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Dear Colin

### **SCOTTISH PUBS CODE – OUTCOME OF CONSULTATION 3**

When I appeared before the Committee on 5 June 2024 to give evidence on various Tied Pubs (Scotland) Act 2021 (“the Act”) SSIs, I advised that I intended to carry out a further focused and targeted consultation on the Scottish Pubs Code.

The purpose of the consultation was to respond to stakeholder concerns about the Scottish Pubs Code Regulations 2024 and ensure that the code delivers more effectively the improvements which the sector wishes to see, bearing in mind that the purpose of the code is to improve the position of tied pub tenants. The intention was not to re-open policy debates on what the Act should have contained, or indeed the full content of the code, but to focus on key areas of stakeholder concern.

We have now completed this consultation which involved the receipt of written proposals from stakeholders, workshops and a formal written consultation focused on issues that had been raised by stakeholders. The written consultation closed on 4 November and the independent analysis of the responses (as well as the consultation responses, where permission was granted) will be published on Tuesday 17 December at 14:30. This can be accessed at <https://consult.gov.scot/agriculture-and-rural-economy/scottish-pubs-code-for-tied-pubs/>.

I have now had the opportunity to consider the outcome of the consultation and I have concluded that the following amendments should be included in an amending SSI:

- Introduction of a right to appeal the independent rent assessment, with a 14 day limit for the appeal to be made and this to be additional to the 4 week period provided for creation of the Market Rent Only (MRO) offer.
- MRO application process to be able to start before the half-way point of any lease so that the MRO can begin at the half-way point, with the process able to start 6 months before the half-way point.

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- Pub-owning companies to be required to provide prospective tenants with at least one publicly available report analysing the trading costs of tied pubs (rather than provide any such publicly available reports, as at present).
- Introduction of a requirement for pub-owning companies to provide a Schedule of Condition to prospective tenants - and removal of the requirement to provide a copy of any dilapidation report prepared in respect of the lease covering the period of the previous tenancy of the tied pub.
- Amendment of the notice to quit exemption so that a pub-owning business need not offer an MRO only where they or a tenant have served a notice to end the lease within a specified timeframe, with that timeframe being 3 months before the end of the lease.

In proposing these amendments, I have listened to the arguments from both tenants and pub-owning businesses. I have sought to improve the position of tenants whilst recognising the challenges faced by all businesses at this time. I believe that the code will make a material difference to tied pub tenants in terms of rebalancing risk and reward.

The intention is for the amending SSI to be laid in the Scottish Parliament on 24 January 2025 and, subject to the parliamentary process, for it to come into effect on 31 March 2025. We will subsequently monitor progress with the introduction of the code and consider amendments as necessary, with the first statutory review period ending on 31 March 2026 and further reviews due every 3 years thereafter.

Sincerely



**TOM ARTHUR**

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