

Research Briefing
11 November 2024
Number 10135

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The Pubs Code

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Summary

The [Pubs Code](#) is a set of mandatory regulations in England and Wales which tries to ensure pub tenants who are under contract to sell products provided by their landlord (tied tenants) are not worse off than if they were free to serve what they chose (free-of-tie tenants).

The code was developed partly due to concern that tied tenants were being unfairly treated by their landlords and had much less bargaining power when it came to lease negotiations.

The main provision of the Pubs Code allows tenants to request their landlord offer a “[Market Rent Only](#)” (MRO) option, which reflects what the tenant could rent the pub for, free-of-tie.

The code allows for the proposed rent to be looked at by an independent assessor, and for a Pubs Code Adjudicator to handle disputes and arbitration.

In October 2023 the [government said it considered the code and the Adjudicator to be working well](#), citing positive views about the code collected by survey data and the relatively low level of dispute arbitration.

However, some [industry figures have criticised the code](#) arguing far more tenants would be going free-of-tie if the code gave them sufficient bargaining power and rights to do so. The Adjudicator has also been criticised historically for being too close to the industry.

During the [2024 Autumn Budget](#) the government announced it would consult on ways to allow more pubs to serve guest beers from small brewers, which might involve changes to the Pubs Code.

The [Scottish Pubs Code](#), which came into effect in October 2024, allows a tied tenant to offer a guest beer from a small brewer along tied products from their landlord.

2 The pubs sector

2.1 Numbers of pubs

The number of pubs in the UK has been steadily falling since 2000 according to statistics published by the British Beer and Pub Association (BBPA) from 60,800 to 45,350 in 2023.¹

Data from the Office for National Statistics (ONS) covering the period to 2018 shows a similar picture though but also that the total number of people employed in pubs started to recover around 2011.²

¹ BBPA, [Pubs and breweries in numbers](#) (accessed 8 November 2024)

² ONS, “[Economies of ale: small pubs close as chains focus on big bars](#)”, 26 November 2018

In particular employment in large pubs has grown while employment in small pubs has fallen, suggesting that while the number of pubs is falling, the average pub is getting bigger.

2.2 Pub management structures

There are three main types of owners of pubs in the UK: breweries, pub-owning companies (PubCos) and independent landlords.

PubCos emerged following the [1989 Beer Orders](#) which limited breweries to owning a maximum of 2,000 pubs, leading to breweries disposing their excess pubs to PubCos.³

In 2019, according to the BBPA of the 47,200 pubs in the UK, 9,900 (21%) were owned by breweries and 13,900 (29%) by larger PubCos the BBPA identified (which range from PubCos with around 30 pubs to Stonegate with over 4,500). The remaining 23,400 (50%) were “independent” which includes single-premises pubs and smaller pub companies.⁴ Since 2000s the ownership model has shifted away from larger PubCos and towards independents.

The person managing a pub may be an employee or agent of the company they work for (a brewery or PubCo), a tenant who rents the pub from a company, or the landlord themselves in the case of independents.

Among tenants, there are tied tenants, who are required by contract to buy certain products from the landlord, and tenants which operate free-of-tie, meaning the tenant just pays the landlord rent for the pub premises, and is free to choose, say, which beers they serve.

Tied tenants generally pay for their landlord’s products at above market prices, but in return can expect lower rent costs. Given rental costs are fixed, but the amount of product bought can be varied depending on sales, this may give tied pubs more economic security during periods of low trade, than free-of-tie tenancies.⁵

Tied tenants may also receive additional support from their landlord, though the value of this support has been challenged.⁶

³ Trade and Industry Committee, [Pub Companies](#), chapter 2, 8 December 2004

⁴ BBPA 2020 table E5 covered further in Commons Library research briefing [CBP-8591 Pub Statistics](#) (21 May 2021)

⁵ See for example “[Free from the tie, now pubs fear being hung out to dry](#)”, The Times, 9 February 2021

⁶ Trade and Industry Committee, [Pub Companies](#), chapter 9, 8 December 2004

3 Provisions of the code

3.1 Pubs covered by the code

The Pubs Code applies to PubCos with more than 500 tied tenants in England and Wales, namely: Admiral, Greene King, Marston's, Punch Pubs, Star Pubs & Bars, Stonegate, and their tied tenants.⁷

There are some extended protections for other tied tenants where:

- The pub was owned by a qualifying PubCo but is then sold to a smaller PubCo
- The pub is owned by a qualifying PubCo, and then the number of tied pubs the PubCo has in England and Wales falls under 500⁸

At the time of the code's introduction in 2016, it covered around 11,500 pubs, and as of 2021, this had fallen to around 8,800 tied pubs.⁹ It only has effect in England and Wales. A similar code took effect in Scotland in October 2024 (see [section 9](#)).

