

Restricting Promotions of Foods High in Fat, Salt or Sugar (HFSS)

Partial Business and Regulatory Impact Assessment

Business and Regulatory Impact Assessment

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1. Title of Proposal

The Food (Promotion and Placement) (Scotland) Regulations

2. Purpose and Intended Effect

2.1 Background

As we set out in our [2018 Diet and Healthy Weight Delivery Plan](#), we want to create a Scotland where everyone eats well and has a healthy weight.

To protect public health, we need change that supports healthier eating and healthy weight. In our Delivery Plan, we outlined five key outcomes to help realise our vision:

1. Children have the best start in life – they eat well and have a healthy weight; this includes aiming to halve childhood obesity by 2030;
2. The food environment supports healthier choices;
3. People have access to effective weight management services;
4. Leaders across all sectors promote healthy diet and weight; and
5. Diet-related health inequalities are reduced.

As part of a wide range of action to improve diet and create a food environment that encourages healthier choices, restricting promotions of [less healthy food and drink at the point of purchase](#) seeks to reduce the purchase (and consumption) of food and drink that is high in fat, sugar or salt, given the public health harm associated with their overconsumption. We anticipate such action will help deliver outcomes 1, 2 and 5 of our Delivery Plan.

The policy to restrict food and drink promotions was initially cited in the [2017/18 Programme for Government](#) (PfG). The subsequent [2019/20 PfG](#) and [2021/22 PfG](#) built on this proposal with a commitment in the [2022/23 PfG](#) to legislate to make it easier for people to spend less and make healthier food choices. The [2023/24 PfG](#) reaffirmed our commitment to improve the health of the nation.

In May 2023 in a [statement](#) to the Scottish Parliament, the Minister for Public Health and Women's Health confirmed plans to consult on the detail of proposed regulations to restrict the promotion of less healthy food and drink where those are sold to the public, with a view to laying regulations before the Scottish Parliament subject to the outcome of the consultation.

2.2 Objective

The primary aim of this policy is to reduce the public health harms associated with the excess consumption of calories, fat, sugar and salt, including the risks of developing type 2 diabetes, various types of cancer and other conditions such as cardiovascular disease as part of wide-ranging suite of actions to support healthier diets and healthy weight. In this context the objective of this policy is to create a food environment that supports healthier choices. This will be delivered through regulations to restrict the promotions of HFSS foods¹ where they are sold to the public.

¹ Please note that we use the term “foods” to mean food or drink, excluding alcoholic drinks. Alcoholic drinks have little/no essential nutrients and those high in sugar could be considered to be within the category of ‘high in fat, sugar or salt’. However, alcohol has its own regulatory regime.

This policy will contribute towards the reduction of diet-related health inequalities, including in relation to socioeconomic disadvantage, and our aim to halve childhood obesity by 2030.

This is a devolved policy area. However, due to the inter-connected food environment in the UK, detailed consideration is being given to the potential for alignment with the rest of the UK where that is in Scotland's best interests to do so.

Policy landscape across the UK

UK Government

The UK Government put in place regulations to restrict the promotion of targeted HFSS foods by location and volume price in England in [The Food \(Promotion and Placement\) \(England\) Regulations 2021 \(SI 2021/1368\)](#). Restrictions include:

- volume price restrictions – such as a multi-buy promotion (including “3 for the price of 2”, “3 for £10”, or “buy 6 and save 25%” and a promotion that indicates that an item, or any part of an item, is free including “50% extra free”, or “buy one get one free”).
- locations restrictions - store entrances, aisle ends and checkouts when retail stores are over 185.8 square metres (m²) (or 2,000 square feet (sq ft)) and the equivalent key locations online
- business exemptions from location and volume restrictions for micro or small businesses (businesses with under 50 employees).
- Business exemptions from location restrictions for premises smaller than 2000 square feet.

On 14 May 2022, the UK Government announced a year's delay in restricting volume price promotions on foods and drinks high in fat, salt or sugar in England. This has since been delayed by a further two years until October 2025. Location restrictions came into force in England on 1 October 2022.

Welsh Government

The Welsh Government published its [Healthy Food Environment consultation](#) on 9 June 2022. The consultation closed on 1 September 2022 with an [update on healthy food environment legislation](#) announced on 27 June 2022. The statement confirmed:

- the intention to consider consistency with definitions set out within England's location and volume-based restrictions in retailers with over 50 staff members.
- that they are minded to include temporary price promotions and meal deals within scope of the policy.
- legislation to be brought forward in 2025 with implementation for both volume and price restriction by 2025.

2.3 Rationale for Government intervention

As set out in the Policy Prospectus², our vision is for a fairer Scotland with equality, opportunity and community at its heart. Focusing on transforming the food environment is more likely to help

² [Equality, opportunity, community: New leadership - A fresh start - gov.scot \(www.gov.scot\)](#)

improve diet and weight and be more effective in reducing health inequality than only encouraging individual behaviour change³.

The objectives of this policy support wider Scottish Government priorities, align with our vision for a Wellbeing Economy and are underpinned by our refreshed [National Outcomes](#) which describe the kind of Scotland we want to see. This includes:

“We are healthy and active”

One of the health indicators by which progress towards these outcomes is measured is healthy weight.

As a nation we have consistently not met our dietary goals since they were set in 1996⁴. These [goals](#) describe, in nutritional terms, the diet that will improve and support the health of the Scottish population. [Our diet](#) remains too high in calories, fat, sugar and salt which can have serious consequences for our health⁵.

In Scotland, high levels of overweight and obesity, as well as poor diet, cause and contribute to a number of health problems, including the risks of developing type 2 diabetes, various types of cancer and other conditions such as cardiovascular disease.

Obesity is defined by the World Health Organisation as a disease characterised by excess adiposity. It is a “chronic, relapsing disease resulting from complex interactions between a range of factors, including those that occur at a biological, commercial, social and political level”⁶. Obesity is classified as having a Body Mass Index (BMI) of 30 kg/m² or more.

Research has shown that more than 1 in 20 adult cancer cases are linked to excess weight in the UK making obesity possibly the second largest preventable cause of cancer⁷. Obesity, independently of diet, has also been linked to a range of health outcomes including type 2 diabetes, cardiovascular disease (CVD) and hypertension, in addition to cancer⁸.

The impacts of living with overweight or obesity can be profound, affecting people’s health and ability to lead happy and fulfilling lives. Cardiovascular and respiratory diseases, diabetes and kidney diseases have been highlighted by a Global Burden of Disease 2019⁹ study as key causes of death attributable to high body mass index. This study also showed that a high BMI is among the leading risk factors associated with disease or injury, accounting for 6.3% of disability-adjusted life years (DALYs) in 2019.

³ McGill et al (2015) [Are interventions to promote healthy eating equally effective for all? Systematic review of socioeconomic inequalities in impact](#)

⁴ [Scottish Dietary Goals, March 2016 \(gov.scot\)](#)

⁵ [The Scottish Diet - It needs to change 2020 update | Food Standards Scotland](#)

⁶ [World Obesity: Addressing weight stigma and misconceptions about obesity in Europe](#)

⁷ [Brown, K. F. et al. The fraction of cancer attributable to modifiable risk factors in England, Wales, Scotland, Northern Ireland, and the United Kingdom in 2015. Br. J. Cancer 118, 1130–1141 \(2018\). \(nature.com\)](#)

⁸ [Abdelaal M, le Roux, C and Docherty, N \(2017\). Morbidity and mortality associated with obesity. Annals of Translational Medicine; 5\(7\): 101: p.1 \(ncbi.nih.gov\).](#)

⁹ [Global burden of 87 risk factors in 204 countries and territories, 1990-2019: a systematic analysis for the Global Burden of Disease Study 2019 \(thelancet.com\)](#)

Children at risk of obesity can experience an increased risk of fractures, hypertension, type 2 diabetes, asthma, as well as negative psychological effects including lower wellbeing and self-esteem during the childhood years¹⁰.

The Scottish Health Survey¹¹ reported that 67% adults in Scotland were living with overweight (including obesity) in 2022. This is the same level as in 2021. This is similar to or marginally higher than rates in each year since 2008 (ranging from 64% to 67%). The proportions of adults in the healthy weight category decreased as area deprivation increased, from 39% in the least deprived areas to 28% in the most deprived areas. Furthermore, it reported that one third of children were at risk of overweight (including obesity). This was five percentage points higher than in 2021, and the highest level since 2011.

Regular overconsumption of HFSS foods is one of the key factors leading to weight gain and obesity¹². Presently the food environment heavily incentivises and promotes low-cost foods¹³ which contribute disproportionately to intakes of calories fat, saturated fat, sugar and salt¹⁴.

Evidence highlights that sales promotions are intended to encourage the impulsive purchases of products, or encourage purchases more often or in greater volumes than would take place without the presence of the promotion, and that sales promotions aim to increase the appeal and recall of a product to consumers¹⁵. According to Kantar data reported by Food Standards Scotland, in 2021 around 23.3% of take home volume of food and drink bought from shops (including supermarkets) was on price promotion. Also, “discretionary foods” (take home confectionery, biscuits, take home savouries, cakes, pastries and higher fats and sugar morning goods, total puddings and desserts, take home drinks and edible ices and ice cream) were more frequently purchased using “Y for £X” promotions than some healthier categories such as fruit, vegetables or bread.

Economic modelling based on purchasing data in Scotland from 2013 to 2018 has estimated that removal of price promotions such as temporary price reductions, multi-buy and “Y for £X”, on discretionary foods, has the potential to reduce calorie intake by 613 calories per person per week. The Scottish Government’s 2022 consultation¹⁶ sought views on targeting a wider set of categories than discretionary foods, with it being anticipated that the reduction of calories would be greater should more categories be included.

At both national and local level, the Scottish Government is taking many actions to improve diet and support people to be a healthy weight. Some actions promote education, knowledge and skills; however, many are different in approach in recognition that interventions that aim to

¹⁰ [Sahoo, K, Sahoo, B, Choudhury, AK, Sofi, NY, Kumar, R, Bhadoria, AS \(2015\). Childhood obesity: causes and consequences. J Family Med Prim Care. 2015 Apr-Jun; 4\(2\): 187–192](#)

¹¹ [The Scottish Health Survey 2022: summary report - gov.scot \(www.gov.scot\)](#)

¹² [Diet, nutrition and the prevention of excess weight gain and obesity - PubMed \(nih.gov\) \(2004\); Tackling obesities: future choices - mid-term review \(publishing.service.gov.uk\) \(2007\)](#)

¹³ Leigh Sparks and Steve Burt, University of Stirling for Food Standards Scotland, [Identifying and Understanding the Factors that can Transform the Retail Environment to Enable Healthier Purchasing by Consumers \(2017\) \(foodstandards.gov.scot\)](#)

¹⁴ [Consumption of discretionary foods and drinks and other categories of dietary concern in adults \(16+ years\) | Food Standards Scotland](#)

¹⁵ [Rapid Evidence Review - Restriction of Price Promotions \(healthscotland.scot\) \(2017\); Food marketing exposure and power and their associations with food-related attitudes, beliefs and behaviours: a narrative review \(who.int\) \(2022\)](#)

¹⁶ [Restricting promotions of food and drink high in fat, sugar or salt: consultation - gov.scot \(www.gov.scot\)](#)

increase individual knowledge or skills only, such as healthy eating campaigns, can increase inequalities¹⁷.

Actions include but are not limited to;

- [Nutritional standards](#) to support healthier food provision in schools,
- Core funding the four [Community Food Networks in Scotland](#), [free school meals](#),
- Information, advice and support for families through [Parent Club](#) and [Best Start Foods](#),
- Supporting small and medium sized businesses in Scotland to [reformulate](#) to make their products healthier,
- The provision of information on healthier eating through FSS's [Eat Well Your Way](#) resource,
- Improving availability of healthier food in local communities through the Scottish Grocers' Federation [Healthy Living Programme](#),
- Funding [Football Fans in Training](#), a programme that provides an opportunity for people to become "fitter, healthier, and happier".

There continues to be a significant level of engagement and work with industry to encourage voluntary action to support healthy eating. While this has resulted in some action, such as voluntary reformulation of some products, it has not been sufficient to deliver the scale and pace of change needed.

Food Standards Scotland states that "evidence on voluntary approaches overall is not good", specifically citing the "poor response from industry" to the Scottish Government's Supporting Healthy Choices framework.¹⁸

It is therefore considered that mandatory action to restrict the promotion of HFSS food and drink is proportionate and necessary given Scotland's continuing poor diet and, high levels of overweight and obesity.

3. Consultation

3.1 Within Government

Three governance groups were formed to allow for discussion of these policy proposals with government divisions and bodies, key non-government agencies and local authorities.

The Senior Governance Oversight Group met three times in 2022 to discuss proposals, with an earlier iteration of this group meeting in 2018/19. This group comprised membership from:

- Scottish Government Food and Drink
- Scottish Government Legal Directorate
- Scottish Government Health and Social Care Analysis
- Scottish Government Redress and Survivor Relations
- Food Standards Scotland
- Public Health Scotland

¹⁷ [McGill et al \(2015\) Are interventions to promote healthy eating equally effective for all? Systematic review of socioeconomic inequalities in impact. BMC Public Health. 2015 September 15; 15: 894](#)

¹⁸ [Food Standards update \(2016\) Diet and nutrition: proposals for setting the right direction of the Scottish diet](#)

Following the decision to take a more efficient route to deliver policy aims the group was stood down in June 2023 and replaced with a programme of regular engagement with relevant representatives from the membership.

The Financial and Delivery Considerations Group was established to:

- Help inform estimates of potential resource and costing implications
- Facilitate engagement between Scottish Government, Food Standards Scotland, local government and enforcement professionals to support effective enforcement of the policy.

The Group met virtually 5 times during 2022 / 23 and most recently on 22 November 2023. In addition, business was transacted via email.

In addition to those represented through these formal groups, Scottish Government officials have had direct contact and discussion with the following divisions and agencies to inform the development of this policy:

- Scottish Government Children and Families
- Scottish Government Economy
- Scottish Government Wellbeing Economy
- Scottish Government Child Poverty and Social Justice
- Scottish Government Education
- UK Government – Department of Health and Social Care
- Welsh Government – Healthy and Active Branch

Evidence Groups

- **A Research Advisory Group** was established to consider the evidence base and provide critique and support in understanding the evidence around diet, weight and food promotions.
- **A Monitoring and Review Project Group** was established to explore and consider the feasibility of implementing a range of studies to enable monitoring and review of any HFSS promotions regulations laid. This includes consideration of studies to set a baseline against which to assess progress and impact.

Both groups bring together economic and analytical advisers across Public Health Scotland, Food Standards Scotland and Scottish Government with policy officials and additional input from academics.

3.2 Public Consultations

The Scottish Government has taken forward robust consultation on proposals to restrict the promotion of targeted HFSS food and drink. Public consultation has taken place in 2017, 2018 and 2022. Consultation responses have been central to further developing the policy and are summarised below.

2017

The consultation paper titled 'A healthier future – action and ambitions on diet, activity, and healthy weight'¹⁹ was published in October 2017. In this consultation the Scottish Government sought views on proposal to take forward measures to restrict the promotion of HFSS food. An analysis of the consultation responses was published in April 2018.²⁰ This consultation informed initial considerations of policy proposals.

The consultation received 362 responses comprising approximately equal numbers of responses from individuals (179) and organisations (183). Three-quarters (74%) of the organisational responses came from public health, public sector and third sector organisations. One-fifth (20%) came from private sector and business organisations. The remaining 6% included private sector weight management organisations and regulatory bodies. In addition, four organisations (the Scottish Youth Parliament, Young Scot, Food Standards Scotland and the Scottish Public Health Network) carried out separate engagement exercises. These sessions were carried out with specific groups of interest, e.g. young people, and as part of the wider consultation to the strategy.

Industry respondents generally opposed the proposals and expressed concern about their potential for negative impact on industry and consumer choice. In particular they (i) opposed restrictions on price promotions of products high in fat, sugar and salt, (ii) opposed any extension of the (UK-wide) restrictions on broadcast and non-broadcast advertising, (iii) saw significant practical complications and competitive disadvantages for industry if arrangements diverged from those in the rest of the UK, and (iv) thought the proposals would have negative impacts on food producers, retailers and consumers. This group wanted improved consumer education, rather than legislative action.

2018

A more detailed consultation paper was published in October 2018, titled 'Reducing health harms of foods high in fat, sugar or salt'.²¹ The foods consulted on were HFSS that also have little to no nutritional benefit ("discretionary foods"²²). It was noted that the intention was to restrict promotion and marketing at any place where targeted foods are sold to the public in the course of business, including possibly online. Analysis of the consultation responses was published in September 2019.²³

Of the 726 responses analysed, 632 were from individuals (87%) and 94 were from organisations (13%) – comprising 55 (59%) from non-industry organisations (public sector, third sector and other) and 39 (41%) from industry organisations (manufacturers, industry representative bodies, retailers and Out of Home sector).

Across the consultation, distinct viewpoints emerged by respondent type. Many respondents from industry either disagreed with the approach or did not indicate a specific view but raised concerns and suggested alternative approaches.

¹⁹ Scottish Government, October 2017 [A healthier future - action and ambitions on diet, activity, and healthy weight: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/healthierfuture/consultation-2017-10-20/pdfs/consultation-2017-10-20.pdf)

²⁰ Scottish Government, April 2018 [A Healthier Future: analysis of consultation responses - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/healthierfuture/analysis-2018-04-18/pdfs/analysis-2018-04-18.pdf)

²¹ Scottish Government, October 2018 [Reducing health harms of foods high in fat, sugar or salt: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/reducinghealthharms/consultation-2018-10-20/pdfs/consultation-2018-10-20.pdf)

²² Discretionary foods are those that provide little or no nutritional benefit and are not necessary for a healthy diet. Examples include confectionary, crisps, pastries, cakes, sweet biscuits and soft drinks with added sugar.

²³ Scottish Government, September 2019 [Reducing health harms of foods high in fat, sugar, or salt: consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/reducinghealthharms/analysis-2019-09-19/pdfs/analysis-2019-09-19.pdf)

In effect, support for the specific proposals, where they were restrictive, was low and, where they were not restrictive or allowed exemptions, was higher. Key concerns from industry organisation respondents included: (i) the potential negative impact on businesses generally and specifically on smaller and specialist businesses that may be disproportionately disadvantaged; (ii) concern about conflict with and the undermining of a number of existing approaches and requirements (such as reformulation), and (iii) a view that other approaches to better inform customers of the contents of HFSS foods and guide them towards healthier choices might be more effective than the proposed restrictions.

2022

In 2022 we consulted to inform further development and impact assessment of the policy to restrict HFSS promotions. This provided an opportunity to take account of developments since the 2018/19 consultation, including EU exit, COVID, the cost of living crisis and the introduction of equivalent promotions regulation in England. The consultation received 110 responses. Of these, 38 were from individuals (35%) and 72 were from organisations (65%). Organisation responses comprised of 41 (57%) from industry (industry representative bodies, manufacturers, retailers and out of home providers) and 31 (43%) from non-industry (public sector, third sector and 'other').

Consultation analysis was published on 30 May 2022²⁴. An overview of consultation responses is provided below:

Typically, industry responses in the most part mirrored and reinforced feedback to previous consultations:

- Industry respondents were supportive of some aspects of the approach but typically to a lesser degree than non-industry respondents. Generally, where support existed among industry respondents it related either to preferring alignment with the UK Government regulations for restrictions in England or to attaining fairness across businesses.
- There were some aspects of the approach that industry respondents disagreed with, typically due to a view that there is insufficient evidence to justify them, or that they would create disadvantages for certain types of businesses (such as smaller companies) or that they would not align with the approach being adopted in England.

Further consultation in 2024

In line with a statutory requirement to consult on the detail of changes to food law (Article 9 of the General Food Law Regulation (Regulation (EC) No 178/2002)) a further consultation on the detail of proposed regulations was published on 27 February 2024 and will run for 12 weeks until 21 May 2024. This partial BRIA has been published alongside the consultation to allow for comment on the business and regulatory impact of proposals for regulations.

²⁴ [Restricting promotions of food and drink high in fat, sugar, or salt: consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/food-drink-high-fat-sugar-salt/consultation-analysis/)

3.3 Business

In line with the principles of the New Deal for Business, engagement has been ongoing and will continue with business throughout the development of this policy. Engagement has spanned manufacturers, retailers, wholesalers and has included individual as well as umbrella organisations, including Scottish Retail Consortium, Food and Drink Federation Scotland, Scottish Wholesale Association, Scotland Food and Drink, Scottish Grocers Federation, Association of Convenience Stores.

We are also engaging the independent Regulatory Review Group (RRG) as the main forum for the early identification and mitigation of implementation challenges associated with regulations. The RRG was reinstated in response to a key recommendation within the [New Deal for Business Group Report](#).

An inclusive approach to engagement has been undertaken to ensure a wide range of views have been sought through the consultation process. This has included public consultation (as covered in section 3.2 above), roundtable events, BRIA survey and an open invitation to business to contact the policy team to discuss proposals on a one-to-one basis.

Roundtable sessions

In autumn 2022 sessions took place with members of the following industry representative groups, with attendance ranging from 8-15 businesses at each session:

- Scottish Retail Consortium (SRC): food retail including (but not limited to) representatives from SRC, Asda, Co-op, Marks and Spencer, Pret a Manger;
- Food and Drink Federation Scotland (FDFS): food manufacturers including (but not limited to) representatives from FDFS, Ferrero, Nestle, Suntory Beverage & Food Great Britain & Ireland, UK Potato Processor's Association, Mondelez;
- Scottish Grocers Federation (SGF): convenience retail including (but not limited to) representatives from SGF, J W Filshill, EROS Retail, Lothian Stores, United Wholesale (Scotland) Ltd, Bestway, Scotmid, as well as participation from owner/operators of individual convenience stores.

The above sessions allowed for discussion on all aspects of the Scottish Government's proposed approach for restricting promotion of HFSS as set out in the 2022 consultation document. A key theme from industry was that there should be as great a level of alignment with UK Government regulations for England as possible to minimise costs for business. In the main discussions reiterated and supported responses received to the consultation, as reflected in the consultation analysis summarised at Section 3.2 and published on 30 May 2023.

In addition to the above, the Minister for Public Health & Women's Health and senior Scottish Government officials chaired a series of roundtable discussions in 2023. Building on previous engagement these events allowed for further focused discussion on areas of the policy which generated significant feedback from stakeholders, specifically meal deals, temporary price reduction and business exemptions. The events are detailed below:

- 16 November 2023 – Public Health Stakeholders including NCD Alliance Scotland, Cancer Research UK, Food Standards Scotland and Public Health Scotland.
- 04 December 2023 – Manufacturing, Wholesale and Industry Stakeholders including Scottish Wholesalers Association, Scotland Food and Drink and Food and Drink Federations Scotland.
- 08 December 2023 – Retail Stakeholders including SRC, SGF, Association of Convenience Stores (ACS).

