

## Annex B: Partial Business and Regulatory Impact Assessment

**Title of Proposal:** Scottish Pubs Code Regulations 2022 (guest beer and Market Rent Only provisions)

### **Purpose and intended effect:**

#### • **Background**

Tied pubs are pubs which are owned by a pub-owning business and are rented out to tenants. Typically tenants are required to buy some or all of their products from the pub-owning business (“the tie”). Tenants sometimes pay lower rent and receive other support from the pub-owning business but the tied products are often more costly than those on the open market. Tied pubs are seen as a low cost entry route into self-employment for the pub sector.

There are around 750 tied pubs in Scotland (around 17% of all pubs) and at least 11 pub-owning businesses<sup>1</sup>. The number of pubs (not just tied pubs) in the UK has generally been declining since 1990<sup>2</sup>.

Due to concerns about fair treatment of tenants, in 2016 the UK Government created a Pubs Code for England and Wales. The Pubs Code regulates the relationship between pub-owning businesses with 500 or more tied pubs and their tied pub tenants.

In the Scottish Parliament’s session 5, Neil Bibby MSP proposed and subsequently introduced a Bill providing for a statutory pubs code to govern the relationship between tied pub tenants and pub owning businesses and a Scottish pubs code adjudicator to enforce the code. In 2016, the Scottish Government carried out a study to help decide whether legislation on the operation of pub-owning businesses in Scotland needed to be introduced. The research was hampered by a lack of input from tenants but it found that whilst there was some dissatisfaction with parts of the tied pub arrangement, no part of the pub sector appeared to be unfairly disadvantaged.

A Scottish voluntary code of practice has also been in place for a number of years, and was signed up to by a majority of pub-owning businesses. The Scottish Parliament’s [Economy, Jobs and Fair Work Committee](#) found that awareness of the voluntary code was low amongst tenants.

The Scottish Government agreed to support the [Tied Pubs \(Scotland\) Bill](#) in December 2020. This was in response to the evidence put forward at Stage 1 of the Bill and also the [UK Government’s review of the Pubs Code and Pubs Code Adjudicator in England and Wales](#) and the likelihood that legislation would be required at some point to implement the Economy, Jobs and Fair Work Committee’s

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<sup>1</sup> Tied Pubs (Scotland) Bill Policy Memorandum – page 7 <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/tied-pubs-scotland-bill/introduced/policy-memorandum-tied-pubs-scotland-bill.pdf> Admiral Taverns have since acquired Hawthorn.

<sup>2</sup> House of Commons Library Briefing Paper, Pub Statistics <https://researchbriefings.files.parliament.uk/documents/CBP-8591/CBP-8591.pdf>

recommendations on the Bill. The [Tied Pubs \(Scotland\) Act 2021](#) was passed on 23 March 2021.

### • Objective

The aim of the Scottish Pubs Code, and the associated Scottish Pubs Code Adjudicator, is to rebalance the relationship between tenants and landlords in tied pubs. The Scottish Government supports the principle of fair and equitable treatment within commercial agreements and has a desire to see a vibrant tenanted pub sector in Scotland. It supports achievement of the Scottish Government's Economic Strategy through tackling inequality.

The outcomes that the regulations should achieve are:

- A fairer and more balanced tied pub sector.
- Tenants feel more supported and pub-owning businesses have consistently fair relationships with tenants across their estates.
- Tenants are able to secure fairer and more equitable lease terms, despite disparities in negotiating power, through negotiations on market rent only leases.
- Tenants have more autonomy to shape their business in response to customer demands, through guest beer agreements, which may deliver better customer choice and potentially increased profits.
- Guest beer agreements can create further market space for a range of beers, including locally produced beers.
- An adjudicator is in place as a source of expertise on arbitration and on the tied pub sector. This should provide reassurance to tied pub tenants that there is a way to resolve disputes and should encourage compliance with the code by all parties (tenants and pub-owning businesses).

The Scottish Pubs Code should be developed consistently with the three regulatory principles as set out in the Tied Pubs (Scotland) Act 2021 (the "Act"):

- fair and lawful dealing by pub-owning businesses in relation to their tied pub tenants;
- tied pub tenants should not be worse off than they would be if they were not subject to a product tie or a service tie;
- any agreement between a pub-owning business and a tied-pub tenant should fairly share the risks and rewards amongst the parties.

The code should be fair for both parties and it should be straight-forward and easy to use.