3.2 Market rent only (MRO) option

The main provision of the [Pubs Code](#) allows tied tenants to occupy their pub under a free-of-tie tenancy (otherwise known as “market rent only”), where they are not required to buy goods and services from the PubCo.¹⁰

There are four circumstances under which tenants can ask for this MRO option:

- When a tenant receives a rent assessment proposal (see [Box 1](#)) from their landlord, which proposes and explains the new rent they will pay in relation to their existing tenancy
- When a tenancy is up for renewal
- When a significant price increase of a tied product or serviced is notified

⁷ [Pubs Code Adjudicator](#) (accessed 8 November 2024)

⁸ [Small Business, Enterprise and Employment Act 2015](#), section 69

⁹ Department for Business and Trade, [Statutory Review of the Pubs Code and the Pubs Code Adjudicator 2019-2022, October 2023](#), pdf, page 10, page 29

¹⁰ The Pubs Code Adjudicator (PCA), [“What Tied Pub Tenants Need to Know about Market Rent Only \(MRO\) Rights”](#), updated 16 April 2024

- When a relevant “trigger event” occurs that will have a significant impact on trade (for example, a large local factory closes which would be expected to reduce trade)

Under the Pubs Code, tied tenants can also ask for rent reviews every five years which triggers the MRO option being available.¹¹

3.3 Other provisions of the code

Other provisions of the [Pubs Code](#) are outlined below. This is a non-exhaustive summary and should be read alongside the Code:

- Part 2: This sets the general duties of PubCos in their dealings with tied tenants. PubCos must:
 - Ensure tied tenants do their due diligence in terms of training and developing a sustainable business plan before taking on a tenancy, and provide specified information to help with this
 - Explain the implications when a tenant intends to assign the tenancy to someone else
 - Advise tenants to inspect the premises before entering a new agreement
 - Provide specified information to tenants prior to entering a short agreement (a tenancy of under a year)
- Part 3: This sets the duties of PubCos with respect to rent proposals. PubCos must provide a rent proposal if it wants to negotiate a new agreement, and the code specifies what that proposal must contain.
- Part 4: This sets the duties of PubCos with respect to rent assessments. PubCos must provide a rent assessment proposal in certain circumstances if it wants to negotiate a new agreement, and the code specifies what that proposal must contain.

¹¹ PCA, “[Pubs Code – Fairness for Tied Pub Tenants](#)”, 2 February 2024

1 Rent proposals vs rent assessment proposals

Tenants cannot ask for the MRO option every time the rent changes.

PubCos must send a “rent assessment proposal” to a tenant when they propose changing the rent in connection with a rent review as required under the terms of a tenancy. The receipt of a rent assessment proposal does allow a tied tenant to then exercise their rights to request an MRO option.¹²

However, if a landlord proposes changing the rent which is not in connection with a rent review, it needs to send a “rent proposal” and this does not allow the tenant to request the MRO option.¹³

The Pubs Code says changes to the rent which would not require a rent assessment proposal include where the rent is uprated annually according to an index (say, the rent is put up in line with inflation), or the change in rent is in connection with a corresponding benefit provided by the PubCo (say, it made some investments in the pub and felt the pub should now be rented at a higher price).

- Parts 5 and 6 set out the MRO process, while Part 7 provides for an independent assessor where the tenant disagrees with the terms offered by the PubCo.
- Part 8 provides for the end of the MRO process. PubCos and tenants can refer the matter to the Pubs Code Adjudicator (PCA) if they fail to agree terms for a free-of-tie tenancy. Note that this isn't compulsory; the tenant may, after receiving the MRO option, choose to stay as a tied tenant.
- Part 9 requires PubCos provides for the compliance of the code by PubCos including the responsibilities of their business development managers and compliance officers and to produce a compliance report.
- Part 10 contains miscellaneous provisions around insurance, gaming machines and sale of freeholds and leaseholds among other things.
- Part 14 provides for disputes and escalation to the PCA.
- Part 17 requires the government to periodically review the Pubs Code.

