

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 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:

Similar legislation has already been introduced in England, it would seem logical to extend the provision to Scotland, in order to give tenants of the same rights and protections as their counterparts in England. As far as I am aware, there seems to be only a negligible impact on consumers, with an estimation that 12 pubs across the country may close across the country as a result of these changes. However, the benefit of giving tenants of tied pubs increased rights and protections, as well as, an increased selection of beverages for the consumer seems to far outweigh the closure of a handful of pubs. Across Scotland, our pubs are losing their character and their unique atmosphere, as they are increasingly being replaced by tied pubs or brewery owned pubs which are generic and lacking in a distinctive character. I would like to see a reversal of this trend with a growth in independent pubs and a reduction of tied pubs, allowing for pubs to have greater variance and selection of drinks for consumers.

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.

I can not see how these proposals could be delivered better than through legislation of the Scottish Parliament. Voluntary regulations are simply unworkable, as there is no legal mechanism to enforce them, making it easier for breweries to avoid/side-step. Legislation carries legal weight and I believe this is the only means of bring about real change to the rights and protections of tenant's of tied pubs to give them parity with their counterparts south of the border.

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

Greater rights and protection for tenant's of tied pubs, giving them more flexibility and autonomy for the brewery to take the decisions over how their pub is run.

Increased selection and variety of drinks available in pubs.

A decline of generic, brewery owned or tied-pubs, with a resulting growth in independent pubs.

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 believe the Market Rent Only option should also be established in Scotland, as it was in England to give tenants of tied pubs the right to opt-out of the contractual obligation to buy certain products from the owner.

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?

No Response

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.

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?

I believe that financial penalties give added weight to the legislation and a a tangible threat to those who fail to comply with the legislation. Without the threat of imposing financial penalties, there is the potential that the legislation may be viewed as weak. There are numerous examples of important, well intentioned pieces of legislation which have failed due to not providing a tangible or credible enough threat to those who fail to comply.

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

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 16: 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

I would expect to see a reduction in cost for tied-pub customers as tied pubs tenants are able to choose from a greater selection of suppliers for stock; greater competition should reduce cost. I think it is rather difficult to estimate what the potential costs and savings of the Bill would have on tied-pub tenants and pub companies, so I will not hazard a guess.

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?

I believe the costs of establishment a Scottish Pub Code Adjudicator should use a part-funding scheme which

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?

includes direct Scottish Government funding as well as contributions from all pub owners on Scotland, with contributions scaled depending on the number of pubs owned by the one individual or company. This would engage all stakeholders and hopefully promote construction action from pub co's, pub tenants, pub owners and the Government to ensure that the Scottish Pub Code Adjudicator carries out its functions properly.

Page 18: 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

I do not think this Bill, in its current form, would have any impact on equality, taking account of the protected characteristics, outlined in the Equality Act 2010. However, it may be useful to carry out a Gender Impact Assessment on the proposed Bill.

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

It may be useful to carry out a Gender Impact Assessment on the proposed Bill, for which the European Commission has provided a guide.

Page 20: 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

There seems to be no obvious signs that the proposed Bill could not be delivered sustainably. However, in the future, if it was viewed that the legislation did have any disproportionate negative economic or social impacts, then the legislation could be repealed.

Page 21: General

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

No Response