The views of stakeholders in the three sets of roundtables have been considered in the development of the consultation document. Public Health Stakeholder views are summarised at Section 8. Business stakeholder views are summarised below:

Meal Deals

Business Stakeholders

- suggested The Good Food Nation initiative as a comprehensive strategy to follow instead of implementing restrictions.
- raised concern about the logistical challenges of targeting specific components within meal deals (i.e. targeting pre-packed foods), and the potential for increased cost to be passed on to the consumer.
- raised concern that restrictive measures could displace healthier options.
- suggested focusing on promoting healthier combinations within meal deals to address childhood obesity trends, rather than banning them outright.
- raised concerns around potential challenges in consistent implementation across industry, an unlevel playing field compared to the hospitality sector, and possible disadvantages for smaller businesses who are unable to provide the same value to customers.
- suggested that meal deals should be seen less as a cause of overconsumption but as being affordable and convenient while providing choices to consumers, including healthy options.
- argued that evening meal deals are often portion controlled, and are likely to be lower in calories than less healthy takeaways.

Temporary Price Reductions (TPRs)

Business Stakeholders

- emphasized the significance of TPRs for driving sales and supporting Scottish produce. There was a unanimous view that restricting TPRs would significantly impact businesses.
- raised concerns regarding increased costs for the consumer and potential differences in prices between Scotland and the UK.
- voiced the need for a clear understanding of affected categories and which version of the Nutrition Profiling Model (NPM) would be used as a guide.
- strongly opposed restrictions on TPRs, and argued they are important competitive tools that differentiate stores and provide value to customers, especially with recent inflation.
- TPRs are not solely aimed at promoting High Fat, Sugar, and Salt (HFSS) foods but are used across a range of goods and aid in managing stock, reducing waste, and responding to shifting consumer demands.
- TPRs are available UK-wide regardless of size or location. Restriction of these may disproportionately impact stores in rural communities and result in increased costs for consumers.
- implementing and enforcing restrictions on TPRs pose significant challenges due to their temporary nature and diverse product range.
- TPRs are often used to promote local, Scottish SMEs produce and support their competition with larger brands.
- raised concerns around how TPRs would be implemented and the scrutiny process for secondary legislation
- questioned the evidence base and the appropriateness of restricting TPRs during a cost of living crisis.

Business Exemptions

Business Stakeholders

- exempting smaller stores, especially in areas of multiple deprivation, could drive up health inequalities.
- raised questions about unsuccessful previous initiatives, emphasising the need for collaborative efforts and evidence-based decision-making.
- specialist stores, for example chocolatiers, should be permitted to sell chocolate (which would likely be subject to restriction) at front of store as it is the good they are in the market to sell.
- the definition of a convenience store differs to England's. There was a call for the convenience store threshold to be increased from 2000sqft to 3000sqft.
- Symbol Groups are different to franchises due to their independent ownership, and should not be treated as a franchise for convenience stores. Noting the importance of distinguishing between types of businesses, such as symbol groups and franchises, and clearly defining micro and small businesses.
- any restrictions for small businesses should align with ongoing Scottish Government initiatives related to alcohol policies and deposit return schemes to ensure coherence across policies.
- guidance on restrictions needs to be timely, inclusive of business input, and avoid complexity in implementation, learning from previous delays in England's approach

A note of these focused roundtable sessions will be published in due course.

BRIA survey

In September 2022 a BRIA survey was issued to 50 businesses including business organisations who had expressed an interest in the proposals, either through engagement in roundtable sessions or in consultation response. A total of 10 responses were received, split by 5 industry representative body, 3 manufacturers and 2 retailers.

Business response to proposals has in the main remained consistent. A summary of responses to the BRIA survey is provided below:

- Alignment with the UK Government regulations would reduce the impact on business.
- The business impact of proposals would depend on the categories of products within the scope of the restrictions.
- Targeting less healthy meal deals was not supported by respondents with questions raised around the evidence base.
- TPRs were noted as the most utilised promotion used by respondents with some respondents considering that targeting TPRs would leave convenience stores at competitive disadvantages to larger stores. It was the view of respondents that TPRs are designed to offer and deliver value for customers purchases rather than to encourage volume purchase.
- In terms of location restrictions respondents reported that store re-design would be required in most stores to achieve compliance and optimise space. Significant costs to reformat stores was a reported concern for respondents.

Individual meetings

In response to the Scottish Government's open invitation for individual meetings, one-to-one meetings on the potential impacts of HFSS proposals took place between Scottish Government officials and the following business organisations and businesses:

- Scottish Wholesale Association
- Association of Convenience Stores (ACS)
- Scotland Food and Drink
- Marks & Spencer
- Pepsi Co Ltd
- Mondelez
- Scottish Grocers Federation

Similar to the roundtable events detailed at Section 3.3, individual meetings allowed for discussion on all aspects of the Scottish Government's proposed approach for restricting promotion of HFSS as set out in the 2022 consultation document. Across engagement with business at all levels was the preference for as great a level of alignment with UK Government regulations as possible to minimise costs for business. Businesses were keen to share learning from their experience with UK Government regulations including the importance of timely and clear guidance for industry to support implementation giving consideration to all businesses that would be within scope.

4. Options

Options Developed

To develop the options under consideration, we characterise the policy along three dimensions:

- What food products
- What forms of promotion
- Places that would be subject to restrictions.

The four options under consideration are summarised below. In all options, we envisage the following sectors being directly affected: retailers, out of home, manufacturers, and local government through enforcement costs.

Option 1 – do nothing

In this scenario, there are no new regulations on the promotion of HFSS foods which would be brought into force. We therefore assume no impact on current population weight trajectories. The current costs of overweight and obesity are therefore borne for the duration of the modelled period.

We compare all other options to this option – i.e. the results of the costs and benefits of the other options are the difference between that option and the ‘do nothing’ baseline. Over the modelling horizon, government could choose to pursue other policies that complement or mediate the effects of policies considered here. Industry may also implement restrictions voluntarily in the absence of regulations, particularly if there are restrictions in place in other areas of the UK and businesses operating across the UK align their promotional activity and practices. We do not attempt to quantify these impacts.

Option 2 – Price (volume, e.g. multi-buy) and location restrictions for discretionary foods and ice cream and dairy desserts, no exemptions

Products where the restrictions apply will be defined by:

- Checking if a product matches the Food Standards Scotland definition²⁵ of a discretionary food
- Then applying a Nutrient Profile Model
- Products that are discretionary AND fail the NPM would be in scope for the proposed restrictions.

The restrictions would apply to: retailers and the out of home sector (which includes cafes, restaurants, bars etc.). There would be no exemptions based on size of business.

In this option, we consider the restriction of location promotions and also volume price promotions “i.e. multi-buy”. “Multi-buys” are defined here as (a) two or more separate products sold together to obtain a discount or (b) one or more products given free as a result of a purchase²⁶. The restriction of wider price promotions (i.e. Temporary Price Reductions, meal deals etc) is not included.

Option 3 (a, b, c) – price (volume, e.g. multi-buy excluding meal deals and TPRs) and location promotion restrictions for discretionary foods and ice cream and dairy desserts and additional

²⁵ [Briefing paper on Discretionary foods \(foodstandards.gov.scot\)](https://www.foodstandards.gov.scot)

²⁶ [Reducing Health Harms of Foods High in Fat, Sugar or Salt: Consultation Paper \(www.gov.scot\)](https://www.gov.scot)

foods, exemptions for micro and small businesses for all restrictions or location restrictions, considered alongside no exemptions.

Option 3(a) This option uses the same set of restrictions as Option 2, but expands the targeted food products beyond the discretionary classification to include categories of most concern to childhood obesity which also fail an NPM test. (This would be broadly in line with the regulations in England.)

Additionally we consider the effects of exempting micro and small businesses from all the restrictions (Option 3(b)), and also from exempting them only from the location restrictions (Option 3(c)). Micro and Small businesses are defined as those employing fewer than 50 people at the enterprise level.

Option 4 (a, b and c) – price (all price promotions – volume, e.g. multi-buy including meal deals and Temporary Price Reductions) and location promotion restrictions for discretionary and ice cream and dairy desserts and additional foods, exemptions for micro and small businesses for all restrictions or location restrictions only, considered alongside no exemptions.

The set of products within scope is the same as in Option 3(a), however restrictions are expanded to include all price promotions beyond volume multi-buy offers including meal deals and Temporary Price Reductions.

Exemptions for micro and small businesses for all restrictions (Option 4(c)), or location restrictions only (Option 4(b)), are considered alongside no exemptions for any promotion (Option 4(a)).

Sectors and Groups Affected

To understand the impact of the policy propositions on the economy, we develop different calculations for each sector affected. To define the impacts on private sector businesses, we make use of the Scottish Business Survey and Standard Industrial Classification (SIC) codes at the 5-digit level. This section presents background data for the sectoral impacts presented in section 12. The primary impacts of the policy proposals are on subsets of the following sectors: Retailers (SIC 47); the Out of Home sector (SIC 56); and Manufacturers (SIC 10).

We also include the impacts on health (direct health benefits to individuals, impacts on NHS and Social Care costs); and government (costs of enforcement).

The following sections outline the scope of the sectors affected. Throughout, we make reference to enterprise and unit level. Enterprises are the number of businesses operating in a sector, and units are the number of premises operated by enterprises, i.e. individual stores.

Retail Sector

We assume that the following retailer enterprise types will fall within the scope of the restrictions, based on their Standard Industry Classification 5-digit code – Table 1. We assume that other than exemptions by size, the same businesses would be in scope irrespective of the products targeted or types of restrictions imposed.

Table 1: Retailers within scope of restrictions by 5 digit SIC code

| |
|--|
| Food and Drink Retail |
| 47110 : Retail sale in non-specialised stores with food, beverages or tobacco predominating |
| 47210 : Retail sale of fruit and vegetables in specialised stores |
| 47220 : Retail sale of meat and meat products in specialised stores |
| 47230 : Retail sale of fish, crustaceans and molluscs in specialised stores |
| 47240 : Retail sale of bread, cakes, flour confectionery and sugar confectionery in specialised stores |
| 47250 : Retail sale of beverages in specialised stores |
| 47290 : Other retail sale of food in specialised stores |
| 47810 : Retail sale via stalls and markets of food, beverages and tobacco products |
| Non-food retailers |
| 47190 : Other retail sale in non-specialised stores |
| 47300 : Retail sale of automotive fuel in specialised stores |
| 47620 : Retail sale of newspapers and stationery in specialised stores |

Table 2 summarises the number of enterprises, by number of employees, from the Inter Departmental Business Register²⁷ in these categories. Based on this we estimate that 5,670 Scottish retail sector businesses will be affected by this policy. There are 4,730 food-related enterprises and 940 non-food enterprises that will also be in-scope due to selling low volume of food items as part of their business. It should be noted that each business which operates under a franchise agreement as part of symbol group would still count as an individual businesses in these statistics.

Table 2: Number of registered retail private sector businesses in Scotland by sector, division, employee sizeband (by total number of employees in UK), 2022

| Description | Business Size | | | | Total Businesses |
|------------------------|---------------|---------------|-----------------|--------------|------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 4,195 | 475 | 35 | 25 | 4,730 |
| Non-food retailers | 790 | 100 | 15 | 30 | 940 |
| Retailers total | 4,985 | 575 | 50 | 55 | 5,670 |

The costs to businesses of these restrictions will fall at both the enterprise level (the business) and the unit level (individual stores). Table 3 presents the number of units in scope for the policy based on the number of employees at each local unit. 9,310 local units are expected to be in scope for this policy. There are 7,230 food-related units, and 2,080 non-food units in scope.

Table 3: Number of retail business sites of registered private sector businesses in Scotland by number of employees at the local unit, 2022

| Description | Number of business sites in Scotland (split by number of employees at business site) | | | | Total number of business sites |
|------------------------|--|---------------|-----------------|--------------|--------------------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 5,085 | 1,820 | 255 | 70 | 7,230 |
| Non-food retailers | 1,350 | 655 | 65 | 5 | 2,080 |
| Retailers total | 6,435 | 2,475 | 320 | 75 | 9,310 |

²⁷ IBDR extract provided by Scottish Government business statistics team

The number of units for businesses of different sizes is presented in Table 4. This highlights that while there are only a small number of large businesses, those large businesses have a significant number of different units (i.e. individual stores) across their business. This is important when considering potential exemptions from restrictions if these are applied at the enterprise level rather than individual unit level.

Table 4: Number of retail business sites of registered private sector businesses in Scotland by number of employees in business in UK, 2022

| Description | Number of business sites in Scotland (split by number of employees in businesses in UK) | | | | Total number of business sites |
|------------------------|--|------------------|--------------------|-----------------|--------------------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 4,230 | 655 | 240 | 2,110 | 7,230 |
| Non-food retailers | 800 | 145 | 80 | 1,050 | 2,080 |
| Retailers total | 5,030 | 800 | 320 | 3,160 | 9,310 |

Take home grocery sales

The proposed policy measures will have an impact on retailers' sales and therefore profits. To calculate these impacts, we use data from Kantar that estimated the total value of take-home grocery purchases in Scotland at £10.5 billion in 2022²⁸.

Products in-scope for the proposed policy differ across the options. Option 2 includes discretionary foods and ice cream and dairy desserts (Option 2 in the public consultation), while options 3 and 4 include categories that are of most concern to childhood obesity, which is discretionary foods, ice cream and dairy desserts, breakfast cereals, sweetened yoghurt and fromage frais, pizza, ready meals, and roast potatoes, chips and similar potato products (Option 3 in the public consultation).

Analysis provided by FSS shows that, by value, discretionary products and ice cream and dairy desserts make up 21.2% of Scottish consumers' purchases, and including additional products in scope brings the total share of spending to 29.8%²⁹.

²⁸ Sourced from report in preparation from Food Standards Scotland

²⁹ Food Standards Scotland, Analysis of data from Kantar Worldpanel, Purchase Panel, Scotland 2022 (report in preparation)

Table 5: Discretionary and ice cream and dairy desserts (*) and additional food product shares, Scotland 2022, Kantar provided by FSS (report in preparation)

| Category | Proportion of total grocery spend (%) |
|---|---------------------------------------|
| Sweet biscuits* | 2.2 |
| Total confectionery* | 4.8 |
| Cakes and pastries + higher fat/sugar morning goods* | 3 |
| Crisps and savoury snacks* | 2.9 |
| Puddings and desserts* | 1.2 |
| Ice cream and edible ices (excl. frozen dairy desserts)* | 1.1 |
| Regular soft drinks (excl. water)* | 6 |
| Discretionary and ice cream and dairy desserts sub-total | 21.2 |
| | |
| Breakfast cereals | 1.4 |
| Total ready meals | 3.6 |
| Yoghurt and fromage frais | 1.5 |
| Pizza | 1.2 |
| Roast and processed potatoes | 0.9 |
| Additional products sub-total | 8.6 |
| | |
| Total | 29.8 |

Table 5 summarises this by food category, where categories annotated with an * are classed as discretionary products and ice cream and dairy desserts.

Out of Home Sector

The policy proposals apply to food sold in the course of a business. This includes the out-of-home sector (OoH). Following the approach to retailers, we summarise these businesses using the Standard Industry Classification system ONS codes, used to classify business establishments by the type of economic activity in which they're engaged. Table 6 shows the businesses we assume are in scope of the policy (irrespective of foods or restrictions in scope).

Table 6: OoH within scope of restrictions by 5 digit SIC code

| |
|---|
| Accommodation |
| 55100 : Hotels and similar accommodation |
| Food and drink services |
| 56102 : Unlicensed restaurants and cafes |
| 56103 : Take away food shops and mobile food stands |
| 56210 : Event catering activities |
| 56290 : Other food service activities |
| 56302 : Public houses and bars |
| 56101 : Licensed restaurants |

There are 13,120 OoH enterprises in scope in the sector, maintaining 15,990 units. The set of enterprises (Table 7) and units (Table 8), by employment in UK in enterprise and individual unit respectively are presented below.

Table 7: Number of registered OoH private sector businesses in Scotland by sector, division, employee sizeband (by total number of employees in UK), 2022

| Description | Business size | | | | Total businesses |
|--------------------------|---------------|---------------|-----------------|--------------|------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Accommodation | 845 | 615 | 135 | 45 | 1,645 |
| Food and drink services | 9,030 | 2,240 | 115 | 90 | 11,475 |
| Out-of-Home total | 9,875 | 2,855 | 250 | 135 | 13,120 |

Table 8: Number of OoH business sites of registered private sector businesses in Scotland by number of employees at the local unit, 2022

| Description | Number of business sites in Scotland (split by number of employees at business site) | | | | Total number of business sites |
|--------------------------|--|---------------|-----------------|--------------|--------------------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Accommodation | 885 | 900 | 185 | 5 | 1,980 |
| Food and drink services | 10,135 | 3,620 | 245 | 5 | 14,010 |
| Out-of-Home total | 11,020 | 4,520 | 430 | 10 | 15,990 |

As with retailers, the number of local units for different size enterprises (employees across UK) is shown in Table 9.

Table 9: Number of OoH business sites of registered private sector businesses in Scotland by number of employees in UK in business, 2022

| Description | Number of business sites in Scotland (split by number of employees in businesses in UK) | | | | Total number of business sites |
|--------------------------|---|---------------|-----------------|--------------|--------------------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Accommodation | 850 | 650 | 205 | 275 | 1,980 |
| Food and drink services | 9,045 | 2,490 | 365 | 2,105 | 14,010 |
| Out-of-Home total | 9,895 | 3,140 | 570 | 2,380 | 15,990 |

Manufacturers

We also model the impact of the policy on manufacturers in Scotland. We anticipate that the proposed restrictions will lead to a net reduction in sales of food, with the fall in sales of restricted foods being larger than the compensatory increase in sales of non-HFSS foods. This reduction will feed back to manufacturers.

There is limited evidence of the impact of the UK Government restrictions on location promotions of HFSS foods in England given the relatively short time since their introduction in October 2022. However, early descriptive analysis from Kantar following the first six months of restrictions being in place in England noted apparent changes in consumer behaviour in the categories impacted by the legislation. For instance, in the 12 weeks to 19 March 2023, they observed a movement of £82 million away from HFSS products within the legislation categories, with £34.4 million of

this moving to healthier non-HFSS alternatives. However, no assessment was provided on the impact on total food and drink expenditure.³⁰

Again following the structure above, we use Standard Industry Classification codes to define the manufacturers in scope that are likely to be most affected by the policy proposals.

Table 10: Manufacturers number of Enterprises, Scotland 2023³¹

| Industry | Total | Micro (0 - 9) | Small (10 - 49) | Medium (50 - 249) | Large (250+) |
|--|------------|------------------|--------------------|----------------------|-----------------|
| 10520 : Manufacture of ice cream | 30 | 15 | 10 | 0 | 0 |
| 10821 : Manufacture of cocoa, and chocolate confectionery | 30 | 20 | 10 | 0 | 0 |
| 10822 : Manufacture of sugar confectionery | 20 | 5 | 10 | 5 | 0 |
| 10310 : Processing and preserving of potatoes | 5 | 0 | 0 | 0 | 0 |
| 10612 : Manufacture of breakfast cereals and cereals-based foods | 5 | 5 | 0 | 0 | 0 |
| 10720 : Manufacture of rusks and biscuits; manufacture of preserved pastry goods and cakes | 35 | 20 | 10 | 10 | 0 |
| 10850 : Manufacture of prepared meals and dishes | 25 | 20 | 5 | 0 | 0 |
| 10519 : Manufacture of milk products (other than liquid milk and cream, butter, cheese) | 10 | 10 | 0 | 0 | 0 |
| 10710 : Manufacture of bread; manufacture of fresh pastry goods and cakes | 260 | 170 | 70 | 15 | 5 |
| 11070 : Manufacture of soft drinks; production of mineral waters and other bottled waters | 30 | 25 | 5 | 0 | 0 |
| Manufacturers in scope | 450 | 290 | 120 | 30 | 5 |

Local government

To enforce the policy, there are direct costs to Scotland's 32 local authorities in terms of familiarising their staff with regulations, and in terms of using time during visits to businesses to establish whether regulations are being followed. To help inform estimates and costing implications for local authorities we have been working with the Financial and Delivery Considerations Group to facilitate engagement between Scottish Government, Food Standards Scotland, local government and enforcement professionals to support effective enforcement of the policy.

Health

The policy is intended to reduce the number of calories consumed via HFSS products, as well as shifting the nutritional content of diets towards healthier products.

This will have direct health benefits to individuals, and reduce spending in the NHS and Social Care sectors by reducing the likelihood of individuals developing obesity and other diet-related health conditions. While the transition costs to businesses and the expected reduction in sales of

³⁰ [Weighing the impact of HFSS laws \(kantarc.com\)](#)

³¹ Extracted from [Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](#) on 30 November 2023

HFSS foods as a result of restricting promotions will be immediate, the health benefits from reduced calorie intake and improved nutritional intake will take longer to feed through into reduced disease prevalence, and therefore the economic and social benefits associated with the policy. As such, the costs and benefits are considered over a 25 year policy period to allow time for the beneficial impacts to materialise. The further into the future a benefit arises the less weight it carries in the overall estimation of the Net Present Value due to the discounting of costs and benefits by 3.5% each year into the future.

There will also be an improvement in economic productivity due to reduced absence, arising from these health improvements.

Affected Employees

We make a number of assumptions about how businesses will respond to the policies. In particular we estimate the one-off costs transition costs of familiarisation and implementation by using illustrative costs of different workers' time. We use data from Annual Survey of Hours and Earnings³², taking the average (mean) 2022 wage cost to estimate the resource costs after the addition of non-labour employment costs (assumed as a 30% increase over wage costs). The job definitions, and hourly wages, are summarised in Table 11.

