



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.

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.
- (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.

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.