

TIED PUBS (SCOTLAND) BILL AT STAGE 2

STAR PUBS & BARS LIMITED'

Star Pubs & Bars (SP&B) responded to the written call for evidence from the Economy, Energy and Fair Work Committee on the Tied Pubs (Scotland) Bill on 14 July 2020. Lawson Mountstevens, Managing Director, SP&B provided oral evidence on 18 August 2020. This supplementary response follows the Committee's letter to SP&B dated 21 December 2020 who have asked for our views on a number of outstanding matters.

Firstly, we were **pleased the Committee concluded in their Stage 1 Report that they do not agree with the general principles of the Bill**. The majority of the Committee were unconvinced that sufficient evidence was presented to the Committee to suggest that the problems described were large scale or that there were adequate grounds to warrant legislative interference in contractual agreements.

Clearly we were therefore **deeply disappointed that the Tied Pubs (Scotland) Bill was voted through to Stage 2** by the Scottish Parliament. **The passing of the Bill through to Stage 2 is contrary to all the evidence provided** – as well as the findings of this cross-party Committee which recommended that MSPs should not support it. We believe pub companies have been used **as a political football at a time when the industry is already on its knees due to the pandemic**.

We remain **extremely concerned about this Bill and the damaging impact it will have on our business, jobs and the wider Scottish economy**. As we have already made clear in our previous responses, this Bill **seeks a solution to a problem that does not exist**. The legislation proposes to introduce a Scottish Pubs Code that would cover only 17% of pubs in Scotland (only 750 pubs operate under the Leased & Tenanted relationship in Scotland). In its current form, the Bill innovates on the Leased & Tenanted (L&T) relationship in Scotland and extends significantly beyond the provisions of the Code in England & Wales (E&W) in a manner which creates uncertainty for both landlords and tenants. It will be costly and complex, and introduces unnecessary red tape and bureaucracy onto the L&T partnership that is already constructive and working.

In fact, **the current pandemic shows the true partnership nature of the L&T model**. For example, since the outset of the crisis we have provided our licensees with significant rent reductions to support them through closure periods and restrictions. Our Scottish licensees are currently paying us only 10% rent this January, taking our total investment in rent reductions across Scotland to nearly £4 million. We've extended credit terms and worked with licensees on favourable repayment plans to support them with cash flow as and when they've been allowed to trade.

As a pub company headquartered in Scotland, **we are now forced into a position where we are reviewing our whole Scottish pub business and the investment it brings**. We have already suspended all our investment in Scottish pubs, and we are reviewing our business plan in light of the Bill - one of the **unintended consequences** is that pub companies will either convert their pubs to a managed

STAR PUBS & BARS LIMITED

model or to sell them (possibly for alternative use other than pubs). This will be to the detriment of jobs and skills at a time when the Scottish hospitality and pub sector in Scotland desperately requires it. **This Bill will wipe out a low-cost, low-risk way for people who can't afford to buy a pub to get one of their own.**

We fundamentally question the logic of placing further red tape and unnecessary bureaucracy in the form of this Bill - for which there is no clear evidence and which comes at the worst possible time for the sector.

As this Bill progresses through to Stage 2:

