



Pubs Code
Adjudicator

Guidance: Accounting in Pubs Code Schedule 2 forecast profit and loss statements as part of a rent proposal under Part 3 of the Code or a rent assessment proposal under Part 4 of the Code for:

- a) the volume of alcohol on which duty has been paid; and
- b) the volume of draught product waste which is unsaleable.

Including the provision of associated training and support.

This guidance comes into effect from 01 July 2019.

Published on 10 April 2019 by the Pubs Code Adjudicator under section 61 of the Small Business, Enterprise and Employment Act 2015.



Contents

1. Accounting for Duty Paid	2
2. Accounting for Waste	4
Accounting for Sediment Waste	4
Accounting for Operational Waste.....	5
3. Training and Support	7
TPT Training and Support	7
Business Development Manager Training	7

Terms and abbreviations contained in this guidance

Term/abbreviation	What it means
Pubs Code / Code	The Pubs Code etc. Regulations 2016
PCA	Pubs Code Adjudicator (references to PCA include Deputy Pubs Code Adjudicator)
POB	Pub-owning business (sometimes referred to as 'pub companies')
TPT	Tied pub tenant
Rent Proposal / Rent Assessment Proposal	Landlord's proposed rent terms in relation to a new tenancy or revised rent terms within an existing tenancy
Cask Ale	Unfiltered and unpasteurised beer which is conditioned and served from a cask without additional nitrogen or carbon dioxide pressure
Keg Beers	Beer supplied in a keg, to which carbon dioxide or other gases have been added
Business Development Manager	The TPT's day-to-day contacts with their POB – defined in the Pubs Code as the person who represents a POB in negotiations with TPTs in connection with rent (assessment) proposals, repairs and matters relating to the TPT's current and future business plans

1. Accounting for Duty Paid

- 1.1 Regulations 16 and 20 in conjunction with paragraph 5(c) of Schedule 2 to the Code requires, so far as reasonably available, that the forecast profit and loss statement to be provided by the POBs as part of a rent proposal or rent assessment proposal must include the *volume of alcohol in respect of which duty was paid during the last three years* if this figure is different from the actual volume of alcohol purchased by the TPT during the same period.
- 1.2 This provision will always be relevant in respect of cask ale and the PCA considers that this information is likely to be reasonably available in all but the most exceptional of circumstances. POBs who are also brewers will have information on the volume on which duty has been paid on their cask ales from their own submissions to HMRC in accordance with Excise Notice 226. POBs who buy in cask ales are required by paragraph 11.3.5 of Excise Notice 226 to be informed by the brewer of this information¹.
- 1.3 The PCA considers that compliance with Schedule 2 requires, on a business as usual basis, POBs to provide their TPTs with full details of the volume on which duty has been paid on cask ales and keg beers available under the tie in a readily available full and up to date product price list. This should be published on the POB's tenant-accessible website; and should also be provided to TPTs on at least an annual basis. This price list should be updated to reflect changes in the products it contains; and should be reviewed annually.
- 1.4 In addition, the PCA encourages POBs who are also brewers to ensure that their own cask products are labelled with details of the volume on which duty has been paid in line with Excise Notice 226 on each container and that tenants are informed of this.
- 1.5 The PCA recognises that POBs will be reliant on some information from third party suppliers to comply with this requirement and acknowledge that the disclosure by brewers of information on the volume on which duty has been paid is in the first instance a question of compliance with HMRC rules. Regulation 16 (in relation to Rent Proposals) and Regulation 20 of the Pubs Code (in relation to Rent Assessment Proposals) specifically provide that POBs are under a duty to provide their TPTs with the Schedule 2 information that is *reasonably available* to the POB.
- 1.6 The PCA will adopt a proportionate approach to compliance in accordance with its published enforcement guidance. In particular, where a POB has taken reasonable steps to obtain the information required under Excise Notice 226 and the associated information on volumes from third party suppliers, and

¹ HMRC Excise Notice 226 requires brewers to make their customers aware of the volume on which duty has been paid *'by a statement on the label, delivery note or price list and so on'*.

where those suppliers have failed to provide a POB with that relevant information, a Schedule 2 profit and loss forecast calculated without reference to this information is not non-compliant with this guidance for that reason. Reasonable steps includes POBs working with suppliers to help them to provide this information to limit the circumstances in which the information is not reasonably available. Reasonable steps do not include de-listing.

2. Accounting for Waste

- 2.1 Paragraph 5(f) of Schedule 2 to the Code requires that the forecast profit and loss statement provided by the POB as part of a rent proposal or rent assessment proposal must include *an estimate figure for the volume of draught beer and cider which will not be sold during the forecast period* where that figure has not been accounted for in the gross profit margin.
- 2.2 Paragraph 8 of Schedule 2 additionally requires the statements, figures and information provided to be sufficiently clear and detailed and include justification or supporting evidence for any assumptions to allow the TPT to understand the basis on which the estimated figures have been calculated. Paragraph 9 requires information about projected data to be reasonable.
- 2.3 The PCA therefore believes that best practice requires POBs to account for the amount of unsaleable draught beer and cider separately in the forecast profit and loss account, and not only as part of the gross profit calculation.
- 2.4 The PCA considers that compliance requires that the estimated figure for the volume of draught beer or cider that will be unsold should be based solely on the declared volume of the cask or barrel; and should not place any reliance on claims of ‘over-filling’ of containers by the producer.
- 2.5 The PCA is aware of the different issues relating to sediment waste – which occurs mainly in cask ale and is product-specific; and operational waste – which applies to all cask and keg products and will be determined by site-specific factors.
- 2.6 To ensure maximum transparency, consistent with the requirements in paragraphs 8 and 9 of Schedule 2, POBs should include as separate entries in their forecast profit and loss statements:
- a) the estimated saleable volume of the cask ales supplied after an allowance for sediment; and
 - b) the estimated saleable volume for all draught products supplied – including cask ales, keg beers and ciders – after an allowance for operational waste.

