Draft Regulations laid before the Scottish Parliament under section 24(2) of the Tied Pubs (Scotland) Act 2021, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

LANDLORD AND TENANT

The Tied Pubs (Miscellaneous Amendment) (Scotland) Regulations 2025

Made - - - -	*2025*
Coming into force - -	*31st March 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 1, 4(4), and 23 and schedule 1 of the Tied Pubs (Scotland) Act 2021(**a**), and all other powers enabling them to do so.

In accordance with section 4(4) of that Act, the Scottish Ministers have made regulations under section 1 of that Act and have appointed a person to the office of the Scottish Pubs Code Adjudicator.

In accordance with section 24(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Tied Pubs (Miscellaneous Amendment) (Scotland) Regulations 2025 and come into force on 31 March 2025.

Amendment of the Tied Pubs (Scotland) Act 2021

2. Section 4 (Scottish Ministers' duty to seek to make code and appoint adjudicator) of the Tied Pubs (Scotland) Act 2021 is repealed.

Amendment of the Scottish Pubs Code Regulations 2024

3.—(1) The Scottish Pubs Code Regulations 2024(**b**) are amended in accordance with paragraphs (2) to (9).

(2) For regulation 1 (citation and commencement) substitute—

(**a**) 2021 asp 17. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) and these Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(**b**) S.S.I. 2024/193, relevantly amended by S.S.I. 2024/245.

"Citation and commencement

1.—(1) These Regulations may be cited as the Scottish Pubs Code Regulations 2024.

(2) The following Parts of these Regulations come into force on 31 March 2025—

(a) Part 1 (general),

(b) Part 2 (information and advice to prospective tied-pub tenants),

(c) Part 5 (guest beer agreements),

(d) Part 6 (miscellaneous).

(3) The following Parts of these Regulations come into force on 30 June 2025—

(a) Part 3 (rent assessment and rent review),

(b) Part 4 (market rent only leases).".

(3) In regulation 2(1) (interpretation), after the definition of "request date" insert—

""Schedule of Condition" means a document which accurately records the condition of the tied pub to be let,".

(4) In regulation 10(1) (information to be provided to prospective tenants)—

(a) for sub-paragraph (c) substitute—

"(c) a Schedule of Condition, and",

(b) in sub-paragraph (d)(v) for "any publicly available reports" substitute "at least one publicly available report".

(5) After regulation 11 (prospective tenants to prepare a business plan) insert—

"Schedule of condition

11A. Before entering into a new lease, a pub-owning business must take the Schedule of Condition into account—

(a) during an assessment of any maintenance or repairs in respect of the premises, and

(b) before any obligations or liabilities in respect of the condition of the premises are agreed between the pub-owning business and the tied pub tenant.".

(6) In regulation 15(2) (requirement to offer an MRO lease)—

(a) omit sub-paragraph (b),

(b) for sub-paragraph (d) substitute—

"(d) the tenant or the pub-owning business has served a notice to bring the lease to an end and the remaining term of the tenant's lease is three months or less, or".

(7) After regulation 15 (requirement to offer an MRO lease) insert—

"Requirement to offer an MRO lease: further provision where lease period is longer than one year

15A.—(1) A pub-owning business need not offer an MRO lease as required by regulation 15(1) where the term of the tenant's lease is for a period longer than one year and less than one half of the term of the lease has passed at the date on which the tenant requests an MRO lease, except where paragraph (2) applies.

(2) This paragraph applies where a tenant requests an MRO lease during the period of 6 months immediately preceding the date on which one half of the term of the lease has passed (but see regulation 16(3A)).".

(8) After regulation 16(3) (process for offering an MRO lease) insert—

"(3A) Where a tied-pub tenant has requested an MRO lease from a pub-owning business in the period of 6 months immediately preceding the date on which one half of the term of the lease of over one year has passed in accordance with regulation 15A(2), the pub-owning

business may make an offer of an MRO lease which provides that the deed of variation, or new lease where the tenant consents to a new lease being offered, does not come into force until the date on which one half of the term of the lease has passed.".

(9) In regulation 17 (assessing the market rent of an MRO lease)—

(a) after paragraph (7) insert—

"(7A) The tied-pub tenant or pub-owning business may refer the market rent determination made by the rent assessor to the adjudicator if there is an obvious error in the rent determination.

(7B) A referral to the adjudicator under paragraph (7A) must be made within a period of 14 days beginning on the date on which the rent assessor notifies the parties in writing of the market rent under paragraph (7).

(7C) Where the adjudicator, or another person appointed by the adjudicator, considers there to be an obvious error in the market rent determination, the adjudicator, or the person appointed by the adjudicator, may correct that error by notifying the parties in writing of the corrected market rent.",

(b) in paragraph (8), after "paragraph (7)" insert "or, if referred to the adjudicator under paragraph (7A), within 4 weeks of the date on which the adjudicator, or a person appointed by the adjudicator, determines the rent under paragraph (7C)",

(c) in paragraph (9), after "the rent assessor" insert "or, if there is a referral under paragraph (7A), by the adjudicator or a person appointed by the adjudicator,".

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Tied Pubs (Scotland) Act 2021 ("the Act") and the Scottish Pubs Code Regulations 2024 ("the Code") and come into force on 31 March 2025.

Regulation 2 repeals section 4 of the Act. Section 4(4) of the Act provides that the Scottish Ministers may repeal section 4 when they have made regulations under section 1 of the Act and appointed a person to the office of the Scottish Pubs Code Adjudicator. The Scottish Ministers made the Scottish Pubs Code Regulations 2024 on 25 June 2024 under section 1 of the Act. A person has been appointed to the office of Adjudicator.

Regulation 3(2) changes the date on which Parts 3 and 4 of the Code come into force to 30 June 2025. The remaining Parts of the Code come into force on 31 March 2025.

The effect of regulations 3(3), 3(4)(a) and 3(5) is that a pub-owning business must provide a schedule of condition, which documents the condition of repair of the premises, to the tenant at the outset of the lease. The pub-owning business is required to take that schedule of condition into account during an assessment of any maintenance or repairs in respect of the premises, and when any obligations or liabilities in respect of the condition of the premises are agreed.

Regulation 3(4)(b) provides that instead of providing any publicly available reports analysing the trading costs of tied pubs in the United Kingdom to a tenant at the outset of a lease, a pub-owning business must provide at least one publicly available report.

Regulation 3(6)(a) deletes regulation 15(2)(b).

Regulation 15(2)(d) of the Code provides that a tenant may not request an MRO lease where a notice has been served bringing the lease to an end. Regulation 3(6)(b) amends that exemption so that it only applies in the final 3 months of the term of the lease

Regulation 3(7) inserts a new regulation 15A which provides that a tenant can request an MRO lease 6 months before the point at which half of the term of the lease has passed. Previously a tenant could not request an MRO lease before half of the term of the lease had passed.

Regulation 3(8) inserts a new regulation 16(3A) which provides that where a tenant has requested an MRO lease in the 6 month period before the point at which half of the term of the lease has passed, the pub-owning business is not required to agree to bring into effect the MRO lease until the halfway point of the lease.

Regulation 3(9) amends regulation 17 of the Code to create a process allowing either party to refer a market rent determination to the Adjudicator where there has been an obvious error. Regulation 3(9) also makes some further changes to regulation 17 so that the referral process is taken into account when the end of the rent assessment period is calculated.

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