As mentioned above, the UK Government already has a Pubs Code for tied pubs in England and Wales. The tied pubs sector makes up a much larger proportion of pubs in England and Wales and their code applies only to pub-owning businesses that have 500 or more tied pubs. Given the much smaller scale of the sector in Scotland, the Act requires the Scottish Pubs Code to extend to all tied pubs and pub-owning businesses.

The code will rebalance the relationship by creating arrangements for tenants to be able to request Market Rent Only leases (at market rent rates, which are free of ties), and to request guest beer agreements (enabling the tenant to sell at least one beer of their choice). The first Government consultation, beginning in November 2021, focuses on these areas of the code.

The code may also set out arrangements, processes and information requests for other aspects of the tied tenant-landlord relationship. A second consultation, on these potential aspects of the code, is expected in spring 2022.

These regulations on the code will be complemented by other secondary legislation needed to implement the Act. For example, commencement regulations will be needed for the office of the Scottish Pubs Code Adjudicator to be set up ahead of the code being introduced.

### • **Rationale for Government intervention**

There are many strong and effective relationships between landlord and tenants in the sector but evidence gathered before and during the parliamentary process of the Bill suggested this is not always the case. For reasons of fairness, the Government has decided to intervene. The Tied Pubs (Scotland) Act 2021 commits the Scottish Ministers to introduce a Scottish Pubs Code and to appoint a Scottish Pubs Code Adjudicator by 6 May 2023. The proposed secondary legislation is required to implement the Act.

The regulation on tied pubs supports the following National Performance Framework outcomes:

- We have a globally competitive, entrepreneurial, inclusive and sustainable economy
- We have thriving and innovative businesses, with quality jobs and fair work for everyone
- We respect, protect and fulfil human rights and live free from discrimination
- We tackle poverty by sharing opportunities, wealth and power more equally

### **Consultation**

#### • **Within Government**

The following Scottish Government Directorates have been involved in the development of the Scottish Pubs Code and the Scottish Pubs Code Adjudicator:

Directorate for Agriculture and Rural Economy

Directorate for Equality, Inclusion and Human Rights Directorate

Directorate for Fair Work, Employability and Skills Directorate

Justice Directorate

Legal Services (Solicitor to the Scottish Government)

Directorate for Economic Development

Directorate for Housing and Social Justice

Such dialogue has contributed to policy development. For example, it was clear that a guest beer option focused on a geographical distance could disproportionately impact on island communities, so this was not progressed.

## • **Public Consultation**

During summer 2021, four workshops were run with key stakeholders. This included the Scottish Licensed Trade Association (representing tenants' views), the Scottish Beer and Pub Association (SBPA) (representing some pub-owning businesses) together with some pub-owning business representatives. In addition, further consultation meetings also took place with the Royal Institute of Chartered Surveyors (RICS), individual pub-owning businesses who are not members of SBPA, Pubs Advisory Service, SIBA (the Society of Independent Brewers) and CAMRA (the Campaign for Real Ale).

Two focus groups<sup>3</sup> were also run with tied pub tenants. These consisted of 5 tenants in total.

A public consultation on the MRO and guest beer aspects of the Scottish Pubs Code will run between 8 November – 17 January 2022. A further public consultation on other potential aspects of the code will follow in spring 2022.

## • **Business**

As mentioned above, discussions have taken place with some pub-owning businesses and tenants directly. We plan to complete the Scottish Firms Impact Test during the public consultation by asking representative bodies to identify affected businesses.

## **Options**

The options considered are:

Option 1 – do nothing

Option 2 – introduce a Scottish Pubs Code

### **Option 1 – do nothing**

This option is the baseline against which the costs and benefits of Option 2 are considered. In reality this option cannot be taken forward as the Tied Pubs (Scotland) Act 2021 requires Scottish Ministers to introduce a Scottish Pubs Code and appoint an adjudicator by May 2023.

### **Option 2 – introduce a Scottish Pubs Code**

In this option, a Scottish Pubs Code is introduced before 6 May 2023. The code will include requirements for pub-owning businesses to offer to enter into a MRO lease or a guest beer agreement (if requested by the tenant). It will also include:

- Possibly information requirements on pub-owning businesses to tenants, prospective tenants and the adjudicator

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<sup>3</sup> <https://www.gov.scot/publications/tied-pubs-consultation-scottish-pubs-code-workshops-tenants/>

- Requirement to comply with directions issued by the adjudicator in certain circumstances
- Possibly unenforceability of contract terms
- Maximum financial penalties for non-compliance with the code
- Fees and expenses for arbitration payable to the adjudicator
- Possibly terms to be excluded from arbitration
- Possibly other requirements and restrictions placed on pub-owning businesses.