Table 11: Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2022³³

| Year | Region | Description | Code | Median pay | Mean pay |
|------|--------|--|------|------------|----------|
| 2022 | UK | Shopkeepers and proprietors – wholesale and retail | 7131 | 12.68 | 16.77 |
| 2022 | UK | Managers and directors in retail and wholesale | 1150 | 14.58 | 18.17 |
| 2022 | UK | Sales assistants and retail cashiers | 711 | 10.15 | 11.23 |
| 2022 | UK | Purchasing managers and directors | 1134 | 24.85 | 26.53 |
| 2022 | UK | Programmers and software development professionals | 2134 | 23.51 | 24.99 |
| 2022 | UK | Stock control clerks and assistants | 4133 | 12.16 | 13.39 |
| 2022 | UK | Restaurant and catering establishment managers and proprietors | 1222 | 12.51 | 13.78 |
| 2022 | UK | Catering and bar managers | 5436 | 11.64 | 12.62 |
| 2022 | UK | Food preparation and hospitality trades | 543 | 11 | 11.81 |

³² [Earnings and working hours - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/earningsandworkinghours)

³³ [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/earningsandhoursworked/occupationbyfour-digitSOC/ASHETable14)

| Upated wage to account for non-wage labour costs | | | Adjustment | Median pay | Mean pay |
|--|----|--|------------|------------|----------|
| 2022 | UK | Shopkeepers and proprietors – wholesale and retail | 30% | 16.48 | 21.80 |
| 2022 | UK | Managers and directors in retail and wholesale | 30% | 18.95 | 23.62 |
| 2022 | UK | Sales assistants and retail cashiers | 30% | 13.20 | 14.60 |
| 2022 | UK | Purchasing managers and directors | 30% | 32.31 | 34.49 |
| 2022 | UK | Programmers and software development professionals | 30% | 30.56 | 32.49 |
| 2022 | UK | Stock control clerks and assistants | 30% | 15.81 | 17.41 |
| 2022 | UK | Restaurant and catering establishment managers and proprietors | 30% | 16.26 | 17.91 |
| 2022 | UK | Catering and bar managers | 30% | 15.13 | 16.41 |
| 2022 | UK | Food preparation and hospitality trades | 30% | 14.30 | 15.35 |

Exemptions by business size

A number of the options consider the impact of the policies if micro and small businesses were exempt from location and/or price promotion restrictions. To consider the potential impact on sales we exclude the share of sales (revenue) which come from micro and small businesses from the expenditure from both retail and Out of Home calculations. The revenue in the sectors by business size is shown in Table 12.

Table 12: Total Scottish turnover of registered private sector businesses for selected SIC codes by employee sizeband (number of employees in business in UK), Scotland, March 2022

| Description | £m Turnover by employee sizeband (split by number of employees in businesses in UK) | | | | Total turnover |
|--------------------------|--|------------------|--------------------|-----------------|----------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 1,517 | 863 | 169 | 13,304 | 15,853 |
| Non-food retailers | 340 | 398 | 383 | 3,993 | 5,114 |
| Retailers total | 1,857 | 1,261 | 552 | 17,297 | 20,967 |
| Accommodation | 129 | 311 | 322 | 517 | 1,278 |
| Food and drink services | 1,085 | 829 | 283 | 1,761 | 4,050 |
| Out-of-Home total | 1,214 | 1,140 | 605 | 2,278 | 5,328 |
| Total | 3,163 | 2,401 | 1,157 | 19,574 | 26,296 |

We do not have sufficient data on sales across shops by floor space to consider the potential impact of exemptions by the physical size of stores however the limited evidence available suggests that exempting retail stores below 2000 sq ft in Scotland does not present particular concerns in relation to total population health impact. Annex B uses the data on business sites by the number of employees at each site as a proxy for store size to consider the potential impact, including by SIMD and urban/rural status.

Modelling methods

The next subsections outline the high-level approach to modelling. It begins by describing the approach within each sector: retailers, out of home, manufacturers, government and health. The following section then presents the costs and benefits of each option, along with summaries of Net Present Values over the full policy appraisal period (25 years) of the options.

To estimate labour costs in the Retail and Out of Home sectors, we use job description data from the ASHE dataset and take the average (mean) 2022 hourly wage. All wage costs are up-rated by 30% to reflect non-wage labour costs such as overheads.

Retailers – food and non-food

These businesses include supermarkets and other grocery retailers, as well as non-food retailers. We model the costs as one-off costs (Familiarisation, Product Assessment, Store Planning & Implementation) and recurring costs (Profit reductions).

Familiarisation, product assessment, and store planning & implementation: We differentiate costs in these areas by business size (Micro, 0-9 employees; Small, 10-49 employees; Medium, 50-249 employees; Large, 250+ employees). The primary difference between the food and non-food retailers is the number of products we assume they need to assess, and the complexity of the process to do it.

Micro businesses are assumed to operate at the unit level and receive no back office support with their familiarisation. We therefore assume one shopkeeper per unit, needing time to familiarise themselves with regulations on volume promotion and placement restrictions, carrying out product assessment, and working with a sales assistant to plan and implement any changes to the store layout.

Small businesses are also assumed to have no back office support, however we assume that two managers per unit need to familiarise themselves with the regulations on promotion and placement restrictions. These same two managers then assess products. One manager then works with one retail assistant to plan and reorganise the store.

Medium sized businesses are likely to use more managerial support in understanding product regulations. We therefore assume 2 directors at enterprise level will distribute information to 2 workers per unit. For product assessment, we make assumptions on the ability of medium sized businesses to record product attributes using software. Therefore, we assume the need for director time, a set number of days programming time, stock assessments carried out by staff, and the time taken to disseminate this information to two managers per unit. We further assume that store planning is conducted at both enterprise and unit level, with managers at enterprise level distributing store plans to unit level.

Large businesses, due both to the scale of operations, make more use of enterprise (rather than unit level) staff to approach the policy. We therefore assume that in addition to director and

purchasing manager time, programming time is also required in the familiarisation stage to prepare stock management software for updates on which products are restricted. We then assume some time is taken to distribute this information to a limited number of staff at unit level. At the product assessment stage, we include time spent by directors, programmers and stock checkers assessing products. We reduce the time taken to assess a given product as large retailers are likely to already store product nutrition information in their databases so can more quickly flag products that are restricted. This information is then distributed to a small number of staff members per store. For store planning and implementation, we again assume that the majority of work is carried out at enterprise level and then distributed to units.

We assume that there are no capital costs involved with reorganisation as the process is primarily around moving different products into the locations currently occupied by restricted products, rather than having to make physical changes to the locations themselves. Business engagement has highlighted potential costs involved in reconfiguration of store layouts, although the extent to which this would go beyond resource costs (i.e. capital costs of new shelving etc) is unclear. Business are encouraged to provide evidence to support costs associated with store reconfiguration resulting from location restrictions.

These transition costs resource assumptions are summarised in the tables below.

Retailers Transition Costs – Price Promotions

Familiarisation

Table 13: Retail familiarisation costs for price promotions resource assumptions

| Store Type | Enterprise Size | Resource Assumptions |
|----------------------------|------------------------|---|
| Retail – Food and non-food | Micro | No back office process. 90 mins of time for 1 shopkeeper at unit level |
| | Small | No back office process. 90 mins of time for 2 shopkeepers at unit level. |
| | Medium | Back office of 2 directors, distributing info to 2 sales assistants per unit. 90 mins of time for 2 directors at enterprise level, 45 mins of time for 2 sales assistants at unit level. |
| | Large | Back office of half day of directors time, 2 hours of time for 3 purchasing managers, 1 day of programming for two programmers, distributing info to 2 sales assistants per unit with 45 mins of time each. |

Product assessment

Table 14: Retail product assessment costs for price promotions resource assumptions

| Store Type | Enterprise Size | Resource Assumptions |
|----------------------------|-----------------|---|
| Retail – Food and non-food | Micro | No back office process, cost at unit level. 5 mins per product, assessed by shopkeeper with no computer system. 500 SKUs (individuals products) as mid-point. |
| | Small | No back office process, cost at unit level. 5 mins per product, assessed by shopkeeper with no computer system. 500 SKU (individuals products) as mid-point for food, 200 SKU for non-food. |
| | Medium | Back office of 1 director (half-day), distributing info to 2 sales assistants per unit (1 hour each). 2 stock control clerks checking at enterprise level, 3 mins per product. 5 Days of programming time for food retail, no programming in non-food due to small number of products. 1000 SKUs (individual products) as mid-point for food, 200 SKU for non-food. |
| | Large | Back office of 2 directors (half-day), distributing info to 2 sales assistants per unit (1 hour each). 2 stock control clerks checking at enterprise level, 2 mins per product. 10 Days of programming time – pre-existing system with full nutritional information which needs development for regulations for food retail, no programming in non-food due to small number of products. 1700 SKUs (individual products) as mid-point for food, 200 SKU for non-food. |

Retailers Transition Costs - Location promotions

Familiarisation costs

Familiarisation costs for retail location promotion restrictions are assumed to be equal (but additional) to those of price promotions, with the exception of programming costs for which there are none assumed.

Store planning and implantation costs

Table 15: Retail product assessment costs for location promotions resource assumptions

| Store Type | Enterprise Size | Resource Assumptions |
|----------------------------|-----------------|--|
| Retail – Food and non-food | Micro | No back office process, cost at unit level. Full day of work for proprietor and 1 cashier. |
| | Small | No back office process, cost at unit level. Full day of work for proprietor and 1 cashier. |
| | Medium | Back office of 1 manager at enterprise level, 4 days of work. Half day of work for one manager and 1 cashier at unit level. |
| | Large | Back office of 1 manager at enterprise level, 4 days of work. Half day of work for 1 manager and 2 cashiers at unit level. |

The one-off familiarisation costs are made up of the time taken for members of staff to acquaint themselves with the new regulations. The total cost for price and location promotion restrictions combined is shown in Table 16 for both food and non-food retailers. The same staff time requirements are used to estimate the costs for both price and location restrictions, with the exception of programmer costs which are excluded from location promotions.

Table 16: Retail familiarisation costs of price and location promotion restrictions, non-recurring (£2022)

| | Lower | | Central | | Upper | |
|--------------------------|----------------|--------------|----------------|--------------|----------------|--------------|
| | Total Costs | Per Business | Total Costs | Per Business | Total Costs | Per Business |
| Retail - Food | 335,631 | 71 | 503,447 | 106 | 667,608 | 141 |
| Micro | 184,428 | 44 | 276,642 | 66 | 368,856 | 88 |
| Small | 57,116 | 120 | 85,674 | 180 | 114,232 | 240 |
| Medium | 10,315 | 295 | 15,472 | 442 | 20,630 | 589 |
| Large | 83,772 | 3,351 | 125,659 | 5,026 | 163,890 | 6,556 |
| Retail - Non food | 106,545 | 113 | 159,818 | 170 | 210,749 | 224 |
| Micro | 34,880 | 44 | 52,320 | 66 | 69,760 | 88 |
| Small | 12,644 | 126 | 18,966 | 190 | 25,288 | 253 |
| Medium | 3,212 | 214 | 4,818 | 321 | 6,424 | 428 |
| Large | 55,809 | 1,860 | 83,714 | 2,790 | 109,277 | 3,643 |
| Retail - Total | 442,176 | 78 | 663,265 | 117 | 878,357 | 155 |

Overall costs are skewed towards micro and small businesses, reflecting that there are significantly more businesses in these size categories. However, costs are significantly higher for large business on average.

The one-off costs of product assessment are shown in Table 17. As the products under the regulations are the same for price and location restrictions, we estimate only one set of costs across both promotion restrictions.

Table 17: Retail product assessment costs of price and location promotion restrictions, non-recurring (£2022)

| | Lower | | Central | | Upper | |
|--------------------------|------------------|--------------|------------------|--------------|------------------|--------------|
| | Total Costs | Per Business | Total Costs | Per Business | Total Costs | Per Business |
| Retail - Food | 3,056,355 | 646 | 4,928,835 | 1,042 | 6,844,755 | 1,447 |
| Micro | 2,305,350 | 550 | 3,842,250 | 916 | 5,379,150 | 1,282 |
| Small | 356,975 | 752 | 594,958 | 1,253 | 832,942 | 1,754 |
| Medium | 90,418 | 2,583 | 115,473 | 3,299 | 140,443 | 4,013 |
| Large | 303,612 | 12,144 | 376,154 | 15,046 | 492,220 | 19,689 |
| Retail - Non food | 301,624 | 321 | 390,291 | 415 | 478,957 | 510 |
| Micro | 218,000 | 276 | 290,667 | 368 | 363,333 | 460 |
| Small | 39,513 | 395 | 52,683 | 527 | 65,854 | 659 |
| Medium | 5,171 | 345 | 5,824 | 388 | 6,476 | 432 |
| Large | 38,941 | 1,298 | 41,117 | 1,371 | 43,293 | 1,443 |
| Retail - Total | 3,357,979 | 592 | 5,319,126 | 938 | 7,323,712 | 1,292 |

Product assessment costs are estimated to be significantly higher than familiarisation costs overall, reflecting the time required for retailers to consider each product they stock and whether it meets the criteria as a restricted product.

For food retailers, we assume that micro and small businesses will be required to assess between 300 and 700 products across the scenarios, while medium size businesses will assess between 600 and 1,400 products and large companies between 12,000 and 25,000 products.

While larger food retailers will stock a larger range of products and therefore have a higher product assessment cost on average, the overall costs again reflect the much larger share of micro and small businesses.

The lower product assessment costs for non-food retailers compared to food retailers, relative to familiarisation costs, reflects that on average they will have a smaller range of targeted products for sale and the time taken to assess the products will therefore be lower. We assume a range of between 150 and 250 products requiring assessment across all business sizes.

The restriction of location promotions will also require the one-off adjustment of store layouts as stock is moved to meet the regulations. Given the lack of information on potential capital costs involved, this again is estimated through staff time required to undertake the required tasks. See Table 18.

Table 18: Retail store planning and implementation costs for location promotion restrictions, non-recurring (£2022)

| | Lower | | Central | | Upper | |
|--------------------------|------------------|--------------|------------------|--------------|------------------|--------------|
| | Total Costs | Per Business | Total Costs | Per Business | Total Costs | Per Business |
| Retail - Food | 975,177 | 206 | 1,950,354 | 412 | 2,925,532 | 619 |
| Micro | 615,888 | 147 | 1,231,776 | 294 | 1,847,664 | 440 |
| Small | 95,368 | 201 | 190,736 | 402 | 286,104 | 602 |
| Medium | 31,573 | 902 | 63,146 | 1,804 | 94,718 | 2,706 |
| Large | 232,348 | 9,294 | 464,697 | 18,588 | 697,045 | 27,882 |
| Retail - Non food | 271,636 | 289 | 543,271 | 578 | 814,907 | 867 |
| Micro | 116,480 | 147 | 232,960 | 295 | 349,440 | 442 |
| Small | 21,112 | 211 | 42,224 | 422 | 63,336 | 633 |
| Medium | 11,784 | 786 | 23,568 | 1,571 | 35,352 | 2,357 |
| Large | 122,260 | 4,075 | 244,519 | 8,151 | 366,779 | 12,226 |
| Retail - Total | 1,246,813 | 220 | 2,493,626 | 440 | 3,740,438 | 660 |

Table 19 combines the familiarisation, product assessment and planning and implementation costs to present the overall transition costs for retail businesses. This is presented for both overall costs and on an average cost per business split by business size.

Table 19: Retail overall transition costs for price and location promotion restrictions, non-recurring (£2022)

| | Lower | | Central | | Upper | |
|--------------------------|------------------|--------------|------------------|--------------|-------------------|--------------|
| | Total Costs | Per Business | Total Costs | Per Business | Total Costs | Per Business |
| Retail - Food | 4,367,163 | 923 | 7,382,636 | 1,561 | 10,437,895 | 2,207 |
| Micro | 3,105,666 | 740 | 5,350,668 | 1,275 | 7,595,670 | 1,811 |
| Small | 509,459 | 1,073 | 871,368 | 1,834 | 1,233,278 | 2,596 |
| Medium | 132,305 | 3,780 | 194,091 | 5,545 | 255,791 | 7,308 |
| Large | 619,733 | 24,789 | 966,509 | 38,660 | 1,353,156 | 54,126 |
| Retail - Non food | 679,805 | 723 | 1,093,380 | 1,163 | 1,504,613 | 1,601 |
| Micro | 369,360 | 468 | 575,947 | 729 | 782,533 | 991 |
| Small | 73,269 | 733 | 113,873 | 1,139 | 154,478 | 1,545 |
| Medium | 20,167 | 1,344 | 34,210 | 2,281 | 48,252 | 3,217 |
| Large | 217,010 | 7,234 | 369,350 | 12,312 | 519,349 | 17,312 |
| Retail - Total | 5,046,968 | 890 | 8,476,016 | 1,495 | 11,942,508 | 2,106 |

Retailers profit reductions - Price promotions

Expenditure change of targeted food groups from price promotions

The economic modelling carried out by the SRUC/University of Aberdeen models the change in expenditure by food categories as a result of the removal of promotions on discretionary goods³⁴. These figures are presented per capita and using 2018 prices for take-home food and drink expenditure. The per capita figures are updated into 2022 prices using the latest available estimate of total take-home food and drink expenditure, £10.5 billion in 2022³⁵. Using the latest estimate of Scotland's population of 5.4 million³⁶ we can estimate the total fall in expenditure across the different take-home food categories. See Table 20.

Table 20: Modelled expenditure change on discretionary take-home food and drink (uprated into 2022 prices), £million

| | 2022 expenditure (£m) | Impact of restricting price promotions on sales (£m) | |
|---|-----------------------|--|----------------------|
| | | Multi-buy | All price promotions |
| Take home confectionery | £504.0 | £14.99 | £82.23 |
| Biscuits | £231.0 | £15.18 | £57.16 |
| Take home savouries | £304.5 | £15.97 | £42.58 |
| Cakes, pastries and sugar morning goods | £315.0 | £11.75 | £40.56 |
| Total puddings and desserts | £126.0 | £9.51 | £26.86 |
| Take home sugary drinks | £630.0 | £25.17 | £62.31 |
| Edible ices and ice cream | £115.5 | £10.80 | £32.89 |

The economic modelling undertaken by SRUC/University of Aberdeen for the Scottish Government was based on the removal of price promotions from discretionary foods. It did not model the impacts on removing promotions from the additional foods now under consideration, such as ready meals.

We have therefore had to estimate the potential impact on the additional foods under consideration based on other available information, but recognise it will be subject to greater uncertainties due to this.

³⁴ [Reducing health harms of foods high in fat, sugar or salt: economic modelling – final report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/reducing-health-harms-of-foods-high-in-fat-sugar-or-salt/economic-modelling-final-report/pages/10.aspx)

³⁵ Food Standards Scotland, Analysis of data from Kantar Worldpanel, Purchase Panel, Scotland 2022 (report in preparation)

³⁶ [Scotland's Census 2022 - Rounded population estimates | Scotland's Census \(scotlandscensus.gov.uk\)](https://scotlandscensus.gov.uk/)

Table 21: Share of food categories spend on promotion and share failing NPM

| Food category | % spend on promotion (2022) ³⁷ | % spend on multibuy and Y for £X (2022) | % of total grocery spend (2022) | % NPM test fail ³⁸ |
|---|---|---|---------------------------------|-------------------------------|
| Sweet biscuits | 26.7 | 2.1 | 2.2 | 99 |
| Total confectionery | 29.5 | 3.9 | 4.8 | 99 ³⁹ |
| Cakes & pastries + higher fat/sugar morning goods | 20.2 | 5 | 3 | 100 |
| Crisps & savoury snacks | 30.7 | 4.7 | 2.9 | 95 |
| Puddings & desserts | 27 | 4.9 | 1.2 | 66 |
| Ice cream & edible ices (excl. frozen dairy desserts) | 40 | 7.6 | 1.1 | 98 |
| Regular soft drinks (excl. water) | 32 | 9.2 | 6 | 78.3 ⁴⁰ |
| Breakfast cereals | 30.1 | 8.5 | 1.4 | 59 ⁴¹ |
| Ready meals | 31.1 | 17.5 | 3.6 | 18 |
| Yoghurt & fromage frais | 37.4 | 8.5 | 1.5 | 18 |
| Pizza | 30.2 | 3.9 | 1.2 | 73 |
| Roast and processed potatoes | 25.1 | 4.2 | 0.9 | 4 |

To estimate the change in expenditure on additional foods under consideration (i.e. ready meals, cereals, pizza, etc) we base it on the changes in discretionary food and the share of discretionary and additional foods which are sold via promotion. In more detail:

1. We calculate the average modelled change in expenditure on discretionary foods from the economic modelling (i.e. change as a share of the total expenditure for each category).
2. We then calculate the share of additional foods which are sold on promotion (average of ready meals, cereals, pizza and roast and processed potatoes sold under multi-buy and TPRs), which fail a NPM test.
3. Similarly, we calculate the average share of discretionary foods on promotion and fail a NPM test.
4. We then calculate the ratio of (2) and (3) above, and apply this to the average change in discretionary foods (from (1)), to give us the estimated percentage change in additional foods under multi-buy and all price promotions.
5. We then apply this figure to the estimated total expenditure on additional food categories to give us the estimated change resulting from the restrictions on promotions for multi-buys and all price promotions.

³⁷ Food Standards Scotland, Analysis of data from Kantar Worldpanel, Purchase Panel, Scotland 2022 (report in preparation)

³⁸ Foods failing a NPM test from Table 9 of [Annex A -The 2018 review of the UK nutrient profiling model \(publishing.service.gov.uk\)](#)

³⁹ Non-weighted average of chocolate confectionery and sugar confectionery

⁴⁰ Non-weighted average of all soft drink categories excluding water, still/sparking and flavoured

⁴¹ Non-weighted average of breakfast cereal high fibre and breakfast cereal other

Table 22: Estimated expenditure change on take-home additional foods (i.e. ready meals) (uprated into 2022 prices), £million

| | 2022 expenditure (£m) | Impact of restricting price promotions (£m) | |
|-------------------------------------|-----------------------|---|----------------------|
| | | Multi-buy | All price promotions |
| Additional foods (i.e. ready meals) | £903.0 | £31.1 | £56.8 |

Expenditure change in non-targeted food and drink as a result of price promotions restrictions (substitution)

Restricting price promotions will reduce spending on HFSS foods which fall under the regulations. However, we assume this will be accompanied by a substitution towards spending on other foods which are not targeted. In the SRUC economic modelling, the ratio of expenditure falls on discretionary foods to increases in other non-targeted foods is -1.064 to 0.973, or 91%. While this was modelling based on discretionary foods only, we assume this expenditure substitution ratio also holds for the additional foods.

Change in retailer profits from price promotion restrictions (recurring costs)

The net change in retail expenditure is estimated using the estimated reduction in expenditure on targeted foods netted against the gains in expenditure from substitution of non-targeted food, using the 91% substitution ratio. The change in annual retailer profits are then estimated using an assumed profit margin of 4% in the central scenario (2% in lower, 6% in upper). The results for discretionary foods only are shown in Table 23 for the case in which only multi-buy price promotions are restricted. These are recurring costs which are assumed to be incurred annually.

Table 23: Change in retailer profits from price promotions (multi-buy only) on discretionary foods, £2022 (recurring costs)

| | | | Change in profits | | |
|--------------------------------|---------------|-----------------------|-------------------|-------------|-------------|
| Category | Revenues | Change in expenditure | Lower | Central | Upper |
| Biscuits | 231,000,000 | (15,175,628) | (303,513) | (607,025) | (910,538) |
| Confectionery | 504,000,000 | (14,991,595) | (299,832) | (599,664) | (899,496) |
| Cakes | 315,000,000 | (11,745,171) | (234,903) | (469,807) | (704,710) |
| Savoury snacks | 304,500,000 | (15,968,569) | (319,371) | (638,743) | (958,114) |
| Pudding | 126,000,000 | (9,506,134) | (190,123) | (380,245) | (570,368) |
| Ice cream | 115,500,000 | (10,800,945) | (216,019) | (432,038) | (648,057) |
| Soft drinks | 630,000,000 | (25,172,048) | (503,441) | (1,006,882) | (1,510,323) |
| Total targeted products | 2,226,000,000 | (103,360,090) | (2,067,202) | (4,134,404) | (6,201,605) |
| | | | | | |
| Gains from substitution | | 94,520,083 | 1,890,402 | 3,780,803 | 5,671,205 |
| Profit net change | | (8,840,008) | (176,800) | (353,600) | (530,400) |

Including additional foods such as ready meals in the price promotion (multi-buy only) regulations increases the estimated decrease in annual retail profits, but not by the same share as expenditure on additional products due to the lower share of these products failing NPM test. See Table 24.

