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ORIGINAL ARTICLE

An Examination of the Enforcement of Ireland's Public Health (Alcohol) Act 2018: A Paper Tiger

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Main Points

- Alcohol represents a significant threat to Public Health in Ireland and elsewhere.
- In response to this threat, the Irish Government introduced the Public Health (Alcohol) Act 2018, in an effort to reduce alcohol consumption.
- The WHO emphasizes the need for the enforcement of legislation to protect Public Health.
- Since its introduction, compliance with the Public Health (Alcohol) Act has increased considerably, but remains well below 90% of premises inspected.
- In the 2019 – 2023 period, there have been no prosecutions or convictions in Ireland for premises found in breach of the Act, despite hundreds failing inspections every year.

Abstract

Ireland's Public Health (Alcohol) Act 2018 has been heralded as a crucial step in alcohol control. However, the application of such legislation must necessarily involve recourse to the full means of enforcement and deterrence provided by the Act. This research, which is based on four Freedom of Information (FOI) Act requests, examined data on Environmental Health Service inspections and enforcement actions between 2019 and 2023, as they related to the 2018 Act. Although compliance rates have improved over time, they remain below 86% and appear to be plateauing. It is notable that in four full years of operation, no convictions for summary or indictable offences related to the Act were recorded, despite over 1900 inspections reporting non-compliance. More robust enforcement actions are appropriate to promote adherence to the Act. Authorized officers should ensure that all enforcement fully complies with the Act by publishing and maintaining a transparent register of actions taken.

Keywords: Addiction to alcohol, alcohol control, enforcement, Ireland, legislation

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Why be a wallflower when you can be a Venus fly trap? (Marina, 2021).

Introduction

Alcohol is a commercial determinant of health that represents a significant threat to the health and well-being of the global population (WHO, 2024a; 2024b; GBD 2019 Risk Factors Collaborators, 2020; GBD 2021 Risk Factors Collaborators, 2024). Ireland is no exception to the danger posed by alcohol, and a recent review of evidence of the negative impact of alcohol on Irish society makes this very clear (Doyle et al., 2024). The World Health Organization (WHO) has outlined a number of fiscal and non-fiscal-based effective and proven policies to combat the threats posed by non-communicable diseases globally. These are termed "Best Buys" by the WHO. The WHO's "Best Buys" in relation to alcohol can be seen in Table 1. It is notable that two of the three of these specifically highlight the issue not only of enactment of policy but also its enforcement.

A careful examination of the literature identified a dearth of prior analyses of alcohol control enforcement in Ireland. Further research noted that although such evaluation-based research is common in many other countries, particularly the United States (Scholz et al., 2023). However, although there

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Table 1.
WHO "Best Buys" in Relation to Alcohol

Alcohol Best Buys:
Increase excise taxes on alcoholic beverages.
Enact and enforce bans or comprehensive restrictions on exposure to alcohol advertising (across multiple types of media).
Enact and enforce restrictions on the physical availability of retailed alcohol (via reduced hours of sale).

is a relatively small body of alcohol control evaluation research that does focus on alcohol-serving premises (Rammohan et al., 2011; Erickson et al., 2014; Jeffs & Saunders, 1983), it is predominantly focused on drink-driving initiatives (Scholz et al., 2023; Fell, 2020; Fell et al., 2014).

Despite earlier ambivalence and missed opportunities in alcohol control (Houghton, 2010; 2012; 2013), Ireland passed groundbreaking legislation to try and address this threat (Murray, 2017). The Public Health (Alcohol) Act 2018—hereafter "the Act"—was signed into law on October 17, 2018 (Irish Statute Book, 2018). At an early stage in the legislative process, the Minister for Health, Leo Varadkar TD, described the Act as "the most far-reaching proposed by any Government, with alcohol being addressed for the first time as a public health measure" (Health Research Board, 2015; Lesch & McCambridge, 2021a; 2021b). Among the aims of the Act were to reduce the levels of alcohol consumption, reduce harms associated with the misuse of alcohol, and to delay children and young people from consuming alcohol (Healthy Ireland, 2021). For these aims to be achieved, the Act sought to provide for minimum unit pricing (per gram of alcohol), the labeling of alcohol products and notices in licensed premises, regulation of advertising and sponsorship, the structural separation of alcohol products in mixed trading premises, as well as the regulation of the sale and supply of alcohol products in particular circumstances.

