
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Pubs Code etc. Regulations 2016

PART 12

Exemptions from these Regulations

Pub franchise agreements

55.—(1) The following provisions of these Regulations do not apply to the dealings of a pub-owning business with a tied pub tenant under a pub franchise agreement—

- (a) Parts 3 and 4 to 8;
- (b) regulation 47; and
- (c) paragraphs 20(a) and (b) and 25 of Schedule 1.

(2) A “pub franchise agreement” means an agreement between a pub-owning business and a tied pub tenant for the tenant to occupy the tied pub which—

- (a) grants the tied pub tenant a fixed share of turnover or a relevant share of turnover;
- (b) requires the pub-owning business to offer marketing, training and other business support to the tied pub tenant;
- (c) grants the tied pub tenant a right to use the relevant business model and may require the tenant to pay a fee in respect of the use of that model;
- (d) does not require the tied pub tenant to pay to the pub-owning business any other amount in respect of the tenant’s occupation of the tied pub;
- (e) does not require the tied pub tenant to make any other payments to the pub-owning business in connection with the supply of products to the tied pub tenant or the services offered to the tenant unless the circumstances in paragraph (3) arise after the parties have entered into the pub franchise agreement; and
- (f) grants the tied pub tenant a right to sell the business to a third party at market value.

(3) The circumstances mentioned in paragraph (2)(e) are that—

- (a) the tied pub tenant accepts the pub-owning business’s offer to supply, at cost price, a tied product or service which the business has not already agreed to supply under the pub franchise agreement; and
- (b) the pub franchise agreement does not require the tenant to accept such an offer.

(4) A “fixed share of turnover” means a percentage of the tied pub’s turnover, being a percentage which is fixed for the duration of the franchise agreement.

(5) A “relevant share of turnover” means a percentage of the tied pub’s turnover which —

- (a) is a percentage (“the original percentage”) specified in the agreement; or
- (b) is, where the tied pub’s turnover increases beyond one or more thresholds specified in the agreement, the original percentage increased by an amount or amounts specified in the agreement.

- (6) “Relevant business model” means a model for doing business at a pub which—
- (a) the pub-owning business has used at two or more pubs for a period of 12 months or more;
 - (b) the pub-owning business can demonstrate has the potential to succeed when applied to the tied pub; and
 - (c) includes details of intellectual property rights held by the pub-owning business and methods, procedures and other technical and industrial know-how, required for its use.
- (7) For the purposes of paragraph (6)(b), a relevant business model has the potential to succeed if it has the potential to generate, from the tied pub, a reasonable profit for the tied pub tenant and the pub-owning business.