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Dear Darren,

I am writing to inform you that I have today published the Government's response to the recent consultation on options to amend the Pubs Code and which sets out the changes the Government would like to make to the legislation in order to improve its practical operation – see <https://www.gov.uk/government/consultations/options-to-amend-the-pubs-code>.

The Pubs Code (the Code) in England and Wales was created in July 2016 to address specific failures in the tied pub sector after many years of Select Committee reports and concerns being raised in Parliament. In entering a tied tenancy or lease, the tenant agrees to buy some or all of the alcohol they sell from their pub company landlord in return for lower property rent, business support and other benefits. While this arrangement can work well for both tenant and pub company, the tie can be open to abuse. The Code aims to address areas where tied tenants felt they had been unfairly treated and gives them the right under certain circumstances to exercise a "Market Rent Only" (or "MRO") option to change to a free-of-tie tenancy under which their rent is set at the market level and they are no longer required to buy products from their pub-owning business. The Code carefully balances this against pub-owning businesses' legitimate rights over their property with a responsibility to their shareholders and investors to secure returns.

The Government is required to undertake a statutory review of the effectiveness of the Code every three years. The Secretary of State's report on the first review was published in November 2020 and found the Code to be consistent with the principles that tied tenants should be treated fairly and no worse off than if they were free of their tie. However, the report also identified certain changes that could improve the practical operation of the Code and explained why the Government had decided to pursue some proposals and not others. These changes are in addition to work being progressed by the Pubs Code Adjudicator to respond to guidance issued to her by the Secretary of State following the review.

I wrote to you on 12 July to inform you of an 8-week consultation on options to amend the Code in order to improve its practical operation. Following the consideration of responses received, the Government will amend the Code through regulations using existing powers, as follows:

- to require a regulated pub-owning business that sells a tied pub to a business in circumstances that give rise to the tenant having "extended protection" to inform the regulator, the Pubs Code Adjudicator (PCA), with the name, address, company number of the new owner and anticipated transfer date. The Code provides the tenant with extended protection for a limited time during which the new owner becomes a regulated business

under the Code. This will enable the PCA to identify these entities, and ensure the new owner is aware of the Code's rights and protections for the tenant;

- to improve the process enabling a tied tenant to change from a tied to a free-of-tie tenancy (the MRO process). The amended process will be easier to use, encourage parties to negotiate the free-of-tie proposals and should reduce the number of disputes referred to the PCA for arbitration;
- to require the inclusion of the proposed rent, along with proposed MRO terms, so the tenant can consider the MRO offer in its entirety during the amended MRO process;
- to amend the comparison period used to determine whether a significant price increase for a tied product or a tied service has occurred (which allows the tenant to request an MRO proposal) from the current 56 weeks to 52 weeks to reduce complexities in business planning and managing annual price changes; and
- to amend the Small Business, Enterprise and Employment Act 2015 by shortening the qualification period for a business coming into scope of the Code, from owning 500 or more tied pubs for '6 months' in the previous financial year to '3 months'. This may bring tied tenants more quickly in the scope of the Code's rights and protections. This has a transitional period to ensure that companies newly in scope of the Code have sufficient preparatory time.

Following overall support in response to the consultation for an alternative appeal route for arbitrations under the Code, I also intend to undertake more work to explore viable options which will require further consultation once proposals are developed.

I hope you will find the Government response to the consultation of interest.



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