Accounting for Sediment Waste

- 2.7 The PCA considers that POBs will meet the requirement to account for the estimated saleable volume of cask ales after an allowance for sediment either by providing a separate figure for saleable ale in respect of each cask product supplied or by including a consolidated allowance covering the range of cask products supplied under the tied agreement.

- 2.8 Where the estimated sediment waste is consolidated into one overall allowance for a range of cask products, the PCA requires the POB to be able to demonstrate that the consolidated figure is:
- a) representative of:
 - i. the range of cask products supplied to that tied pub; and
 - ii. the proportions in which those cask products are supplied to that tied pub;
 - b) not less than the figures for the volumes on which duty has been paid disclosed under paragraph 5(c) of Schedule 2 (see paragraph 1.3 above); and;
 - c) complies with the requirement in paragraphs 8 and 9 of Schedule 2 to provide sufficiently clear and detailed information, including justification and supporting evidence for assumptions.
- 2.9 As part of the wider detailed product breakdown required under paragraph 5(d) of Schedule 2, the forecast profit and loss statement should demonstrate how the declared level of undrinkable sediment will affect both the sales turnover that the TPT will use to set their prices and the gross profit calculation against which the tied rent is calculated.
- 2.10 The PCA requires, on a business as usual basis, the up to date and full product price list, referred to in paragraph 1.3 above, additionally to disclose (if this is different from the volume on which duty has been paid) the volume of saleable ale per cask for each cask ale product line available under the tie.

Accounting for Operational Waste

- 2.11 Paragraph 5(d) of Schedule 2 requires the forecast profit and loss statement provided by a POB as part of a rent proposal or rent assessment proposal to include separate figures for – amongst other things – draught ales, draught lagers and draught ciders.
- 2.12 The PCA therefore considers compliance requires forecast profit and loss statements to include separate entries for the saleable volumes for all categories of draught products supplied after an allowance for operational waste. In the case of draught cask ales, this should be an allowance separate from (and in addition to) the allowance for sediment waste described in paragraphs 2.7 to 2.10 above.
- 2.13 The PCA considers compliance requires POBs to calculate these allowances for operational waste with reference to the bar and cellar configuration of the tied pub to which the profit and loss statement relates. This should include, but is not limited to, consideration of the length and arrangement of beer lines and

the nature of the cleaning systems in use at the premises. The allowance should not be based on general assumptions applied by the POB to its estate as a whole or to parts of its estate.

- 2.14 The POBs should base the allowance for operational waste on the performance that would objectively be expected from a TPT of reasonably efficient operator status.
- 2.15 As required by paragraph 5(d) of Schedule 2, the forecast profit and loss statement must demonstrate how allowances for operational waste will affect both the *sales turnover* that the TPT will use to set their prices and the *gross profit calculation* against which the tied rent is calculated.
- 2.16 The PCA considers compliance requires the POBs to demonstrate that the allowance for operational waste complies with the requirements in paragraphs 8 and 9 of Schedule 2 to provide clear and detailed, and justified and evidenced information.

3. Training and Support

TPT Training and Support

- 3.1 The PCA expects POBs to ensure that all of their TPTs have access to the necessary training on cellar management, saleable volumes and dispensing best practice, that they require to enable them to achieve the sales and gross profit margins set out in the forecast profit and loss statement as part of their rent proposal or rent assessment proposal. This training should be made available both as part of the TPTs initial induction (as required under regulation 9 of the Pubs Code) and on an ongoing refresher basis, as appropriate.
- 3.2 The PCA additionally expects POBs to ensure that their TPTs have ongoing access to cellar management support in the form of stocktaking, technical and other professional services. Where POBs give their TPTs access to online tools or calculators to help them with pricing and business planning, these must be consistent with the approach to sediment and operational waste in the forecast profit and loss statements; as set out in this guidance.

Business Development Manager Training

- 3.3 The PCA requires POBs to ensure that their Business Development Managers (BDMs) are trained to understand and explain to TPTs the company's approaches to information provided in forecast profit and loss accounts – including in relation to volumes on which duty has been paid and the assessment of sediment and operational waste in line with this guidance; and that this training is renewed on a 12-monthly basis as required by regulation 41(1)(b) of the Pubs Code.

Office of the Pubs Code Adjudicator

This document can be accessed at www.gov.uk/pca

If you require this information in an alternative format or have general enquiries about the Pubs Code Adjudicator and its work, contact:

Post: Office of the Pubs Code Adjudicator
4th Floor
23 Stephenson Street
Birmingham
B2 4BJ

Tel: 0800 528 8080

Email: office@pubscodeadjudicator.gov.uk

