

Status: 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 2. (See end of Document for details)

PROSPECTIVE

SCHEDULE 2 SCOTTISH PUBS CODE ADJUDICATOR

PART 2

POWERS

CHAPTER 1

POWER TO REQUIRE INFORMATION

Imposition of requirement

- 4 (1) The adjudicator may, for a purpose mentioned in sub-paragraph (2), require a person to provide information that is in the person's possession or control.
- (2) The purposes referred to in sub-paragraph (1) are—
- (a) investigating a pub-owning business's compliance with the code,
 - (b) monitoring whether the requirement to comply with a direction given under section 9(2)(a) has been fulfilled,
 - (c) exercising functions in relation to the offer of a market rent only lease.
- (3) A requirement under this paragraph to provide information may, in particular, be a requirement to—
- (a) provide documents,
 - (b) provide information verbally.
- (4) A requirement under this paragraph is imposed on a person by giving the person written notice—
- (a) specifying—
 - (i) the information the person is required to provide, and
 - (ii) the way in which the person is required to provide it, and
 - (b) explaining that failing to comply with the requirement or providing false information in response to it may be an offence under this Chapter.
- (5) For the purpose of sub-paragraph (4)(a)(ii), specifying the way in which a person is required to provide information includes specifying—
- (a) to whom it is to be provided,
 - (b) where it is to be provided,
 - (c) when, or the time by which, it is to be provided,
 - (d) the form and manner in which it is to be provided.
- (6) If an individual is required to attend a particular place under this paragraph, the adjudicator must offer to pay any necessary travelling expenses.

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- (7) A person may not be required under this paragraph to do anything that the person could not be compelled to do in proceedings before the Court of Session.

Offence of failing to comply with requirement

- 5 (1) A person commits an offence if—
- (a) the person intentionally fails to comply with a requirement under paragraph 4 to provide information, and
 - (b) the person does not have a reasonable excuse for failing to comply.
- (2) For the purpose of sub-paragraph (1)(a), a person is not to be regarded as having complied with a requirement under paragraph 4 to provide information unless the person provided the information in the way specified in the notice imposing the requirement.
- (3) A person who commits an offence under sub-paragraph (1) is liable, on conviction, to a fine.
- (4) On summary conviction, the fine may not exceed the statutory maximum.

Offence of providing false information

- 6 (1) A person commits an offence if, in response to a requirement under paragraph 4 to provide information, the person knowingly provides false information.
- (2) A person who commits an offence under sub-paragraph (1) is liable, on conviction, to a fine.
- (3) On summary conviction, the fine may not exceed the statutory maximum.

CHAPTER 2

OTHER POWERS

Power to advise on the code

- 7 The adjudicator may give any person advice on any matter relating to the code.

Power to issue guidance

- 8 (1) The adjudicator may prepare and make publicly available guidance about—
- (a) the practices and procedures that the adjudicator intends to adopt in carrying out the functions of the adjudicator,
 - (b) the application of the code (or any provision of it),
 - (c) steps that pub-owning businesses need to take in order to comply with the code,
 - (d) any other matter relating to the code.
- (2) The adjudicator must take any guidance that is being made publicly available by virtue of sub-paragraph (1) into account when exercising a function to which the guidance relates.

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- (3) Before preparing any guidance, the adjudicator must consult any person the adjudicator considers it appropriate to consult.

General powers

- 9 The adjudicator may do anything which appears to the adjudicator to be—
- (a) necessary or expedient for the purposes of, or in connection with, the performance of the functions of the adjudicator, or
 - (b) otherwise conducive to the performance of those functions.

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