

Proposed Tied Pubs (Code and Adjudicator) (Scotland) Bill

Page 2: About you

Are you responding as an individual or on behalf of an organisation?

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

No Response

Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

I would like this response to be anonymous (the response may be published, but no name)

Please provide your name or the name of your organisation

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Q1. 1. Which of the following best expresses your view of establishing a statutory Scottish Pubs Code and Scottish Pubs Code Adjudicator? Please explain the reasons for your response.

Fully supportive

Comments:

The tying of pubs should never have been permitted under the idea of restrictive covenants nature and the principles of a free market. Still having the ability to establish a mandatory tie effects both publicans and brewers negatively, with both losing out on large revenue streams. A market should not be able to be created by forcing customers to buy from you and you alone. On top of this, the inflation of the 'reduced'

Q1. 1. Which of the following best expresses your view of establishing a statutory Scottish Pubs Code and Scottish Pubs Code Adjudicator? Please explain the reasons for your response.

rent that tenants pay mean the actual cost of running a tied pub has gone far beyond that of running a free house. While pubcos claim this allows for potential investors to get into the industry without as much capital just having a rented pub achieves this aim. It causes pubs to go bankrupt far more easily as while they may match the original capital requirements for running the venue this number inflates massively once the tenant has taken ownership through the wet rent.

Q2. 2. Could the aims of this proposal be better delivered in another way (without a Bill in the Scottish Parliament)?

No

Please explain the reasons for your response.

It has been shown previously that voluntary codes do not work in this area, with no independent body to ensure compliance. The only manner this could be delivered in an effective way is through legislation.

Q3. 3. What do you think would be the main advantages, if any, of establishing a statutory Scottish Pubs Code and Adjudicator?

Having an independent adjudicator allows the industry to be far more above board and means investment will be encouraged as all obligations must be fulfilled on the part of the tenant and the landlord. The establishing of this body would be beneficial to both parties in the relationship as it means both the tenant and the landlord would be able to rely on the performance of obligations made. This adjudicator should have the power to either put single venues or entire pubcos under investigation where they feel statutory requirements are not being fulfilled.

Q4. 4. What do you think would be the main disadvantages, if any, of establishing a statutory Scottish Pubs Code and Adjudicator?

I do not see any.

Q5. 5. Which of the following best expresses your view of establishing a Market Rent Only option for tenants as part of a Scottish Pubs Code?

Fully supportive

Please explain the reasons for your response

A market only rent option would be crucial to banning the beer tie. It would stop companies from forcing out tenants with high rents if they did not want to participate in paying wet rent. However I feel it would be necessary for any evaluated market rents to come as a range rather than a specific figure, as this still affords the landlord some bargaining power over the tenant.

Q6. 6. What do you think of the proposed contents of the Bill and the Code, and the scope of the Adjudicator's powers, as detailed on pages 17-18 of the consultation document?

I feel it is near all encompassing, however I feel both the code and the adjudicators powers should refer to an investigation that would take place if the landlord is charging an extravagant amount over market

Q6. 6. What do you think of the proposed contents of the Bill and the Code, and the scope of the Adjudicator's powers, as detailed on pages 17-18 of the consultation document?

value for wet rent. This would obviously only be the case if this was pushing the total rent for the pub far over market value.

Q7. 7. Which of the following best expresses your view of the Scottish Pubs Code Adjudicator being able to impose financial penalties for breaches of the Code?

Fully supportive

Please explain the reasons for your response.

Without the ability to impose penalties the adjudicator would not have any teeth with which to force compliance. However there should have to be a formal notice given and a time limit to remedy breaches of the code before financial penalties are applied.

Q8. 8. In terms of who the Scottish Pubs Code, and Market Rent Only option, should apply to, which of the following best expresses your view? If you choose option (a) you will automatically be taken to question 10. If you choose (b) or (c) you will automatically be taken to question 9.

(b) The Scottish Pubs Code should apply to all tied pubs in Scotland, but the Market Rent Only option should only apply to tenants of larger pubcos.

Please explain the reasons for your response.

When I reference larger pubcos I feel that should refer to pubcos many would consider small, perhaps ones owning over 10 venues. The reason for this being that delivering the option could bankrupt pubcos smaller than this. What may be better is if at first the MRO option only applied to larger pubcos giving a time limit for smaller companies to prepare for this eventuality, perhaps 5 years, after which the MRO would apply to all tied pubs in Scotland.

Q9. 9. How should larger pubcos be defined (e.g. by size of turnover, number of tied pubs owned in Scotland (if so, how many, etc.))?

By number of pubs owned (not specifically tied pubs) and this number should be set very low. Possibly as low as 10.

Page 17: Financial implications

Q10. 10. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

| | Significant increase in cost | Some increase in cost | Broadly cost-neutral | Some reduction in cost | Significant reduction in cost | Unsure |
|--|------------------------------|-----------------------|----------------------|------------------------|-------------------------------|--------|
| (a) the pub companies which own tied pubs (Pubcos) | | X | | | | |

Q10. 10. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

| | | | | | | |
|-------------------------------|--|--|--|---|---|--|
| (b) Tied-pub tenants | | | | | X | |
| (c) Tied-pub customers | | | | X | | |

Please explain the reasons for your response

The increase in cost for pubcos is only likely to be for a short period, while the companies adjust to the new rules. This would settle out after these companies found other revenue streams, like still supplying MRO opting pubs for market value drinks. Tied pub tenants would notice the most significant reduction in costs. The tied pub customers, while likely to experience reduction in cost on cheaper more standard drinks, are not likely to have as much of a reduction. However they will benefit the most because the choice in products will expand rapidly, possibly the most important effect of the bill. Not mentioned here but also very important is the increase in takings many smaller breweries will experience. This bill will allow more pubs to buy from them directly and not being tied to only buying from the larger breweries the pubcos will sell. This will encourage more people to open breweries, causing growth in the industry as a whole.

Q11. 11. How do you think the associated costs of the proposal (predominantly the establishment and on-going running costs of a Scottish Pub Code Adjudicator) should be funded?

These costs are likely to be minimal so it is likely they could be funded from increased alcohol tax revenue seen through more alcohol sales. However because the costs are likely to be so small it is possible a tax could be introduced on pub rents to fund the body.

Page 19: Equalities

Q12. 12. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Please explain the reasons for your response

The current system of tied pubs does not prejudice any of these categories specifically so the bill is unlikely to have any effect in this area.

Q13. 13. In what ways could any negative impact of the Bill on any of the protected characteristics be minimised or avoided?

Having a time between the bill being passed and its coming into force to allow all companies to prepare for the new rules. Also the use of the new adjudicator to help draft new contracts between tenants and landlords could make sure compliance with the bill is ensured right from its coming into force.

Page 21: Sustainability of the Proposal

Q14. 14. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having future disproportionate economic, social and/or environmental impacts?

Yes

Please explain the reasons for your response

I believe the bill will have little to no environmental impact, perhaps the only impact coming from more breweries being started if this is a result of the bill. I believe the economic impacts are only likely to be positive, with overall growth in the pub industry. I believe the social impacts will be positive. It has been shown previously that those drinking 'craft beers' are likely to drink less than those drinking more mass produced lagers. The increase in selection to the consumer is likely to push more customers towards these products resulting in the public drinking less as a whole, always a social benefit.

Page 22: General

Q15. 15. Do you have any other comments or suggestions on the proposal?

No Response