
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Pubs Code etc. Regulations 2016

PART 4

**Duties of pub-owning businesses in their dealings
with their tied pub tenants: rent assessments**

Conduct of the rent assessment or the assessment of money payable in lieu of rent

21.—(1) For the purposes of these Regulations, a rent assessment or an assessment of money payable in lieu of rent begins on the day on which a pub-owning business provides a rent assessment proposal to the tied pub tenant in accordance with regulation 20.

(2) A rent assessment or an assessment of money payable in lieu of rent must be conducted in accordance with the RICS guidance.

(3) During the rent assessment or assessment of money payable in lieu of rent, the pub-owning business must—

- (a) comply with any reasonable request for further information which is relevant for the negotiation of the new rent and which is made by the tied pub tenant or by a person acting on behalf of the tied pub tenant; or
- (b) provide to the tied pub tenant, as soon as reasonably practicable, a reasonable explanation why the information requested is not provided.

(4) Where a pub-owning business is required to conduct an assessment under regulation 19(1)(a), it must ensure that a person who is involved in the preparation of the rent assessment proposal on its behalf visits the tied pub within the period of 3 months ending on the day on which the rent assessment proposal is provided to the tied pub tenant for the purpose of gathering information about the location and layout of the pub.

(5) The pub-owning business must advise the tied pub tenant to obtain independent professional advice in connection with the new rent before the tenant agrees that rent.

(6) Paragraph (7) applies at the end of the assessment where—

- (a) the rent, or money payable in lieu of rent, payable under the tenancy or licence is adjusted as a result of the assessment; and
- (b) either—
 - (i) the rent review date has passed; or
 - (ii) more than 6 months have elapsed since the day on which the rent assessment proposal was provided to the tied pub tenant.

(7) Before the new rent is agreed by the tied pub tenant, the tied pub tenant and the pub-owning business must agree, in writing—

- (a) that, where the recoverable rent is a positive amount, it is to be paid by the pub-owning business to the tied pub tenant;

- (b) that, where the recoverable rent is a negative amount, it is to be paid by the tied pub tenant to the pub-owning business, and
 - (c) arrangements for making any payment under sub-paragraph (a) or (b).
- (8) The tied pub tenant’s agreement to the new rent must be given in writing.
- (9) A member or fellow of the RICS must confirm that the rent assessment or the assessment of money payable in lieu of rent has been conducted in accordance with guidance issued by that institution.
- (10) The “recoverable rent” means—
- (a) the amount of the rent, or money payable in lieu of rent, which is payable as a result of regulation 22(1)(a) in respect of the rent recovery period; less
 - (b) the amount of the rent, or money payable in lieu of rent, which would have been payable in respect of that period if (instead of the rent or money payable in lieu of rent mentioned in sub-paragraph (a)) the new rent had been payable in respect of that period.
- (11) The “rent recovery period” is the period which—
- (a) begins—
 - (i) in the case of an assessment conducted under regulation 19(1)(a), with the rent review date;
 - (ii) in the case of an assessment conducted under regulation 19(1)(b), with the day after the period of 6 months beginning with the day on which the rent assessment proposal was provided to the tied pub tenant; and
 - (b) ends with the day on which the assessment ends.
- (12) In these Regulations, the “rent review date” is the date from which the terms of the tenancy or licence require the rent, or money payable in lieu of rent, to be payable following a rent review.