The Act is divided into three parts and includes 31 sections. Section 1 provides for the phased commencement of the legislation, although it must be acknowledged that progress in rolling out the Act is taking longer than originally planned. Section 14 (prohibitions around advertising), Section 17 (prohibitions around the manufacturing or import of alcohol-branded children's wear), and Section 20 (restrictions around cinema advertising for under 18s) of the Act came into force on November 12, 2019. Section 22 (separation and visibility of alcohol products and alcohol advertisements) came into force on November 12, 2020. On January 11, 2021, Section 23 (prohibiting "happy hour" alcoholic drink price reductions and loyalty cards for alcohol) took effect. On November 12, 2021, Section 15 (prohibiting alcohol advertising at sports/children's events) and Section 16 (sponsorship of children's and motor racing events) took effect. Section 11, which provides for Minimum Unit Pricing (MUP)—€0.10 per gram of alcohol—commenced on January 4, 2022. It is therefore now approximately 5 years since the first elements of Ireland's Public Health (Alcohol) Act 2018 were commenced in response to the substantial harms caused by alcohol in this jurisdiction (Irish Statute Book, 2018).

Section 19 of the Act is scheduled to come into force on January 10, 2025. This section relates to advertising and will specifically introduce an alcohol advertising watershed on television and radio. Section 12 of the Act, which mandates the introduction of alcohol warning labels, will come into force on May 22, 2026. The Act has been widely heralded as a significant step in tackling alcohol-related harm (Murray, 2017); however, these claims will likely only be realized if all the measures are implemented and enforced as intended.

An increasing number of publications have highlighted potential weaknesses in the Act, as well as in its rate of implementation (Critchlow & Houghton, 2023; Houghton & O'Mahony, 2022; Houghton & McInerney, 2020a 2020b; Critchlow et al., 2023). This short report builds on current debates by highlighting a further factor that will challenge to what extent, if at all, the Act is successful in meeting its stated policy aims and the absence of any prosecutions under the legislation to date (Houghton, 2023). It must be acknowledged that there is a poor level of enforcement of public health-related legislation in Ireland. Evidence of this may be seen most obviously with tobacco control (Houghton et al., 2020), road traffic legislation (Department of Justice, 2016; Independent, 2017; Disclosures Tribunal, 2017a, 2017b, 2022), and environmental protections (Lynch et al., 2019). Recent evidence suggests that alcohol legislation enforcement in Ireland is hampered by both the complexity of the legislation and concerns over judicial enforcement (Purves et al., 2022). As such, soft mandates are seemingly preferred to prosecution.

This deficit in enforcement is problematic. The WHO is clear in its assessment that countries must enforce as well as enact public health legislation (WHO, 2022). The issue of enforcement is prominent in the WHO's (2024b) Global Alcohol Action Plan 2022 – 2030. Legal intervention in public health can take several forms (Gostin et al., 2016), several of which are evident in the Act. For instance, it attempts to alter the informational, built, and socio-economic environments around alcohol. These measures must be supported by appropriate and effective mechanisms of enforcement if it is to serve as a deterrent while also bringing about a normative shift for industry and consumers. However, the role of general deterrence around public health-related legislation in Ireland appears problematic on two grounds: first, based on limited enforcement as noted above, and secondly, concerning general public knowledge around enforcement and prosecution.

On the issue of public knowledge of enforcement, although inspections by Environmental Health Officers (EHOs) to ensure compliance with the Act began in 2020, there is currently no routine public reporting of outcomes of these assessments. This is despite Section 31 of the Act providing the Executive with the powers to publish an "alcohol non-compliance list" Irish Statue Book (2018). This contrasts with EHO enforcement of the Public Health (Tobacco) Act where, in cases of prosecution, the HSE lists the premises' name and address, alongside the section of the Act which was infringed, the date of the prosecution, and any fines or restrictions on sales (Health Services Executive, 2022). This lack of transparency in relation to alcohol also contrasts with other related agencies. For example, the Food Safety Authority of Ireland pioneered a "name and shame" approach for breaches in food safety regulations in Ireland, a practice covered extensively in the national media (Food Safety Authority of Ireland, 2001; The Irish Times, 2002; O'Regan, 2001). The Road Safety Authority has also reiterated its

intention to name and shame disqualified drivers caught driving (McCarthaigh, 2021; European Transport Safety Council, 2015).

