



LEGISLATION

Outrage as pubs code is delayed due to MRO loophole

By Oli Gross 

04-May-2016 - Last updated on 06-May-2016 at 08:51 GMT

The pubs code has been delayed after a loophole was spotted in the legislation which would have made many licensees ineligible for MRO.

Business minister Anna Soubry held a meeting with key stakeholders today to explain the delay, and the department for Business, Innovation and Skills (BIS) has confirmed the code will not be ready by the promised deadline of May 26.



Ineligible

The code will be altered to cover the loophole in MRO legislation, which could have made as many as half the tenants ineligible for the option, the *PMA* understands.

The Government will address the 'technical drafting issues' with the regulations - which are regarding protected and unprotected tenancies, and the latter's right to MRO - and re-lay amended regulations 'as soon as possible'.

The current draft offers tenants the right to trigger a review which could lead to a market rent only agreement if the price of beer supplied rises by 3% above the Producer Price Index - an ONS index

which includes both off-trade and on-trade prices and currently stands at -1.9%, according to the British Beer and Pub Association.

Chair of the British Pub Confederation Greg Mulholland MP said the decision to delay the code just three weeks before it is due to commence is 'extraordinary'.

"Tenants who may now lose the right to use the Code and trigger the Market Rent only option will be dismayed and considering the clear date laid down in law," he said.

Compensation?

"BIS will need to consider compensating any tenant who is now denied the right to trigger the process and the right to have a Market Rent Only lease."

The British Pub Confederation has called on 'the six large pub companies' to honour the original start date of May 26, allowing all tenants with rent reviews from that day the right to MRO.

"The issues that have been identified, that should have been spotted and dealt with earlier, must now be rectified as quickly as possible and BIS must make clear they will resist any last gasp attempts to water down triggers for the Market Rent Only option," Mulholland said.

Further scrutiny

Parliament will have an opportunity to debate the content and give the regulations full scrutiny.

Mulholland continued: "The British Pub Confederation accepted in good faith promises made by Ministers to stick to the Market Rent Only option as voted for by both Houses of Parliament, including the right to trigger it for a significant increase in product prices and this must clearly remain and prevent companies unfairly hiking up tied prices."

The Confederation has called for the code to come in no later than the end of June.

"We must now have certainty after this confusion. Ministers must also make clear that the position remains that any rent review from the date the code comes in will include the right to trigger the Market Rent Only option," Mulholland added.

BBPA

The British Beer & Pub Association had expressed concern over the lack of a transition period and

called certain parts of the code as “unworkable”.

But today’s announcement was not related to the concerns of the BBPA, according to reports.

Chief executive Brigid Simmonds said the Government has made the right decision in recognising that more work is needed on the draft regulations.

“We believe that using this index is fundamentally flawed and could be construed as anti-competitive. It would affect all brewers, small and large, which supplied the large pub owning companies covered by the legislation,” she explained.

“We are committed to working with the Government to bring the new Code into force as soon as possible and believe that a period of reflection will give time for the adjudicator to issue guidance.”

Pubs Advisory Service

Dave Mountford from the Pubs Advisory Service said it would be talking to tenants about the delay, and seeking assurances that pubcos will honour the original date of 26 May.

"Following on from the disarray of the original draft code last year, and despite it being 18 months in the making – it is still going to be late," he said.

"We told BIS in advance about many of the issues – and we were banging on their door – but they said it was all in hand. But we are now in a position that only a few weeks from the code being implemented it is now delayed."

ALMR

Association of Licensed Multiple Retailers chief executive Kate Nicholls said she is reassured by the commitment to implementing the code as quick as possible to “avoid depriving tenants of their rights”.

The group "shares ministers’ frustrations" that the code will not be ready on time, but is satisfied that the Government is “listening to our industry”.

“It does mean that an important mistake made in the drafting of the regulations can be corrected and that, as a result, tenants will have better protection and a more workable code,” she said.

Nicholls expected between two weeks to a month of delay, and urged those affected to reach out to

the organisation.

BIS

BIS said the code should arrive this summer. A spokesman said: "It is important to get the pubs code right for both tenants and pub owning businesses. We need to amend a small number of technical errors and will lay revised draft regulations as soon as possible.

"The code will come into force slightly later than first expected but we expect it to be in place this summer to support the pub industry and enable it to thrive."

The ALMR, BII and FLVA **will hold seminars on the pubs code** to support licensees starting on May 26 as planned.

Will you be affected by the delay? Email oli.gross@wrbm.com

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