Table 24: Change in retailer profits from price promotions (multi-buy only) on discretionary and additional foods, £2022 (recurring costs)

| | | | Change in profits | | |
|-------------------------------------|---------------|-----------------------|-------------------|------------------|------------------|
| Category | Revenues | Change in expenditure | Lower | Central | Upper |
| Biscuits | 231,000,000 | (15,175,628) | (303,513) | (607,025) | (910,538) |
| Confectionery | 504,000,000 | (14,991,595) | (299,832) | (599,664) | (899,496) |
| Cakes | 315,000,000 | (11,745,171) | (234,903) | (469,807) | (704,710) |
| Savoury snacks | 304,500,000 | (15,968,569) | (319,371) | (638,743) | (958,114) |
| Pudding | 126,000,000 | (9,506,134) | (190,123) | (380,245) | (570,368) |
| Ice cream | 115,500,000 | (10,800,945) | (216,019) | (432,038) | (648,057) |
| Soft drinks | 630,000,000 | (25,172,048) | (503,441) | (1,006,882) | (1,510,323) |
| Additional foods (i.e. ready meals) | 903,000,000 | (31,067,547) | (621,351) | (1,242,702) | (1,864,053) |
| Total targeted products | 3,129,000,000 | (134,427,637) | (2,688,553) | (5,377,105) | (8,065,658) |
| | | | | | |
| Gains from substitution | | 122,930,537 | 2,458,611 | 4,917,221 | 7,375,832 |
| Profit net change | | (11,497,101) | (229,942) | (459,884) | (689,826) |

Extending the price promotion restrictions to cover all price promotions (e.g. Temporary Price Reductions) leads to a significant increase in estimated annual lost profits to retailers. See Table 25.

Table 25: Change in retailer profits from price promotions (all price promotions) on discretionary and additional foods, £2022 (recurring costs)

| Category | Revenues | Change in expenditure | Change in profits | | |
|--------------------------------|---------------|-----------------------|-------------------|--------------------|--------------------|
| | | | Lower | Central | Upper |
| Biscuits | 231,000,000 | (57,162,180) | (1,143,244) | (2,286,487) | (3,429,731) |
| Confectionery | 504,000,000 | (82,226,909) | (1,644,538) | (3,289,076) | (4,933,615) |
| Cakes | 315,000,000 | (40,557,855) | (811,157) | (1,622,314) | (2,433,471) |
| Savoury snacks | 304,500,000 | (42,578,660) | (851,573) | (1,703,146) | (2,554,720) |
| Pudding | 126,000,000 | (26,856,150) | (537,123) | (1,074,246) | (1,611,369) |
| Ice cream | 115,500,000 | (32,894,981) | (657,900) | (1,315,799) | (1,973,699) |
| Soft drinks | 630,000,000 | (62,310,881) | (1,246,218) | (2,492,435) | (3,738,653) |
| Ready meals | 903,000,000 | (56,786,860) | (1,135,737) | (2,271,474) | (3,407,212) |
| Total targeted products | 3,129,000,000 | (401,374,476) | (8,027,490) | (16,054,979) | (24,082,469) |
| | | | | | |
| Gains from substitution | | 367,046,396 | 7,340,928 | 14,681,856 | 22,022,784 |
| Profit net change | | (34,328,080) | (686,562) | (1,373,123) | (2,059,685) |

Retailers profit reductions - Location promotions

Lastly, we estimate the change in sales from location promotions by assigning targeted products categories to those that are sold from either i) checkouts, ii) the end-of-aisle, iii) both. The share of sales which are currently via checkout locations is assumed to be 7.1%, and 20% of sales are assumed to come from other promotional locations.⁴² The estimates for aisle promotion locations are used as a proxy for all non-checkout locations, such as display bins and store entrances for which there is limited specific estimates.

⁴² Assumptions taken from UK Government impact assessment, which in turn was based on 2017 IGD study of German supermarkets. The impact assessment notes the lack of UK specific information.

Table 26: Assessment of potential location of HFSS foods

| Category | Promotion location | |
|-----------------|---------------------------|-----------------|
| | Aisle: front / end | Checkout |
| Biscuits | Yes | No |
| Confectionery | Yes | Yes |
| Cakes | Yes | Yes |
| Savoury snack | Yes | Yes |
| Pudding | Yes | No |
| Ice cream | Yes | Yes |
| Soft drinks | Yes | No |
| Ready meals | Yes | No |

For checkout promotions, a number of large retailers have committed to voluntary restrictions on the placement of HFSS foods at checkouts. This is estimated to be 15.7% of total potential checkout sales of HFSS foods based on a search of public statements from retailers on voluntary actions and their accompanying market share (of all groceries). To note, this was carried out prior to restrictions on location promotions being implemented in England, and as such the figure may have increased if shops complying with English regulations apply any updated placement strategies to all UK stores.

Applying these estimates to the total expenditure on each food category provides an estimate of the total revenue of products in scope (i.e. sales from checkout or aisle locations not already voluntary restricted). See Table 28 for total estimated value of products in scope of location restrictions.

An assessment is then made of the impact on retail sales and profits of moving restricted products out of targeted locations, and them being replaced by non-targeted products. There are a number of studies which examine the impact of product location on sales⁴³⁴⁴⁴⁵. These studies follow different methodology, food types and geography, and as such arrive at a range of results on the impact of location. We use this range of results to estimate the potential impact of location restrictions on sales uplifts across our different scenarios. See Table 27.

Table 27: Estimated uplift in sales from product location

| Store Location | Estimated sales uplift | | |
|-----------------------|-------------------------------|----------------|--------------|
| | Lower | Central | Upper |
| Aisle: Front / end | 20% | 30% | 53% |
| Checkout | 0% | 18% | 25% |

Profit margins of 2%, 4%, and 6% are assumed for the lower, central and upper scenarios respectively. This is assumed to be the same across all types of foods and location placement. As discussed in the UK Government impact assessment on location promotion restrictions⁴⁶, it may

⁴³ [Sales impact of displaying alcoholic and non-alcoholic beverages in end-of-aisle locations: an observational study - PubMed \(nih.gov\)](#)

⁴⁴ [Hollands G.J. et al. Altering the availability or proximity of food, alcohol and tobacco products to change their selection and consumption \(core.ac.uk\)](#)

⁴⁵ [Supermarket policies on less-healthy food at checkouts: Natural experimental evaluation using interrupted time series analyses of purchases | PLOS Medicine](#)

⁴⁶ [Impact assessment of restricting checkout, end-of-aisle, and store entrance sales of food and drinks high in fat, salt, and sugar \(HFSS\) \(publishing.service.gov.uk\)](#)

be the case that profit margins are higher for confectionary products etc. However, to avoid potential double counting our approach is restricted to considering the total lost uplift in sales, with the overall impact factoring in the substitution to non-HFSS products which move into the restricted locations.

The total estimated reduction on annual retailer profits is shown in Table 28. This is split between discretionary foods only, and also discretionary and additional foods, as well as estimating the impacts of exempting businesses with less than 50 employees.

Table 28: Estimated reduction in retailer profits from location promotion restrictions, £2022 (recurring costs)

| Foods in Scope | Description | Lower | Central | Upper |
|----------------------------|---|----------------|----------------|----------------|
| Discretionary only | Products in scope | 417,211,788 | 417,211,788 | 417,211,788 |
| | Lost uplift | 67,385,500 | 95,270,612 | 142,635,895 |
| | Net of compensatory behaviour | 5,763,234 | 8,148,144 | 12,199,123 |
| | Lost profit | 115,265 | 325,926 | 731,947 |
| | Lost profit (micro/small exempt) | 98,124 | 271,756 | 611,887 |
| | | | | |
| Discretionary + additional | Products in scope | 479,338,188 | 479,338,188 | 479,338,188 |
| | Lost uplift | 77,739,900 | 109,607,473 | 164,156,805 |
| | Net of compensatory behaviour | 6,648,807 | 9,374,323 | 14,039,727 |
| | Lost profit | 132,976 | 374,973 | 842,384 |
| | Lost profit (micro/small exempt) | 113,201 | 313,509 | 705,900 |
| | | | | |

Out of Home Sector

The Out of Home (OoH) sector comprises restaurants, takeaways, event catering, pubs and hotels. We assume the structure of costs is similar to those incurred by retailers. We therefore separate costs into familiarisation, product assessment, store planning and adjustment, and reductions in profits.

We again separate the one-off implementation costs by business size. Micro and small businesses only incur costs at the unit level; medium and large businesses incur some costs at unit level, but also have costs at enterprise level.

For familiarisation, we expect micro businesses to need one owner taking between 1 and 2 hours to understand the new regulations on volume/price promotions, and a further 1 to 2 hours to familiarise themselves with location restrictions. Due to a lower number of products to assess at the smaller businesses, it will take around 1 to 3 hours to assess products.

At medium businesses, we assume it takes two directors at enterprise level between one and two hours to familiarise themselves with volume/price promotion regulations, then between half an hour and an hour to disseminate the information to two managers at each unit. This is repeated for location regulations. We only expect products to be assessed at the unit level, using the time of a manager.

Large businesses need time for purchasing managers, and general managers to understand both the volume/price and location regulations and time to disseminate the information. Again, product assessment is carried out at unit level.

These transition costs resource assumptions are summarised in the tables below.

Out of Home Transition Costs - Price promotions

Familiarisation costs

Table 29: OoH familiarisation costs for price promotions resource assumptions

| Store Type | Enterprise Size | Resource Assumptions |
|-------------|-----------------|---|
| Out of home | Micro | No back office process, cost at unit level. One manager for 90 mins. |
| | Small | No back office process, cost at unit level. 2 Managers for 90 mins each. |
| | Medium | Back office of 2 directors (90 mins each), distributing information to 2 managers per unit (2 hours each). |
| | Large | Back office of 1 director (half-day), and 3 managers (2 hours each) at enterprise level. 2 Managers per unit (2 hours each) |

Product assessment costs

Table 30: OoH product assessment costs for price promotions resource assumptions

| Store Type | Enterprise Size | Resource Assumptions |
|-------------|-----------------|---|
| Out of home | Micro | No back office process, cost at unit level. One manager for 100 mins |
| | Small | No back office process, cost at unit level. One manager for 100 mins |
| | Medium | No back office process, cost at unit level. One manager for 100 mins |
| | Large | No back office process, cost at unit level. One manager for 150 mins |

Out of Home Transition Costs - Location promotions

Familiarisation costs

Familiarisation costs for OoH location promotion restrictions are assumed to be equal (but additional) to those of price promotions.

Product assessment costs

Product assessment costs are only required once, and cost estimates have already been calculated for price promotions. These will not need to be duplicated if both price and location restrictions are in place as product assessment is only required once.

Store planning and adjustment

Table 31: OoH store planning and adjustment costs for location promotions resource assumptions

| Store Type | Enterprise Size | Resource Assumptions |
|-------------|-----------------|---|
| Out-of-home | Micro | No back office process, cost at unit level. One manager for 1 day. |
| | Small | No back office process, cost at unit level. One manager for 1 day, shop assistant for half a day. |
| | Medium | Back office process of one managers for 2 days, at enterprise level. One manager for 1 day, shop assistant for half a day at unit level. |
| | Large | Back office process of one managers for 2 days, at enterprise level. One manager for 1 day, shop assistant for half a day at unit level. |

We are not aware of any comprehensive data on the scale and impact of price and volume promotions in the OoH sector in Scotland which would allow us to produce robust estimates of the potential reduction in sales and profits from the introduction of such promotion restrictions. This is

in line with the UK Government Impact Assessment, which was unable to cost the impact of restricting volume promotions on the OoH sector.

To estimate reductions in profits in this sector, we therefore only estimate the losses from the location restrictions. The lost profits from location restrictions are estimated from UK-level data for illustrative purposes. We take the estimated OoH market value from Kantar, and apply the proportion of sales through checkouts and other restricted locations in retail environments. We then define what proportions of sales are from shops in scope, and apply a profit margin to estimate lost profits. Lastly we assume that some lost sales are replaced by new (unrestricted) products in the same space, leading to some offsetting.

Location promotions restrictions in the OoH are expected to principally impact the food-to-go market. The analysis on potential reductions in OoH profits is therefore restricted to this segment of the market, which is estimated to be around 17% of the total OoH sector revenue. This is based on data provided by FSS on the share of OoH sales by channel in 2020, in which 17.2% of sales are estimated to be through bakery and sandwich shops and convenience, which we treat as the food-to-go section of the market for the purposes of this analysis.

The total size of the OoH market is estimated to be around £4 billion in 2022 prices. This is based on an estimate of £3.6 billion⁴⁷ uprated by the level of food inflation between 2021 and 2022 of 12.4%. The estimated size of the food-to-go market is therefore just under £700 million (i.e. 17% of the total OoH).

Estimates of the reduction in profit are based on assumptions that HFSS products sold in the OoH sector have a larger profit margin than non-restricted foods (31.5%⁴⁸ compared to 12.4%), and that currently all sales in locations within the scope of the restrictions (7.1% of sales based on checkout assumption) are comprised of HFSS foods. It is also assumed that after HFSS goods are relocated to non-restricted areas, 30% of their original sales are retained as per the UK Government impact assessment.⁴⁹

The share of food sales within scope of the restrictions is adjusted by the percentage of products by value which would be included within the restrictions (i.e. 17% discretionary foods, raising to 25% when including additional foods such as ready meals), and by the share of turnover from exempt businesses (businesses with less than 50 employees) of 42% for relevant options.

The estimated net decrease in profits for the OoH sector (for central scenario) from the location promotion restrictions is shown in Table 32. These are assumed to be recurring annual costs.

⁴⁷ [Microsoft Word - FSS - NSP - OOH 2021 Briefing summary word document - Embargoed pdf - 29th November 2022 \(foodstandards.gov.scot\)](#)

⁴⁸ This is assumed to be 20% for the lower scenario and 40% for the upper scenario to provide a an illustrative of sensitivity of the estimates.

⁴⁹ The UK Government impact assessment notes this assumption is uncertain. "We therefore assume that HFSS items removed from checkouts continue to generate 30% of their sales in aisle locations. This is an unevidenced assumption, chosen to be roughly double the figure provided by the German study which was thought to be an under-estimate. No additional evidence or data on how much sales these products will continue to generate within aisles was submitted through the consultation, and due to the commercial sensitive nature of the data, we were not able to gather it through further stakeholder engagement. This assumption was further tested with stakeholders, but received no responses." [Impact assessment of restricting checkout, end-of-aisle, and store entrance sales of food and drinks high in fat, salt, and sugar \(HFSS\) \(publishing.service.gov.uk\)](#)

Table 32: Estimated reduction in OoH profits from location promotion restrictions, £2022 (recurring)

| | Discretionary foods only | Discretionary plus additional foods | Discretionary plus additional foods with exemption for micro/small businesses |
|---|-------------------------------------|--|--|
| Checkout sales of HFSS food (£) | 6,303,607 | 7,680,544 | 4,418,891 |
| HFSS profit margin | 31.5% | 31.5% | 31.5% |
| Potential lost profits (£) | 1,985,636 | 2,419,371 | 1,391,951 |
| | | | |
| Non-HFSS profit margin | 12.4% | 12.4% | 12.4% |
| Profit from substitutes (£) | 781,647 | 952,387 | 547,942 |
| | | | |
| Net loss after substitution (£) | 1,203,989 | 1,466,984 | 844,008 |
| | | | |
| Retained sales from HFSS after reallocation | 30% | 30% | 30% |
| Additional revenue from retained sales (£) | 1,891,082 | 2,304,163 | 1,325,667 |
| Profit from retained HFSS (£) | 595,691 | 725,811 | 417,585 |
| Lost profit from non-HFSS (£) | 234,494 | 285,716 | 164,383 |
| Net additional profit after substitution (£) | 361,197 | 440,095 | 253,202 |
| | | | |
| Net total lost profit (£), annual | 842,792 | 1,026,889 | 590,806 |

Manufacturing

To estimate the impact on Scottish manufacturers, we take estimated lost sales from retailers and OoH as a result of the promotion restriction as an input. By applying an assumed retailer mark-up to sales lost, we estimate lost sales to manufacturers. This is done separately for location and price promotion restrictions. We then assume a profit margin to manufacturers, and what proportion of manufacturer profits are retained in the UK.

It is assumed that there are no product reformulation costs from manufacturers. This is on the basis that manufacturers would only decide to undertake a reformulation if it was more profitable for them to do so than not. Therefore any costs in reformulation would be offset by increased profits – or in the context of this assessment lower recurring lost profits.

The central case estimates for the main combinations of restrictions is shown in Table 33 along with the key assumptions used around mark-up rates, profit margins, and profit retention.

Table 33: Estimated change in manufacturer profits from promotion restrictions (central case estimates for different combinations of targeted foods and price promotion), £2022

| Promotions | | Multi-buy + Location | | All price promotions ⁵⁰ + Location |
|---|----------|--|-------------------------------|---|
| Targeted foods | | Discretionary | Discretionary plus additional | |
| Change in sales in retail and OOH | HFSS | (203,043,227) | (249,411,491) | (516,358,330) |
| | Non-HFSS | 185,677,687 | 228,080,245 | 472,196,105 |
| | | <i>53% UK supermarket mark-up</i> | | |
| Value of manufacturer sales | HFSS | (133,143,099) | (163,548,519) | (338,595,626) |
| | Non-HFSS | 109,838,125 | 135,813,785 | 295,889,758 |
| | | <i>6% Food and drink producers profit margin</i> | | |
| Change in manufacturing profits | HFSS | (5,988,387) | (7,505,694) | (18,008,521) |
| | Non-HFSS | 5,125,841 | 6,459,597 | 16,064,155 |
| | | <i>49% of profits retained in Scotland</i> | | |
| Manufacturer profits retained in Scotland | HFSS | (3,914,407) | (4,808,326) | (9,954,711) |
| | Non-HFSS | 2,511,662 | 3,165,203 | 7,871,436 |
| | | | | |
| Net change in manufacturer profits | | (1,402,745) | (1,643,124) | (2,083,275) |

Government Enforcement Costs

In line with the Verity House Agreement we continue to work with local government, FSS and enforcement professionals to help inform estimates and costing implication to local authorities. Costing and funding scenarios will be kept under review and updated prior to publication of the final BRIA.

This section estimates the costs to local authorities in enforcing the regulations and providing support to businesses upon their introduction.

⁵⁰ Including meal deals and Temporary Price Reductions

Enforcement scenarios

The potential cost will vary depending on the enforcement scenario used by local authorities. The modelling sets out potential costs under the three enforcement scenarios to present an illustrative range of costs which may be incurred by local authorities. These scenarios are:

- **High resource/assurance – Verification and validation:** This approach would assume that enforcement officers are visiting premises to verify that restrictions are being followed. In addition, it assumes that validation is being performed to ensure that non-HFSS status of products are being accurately calculated.
- **Medium resource/assurance – Verification only:** This approach assumes that enforcement officers are visiting premises to verify that restrictions are being followed however without the additional verification requirements of the option above. This option differs only in approach, not in locations visited or frequency of visits.
- **Low resource/assurance – Verification only of high risk businesses (Reactive approach):** This approach is consistent with the medium assurance approach with the difference being that inspections are not carried out as standard but based on the anticipated risk of non-compliance. We are assuming that only 5% of businesses fall into this category, and that longer inspection times would be required due to the greater perceived risk of non-compliance. This risk based approach is consistent with the principle to target enforcement where there is the most need.

Employment costs

The estimated costs are primarily based on estimates of additional time taken by staff to undertake the new responsibilities. This time is costed using data on hourly wages, uprated to reflect non-pay employment costs.

It is for Scottish local authorities to determine the most appropriate way to allocate resources to support the enforcement of regulations.

The average wages for both Trading Standard Officers (TSOs) and Environmental Health Officers (EHOs) is taken from ONS regional hourly wage data by occupation. As noted below, salary data provided on TSO wages by Scottish Local Authorities is significantly different from the ONS estimate for “Inspectors of standards”, the latter of which is therefore excluded from the analysis.

The most recent official regional wage data from the ONS at the required occupational level does not include figures for Scotland for 2022 for both TSOs and EHOs. 2021 figures have therefore been used and uprated into 2022 prices using Consumer Price Index (CPI) for the 12 months to June 2022 of 9%. Hourly wages are uprated by 30% to account for non-wage labour costs, giving an estimated hourly cost per TSO and EHO.

Table 34: Hourly pay – Excluding overtime (£) – 2021 figures uprated into 2022 prices using CPI⁵¹

| Region | Description | Code | Median pay | Mean pay |
|--|---|-------------------|-------------------|-----------------|
| Scotland | Environmental health professionals | 2483 | 20.56 | 22.05 |
| Scotland | Inspectors of standards and regulations | 3581 | 16.22 | 19.26 |
| Uprated wage to account for non-wage labour costs | | | Median pay | Mean pay |
| | | Adjustment | | |
| Scotland | Environmental health professionals | 30% | 26.73 | 28.67 |
| Scotland | Inspectors of standards and regulations | 30% | 21.09 | 25.04 |
| Uprated by CPI to put into 2022 prices | | CPI* | Median pay | Mean pay |
| Scotland | Environmental health professionals | 9% | 29.24 | 31.36 |
| Scotland | Inspectors of standards and regulations | 9% | 23.07 | 27.39 |

*CPI 12 Months to June 2022

Members of the Financial Considerations and Delivery Group supporting the policy development provided the Scottish Government with results from surveys of salary information of EHO and TSOs across Scottish Local Authorities (LA):

- For EHOs in 2022, the mid-point wage from the local pay-scale was provided by 31 of the 32 Local Authorities. The mean hourly wage was £20.42 and the median hourly wage was £20.49.
- For TSOs, £21.86 was the average of the minimum and maximum salary points for 2022/23 salaries across 26 of the 32 Local Authorities supplying data.

For the purposes of this analysis the ONS pay figures have been used to allow consistency across different occupations in other elements of the assessment. Given the significant difference between the ONS figures for inspectors of standards and the salary ranges of TSOs we exclude the ONS figure from this analysis and use the higher hourly time cost of EHOs. We recognise in practice the deployment of resources will be a decision made by Local Authorities and could be a combination of different inspectors.

Familiarisation costs

There will be a cost to Local Authorities of familiarisation with the new regulations, training officers, the dissemination of guidance, and administration costs.

