

*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 **S**  
SCOTTISH PUBS CODE ADJUDICATOR

PART 2 **S**

POWERS

CHAPTER 1 **S**

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 **S**

### 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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