The Pubs Code Adjudicator has published a [series of factsheets](#) on what tied tenants need to know about the code.

¹² PCA, “[What Tied Pub Tenants Need to Know about Rent Assessments and Rent Assessment Proposals](#)”, updated 12 June 2023

¹³ PCA, “[What Tied Pub Tenants Need to Know about Rent Proposals](#)”, updated 30 June 2023

4 Enforcement of the code

The Pubs Code is enforced by the [Pubs Code Adjudicator](#) (PCA). The PCA can investigate suspected systematic abuses of the code and arbitrate between tenants and POBs where there is dispute about implementation of the code.

5 Assessment of the code and the Pubs Code Adjudicator

5.1 Government reviews of the code and the Adjudicator

The government published its first statutory review of the Pubs Code and the PCA in 2023. It found that the code was not working as well as it should, with tenants finding it hard to exercise their MRO rights. To remedy this, the code was amended in 2022.¹⁴

Some of the changes included:¹⁵

- Tenants were given more time to negotiate an MRO deal before arbitration
- Small changes were made with the effect that the code would apply to tenants of qualifying PubCos more quickly
- Tied tenants would keep their rights for a period of time if their pub was sold to a non-qualifying PubCo

The government published its second [statutory review](#) (pdf) in 2023.¹⁶

It found that the MRO rights were in some cases leading to PubCos offering shorter tenancies and investing less in pubs due to the lack of certainty of a return on those investments. PubCos suggested that tenants with no interests in being free-of-tie might be allowed to waive their MRO rights in favour of better contractual terms. The government indicated it would be willing to explore this.

¹⁴ [The Small Business, Enterprise and Employment Act 2015 and Pubs Code etc. \(Amendment\) Regulations 2022](#)

¹⁵ Pubs Code Adjudicator, "[Pubs Code changes – Important information for the tied pub industry](#)", 23 March 2022

¹⁶ Gov.uk, [Pubs Code and Pubs Code Adjudicator: statutory review, 2019 to 2022](#), 30 October 2023

However, ultimately the government concluded the code had been successful and the PCA effective in enforcing the code. It cited a reduction in the number of arbitration cases, and generally positive results in the annual survey of tied tenants. It chose not to make any amendments to the code.

5.2 Other criticisms

Since introduction in 2016 there have been concerns that PubCos have attempted to thwart the code. There was also concern around the appointment of the inaugural PCA, Paul Newby, given his alleged closeness to PubCos and an ongoing financial interest in a surveying firm which worked for PubCos.

These have been the subject of various Parliamentary debates which are covered in the following Commons Library publications:

- April 2016 Debate: [The Pubs Code and the Adjudicator](#)
- January 2017 Debate: [Statutory Pubs Code and the Pubs Code Adjudicator](#)
- January 2018 Debate: [Application of the Pubs Code 2016](#)

Some voices in the industry have said the code has failed. In evidence to the Business, Energy and Industrial Strategy committee in 2022, chair of the British Pub Confederation Greg Mulholland said tenants were scared of asking for the MRO option lest they be treated worse off by their PubCo.¹⁷ Mr Mulholland advocated for independent assessments of rents on a free-of-tie basis, as had been recommended by the committee.

He added that the amount of time it took for tenants to move from a tied to free-of-tie tenancy, including arbitration, was too long leading to tenants giving up. Additionally, he criticised the PCA for how it exercised its powers, to the advantage of PubCos citing for example a disagreement with the Adjudicator Fiona Dickie on the interpretation of the law on whether tenants could choose to have free-of-tie gaming machines.¹⁸

¹⁷ Business, Energy and Industrial Strategy Committee, [Oral evidence: Pubs Code Adjudicator](#), HC 589, 12 July 2022

¹⁸ Campaign for Pubs, "[Campaign for Pubs slams Pubs Code Adjudicator interpretation of gaming machine tie as a betrayal of pub tenants' rights](#)"

6 Development of the Pubs Code

6.1 Pre-legislative inquiries and policy development

The treatment of tied tenants was addressed by the Business Innovation and Skills Select Committee, in [2004](#), [2009](#), [2010](#) and [2011](#) which identified significant problems within the industry.

The committee received repeated reports of delay in opening rent review negotiations; lack of transparency in these negotiations; failure to carry out repairs agreed when a tenancy began; verbal agreements being ignored and of harassment of tenants following bereavements. It felt that the problems were primarily due to the inequality of bargaining power in these business contacts. It came to the conclusion in its 2011 report that the self-regulatory approach had failed and that legislation was necessary.