- **Staff training/familiarisation with new requirements** – It is estimated that there would be a slight reduction in training required should the low resource/assurance enforcement scenario be followed.

⁵¹ [Earnings and hours worked, region by occupation by four-digit SOC: ASHE Table 15 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

- **Administration - supporting business implementation** – It is anticipated that businesses may contact their relevant Local Authorities during the implementation period to these requirements coming into force for advice on how to implement restrictions.
- **Administration - un-paid fines** – where fines relating to offences for breach of these policies go unpaid, should the fines be over £200 in value then the Local Authority finance departments would make efforts to pursue payment. This is based on feedback from the Financial and Delivery Considerations Group.
- **Other Administrative resource** – this would include tasks such as responding to FOIs in relation to enforcement action, communications with businesses, and potential reporting in relation to enforcement action/levels of compliance.

We assume that the administration costs would be the same regardless of the enforcement scenario as the underlying requirements out with physical inspections should remain similar, and would be the equivalent of one FTE for one month per local authority. This is equivalent to 163 hours of work for each local authority.

The estimated training times per officer are based on feedback from Food Standards Scotland based on current enforcement regimes. These are assumed to equate to 2 hours per officer if employing a low resource/assurance enforcement scenario, rising to 5 hours per officer if employing a high or medium resource/assurance scenario. This is multiplied by the latest available estimate of the total number of EHOs of 202 as of November 2021⁵². It is assumed these costs would be the same regardless of exemptions to the policy by business or store size or type.

The time and cost estimates for this training and administration is shown in Table 35. These are assumed to be one-off costs incurred in the first year only.

Table 35: Familiarisation costs, one-off training and administration costs in year 1 (2022 prices)

| | Enforcement scenario | | |
|-----------------|--------------------------|-----------------------------|---------------------------|
| | Low Resource / Assurance | Medium Resource / Assurance | High Resource / Assurance |
| Training | Per officer | 2 | 5 |
| | Total hours | 404 | 1,010 |
| | Total cost | £12,669 | £31,673 |
| Adminis tration | Per LA | 163 | 163 |
| | Total hours | 5,216 | 5,216 |
| | Total cost | £163,571 | £163,571 |
| Total | Hours | 5,620 | 6,226 |
| | Cost | £176,240 | £195,244 |

Inspection frequency and additional time

Inspections of retail and OoH premises are already conducted through the standard operations of inspecting trading standards and environmental health. The additional cost of inspection in relation

⁵² [Scottish Authority Food Enforcement Re-Build paper from FSS Board meeting 25 October 2022 \(foodstandards.gov.scot\)](https://www.foodstandards.gov.scot)

to the new regulations is therefore estimated as the additional time spent during each visit, rather than calculating the time and costs of an entire intervention including travel time etc.

This estimated time varies for the three different enforcement scenarios, given the different inspection requirements. The additional times are estimated to be separate for the inspection of both price and location promotion restrictions.

For example, if under the high resource / assurance enforcement scenarios it would require an additional 30 mins for each of price and location promotions restrictions to be added to existing inspections for the relevant locations to validate that requirements were being followed then additional resource should be calculated on this basis. Table 36 shows the additional time requirements across the enforcement scenarios.

Table 36: Time requirements for inspections for promotion type, additional time per existing visits (hours)

| | Enforcement Scenario | | |
|-----------------|--------------------------|-----------------------------|---------------------------|
| | Low Resource / Assurance | Medium Resource / Assurance | High Resource / Assurance |
| Price | 1 | 0.25 | 0.5 |
| Location | 1 | 0.25 | 0.5 |

In line with the UK Government impact assessments on HFSS promotion restrictions, the following assumptions are made regarding the **frequency of inspections**:

- Retail units are inspected once every 3.5 years
- Out-of-home units are inspected once every 2 years

The **inspection rate** is assumed to be 100% of eligible units for both the medium resource / assurance and high resource / assurance scenario. For the low resource /assurance scenario it is assumed that only 5% of premises would fall in the high-risk category of premises which would require inspection under this more targeted approach.

Number of business sites within scope of regulations

The number of business sites in Scotland - i.e. individual stores - which will potentially be within scope of the regulations and potentially subject to inspections is shown in

Table 37. This totals over 25,000 across retailers and out-of-home businesses. A breakdown is given of the split of business sites by the overall size of the business (number of employees in the UK) for the purposes of considering the impact of exempting businesses by size.

Table 37: Number of business sites of registered private sector businesses in Scotland by number of employees in business in UK, 2022

| Description | Number of business sites in Scotland (split by number of employees in businesses in UK) | | | | Total number of business sites |
|--------------------------|---|---------------|-----------------|--------------|--------------------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 4,230 | 655 | 240 | 2,110 | 7,230 |
| Non-food retailers | 800 | 145 | 80 | 1,050 | 2,080 |
| Retailers total | 5,030 | 800 | 320 | 3,160 | 9,310 |
| Accommodation | 850 | 650 | 205 | 275 | 1,980 |
| Food and drink services | 9,045 | 2,490 | 365 | 2,105 | 14,010 |
| Out-of-Home total | 9,895 | 3,140 | 570 | 2,380 | 15,990 |
| Total | 14,920 | 3,945 | 890 | 5,540 | 25,300 |

Source: IDBR extract for relevant 5 digit SIC codes

Total annual inspection costs

Using the inspection rate and frequency of visits we can estimate the total number of units inspected annually under each of the enforcement scenarios. Applying the time per visit to this then allows us to estimate the potential annual inspections costs. These totals costs are shown in Table 38, Table 39, and Table 40 including the estimates if micro and small businesses (less than 50 employees) are exempt from the regulations (based on the total number of employees in the business).

Table 38: Total annual inspection costs, Low Resource / Assurance scenario, 2022 prices

| Businesses within scope | | Low Resource / Assurance | | |
|--------------------------------|---------------------------|--------------------------|------------|---------------------|
| | | <i>Retail</i> | <i>OOH</i> | <i>Total</i> |
| Inspection rate | | 5% | 5% | |
| Frequency of visits (per year) | | 0.29 | 0.5 | |
| Time per visit, hours | | 2 | 2 | |
| Units inspected annually | All Businesses | 135 | 400 | 535 |
| | Micro/Small exempt | 50 | 74 | 124 |
| Annual cost | All Businesses | £8,467 | £25,072 | £33,539 |
| | Micro/Small exempt | £3,165 | £4,626 | £7,790 |

Table 39: Total annual inspection costs, Medium Resource / Assurance scenario, 2022 prices

| | | Medium Resource / Assurance | | |
|--------------------------------|---------------------------|-----------------------------|------------|---------------------|
| Businesses within scope | | <i>Retail</i> | <i>OOH</i> | <i>Total</i> |
| Inspection rate | | 100% | 100% | |
| Frequency of visits (per year) | | 0.29 | 0.5 | |
| Time per visit, hours | | 0.5 | 0.5 | |
| Units inspected annually | All Businesses | 2,700 | 7,995 | 10,695 |
| | Micro/Small exempt | 1,009 | 1,475 | 2,484 |
| Annual cost | All Businesses | £42,334 | £125,360 | £167,693 |
| | Micro/Small exempt | £15,824 | £23,128 | £38,952 |

Table 40: Total annual inspection costs High Resource / Assurance scenario, 2022 prices

| | | High Resource / Assurance | | |
|--------------------------------|---------------------------|---------------------------|----------|-----------------|
| Businesses within scope | | Retail | OOH | Total |
| Inspection rate | | 100% | 100% | |
| Frequency of visits (per year) | | 0.29 | 0.5 | |
| Time per visit, hours | | 1 | 1 | |
| Units inspected annually | All Businesses | 2,700 | 7,995 | 10,695 |
| | Micro/Small exempt | 1,009 | 1,475 | 2,484 |
| Annual cost | All Businesses | £84,668 | £250,719 | £335,387 |
| | Micro/Small exempt | £31,648 | £46,255 | £77,903 |

Reconfiguration support

In addition to the inspection costs, it is expected that there may be one-off costs in providing businesses with support on how to reconfigure premises and general advice on adhering to the new regulations.

It is challenging to estimate what level of resource may be required to perform this support. For the purposes of this analysis we have assumed that there would be a one-off cost in the first year to support with reconfiguration which is equal to the estimated annual inspection costs for each enforcement scenario. See Table 41.

Table 41: Reconfiguration and adoption support, one-off cost in year 1 (£2022)

| Businesses within scope | Enforcement style | | | | | | | | |
|---------------------------|--------------------------|--------|---------------|-----------------------------|---------|----------------|---------------------------|---------|----------------|
| | Low Resource / Assurance | | | Medium Resource / Assurance | | | High Resource / Assurance | | |
| | Retail | OOH | Total | Retail | OOH | Total | Retail | OOH | Total |
| All | 8,467 | 25,072 | 33,539 | 42,334 | 125,360 | 167,693 | 84,668 | 250,719 | 335,387 |
| Micro/Small exempt | 3,165 | 4,626 | 7,790 | 15,824 | 23,128 | 38,952 | 31,648 | 46,255 | 77,903 |

Annual overheads

While the expectation is that the new regulations will be encompassed into the standard inspection and enforcement regimes, there will likely be additional administration costs and general overheads associated with the responsibilities beyond the inspection time requirements. This would also include any additional time and travel costs for inspections and engagement. These would be ongoing annual costs going forward.

We have estimated these additional costs on the basis of a share of an FTE in each Local Authority. We have assumed that 5% of an FTE in each Local Authority would be required in the low resource / assurance enforcement scenario, and that overheads would be double that at 10% of an FTE in a medium resource / assurance and high resource / assurance enforcement scenario. Totalled across the 32 local authorities gives an estimate of the total FTE in Scotland, which is then multiplied by the EHO wage costs to give an annual estimate of overheads. See Table 42.

Table 42: Estimated annual administration and overhead costs (£2022)

| | Enforcement scenario | | |
|-------------------|--------------------------|-----------------------------|---------------------------|
| | Low resource / assurance | Medium resource / assurance | High resource / assurance |
| Overhead (FTE) | 5% | 10% | 10% |
| Total time (FTE) | 1.6 | 3.2 | 3.2 |
| Total cost | £82,789 | £165,578 | £165,578 |

Total enforcement costs

The estimated costs above are summarised in Table 43 to provide estimated total enforcement costs over the next 25 years. The annual costs are discounted using the recommend social discount rate of 3.5%.

The total estimated costs over the 25 year period with no exemptions range between £2.2 million and £9 million depending on the enforcement scenario. When exempting businesses with less than 50 employees, the estimated costs over the period range between £1.7 million and £4.4 million.

Table 43: Estimated total enforcement costs over 25 year, no exemptions £2022 (discounted)

| | | All businesses | | |
|--|-------------------------------|------------------------------------|---|---|
| | | Low resource /assurance | Medium resource /assurance | High resource /assurance |
| Year 0 (first year) | Familiarisation | £176,240 | £195,244 | £195,244 |
| | Inspections | £33,539 | £167,693 | £335,387 |
| | Reconfiguration | £33,539 | £167,693 | £335,387 |
| | Overheads | £82,789 | £165,578 | £165,578 |
| | Total | £326,107 | £696,209 | £1,031,596 |
| Years 1- 25 (next 24 years) | Inspections (undiscounted) | £804,928 | £4,024,642 | £8,049,284 |
| | Overheads (undiscounted) | £1,986,939 | £3,973,877 | £3,973,877 |
| | Total (discounted) | £1,868,034 | £5,351,798 | £8,044,681 |
| Total over 25 years(discounted) | | £2,194,141 | £6,048,008 | £9,076,277 |

Table 44: Estimated total enforcement costs over 25 year, exemptions for micro and small businesses, £2022 (discounted)

| | | Micro/small exempt | | |
|--|-------------------------------|------------------------------------|---|---|
| | | Low resource /assurance | Medium resource /assurance | High resource /assurance |
| Year 0 (first year) | Familiarisation | £176,240 | £195,244 | £195,244 |
| | Inspections | £7,790 | £38,952 | £77,903 |
| | Reconfiguration | £7,790 | £38,952 | £77,903 |
| | Overheads | £82,789 | £165,578 | £165,578 |
| | Total | £274,610 | £438,726 | £516,629 |
| Years 1- 25 (next 24 years) | Inspections (undiscounted) | £186,968 | £934,840 | £1,869,679 |
| | Overheads (undiscounted) | £1,986,939 | £3,973,877 | £3,973,877 |
| | Total (discounted) | £1,454,558 | £3,284,416 | £3,909,916 |
| Total over 25 years(discounted) | | £1,729,168 | £3,723,141 | £4,426,545 |

Guidance

Guidance will be prepared ahead of implementation that will provide advice on the recommended enforcement approach. It is uncertain what this will cost, and as such has not been included in the cost estimates at this stage. To give a general indication of the potential scale of costs, the Scottish Government budgeted funding of up to £50,000 for the preparation of materials to licence holders ahead of the introduction of Minimum Unit Pricing of Alcohol in Scotland⁵³.

⁵³ [Final Business and Regulatory Impact Assessment, Alcohol \(Minimum Pricing\) \(Scotland\) Act 2012, The Alcohol \(Minimum Price per Unit\) \(Scotland\) Order 2018 Final Business and Regulatory Impact Assessment \(BRIA\) \(www.gov.scot\)](#)

Health

Section 2.3 sets out the health harms of poor diet and obesity as set out under the rationale for taking action.

Health benefits from the proposed policy are modelled using the Department of Health and Social Care Calorie model (v3). The model is calibrated to the English population although the results are adjusted for the size of the Scottish population.

This is a cohort-based Markov model that uses calorie reductions to estimate the benefits to health, and the associated changes in: NHS spending, Social Care spending, and Economic output. These are estimated over a 25 year horizon, and use different discount rates for health benefits compared to costs, in keeping with Green Book guidance. See Annex A for more details.

Input to the model is taken from the reduction in calories⁵⁴ estimated by the SRUC economic modelling work from the introduction of promotion restrictions⁵⁵. The calorie reductions from the modelling work were produced for discretionary foods and for all price promotions and multi-buy promotions only.

The calorie reductions are adjusted for the other options in line with either the share of reduced targeted foods (i.e. share of sales which are discretionary to discretionary plus additional) and for exemptions by using the turnover of exempt businesses.

The model estimates the impact of reduced calories through the effect on the BMI distribution and therefore the incidence of type 2 diabetes, coronary heart disease, stroke, colorectal cancer, breast cancer and liver disease in the cohort. Mortality and incidence are age-adjusted.

Benefits from weight loss in the healthy and underweight BMI categories are also included to capture other benefits beyond the reductions in incidence of disease.

Health benefits to individuals are valued using Quality Adjusted Life Years (QALYs). QALY changes are calculated from the reduced number of deaths and the reduction of people living with the diseases. These are then converted into monetised QALYs using the value of a QALY given in the Green Book (currently £60,000).

People who fall ill with an obesity-related illness in later life may already be in less than perfect health. Accordingly, the model does not assume a QALY value of one for individuals in the “healthy” state (which in model terms means they are free of obesity-related illness). Instead, an age detriment is applied to all QALY values. This is done to allow for the increased prevalence of diseases not explicitly included in the model at older ages. The model uses a QALY disease detriment to calculate the QALY value for an individual in the disease state.

Savings to the NHS are calculated from the reduced treatment requirements for each disease.

Social care cost changes are calculated due to a reduced proportion of overweight, obese, and morbidly obese individuals and hence fewer people needing social care in the treatment scenario. This assumes that the probability of requiring social care increases with BMI.

⁵⁴ The model is only quantifying the benefits of reduced calories and not any of the other potential nutritional benefits from the policy

⁵⁵ [Reducing health harms of foods high in fat, sugar or salt: economic modelling – final report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/reducing-health-harms-of-foods-high-in-fat-sugar-or-salt/economic-modelling-final-report/pages/20.aspx)

Economic productivity effects are assessed in two categories. First, reductions in mortality are used to calculate the impact of mortality on economic output from an increased workforce. This is done by considering everyone within a cohort to earn the median wage of a person of that age and gender, with a larger workforce present in the treatment scenario.

Secondly, the model calculates the impact of morbidity on economic output using an employment rate that varies with disease state. This change has been made to reflect the lower productivity and rates of employment seen for individuals with one of the six modelled diseases (type 2 diabetes, coronary heart disease, stroke, colorectal cancer, breast cancer and liver disease).

The results from the baseline SRUC modelling inputted into the DHSC calorie model is shown in Table 45. These results are presented for the full policy appraisal period and have been uprated into 2022 prices.

Table 45: Estimated monetary value of benefits from reduced calorie consumption (as estimated from SRUC economic modelling) over 25 year policy period (discounted), results from DHSC calorie model, £2022

| | Multi-buy only | | | All price promotions | | |
|------------------------|----------------|--------------|--------------|----------------------|--------------|---------------|
| | Lower | Central | Upper | Lower | Central | Upper |
| QALYs | 36,400 | 40,100 | 43,700 | 142,400 | 158,300 | 174,000 |
| Economic Output (£m) | 235 | 258 | 281 | 914 | 1,016 | 1,117 |
| NHS Costs (£m) | 153 | 169 | 185 | 603 | 670 | 737 |
| QALY (£m) | 1,726 | 1,998 | 2,070 | 6,744 | 7,496 | 8,243 |
| Social Care Costs (£m) | 189 | 207 | 225 | 706 | 780 | 853 |
| Total (£m) | 2,303 | 2,632 | 2,761 | 8,967 | 9,962 | 10,950 |

The results from DHSC calorie model are provided in 2013 prices. These have been uprated into 2022 prices using the GDP deflators, with the exception of QALY value which have not been uprated as per guidance from DHSC.

The monetary value of the health benefits have been modelled based on the two key scenarios analysed in the SRUC economic modelling, all price promotions or multi-buy only price promotions and based on discretionary foods only. To consider the potential impacts across the wider range of options (i.e. including additional foods within the restrictions, exemptions based on business size), we weight these core results by the estimated reduction in retail profits in each option.

Summary of methodology section

To model the impacts of the policy propositions on Scotland, we have identified sectors affected: retailer, out of home, manufacturers, government, and health. We have identified how proposed regulations will affect costs, revenues and profits to businesses; the additional burden on local government; and the impacts on consumers' health and spending in the health sector.

In order to address the uncertainty in this modelling exercise, we implement a range of values on some assumptions to present the estimate impacts under a lower and upper scenario alongside the central estimates.

Costs and Benefits of Options

The costs and benefits of all options are presented as a net present value (NPV) over 25 years (using a 3.5% discount rate), **relative to the 'do nothing' option 1**. The costs and benefits models were developed by separating affected sectors of the economy: Retail; Out of Home; Manufacturers; Health; and Government. The estimated costs are also broken down by one-off transition costs and also annual recurring costs, all in 2022 prices. The estimated benefits are not available as annual costs, and are presented in present value (positive) terms only.

Option 2

Building on two previous consultations undertaken by the Scottish Government in 2017/18, and in 2018/19, the 2022 consultation presented a number of different options for food categories to be targeted by promotion restrictions. Option 2 considers the implementation of restrictions on volume price promotions (i.e. multi-buy) and location restrictions for discretionary foods plus ice creams and dairy desserts only which fail a NPM test. This is on the basis that discretionary foods account for around 20% of calories and fat in our diet, and more than half of free sugars⁵⁶ intake. It includes no exemptions for any of the restrictions by store size, and as such all businesses are considered in scope for the assessment of costs and benefits.

⁵⁶ [Estimation of food and nutrient intakes from food purchase data in Scotland between 2001 and 2018 | Food Standards Scotland](#)

Costs – Option 2

Table 46: Present Value of Costs of Option 2 (£2022)

| | Option 2 Costs (£2022) | | |
|--|------------------------|-------------------------|-----------------------|
| | Low (£962,433) | Central (£2,540,756) | High (£5,327,555) |
| Recurring Costs (annual) | | | |
| Retail profits (volume/price) | (£176,800) | (£353,600) | (£530,400) |
| Retail profits (location) | (£115,265) | (£325,926) | (£731,947) |
| OoH profits | (£335,352) | (£842,792) | (£1,217,857) |
| Manufacturer profits | (£218,688) | (£685,166) | (£2,346,386) |
| Government enforcement costs | (£116,328) | (£333,272) | (£500,965) |
| One-off transition costs | (£7,793,029) | (£13,625,779) | (£19,460,195) |
| Retail industry | (£5,046,968) | (£8,476,016) | (£11,942,508) |
| Familiarisation | (£442,176) | (£663,265) | (£878,357) |
| Product assessment | (£3,357,979) | (£5,319,126) | (£7,323,712) |
| Store planning and adjustment | (£1,246,813) | (£2,493,626) | (£3,740,438) |
| OoH industry | (£2,419,954) | (£4,453,554) | (£6,486,092) |
| Familiarisation | (£758,739) | (£1,131,125) | (£1,502,447) |
| Product assessment | (£256,337) | (£512,674) | (£769,011) |
| Store planning and adjustment | (£1,404,878) | (£2,809,756) | (£4,214,634) |
| Government | (£326,107) | (£696,209) | (£1,031,596) |
| Present Value of Costs (25 years) | (£23,439,062) | (£54,930,225) | (£106,068,944) |

Benefits – Option 2

We use the value of reduced profits in the retail and OoH sector to weight the estimated benefits from the DHSC calorie model outputs. Relative to the multi-buy only baseline (Option 3(a)), the reduction in profits are 81%, 82% and 82% from low, central, high scenarios respectively. Weighting the benefits by these shares gives an estimated present value of benefits of over £2 billion in the central scenario over the 25 year policy period. It should be noted that 76% of the benefits are from QALYs, which will not be financial savings but the monetary value on the improvement in peoples quality of living. See Table 47.

Table 47: Present Value of Benefits of Option 2 (£2022)

| | Low | | Central | | High | |
|-------------------------------|----------|----------------------|----------|----------------------|----------|----------------------|
| Economic Output PV | £ | 190,965,993 | £ | 210,917,471 | £ | 231,124,868 |
| NHS Costs PV | £ | 124,672,099 | £ | 138,290,229 | £ | 152,082,164 |
| QALY PV | £ | 1,403,614,775 | £ | 1,633,731,156 | £ | 1,702,211,238 |
| Social Care Costs PV | £ | 153,366,471 | £ | 169,131,935 | £ | 185,100,002 |
| Benefits PV (25 years) | £ | 1,872,619,339 | £ | 2,152,070,790 | £ | 2,270,518,272 |

Summary – Option 2

Taking the present value of the costs and benefits together gives an estimate of the Net Present Value (NPV) of Option 2 over the next 25 years. See Table 48.