- We remain concerned at the incredibly short time-frame the Scottish Parliament has to properly consider and consult upon this legislation, not least given the profound impact this will have – on our own business, on licensees and would-be entrepreneurs, on the entire L&T model and indeed for all pub goers across Scotland. Our experience from the legislation in E&W – which was rushed through Parliament at the end of the Coalition Government in 2015 – is that there are a number of material deficiencies in the Pubs Code regime (as highlighted in findings of the first statutory review of the Pubs Code and Pubs Code Adjudicator published in November 2020, with further consultation on potential changes to the Code expected imminently¹) which has resulted in cost, complexity and confusion for those on all sides of the debate. We implore Scottish politicians not to make these same mistakes as E&W by railroading this legislation through at speed before the end of a Parliamentary session.
- We ask that concerns raised by the Law and Delegated Powers committee and the Equality and Human Rights Committee are adequately addressed ahead of Stage 3. We, alongside other pub companies, have concerns that the imposition of such statutory regulation is incompatible with our right to the peaceful enjoyment of our property, in breach of the European Convention of Human Rights and Article 1 of the First Protocol.
- We believe that the financial memorandums and impact assessments for the Bill are woefully inadequate and should be thoroughly reviewed in light of the considerable stress the sector is currently under as a result of the restrictions that have been placed upon us by the Scottish Government due to the Coronavirus pandemic.
- We would ask that Stage 2 proceedings include an opportunity for businesses, and those impacted by the legislation, to set out their concerns in a formal evidence oral session of the committee.
- Finally, we recognise that this Bill was heavily lobbied on by all sides of the debate at Stage 1. We would urge MSPs to ensure that the voice of the silent majority is heard, many of whom remain satisfied in their relationship with

¹ <https://www.gov.uk/government/publications/pubs-code-and-pubs-code-adjudicator-statutory-review-2016-to-2019>

their pub company. We believe in fair, proportionate and evidenced based regulation on business, and not Bills that are based on political point-scoring, unsubstantiated anecdotes and stakeholder noise.

Addressing the Committee's specific questions in their correspondence to us dated 21 December:

1) Lengthening implementation and review timescales

During the Stage 1 Debate, the Minister referred to lengthening implementation and review timescales for the Scottish Pubs Code; the Minister deemed this "essential so that the process of implementing a code is transparent, fair and properly consulted on, particularly in the context of the Scottish Government and industry still dealing with COVID-19".

We fully agree with the Minister that the review timescales and implementation of this Bill should be extended significantly. The Coronavirus pandemic has devastated the pub and hospitality sector, and data suggests the impact on pubs is more acute in Scotland than the rest of the UK. According to independent analysis by CGA, the Scottish On-Trade saw a far slower reopening than the rest of the UK last year (2020), with just 84% of pubs open by the end of October (versus nearly 90% for E&W). In terms of consumer confidence, Scottish consumers are also less likely to feel comfortable returning to the On-Trade once restrictions are lifted.

In terms of how many pubs will be permanently closed, CGA forecasts suggest a permanent closure rate at 8-10% of the market due to the pandemic. Their latest Market Recovery Monitor from CGA and AlixPartners suggests that the pandemic has forced 6,000 licensed premises to close for good across the UK in 2020. In Glasgow and Edinburgh there have already been a significant number of permanent closures (the numbers of licensed premises in the two cities were down 4.5% and 0.7% respectively between December 2019 and 2020) resulting in job losses for thousands of people, particularly in younger age groups².

CGA also suggest that 91% of Free Trade and L&T pubs will open by December 2021, versus 96% of managed pubs. Due to the fact that Scotland has a relatively high number of free trade outlets, CGA suggest that Scotland may suffer an even greater number of pub closures. We would agree with this suggestion on the basis that L&T pubs across Scotland have received more support from their pub companies than free trade pubs have received from their commercial landlords (please see answer to Q11 below).

In addition, beer volumes across our Scottish estate were down -75% between March and December last year.

² <https://www.alixpartners.com/insights-impact/insights/market-growth-monitor/>

All this evidence clearly shows the enormous fragility of the Scottish beer and pub market, and we would implore MSPs on the committee not to introduce this Bill which simply adds further red tape and will undermine any chances of recovery. This Bill, compounded by the pandemic, will decimate the L&T model in Scotland and essentially remove the opportunity and entry point for those who cannot afford to buy a free of tie premises, and reduce the choice of business model available to budding entrepreneurs.

The current proposal, at most, covers only 750 L&T pubs and it is very unclear what the sector will look like post-COVID. To introduce legislation with no clear evidence base on such a small proportion of the market, which is in an incredibly fragile state, will be unworkable unless it is consulted on properly.

