

**DELEGATED POWERS AND REGULATORY REFORM COMMITTEE  
SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT BILL**

**Supplementary Memorandum by the Department for Business, Innovation and Skills**

**Introduction**

1. This Supplementary Memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee by the Department for Business, Innovation and Skills.
2. It identifies an additional delegated power in the Government amendments tabled in the House of Lords on 3 March 2015 and should be read in conjunction with the Delegated Powers Memorandum submitted to the Delegated Powers and Regulatory Reform Committee on 20 November 2014 and the Supplementary Memorandum submitted on 21 January 2015.

**Part 4: The Pubs Code Adjudicator and the Pubs Code**

*New sub-clause 69(2D): “Pub Owning Business”*

*Power conferred on: the Secretary of State*

*Power exercised by: Regulations*

*Parliamentary procedure: Affirmative Procedure*

*Context and purpose*

3. This is one of a series of amendments which insert new provisions 2A – 2E in clause 69. The amendments provide an extension of the protections of the Pubs Code to tied tenants whose pub is sold to a company which is not covered by the Statutory Code. These protections will extend until the next rent review or when the tenancy comes to an end without any further rent review taking place. The protections will include the option for a parallel rent assessment but not the market rent only option.
4. In addition where a pub owning business covered by the Statutory Code sells a number of pubs to bring it below the 500 tied pub threshold, the amendment extends these Code protections to tied tenants of pubs which are sold (again until the next rent review).
5. Given the circumstances in which we want the Code extension to apply, the new sub-clause 2D provides a power for the Secretary of State to specify in regulations when a tenancy or licence ends, and when a rent assessment or assessment of money in lieu of rent is concluded.

*Justification for delegation*

6. The Government considers the delegation of power necessary because permutations of what might need to be considered are likely to be evident following consultation on what is meant by the end of a tenancy or the end of a licence and when a rent review is concluded. We are aware of only one tied pub agreement that is secured on a licence and therefore want to gather more information during consultation which may mean we need to reflect different arrangements for the end and renewal of such agreements. The same point arises with regard to the rent assessment for licences. With regard to rent assessments more generally we consider consultation necessary in order to help understand how we can ensure that tenants choosing MRO are able to refer their MRO lease and/or the related rent assessment to the adjudicator where they have concerns.

7. It is anticipated that we will consult on these Regulations in conjunction with those establishing the Pubs Code and that all these regulations will come into force within 12 months of the Bill receiving Royal Assent.

*Justification for procedure selected*

8. The content of these regulations are likely to have important consequences for both pub-owning companies and for tenants and the safeguards afforded by the affirmative procedure are felt to be justified.

**BIS**  
**March 2015**