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DRAFT STATUTORY INSTRUMENTS

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**2016 No.**

**The Pubs Code etc. Regulations 2016**

**PART 2**

**Duties of pub-owning businesses in their dealings with their tied pub tenants: general**

**Duty of pub-owning business where tenant intends to assign the tenancy**

**12.**—(1) This regulation applies where the terms of a tenancy in relation to a tied pub permit the tied pub tenant to assign the tenancy to another person.

(2) Where a tied pub tenant notifies the pub-owning business that the tenant intends to assign the tenancy, the pub-owning business must, as soon as reasonably practicable—

- (a) explain to the tenant and the proposed assignee the implications of the assignment for both; and
- (b) provide the tenant with—
  - (i) information relating to any fees payable by the tenant in respect of the assignment;
  - (ii) information relating to any dilapidations which the pub-owning business requires to be remedied before, or as a condition of, the assignment; and
  - (iii) the information in Schedule 1 or, where that information has already been provided to the tenant under regulation 11(1), any information in that Schedule which has changed materially since it was last provided.

(3) Paragraphs (4) to (7) apply where the tenancy may not be assigned without the pub-owning business's agreement.

(4) Before agreeing to an assignment, the pub-owning business must be satisfied—

- (a) that the proposed assignee has received the information which was provided to the tenant under regulation 11(1) or under paragraph (2)(b)(iii) of this regulation;
- (b) that the proposed assignee has been advised to complete pubs entry training; and
- (c) that the proposed assignee has been advised to seek independent advice, including advice from a qualified surveyor with professional experience relating to tied pubs.

(5) The pub-owning business's duty at paragraph (4)(b) does not apply if the assignee meets at least one of the conditions in paragraph (6).

(6) The conditions are—

- (a) that the assignee operates at least one other tied pub other than a pub which is occupied under a short agreement on the day on which the notice mentioned in paragraph (2) is given;
- (b) that the assignee can demonstrate that the assignee has at least 3 years of relevant business management experience;
- (c) that the pub-owning business has, at any time, granted the assignee a tenancy or licence in relation to a tied pub, other than a tenancy or licence in connection with a short agreement.

(7) Where the pub-owning business does not agree to the assignment, the pub-owning business must notify the tenant and the assignee as soon as reasonably practicable.

(8) Paragraph (9) applies where—

- (a) the tenancy may not be assigned without the pub-owning business's agreement;
- (b) the pub-owning business and the tied pub tenant have entered into an investment agreement; and
- (c) the tied pub tenant proposes to assign the tenancy.

(9) Before agreeing to the assignment, the pub-owning business must be satisfied that the assignee—

- (a) has been notified, in writing, of the investment agreement and the effect of that agreement on the assignee's right to request a rent assessment or an offer of a market rent only option<sup>(1)</sup>; and
- (b) has received a copy of that agreement.

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<sup>(1)</sup> Section 43(2) of SBEEA 2015 defines "market rent only option".