



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 4

#### THE PUBS CODE ADJUDICATOR AND THE PUBS CODE

#### *Supplementary*

#### **68 “Tied pub”**

- (1) In this Part a “tied pub” means premises in relation to which conditions A to D are met.
- (2) Condition A is that the premises have a premises licence authorising the retail sale of alcohol for consumption on the premises.
- (3) Condition B is that the main activity or one of the main activities carried on at the premises is the retail sale of alcohol to members of the public for consumption on the premises.
- (4) Condition C is that the premises are occupied under a tenancy or licence.
- (5) Condition D is that the tenant or licensee of the premises is subject to a contractual obligation that some or all of the alcohol to be sold at the premises is supplied by—
  - (a) the landlord or a person who is a group undertaking in relation to the landlord, or
  - (b) a person nominated by the landlord or by a person who is a group undertaking in relation to the landlord.
- (6) But condition D is not met if the contractual obligation is a stocking requirement.
- (7) The contractual obligation is a stocking requirement if—
  - (a) it relates only to beer or cider (or both) produced by the landlord or by a person who is a group undertaking in relation to the landlord,

---

*Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Supplementary. (See end of Document for details)*

---

- (b) it does not require the tied pub tenant to procure the beer or cider from any particular supplier, and
  - (c) it does not prevent the tied pub tenant from selling at the premises beer or cider produced by a person not mentioned in paragraph (a) (whether or not it restricts such sales).
- (8) In subsection (7), “beer” and “cider” have the same meanings as in the Alcoholic Liquor Duties Act 1979 (see section 1 of that Act).
- (9) In this section—  
 “alcohol” has the meaning given by section 191 of the Licensing Act 2003;  
 “premises licence” has the same meaning as in that Act.

## **69 “Pub-owning business”**

- (1) A person is a “pub-owning business” for the purposes of this Part—
- (a) in the period beginning with the day on which the Pubs Code comes into force and ending with the following 31 March, if immediately before the Pubs Code comes into force the person was the landlord of 500 or more tied pubs;
  - [<sup>F1</sup>(b) in any subsequent financial year, if for a period of—
    - (i) at least 6 months in the previous financial year, in the case of a subsequent financial year ending before 1 April 2023, or
    - (ii) at least 3 months in the previous financial year, in the case of a subsequent financial year ending after 31 March 2023.]
- (2) For the purposes of calculating the number of tied pubs of which a person (“L”) is the landlord, any tied pub the landlord of which is a person who is a group undertaking in relation to L is treated as a tied pub of which L is the landlord.
- (3) A person not falling within subsection (1) and who is the landlord of a tied pub occupied by a tied pub tenant who has extended protection in relation to that tied pub is also a pub-owning business for the purposes of this Part in relation to that occupation.
- (4) A tied pub tenant has “extended protection in relation to a tied pub” if—
- (a) the tenant occupies the tied pub under a tenancy or licence at a time when the landlord is a person who is a pub-owning business by virtue of subsection (1), and
  - (b) before the end of that tenancy or licence the landlord is no longer such a person (whether because of a transfer of title or because the landlord ceases to fall within subsection (1)).
- (5) But a tied pub tenant ceases to have “extended protection in relation to a tied pub” on the earlier of—
- (a) the end of the tenancy or licence concerned, and
  - (b) the conclusion of the first rent assessment or assessment of money payable in lieu of rent to be provided after the landlord is no longer a person who is a pub-owning business by virtue of subsection (1).
- (6) The Secretary of State may for the purposes of subsections (4) and (5) by regulations specify—
- (a) when a tenancy or licence ends;
  - (b) when a rent assessment or assessment of money payable in lieu of rent is concluded.

---

**Changes to legislation:** There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Supplementary. (See end of Document for details)

---

- (7) Nothing in sections 43 to 45 and sections 53 to 59 has effect in relation to a person who is a pub-owning business by virtue of subsection (3).
- (8) The Secretary of State may by regulations specify circumstances in which a person who is a group undertaking in relation to a pub-owning business—
- (a) is to be treated, or
  - (b) may if the Adjudicator so determines be treated,
- as a pub-owning business (as well as or instead of any other person) for the purposes of any provision of or made under this Part.
- (9) The Secretary of State may by regulations—
- (a) amend subsection (1)(a) or (b) so as to substitute a different number of tied pubs, or a different period, from the number or period for the time being specified there,
  - (b) make provision in relation to the calculation of the number of tied pubs, whether by amending subsection (2) or otherwise.

