SCHEDULES

SCHEDULE 1

Section 41

THE PUBS CODE ADJUDICATOR

PART 1

THE PUBS CODE ADJUDICATOR

Status

1 The Adjudicator is a corporation sole.

Commencement Information
I1 Sch. 1 para. 1 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

2 The Adjudicator carries out functions on behalf of the Crown.

Commencement Information
I2 Sch. 1 para. 2 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Appointment

3 The Adjudicator is to be appointed by the Secretary of State.

Commencement Information
I3 Sch. 1 para. 3 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Deputy Adjudicator

4 The Secretary of State may appoint a Deputy Adjudicator.

Commencement Information
I4 Sch. 1 para. 4 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

5 The Deputy Adjudicator may carry out any of the Adjudicator's functions.

Commencement Information
I5 Sch. 1 para. 5 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Term of office etc

6 A person holds and vacates office as the Adjudicator or Deputy Adjudicator in accordance with the terms of the appointment, but—

(a) the initial term of office may not be more than 4 years,

(b) a person may be appointed for no more than 2 further terms of office,

(c) a further term may not be more than 3 years,

(d) the person may resign by giving written notice to the Secretary of State, and

(e) the Secretary of State may dismiss the person if satisfied that the person is unable, unwilling or unfit to perform the person's functions.

Commencement Information
I6 Sch. 1 para. 6 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

7 Service as the Adjudicator, or as the Deputy Adjudicator, is not service in the civil service of the state.

Commencement Information
I7 Sch. 1 para. 7 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Remuneration

8 (1) The Adjudicator may pay to or in respect of the person holding office as the Adjudicator or Deputy Adjudicator—

(a) remuneration;

(b) allowances;

(c) sums by way of or in respect of pensions.

(2) The Secretary of State must determine rates and eligibility criteria for the payments.

Commencement Information
I8 Sch. 1 para. 8 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Staff

9 (1) The Adjudicator may make arrangements for persons to be seconded to the Adjudicator to serve as members of the Adjudicator's staff.

(2) The arrangements may include provision for payments by the Adjudicator to the person with whom the arrangements are made, or directly to seconded staff (or both).

(3) A period of secondment to the Adjudicator does not affect the continuity of a person's employment with the employer from whose service he or she is seconded (and a person employed in the civil service of the State continues to be so employed during any period of secondment to the Adjudicator).

(4) Before making arrangements under sub-paragraph (1), the Adjudicator must obtain the approval of the Secretary of State as to the Adjudicator's policies on—
  (a) the number of staff to be seconded;
  (b) payments to be made to or in respect of seconded staff;
  (c) the terms and conditions on which staff are to be seconded.

Commencement Information
I9 Sch. 1 para. 9 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Conflicts of interest

10 (1) The Adjudicator must make procedural arrangements for dealing with any conflict of interest affecting—
  (a) the Adjudicator,
  (b) the Deputy Adjudicator, or
  (c) staff working for the Adjudicator.

(2) The Adjudicator must consult the Secretary of State before making or revising the arrangements.

(3) The Adjudicator must publish a summary of the arrangements.

Commencement Information
I10 Sch. 1 para. 10 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

11 (1) This paragraph applies if both the Adjudicator and the Deputy Adjudicator are unable to act in relation to a matter because of conflicts of interest.

(2) The Secretary of State must appoint a person to act as a Deputy Adjudicator if asked to do so by the Adjudicator.

(3) An acting Deputy Adjudicator may carry out any of the Adjudicator's functions for the purpose of dealing with the matter in respect of which the acting Deputy Adjudicator is appointed.

(4) A person holds and vacates office as an acting Deputy Adjudicator in accordance with the terms of the person's appointment (subject to sub-paragraph (5)).

(5) Paragraphs 6(d) and (e), 7 and 8 apply to an acting Deputy Adjudicator as they apply to the Deputy Adjudicator.

Commencement Information
I11 Sch. 1 para. 11 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Validity of acts

12 A defect in appointment does not affect the validity of things done by—
(a) the Adjudicator,
(b) the Deputy Adjudicator, or
(c) an acting Deputy Adjudicator.

Commencement Information
I12 Sch. 1 para. 12 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Application of seal and proof of documents

13 The application of the Adjudicator's seal must be authenticated by the signature of—
(a) the Adjudicator, or
(b) some other person who has been authorised by the Adjudicator for that purpose (whether generally or specially).

Commencement Information
I13 Sch. 1 para. 13 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

14 A document purporting to be duly executed under the seal—
(a) is to be received in evidence, and
(b) is to be treated as duly executed unless the contrary is shown.

Commencement Information
I14 Sch. 1 para. 14 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Accounts

15 (1) The Adjudicator must keep proper accounts and proper records in relation to the accounts.

