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STATUTORY INSTRUMENTS

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**2016 No. 790**

**The Pubs Code etc. Regulations 2016**

**PART 9**

**Business development managers and compliance officers**

**Business development managers**

- 41.**—(1) The pub-owning business must ensure that each of its business development managers—
- (a) receives a copy of these Regulations before the business development manager liaises with tied pub tenants over any matters relating to the Regulations;
  - (b) is provided with appropriate training in relation to the requirements of these Regulations at least once every 12 months; and
  - (c) deals with tied pub tenants in a manner that is consistent with the principle referred to in section 42(3)(a) of SBEEA 2015.
- (2) A pub-owning business must provide to its tied pub tenants information about—
- (a) the role of the business development manager; and
  - (b) the support and guidance which the business development manager will provide to the tenants.
- (3) Where a business development manager is responsible for conducting rent assessments or assessments of money payable in lieu of rent, the pub-owning business must ensure that the business development manager receives appropriate training before conducting any such assessment.
- (4) A pub-owning business must ensure that the business development manager—
- (a) makes appropriate notes of any discussions with tied pub tenants in connection with—
    - (i) rent proposals;
    - (ii) rent assessments or assessments of money payable in lieu of rent;
    - (iii) repairs to the tied pub premises;
    - (iv) matters relating to the tied pub tenants' current or future business plans;
  - (b) provides tied pub tenants with a record of any such discussions within the period of 14 days beginning with the day on which the discussion occurred; and
  - (c) requests that the tenant respond to the business development manager if the tenant does not agree with any aspect of the record within the period of 7 days beginning with the day on which the record was received.
- (5) A pub-owning business must specify, in a document published by the pub-owning business—
- (a) its commitment towards the continuous professional development and improvement of its business development managers; and
  - (b) how it proposes to fulfil such a commitment, referring where appropriate to relevant qualifications and training.

- (6) A “business development manager” means—
  - (a) a person who is employed as such by a pub-owning business; or
  - (b) any other person who represents the pub-owning business in negotiations with tied pub tenants in connection with the matters listed in paragraph (4)(a).

### **Duty to appoint a compliance officer**

**42.**—(1) A pub-owning business must appoint a suitably qualified employee to be the compliance officer, whose role is to verify the pub-owning business’s compliance with these Regulations.

- (2) The pub-owning business must ensure that the compliance officer—
  - (a) is provided with the resources necessary to carry out his or her role, including information relating to the pub-owning business’s obligations under these Regulations;
  - (b) is entitled to contact the business development managers to discuss matters relating to those obligations;
  - (c) makes himself or herself reasonably available to tied pub tenants and any other persons acting on their behalf who may have a query relating to these Regulations;
  - (d) is independent of, and is not managed by, the business development managers;
  - (e) is entitled to discuss with tied pub tenants the reasons for any decisions made by the pub-owning business under these Regulations;
  - (f) is entitled to discuss with the Adjudicator matters relating to the pub-owning business’s compliance with these Regulations;
  - (g) for the purposes of the annual compliance report, maintains records of the training received by the business development managers.

### **Annual compliance report**

**43.**—(1) A pub-owning business must ensure that the compliance officer submits an annual compliance report to the Adjudicator relating to each financial year<sup>(1)</sup>.

(2) The annual compliance report must be submitted to the Adjudicator within the period of 4 months beginning with the day after the end of the financial year to which the report relates.

(3) Paragraph (4) applies in relation to a person who, immediately before these Regulations come into force, is the landlord of 500 or more tied pubs.

(4) The person must ensure that the first annual compliance report required under paragraph (1) relates to the period—

- (a) beginning with the day on which these Regulations come into force; and
- (b) ending on the last day of the first subsequent full financial year.

(5) Before the annual compliance report is submitted to the Adjudicator under paragraph (2), the report must be approved—

- (a) by the Chair of the Audit Committee; or
- (b) if the pub-owning business does not have an Audit Committee, by the non-executive director of the pub-owning business responsible for carrying out the functions normally associated with an Audit Committee, or, in the absence of any such non-executive director, by the pub-owning business’s Chief Executive Officer, Managing Director or equivalent.

(6) The annual compliance report must include a detailed and accurate account of —

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(1) Section 72(1) of SBEEA 2015 defines “financial year”.

- (a) the pub-owning business's compliance with these Regulations in the period to which the report relates;
  - (b) any instances where a breach or alleged breach of these Regulations has been identified by a tied pub tenant;
  - (c) the steps taken in relation to any such breach, or alleged breach; and
  - (d) any steps taken during the period to which the report relates to ensure compliance with these Regulations, including details of training and guidance offered to employees in connection with the Regulations.
- (7) The pub-owning business must ensure—
- (a) that the compliance officer provides such other reports as are necessary to ensure that the pub-owning business's Audit Committee has an understanding of the pub-owning business's compliance with these Regulations; or
  - (b) that, if the pub-owning business does not have an Audit Committee, the compliance officer reports directly to the non-executive director of the pub-owning business responsible for carrying out the functions normally associated with an Audit Committee, or, in the absence of any such non-executive director, to the pub-owning business's Chief Executive Officer, Managing Director or equivalent.
- (8) A summary of the annual compliance report must be included in the pub-owning business's annual report.
- (9) If the pub-owning business does not produce an annual report, the summary of the annual compliance report must be published clearly and prominently on the pub-owning business website (if any) within the period of 4 months beginning with the day after the end of the financial year to which the report relates.

**Provisions of these Regulations which are not arbitrable**

- 44.** For the purposes of section 48 of SBEEA 2015 (referral for arbitration by tied pub tenants) the following provisions are not arbitrable—
- (a) regulation 41(1)(b), (3) and (5);
  - (b) regulation 42;
  - (c) regulation 43.