

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: THE PUBS CODE ADJUDICATOR AND THE PUBS CODE

Funding of Adjudicator

Section 63: Levy Funding

342. The Adjudicator is to be funded primarily by pub-owning businesses through the levy provided for in this section, though some fees and/or costs payments may come from tenants (see sections 42(5)(b) and 51(2)). In addition, the Adjudicator may recover the cost of investigations where a person's complaint was found to be vexatious or wholly without merit (section 59(2)).
343. This section enables the Adjudicator to require pub-owning businesses to pay an annual levy towards the Adjudicator's expenses. It will be for the Adjudicator to decide when to impose a levy, and for how much, but the levy must be approved by the Secretary of State and the Adjudicator must publish an explanation of how the amounts have been decided (subsections (1), (2) and (8)).
344. Subsection (5) enables the Adjudicator to require pub-owning businesses to pay differing amounts based on criteria reflecting the time and expense the Adjudicator expects to incur in dealing with matters relating to these pub-owning businesses. The intention is that once the Adjudicator is functioning it will be easier to determine, based on evidence, which pub-owning businesses – or which types of pub-owning business activity – are creating the most work for the Adjudicator and determine a funding model which reflects this.
345. Any surplus funds held at the end of a financial year may be repaid by the Adjudicator to pub-owning businesses (subsection (9)).

Section 64: Loans by Secretary of State

346. This section enables the Secretary of State to make loans to the Adjudicator. This is envisaged only in limited circumstances, for example at the time of establishing the Adjudicator and before the Adjudicator has imposed and collected the levy on pub-owning businesses.