2) Removal of elements of retrospection

The Minister also referred to this during the Stage 1 Debate: “so that past tenants cannot raise cases long after they have left the sector”;

As we outlined in our previous response to the Committee, the current elements of retrospection contained within the Bill are unworkable - they have not been thought through and will cause a great amount of ambiguity and uncertainty, as well as cost and complexity. The legislation does not have retrospective application in E&W.

Retrospective legislation is extremely unusual. Where applied in relation to Holyrood legislation dealing with property rights, retrospectivity has been found by the Supreme Court to give rise to a breach of landlords' rights under the European Convention on Human Rights³. In the present context it would create a huge amount of uncertainty - not just for pub owning businesses but for subsequent licensees wanting to take on a lease from a former tenant. If the Code was applied retrospectively and the pub is leased to a new tenant – there would be huge difficulty in a Scottish Pubs Code Adjudicator proposing a new lease and could materially impact upon both the rights of the landlord and of the new tenant (it would also have an obvious impact on the assessment value of the property, any decisions relating to improving the property and the viability of the business).

3) Measures to ensure levies on pub companies are proportionate

The estimated operational costs of the Scottish PCA are disproportionate and excessive in relation to the number of tied pubs and anticipated number of enquiries and arbitrations in Scotland. There is a concern that the introduction of a Scottish PCA could lead to further significant costs to the whole industry.

If the Bill were to pass in any form, we – like many other pub companies – will adapt our business model in Scotland and move many more of our pubs onto

³ Salvesen v Riddell [2013] UKSC22

STAR PUBS & BARS LIMITED

managed agreements, or sell them. This is one of the unintended consequences of the Bill. It means fewer pubs will be covered under the Code, meaning ongoing costs for a Scottish PCA year on year will gradually be shared by fewer and fewer pubs, further burdening businesses and licensees.

Taking our experience of the Pubs Code in E&W, the cost of the PCA increased by over 100% in the first three years alone. Levy fees across the 6 pub owning businesses increased from £1.5 million (2016-2017) to £3 million last year. Clearly these costs to pub owning businesses do not include the other fees associated with Code compliance (e.g. cost of alternative arbitrators, legal fees, training costs, full time employees working solely on compliance).

This Bill will also take up valuable taxpayers' money, taking away public spending from areas where they are needed most. As well as the cost to setup the Adjudicator and Code, the Bill will create a significant amount of work for civil servants and the government.

In addition, any arbitration that ultimately results in a court process will also tie-up court resource and incur costs – both financial and time – for landlords and tenants alike. We note that the financial memorandum does not include any provision for the court resource or additional infrastructure which will be required. This will come at a time when we are all still recovering from the pandemic.

4) Thresholds

In the event that the proposed Bill is advanced, in order to ensure fair competition and transparency in the market, the legislation should apply to all pubs with a relationship to a pub owning business, regardless of the size of the pub owning business. To fail to do so would create an un-even playing field for competition in the Scottish market and mean that larger pub owning businesses were unfairly penalised for scale that actually provides benefits to tenants. For example, because we have a large pub estate, SP&B are able to negotiate preferential rates and prices for licensees on a range of products and services (from licensing advice or Sky TV to garden benches and coffee machines).

As one of the large pub owning businesses in the UK (and the largest in Scotland with 230 pubs), we take our regulatory obligations extremely seriously and always strive to employ the highest levels of professionalism in all that we do. This raises the bar in terms of ethical standards within the industry and we were one of the first signatories to the Scottish Voluntary Code and have firmly put in place good industry practice for others to adopt – this will be penalised if a threshold is applied.

5) Court Appeals and Arbitration Process

Stage 1 evidence from the Scottish Courts and Tribunal Service noted problems with the appeal process; the member in charge indicated that this could be revisited during Stage 2 (page 17 of the Stage 1 report);

Appeal Procedure – Financial Penalty

The Bill proposes that a Scottish Pubs Code Adjudicator will be able to impose a financial penalty for non-compliance with the Code. In their evidence at Stage 1 the Scottish Courts and Tribunal Service suggested that a more appropriate solution would be for appeals to be made to the Sheriff Court, where statutory appeals are generally made.