Table 48: Net Present Value of Option 2, £2022

| | Low | Central | High |
|----------------|-----------------|-----------------|-----------------|
| NPV (25 years) | £ 1,849,180,277 | £ 2,097,140,565 | £ 2,164,449,328 |

Option 3

Option 3 would be consistent with categories set out in the UK Government regulations for England and considers the implementation of restrictions on volume price promotions (i.e. multi-buy) and location restrictions for discretionary foods and additional foods most associated with childhood obesity which fail a NPM test. In line with the UK Government approach, meal deals and TPRs are not included under this option. This is in line with Scotland's aim to halve childhood obesity by 2030 and is in the context of the Scottish Health Survey 2022 that reported that one third of children were at risk of overweight (including obesity). This was 5 percentage points higher than in 2021, and the highest level since 2011.

We consider the potential impact of the policy with no exemptions (Option 3a), exempting micro and small businesses from location promotion restrictions (Option 3b) and exempting micro and small businesses from both location and price promotion restrictions (Option 3c).

Costs – Option 3

Table 49: Present Value of Costs of Option 3a, without exemptions by store size (£2022)

| | Option 3a (no exemption) | | |
|--|---------------------------------|--------------------------------|-----------------------------|
| Recurring Costs (annual) | Low (£1,159,223) | Central (£3,010,418) | High (£6,255,387) |
| Retail profits (volume/price) | (£229,942) | (£459,884) | (£689,826) |
| Retail profits (location) | (£132,976) | (£374,973) | (£842,384) |
| OoH profits | (£408,605) | (£1,026,889) | (£1,483,881) |
| Manufacturer profits | (£271,372) | (£815,401) | (£2,738,331) |
| Government enforcement costs | (£116,328) | (£333,272) | (£500,965) |
| One-off transition costs | (£7,793,029) | (£13,625,779) | (£19,460,195) |
| Retail industry | (£5,046,968) | (£8,476,016) | (£11,942,508) |
| Familiarisation | (£442,176) | (£663,265) | (£878,357) |
| Product assessment | (£3,357,979) | (£5,319,126) | (£7,323,712) |
| Store planning and adjustment | (£1,246,813) | (£2,493,626) | (£3,740,438) |
| OoH industry | (£2,419,954) | (£4,453,554) | (£6,486,092) |
| Familiarisation | (£758,739) | (£1,131,125) | (£1,502,447) |
| Product assessment | (£256,337) | (£512,674) | (£769,011) |
| Store planning and adjustment | (£1,404,878) | (£2,809,756) | (£4,214,634) |
| Government | (£326,107) | (£696,209) | (£1,031,596) |
| Present Value of Costs (25 years) | (£26,638,236) | (£62,565,409) | (£121,152,480) |

Table 50: Present Value of Costs of Option 3b, with location promotion exemptions by store size (£2022)

| | Option 3b (location exemption) | | |
|--|---------------------------------------|----------------------|----------------------|
| | Low | Central | High |
| Recurring Costs (annual) | (£894,043) | (£2,227,129) | (£4,732,164) |
| Retail profits (volume/price) | (£229,942) | (£459,884) | (£689,826) |
| Retail profits (location) | (£113,201) | (£313,509) | (£705,900) |
| OOH profits | (£235,085) | (£590,806) | (£853,730) |
| Manufacturer profits | (£229,130) | (£677,876) | (£2,278,178) |
| Government enforcement costs | (£86,684) | (£185,054) | (£204,530) |
| One-off transition costs | (£5,424,335) | (£8,939,331) | (£12,400,600) |
| Retail industry | (£4,053,586) | (£6,561,519) | (£9,106,896) |
| Familiarisation | (£297,642) | (£446,464) | (£589,289) |
| Product assessment | (£3,357,979) | (£5,319,126) | (£7,323,712) |
| Store planning and adjustment | (£397,965) | (£795,930) | (£1,193,894) |
| OOH industry | (£1,100,034) | (£1,958,562) | (£2,816,027) |
| Familiarisation | (£469,045) | (£696,583) | (£923,059) |
| Product assessment | (£256,337) | (£512,674) | (£769,011) |
| Store planning and adjustment | (£374,653) | (£749,305) | (£1,123,958) |
| Government | (£270,715) | (£419,250) | (£477,677) |
| Present Value of Costs (25 years) | (£19,958,569) | (£45,145,218) | (£89,330,220) |

Table 51: Present Value of Costs of Option 3c, with location and price promotion exemptions by store size (£2022)

| | Option 3c (location and price exemption) | | |
|--|---|----------------------|----------------------|
| | Low | Central | High |
| Recurring Costs (annual) | (£855,953) | (£2,178,216) | (£4,668,532) |
| Retail profits (volume/price) | (£195,747) | (£391,495) | (£587,242) |
| Retail profits (location) | (£113,201) | (£313,509) | (£705,900) |
| OOH profits | (£235,085) | (£590,806) | (£853,730) |
| Manufacturer profits | (£229,130) | (£677,876) | (£2,278,178) |
| Government enforcement costs | (£82,789) | (£204,530) | (£243,482) |
| One-off transition costs | (£1,879,617) | (£3,137,811) | (£4,346,174) |
| Retail industry | (£989,214) | (£1,564,159) | (£2,176,548) |
| Familiarisation | (£153,108) | (£229,663) | (£300,221) |
| Product assessment | (£438,141) | (£538,567) | (£682,433) |
| Store planning and adjustment | (£397,965) | (£795,930) | (£1,193,894) |
| OOH industry | (£615,793) | (£1,134,926) | (£1,652,996) |
| Familiarisation | (£179,351) | (£262,042) | (£343,670) |
| Product assessment | (£61,790) | (£123,579) | (£185,369) |
| Store planning and adjustment | (£374,653) | (£749,305) | (£1,123,958) |
| Government | (£274,610) | (£438,726) | (£516,629) |
| Present Value of Costs (25 years) | (£15,794,635) | (£38,548,524) | (£80,241,339) |

Benefits – Option 3

We use the value of reduced profits in the retail and OoH sector to weight the estimated benefits from the DHSC calorie model outputs. Relative to the multi-buy only baseline (option 3a =100%), the reduction in profits are 75%, 73% and 75% from low, central, high scenarios respectively for Option 3b and 71%, 70% and 71% from low, central, high scenarios respectively for Option 3c.

Table 52: Present Value of Benefits of Option 3a over 25 year policy horizon, without exemptions by store size (£2022)

| | Option 3a (no exemption) | | |
|-------------------------------|---------------------------------|------------------------|------------------------|
| | Low | Central | High |
| Economic Output PV | £ 234,827,469 | £ 257,945,199 | £ 281,062,929 |
| NHS Costs PV | £ 153,307,052 | £ 169,124,446 | £ 184,941,841 |
| QALY PV | £ 1,726,000,000 | £ 1,998,000,000 | £ 2,070,000,000 |
| Social Care Costs PV | £ 188,592,009 | £ 206,842,848 | £ 225,093,688 |
| Benefits PV (25 years) | £ 2,302,726,529 | £ 2,631,912,493 | £ 2,761,098,457 |

Table 53: Present Value of Benefits of Option 3b over 25 year policy horizon, with location promotion exemptions by store size (£2022)

| | Option 3b (location exemption) | | | | | |
|------------------------|--------------------------------|---------------|---------|---------------|------|---------------|
| | Low | | Central | | High | |
| Economic Output PV | £ | 175,994,583 | £ | 189,010,024 | £ | 209,621,886 |
| NHS Costs PV | £ | 114,898,018 | £ | 123,926,384 | £ | 137,933,016 |
| QALY PV | £ | 1,293,573,751 | £ | 1,464,039,763 | £ | 1,543,843,954 |
| Social Care Costs PV | £ | 141,342,800 | £ | 151,564,642 | £ | 167,878,999 |
| Benefits PV (25 years) | £ | 1,725,809,151 | £ | 1,928,540,812 | £ | 2,059,277,855 |

Table 54: Present Value of Benefits of Option 3c over 25 year policy horizon, with location and price promotion exemptions by store size (£2022)

| | Option 3c (location and price exemption) | | | | | |
|------------------------|--|---------------|---------|---------------|------|---------------|
| | Low | | Central | | High | |
| Economic Output PV | £ | 165,586,803 | £ | 179,534,674 | £ | 200,062,311 |
| NHS Costs PV | £ | 108,103,301 | £ | 117,713,772 | £ | 131,642,733 |
| QALY PV | £ | 1,217,075,765 | £ | 1,390,645,305 | £ | 1,473,438,656 |
| Social Care Costs PV | £ | 132,984,220 | £ | 143,966,484 | £ | 160,223,063 |
| Benefits PV (25 years) | £ | 1,623,750,089 | £ | 1,831,860,236 | £ | 1,965,366,764 |

Summary – Option 3

Table 55: Net Present Value of Option 3 over 25 year policy horizon, with and without exemptions, £2022

| | NPV (25 years) | | |
|--|-----------------------|-----------------|-----------------|
| | Low | Central | High |
| Option 3a (no exemption) | £ 2,276,088,293 | £ 2,569,347,084 | £ 2,639,945,977 |
| Option 3b (location exemption) | £ 1,705,850,582 | £ 1,883,395,594 | £ 1,969,947,636 |
| Option 3c (location and price exemption) | £ 1,607,955,454 | £ 1,793,311,712 | £ 1,885,125,425 |

Option 4

Option 4 considers more extensive price promotions than those set out in the UK Government regulations for England and models the implementation of restrictions on all price promotions (i.e. multi-buy, meals deals and TPRs) and price and location promotion restrictions for discretionary foods and additional foods most associated with childhood obesity which fail a NPM test. This option is more aligned with the approach Welsh Government set out they are minded to pursue.

[Economic modelling⁵⁷](#) has estimated that removal of price promotions such as temporary price reductions, multi-buy and 'Y for £X', just on discretionary foods such as cakes, biscuits,

⁵⁷ [Executive summary - Reducing health harms of foods high in fat, sugar or salt: economic modelling – final report - gov.scot \(www.gov.scot\)](#)

confectionary, crisps, etc., has the potential to reduce calorie intake by 613 calories per person per week (although it was noted this should be considered as an upper estimate). The impact is expected to be even greater if a wider range of high fat, sugar and salt food categories is included.

We consider the potential impact of the policy with no exemptions (Option 4a), exempting micro and small businesses from location promotion restrictions (Option 4b), and exempting micro and small businesses from both location and price promotion restrictions (Option 4c).

Costs – Option 4

Table 56: Present Value of Costs of Option 4a, without exemptions by store size (£2022)

| | Option 4a (no exemption) | | |
|--|---------------------------------|----------------------|-----------------------|
| | Low | Central | High |
| Recurring Costs (annual) | (£1,944,878) | (£4,363,809) | (£8,205,322) |
| Retail profits (volume/price) | (£686,562) | (£1,373,123) | (£2,059,685) |
| Retail profits (location) | (£132,976) | (£374,973) | (£842,384) |
| OoH profits | (£408,605) | (£1,026,889) | (£1,483,881) |
| Manufacturer profits | (£600,407) | (£1,255,553) | (£3,318,407) |
| Government enforcement costs | (£116,328) | (£333,272) | (£500,965) |
| One-off transition costs | (£7,793,029) | (£13,625,779) | (£19,460,195) |
| Retail industry | (£5,046,968) | (£8,476,016) | (£11,942,508) |
| Familiarisation | (£442,176) | (£663,265) | (£878,357) |
| Product assessment | (£3,357,979) | (£5,319,126) | (£7,323,712) |
| Store planning and adjustment | (£1,246,813) | (£2,493,626) | (£3,740,438) |
| OOH industry | (£2,419,954) | (£4,453,554) | (£6,486,092) |
| Familiarisation | (£758,739) | (£1,131,125) | (£1,502,447) |
| Product assessment | (£256,337) | (£512,674) | (£769,011) |
| Store planning and adjustment | (£1,404,878) | (£2,809,756) | (£4,214,634) |
| Government | (£326,107) | (£696,209) | (£1,031,596) |
| Present Value of Costs (25 years) | (£39,410,424) | (£84,567,145) | (£152,852,089) |

Table 57: Present Value of Costs of Option 4b, with location promotion exemptions by store size (£2022)

| | Option 4b (location exemption) | | |
|--|---------------------------------------|----------------------|-----------------------|
| | Low | Central | High |
| Recurring Costs (annual) | (£1,704,337) | (£3,613,481) | (£6,725,539) |
| Retail profits (volume/price) | (£686,562) | (£1,373,123) | (£2,059,685) |
| Retail profits (location) | (£113,201) | (£313,509) | (£705,900) |
| OoH profits | (£235,085) | (£590,806) | (£853,730) |
| Manufacturer profits | (£582,805) | (£1,150,989) | (£2,901,694) |
| Government enforcement costs | (£86,684) | (£185,054) | (£204,530) |
| One-off transition costs | (£5,424,335) | (£8,939,331) | (£12,400,600) |
| Retail industry | (£4,053,586) | (£6,561,519) | (£9,106,896) |
| Familiarisation | (£297,642) | (£446,464) | (£589,289) |
| Product assessment | (£3,357,979) | (£5,319,126) | (£7,323,712) |
| Store planning and adjustment | (£397,965) | (£795,930) | (£1,193,894) |
| OOH industry | (£1,100,034) | (£1,958,562) | (£2,816,027) |
| Familiarisation | (£469,045) | (£696,583) | (£923,059) |
| Product assessment | (£256,337) | (£512,674) | (£769,011) |
| Store planning and adjustment | (£374,653) | (£749,305) | (£1,123,958) |
| Government | (£270,715) | (£419,250) | (£477,677) |
| Present Value of Costs (25 years) | (£33,131,328) | (£67,682,799) | (£121,736,019) |

Table 58: Present Value of Costs of Option 4c, with location and price promotion exemptions by store size (£2022)

| | Option 4c (location and price exemption) | | |
|--|---|----------------------|-----------------------|
| | Low | Central | High |
| Recurring Costs (annual) | (£1,348,619) | (£3,330,344) | (£6,328,492) |
| Retail profits (volume/price) | (£584,463) | (£1,168,926) | (£1,753,389) |
| Retail profits (location) | (£113,201) | (£313,509) | (£705,900) |
| OoH profits | (£235,085) | (£590,806) | (£853,730) |
| Manufacturer profits | (£333,080) | (£1,052,572) | (£2,771,991) |
| Government enforcement costs | (£82,789) | (£204,530) | (£243,482) |
| One-off transition costs | (£1,879,617) | (£3,137,811) | (£4,346,174) |
| Retail industry | (£989,214) | (£1,564,159) | (£2,176,548) |
| Familiarisation | (£153,108) | (£229,663) | (£300,221) |
| Product assessment | (£438,141) | (£538,567) | (£682,433) |
| Store planning and adjustment | (£397,965) | (£795,930) | (£1,193,894) |
| OOH industry | (£615,793) | (£1,134,926) | (£1,652,996) |
| Familiarisation | (£179,351) | (£262,042) | (£343,670) |
| Product assessment | (£61,790) | (£123,579) | (£185,369) |
| Store planning and adjustment | (£374,653) | (£749,305) | (£1,123,958) |
| Government | (£274,610) | (£438,726) | (£516,629) |
| Present Value of Costs (25 years) | (£23,803,778) | (£57,278,384) | (£107,226,902) |

Benefits – Option 4

We use the value of reduced profits in the retail and OoH sector to weight the estimated benefits from the DHSC calorie model outputs. Relative to the all price promotions baseline (option 4a =100%), the reduction in profits are 84%, 82% and 83% from low, central, high scenarios respectively in Option 4b and 76%, 75% and 76% in Option 4c.

Table 59: Present Value of Benefits of Option 4a over 25 year policy horizon, without exemptions by store size (£2022)

| | Option 4a (no exemption) | | | | | |
|-------------------------------|--------------------------|----------------------|----------|----------------------|----------|-----------------------|
| | Low | | Central | | High | |
| Economic Output PV | £ | 913,758,700 | £ | 1,015,963,401 | £ | 1,116,951,380 |
| NHS Costs PV | £ | 603,494,427 | £ | 670,414,172 | £ | 737,333,917 |
| QALY PV | £ | 6,744,000,000 | £ | 7,496,000,000 | £ | 8,243,000,000 |
| Social Care Costs PV | £ | 705,699,129 | £ | 779,919,210 | £ | 852,922,568 |
| Benefits PV (25 years) | £ | 8,966,952,256 | £ | 9,962,296,783 | £ | 10,950,207,865 |

Table 60: Present Value of Benefits of Option 4b over 25 year policy horizon, with location promotion exemptions by store size (£2022)

| | Option 4b (location exemption) | | | | | |
|-------------------------------|--------------------------------|----------------------|----------|----------------------|----------|----------------------|
| | Low | | Central | | High | |
| Economic Output PV | £ | 769,944,130 | £ | 833,804,150 | £ | 921,715,667 |
| NHS Costs PV | £ | 508,511,703 | £ | 550,210,882 | £ | 608,452,826 |
| QALY PV | £ | 5,682,575,955 | £ | 6,151,989,235 | £ | 6,802,178,127 |
| Social Care Costs PV | £ | 594,630,620 | £ | 640,081,988 | £ | 703,837,345 |
| Benefits PV (25 years) | £ | 7,555,662,408 | £ | 8,176,086,255 | £ | 9,036,183,965 |

Table 61: Present Value of Benefits of Option 4c over 25 year policy horizon, with location and price promotion exemptions by store size (£2022)

| | Option 4c (location and price exemption) | | | | | |
|-------------------------------|--|----------------------|----------|----------------------|----------|----------------------|
| | Low | | Central | | High | |
| Economic Output PV | £ | 693,981,145 | £ | 759,044,584 | £ | 843,712,682 |
| NHS Costs PV | £ | 458,341,741 | £ | 500,878,522 | £ | 556,960,659 |
| QALY PV | £ | 5,121,930,813 | £ | 5,600,396,824 | £ | 6,226,523,161 |
| Social Care Costs PV | £ | 535,964,133 | £ | 582,691,711 | £ | 644,272,974 |
| Benefits PV (25 years) | £ | 6,810,217,832 | £ | 7,443,011,642 | £ | 8,271,469,476 |

Summary – Option 4

Table 62: Net Present Value of Option 4 over 25 year policy horizon, with and without exemptions for location promotions, £2022

| | NPV (25 years) | | |
|--|-----------------|-----------------|------------------|
| | Low | Central | High |
| Option 4a (no exemption) | £ 8,927,541,832 | £ 9,877,729,638 | £ 10,797,355,776 |
| Option 4b (location exemption) | £ 7,522,531,080 | £ 8,108,403,456 | £ 8,914,447,946 |
| Option 4c (location and price exemption) | £ 6,786,414,054 | £ 7,385,733,258 | £ 8,164,242,574 |

Summary of Costs and Benefits – All Options (Central)

Table 63: Costs and Benefits of all options (relative to the do nothing option), summary of central scenarios, £2022

| | Recurring Costs (annual) | One-off transition costs | Present Value of Costs (25 years) | Benefits Present Value (25 years) | Net Present Value (25 years) |
|-----------|--------------------------|--------------------------|-----------------------------------|-----------------------------------|------------------------------|
| Option 2 | (£2,540,756) | (£13,625,779) | (£54,930,225) | £2,152,070,790 | £2,097,140,565 |
| Option 3a | (£3,010,418) | (£13,625,779) | (£62,565,409) | £2,631,912,493 | £2,569,347,084 |
| Option 3b | (£2,227,129) | (£8,939,331) | (£45,145,218) | £1,928,540,812 | £1,883,395,594 |
| Option 3c | (£2,178,216) | (£3,137,811) | (£38,548,524) | £1,831,860,236 | £1,793,311,712 |
| Option 4a | (£4,363,809) | (£13,625,779) | (£84,567,145) | £9,962,296,783 | £9,877,729,638 |
| Option 4b | (£3,613,481) | (£8,939,331) | (£67,682,799) | £8,176,086,255 | £8,108,403,456 |
| Option 4c | (£3,330,344) | (£3,137,811) | (£57,278,384) | £7,443,011,642 | £7,385,733,258 |

5. Regulatory and EU Alignment Impacts

5.1 Intra-UK Trade

Is this measure likely to impact on intra-UK trade?

The potential for the proposals to impact on the UK internal market and incoming goods will depend on the final scope of the policy. The extent to which we align with regulations in place across the rest of the UK will impact on the likelihood of the measure impacting on intra-UK trade.

Intra-UK trade will be assessed in the final BRIA in line with the finalised policy.

5.2 International Trade

Is this measure likely to impact on international trade and investment?

Any impact on international trade will be dependent on the final scope of the policy and the outcome of the 2024 consultation. However we acknowledge that taking action to restrict promotions of HFSS foods where they are sold to the public may have an impact on international trade flows. Any legislation required to deliver this policy may result in a requirement to notify World Trade Organization (WTO) members. The impacts on international trade will be assessed in the final BRIA in line with the finalised policy.

5.3 EU Alignment

Is this measure likely to impact on the Scottish government's policy to maintain alignment with the EU? **No**

6. Scottish Firms Impact Test

The programme of engagement with businesses is set out in Section 3.2 Public Consultation. This engagement was held following publication of the 2022 consultation, to allow for discussion of the proposals as set out in the consultation paper. Meetings with business stakeholders were structured by topic as set out in the table below. For each topic, an overview of the policy proposals as outlined in the 2022 consultation was provided by a Scottish Government official and businesses were invited to comment on the potential business impacts.

