

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: THE PUBS CODE ADJUDICATOR AND THE PUBS CODE

The Pubs Code

Section 44: Market rent only option: procedure

291. This section outlines the procedure, to be detailed in the Pubs Code, for the Market Rent Only (MRO) option to be exercised. It makes clear that the Pubs Code may confer relevant functions on the Adjudicator (subsection (1)(b)); provides for the tied tenant to notify the pub-owning business when it considers that circumstances have arisen that entitle it to a MRO offer; specifies a negotiation period before the next stage of the procedure takes place, during which the two would be expected to try to agree a rent for a MRO-compliant tenancy; requires the appointment of an independent assessor at the end of the negotiation period to determine the market rent within a specified reasonable period; requires that appointment to be made jointly by the tied tenant and the pub-owning business or, if they cannot agree, by the Adjudicator; and may require the Adjudicator to set criteria for someone to qualify as an independent assessor for these purposes.
292. The Pubs Code may also specify that the independent assessor has to determine the market rent in accordance with specified documents – for example, the Code may specify guidance produced by the Royal Institution of Chartered Surveyors.
293. Subsection (4) allows the Pubs Code to specify the circumstances when the MRO procedure should be treated as having come to an end. The Code may also provide for tenancy, licence or other contractual agreements in force when an MRO option procedure is initiated to continue until that point (subsection (3)).