We agree with the comments of the Scottish Courts and Tribunal Service in terms of the extension of existing processes that would be required for the Sheriff Appeals Court to extend its jurisdiction in this area.

Whilst we note the suggestion that the Sheriff Court's jurisdiction could be exercised in relation to such appeals the same manner as statutory appeals are currently determined under the summary application procedure, this is a relatively high level procedure, with pleadings relatively brief or abbreviated.

We would anticipate that appeals against financial penalties may be relatively rare and will most likely be restricted to significant penalties. Any such appeal will undoubtedly require detailed analysis of both the background to the penalty and the grounds upon which it was levied. In this regard, we consider an appeal to the Court of Session (under the Chapter 41 – appeals under statute provisions of the Rules of the Court of Session), where the matter would be considered by a senior judge, would be the most appropriate mechanism for determining such appeals.

The Court of Session already possesses jurisdiction in relation to other statutory appeals against financial penalties (for example, in relation to financial penalties pertaining to breaches of conditions in licences under the National Lottery etc. Act 1993). For an appeal to be made to the Court of Session would be broadly analogous with the appellate right to the High Court under the E&W regime.

Arbitration Process

We would urge the committee to also explore the potential role for the Lands Tribunal in the arbitration process, with any dispute concerning an MRO offer made to a licensee being heard in that forum rather than before an arbitrator. There is precedent in terms of the Lands Tribunal process being flexed according to subject matter. For example, this occurs under the new Electronic Communications Code regime: where there is disagreement between parties, either party can refer to the Lands Tribunal for determination under the Tribunal's bespoke rules.

The arbitration process around the Pubs Code in E&W is far from desirable and we would urge caution before the Scottish regime follows suit. We have

raised our concerns with BEIS at the increasing use of alternative arbitrators to resolve disputes – which is not only resulting in increasing costs for all parties, but adding significant complexity as the experience, understanding and approach adopted by arbitrators has been very mixed, with significant variations in familiarity with the Code and granularity of the awards pronounced. This creates inconsistency in awards, uncertainty and an uneven playing field for both licensees and pub owning businesses.

Therefore, further consideration should be given to arbitration being referred to the Lands Tribunal on the basis that it would bring greater consistency and fairness for licensees, lower costs for all parties and remove ambiguity as all decisions would be transparently published and accessible. This forum would also provide greater property / land law specialism than may necessarily be the case in the Sheriff Court: the Lands Tribunal comprises members with both legal experience and experience in land valuation, typically members of the Royal Institution of Chartered Surveyors. Given the expected low case load of the SPCA we don't think this would be a huge burden for the Lands Tribunal to undertake (with the appeal route remaining to the Court of Session remaining open from any Lands Tribunal determination).

6) Guest Beer Arrangement

Consideration of whether any restrictions should be placed on the guest beer agreement to help small local producers access the market (pages 23-24 of the Stage 1 report);

As outlined in our previous response, we already offer choice and flexibility to our licensees to stock beers from smaller licensees – through the Society of Independent Brewers (SIBA) Beerflex scheme and our monthly guest ale programme, as well as providing further tailored solutions on an individual basis.

The guest beer provision proposed in this Bill is ill thought-out and will have the opposite impact than is intended. Pubs would be commercially naïve if they didn't purchase the highest volume, lowest priced products – which would undoubtedly mean buying from larger brewers. This defeats the purpose and intent of the proposal. Smaller and medium sized brewers would need to sell their products at a significant loss just to be able to compete with larger companies.

We therefore support amendments to the Bill which would ensure that any guest beer agreement helps small producers in line with competition law.

7) MRO Option

There are differences between the MRO option in England and Wales and the proposals for Scotland; consideration of whether the changes proposed are proportionate and whether they will address the issues reported with the 2015 legislation (pages 20-22 of the Stage 1 report).

STAR PUBS & BARS LIMITED

The MRO option as currently proposed can be triggered without any pre-requisite or pre-qualifying circumstances. This completely undermines the commercial assurance and security that comes with commercial contracts which underpins the L&T model, and indeed any landlord and tenant model. It introduces significant uncertainty and indeed undermines our entire business model.

