
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Pubs Code etc. Regulations 2016

PART 10

Miscellaneous

Pub-owning business to notify Adjudicator and tied pub tenants of status under these Regulations

45.—(1) A person who, immediately before the commencement date, is the landlord of 500 or more tied pubs, must notify that fact to—

- (a) the Adjudicator; and
- (b) its tied pub tenants,

as soon as reasonably practicable after the commencement date.

(2) A person who, at any time on or after the commencement date, becomes the landlord of 500 or more tied pubs must, as soon as reasonably practicable after that date, notify the Adjudicator and its tied pub tenants, of that fact.

(3) A person who—

- (a) gives notice under paragraph (1) or (2); and
- (b) subsequently ceases to be the landlord of 500 or more tied pubs,

must, as soon as reasonably practicable, notify the Adjudicator and its tied pub tenants, of that fact.

Insurance

46.—(1) Paragraphs (2) to (4) apply where a pub-owning business intends to charge a tied pub tenant an amount (“the insurance charge”) in respect of premiums for insurance in respect of the premises to which the tenancy or licence relates.

(2) The pub-owning business must inform the tied pub tenant whether—

- (a) the insurance charge exceeds the amount payable by the pub-owning business in respect of premiums for insurance in respect of the premises under the insurance policy and, if so, the amount of that excess; and
- (b) the pub-owning business, or any group undertaking⁽¹⁾ in relation to the pub-owning business, receives, or expects to receive, any commission or rebate in connection with that policy.

(3) Before the pub-owning business purchases, or renews, an insurance policy in respect of the premises, the pub-owning business must—

- (a) provide to the tenant full details of that policy, including the cover which is provided, the charges payable and any contributions towards a claim which the tenant is required to make;

(1) Section 72(1) of SBEEA 2015 defines “group undertaking”.

- (b) provide to the tenant any additional information required to allow the tenant to compare the policy with other suitable, comparable policies which may be available; and
 - (c) where the tied pub tenant notifies the pub-owning business that it has identified a suitable and comparable alternative policy (the “tenant’s alternative policy”), consider that policy.
- (4) Where the pub-owning business is required to provide information under paragraph (3), the pub-owning business must do so—
- (a) at least 21 days before the day on which the policy has effect; or
 - (b) if earlier, at least 21 days before the day on which the pub-owning business enters into the insurance.
- (5) Paragraph (6) applies where the insurance charge is higher than the amount which it would be if the pub-owning business entered into the tenant’s alternative policy (the “alternative insurance charge”).
- (6) The pub-owning business must—
- (a) purchase the tenant’s alternative policy; or
 - (b) agree, in writing, that any difference between the insurance charge and the alternative insurance charge is not payable by the tenant.

Gaming machines

47. A pub-owning business—
- (a) must not enter into a new tenancy or licence; and
 - (b) must not renew a tenancy or a licence,

which requires a tied pub tenant to purchase or rent gaming machines.

Blank template for profit and loss account

48. Where the tied pub tenant so requests, the pub-owning business must provide to the tenant a blank template for completing the tied pub’s profit and loss account.

Sale of freehold or long leasehold

49.—(1) Where the pub-owning business is aware that the holder of the freehold, or the superior landlord, of the premises to which the tenancy or licence relates has—

- (a) taken any steps to advertise the sale of the freehold or the leasehold;
- (b) placed the freehold or the leasehold on the market;
- (c) employed an agent to sell the freehold or the leasehold; or
- (d) entered into an agreement to sell the freehold or the leasehold,

the pub-owning business must comply with paragraph (2) as soon as reasonably practicable.

- (2) The pub-owning business must provide to the tied pub tenant—
- (a) details of any arrangements which have been made of the kind mentioned in paragraph (1) (a) to (c); and
 - (b) where an agreement of the kind mentioned in paragraph (1)(d) has been entered into, the name and address of the buyers.
- (3) The pub-owning business is not required to provide the information under paragraph (2)(a)—
- (a) if the sale is part of a sale and leaseback transaction; or

- (b) if a disclosure under that paragraph would breach any obligation under or by virtue of any Act.

Tied pub tenant not to suffer detriment

50. A pub-owning business must not subject a tied pub tenant to any detriment on the ground that the tenant exercises, or attempts to exercise, any right under these Regulations.

Flow monitoring devices

51.—(1) A pub-owning business must not subject a tied pub tenant to any detriment, or impose any liabilities on the tenant, as a result of any reading taken from a flow monitoring device, without additional evidence in connection with the purchase and stock of alcohol at the tied pub.

(2) A “flow monitoring device” means a device which is at the tied pub at the direction of the pub-owning business—

- (a) to measure the amount of alcohol⁽²⁾ being sold by the tied pub tenant; and
- (b) for the purposes of verifying that the tenant does not sell alcohol at the tied pub in contravention of the terms of the tenancy or licence.

(2) Section 68(9) of SBEEA 2015 defines “alcohol”.