Annex C: Consultation Responses – Respondent Information Form and consultation questions



# **Tied pubs: consultation on a Scottish Pubs Code – Part 1**

**RESPONDENT INFORMATION FORM**

**Please note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

[ ]  Individual

[ ]  Organisation

Full name or organisation’s name

Phone number

Address

Postcode

Email

**Information for organisations:**

The option 'Publish response only (without name)’ is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

The Scottish Government would like your

permission to publish your consultation

response. Please indicate your publishing

preference:

[ ]  Publish response with name

[ ]  Publish response only (without name)

[ ]  Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

[ ]  Yes

[ ]  No

**Consultation questions**

**Market Rent Only (MRO) leases**

**Question 1.** Should MRO leases be offered as new or substantially altered leases (instead of variations of the existing lease) only when both parties agree?

Yes

No

I don’t know

Please explain your answer:

**Question 2.** Are there any other situations where an MRO lease should be offered by way of a new or substantially altered lease?

**Question 3:** Do you agree or disagree that the following terms would be unreasonable for an MRO lease?

|  |  |  |  |
| --- | --- | --- | --- |
| **Unreasonable terms in a MRO lease** | **Agree** | **Disagree** | **Don’t know** |
| a break clause only exercisable by the pub-owning business (unless such a term is already included in the existing lease) |  |  |  |
| a lease period shorter than the remaining period of the existing lease |  |  |  |
| a stocking requirement other than as defined in [section 20(2) of the Act](https://www.legislation.gov.uk/asp/2021/17/section/20/enacted)[[1]](#footnote-1) (and carried over into the regulations)(“stocking requirement” means a contractual obligation which—(a) requires that some of the beer or cider (or both) that is to be sold in the pub is produced by the landlord,(b) does not require the tenant to procure that beer or cider from a particular supplier, and(c) neither prevents the tenant from, nor penalises the tenant for, selling in the pub beer or cider that is produced by a person other than the landlord (although a contract term may impose restrictions on such sales). |  |  |  |
| deposit requirements more onerous than in the existing lease |  |  |  |
| requirements to pay rent in advance more onerous than in the existing lease |  |  |  |
| a term triggering dilapidations requirements in the existing lease or imposing dilapidations requirements more onerous than in the existing lease(“dilapidations requirement” means a lease term under which a landlord may require their tenant to carry out repairs or other works falling within the tenant’s repairing obligations under the lease) |  |  |  |
| personal guarantee requirements more onerous than in the existing lease, except with the consent of the tied-pub tenant |  |  |  |
| tenant repairing liabilities more onerous than in the existing lease, except where the MRO lease offered is for a period of 5 years or more, or with the consent of the tied-pub tenant |  |  |  |

**Question 4:** Do you have any other comments or suggestions on unreasonable terms for an MRO lease? You could use this box to explain why you agree or disagree with any of the proposals above, or to explain why you think other terms in an MRO lease should be unreasonable.

**Question 5:** Do you agree that an MRO lease need not be offered for 5 years when agreement has been reached for a pub-owning business to invest £35,000 or 1.5 times annual rent, whichever is higher?

Yes

No

I don’t know

Please explain your answer:

**Question 6:** Do you agree that an MRO lease need not be offered for 7 years when agreement has been reached for a pub-owning business to invest 10 times the annual rent of the pub or more?

Yes – Please go to Q 8

No

I don’t know

Please explain your answer:

**Question 7:** If you have a suggestion for different investment levels and/or periods of time, please provide it here and explain why.

**Question 8:** Do you agree or disagree that an MRO lease need not be offered in the following circumstances?

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Agree** | **Disagree** | **Don’t know** |
| Short-term tenancies (one year or less) |  |  |  |
| First half of any tenancy longer than one year |  |  |  |
| Where the tenant has previously requested an MRO lease within the past two years. |  |  |  |

Please explain your reasons for agreeing or disagreeing with the proposals.

