

New law on tipping due to come into force on 1 October 2024

The Government has introduced regulations which will bring the Employment (Allocation of Tips) Act 2023 into force on 1 October 2024, applying to tips paid on or after that date. The Act will require employers to ensure that workers receive tips in full, and that they are allocated in a fair and transparent way. Our briefing note provides a quick reminder of what the new law is all about.

What will the new Act do?

Under the new Act, employers will be required to ensure that all qualifying tips, gratuities and service charges over which an employer exercises control or significant influence are allocated fairly to workers (including eligible agency workers). This means tips, gratuities and service charges received directly by the employer (e.g. those paid to an employer by a customer using a credit or debit card) *and* those received by the worker where the employer directs what happens to them. However, the Act does not apply to cash tips paid directly to workers and which are kept by them or shared out between the workers on their own terms.

Tips must be paid to workers in full by no later than the end of the month following the month in which the customer paid the tip. If this is not done, the worker will have the right to bring a claim for unlawful deductions from wages. An employer may arrange for all or part of the qualifying tips,

gratuities and service charges to be allocated between workers by an independent tronc operator.

Employers may not require workers to agree to give up their rights under the Act, nor can they get around the new rules by reducing wages by an amount equivalent to the tips (or otherwise asking the worker to reimburse them for the amount of the tips). Workers will also have the right to complain to an employment tribunal where an employer fails to allocate fairly and/or pay tips in line with the new rules. An employer can be ordered to revise its allocation of tips and/or make a payment to the worker (and other workers). It may also be ordered to pay compensation of up to £5,000.

In addition, those employers that pay tips, gratuities and service charges on more than an occasional and exceptional basis will be required to have a written tips policy which is given to all workers. Further, such employers must keep records of tip allocation for three years and make those records available to workers on request. Workers will have the right to complain to an employment tribunal about a failure to comply with rules on policies or keeping records.

Statutory Code of Practice

Accompanying the new Act will be a statutory Code of Practice on the Fair and Transparent Distribution of Tips (the Code). The Code has five sections covering:

- qualifying tips and qualifying workers;

- the factors and methods relevant to fairness;
- transparency;
- addressing problems; and
- a glossary of terms.

Non-compliance with the provisions of the Code does not give rise to a legal claim in itself. However, as a statutory code, it will be admissible in evidence in employment tribunal proceedings and will be taken into account where relevant.

Next steps?

Employers operating in sectors where staff receive tips will need to familiarise themselves with the new rules and Code, devise a fair system for distributing tips, prepare a written policy and ensure it maintains appropriate records. Although the new rules apply to employers in all sectors, in practice, it is most likely to affect employers operating in the following areas:

- the hospitality sector, in relation to bar and restaurant staff;
- the beauty sector, in relation to hairdressers and beauticians;

- the hotel sector, in relation to valets, doorman, porters and maids; and
- the transport and delivery sector, in relation to taxi drivers and take-away delivery drivers.

[Employment \(Allocation of Tips\) Act 2023](#)

[Statutory Code of Practice on fair and transparent distribution of tips](#)

BDBF is a law firm based at Bank in the City of London specialising in employment law. If you would like to discuss any issues relating to the content of this article, please contact Principal Knowledge Lawyer Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.