the government places on each of the objectives and considerations.

<b>Proposals</b>				
<b>Lever 1: Regulation of physical availability</b>				
<b>Licence criteria</b>	<b>Outlet density</b>	<b>Types of premises</b>	<b>Licence hours</b>	<b>Minimum purchase age</b>
Increase number and scope of licence criteria for objecting, mandate community to have role in determining criteria through Local Alcohol Plans	Community control of outlet density specified in local alcohol policies  Include density as a licence criterion determined case-by-case	Tighten and clarify restrictions on grocery-type premises	National setting of limits for trading hours: off-licences 9am-10pm; on & club licences 9am-4am  Mandatory one-way door for on-licences from 2am  Allow local control of hours within national limits	Increase the purchase age to 20 years for both on and off-licence premises  Increase the responsibility attached to supply of alcohol to minors by requiring parents/guardians to supervise consumption or to ensure that adult supervision occurs
<b>Lever 2: Implementation of price and taxation policies</b>				
<b>Minimum pricing</b>	<b>Alcohol excise</b>			
Do not impose a minimum price	Increase excise rate by 10% for high strength beverages and 30% for low strength beverages  Adjust the unique 'banded' rate applying to beverages between 6-14 percent aabv  Raise the excise free band for very low strength beverages			
<b>Lever 3: Restriction of advertising, sponsorship and promotion of alcohol</b>				
Tighten compliance and enforcement mechanism of advertising self-regulatory system (e.g. enforced self-regulation)				
<b>Lever 4: Modification of the drinking context</b>				
<b>Expanding scope of licence conditions</b>		<b>Broadening agency enforcement powers</b>		
Widen the defined range of mandatory and discretionary conditions that may be placed on licences  Boost management requirements for licensed premises  Allow decision makers to impose any reasonable condition that will reduce harm or facilitate enforcement		Empower licensing inspectors to sanction non-compliance by issuing infringement notices  Expand the role of Medical Officers of Health within the licensing system  Strengthen enforcement of evidence of age documents by introducing registration requirements for door staff  Relax existing identification requirements for licensing inspectors on entering premises  Encourage collaboration between enforcement agencies		

Altering the penalty regime	Alcohol in public places	Licensing fees
Increase the levels of fines Adjust the level of fines to allow for young people's ability to pay Compulsory loss of licence after repeated offending Convert lower-level summary offences to infringement offences	Streamline the criteria for setting liquor bans Increase police powers to deal with intoxication in public places	Weight licensing fees by assessed risk of alcohol-related harm for premises Mandate annual licence fee payments rather than three-yearly

## Comments

42. This package:
- Uses all of the available and most effective levers to implement the best possible moderate response for reducing alcohol-related harm;
  - Provides an opportunity to include community involvement in the licensing system, which is an area of strong appeal to the public; and
  - Takes some action in relation to restricting alcohol advertising and sponsorship.
43. The focus of this package in terms of the objectives and considerations would be to prioritise the objectives to reduce crime, disorder and public health outcomes arising from alcohol use and target the key drivers of harm, while showing some willingness to accept a greater impact on the industry and moderate drinkers. It would show the government as being responsive to the Law Commission's report and to those in the community who are most concerned about the negative impact of alcohol on all sectors of society.
44. The rationale for this package is that given the significant harm that arises from alcohol consumption, a significant enough response is required in order to produce behavioural and attitudinal change around alcohol. It would still achieve a balance; however it may not be a desirable or fair balance from the point of view of the alcohol industry and moderate drinkers. Nevertheless in general some moderate drinkers may be willing for the balance to be tipped in this direction, for the greater public good.
45. The alcohol industry and moderate drinkers may consider these proposals to be unnecessary and unfair. Many parts of the industry already consider themselves to be heavily regulated and subject to considerable penalties, and this package would go even further in this direction. Moderate drinkers may feel that they should not be penalised, particularly in relation to proposals on excise tax and increasing the minimum purchase age. Some sections of the population may feel that the proposals relating to restricting supply of alcohol to minors go a step too far into the private domain.

## Possible variations

46. There are variations of how different levers can be applied depending on the value placed on the objectives and considerations for reform. For example, this package could be adapted to focus solely on the licensing system to improve its administration and operation without having to introduce significant change. In this case, levers such as minimum purchase age, alcohol excise and advertising, promotion and sponsorship would not form part of the overall package (or may comprise only small supportive changes, such as restricting the supply of alcohol to minors or removing the excise on low strength alcohol products).
47. This would shift the focus of the package to prioritise a low impact on producers, retailers and moderate drinkers, and increase efficiency of the licensing system. It would have a comparatively smaller impact on reducing alcohol-related harm, although would still go some way towards addressing one of the root causes of heavy episodic drinking – alcohol availability. The main risk of this approach is that government will be perceived not to have adequately addressed alcohol-related harm.

