



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 4

THE PUBS CODE ADJUDICATOR AND THE PUBS CODE

VALID FROM 06/04/2016

Arbitration by Adjudicator

PROSPECTIVE

48 Referral for arbitration by tied pub tenants

- (1) In accordance with the following provisions of this section and section 49, a tied pub tenant may refer a dispute between the tenant and the pub-owning business concerned to the Adjudicator for arbitration.
- (2) If the Pubs Code specifies that particular provisions of the Pubs Code are arbitrable, a dispute may be referred to the Adjudicator only to the extent that it relates to an allegation by the tenant that the pub-owning business has failed to comply with an arbitrable provision of the Pubs Code.
- (3) If the Pubs Code specifies that particular provisions of the Pubs Code are not arbitrable, a dispute may be referred to the Adjudicator only to the extent that it relates to an allegation by the tenant that the pub-owning business has failed to comply with any other provision of the Pubs Code.
- (4) If the Pubs Code does not specify whether any of its provisions are arbitrable or not arbitrable, a dispute may be referred to the Adjudicator only to the extent that

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it relates to an allegation by the tenant that the pub-owning business has failed to comply with any provision of the Pubs Code.

- (5) Where a dispute is referred for arbitration under this section, the Adjudicator must either—
- (a) arbitrate the dispute, or
 - (b) appoint another person to arbitrate the dispute.

PROSPECTIVE

49 Timing of referral for arbitration by tied pub tenants

- (1) This section makes provision as to the period within which a tied pub tenant may refer a dispute to the Adjudicator in accordance with section 48.
- (2) Except in the case mentioned in subsection (3), the dispute may not be referred until after the expiry of the period of 21 days beginning with the date on which the tenant notifies the pub-owning business of the alleged non-compliance.
- (3) Where the Pubs Code requires a pub-owning business to provide a parallel rent assessment within a period of time specified by the Adjudicator, a dispute which relates to an allegation that the pub-owning business has failed to comply with that requirement may not be referred until the day after the day on which the specified period ends.
- (4) In all cases, a dispute may not be referred after the expiry of the period of 4 months beginning with the first date on which the dispute could have been referred.

PROSPECTIVE

50 Arbitration commenced by pub-owning businesses

- (1) This section applies where—
 - (a) there is an arbitration agreement between a tied pub tenant and a pub-owning business, and
 - (b) the business commences arbitral proceedings about a matter which is, or which includes, a Pubs Code dispute between the business and the tenant.
- (2) In this section a “Pubs Code dispute” means a dispute—
 - (a) which relates to an allegation by the tied pub tenant that the pub-owning business has failed to comply with a provision of the Pubs Code, and
 - (b) which the tenant would have been able to refer for arbitration by the Adjudicator in accordance with section 48 (were it not for the commencement of arbitral proceedings by the business).
- (3) Subsection (4) applies where—
 - (a) in accordance with the arbitration agreement, the Adjudicator is appointed to arbitrate the Pubs Code dispute, or

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- (b) the tied pub tenant wishes the Adjudicator to be appointed to arbitrate that dispute, and has given notice to that effect in accordance with subsections (5) to (7).
- (4) The Adjudicator must either—
 - (a) arbitrate the Pubs Code dispute, or
 - (b) appoint another person to arbitrate that dispute.
- (5) Notice under subsection (3)(b) must be given in writing to—
 - (a) the pub-owning business, and
 - (b) the Adjudicator.
- (6) In a case where the arbitration agreement provides for the arbitrator to be appointed by a person other than the pub-owning business or the tied pub tenant, notice under subsection (3)(b) must be given within 21 days beginning with the date on which that person notifies the tenant of the person proposed to be appointed as arbitrator.
- (7) In any other case, notice under subsection (3)(b) must be given within 21 days beginning with the date on which arbitral proceedings commenced.
- (8) Section 14 of the Arbitration Act 1996 makes provision about the commencement of arbitral proceedings.

51 Arbitration: supplementary

- (1) Subsection (2) applies where a tied pub tenant—
 - (a) refers a dispute to the Adjudicator under section 48, or
 - (b) gives notice as mentioned in section 50(3)(b) that the tenant wishes the Adjudicator to be appointed to arbitrate a dispute.
- (2) The tenant must pay a fee to the Adjudicator of an amount prescribed in regulations made by the Secretary of State (except in specified cases as mentioned in subsection (3)(b)).
- (3) The regulations may make further provision as to the fee, and may in particular—
 - (a) specify when the fee must be paid,
 - (b) specify cases in which the tenant is not required to pay the fee,
 - (c) specify cases in which the fee is to be refunded to the tenant.
- (4) The following subsections apply in all cases where the Adjudicator or a person appointed by the Adjudicator arbitrates a dispute.
- (5) Except where this Part makes different provision, the arbitration must be conducted in accordance with—
 - (a) the rules regarding arbitrations issued from time to time by the Chartered Institute of Arbitrators, or
 - (b) the rules of another dispute resolution body nominated by the arbitrator.
- (6) The pub-owning business concerned must pay the reasonable fees and expenses of the arbitrator in respect of the arbitration, except where—
 - (a) the arbitration follows a referral by the tenant under section 48, and
 - (b) the arbitrator concludes that the referral was vexatious.

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- (7) The Secretary of State may by regulations make provision in relation to the costs payable by a tied pub tenant in respect of the arbitration, and the regulations may in particular—
- (a) provide that those costs are limited to an amount prescribed in, or to be determined in accordance with, the regulations, and
 - (b) specify circumstances in which the arbitrator may make an award requiring the tenant to pay costs exceeding that amount.

PROSPECTIVE

52 Information about arbitration

- (1) If the Adjudicator appoints another person as arbitrator under section 48(5)(b) or 50(4)(b), the Adjudicator may require the arbitrator, or the pub-owning business and tied pub tenant concerned, to provide information to assist the Adjudicator in carrying out functions under this Part.
- (2) The Adjudicator may enforce the requirement to provide information by bringing civil proceedings to obtain an injunction.

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