

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

Iain Gray MSP

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 believe the Bill would help ensure fairer tenancies for pub tenants in tied arrangements with big pub-owning companies, as well as promote wider choice for consumers and support new opportunities for creating jobs in the Scottish brewing industry.

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 do not believe that the current voluntary system of self-regulation is sufficient and that legislation would give tied pub tenants clear legal rights and a legal framework for owners and tenants in Scotland to operate within. A voluntary code previously existed in England and Wales but was found to be insufficient and ineffective. In 2016, a statutory Pubs Code and Adjudicator was introduced for England and Wales.

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

The main advantages of introducing legislation would be to give tied pub tenants clear legal rights for the first time and to create a legal framework for owners and tenants. Tied pub tenants clearly do not have confidence in the present voluntary system of self-regulation and have indicated an overwhelming appetite for the Scottish Government to act to ensure the protections now afforded to tenants in England and Wales also apply in Scotland and are enforceable by an independent adjudicator.

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

I can see no disadvantages to establishing a Scottish Pubs Code and Adjudicator.

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 this option would be fairer for tenants by enabling them to have the ability to opt-out of the contractual obligation to buy particular products and allowing them to instead source their own products.

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.

The Adjudicator for England and Wales has the power to impose financial penalties for breaches of the

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?

code. I believe the Scottish Adjudicator should be enabled to provide a similar level of protection to Scottish tied licensees.

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.

No Response

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

Pub companies would experience a reduction in revenue from tied arrangements as the legislation is implemented but there should not be any impact on their fixed costs. The introduction of independent adjudication on contractual disputes could result in reduced costs for tied licensees, while a Market Rent Only option or less restrictive ties, would enable publicans greater freedom to source their products at more competitive prices. These savings could then be passed on to consumers.

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 would envisage the industry being responsible for funding the establishment and running costs of the Scottish Pub Code Adjudicator. The England and Wales adjudicator is funded through a levy on the pub-owning businesses covered by their code.

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

Although the Bill will make tenancies fairer for tied pub tenants, there are no specific equalities implications in relation to the Equality Act 2010.

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

No Response

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

Freeing tied licensees from restrictive tied arrangements with big pubcos would boost the brewing industry in Scotland, potentially creating new opportunities for small businesses and micro-brewers to supply to tied licensees under the new arrangements.

Page 22: General

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

No Response