

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".)

Current or former pub tenants or workers

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:

Let me begin by briefly introducing myself. In December 2004 I was in my middle forties decided i needed a change so i entered the pub trade taking on a tenancy with a 20 year lease with PUNCH TAVERNS thinking I was giving myself a decent living until my retirement.

Now at that time Punch had an estate of some 3 to 4 thousand pubs in Scotland so on the face of it it

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looked like a safe investment. The pub I chose was local and I was quite well known in the town where I had lived all my life so I thought I can't go wrong. I soon found that I was wrong very wrong.

It all started with a meeting with my soon-to-be Punch rep at a hotel in Bellshill. The meeting was conducted in a relaxed manner and to be fair he didn't need to sell the idea much because this is what I wanted to do and he knew it. What he was keen to know was my financial position so here is the sell.

This is a low cost way of entering the pub trade we have thousands of tenants in Scotland alone most of whom are doing really well the ones that are not and there is only a few of them are in the wrong business because you can not fail to succeed in this business you've heard the old saying it's a license to print money. His words not mine but he's got me hooked and I'm hooked. He explains pubcos can offer this low cost option because on top of rent we charge a small premium extra for your products just slightly more than you would pay on the open market but always making sure you have a comfortable profit margin to show for your hard work.

That's where the truth ends and the lies begin. He's keen to know if I have the finances to go ahead so he lists what is required below.

1/ £26,000 premium.

2/ £4000 fixtures & fittings.

3/ £5000 minimum working capital.

4/ £6000 deposit.

Total = £41,000

Can you do it he asks telling me I'll make that back in the first year alone plus. I tell him I can and he says great can you arrange a bankers draft and we'll get the ball rolling. I went home and called a few people for advice and the feedback I got was mainly positive with 1 or 2 exceptions so I'm thinking this is my life savings am I ready to take this chance. Then his words come back to me (you'll make this back in the first year alone) and I go for it.

The pub I took on was pretty run down and had a poor reputation but as I said earlier I was local and I knew the customers I had to weed out. Within a month or so they were gone and I changed the pub's name and refreshed it up and things were going good and soon I had trebled its takings. On my second stock take shortfalls flagged up and my stock taker told me there was theft going on so I introduced a CCTV system and caught the culprits that turned out to be most of the staff I had to take on thru the transfer of employment scheme and removed them. I replaced them with my son and daughter and their friends who were all students looking for part-time work. The first year went well as takings had trebled and my account advised me to take a wage of £20,000 to be reviewed in year two and I was happy with that even though it wasn't the figure he told me I would make I thought I've had big lay outs in the first year next year would be far better. Wrong. When we reviewed year one even though we had trebled the takings we were lucky to break even and I would have to take a wage cut of £5000. The problem was clear that I was paying grossly over inflated prices that I would be paying on the open market, in some cases over 100% more. For beer alone we worked out that I'd be being charged over £80,000 more per annum from Punch. To make the business sustainable I would have to go back to the negotiating table and I would have to let 2 members of staff go. I ended up doing between 70 and 80 hours per week for my £15,000 a year which works out at approx £145 a week. A meeting was arranged to try and renegotiate the price structure I was paying them but it fell on deaf ears albeit he did arrange for some free stock in order to boost the profit margin which did help while it was in place but as we know quick fixes very rarely work in the long term. As the smoking ban was on its way I again ask for a lower price structure as it was obvious to all in the trade the ban would have a negative effect on the business and again the answer was no so when the devastating effects of the ban took a grip I arranged another meeting with the rep and informed him I could no longer pay the inflated prices Punch were charging and I would have to source the open market for fairer prices or the business would fail which would not help any party I told him I had no choice and it was the only way I could keep the doors open and at least I would still be paying rent. This worked for a few weeks and the business bank account started to increase slightly for the first time in 2 years and I was now claiming working tax credits so that also helped a bit. I then received a letter from Punch solicitors informing me that because I was (buying out) as they put it they were penalizing me to the tune of £6000 even though I was only keeping the doors open to pay the rent so my deposit disappeared. By this stage the business was in debt to the bank for nearly £20,000 and in 2010 it failed and I lost everything. Punch urgently arranged a meeting and asked me to transfer the lease to my wife's name who at that time was bar manageress and they would halve the rent to give us a better chance. So after taking legal advice we did this although I would remain licensee. I entered into a voluntary trust deed to avoid losing our home and over the next 3 years paid an agreed monthly amount to the business creditors this was completed in 2013 and in the meantime we have managed to reduce the rent further to a more manageable level but as we were still paying up to 100% more for both draught and packaged beers it is still very much a struggle and some weeks we can't take a wage.

The other reason the Tied Model doesn't work is the range of beer we can offer our customers and as you're probably aware HEINEKEN are about to take over Punch if they get the go ahead from the monopolies commission which no doubt they will. They have already publicly stated they will not pressurize Punch

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tenants by forcing them to take out products that are not in there range. In January this year Punch began delisting certain products including belhaven black which was 1 of our best sellers and in the last week i have been informed they are delisting Caledonia best and 70/ shillings both of which are Tennents products and the latter i've been selling for more than 12 years. This is having a detrimental affect on business and would seem to me that Punch have already started a non Heineken clear out although they deny this is the reason behind it. But again as how can we be partners when we don't have a say in the matter.

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.

An independent Adjudicator must be appointed and we must learn from the mistakes of Westminster and appoint a person with no ties to Pubcos in any way.

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

Fairness

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

None

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

I beleive i've explained in previous page

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 think it must be better than what we presently have because the voluntary code does not go far enough.

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.

Its about time penalties were put in place it would ensure a fairer system.

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.

(a) The Scottish Pubs Code - including the Market Rent Only option - should apply to all tied pubs in Scotland

Please explain the reasons for your response.

I think this is self explanatory all tenants should be afforded the same rights.

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.))?

No Response

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

Please explain the reasons for your response

again this question is self explanatory.

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?

our industry pays plenty in taxes to the government so the funds for this position should already be in place.

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?

Positive

Please explain the reasons for your response

we already have a system in place that caters for most or all of the above categories so this bill can only improve these characteristics.

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

I can see no negative impact at all.

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

again self explanatory.

Page 22: General

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

not at this time.