## **Sectors and groups affected**

The sectors and groups likely to be affected are:

- Pub-owning businesses
- Tied pub tenants
- Arbitration professionals and surveyors (in delivering any new code)
- Scottish Courts and Tribunal Service (in delivering any new code)
- Pub customers
- Brewers

Under option 1 – do nothing - tied pub tenants are likely to be most affected by this as they will be unable to request MRO leases and guest beer agreements and will have fewer tools to redress the power imbalance in their relationship with pub-owning businesses. Do nothing would not impact on the other sectors and groups as this retains the status quo.

Under option 2 – introduce a Scottish Pubs Code – all affected groups will be impacted. The costs and benefits to particular groups are detailed below.

## **Benefits**

### **Option 1 – do nothing**

Option 1 would not meet the policy objective of rebalancing the relationship between tenant and landlord, as this would be unaltered. It would, however, provide benefits in terms of stability for the sector (tenants and landlords), especially as it has been particularly affected by the Covid pandemic. It would continue to allow investments by pub-owning businesses in their estate. It would likely mean that prospective tenants have more opportunities to enter the tied pubs market, as there are likely to be more tied pub leases under this option. Modelling<sup>4</sup> for the English and Welsh Pubs code identified that numbers of tied pubs were likely to decrease as a result of the code (although it should be noted a number were already unviable).

### **Option 2 – introduce a Scottish Pubs Code**

*Pub-owning businesses*

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<sup>4</sup> London Economics, Modelling the impact of proposed policies on pubs and the pub sector [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/265460/Tied\\_Pubs\\_Final\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/265460/Tied_Pubs_Final_Report.pdf)

All pub-owning businesses would be required to operate in a regulated environment, under the terms of the code. This would provide consistency across the sector and reduce ambiguity about what is expected from businesses.

### *Tenants*

Tenants would be supported to have a more balanced relationship with their landlord, where that is necessary. They would be able to request Market Rent Only leases, which might result in better tied pub leases or alternatively move to a Market Rent Only lease. This could result in improved profits. Guest beer agreements would enable tenants to offer an additional beer and buy this at a competitive price. This may result in improved profit for their business and may also result in improved choice for consumers. It should be noted many tenancies are able to request guest beer at present. The code will also provide further protection for tenants, in that they can take any concerns about non-compliance to an independent adjudicator.

There is mixed evidence about how much income tied tenants receive and it is difficult to state whether this would be improved as a result of the Scottish Pubs Code. For example in the Scottish Beer and Pub Association's submission<sup>5</sup> to the Parliament's Economy Energy and Fair Work Committee it stated that tenants had an average estimated net income of £38,000 based on rent reviews/new agreements in 2019. A 2014 study commissioned by CAMRA of 200 tenants, however, found that 54% of respondents stated their take home annual earnings as between £10,001 and £15,000, and 10.5% of respondents earned under £10,000<sup>6</sup>. The pandemic will also have affected income levels.

Scottish Government independent research<sup>7</sup> carried out in 2016 suggested that in general no part of the pub sector was unfairly disadvantaged. The research was limited by the small sample size of tenants that took part. However, the research found that wet sales (i.e. sales revenue coming from drinks sales) dominated the tenanted pub sector in Scotland. It also made some conclusions in respect of beer and overall profits:

"The key conclusion is that beer costs remain an advantage for IFT pubs [those pubs that are wholly operated by the licensee and free to purchase all drinks from independent sources] over both the Tied models. However, none of the Fully Tied respondents stated that overall beer pricing was a specific issue of dispute within the contract itself. The analysis suggests that the 3 cohorts are making similar levels of profits, albeit at a total trade level and not specifically beer."<sup>8</sup>

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<sup>5</sup> Scottish Beer and Pubs Association submission to the Economy Energy and Fair Work Committee [https://archive2021.parliament.scot/S5\\_EconomyJobsFairWork/Inquiries/EEFW-S5-20-TP-28-Scottish\\_Beer\\_Pub\\_Assoc.pdf](https://archive2021.parliament.scot/S5_EconomyJobsFairWork/Inquiries/EEFW-S5-20-TP-28-Scottish_Beer_Pub_Assoc.pdf) page 4