In 2013 the government consulted on a statutory code of practice finding that many tied tenants were treated unfairly, and the evidence tied tenants received countervailing benefits was questionable.¹⁹

7 Legislation

In June 2014 the Coalition Government introduced the [Small Business, Enterprise and Employment Bill](#) which proposed establishing the Pubs Code and Pubs Code Adjudicator.

During the passage of the Bill, two major changes were made:

- The Pubs Code was initially planned to cover all PubCos (subject to a ‘core code’), not just those with 500 or more tied tenants (which would be subject to an ‘enhanced code’).²⁰ The Bill was amended to remove the code’s application to PubCos with fewer than 500 tied tenants, essentially removing the two-tier nature of the code.
- The Bill did allow for the Pubs Code to require larger PubCos to produce “parallel rent assessments” for tenants, which would represent what they might pay in rent if they were free-of-tie. However, it didn’t specify any powers by which tenants might be able to actually take this option.

¹⁹ Department for Business, Innovation & Skills, [Pub companies and tenants: a government consultation](#), 22 April 2013

²⁰ [Small Business, Enterprise and Employment Bill \(HC Bill 11\)](#)

The Bill was amended to introduce the MRO option as detailed in [section 3.2](#).

A detailed account of the legislative process is available in the Library research briefing [Pub companies, pub tenants & pub closures: introducing statutory regulation](#) (13 May 2015).

The [Pubs Code etc. Regulations 2016](#) then codified the exact rules PubCos must follow, amended by [The Small Business, Enterprise and Employment Act 2015 and Pubs Code etc. \(Amendment\) Regulations 2022](#) (see [section 5](#)).

8 Future of the code

As mentioned in [section 5](#), the code and the PCA have been the subject of significant criticism.

Additionally organisations including the Campaign for Real Ale (CAMRA), have advocated expanding the code to allow tied tenants to serve a number of guest beers alongside the beers they are required to serve under the terms of their tenancy.

This issue was raised when the Pubs Code was first being consulted on back in 2013. At the time the government said this carried too great a potential to undermine the tied model because of the likelihood tenants would fill their guest beer slot with in all likelihood a draught lager which would outsell beers provided by their landlord.²¹

CAMRA and others suggested a way in which legislation might require the guest beer to be of a specific type or locally produced, but other stakeholders raised concerns about the potential for legal challenge by brewers of other beers, and the feasibility of drafting this sort of legislation.²²

At the 2024 Budget the government said it would consult “consult on ways to ensure that small brewers can retain and expand their access to UK pubs, and maximise drinkers’ choice, including through provisions to enable more ‘guest beers’”.²³

²¹ Department for Business, Innovation & Skills, “[Pub companies and tenants: government response to the consultation](#)”, June 2014, page 6

²² As above, page 57

²³ HM Treasury, [Autumn Budget 2024](#), 30 October 2024, para 5.99

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A Pubs Code for Scotland

In 2021 the Scottish Parliament passed the [Tied Pubs \(Scotland\) Bill](#) which would allow the Scottish Government to establish a [Scottish Pubs Code](#) and Scottish Pubs Code Adjudicator.

A legal challenge brought by PubCos delayed the regulations being laid before the Scottish Parliament until March 2024.²⁴

The [Scottish Pubs Code](#) mirrors the Pubs Code in England and Wales, with some key differences:

- The code applies to all PubCos, not just those with over 500 tied tenants as in England and Wales.²⁵
- Tenants can request the MRO option when they like, with specified exceptions (for example, if the tenant has already requested the MRO option in the previous two years).²⁶ In England and Wales tenants can only request the MRO option in response to specific events.
- PubCos must offer to enter into a guest beer arrangement at the tenant's request.²⁷ This allows the tenant to sell a guest beer at a price of their choosing. The guest beer must not relate to a brand which sells more than 500,000 litres per year, to encourage pubs to stock beers from small brewers.

²⁴ Scottish Government, "[New deal for pub tenants](#)", 11 April 2024

²⁵ [Tied Pubs \(Scotland\) Act 2021 section 21](#)

²⁶ [The Scottish Pubs Code Regulations 2024 Regulation 15](#)

²⁷ [The Scottish Pubs Code Regulations 2024 Part 5](#)

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