48. Another way to adapt this package is to focus on the licensing system and reducing alcohol availability in combination with one other key lever shown to be effective in reducing alcohol-related harm at the population level, such as excise, minimum purchase age, or alcohol advertising. This approach accepts trade-offs on both sides; implementing some of the most effective proposals to impact on the costs of harm and crime, while acknowledging the value of the alcohol industry, but also tolerating some negative impacts in this area. It would have a constrained impact on reducing harm because of these compromises.

## IMPLEMENTATION & REVIEW

49. Regardless of the package of options chosen, there will be some interventions that are best included in primary legislation and others that will be best covered in secondary legislation. The areas to be covered in regulation include:
- Licence fees;
  - Licensee notification requirements;
  - Basis for verification of age and identity; and
  - Exemptions from the application of hours of operation in special circumstances.
50. For the above areas, it is important that a detailed process of regulation development is undertaken in consultation with local government, industry and other key agencies, and in line with the government's regulatory expectations. Further RISs will be prepared during the development stages for the regulations, which will include discussion of transitional arrangements. More detailed estimations of the costs and benefits will be provided at that time.
51. Implementation of a package of options is likely to result in some costs to government. For example, there will be costs associated with updating computer systems, delivering training on the new legislation and enforcing new offences. There are also likely to be reductions in crime, injury, disease, illness and social harm with any package of reform options, with consequent savings to relevant Votes. The degree of savings would depend on the package implemented and as such is difficult to quantify.
52. There are likely to be direct costs to industry of the different packages of options and these are not amenable to estimation. The proposed changes to the licensing regime are modifications of existing policy and may result in low scale increases or decreases to compliance costs.
53. The new regulatory impact requirements that support the Government's statement on regulation require departments to put systems in place for ongoing scanning of the regulation for which they are responsible. A review of alcohol regulation should be conducted through this process.

## CONSULTATION

54. The 2,939 submissions to the Law Commission have informed the development of the alcohol reform options as have the 228 submissions on the Sale and Supply of Liquor and Liquor Enforcement Bill. Consultation on the final package of alcohol reforms will be targeted and predominantly limited to the Select Committee process. Further submissions on the policy options as they are developed and during the drafting of the legislation will be considered as part of the legislative process.
55. The Ministry of Justice has undertaken some targeted consultation as part of the RIS development process in order to assess preliminary impacts of some of the proposals (e.g. licence hours), where able within the timeframes. Further targeted consultation with stakeholders will be pursued once initial decisions on alcohol reform have been taken.

### **Law Commission consultation**

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56. The Law Commission received a total of 2,939 submissions on its Issues Paper on the Reform of New Zealand's Liquor Laws. More than two-thirds of these were from individuals, alongside

submissions from a range of organisations including central and local government, liquor companies and related industry organisations, liquor wholesalers and retailers, academics, the medical profession, advertising groups, the Police, the treatment sector and community groups.

57. The views reflected in submissions were divided according to the specific interests of different sectors. For example, the alcohol industry and hospitality sector called for greater individual responsibility and accountability, while promoting the social and health benefits of alcohol. Individuals represented a diverse range of views, many of which were concerned about widespread alcohol-related harm and supported the “5+ solution”<sup>xxv</sup>. Law enforcement agencies were concerned about the impact of alcohol on policing and violent offending, supporting measures to enhance enforcement of laws and reduce the potential for alcohol-related harm to occur. Local government identified the importance of community input into licensing decisions and solutions that consider resourcing needs and that are supported by adequate enforcement.<sup>72</sup>

## **Government Departments/Agencies consultation**

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58. Agencies with a direct interest in reducing alcohol related harm include the Alcohol Advisory Council of New Zealand (ALAC), the New Zealand Police, the Ministry of Health, Te Puni Kōkiri, the Ministry of Youth Development and the Accident Compensation Corporation.
59. Justice officials were asked to provide advice on options for reform, in consultation with other government agencies, alongside the Law Commission’s review and consultation process. In addition, an inter-departmental committee was set up for the Law Commission to provide feedback to agencies on the Review. The views of other agencies have been taken into account in the development of alcohol reform options as part of this process.
60. This RIS has been circulated for comment to the following government departments and agencies: the Department of Internal Affairs, the Ministries of Economic Development, Health, Social Development, Youth Development, Transport, Culture and Heritage, and Pacific Island Affairs, the New Zealand Police, Customs, Te Puni Kōkiri, the Accident Compensation Corporation and the Treasury. ALAC, The Department of the Prime Minister and Cabinet and the Parliamentary Counsel Office have been informed of the content of this RIS.

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<sup>xxv</sup> The “5+ solution” is promoted by Alcohol Action New Zealand and comprises increased price and purchase age, reduced accessibility, marketing and advertising, increased drink-drive counter-measures and increased treatment opportunities for heavy drinkers.

## ENDNOTES

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