#### Textual Amendments

- F1** S. 69(1)(b) substituted (1.4.2022) by [The Small Business, Enterprise and Employment Act 2015 and Pubs Code etc. \(Amendment\) Regulations 2022 \(S.I. 2022/341\)](#), reg. 1(1), **Sch. 1 para. 1** (with reg. 4)

## 70 “Tied pub tenant”, “landlord”, “tenancy” and “licence”

- (1) In this Part a “tied pub tenant” means a person—
- (a) who is the tenant or licensee of a tied pub, or
  - (b) who is a party to negotiations relating to the prospective tenancy of or licence to occupy premises which are, or on completion of the negotiations are expected to be, a tied pub.
- (2) In this Part—
- “landlord” means—
    - (a) in relation to a tied pub occupied under a tenancy, the immediate landlord, or
    - (b) in relation to a tied pub occupied under a licence, the licensor;
  - “licence” means a licence to occupy premises; and “licensee” is to be construed accordingly;
  - “tenancy” means a tenancy created either immediately or derivatively out of the freehold, whether—
    - (a) by a lease or sub-lease,
    - (b) by an agreement for a lease or sub-lease,
    - (c) by a tenancy agreement or sub-tenancy agreement, or
    - (d) in pursuance of a provision of, or made under, an Act,
- and includes a tenancy at will.
- (3) Where two or more persons jointly constitute either the landlord or the tied pub tenant, any reference in this Part to the landlord or to the tied pub tenant is a reference to both or all of the persons who jointly constitute the landlord or the tied pub tenant, as the case may require.

---

*Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Supplementary. (See end of Document for details)*

---

## **71 Power to grant exemptions from Pubs Code**

- (1) The Secretary of State may by regulations provide that the Pubs Code does not, or specified provisions of the Pubs Code do not, apply in relation to—
  - (a) the dealings of pub-owning businesses—
    - (i) with tied pub tenants of a specified description, or
    - (ii) in relation to tied pubs of a specified description;
  - (b) the dealings of a specified pub-owning business or pub-owning businesses of a specified description—
    - (i) with their tied pub tenants or tied pub tenants of a specified description, or
    - (ii) in relation to their tied pubs or tied pubs of a specified description.
- (2) Regulations under subsection (1) may, in particular, specify a description of pub-owning businesses or tied pub tenants by reference to—
  - (a) the nature of the tenancy or licence, or
  - (b) the nature of any other contractual agreement entered (or to be entered) into by the tied pub tenant with the pub-owning business, or a person nominated by that business, in connection with the tenancy or licence.
- (3) The regulations may provide for circumstances in which a tied pub of a specified description is to be disregarded for the purposes of determining under section 69 whether a person is a pub-owning business.
- (4) In this section “specified” means specified in regulations.

### **[<sup>F2</sup>71A Reports on avoidance**

- (1) The Adjudicator must report to the Secretary of State on cases of pub-owning businesses engaging in business practices which are, in the Adjudicator's opinion, unfair business practices.
- (2) A report under subsection (1) must include recommendations as to—
  - (a) actions to be taken to prevent pub-owning businesses from engaging in the business practices reported on, and
  - (b) how to provide redress for tied pub tenants affected by those practices.
- (3) The Secretary of State must issue a statement within three months of receiving a report under subsection (1) setting out—
  - (a) action which the Secretary of State intends to take to protect tied pub tenants affected by the business practices reported on, or
  - (b) if the Secretary of State does not intend to take such action, the reasoning for that decision.
- (4) In this section “unfair business practice” means a business practice which—
  - (a) is engaged in by a pub-owning business at any time after the passing of this Act in order to avoid, to the detriment of tied pub tenants, the operation of provision made by or under this Part, and
  - (b) is unfair.]

---

*Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Supplementary. (See end of Document for details)*

---

### Textual Amendments

**F2** S. 71A inserted (21.7.2016) by Enterprise Act 2016 (c. 12), ss. 40, 44(5); S.I. 2016/695, art. 4(b)

## 72 Interpretation: other provision

(1) In this Part—

“the Adjudicator” means the Pubs Code Adjudicator;

“arbitration agreement” has the same meaning as in section 6 of the Arbitration Act 1996;

“financial year” means a period of 12 months beginning with 1 April and ending with 31 March;

“group undertaking” has the meaning given by section 1161 of the Companies Act 2006;

“independent assessor” has the meaning given by section 44;

“market rent” and “market rent only option” have the meanings given by section 43;

“MRO procedure” has the meaning given by section 44;

“MRO-compliant”, in relation to a tenancy or licence, has the meaning given by section 43;

“parallel rent assessment” has such meaning as may be prescribed in regulations made by the Secretary of State;

“product or service tie” means a product tie or a service tie;

“product tie” means any contractual obligation, other than a stocking requirement, of a tied pub tenant that a product to be sold at the tied pub must be supplied by—

(a) the landlord of the tied pub or a person who is a group undertaking in relation to the landlord, or

(b) a person nominated by the landlord or by a person who is group undertaking in relation to the landlord;

“the Pubs Code” means the regulations under section 42;

“service tie” means any contractual obligation of a tied pub tenant to receive a service supplied by—

(a) the landlord of the tied pub or a person who is a group undertaking in relation to the landlord, or

(b) a person nominated by the landlord or by a person who is a group undertaking in relation to the landlord;

“stocking requirement” has the meaning given by section 68.

(2) In this Part, references to “rent”, in relation to a licence to occupy, are to be read as references to the fee payable in respect of the licence.

## 73 Regulations under this Part

(1) Subject to subsection (2), regulations under this Part are subject to affirmative resolution procedure.

(2) Regulations under section 66(1)(c) are subject to negative resolution procedure.

---

**Changes to legislation:** *There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Supplementary. (See end of Document for details)*

---

- (3) If a draft of an instrument containing regulations under section 71 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed as if it were not such an instrument.

**Changes to legislation:**

There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Cross Heading: Supplementary.