<sup>6</sup> CAMRA submission to the Economy Energy and Fair Work Committee [https://archive2021.parliament.scot/S5\\_EconomyJobsFairWork/Inquiries/EEFW-S5-20-TP-22-CAMRA.pdf](https://archive2021.parliament.scot/S5_EconomyJobsFairWork/Inquiries/EEFW-S5-20-TP-22-CAMRA.pdf) page 1

<sup>7</sup> Scottish Government, Research on the pub sector in Scotland phase 1: scoping study <https://www.gov.scot/publications/research-pub-sector-scotland-phase-1-scoping-study/pages/5/>

<sup>8</sup> Scottish Government, Research on the pub sector in Scotland phase 1: scoping study <https://www.gov.scot/publications/research-pub-sector-scotland-phase-1-scoping-study/pages/6/>

In some cases, if tenants choose to go free of tie through Market Rent Only leases, they may be able to realise some benefits in terms of beer costs.

#### *Consumers*

Improved variety of beers provided.

#### *Brewers*

If guest beer agreements are focused on beers with small production levels, this could have knock-on benefits to the brewing sector by opening up access to on-trade venues. Brewing in Scotland, prior to the pandemic had been growing (see: [Brewing and distilling: a barrel full of employment – SPICe Spotlight | Solas air SPICe \(spice-spotlight.scot\)](#)) and the code may support further jobs and growth in the sector.

#### *Arbitration professionals and surveyors (in delivering any new code)*

Through creating arbitration arrangements for the Scottish Pubs Code, it may allow arbitrators to gain expertise in the Scottish pubs sector and provide a local low cost tailored form of arbitration for the sector in Scotland. Similarly, it may enhance the pool of experienced rent assessors.

### **Costs**

#### **Option 1 – do nothing**

Option 1 would not meet the policy objective of rebalancing the relationship between tenant and landlord, as this would be unaltered. It would not, however, create additional costs for most of the sectors and groups to be identified. There may be some missed opportunity costs for tenants who are not able to rebalance the relationship via MRO leases or guest beer agreements.

#### **Option 2 – introduce a Scottish Pubs Code**

##### *Pub owning businesses*

The Act enables the adjudicator to impose a levy on pub-owning businesses, to contribute towards the adjudicator's expenses. The scale of any levy is as yet unknown. Fees and expenses may also be payable by a pub-owning business in respect of an arbitration under the code. The Financial Memorandum to the Bill estimated there will be 14 arbitrations per year.

In the [Impact Assessment](#) on creating a statutory code and an adjudicator in England and Wales, a cost was applied to pub-owning businesses for treating tenants more fairly but this cost was offset by a benefit of the same size. It was estimated this cost was around £7,000 per pub (excluding lower entry costs and risk). This cost took into account the wet rent minus the provision of tied pub services, and the reduction in dry rent for tied leases to identify how much less profitable a tied pub is compared to a free of tie pub. If tenants choose MRO, pub-owning businesses are likely to face reduced returns from wet rents, although they will receive market rent.

The Scottish Pubs Code may provide less flexibility and less certainty for pub-owning businesses to run their businesses, as tenants can request MRO leases. As a result, it is anticipated that some pub-owning businesses will turn their tied pub tenancies

into management agreements or other businesses. In England and Wales, it was estimated at the start of the code in 2016 there were 12,000<sup>9</sup> tied pubs captured by the code. On 31 December 2019, there were 9,126 tied pubs<sup>10</sup> (these are tied pubs that are owned by pub-owning businesses that have 500 or more tied pubs). This should be set against a general decline in tied pubs, i.e. from 1990 to 2019 there has been a fall of 26% in pubs in the UK <sup>11</sup>(based on industry data).

The code will create additional administration and require pub-owning companies to develop new processes, for example to deal with Market Rent Only (MRO) requests. Although it is proposed that a deed of variation is used to achieve MRO leases, this will also result in additional costs.

### Tenants

There are likely to be fewer opportunities for tenants to rent a tied pub, as the sector is likely to contract.

Tenants may need to pay for costs to maintain equipment, as part of a guest beer agreement. There may be some costs if the pubs code does not completely mirror the voluntary code, in that some responsibilities on pub-owning businesses may be removed (although the voluntary code is a matter for the pub-owning businesses, not Government). If tenants choose to exercise their MRO rights they may lose access to special commercial or financial advantages (SCORFA). In the 2016 Scottish Government research, the loss was estimated at £18,636 by pub-owning companies but it was perceived to be substantially less by total tied tenants (£4569) and partially tied tenants (£3650)<sup>12</sup>.