The penalties for a breach of the Act are laid out in Table 2. The potential penalties are considerable, ranging up to 3 years' imprisonment or a fine up to €250,000.

One study has noted uneven compliance with the alcohol display rules in Section 22 of the Act (Law Society, 2021), while another has questioned the efficacy of monitoring and enforcement of the Act (Critchlow et al., 2023). Up to this point, however, there has been no examination of general enforcement of the 2018 Act in Ireland. This research, therefore, sought to explore levels of compliance with, and enforcement of, the Act. However, information on the outcomes of inspections or enforcement is not readily available. This analysis is, to the authors' knowledge, the first to systematically examine the enforcement of the Public Health (Alcohol) Act 2018.

The minimal level of transparent enforcement and oversight of the Act is perhaps unsurprising given the significant power of the alcohol industry in Ireland (Lesch & McCambridge, 2022; Butler et al., 2017; Hope, 2006; Hope & Butler, 2010). The substantial influence of the alcohol industry is at least partially revealed through an analysis of the volume of lobbying by the sector in the year leading up to the introduction of the Bill. Reports indicate that the alcohol industry met with Government officials 361 times over the year (O'Halloran, 2020). Given what is known from recent reports about under-reporting by senior Government officials (McCurry & Ni Aodha, 2022), and loopholes in the Regulation of Lobbying Act 2015 (Public Relations Institute of Ireland, 2018; Standards in Public Office Commission, 2020), the figure may be higher. Previous research has also demonstrated the litigious nature of health-harm industries in responding to public health policy, for example, challenging minimum unit pricing in Scotland, which may act as a further deterrent to enforcement (Hawkins & McCambridge, 2020; O'Brien et al., 2018).

Table 2.
Penalties Outlined in Ireland's Public Health (Alcohol) Act 2018

Penalties
8.(1) A person guilty of an offence under section 11 (6), 13 (3), 13 (10), 14 (2), 15 (4), 16 (1), 18 (4), 19 (3), 20 (1), 22 (4), 22 (7) or section 23 (4) shall be liable— (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 6 months, or both, or (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 3 years, or both.
8.(2) A person guilty of an offence under section 12 (1) or 12 (3) shall be liable— (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 6 months, or both, or (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 2 years, or both.
(3) A person guilty of an offence under section 12 (6), 12 (9), 17 (1), 25 (6), or 30 (9) shall be liable on summary conviction to a class A fine, or imprisonment for a term not exceeding 6 months, or both.

Material and Methods

The researchers adopted a Pragmatist research paradigm in conducting this research (Creswell, 2009; Ormerod, 2006). This approach has been used extensively in a range of health professions (Kaushik & Walsh, 2019; McCready, 2010), including Public Health (Padgett, 2012). In the absence of any current routine reporting on enforcement, four Freedom of Information (FOI) Act requests were submitted to the headquarters of Ireland's state health services, the Health Service Executive (HSE), relating to inspections, outcomes, and enforcement of the Act from 2019 to 2023. The information requested is detailed in Table 3. This request was in turn passed on to the HSE's Environmental Health Service, which released the required numerical data within the legislated time period of 1 month.

Ethical approval was not required for analysis of such anonymized, aggregate data accessed from a public agency. A limitation of this study is that more nuanced and specific data relating to various sections of the Act is not currently available.

Results

The annual number of EHO inspections and the outcomes of these are detailed in Table 4. The number of inspections averages approximately 2000 per year (2041.25), while non-compliance rates have reduced markedly from over 60% to under 15%.

However, despite such a welcome reduction in non-compliance rates, it remains notable that well over 300 premises were still found to be non-compliant with the Act ($n = 323$). As can be seen from Figure 1, the compliance rate is plateauing and may level out at below 90%.

Verbal warnings ceased in 2021, and instead EHOs are using Written Advice and Written Warnings. However, although there have been over 2500 instances of non-compliance noted at inspections ($n = 2631$), to date no prosecutions have been brought.

