



# Tied Pubs (Scotland) Act 2021

## 2021 asp 17

### PART 1

#### THE CODE AND THE ADJUDICATOR

#### 1 Scottish Pubs Code

- (1) The Scottish Ministers must, by regulations, impose requirements and restrictions on pub-owning businesses in connection with tied pubs.
- (2) Schedule 1 makes provision about the exercise of the power conferred by this section.

PROSPECTIVE

#### 2 Scottish Pubs Code Adjudicator

- (1) The office of Scottish Pubs Code Adjudicator is established.
- (2) Schedule 2 makes provision about the office.

#### 3 Duty to act consistently with regulatory principles

- (1) The Scottish Ministers must use their best endeavours to exercise the power conferred by section 1 consistently with the regulatory principles.
- (2) The adjudicator must use its best endeavours to carry out the adjudicator's functions consistently with the regulatory principles.
- (3) The regulatory principles are—
  - (a) the principle of fair and lawful dealing by pub-owning businesses in relation to their tied-pub tenants,
  - (b) the principle that tied-pub tenants should not be worse off than they would be if they were subject to neither a product tie nor a service tie,
  - (c) the principle that any agreement between a pub-owning business and a tied-pub tenant should fairly share the risks and rewards amongst the parties.

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*Status: Point in time view as at 05/05/2021. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Tied Pubs (Scotland) Act 2021, Part 1. (See end of Document for details)*

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- (4) In subsection (3)(b), “product tie” and “service tie” have the meaning given to them in paragraph 5(4) of schedule 1.

#### **4 Scottish Ministers' duty to seek to make code and appoint adjudicator**

- (1) Before the end of the period of 2 years beginning with the day that this section comes into force, the Scottish Ministers must—
- (a) lay before the Scottish Parliament for approval by resolution a draft Scottish statutory instrument containing regulations under section 1, and
  - (b) appoint a person to the office of Scottish Pubs Code Adjudicator.
- (2) For the avoidance of doubt, subsection (1) does not require the Scottish Ministers to do both of those things on the same day.
- (3) If the Scottish Parliament approves the draft instrument laid before it in accordance with subsection (1)(a), the Scottish Ministers must make the regulations contained in the draft instrument.
- (4) Having—
- (a) made regulations under section 1, and
  - (b) appointed a person to the office of Scottish Pubs Code Adjudicator,
- the Scottish Ministers may by regulations repeal this section.

#### **5 Review of the code and adjudicator's performance**

- (1) As soon as practicable after each review period, the Scottish Ministers must—
- (a) prepare a report reviewing, over the period—
    - (i) the operation of the code, and
    - (ii) the adjudicator's performance,
  - (b) make the report publicly available, and
  - (c) lay a copy of the report before the Scottish Parliament.
- (2) In reviewing the operation of the code, the Scottish Ministers must consider—
- (a) the extent to which the code is consistent with the regulatory principles set out in section 3,
  - (b) whether the code could be modified to reflect those principles more fully.
- (3) In reviewing the adjudicator's performance, the Scottish Ministers—
- (a) must consider how effective the adjudicator has been in enforcing the code,
  - (b) may consider whether it would be desirable to modify any regulations under section 10 or 17,
  - (c) may consider any other matter the Ministers consider appropriate.
- (4) A review period—
- (a) begins on 1 April in the calendar year that the preceding review period ended, and
  - (b) ends on 31 March in the calendar year falling 3 years after it began.
- (5) But the first review period—
- (a) begins on the day that section 2 comes into force, and
  - (b) ends on 31 March in the calendar year falling 2 years after it began.

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PROSPECTIVE

## **6 Ministerial guidance to the adjudicator**

- (1) As a result of the findings of a review under section 5, the Scottish Ministers may give guidance to the adjudicator about any matter relating to the functions of the adjudicator.
- (2) In carrying out the functions of the adjudicator, the adjudicator must take any guidance given under subsection (1) into account.

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**Changes to legislation:**

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