
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first to be made under sections 42 to 45, 48, 69 and 71 of the Small Business, Enterprise and Employment Act 2015 (“SBEEA 2015”).

Section 42 of SBEEA 2015 requires the Secretary of State to make regulations about practices and procedures to be followed by pub-owning businesses in their dealings with their tied pub tenants. A “pub-owning business” is a landlord of 500 or more tied pubs. Parts 2 to 4 of these Regulations make provision in connection with such dealings.

Part 2 requires pub-owning businesses, before they enter into new agreements with their tied pub tenants, to advise tenants to complete appropriate training, to ensure that tenants have a sustainable business plan and to provide certain information to the tenants. This Part also places obligations on pub-owning businesses in relation to the maintenance of tied pub premises and in connection with a tenant’s proposal to assign a tenancy.

Parts 3 and 4 require pub-owning businesses to provide rent proposals and rent assessments, respectively, to their tied pub tenants in certain specified circumstances and include provision about the contents and timing of such proposals and assessments.

Section 43 of SBEEA 2015 provides that regulations must be made requiring pub-owning businesses to offer certain tied pub tenants a market rent only option (an “MRO option”) in circumstances specified in that section. An MRO option is an option for the tenant to occupy the tied pub under a tenancy or licence which is MRO-compliant and to pay, in respect of that occupation, a rent agreed between the parties or, failing such agreement, the market rent.

Part 5 describes the four circumstances in which a tenant may request an MRO option. Part 6 requires the pub-owning business to provide a full response to the tenant’s request. It also describes the nature of an MRO-compliant tenancy or licence and the negotiation period which follows that response. Part 7 describes the involvement of the independent assessor where, during the negotiation period, the parties fail to agree the rent to be payable under the MRO-compliant tenancy or licence. Part 8 describes the point at which this MRO procedure ends.

Part 9 describes the obligations of pub-owning businesses in respect of their business development managers and requires pub-owning businesses to appoint a compliance officer who is to submit an annual compliance report to the Pubs Code Adjudicator (“the Adjudicator”).

Part 10 places further obligations on pub-owning businesses in respect of matters such as insurance, gaming machines and flow monitoring devices.

A reference in SBEEA 2015 to “the Pubs Code” is a reference to Parts 2 to 10 of these Regulations.

Where a landlord ceases to be a pub-owning business, SBEEA 2015 provides that its tenants continue to have extended protection until the earlier of the end of the tenancy or licence concerned or until a rent assessment occurs. Part 11 of these Regulations describes, for these purposes, when a tenancy or licence ends and when a rent assessment occurs.

Part 12 exempts short agreements and pub franchise agreements from certain provisions of these Regulations. It also provides that the tenant may not request an MRO option in all four circumstances described in Part 5, where an investment agreement has been entered into between a pub-owning business and a tied pub tenant.

Part 13 describes the terms of a tenancy which will render it void.

Status: This is the original version (as it was originally made).

Part 14 makes provision for the Adjudicator's functions in connection with the resolution of disputes relating to the offer of an MRO option.

Part 15 describes the circumstances in which a person who is a group undertaking in relation to a pub-owning business may, if the Adjudicator so determines, be treated.

Part 16 makes transitional provision.

Part 17 requires the Secretary of State to carry out a review of those provisions which are not the Pubs Code.

An Impact Assessment has been prepared for these Regulations and is published at www.legislation.gov.uk.