Table 3.
Data Requested Via Freedom of Information Act Requests for 2019 – 2023

Activity & Outcomes	Non-Legal Actions	Summary Offences	Indictable Offences
-Number of inspections completed -Number compliant -Number non-compliant	-Number of verbal warnings -Number of instances of written advice -Number of warning letters Issued	-No. of summary offences brought to court without securing a conviction -Class A fines issued -Prison terms given -Fines & prison terms Issued	-No. of summary offences brought to court without securing a conviction. -Class A fines Issued -Prison terms given -Fine & prison term issued

Table 4.
EHO Inspections & Enforcement Mechanisms 2019 – 2022

	2019[a]	2020	2021	2022	2023
Number of inspections completed	0	2297	1852	1784[d]	2232[e]
Compliant	0	39.9% (917)	68.8% (1316[b])	81.4% (1453)	85.5% (1909)
Non-compliant	0	60.1% (1380)	31.2% (597[b])	18.6% (331)	14.5% (323)
Non-legal action					
Verbal warnings	0	385	1338[c]	0	0
Written advice	0	904	567[c]	333	334
Warning letters	0	91	164[c]	76	68
Summary offences					
No. of summary offences brought to court without securing a conviction	0	0	0	0	0
Class A fine	0	0	0	0	0
Prison term	0	0	0	0	0
Fine & prison term	0	0	0	0	0
Indictable offences					
No. of indictable offences brought to court without securing a conviction	0	0	0	0	0
Fine	0	0	0	0	0
Prison term	0	0	0	0	0
Fine & prison term	0	0	0	0	0

Note: [a]The first sections of the Act to be enforced took effect in the last 6 weeks of 2019 (November 12, 2019).
[b]The difference in totals relates to advisory and no access visits.
[c]There can be multiple outcomes for one inspection.
[d]An additional 12 Advisory Inspections were conducted and would not be classed as compliant or non-compliant. These have been excluded in the calculation of compliance and non-compliance rates.
[e]An additional 18 Advisory Inspections were conducted and would not be classed as compliant or non-compliant. These have been excluded in the calculation of compliance and non-compliance rates.

Discussion

Alcohol remains a significant threat to health, both in Ireland and elsewhere (Doyle et al., 2024; WHO, 2024a; 2024b; GBD 2019 Risk Factors Collaborators, 2020; GBD 2021 Risk Factors Collaborators, 2024). The Irish Government has responded with legislative action in an attempt to reduce this threat via the Public Health (Alcohol) Act 2018. Elements of this Act have been in the process of being rolled out since 2019, with key elements forthcoming.

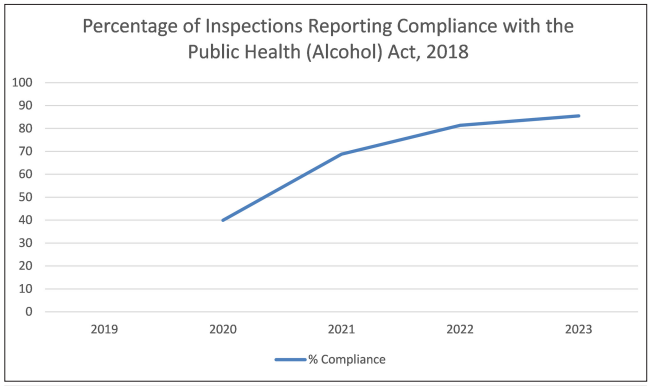

Figure 1. Plateauing of Compliance Rates.

For most of 2020, enforcement was restricted to the only sections in effect at that time: Section 14 prohibition on advertising in certain places, Section 17 children's clothing that promotes alcohol consumption or identifies an alcohol product, and Section 20 restriction of advertising in cinemas. On November 12, 2020, Section 22 on the separation and visibility of alcohol products and advertisements for alcohol products in specified licensed premises took effect. In 2021, the Public Health (Alcohol) Act 2018 (Sale and Supply of Alcohol Products) Regulations 2020 (S.I. No. 4 of 2020), made under Section 23 of the Act, took effect. On November 12, 2021, Section 15 restrictions on advertising during events and Section 16 regulation of sponsorship were implemented. This gradual roll-out must be taken into account when reviewing the figures above.

Table 3 also highlights three important trends. The first is the sub-optimal compliance rate that still remains in 2023 (85.5%), over 4 years since passing the Act. The second is the improvement in the rate of compliance, rising from just 39.9% of inspections in 2020 to 85.5% of inspections in 2023. The third is the absence of any convictions, or attempts at conviction, either summary or indictable offences across the entire 2019 – 2023 period. Given that 323 inspections in 2023 still reported non-compliance, this finding raises questions about the extent to which all means of enforcement stipulated in the Act are being drawn upon.