If the Committee deem there is clear evidence to introduce an MRO option, then we believe that the pre-requisite for any MRO right to arise should be by reference to a series of trigger events in line with the provisions of the E&W legislation in so far as applicable in Scotland. Generally, these are linked to contractual rent reviews or other circumstances where the licensee may be entitled to a rent assessment, but will also arise where the contractual term of the lease is about to expire and a notice is served under the relevant landlord and tenant legislation. The latter legislation does not apply in Scotland and a pub lease will therefore continue in force unless either party serves notice in sufficient time to bring it to an end. The stage at and manner in which any MRO right would arise in those circumstances would therefore need to be considered in conjunction with that doctrine. The absence of trigger events giving rise to MRO rights will only serve to create uncertainty for all stakeholders [particularly in view of the definition of tied pub tenants] and will lead to more referrals and ongoing costs for all parties. If this process is to be introduced it therefore requires supervision and regulation.

We would also strongly argue that there needs to be an MRO investment waiver (as is the case in E&W). SP&B invested £4 million in our Scottish estate in 2019 in order for our pubs to remain competitive and meet the needs of consumers across Scotland. The L&T model gives us the ability to invest significant sums of money as the length of agreements means we have the confidence of being able to recover that injection of capital and jointly benefit from the investment through increased trade. As the Bill is currently drafted, the MRO option will halt that development and removes the incentive for pub-owning businesses to continue to invest and provide wider support to licensees as there will be a substantial risk in losing that overall investment if a pub decides to go MRO.

Finally, the MRO element of the legislation needs to recognise that brewers that own pubs (as HEINEKEN does) should have a right to ensure their own products are stocked, and that direct competitor brands can be restricted (but not prevented) in any pub wishing to go down the MRO route. Each year we make significant investments in our pubs, breweries and supply chain in Scotland and across the UK. Across our business we employ 2,300 people in the UK and over 90% of what HEINEKEN sells in the UK we produce in the UK –across our ciderie and our breweries including our Caledonian Brewery in Edinburgh. We have invested £100 million upgrading our breweries in the last three years.

Therefore we must be able to protect our route to market by allowing some restrictions on the sales of competitor beer and cider products in any Scottish pubs that we own, if Scottish licensees choose to go down an MRO route.

Selling our beer and cider products is the reason that we have invested so many millions in purchasing and improving our pubs. There would be no incentive to support a pub that was selling beer produced by one of our competitors, and it would reduce the relationship with our licensees to a pure commercial property transaction. We would also lose certainty within our supply chain that our UK breweries and cider mills would benefit from with a guaranteed and low cost route to market.

8) Clarity on the income that tied pub tenants receive

Clearly we want all our licensees to be profitable. The rent we charge for our pubs represents what would be paid by the Reasonably Efficient Operator (REO) using the Profit Methods of Valuation. This is recognised throughout the pub industry and follows the current guidelines set by a professional independent body, the Royal Institution of Chartered Surveyors (RICS). It is based on calculating a Fair Maintainable Trade (FMT) for the individual pub to work out the Tenants Operating Profit (TOP). This is the tenant's retained profit after rent that should be achieved by the REO. It is benchmarked externally, along with other key inputs in the calculations (using industry comparable data from the SBPA and UKH), and against disposable income and regional pay levels. Throughout our Rent Review process we are open, transparent and fair, and are sensitive to any concerns which a licensee may have. We would be happy to take Committee members or Committee clerks through our rent setting process in more detail if that would be helpful.

Whilst we can estimate the income of our licensees, we do not have access to tax records or actual accounts of all our individual pub businesses. How much income they actually receive is dependent upon a number of factors including the actual turnover, the margins and the costs at which they decide to operate their business. Regardless of pub operating model – whether tied, free of tie or managed – there will always be businesses operating on different profit levels dependent upon how efficiently they are run. It is important to look at this in the round. Clearly trading conditions, tight margins and access to capital will all impact business viability - regardless of operating model. Under the tied model the profit a tenant can make is uncapped and also the lower cost of entry means there is less impact on their income and profitability of the repayment of loans and mortgages.

