

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".)

Politician (MSP/MP/Peer/MEP/Councillor)

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 am content for this response to be attributed to me or my organisation

Please provide your name or the name of your organisation

Kezia Dugdale MSP - Leader of the Scottish Labour Party

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:

I support this proposal as at present tenants often have a contractual obligation to buy some or all products from the pubco, which can greatly restrict the choice of beer, cider, wine and spirits available to customers - as well as forcing tenants to sell more expensive drinks due to unreasonable pricing structures they must adhere to. Simply put, tied arrangements can negatively impact consumer choice, access to market for Scottish breweries, the price of a pint to consumers and can lead to pubs closing down. The

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.

Pubs Code which came into force in England and Wales in May 2016 that offers a way out for tied tenants who are trapped in unworkable arrangements with big brewers. A new voluntary code was recently introduced in Scotland, but is not adhered to by all pub companies and does not go as far as the statutory code in England and Wales. The proposal would provide Scottish licensees the same opportunities afforded to their counterparts in England and Wales.

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.

As previously noted the Pubs Code which came into force in England and Wales in May 2016 that offers a way out for tied tenants who are trapped in unworkable arrangements with big brewers. A new voluntary code was recently introduced in Scotland, but is not adhered to by all pub companies and does not go as far as the statutory code in England and Wales. Therefore it is my view that this Bill will level the playing field on a statutory basis. Establishing a statutory code in Scotland is very important, as it will go beyond any guidance or encouragement from the sector or from Government and give tenants of tied pubs in Scotland clear legal rights and a clearly defined legal framework for owners and tenants to operate within.

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

This bill would give tied tenants the ability to opt out of tied arrangements if they wish, and pay a fair and reasonable market rent for their pub premises.

I believe that Pub tenants should be free to source and purchase products as they see fit and to have the flexibility they need to react to changes which affect their business in this competitive and often crowded market.

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 consider there to be any disadvantages to the introduction of this bill.

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

As the proposal does not force an end to tied arrangements in the pub industry I am fully supportive of this measure. If some feel that the tie is working well, then nothing need change. However, those who feel it is not working for them or their business will have the option to do something about it.

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 consider both the Contents of the Code and Adjudicator's role and powers to be suitable and appropriate to tackle the current issue and to resolve any issues following the introduction of legislation.

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.

I believe this is necessary to both give the appropriate weight and authority to the adjudicator in Scotland and it is also important to bring the powers in line with English and Welsh counterparts.

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.

This seems to me to be the fairest option for all tied pubs across Scotland and the tenants thereof.

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	

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

(c) Tied-pub customers				X		
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Please explain the reasons for your response

-Pubcos are currently able to charge significantly more for products than the wider market value, and therefore would be able to absorb any reduction in purchasing from tied pubs. -The Tenant – will see a significant reduction in cost, due to the ability to source products from a wider range of sources, and find cheaper products than currently offered by many pubcos. - Tied Pub Customers – Will see a reduction in cost due to the tenant being able to source a wider range of products and often, at a lower cost.

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 that the adjudicator should be self-funded in the same way it is in England and Wales, and the bill sets out a range of suitable options for self-funding in the Scottish context where the size of the sector differs from the rest of the U.K.

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)

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

N/A

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 think the Bill will improve the future sustainability of the pub sector in Scotland through the provisions it makes to reduce costs to tenants of tied pubs should they wish to make use of the options that could be open to them.

Page 22: General

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

No.