

Insights

SOME TIPS ON THE FUTURE OF TIPPING

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SUMMARY

The way in which tips are allocated in the hospitality, leisure and services sectors has long been a contentious issue.

Under the Employment (Allocation of Tips) Act 2023 (the “**Act**”), which has just received Royal Assent and is likely to come into force in approximately one year, employers will be banned from withholding tips.

SOME OF THE KEY ASPECTS OF THE ACT ARE AS FOLLOWS:

- It obliges employers to ensure all tips and service charges are allocated fairly between its workers in accordance with a Code of Practice (which is currently being developed).
- Employers will be required to (1) have a written policy on how they deal with tips and (2) keep records of all tips and service charges received for three years.
- Workers will receive a new right to request more information relating to an employer’s tipping record, enhancing their ability to bring claims in the employment tribunal.

IN RELATION TO THE ENFORCEMENT OF THE ACT, EMPLOYERS WILL NEED TO BE AWARE OF THE FOLLOWING:

- There is a 12 month (rather than a 3 month) limitation period for bringing claims under the Act. This will expose employers to contingent liabilities for a longer period.
- Employment tribunals can require employers to amend their tip allocation policy.
- Employment tribunals can order employers to pay tips not just to the worker who has brought the claim, but to any workers employed by the employer.

- Compensation of up to £5,000 for each worker bringing a claim may also reflect additional financial losses caused by non-payment of the proper tip.

HOW CAN EMPLOYERS PREPARE?

Employers should begin thinking about both the development of a policy and the mechanism they will need to put in place to record how tips are allocated.

In addition, given that the Act will result in an estimated £200 million per annum being re-allocated from employers to workers, some employers will have to consider ways of making up this loss elsewhere or suffer a reduction in profits.

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