

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: THE PUBS CODE ADJUDICATOR AND THE PUBS CODE

Supplementary

Section 69: “Pub-owning business”

354. Subsection (1) defines a “pub-owning business” as the landlord of 500 or more tied pubs. For the purpose of this calculation any pubs owned by a group undertaking in relation to the landlord are included in the figure (subsection (2)).
355. Subsections (3)-(7) cover circumstances a) in which a tied pub is sold by a pub-owning business to a new owner who does not own 500 or more tied pubs or b) when a tied pub is protected by the Pubs Code and Adjudicator by virtue of being owned by a pub-owning business but then the business no longer qualifies as a pub-owning business – for example, through selling sufficient pubs to drop below the 500 tied pub threshold. In both these circumstances the tied pub would have “extended protection” and its owner would be considered a “pub-owning business” under this legislation, in respect of that pub until the pub’s next rent review or until the end of the tenancy/licence, whichever is sooner. A business that is a pub-owning business solely because of these circumstances would not be covered by sections 43-45 (Market Rent Only option) or sections 53-59 (Investigations) but would be covered by all the remaining sections of this Part of the Act, including those relating to parallel rent assessments and arbitrations.
356. Subsection (8) allows the Secretary of State by regulations to expand the remit of the Pubs Code and Adjudicator to cover group undertakings rather than just the individual pub-owning business concerned. In this way they would ensure the legislation is sufficiently flexible to encompass adequately any parent or subsidiary companies.
357. Subsection (9) allows the Secretary of State by regulations to amend the number of tied pubs, the qualifying period for categorisation as a pub-owning business and the method of calculating the number of tied pubs. This is intended as a safeguard against unforeseen changes in circumstances or pub-owning business behaviour. Any changes would require approval by both Houses of Parliament through the affirmative resolution procedure, following consultation.