DiFranza et al. (2009) discuss the need for balance between resource input and outcomes achieved in enforcement. In the Irish context, this proposal requires careful consideration. Using the number of inspections as a proxy, totaling approximately 8000 between 2020 and 2023, it appears that considerable resources are being input, and yet compliance rates remain far below even a general baseline target level of 90% compliance. Such a figure has been adopted in cognate fields elsewhere (Health Services Executive, 2022). The level of inspections is positive given the challenging conditions which prevailed during the 2020 – 2021 period due to the COVID-19 pandemic. Moreover, it should be recognized that the EHOs were grappling with a new and challenging piece of legislation which is attempting to reshape a national relationship with alcohol (Purves et al., 2022). Research has also reported concerns over a potential lack of judicial prioritization of the seriousness of the issues contained in the Act (Purves et al., 2022). However, although the numbers indicate a lack of successful prosecutions up to this point, it must still be noted that the Courts are now a location for public health promotion in Ireland in the context of alcohol. This may be a change of mindset for many who closely associate the role of the District and Circuit Court with licensing laws. The Act therefore marks a new avenue for judicial scrutiny and, as the Act is commenced more fully, it opens further possibilities for enforcement.

Moving forward, there are four necessary steps to strengthen the Act to more effectively respond to the threat posed by alcohol in Ireland. First, while the work of Environmental Health Officers is reflected in increased compliance rates, there is scope to utilize more robust enforcement mechanisms. If the Act is to achieve its potential, then all available deterrents must be drawn upon which, in turn, will shift behavior to promote increased compliance. To do otherwise may leave retailers and other affected industries asking why they should bother complying with the Act at all.

Secondly, considering the level of non-compliance and that the Act was only recently introduced in 2019, and includes the COVID-19 pandemic, retailer knowledge about all elements of the Act and how to implement them in their own businesses may be inadequate. Previous research in Scotland, examining the implementation of minimum unit pricing and tobacco control policies, has demonstrated the importance of conducting research with retailers to understand their experiences of implementation and perceived challenges to the effectiveness of the legislation (Stead et al., 2022; Purves et al., 2019; Stead et al., 2018a, 2018b). Further educational measures may prove productive in more effectively implementing its aims.

Third, it is vital that premises found to have failed an inspection are publicly named. The Irish Medical Organisation (IMO) supports a "name-and-shame" strategy as a way of promoting retailer compliance on the basis of the risk of reputational damage (Irish Medical Organisation, 2015). Section 31 of the Act does make provision for the publication of an alcohol non-compliance list. However, this legislation only relates to instances when a fine or other penalty was imposed by a court under the Act, which our data suggest has not yet happened. It is interesting to note that, citing legislation in Scotland (Section 19 of the Tobacco and Primary Medical Services (Scotland) Act, 2010), the IMO also suggests consideration of an added dimension of a "name-and-shame" policy whereby a convicted retailer would be required to display a sign to this effect (Irish Medical Organisation, 2015).

Finally, further oversight of the enforcement, or lack thereof, of the legislation is required. Routine, granular data in the process from reported non-compliance through each stage up to and including attempted prosecution and actual convictions are required to explore alcohol control in-depth and improve accountability.

The safe and controlled sale of alcohol has never been so imperative in Ireland, given the recent announcement of extended alcohol sale hours and nightclub closing times (McQuinn, 2022). Given that these actions pose a threat to the objectives detailed in the Public Health (Alcohol) Act 2018, which aims to decrease alcohol consumption per person per annum, careful and strict measures must be enforced for the benefit and safeguarding of society.

The compliance rates with the Public Health (Alcohol) Act 2018 have improved considerably since it was introduced, even though they still fall substantially below 100%. In 2023, almost 15% of EHO inspections reported non-compliance. This rate remains unacceptably high. More robust enforcement is required, including a comprehensive name-and-shame approach covering all sections of the Act. The routine release of more detailed quarterly data on enforcement would facilitate a clearer understanding of the issues associated with non-enforcement. Further research will reveal if compliance rates improve, plateau, or decline.

Data Availability Statement: The data that support the findings of this study are available on request from the corresponding author.

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Informed Consent: N/A.

Peer-review: Externally peer-reviewed.

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