The outputs of this programme of engagement are summarised below

| | | |
|------------------------|----------------------------------|--|
| Food Categories | a. Types of foods to be targeted | An overall theme across all sessions was a strong preference for the same food types to be targeted as are set out in the UK Government regulations in England. Businesses noted that significant investment has gone into establishing IT systems and other processes for the introduction of regulations in England and that were different food types to be targeted in Scotland then this would require rework and additional expense for businesses. |
| | b. How to define HFSS foods | There was a consistent preference from businesses for the 2004/05 NPM to be used to |

| | | |
|---------------------------|----------------------------------|---|
| | | define whether or not a food is HFSS. On the grounds that this would be consistent with the approach taken in England and that businesses have invested significantly in reformulation based on 2004/05 NPM. |
| | c. Pre-packed and non-pre-packed | <p>Businesses again tended to favour consistency with regulations in England which target pre-packed foods.</p> <p>Some business stakeholders noted that the proposals could disadvantage retail over the out of home (OoH) sector (in particular takeaway), as the OoH sector tends to provide more non pre-packaged HFSS food.</p> |
| Price Restrictions | a. Multibuy | <p>A general theme was a desire for consistency with regulations elsewhere in the UK.</p> <p>Meal Deals: Comments on multi-buy restrictions tended to focus on the potential for meal-deals to be restricted, with business stakeholders in general not being in favour of a restriction of less healthy meal deals. The reasons given included perceived negative cost implications for consumers in Scotland and the associated impact for those suffering financial hardship. The proposals to restrict meal deals were also noted as having the potential to give competitive advantage to fast food outlets should the proposals target prepacked food only.</p> <p>The evidence base around Meal Deals was an area questioned by business. A blanket approach to the variety of meal deals etc breakfast, lunch, dinner was not supported by business.</p> |
| | b. TPRs | <p>Business stakeholders were in general strongly opposed to the restriction of TPRs, given their view that these are the most utilised promotion type.</p> <p>Businesses were of the viewpoint that TPRs are designed to offer and deliver value for customer purchases rather than encourage volume purchasing.</p> <p>Business cited TPRs as a necessary tool when products are going out of date to reduce wastage.</p> <p>Business stakeholders raised concern that restrictions on TPRs would be difficult to define and enforce. Some business stakeholders raised</p> |

| | | |
|------------------------------|--------------------|---|
| | | the concern that TPRs would leave convenience stores at a competitive disadvantage compared to larger supermarkets given their limited budget to differentiate themselves from competitors. |
| Location Restrictions | | <p>Businesses highlighted the importance from their viewpoint of consistency with restrictions elsewhere in the UK. This was with regards the definition of location restrictions and what locations should be targeted.</p> <p>The cost of reformatting stores to comply with location restrictions was highlighted by business stakeholders as one of the most significant costs of the proposals.</p> <p>Businesses were encouraged to provide data to support these costs.</p> <p>Other comments raised by some business stakeholders were a desire for seasonal exemptions from restrictions and that location restrictions would be particularly challenging for smaller format stores.</p> |
| Exemptions | a. Floor space | <p>Views on exemptions were more varied amongst different business stakeholders, with some businesses keen on a 'level playing field' with limited exemptions.</p> <p>An exemption for stores less than 3000 ft was suggested by some stakeholders on the basis that smaller format stores would struggle to adapt to location restrictions.</p> <p>It was noted by business with mixed use stores that attention should be paid to ensure that floor space definitions are on the basis of floor space that can be practically used for food and drink sales and display.</p> |
| | b. Employee number | In general business indicated, floor space was a better basis for exemptions than employee number. |
| Implementation | a. Timescales | Businesses noted that achievable implementation timescales would be dependent on the level of alignment with restrictions elsewhere in the UK. |
| | b. Guidance | Businesses were keen for early and pro-active engagement on guidance. The importance of learning from the experience of the UK Government was a strong theme that came through during engagement with businesses. |
| | c. Enforcement | Businesses were generally content with proposal that local authorities (Environmental Health Officer |

| | | |
|-----------------------------------|--------------------------------|--|
| | | and/or Trading Standards) would enforce proposals. |
| Industry Specific Concerns | a. SRC/large retail | Deviation from UK Government regulations was a major concern for large retailers. |
| | b. FDFS/manufacturers | Deviation from UK Government regulations was a major concern for manufacturers. Use of the 2018 NPM would be a big concern for manufacturers. |
| | c. SGF/mid-small retail sector | In consideration of business exemptions the threshold should be increased from 2000 sq ft to 3000 sqft to take into account the challenge of store reconfiguration in line with location restrictions. |

In addition to the above, Section 3.2 sets out a series of focused roundtables events that took place in 2023. As the next step in the consultation process these sessions allowed for further focussed discussion on areas of the policy that have generated significant feedback from stakeholders, specifically meal deals, TPRs and business exemptions. In the context of our aim to reduce health inequalities we wanted to understand as far as possible the business impacts (including unintended consequences) of these aspects of the policy alongside the public health impacts. Roundtable events followed a similar structure. Attendees received background information and set questions in advance to facilitate focused discussion. Each area of focus was discussed in turn and businesses were invited to comment on the potential business impacts.

Outputs are summarised in the table below:

| | |
|-------------------|---|
| Meal Deals | <p>Views expressed as part of the roundtable discussions for the most part mirrored and reinforced engagement on and feedback to our 2022 consultation.</p> <p>In general, business stakeholders:</p> <ul style="list-style-type: none"> • Found it difficult to comment fully on proposals when the categories within scope of the policy have not been set out. • Raised concerns around the IT infrastructure needed to support meal deal restrictions and subsequent pass through cost to customers • Considered meal deals to be a planned and not impulse purchase and as such were not in support of inclusion within scope of the policy • Raised issue of displacement i.e making meal deals more expensive in retail can drive purchase to less healthy out of home • Not supportive of differentiation between lunch and evening meal deals |
|-------------------|---|

| | |
|----------------------------|---|
| | |
| TPRs | <p>Views expressed as part of the roundtable discussions for the most part mirrored and reinforced engagement on and feedback to our 2022 consultation.</p> <p>Manufacturing and Wholesale RoundTable:</p> <ul style="list-style-type: none"> • Considered TPRs an important tool used to differentiate in a crowded market. An important point of difference. TPRs were considered a red line by all membership bodies in attendance • Considered Scottish (and Welsh) producers were at risk of being isolated should TPRs be within scope - they would struggle to compete with larger, well known brands without TPRs <p>Retail:</p> <ul style="list-style-type: none"> • Stated TPRs are designed to offer value and encourage brand switching to customers rather than drive volume purchasing. Important tool to differentiate between brands. • Consider TPRs an important tool used to differentiate between brands in a crowded market. • TPRs were considered a red line by all membership bodies in attendance. • Questioned if restrictions on TPRs are an appropriate measure during a cost-of-living crisis. |
| Business Exemptions | <p>Views expressed as part of the roundtable discussions for the most part mirrored and reinforced engagement on and feedback to our 2022 consultation.</p> <p>Overall there is a preference for alignment with England on exemptions.</p> <p>Manufacturing and Wholesale RoundTable:</p> <ul style="list-style-type: none"> • Questioned practicalities of locations restrictions in smaller stores and suggested the threshold for business exemptions should be increased to 3000sq ft |

- | | |
|--|---|
| | <p>Retailers:</p> <ul style="list-style-type: none"> • Some questioned practicalities of locations restrictions in smaller stores and suggested the threshold for business exemptions should be increased to 3000 sq ft – which is in line with Sunday trading laws in England. • suggest that independent convenience stores that operate under a symbol group banner (e.g Spar, Londis etc) should be considered individual, independent small stores for purposes of calculating employee numbers for the business. • Larger retailers questioned rationale for exempting smaller outlets from price volume restrictions. |
|--|---|

The outputs from the roundtable events have been used to help further inform the 2024 consultation on the detail of proposed regulations.

7. Competition Assessment

In addition to looking at the impact on individual firms consideration is given to the impact that a measure⁵⁸ may have on competition between firms. The overall aim of the competition assessment is to find a policy approach which encourages competition within the market subject to achieving the wider policy objectives.

In terms of business exemptions we propose to align with the approach taken by the UK Government and that proposed by the Welsh Government.

In 2022, there were an estimated 5,670 retailers potentially within the scope of the regulations. Of these 5,560, or 98%, were micro or small enterprises with fewer than 50 employees⁵⁹. It is a similar picture for the distribution of OOH businesses, with 13,120 businesses potentially within the scope of the regulations and 12,730 of these, or 97%, having fewer than 50 employees in 2022.

The vast majority of sales occurs in medium and large businesses, reflecting the dominance of supermarkets in the grocery sector. Of a total turnover of around £15.9 billion in the food and drink retail sector potentially within scope in 2022, almost £13.3 billion, or 85% was in businesses with 50 employees or more⁶⁰.

⁵⁸ the term “policy measure” or “measure” refers to any proposed or existing policy, regulation, law or other government intervention

⁵⁹ [ONS, DBR extract for March 2021](#). Includes registered private sector businesses only for selected SIC codes identified by SG officials.

⁶⁰ [Industry Sector - Businesses in Scotland: 2022 - gov.scot \(www.gov.scot\)](#)

OoH sales are also concentrated in larger businesses, but not to the same extent. Revenues in 2022 for OOH businesses potentially in scope totalled around £5.3 billion, with almost £2.3 billion of that, of 54%, in businesses with 50 employees or more.

To assess the impact the policy may have on competition between firms the following questions are considered as detailed below:

| Competition checklist | Policy Measure | |
|---|--|--|
| | Price restrictions including TPR and meal deals | Location restrictions |
| Will the measure directly limit the number or range of suppliers? | No. The proposal places no direct limit on the number of retailers which can operate in the market. | No. The proposal places no direct limit on the number of retailers which can operate in the market. |
| Will the measure indirectly limit the number or range of suppliers? | <p>Manufacturers of targeted food and drink products will be impacted through reduced sales as the policy seeks to restrict the promotion of new and existing HFSS product lines.</p> <p>The measure does not seek to limit the number or range of suppliers in the market. Instead it may encourage manufacturer reformulation to non-HFSS products in order to access promotion types that aren't restricted.</p> <p>Suppliers producing HFSS food and drink will still be able to compete on absolute price level, quality and taste which will limit the impact on competition.</p> <p>There are potential non-intended incentives for retailer and OoH businesses at the margin of the size exemption rules (i.e. around 50 employees or a premises around 2000 square feet) to either lower the size of their business, in terms</p> | <p>Business exemptions are proposed from location restrictions for micro or small business (businesses with under 50 employees) and or for premises smaller than 2000 square feet.</p> <p>As per modelling we assume business premises reconfigure costs are likely to be minimal and non-prohibitive for business in scope.</p> <p>There are potential non-intended incentives for retailer and OoH businesses at the margin of the size exemption rules (i.e. around 50 employees or a premises around 2000 square feet) to either lower the size of their business, in terms of employment and/or physical store size, or alternatively for those currently within the exemption limits not increase the size of their business in order to remain exempted. However, it is unlikely this would represent a large share of businesses, and meeting the HFSS requirements would only be one of many factors which determine a business' growth strategy and/or store sizing.</p> |

| | | |
|--|---|---|
| | <p>of employment and/or physical store size, or alternatively for those currently within the exemption limits not increase the size of their business in order to remain exempted. However, it is unlikely this would represent a large share of businesses, and meeting the HFSS requirements would only be one of many factors which determine a business' growth strategy and/or store sizing.</p> | |
| <p>Will the measure limit the ability of suppliers to compete?</p> | <p>The proposal does not limit businesses ability to compete on grounds of quality, geographic location, absolute price, advertisement and many other aspects on which businesses frequently compete.</p> <p>Price promotions are a method of competition, which will be restricted under this proposal. In engagement with businesses, there were suggestions that the proposals may impact negatively on the ability of retailers to compete with OoH providers due to only pre-packed foods being targeted, and on the ability of manufacturers of HFSS branded products to compete with supermarket own HFSS brand offerings and the impact this may have on new brands entering the market.</p> <p>This method of competition will be restricted for HFSS products only. It is likely that firms will adapt to compete on absolute price level instead.</p> <p>Some businesses may use price discounts to a greater extent than others and therefore the policy may have a disproportionate impact on these businesses. For example,</p> | <p>The proposal does not limit businesses ability to compete on grounds of quality, geographic location, absolute price, advertisement and many other aspects on which businesses frequently compete.</p> <p>Businesses will likely respond by placing alternative products in the areas of store restricted under this policy proposal.</p> <p>Manufacturers bringing new HFSS products to market may traditionally use product placement to penetrate a market. This measure may disadvantage the launch of new HFSS product lines and potentially encourage manufacturers towards launching non-HFSS products.</p> |

| | | |
|--|---|--|
| | TPRs were strongly opposed by business, particularly small to medium stores. Scottish independent retailers consider TPRs to be an essential tool to differentiate themselves from competitors. The proposed business exemptions would help mitigate this issue because Scottish independent retailers are generally small or micro businesses. | |
| Will the measure limit suppliers' incentives to compete vigorously? | <p>The proposal does not exempt suppliers from general competition law, introduce or amend the intellectual property regime or increase the costs to customers of switching between suppliers.</p> <p>This policy does restrict businesses in their ability to offer promotional prices on targeted food and drink that is HFSS which will limit the pricing strategies available to suppliers and may impact on the potential for innovative pricing strategies on HFSS products. This would apply to all suppliers operating in the market.</p> <p>This may lead to more transparent pricing in the form of everyday low pricing which allows consumers to make a fair comparison between products based on price / value instead of trying to navigate a variety of different promotional pricing strategies.</p> <p>The measure would not limit suppliers incentives or ability to compete vigorously on non-targeted food and drink.</p> | The proposal does not exempt suppliers from general competition law, introduce or amend the intellectual property regime or increase the costs to customers of switching between suppliers. |
| Will the measure limit the choices and information available to consumers? | This proposal would not limit the choices or information available to consumers. No food or drink is being banned. This is particularly important to note on | This proposal would not limit the choices or information available to consumers, given that restrictions are on where products can be displayed rather than restrictions on the sale of items. |

| | | |
|--|---|--|
| | <p>the proposed targeting of less healthy meals deals.</p> <p>The restriction of less healthy meal deals may be offset by a shift to the promotions of non-HFSS meal deals. During engagement with business the importance of retaining the ability to promote healthier options was highlighted. This measure will not impact the potential to provide consumers with non HFSS options on promotions</p> <p>Proposed restrictions will not limit the range of options available to consumers. The measure will however limit how targeted HFSS products can be promoted.</p> | |
|--|---|--|

8. Consumer Assessment

At present the food environment heavily incentivises and promotes low cost foods which contributes disproportionately to energy, fat, saturated fat, free sugar and salt intakes⁶¹. The proposals are expected to support consumers to make healthier choices by addressing consumer exposure to promotion of unhealthy food. This is one way to help support diet, healthy weight and overall health improvement as part of wide ranging actions. Measures to transform the food environment, such as restricting the promotion of less healthy foods and reducing the energy density of food, are more likely to be effective in reducing health inequalities than measures aimed at encouraging individual to change their behaviour.

Further information about the intended impact on consumers and the evidence to support this is set out in the 2024 consultation and the 2022 consultation^{62 63}. Central to this is the importance of improving the nation's diet given the long established association between poor diet, excess weight and health outcomes⁶⁴. Section 2.3 details the rationale for Government intervention which outlines the public health harms associated with the excess consumption of calories, fat, sugar and salt. Positive steps to reduce the impact of the promotion of HFSS food and drinks is expected

⁶¹ [Situation Report - The Scottish Diet: It Needs to Change \(2020 update\) \(foodstandards.gov.scot\)](https://www.foodstandards.gov.scot/publications/situation-report-the-scottish-diet-it-needs-to-change-2020-update)

⁶² [Evidence summary - Restricting promotions of food and drink high in fat, sugar or salt: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/evidence-summary-restricting-promotions-of-food-and-drink-high-in-fat-sugar-or-salt-consultation/pages/1)

⁶³ [Consultation on Restricting Promotions of Food and Drink High in Fat, Sugar or Salt \(www.gov.scot\)](https://www.gov.scot/publications/consultation-on-restricting-promotions-of-food-and-drink-high-in-fat-sugar-or-salt/pages/1)

⁶⁴ [Global, regional, and national comparative risk assessment of 84 behavioural, environmental and occupational, and metabolic risks or clusters of risks, 1990–2016: a systematic analysis for the Global Burden of Disease Study 2016 - The Lancet](https://www.thelancet.com/journal/S0140-6736(16)30453-4)

to lessen consumer purchasing and associated consumption of these products which in turn will support consumers to make healthier choices in line with the objective to improve the nation's diet and reduce health harms linked to the excess consumption of calories, fat, sugar and salt.

As part of the series of roundtable discussions detailed at Section 3.2 the Minister for Public Health & Women's Health met with public health stakeholders in November 2023. Public Health stakeholders, in recognition of Scotland's high levels of overweight and obesity, have been consistent in their call for a comprehensive package of measures to be within the scope of the policy to maximise the positive health impacts of proposals on consumers. Public health stakeholder views included:

- unanimous support for including meal deals in the policy to maximise its effectiveness.
- support for alignment with proposed Welsh Government strategies and inclusion of non-pre-packed HFSS food alongside pre-packed items, to prevent loopholes and maximise impact.
- support for children's meal deals being targeted alongside options aimed at adults.
- the importance of effective communication of the policy with a focus on improving access to healthier foods and promotion of the value of healthier options.
- strong support for the inclusion of TPRs within the policy, highlighting their prevalence and the risk of creating a loophole that could undermine the public health impact of the policy if not targeted
- the need for flexibility in the regulations in order to respond to changing industry behaviour.
- support for a comprehensive package of measures with as few exemptions as possible in order to maximise the impact of the policy.
- concern that exempting smaller stores, especially in rural areas and areas of multiple deprivation, could exacerbate health inequalities.
- recognition that there may be implementation challenges in small stores, which may require additional support to enable these stores to offer healthier options.
- the importance of learning from the regulations in England in respect of exemptions.

In addition and as part of work to further develop the policy, Scottish Government officials in December 2022 worked with Poverty Alliance Scotland to run workshops with individuals from urban and rural communities to consider the impact of proposals on people living on low incomes. Overall, workshop participants welcomed the intent behind the policy proposals but had mixed views on efficacy and considerable concerns about the implementation of proposals and unintended consequences. Key messages from workshop participants included:

- A need to focus on making healthy food cheaper to combat poor health
- Restrict location not price
- Agreement with restricting promotions
- A need to respect individual choice
- A need to consider wider implications of the proposed legislation, particularly in the cost crisis

Officials continue to build on findings from these workshops and in line with an extensive programme of engagement with a range of stakeholders will ensure the impact on different types of consumers is considered and understood as part of the suite of impact assessments in line with the Fairer Scotland Duty and equality consideration.

9. Test Run of Business Forms

There are no new forms being introduced as a result of this proposal at this stage.

10. Digital Impact Test

As set out in our 2022 consultation it is proposed that restrictions should apply to online sales of pre-packed targeted foods from retail, out of home (OoH), wholesale outlets and other outlets. This includes home delivery services such as third party apps that facilitate the order of food from a restaurant or takeaway to a consumer as well as online grocery shopping sites. It is therefore considered that the impact of the policy would not be negated should businesses move the point of sale of HFSS food products from a physical premises to online.

From discussion with business it is anticipated that most businesses may opt to use an online tool or software to determine food and drink that is within scope of the restrictions. It is expected this tool / software will support implementation and compliance by introducing a system that supports business to identify targeted foods and support future delivery.

11. Legal Aid Impact Test

At this stage of the policy development, it is not anticipated that there will be an impact on legal aid. However, this section will be revisited following the 2024 consultation, which includes consultation on enforcement and the proposed detail of the future regulations.

12. Enforcement, Sanctions and Monitoring

The intention is to use powers in the Food Safety Act 1990 and the Food (Scotland) Act 2015 to provide for the enforcement of the Regulations. This policy will be enforced by local authorities on the basis that they have experience of similar enforcement, have local knowledge and can incorporate enforcement of the policy into other inspection visits, where appropriate.

It is important that enforcement of the Regulations is fair and proportionate. Non-compliance with the requirements or restrictions set out in the Regulations will amount to an offence which could result in a criminal penalty. The maximum criminal penalty proposed is that a person found guilty of an offence will be liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500).

The intention is for local authorities to be able to issue administrative sanctions as an alternative to prosecution. The administrative sanctions available would be compliance notices and fixed penalty notices – with compliance notices likely being available initially and fixed penalty notices at a later date. The administrative sanctions are intended to give enforcement officers more flexibility to deal with the offences. They would help ensure people who commit the offences can be dealt with more quickly and at less cost than if criminal sanctions alone were available.

Whilst administrative sanctions may be appropriate for most instances of non-compliance, there may be cases, for example where there are repeat offenders or large scale non-compliance, where prosecution may be more appropriate.

We propose that enforcement officers should be able to issue administrative penalties under the Food (Scotland) Act 2015. Under the 2015 Act, compliance notices and fixed penalty notices can be issued in relation to “relevant offences”. It is our intention that the offences in the proposed

Regulations will be considered “relevant offences” and therefore it would be possible for food authorities (i.e. local authorities) to issue compliance notices and fixed penalty notices as administrative sanctions where those offences are committed. Aligning with the enforcement regime for other offences in food law should provide for consistency and clarity for business and enforcement authorities.

Further provision about compliance notices and fixed penalty notices is included in sections 36 to 52 of the 2015 Act. Compliance notices and fixed penalty notices may be issued by authorised officers of the appropriate enforcement authority. In this case, the enforcement authority would be local authorities acting as food authorities.

Guidance

It is important that enforcing authorities and businesses subject to restrictions have information to support effective implementation and enforcement of the policy. To support this, we will work with appropriate stakeholders to develop guidance for both local authorities and businesses. As part of that work, it will be important to ensure that all parties understand what is expected of them and their responsibilities for ensuring compliance.

Monitoring

A Monitoring and Review Project Group has been established to give detailed consideration to a structured and evidence-based process to assess the extent to which regulations deliver the intended policy aims. Monitoring and review plans will be detailed in the final BRIA.

13. Implementation and Delivery Plan

The implementation and delivery plan for these proposals will be set out in the final BRIA to be published to accompany the future regulations.

14. Post Implementation Review

Plans for post-implementation review for these proposals will be set out in the final BRIA to be published to accompany the future regulations.

15. Summary And Recommendation

Costs and benefits of Options 1 - 4 outlined above are summarised at 15.1. Given the analysis above, and the summary below, we recommend Option 4(c). We consider this balances a comprehensive package of measures aimed at improving public health and their health impacts against the impacts on business. In addition and in line with Option 4(c) the consultation;

- notes there are different ways in which we could target meals deals including opportunities to promote healthier meal deal options. On that basis the consultation seeks views from stakeholders on credible options for targeting less healthy meal deals.
- explores the practical aspects of restricting TPRs, and any potential unintended consequences

The final BRIA will be further informed by the outcome of the consultation.

