
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Pubs Code etc. Regulations 2016

PART 15

Group undertakings

Adjudicator's determination during referral of a dispute

62.—(1) This regulation applies where—

- (a) a tied pub tenant has referred a dispute between the tenant and a pub-owning business (“P”) to the Adjudicator under section 48 of SBEEA 2015; and
- (b) there is evidence before the Adjudicator which suggests that a group undertaking (“U”) in relation to the pub-owning business—
 - (i) discharges, has discharged, exercises or has exercised, influence over any of P’s obligations under the tenancy or licence to which the dispute relates; or
 - (ii) is responsible for, or exercises influence over, the terms of that tenancy or licence, the financial arrangements, the charging policies or any other administrative, managerial or executive decisions of P, which affect the tied pub tenant,

in a way which is relevant to the dispute.

(2) Where this regulation applies, the Adjudicator may determine that U is to be treated as a pub-owning business, as well as or instead of P, for the purposes of the arbitration.

(3) Before the Adjudicator makes a determination under paragraph (2), the Adjudicator must consider representations from U.

(4) The Adjudicator may disregard a request from a tied pub tenant for U to be treated as a pub-owning business, where—

- (a) U is not identified by the tenant in such a way that the Adjudicator is able to establish U’s name, business address and its relationship with P;
- (b) the tied pub tenant has not notified U in writing of the dispute; or
- (c) the tenant has not forwarded a copy of the request to U.

Investigations by the Adjudicator

63.—(1) This regulation applies where—

- (a) the Adjudicator is conducting an investigation of a pub-owning business (“P”) under section 53 of SBEEA 2015; and
- (b) in the course of that investigation, evidence becomes available to the Adjudicator which suggests that a group undertaking in relation to P—
 - (i) discharges, has discharged, exercises, or has exercised, influence over any of P’s obligations under the tenancy or licence to which the investigation relates; or

- (ii) is responsible for, or exercises influence over, that tenancy or licence, the financial arrangements, the charging policies or any other administrative, managerial or executive decisions of P, which affect the tied pub tenant,
in a way which is relevant to the investigation.

(2) Where this regulation applies, the Adjudicator may determine that the group undertaking is to be treated as a pub-owning business, as well as, or instead of P, for the purposes of an investigation under sections 53 to 61 of SBEEA 2015.

Adjudicator's determination in relation to UK businesses only

64. The Adjudicator may not determine that a person who is a group undertaking in relation to a pub-owning business is to be treated as a pub-owning business unless the person—

- (a) carries on a trade or business in the United Kingdom; or
- (b) is a UK-registered company within the meaning of section 1158 of the Companies Act 2006⁽¹⁾.

(1) 2006 c.46.