**Question 9:** Are there any other circumstances where MRO leases should not be offered?

**Question 10:** Which of the following should an MRO offer include (select as many as appropriate)?

The new rent

How the terms of the existing lease will need to change

The legal steps required

Anything else

If anything else – please state what else should be included

**Question 11:** Should the code require that an MRO lease be offered within 4 weeks of a pub-owning business receiving a request from a tenant?

 Yes

 No

 I don’t know

**Question 12:** Should the code set out a time period for negotiation?

Yes

No

I don’t know

**Question 13:** What are your views on the proposed time period for negotiation (8 weeks, extendable up to 4 weeks by mutual agreement)?

**Question 14:** Do you have any other comments or suggestions on the process for offering an MRO lease?

**Question 15:** Should the rent assessor be a member or fellow of the Royal Institution for Chartered Surveyors?

Yes

No

Don’t know

**Question 16:** Do you agree with the arrangements for rent assessment for an MRO lease?

Yes

No

I don’t know

**Question 17:** If you have any suggestions or comments on the rent assessment process, please provide these here.

**Question 18:** If you have any comments on arbitration for MRO leases, please provide these here.

**Guest beer agreements**

**Question 19:** To what extent do you agree with the policy aims on guest beer agreements?

Strongly agree

Agree

Neither agree or disagree

Disagree

Strongly disagree

Please explain your reasons for agreeing or disagreeing with the proposals.

**Question 20:** Do you agree or disagree that a guest beer agreement should cover brands of beer with small production levels?

Agree

Disagree

Don’t know

Please explain your reasons for agreeing or disagreeing.

**Question 21:** Is 60,000 hectolitres the appropriate production level to capture small production beer brands?

**Question 22:** If you have an alternative suggestion for a different production level, please state it here.

**Question 23:** Do you have any other comments on the characteristics of a guest beer agreement?

Question 24: Do you agree or disagree that a guest beer agreement need not be offered in the following circumstances?

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Agree** | **Disagree** | **Don’t know** |
| The remaining term of the lease is less than 6 months |  |  |  |
| There is already a guest beer agreement in place which matches the definition set out in paragraph 4(3) of Schedule 1 to the Act. |  |  |  |
| The tenant has been offered a guest beer agreement within the last 2 years. (This does not apply to agreements offered prior to the code being created.) |  |  |  |
| The tenant is currently involved in MRO negotiations. |  |  |  |

 Please explain your reasons for agreeing or disagreeing with the proposals.

**Question 25.** If you have any comments or suggestions on the circumstances in which guest beer agreements need be offered, please provide these here.

**Question 26:** If you have any comments on the process for offering guest beer agreements, please provide these here.

**Impact assessments**

**Question 27:** Please give us any views you have on the content of this partial impact assessment.

**Question 28:** Do you have, or can you direct us to, any information that would assist in finalising this assessment?

**Question 29:** Please give us any views you have about whether a full Strategic Environment Assessment or a full Child Rights and Wellbeing Impact Assessment are required.

**Question 30:** Do you have any views or information on the potential impacts of the proposals in this paper on equality, data protection, socio-economic disadvantage (the Fairer Scotland Duty), people in rural or island communities, or human rights? Please provide any evidence.

**More about you**

**Which of the following describes you, please select all that apply**

* tied pub tenant – one tenancy
* tied pub tenant – multiple tenancies
* Pub-owning business
* Brewery
* Representative organisation
* Other organisation
* Consumer
* Other – please state

**If you are a tied pub tenant, please answer the following questions:**

* Are you a member of a trade association?
* Yes
* No
* Is your pub-owning business signed up to the voluntary code of practice at present?
	+ Yes
	+ No
	+ Don’t know

**If you are a pub-owning business, please answer the following questions:**

* Are you a member of a trade association?
	+ Yes
	+ No
* Are you signed up to the voluntary code of practice at present?
	+ Yes
	+ No
	+ Don’t know
* How many tied pubs do you lease?
	+ Open text
* Are any of your tied pubs located in:
	+ Islands
	+ Cities/towns
	+ Rural settings
1. Tied Pubs (Scotland) Act 2021 (section 20 (2)): <https://www.legislation.gov.uk/asp/2021/17/section/20/enacted> [↑](#footnote-ref-1)