15.1 Summary costs and benefits table

| Option | Description | Benefit | Cost |
|--------|--|---|--|
| 1 | Do nothing | <p>Sectors – retail, out of home and manufacturers – who would be directly affected the proposals outlined within option 2 – 4 would not be subject to restrictions and associated costs.</p> <p>Local government would save on enforcement costs</p> | To take no actions we assume no impact on current population weight trajectories which is not consistent with our vision for a Scotland where everyone eats well and has a healthy weight. |
| 2 | Price (volume, e.g. multi-buy) and location restrictions for discretionary foods and ice cream and dairy desserts, no exemptions | <p>Discretionary foods account for around 20% of calories and fat in our diet and more than half of free sugars.</p> <p>No business exemptions will maximise the impact of the policy</p> | <p>Limited categories of food within scope of the policy would minimise the potential to improve public health.</p> <p>Location restriction may pose implementation challenges for smaller stores.</p> |
| 3 | Price (volume, e.g. multi-buy excluding meal deals and TPRs) and location promotion restrictions for discretionary foods and ice cream and dairy desserts and additional foods | Consistent with the targeted food categories as set out in the UK Government regulations for England. These are food categories of most concern to childhood obesity and are in line with our aim to halve childhood obesity by 2030. | Food purchases have consistently been greater on TPRs than for other price promotion types. To exclude TPRs from the scope of the policy would limit the impact of the policy. |
| 3a | No business Exemptions | No exemptions will maximise the impact of the policy | Divergence from the approach to business exemptions in England and proposed in Wales with increase cost for business. |
| 3b | Exemption for micro and small business from price and location restrictions | Ensures that medium and large business where 85% of spend occurs would be within scope of restrictions. | Minimise the impact of the policy |

| | | | |
|----|--|--|--|
| | | <p>An aligned approach to business exemptions across England, Scotland and Wales would reduce regulatory burden on business.</p> | <p>Potential for business exemptions to exacerbate health inequalities amongst some population groups who may be more reliant on smaller outlets particularly in out of home outlets where a greater proportion of sales comes from smaller businesses.</p> <p>A full EQIA will be carried out to enable analysis of potential impacts, and options to mitigate these.</p> |
| 3c | Exemption for micro and small business from location restrictions | <p>Exemption from location restrictions for smaller stores will mitigate implementation challenges.</p> <p>Fewer exemptions will help maximise the impact of the policy.</p> <p>Partial alignment with exemptions in England and proposed in Wales will help reduce regulatory burden.</p> | <p>The regulatory burden of divergence from the approach across the UK will have costs for business.</p> <p>Exempting micro and small business from price restrictions will minimise the impact of the policy.</p> |
| 4 | Price (volume, e.g. multi-buy excluding meal deals and TPRs) and location promotion restrictions for discretionary foods and ice cream and dairy desserts and additional foods | <p>More extensive price promotions than the UK Government regulation for England.</p> <p>A more extensive package of measures will maximise the impact of the policy.</p> <p>Economic modelling suggests that restricting short term reductions in the price of food and drink products in addition to multibuys could enhance</p> | <p>Divergence from the UK Government increases the regulatory burden and associated cost to business.</p> <p>Potential implementation challenges around TPRs and meal deals</p> |

| | | | |
|----|---|---|---|
| | | the positive impact of the policy on dietary health. | |
| 4a | No business Exemptions | No exemptions will maximise the impact of the policy | <p>Divergence from the approach to business exemptions in England and proposed in Wales will have associated cost for business.</p> <p>Location restriction may pose implementation challenges for micro and small business.</p> |
| 4b | Exemption for micro and small business from price and location restrictions | <p>Ensures that medium and large business where 85% of spend occurs would be within scope of restrictions.</p> <p>An aligned approach to business exemptions across England , Scotland and Wales would reduce regulatory burden on business.</p> <p>Inclusion of TPRs within scope will have implications for businesses, and likely more so for smaller businesses. Exemptions will help to mitigate these implications.</p> | <p>Minimise the impact of the policy</p> <p>Potential for business exemptions to exacerbate health inequalities amongst some population groups who may be more reliant on smaller outlets particularly in out of home outlets where a greater proportion of sales comes from smaller businesses.</p> <p>A full EQIA will be carried out to enable analysis of potential impacts, and options to mitigate these.</p> <p>Exempting micro and small business from price restrictions will minimise the impact of the policy.</p> |
| 4c | Exemption for micro and small business from location restrictions | Exemption from location restrictions for smaller stores will mitigate implementation challenges. | Exemption from location restrictions for micro and small business will not help to mitigate the implications of TPRs |

| | | | |
|--|--|--|------------------------------------|
| | | Partial alignment with exemptions in England and proposed in Wales will help reduce regulatory burden. | and meal deals being within scope. |
|--|--|--|------------------------------------|

16. Declaration and Publication

Sign-off for Partial BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Ms Jenni Minto

Date: 26 February 2024

Minister's name: Ms Jenni Minto

Minister's title: Minister for Public Health and Women's Health

Scottish Government Contact point: dietpolicy@gov.scot

ANNEX A: Department of Health and Social Care Calorie Model

Analysis for Scotland Government Health and Social Care – Promotion Modelling 05/04/2022

Background

The Scottish Government has requested from the UK Department of Health and Social Care (DHSC) modelling on the long-term economic benefits produced by a set of calorie reductions. These calorie reductions represent the total potential health benefits of a set of promotions restrictions and interventions currently considered by the Scottish Government, the scenarios are linked to price and multibuy promotions.

DHSC maintains a “calorie model” which estimates the benefits in net present value (NPV) cash terms of reduced calorie consumption. The model does not estimate the size, scope or duration of the calorie reduction itself. Instead, it takes the reduction as an input parameter and converts it to an NPV value.

The DHSC calorie model gives total health benefits, this represents the total modelled benefits of the scenario discounted to estimate the present value of these future benefits, as consistent with the HMT green book¹. The total health benefits are made up of the four benefits modelled:

- **Health benefits**, the monetised increase in QALYs⁶⁵
- **NHS costs**, the reduction in NHS treatment costs
- **Economic output**, the increase in economic output
- **Social Care costs**, the reduction in Social Care costs

Modelling

Modelling was done on 1 – 5 April 2022 using the DHSC calorie model v3.1.2

The calorie model is a cohort-based Markov model that evaluates the economic impact of a weight reduction policy/intervention applied to that cohort.

Inputs

- **Policy Lifetime** – all scenarios and options modelled have a 25-year policy lifetime as detailed in consultation with the Scottish Population health economics team.
- **Evaluation Period** – all scenarios and options modelled have a 25-year evaluation period as detailed in the consultation meeting with the Scottish Population health economics team.
- **Model Cohort** – the model simulates a policy that targets the whole population.
- **NHS opportunity cost multiplier** – all scenarios and options modelled without the NHS opportunity cost multiplier as advised by RPC following HMT guidance.
- **Calorie reductions** – calorie reductions are as detailed in table 1. Calorie reductions are implemented as detailed in the consultation with the Scottish Population health economics team
- **Cohort**: This policy is applied to all ages and affects the whole population.

⁶⁵ Discount rates and the monetised value of a QALY are given in the [HMT green book](#).

Table A.1: Summary of calorie inputs for scenarios with direct effects.

| Option | Description | Calorie reductions (kcal per person per day) | | |
|-----------------|--------------------------|--|---------|------|
| | | Low | Central | High |
| Option A | Do nothing | 0 | 0 | 0 |
| Option B | All price promotion | 79 | 88 | 96 |
| Option C | Multi-buy promotion only | 20 | 22 | 24 |

Adjustments

The results given in table A2 come from the DHSC calorie model, which models health benefits for England, adjusted for Scotland.

A simple pro-rata change has been made to adjust the results for Scotland. This adjustment involves reducing the model output by the ratio of the English and Scottish populations, this ratio has been set at 10%. This is reasonable provided we make four assumptions:

- The demographic make-up of the English and Scottish populations is similar.
- The levels of obesity prevalence in England and Scotland are similar.
- The prevalence of the six diseases in the model (CHD, Stroke, Diabetes, Liver disease, Breast cancer and Colorectal cancer) in England and Scotland are similar; and
- The costs associated with these conditions are similar in both countries.

Analysis by the Scottish government suggests these are sensible assumptions

Output

The benefits of option A are 0, all other option benefits are given in table A2. The 25-year discounted total benefits, the four component benefits and the undiscounted QALY gain are given in table A2 in 2013 price and are adjusted to the Scottish population.

Table A.2: Summary of Health Benefits and QALY change for scenarios with direct effects ⁶⁶

| | Option B | | | | | |
|-------------------------------|-----------|----------------|-----------|----------------|-----------|----------------|
| | Low | | Central | | High | |
| | ENG | SCOT | ENG | SCOT | ENG | SCOT |
| QALY | 1,424,000 | 142,400 | 1,583,000 | 158,300 | 1,740,000 | 174,000 |
| Economic Output (£m) | 7,512 | 751 | 8,346 | 835 | 9,175 | 918 |
| NHS Costs (£m) | 4,958 | 496 | 5,513 | 551 | 6,065 | 606 |
| QALY (£m) | 67,440 | 6,744 | 74,961 | 7,496 | 82,430 | 8,243 |
| Social Care Costs (£m) | 5,803 | 580 | 6,413 | 641 | 7,013 | 701 |
| Total (£m) | 85,713 | 8,571 | 95,233 | 9,523 | 104,683 | 10,468 |
| | Option C | | | | | |
| | ENG | SCOT | ENG | SCOT | ENG | SCOT |
| | ENG | SCOT | ENG | SCOT | ENG | SCOT |
| QALY | 364,000 | 36,400 | 401,000 | 40,100 | 437,000 | 43,700 |
| Economic Output (£m) | 1,927 | 193 | 2,119 | 212 | 2,310 | 231 |
| NHS Costs (£m) | 1,264 | 126 | 1,391 | 139 | 1,517 | 1512 |
| QALY (£m) | 17,261 | 1,726 | 18,981 | 1,998 | 20,700 | 2,070 |
| Social Care Costs (£m) | 1,545 | 155 | 1,696 | 170 | 1,848 | 185 |
| Total (£m) | 21,997 | 2,200 | 24,187 | 2,419 | 26,375 | 2,638 |

*Monetised benefits are discounted to reflect present values, as detailed in the HMT green book

*A QALY is valued at £60,000, as detailed in the HMT green book

*QALY count is undiscounted

*Monetised benefits are rounded to the nearest million and QALY counts to the nearest 1,000

⁶⁶ Based on DHSC Calorie Model 3.1.2, [Evidence note - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/evidence/evidence-note-on-the-dhsc-calorie-model), used with assistance and permission gratefully received from the UK Department of Health and Social Care (DHSC)

* NHS, social care and economic benefits are based on 2013 pricing. This can be adjusted to 2019 by uprating results for these three benefits types by the GDP deflator². The QALY benefits should not be updated.

Overview of Central results:

All price promotion

The policy for all price promotions modelled (based on a central calorie reduction of -88 calories per person per day) gives a total economic health benefit, in discounted GBP, of £9,523 million. This total NPV is made up of the 4 economic effects modelled: QALYs, economic output, social care costs and NHS costs, shown in table 2. Each of these components has been adjusted by the appropriate discount rate to give the approximate present cash value of future benefits, to be consistent with HMT green book guidance. QALYs are valued at £60,000 per QALY and all others use 2013 prices.

The policy increases the undiscounted total QALY count by 158,300 (124,900 discounted at the health discount rate of 1.5%) and results in approximately 89,100 fewer premature deaths (deaths of individuals under the age of 75) in the model cohort of 6.7 million during the evaluation period of 25 years. A QALY refers to a measurement of disease burden, which includes the quantity and quality of life lived. One QALY equates to one year in perfect health. QALY scores range from 1 (perfect health) to 0 (dead). Increased QALY counts refer to increase in the number of years spent in higher quality health.

Multibuy promotion

The policy for all multi-buy promotions modelled (based on a central calorie reduction of -22 calories per person per day) gives a total economic health benefit, in discounted GBP, of £2,418 million. This total NPV is made up of the 4 economic effects modelled: QALYs, economic output, social care costs and NHS costs, shown in table 2. Each of these components has been adjusted by the appropriate discount rate to give the approximate present cash value of future benefits, to be consistent with HMT green book guidance.

This policy increases the undiscounted total QALY count by 4,010 (31,600 discounted at the health discount rate of 1.5%) and results in approximately 22,600 fewer premature deaths (deaths of individuals under the age of 75) in the model cohort of 6.7 million during the evaluation period of 25 years. A QALY refers to a measurement of disease burden, which includes the quantity and quality of life lived. One QALY equates to one year in perfect health. QALY scores range from 1 (perfect health) to 0 (dead). Increased QALY counts refer to increase in the number of years spent in higher quality health.

Additional caveats and advice on using these results

1. The analysis is illustrative, carries significant uncertainty and should be treated with caution. The calorie model itself is a deterministic model and so gives no formal confidence intervals, therefore levels of uncertainty in the input parameters of the model (including those relating to the expected change in calorie intake) has been reflected through sensitivity analysis.
2. The model says nothing about what level of calorie reduction might be expected from any intervention. That must be assessed separately before modelling, using whatever evidence is available/appropriate.
3. The experience in England suggests that many interventions may deliver relatively small (but still worthwhile) calorie reductions, with policies in England relating to promotions delivering calorie reductions of around 10-70 kcal per day. The central estimates of 22 kcal and 88 kcal would appear reasonable on this basis assuming it includes a wide range of Scottish restrictions and interventions.

4. Although the model estimates a wide range of benefits from the calorie reduction and the subsequent reduction in obesity, it is not comprehensive. Some medical conditions linked to BMI (such as musculo-skeletal conditions) are not currently included.
5. The model takes no account of local circumstances or policy targeting. Excess intake, associated costs and/or potential reductions, and therefore results, may differ markedly across the country and population. Results are a national average and make no comment on regional or demographic variation
6. The model also says nothing about health inequalities.
7. [Documentation](#) for version 3 of the calorie model has been published, version 3.1.2 used in this analysis has the same fundamental structure as version 3 but contains many small improvements, all improvements have been subject to appropriate levels of QA within DHSC.

ANNEX B: Potential Impact of Exemptions by Floor Space Using Employees at Individual Store as a Proxy

This annex analyses the distribution of business sites (i.e. individual stores) by the number of employees at each store. This is the best representation of the physical size of each store out of the three options, and therefore the most relevant to considering the potential impact of exemptions based on store size. The same descriptive analysis can also be undertaken for the number of businesses rather than sites, and also the number of business sites by the total number of employees in the overall business.

Key Findings

- The business statistics data highlights that while the vast majority of business sites – i.e. individual stores – are micro and small, they are responsible for a much lower share of the total turnover in the industry. This illustrates that people spend a significantly larger amount of money in the larger stores as would be expected.
- When comparing across rural and urban areas, retailer business sites are relatively smaller in rural areas, although the distribution of OOH stores is similar. A much larger share of the total turnover (of retailer and OOH) comes from micro and small business sites in rural areas.
- Across SIMD quintile, there appears to be a distinct pattern in the distribution of business sites across quintiles 1-3 (the more deprived areas) compared to quintiles 4 and 5 (less deprived), in terms of the number of stores by size and the share of turnover.

Business sites and turnover in Scotland

Table B.1: Number of business sites of registered private sector businesses in Scotland by the number of employees at the business site, March 2022.

| Description | Number of business sites in Scotland (split by number of employees in businesses in UK) | | | | Total number of business sites |
|--------------------------|---|---------------|-----------------|--------------|--------------------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 4,230 | 655 | 240 | 2,110 | 7,230 |
| Non-food retailers | 800 | 145 | 80 | 1,050 | 2,080 |
| Retailers total | 5,030 | 800 | 320 | 3,160 | 9,310 |
| Accommodation | 850 | 650 | 205 | 275 | 1,980 |
| Food and drink services | 9,045 | 2,490 | 365 | 2,105 | 14,010 |
| Out-of-Home total | 9,895 | 3,140 | 570 | 2,380 | 15,990 |
| Total | 14,920 | 3,945 | 890 | 5,540 | 25,300 |

Source: Scottish extract of the Inter-Departmental Business Register, unpublished (obtained via the Business & Innovation Statistics team)

For retailers in Scotland, 8,910 of retailer business sites have fewer than 50 employees based at them. This represents 96% of the total number of retailer business sites in Scotland. 6,435 of these sites had fewer than 10 employees, which is 69% of the retailer total. See **Table B.1**.

For OOH in Scotland, 15,540 of the OOH business sites have fewer than 50 employees based at them. This represents 97% of the total number of OOH business sites in Scotland. 11,020 of these sites had fewer than 10 employees, which is 69% of the OOH total. See **Table B.1**.

Table B.2: Total Scottish turnover of business sites of registered private sector businesses for selected SIC codes by employee size-band (number of employees at each business site), Scotland, March 2022

| Description | £m Turnover by employee size-band (split by number of employees at each businesses site) | | | | Total turnover |
|--------------------------|--|---------------|-----------------|--------------|----------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Food and Drink Retail | 1,943 | 4,238 | 5,319 | 4,099 | 15,599 |
| Non-food retailers | 798 | 2,800 | [c] | [c] | 4,186 |
| Retailers total | 2,741 | 7,038 | [c] | [c] | 19,785 |
| Accommodation | 137 | 504 | [c] | [c] | 1,261 |
| Food and drink services | 1,378 | 1,868 | [c] | [c] | 4,041 |
| Out-of-Home total | 1,515 | 2,372 | [c] | [c] | 5,302 |
| Total | 4,255 | 9,409 | 7,009 | 4,413 | 25,087 |

The share of overall turnover from business sites which have fewer employees is smaller highlights that while these business sites make up the vast majority of stores, they also have much smaller sales compared to business sites which employ over 50 people.

For retailers in Scotland, £9,779m in turnover comes from business sites with fewer than 50 employees. This represents 49% of the total retailer turnover of almost £20 billion. £2,741m of the retailer turnover comes from business sites with fewer than 10 employees, this is 14% of the total retailer turnover.

Urban and Rural

Table B.3: Share of business sites by size-band (number of employees at business site) for urban and rural, 2022

| Description | Share of business sites by number of employees at site | | | | | Total Business sites |
|-------------------|--|-------------|---------------|-----------------|--------------|----------------------|
| | | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | |
| Retailers total | Urban | 68% | 28% | 4% | 1% | 100% |
| | Rural | 77% | 21% | 1% | 0% | 100% |
| | Total | 69% | 27% | 3% | 1% | 100% |
| Out-of-Home total | Urban | 69% | 28% | 3% | 0% | 100% |
| | Rural | 67% | 31% | 2% | 0% | 100% |
| | Total | 69% | 28% | 3% | 0% | 100% |
| Total | Urban | 69% | 28% | 3% | 0% | 100% |
| | Rural | 71% | 27% | 2% | 0% | 100% |
| | Total | 69% | 28% | 3% | 0% | 100% |

For retailer business sites, there is a clear difference in the distribution of business sites by size in urban and rural areas. Rural areas have smaller business sites, with 77% of retailer sites employing fewer than 10 people, compared to 68% of business sites in urban areas. In urban

areas, 5% of retailer business sites employ over 50 people compared to only 1% in rural areas. See Table B..

In the OoH sector, the distribution of business sites by size is more similar across urban and rural areas. There is a slightly larger share of OoH micro sites (69%) in urban areas compared to rural areas (67%), which is countered by a slightly lower share of small OoH sites (28%) in urban areas compared to rural (31%).Table B.3.

Turnover data is at the urban and rural level is more limited due to potential disclosive reasons. The figures are available by business site size at the overall level (i.e. total of retailers and OoH). The share of turnover in micro and small business sites – i.e. fewer than 50 employees - is much larger in rural areas than urban areas, at 72% and 53% respectively. See Table B..

Table B.4: Share of Scottish turnover of business sites of registered private sector businesses for selected SIC codes by employee size-band (number of employees at each business site) for urban and rural areas, Scotland, March 2022

| Description | Share of turnover | | | | | Total Turnover |
|-------------|-------------------|------------------|--------------------|-----------------|-----|-------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | | |
| Total | Urban | 16% | 37% | 29% | 19% | 100% |
| | Rural | 28% | 45% | 19% | 8% | 100% |
| | Total | 17% | 38% | 28% | 18% | 100% |

Scottish Index of Multiple Deprivation (SIMD)

Table B.5: Share of business sites by size-band (number of employees at business site) for SIMD quintiles, 2022

| Description | Share of business sites by number of employees at site | | | | | Total Business sites |
|-------------------|--|---------------|-----------------|--------------|----|----------------------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | | |
| Retailers total | Quintile 1 - Most deprived | 71% | 25% | 3% | 1% | 100% |
| | Quintile 2 | 69% | 27% | 3% | 1% | 100% |
| | Quintile 3 | 71% | 25% | 3% | 1% | 100% |
| | Quintile 4 | 68% | 27% | 4% | 1% | 100% |
| | Quintile 5 - Least deprived | 63% | 32% | 5% | 1% | 100% |
| | Total | 69% | 27% | 3% | 1% | 100% |
| Out-of-Home total | Quintile 1 - Most deprived | 79% | 19% | 2% | 0% | 100% |
| | Quintile 2 | 74% | 24% | 2% | 0% | 100% |
| | Quintile 3 | 67% | 30% | 3% | 0% | 100% |
| | Quintile 4 | 61% | 36% | 3% | 0% | 100% |
| | Quintile 5 - Least deprived | 63% | 33% | 4% | 0% | 100% |
| | Total | 69% | 28% | 3% | 0% | 100% |
| Total | Quintile 1 - Most deprived | 76% | 21% | 2% | 0% | 100% |
| | Quintile 2 | 72% | 25% | 3% | 0% | 100% |
| | Quintile 3 | 68% | 28% | 3% | 0% | 100% |
| | Quintile 4 | 63% | 33% | 3% | 0% | 100% |
| | Quintile 5 - Least deprived | 63% | 33% | 4% | 0% | 100% |
| | Total | 69% | 28% | 3% | 0% | 100% |

Across all the potential business sites in scope, there is a pattern of the smallest stores being relatively more prevalent in more deprived areas. The trends are most apparent in the shifts between the share of micro and small stores as you move between SIMD quintiles, reflecting that this is the size of the vast majority of business sites. See Table B.5.

Table B.6: Share of Scottish turnover of business sites of registered private sector businesses for selected SIC codes by employee size-band (number of employees at each business site) for SIMD quintile, Scotland, March 2022

| Description | Share of Turnover | | | | Total Turnover | |
|--------------|--------------------------------|------------------|--------------------|-----------------|-------------------|------|
| | Micro (0-9) | Small (10-49) | Medium (50-249) | Large (250+) | | |
| Total | Quintile 1 - Most deprived | 19% | 40% | 24% | 18% | 100% |
| | Quintile 2 | 18% | 35% | 30% | 18% | 100% |
| | Quintile 3 | 20% | 38% | 25% | 17% | 100% |
| | Quintile 4 | 15% | 38% | 30% | 17% | 100% |
| | Quintile 5 - Least deprived | 12% | 37% | 33% | 18% | 100% |
| | Total | 17% | 38% | 28% | 18% | 100% |

In the most deprived SIMD quintile, 59% of the total turnover comes from micro and small business sites which employ fewer than 50 people. This compares to 49% of revenue in the least deprived quintile which comes from micro and small stores. The share of each quintile's turnover which comes from micro stores employing fewer than 10 people is relatively similar across the first three SIMD quintiles, between 18% and 20%, but is distinctively smaller in the least two deprived quintiles (15% and 12%). See

Table B.6.

Convenience store data

The Association of Convenience Stores and the Scottish Grocers Federation estimate that there are 5,098 convenience stores in Scotland. Of these, 1,070 have a floor space of over 2,000 square feet. This is equivalent to 21% of the convenience stores.

Table B.7: Number of convenience stores in Scotland by floor space (ACS and SGF data).

| Floor space (f ²) | Independents | Multiples | Total convenience |
|-------------------------------|--------------|-----------|-------------------|
| 1-999 | 1,918 | 222 | 2,140 (42%) |
| 1,000-1,999 | 1,231 | 621 | 1,852 (37%) |
| 2,000-3,000 | 434 | 636 | 1,070 (21%) |
| Total | 3,583 | 1,478 | 5,062 (100%) |

Official business statistics data is not available which only includes convenience stores, which would allow us to make an assessment if using employee numbers per business site is an appropriate approximation for their physical size of the store, or what the most appropriate number of employees would be to approximate for stores over 2,000 square feet.



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