Pub-owning businesses have mentioned that they have paused investment in tied pubs as a result of the forthcoming Scottish Pubs Code. For example, one pub-owning business has paused expenditure of £1.5 million. This may impact tenants as they are unlikely to be able to finance capital developments in another way. Nonetheless, the code as proposed has an exception from MRO following investment which should ease pub-owning business concerns about investment.

If tied pub tenants wish to pursue an MRO only option, there are likely to be legal and other costs involved with this (such as rent assessment).

If arbitration is used to deal with MRO or other matters within the code, this will also incur a cost.

### Scottish Courts and Tribunal Service

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<sup>9</sup> House of Commons Library, Debate Pack, The Pubs Code and the Adjudicator

<https://researchbriefings.files.parliament.uk/documents/CDP-2017-0027/CDP-2017-0027.pdf>

<sup>10</sup> Pubs Code Adjudicator The Pubs Code Adjudicator Annual Report and Accounts 01 April 2019 to 31 March 2020

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/959791/PCA-Annual\\_Report\\_2019-20\\_WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/959791/PCA-Annual_Report_2019-20_WEB.pdf) (page 6)

<sup>11</sup> House of Commons Library Briefing Paper, Pub Statistics

<https://researchbriefings.files.parliament.uk/documents/CBP-8591/CBP-8591.pdf>

<sup>12</sup> Scottish Government, Research on the pub sector in Scotland phase 1: scoping study

<https://www.gov.scot/publications/research-pub-sector-scotland-phase-1-scoping-study/pages/5/>



There will be costs for the courts as they will consider any appeals to the adjudicator's decisions, but this is already set out in the Act.

#### Arbitration professionals and surveyors (in delivering any new code)

There will be costs to such professionals to get up to speed with the code and the new arrangements.

#### Brewers

There may be some costs to brewers who are linked to pub-owning businesses. If tenants choose an MRO lease or supply guest beers then the pub may sell less of the beer they currently supply. The brewers may also receive less for the beer, as tenants will be able to shop around.

#### Consumers

If fewer tied pubs become available this may result in fewer opportunities to drink and meet people socially. Prices may rise due to supply not meeting demand.

### **Scottish Firms Impact Test:**

This will be carried out during the consultation.

### **Competition Assessment:**

The proposals relate to the terms of the contract between tied-pub tenants and their landlords and seek to achieve a fairer balance between the parties in that contractual relationship.

In 2010 the Office for Fair Trading (OFT) – the UK's consumer and competition authority at the time – carried out a full investigation of tied-pub leases in response to a super-complaint from the Campaign for Real Ale (CAMRA). The OFT concluded that the pub sector in the UK is competitive overall and did not find evidence of competition problems having a significant adverse impact on consumers, therefore they declined to take any further action.

The proposals will not distort competition in this market. MRO leases and guest beer agreements may in fact promote competition through encouraging new routes to market for beer suppliers<sup>13</sup>. This assessment is based on the consideration of the four Competition and Markets Authority (CMA) competition assessment questions below:

- Will the measure directly or indirectly limit the number or range of suppliers?  
No. The Scottish Pubs Code does not create limits on the numbers of suppliers and treats these fairly.
- Will the measure limit the ability of suppliers to compete? No
- Will the measure limit suppliers' incentives to compete vigorously? No

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<sup>13</sup> Tied Pubs (Scotland) Bill, Policy Memorandum: <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/tied-pubs-scotland-bill/introduced/policy-memorandum-tied-pubs-scotland-bill.pdf> (page 30)

See comments from Jamie Delap Economy, Energy and Fair Work Committee, Official Report, 18 August 2020, <https://archive2021.parliament.scot/parliamentarybusiness/report.aspx?r=12755>

- Will the measure limit the choices and information available to consumers?  
No. The introduction of the Scottish Pubs Code does not limit the choice and information available to consumers. Guest beer agreements may increase the choices available to consumers and encourage new entrants into the on-trade market.

### **Consumer Assessment:**

The proposals will not significantly impact on consumers.