(2) For each financial year, the Adjudicator must prepare a statement of accounts in respect of that financial year.

(3) The statement must be in whatever form the Secretary of State directs.

(4) The Adjudicator must send a copy of the statement, within a period specified by the Secretary of State, to—
(a) the Secretary of State, and
(b) the Comptroller and Auditor General.

(5) After the Adjudicator has sent a copy of a statement of accounts to the Comptroller and Auditor General, the Comptroller and Auditor General must—
(a) examine, certify and report on the statement, and
(b) send a copy of the certified statement and the report to the Secretary of State as soon as possible.

(6) The Secretary of State must lay before Parliament a copy of the certified statement and the report.

Commencement Information
I15 Sch. 1 para. 15 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Incidental powers

16 The Adjudicator may do anything that is calculated to facilitate the carrying out of the Adjudicator's functions or is conducive or incidental to the carrying out of those functions.

Commencement Information
I16 Sch. 1 para. 16 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Assistance from the Secretary of State

17 The Secretary of State may provide staff, premises, facilities or other assistance to the Adjudicator (with or without charge).

Commencement Information
I17 Sch. 1 para. 17 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Exemption from liability for damages

18 (1) The following are exempt from liability in damages for anything done or omitted in the exercise or purported exercise of their functions—
(a) the Adjudicator;
(b) the Deputy Adjudicator;
(c) acting Deputy Adjudicators;
(d) staff working for the Adjudicator.

(2) Sub-paragraph (1) does not apply—
(a) if the act or omission is shown to have been in bad faith, or
(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

Commencement Information
I18 Sch. 1 para. 18 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

PART 2

INFORMATION POWERS OF THE PUBS CODE ADJUDICATOR

19 (1) The Adjudicator may, for the purposes of an investigation, require a person—
(a) to provide documents in the person's possession or control;
(b) to provide other information in the person's possession or control.

(2) The Adjudicator may, for the purposes of monitoring whether a pub-owning business has followed a recommendation made under section 56, require the business—
(a) to provide documents in the possession or control of the business;
(b) to provide other information in the possession or control of the business.

(3) The Adjudicator may, for the purposes of exercising functions in relation to the offer of a market rent only option or the provision of parallel rent assessments, require a person—
(a) to provide documents in the person's possession or control;
(b) to provide other information in the person's possession or control.

(4) A requirement imposed under this paragraph may include a requirement for information to be provided orally.

(5) A requirement is imposed by giving written notice specifying—
(a) to whom the information is to be provided,
(b) where it is to be provided,
(c) when, or the time by which, it is to be provided, and
(d) the form and manner in which it is to be provided.

(6) A notice must also explain the possible consequences of failing to comply.

(7) If a notice requires an individual to attend at a particular place, the Adjudicator must offer to pay necessary travelling expenses.

(8) A person may not be required under this paragraph to do anything that the person could not be compelled to do in civil proceedings before the High Court.

Commencement Information
I19 Sch. 1 para. 19 in force at 21.7.2016 by S.I. 2016/532, **reg. 3**

20 (1) It is an offence for a person intentionally to fail to comply with a requirement under this Part of this Schedule.

(2) It is a defence for a person charged with that offence to prove that there was a reasonable excuse for the person's failure.

Commencement Information
I20 Sch. 1 para. 20 in force at 21.7.2016 by S.I. 2016/532, **reg. 3**

21 It is an offence for a person knowingly to provide false information in response to a requirement under this Part of this Schedule.

Commencement Information
I21 Sch. 1 para. 21 in force at 21.7.2016 by S.I. 2016/532, **reg. 3**

22 A person guilty of an offence under this Part of this Schedule is liable—
(a) on summary conviction, to a fine;
(b) on conviction on indictment, to a fine.

Commencement Information
I22 Sch. 1 para. 22 in force at 21.7.2016 by S.I. 2016/532, **reg. 3**

PART 3

AMENDMENTS OF LEGISLATION

23 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) at the appropriate place insert— " Pubs Code Adjudicator. "

Commencement Information
I23 Sch. 1 para. 23 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

24 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate places insert— " Member of staff of the Pubs Code Adjudicator. "" Pubs Code Adjudicator or Deputy Pubs Code Adjudicator. "

Commencement Information
I24 Sch. 1 para. 24 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

25 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities) at the appropriate place insert— " Pubs Code Adjudicator. "

Commencement Information
I25 Sch. 1 para. 25 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

26 In each of Schedules 14 and 15 to the Enterprise Act 2002 (provisions about disclosure of information) at the appropriate place insert— " Part 4 of the Small Business, Enterprise and Employment Act 2015. "

Commencement Information
I26 Sch. 1 para. 26 in force at 2.5.2016 by S.I. 2016/532, **reg. 2(a)**

Changes to legislation:
There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, SCHEDULE 1.