Using the latest available evidence, SBPA data suggests that 96% of tenants earned above £18,200 and the estimated average income for Scotland's tied tenants is £44,240. Our own latest available data – from an independent survey of licensees (Licensee Index, 2017-2018) suggested that average weekly turnover for SP&B licensees is estimated at £8,500 – the second highest of all the major pub companies. Given the varied nature of the pub landscape clearly there will be a significant spectrum dependent on business sizes and scale. Finally, we do not recognise the figures that CAMRA has provided to the Committee which is based on a telephone survey of a small number of pubs over six years ago.

Fundamentally the potential profit is modelled in a transparent way and, run properly, the pub will deliver that profit.

9) Reasons for the divergence of views of tied pub tenants on the need for a bill.

There is a real mix of licensees who run pubs in the L&T sector. Each person will have very different motivations for doing so - from single site operators to multiples, from licensees who run pubs as a lifestyle choice or to put their business at the centre of their community, to those who want to run a profitable business or build a group of pubs. Given the diverse range of people running tied pubs, it is therefore only natural that there will be a divergence in views on the L&T model, and thus on the need for this Bill.

It is important to point out that there are huge numbers of pubs on the open Scottish market – whether they be free trade, L&T or managed pubs. In no other market are there so many different options. It is down to individual choice. There are many budding entrepreneurs out there who have the talent and a vision for how they could build a successful business - but the costs, risks and lack of access to expertise act as barriers to entry. Many would struggle to afford the cost of purchasing a free trade pub outright.

That is why they choose an L&T pub. The model allows licensees access to their own pub business for a comparatively small investment, while benefitting from our economies of scale. There is choice in the market – and no more so than in Scotland where over 40% of pubs are free trade and only 17% are L&T. Licensees could choose a free trade pub (and work with a bank to provide them with capital) but many of them would rather work with us.

Some business-orientated licensees (rightly in our view) see this Bill as posing a risk to the long-term nature and benefits of the partnership. They recognise the SCORFA benefits that the partnership provides – including the role of the BDM in supporting them with business building advice, and the capital power we have in terms of joint investment. Other licensees may not see the benefits of these advantages. Indeed evidence suggests that many licensees (tied and partially tied) undervalue their SCORFA benefits, and lack understanding of the potential benefits available to them – this is evidenced in the independent report published by the Scottish Government in 2016⁴.

We have 230 pubs across Scotland and like all commercial relationships there are ups and downs in these relationships. We do everything we can to make sure that lessees are treated not only fairly, but well. It is in everyone's interest to maintain a positive and mutually beneficial business relationship. Clearly all commercial relationships will have their challenges at certain points - that is only natural in a business to business partnership. Where issues do arise, we take all complaints seriously and have a structured and robust

⁴ <https://www.gov.scot/publications/research-pub-sector-scotland-phase-1-scoping-study/>

grievance process in place should any licensees' feel that we have failed to meet our responsibilities under the Scottish Voluntary Code.

It is to be expected that whilst some of our own licensees wrote in support of the Bill, many others see the huge risks that it brings. We would urge the Committee – and indeed all MSPs – to thoroughly consider their correspondence from licensees relating to this Bill. Many of those who support the Bill have either never been tied tenants or are former tied tenants. The industry has moved on, developed and improved significantly since many of those former tenants ran tied pubs who have an 'old world' view of the tied relationship.

Furthermore, we believe the support we've provided our licensees with throughout the current pandemic is testament to the full value of the relationship, which we outline in more detail below (see response to Question 11). Therefore these divergences of opinions may not be as stark now as they might have been only a few months ago.