This assessment is based on the consideration of the below questions:

- Does the policy affect the quality, availability or price of any goods or services in a market? Not directly – although MRO tenants and tied pub tenants involved in guest beer agreements could pass on potential savings on beer costs to the consumer. Evidence from the 2016 Scottish Government research<sup>14</sup> identified that beer costs were generally highest for partially tied pubs, as opposed to independent free trade pubs and tied pubs. The code could result in fewer tied pubs being available but these could be converted into other types of pubs. Guest beer agreements may result in a greater number of beer options being available to the consumer in tied pubs.
- Does the policy affect the essential services market, such as energy or water?  
No
- Does the policy involve storage or increased use of consumer data? No
- Does the policy increase opportunities for unscrupulous suppliers to target consumers? No
- Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these? No
- Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues? No

### **Digital Impact Test:**

- The code should be flexible enough to respond to new ways of working. Digital ways of sourcing or monitoring beer or digital customer sales will not be affected by the code.

### **Legal Aid Impact Test:**

The impact here is likely to be minimal. The Tied Pubs (Scotland) Act provides for appeals to be made to the Sheriff Court for certain issues. We estimate these numbers to be low. In England and Wales there has only been one appeal as a result of the Pubs Code Adjudicator applying a financial penalty for non-compliance with the code and there has been no statutory appeal on the levy.

In 2015, before the code was introduced in [England and Wales](#), it was estimated there would be around 0-4 appeals on the decisions of the adjudicator, with a best

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<sup>14</sup> Scottish Government, Research on the pub sector in Scotland phase 1: scoping study  
<https://www.gov.scot/publications/research-pub-sector-scotland-phase-1-scoping-study/pages/5/>

estimate of two a year. The Pubs Code Adjudicator in England and Wales is aware of 3 cases being taken to the high court in 2019 and one case in 2020 (however these are only cases which went to a full hearing and all of these relate to appeals for arbitration cases).

Given the sector is smaller in Scotland, it is estimated that there would be around 0-2 appeals a year. Most of the appeals that could go to the Sheriff Court are likely to be made by pub-owning businesses (as only they can be charged a levy and be penalised for non-compliance). They would not normally be eligible for legal aid. There is a very small chance that the tenant may be liable for the recovery of the adjudicator costs and may wish to appeal this decision. In most instances, they should be able to pay for legal costs but there may be a minimal call on legal aid for this.

### **Enforcement, sanctions and monitoring:**

The Scottish Pubs Code Adjudicator will enforce and oversee the Scottish Pubs Code. The adjudicator has the power to investigate pub-owning businesses' compliance with the code in certain circumstances. The adjudicator can use their enforcement powers of direction or financial penalty if a business has not complied with the code. The adjudicator must make an annual report of their activities. Scottish Ministers may issue guidance to the adjudicator following a review of their functions and the code.

### **Implementation and delivery plan and post-implementation review:**

It is planned that the Scottish Pubs Code be in place by November 2022, with the Scottish Pubs Code Adjudicator to be appointed in summer 2022 to enable them to develop an investigation policy and any necessary guidance.

Section 5 of the Tied Pubs (Scotland) Act 2021 makes provision for reviews to be carried out at regular intervals. A first review must be carried out as soon as is practical after 31 March in the second year following the adjudicator being appointed. Further reviews must be carried out at 3 yearly intervals thereafter.

### **Summary and recommendations:**

The Scottish Government proposes to introduce a Scottish Pubs Code. There is a legal imperative for the Scottish Government to act. Subject to the views received in the forthcoming public consultation, the proposals would appear to represent a proportionate response.

### **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum - economic, environmental, social policy and administrative
1 – do nothing	This could result in investment in tied pubs being re-introduced,	No new costs incurred.

	possibly more opportunities for new entrants to the sector and maintained number of tied pubs.	
2 – introduce a Scottish Pubs Code	This will provide tenants with opportunities to rebalance their relationship with their landlord. MRO leases could result in improved profits for pubs, guest beer agreements could create greater consumer choice and opportunities for brewers. It will also provide a uniformly regulated environment for pub-owning businesses and provide a standard approach to arbitration.	There will be costs in terms of administering requests made under the Scottish Pubs Code and in arbitration made under the code. These will largely fall on the pub-owning businesses and tenants. It may result in fewer numbers of tied pubs.

### **Declaration and publication**

I have read the partial Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:**

**Minister's name: Ivan McKee**

**Minister's title: Minister for Business, Trade, Tourism and Enterprise**

**Scottish Government Contact point: Deborah Cook, Food and Drink Division**