

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 5. (See end of Document for details)

PROSPECTIVE

SCHEDULE 2 SCOTTISH PUBS CODE ADJUDICATOR

PART 5

APPOINTMENT AND TERMS AND CONDITIONS

Appointment

- 20 (1) The adjudicator is to be appointed by the Scottish Ministers.
- (2) In deciding whom to appoint, the Scottish Ministers must have particular regard to the importance of the adjudicator being impartial in balancing the interests of pub-owning businesses and tied-pub tenants.
- (3) The Scottish Ministers may not appoint a person unless the Scottish Parliament has, by resolution, approved the Ministers doing so.
- (4) The Scottish Ministers may not appoint the same individual to the office on more than 3 occasions.

Tenure

- 21 (1) A person holds the office of Scottish Pubs Code Adjudicator until—
- (a) the end of the period of appointment,
 - (b) the person resigns by giving written notice to the Scottish Ministers,
 - (c) the Scottish Ministers remove the person from the office on any of the following grounds—
 - (i) the person is unable, unwilling or unfit to perform the functions of the office,
 - (ii) there was a defect in the person's appointment to the office,
 - (iii) the person was appointed to the office on the basis that the person held, and would continue to hold, another office or position and the person has ceased to hold that office or position.
- (2) In sub-paragraph (1)(a), “the period of appointment” means the period specified by the Scottish Ministers on appointing the person to the office.
- (3) When appointing a person to the office the Scottish Ministers—
- (a) must specify a period of appointment,
 - (b) may not specify a period of appointment that is longer than—
 - (i) 4 years beginning with the day that the appointment takes effect, if it is the first time the person has been appointed to the office, or
 - (ii) 3 years beginning with the day that the appointment takes effect, if the person has previously been appointed to the office.

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Defect in appointment

- 22 (1) A person's appointment to the office of Scottish Pubs Code Adjudicator is not void on account of any defect in the appointment.
- (2) If it comes to the Scottish Ministers' attention that there was a defect in the person's appointment to the office, the Scottish Ministers must remove the person from the office as soon as reasonably practicable.
- (3) Sub-paragraph (4) applies to an appointment to the office in the event that—
- (a) the appointment is a re-appointment of an individual who was removed from the office in accordance with sub-paragraph (2), and
 - (b) no other person has been appointed to the office in the period between the individual's removal and re-appointment.
- (4) If this sub-paragraph applies to an appointment—
- (a) the appointment is not to be counted for the purpose of paragraph 20(4), and
 - (b) the maximum period of appointment that the Scottish Ministers may specify is whatever was left of the individual's last period of appointment immediately before the individual was removed from the office.
- (5) For the purpose of sub-paragraph (4)(b), if the defect in the person's last appointment to the office was that a longer period of appointment was specified than paragraph 21(3)(b) permits, the last specified period of appointment is to be treated as the maximum permitted period.

Remuneration

- 23 The adjudicator may, in accordance with a determination by the Scottish Ministers, pay to, or in respect of, the person holding the office of Scottish Pubs Code Adjudicator—
- (a) remuneration,
 - (b) allowances (including expenses),
 - (c) sums by way of, or in respect of, pensions.

Other terms and conditions

- 24 The Scottish Ministers may determine the terms and conditions of the adjudicator in relation to matters not covered by this schedule.

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