10) The level of investment put on hold due to the pandemic

In 2019 we invested £4 million across our 230 pubs in Scotland, creating 92 jobs (having invested similar levels in both 2017 and 2018). We had planned to invest at similar levels again in both 2020 and 2021 but all Scottish investment plans are currently on hold at the moment due to the pandemic and this Bill. Both the pandemic and this proposed Bill are huge barriers to investing - but there is a marked difference as to the impact of the two on our investment programme.

SP&B plan to invest regardless of the pandemic in E&W – the issue relates to timing and when we invest. There is light at the end of the tunnel with the development and roll out of the vaccination programme, and once lockdown restrictions are lifted we will resume our investment plans. We will continue to invest in E&W as the legislation there gives us surety of return.

However, in Scotland we have had to go further than simply putting the investment on hold due to the pandemic. We have actually had to cancel and freeze all pipeline projects because of the proposed Bill. This is because the Bill, as currently proposed, gives us absolutely no guarantee in terms of return on investment. Both parties – pub companies and licensees – need to have clarity on the commercials on investments so that risk and reward can be clearly and equally understood.

The legislation creates a high level of ambiguity and there is no commercial playing field. To be absolutely clear we had planned between £4-5 million investment on major projects in our Scottish pub estate in 2021 – and would have invested that regardless of the pandemic but are now having to divert that investment elsewhere because of this Bill.

By way of example, we had planned to invest £111,111 in the [redaction]– a transformational investment which would totally refurbish the pub and provide

it with multiple income streams. However, the Bill as it currently stands allows a licensee to request an MRO the following day – so they can effectively terminate the commercial agreement at any given moment. This completely undermines the L&T partnership we have with our licensees and provides us with absolutely no surety in terms of return on capital. We have therefore had to put that investment on hold and instead will be moving our pound elsewhere.

This is one of 15 projects across Scotland that we have had to put on ice due to the Bill. Our planned pipeline of 15 major transformational projects (of between £100,000 and £300,000 investments in each pub) in 2021 across Scotland have all been frozen. We would be happy to provide the Committee with a list of these pubs separately and in commercial confidence.

11) Support received by non-tied pub tenants from their landlords due to the pandemic

The Covid-19 crisis has had a profound and damaging impact on the pub and hospitality sector. Throughout this crisis we have been able to support our pubs precisely because of the partnership we have with our tenants. Many free trade pubs across Scotland have not received similar support from their commercial landlords.

Between March and December 2020 we invested £3.5million in rent reductions for our Scottish pubs. Licensees received between 50% and 90% reductions in their rent between March and August (even as they were allowed to reopen), further tapered support in the autumn, before being offered 100% rent reductions during November (to be clear – Scottish licensees paid us no rent at all during these weeks, despite the fact we were still carrying out essential maintenance services and providing ongoing advice and support). We have continued these rent concessions in 2021 – our Scottish licensees are paying us only 10% rent this January, taking our total investment in rent concessions to nearly £4 million in Scotland since the start of the pandemic.

We have also extended credit terms and worked with licensees on favourable repayment plans to support them with their cash flow as and when they have been allowed to trade. For any beer kegs and cask that went out of date during the closure period, we have also credited back to their accounts (at our cost) the full value of those products.

As well as commercial support, we have also provided a wealth of advice through the crisis. This includes the support and advice from their BDM as well as the Pub Collective (www.thepubcollective.co.uk) website which includes best practice, guidance on accessing Government funding, links to charitable and mental health support, as well as ideas on how pubs can stay connected to the local community. Further details about all of our support through the pandemic can be found on our [website here](#).

STAR PUBS & BARS LIMITED

We would urge the committee to undertake thorough research as to what support non tied pub tenants have received throughout the pandemic. We believe that this crisis will show the true partnership nature of the L&T model, which this Bill seeks to undermine.

12) Whether an MRO option is applicable in other sectors, and if so, what impact it has had

As outlined above, the UK pub market, and L&T sector within it, is unique. The nearest equivalent is a franchise model. We are unaware of any other sector which includes an equivalent provision that effectively allows one party to unilaterally break their contract at any time. This is a significant intervention into the market which is entirely unjustifiable and raises legal questions.