



# Employment Rights Act 1996

## 1996 CHAPTER 18

### [<sup>F1</sup>PART 2B

#### TIPS, GRATUITIES AND SERVICE CHARGES

##### *Requirement to deal with tips, gratuities and service charges]*

#### [<sup>F1</sup>27F Independent troncs

- (1) In this section “relevant tips” means the qualifying tips, gratuities and service charges that—
  - (a) are paid at, or are otherwise attributable to, a place of business of an employer, and
  - (b) are paid during a reference period.
- (2) Where—
  - (a) the employer makes arrangements for the total amount of the relevant tips to be allocated between workers of the employer at the place of business by an independent tronc operator, and
  - (b) it is fair for the employer to make those arrangements,the employer is to be treated as having ensured that the total amount of the relevant tips is allocated fairly between workers of the employer at the place of business in accordance with section [27D\(1\)](#).
- (3) Where—
  - (a) the employer makes arrangements for a part of the total amount of the relevant tips to be allocated between workers of the employer at the place of business by an independent tronc operator, and
  - (b) it is fair for the employer to make those arrangements,the employer is to be treated as having ensured that that part of the total amount of the relevant tips is allocated fairly between workers of the employer at the place of business in accordance with section [27D\(1\)](#).

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**Changes to legislation:** *Employment Rights Act 1996, Section 27F is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) In determining whether it would be fair for an employer to make the arrangements mentioned in subsection (2) or (3), regard must be had to the relevant provisions of any code of practice issued under this Part.
- (5) Section 27D(2) does not apply to an amount which—
- (a) by virtue of subsection (2) or (3), is treated as having been allocated fairly between workers, and
  - (b) is payable to the worker by the independent tronc operator.
- (6) For the purposes of this section “an independent tronc operator” is a person who the employer reasonably considers to be operating, or intending to operate, independently of the employer, arrangements under which—
- (a) the total amount of qualifying tips, gratuities and service charges subject to the arrangements is allocated between workers of the employer at the relevant place of business by the person,
  - (b) such allocated qualifying tips, gratuities and service charges are payable to such workers by the person or by the employer (or partly by the person and partly by the employer),
  - (c) amounts payable to workers by the person in accordance with paragraph (b) are not subject to unauthorised deductions by the person, and
  - (d) all payments made to workers in accordance with paragraph (b) are payments to which paragraph 5(1) of Part 10 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (payments disregarded in the calculation of earnings)—
    - (i) applies by virtue of the payments meeting the condition in paragraph 5(3) of that Part, or
    - (ii) would apply by virtue of the payments meeting the condition in paragraph 5(3) of that Part if the modifications in subsection (7) were made to paragraph 5 of that Part.
- (7) The modifications are—
- (a) each reference to a “secondary contributor” is to be read as a reference to an “employer”;
  - (b) each reference to an “earner” is to be read as a reference to a “worker”.
- (8) The Secretary of State may by regulations—
- (a) amend the definition of “independent tronc operator” in this section in consequence of the making of social security contributions regulations, and
  - (b) consequentially amend any other provision of this Part.
- (9) In this section—
- “reference period” means a period of at least one day, as determined by the employer from time to time;
- “social security contributions regulations” means any regulations making provision related to social security contributions of employers or workers;
- “unauthorised deduction” means a deduction that is not required or authorised to be made by virtue of a statutory provision.]

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#### Textual Amendments

- F1** S. 27F inserted (31.7.2023 for specified purposes) by [Employment \(Allocation of Tips\) Act 2023](#) (c. 13), **ss. 3**, 14(2); S.I. 2023/876, reg. 3(a)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 8 Ch. 5 inserted by [2023 c. 20 Sch. para. 2](#)
- Pt. 8A Ch. 1 heading inserted by [2023 c. 46 s. 1\(3\)](#)
- Pt. 8A Ch. 2 inserted by [2023 c. 46 s. 1\(4\)](#)
- Pt. 8A Ch. 3 inserted by [2023 c. 46 s. 2](#)
- Pt. 8A Ch. 4 inserted by [2023 c. 46 s. 3\(2\)](#)
- s. 43K(1)(ca) and word omitted by [2013 c. 24 s. 20\(5\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by [2013 c. 24 s. 20\(6\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by [2023 c. 20 Sch. para. 22](#)
- s. 47H inserted by [2020 c. 7 Sch. 7 para. 9](#)
- s. 47AA inserted by [2008 c. 25 s. 37](#)
- s. 47EA inserted by [2023 c. 46 Sch. para. 4](#)
- s. 47EB inserted by [2023 c. 46 Sch. para. 5](#)
- s. 48(1C) inserted by [2020 c. 7 Sch. 7 para. 10\(a\)](#)
- s. 48(1C) inserted by [2023 c. 46 Sch. para. 6\(2\)](#)
- s. 48(1D) inserted by [2023 c. 46 Sch. para. 6\(3\)](#)
- s. 49(8) inserted by [2020 c. 7 Sch. 7 para. 11\(b\)](#)
- s. 49(8) inserted by [2023 c. 46 Sch. para. 7\(4\)](#)
- s. 49C inserted by [2017 c. 16 s. 32\(4\)](#)
- s. 75I(3)(g) and word inserted by [2023 c. 20 Sch. para. 23\(b\)](#)
- s. 80C(2)(bc) inserted by [2023 c. 20 Sch. para. 24\(2\)](#)
- s. 80C(4)(bc) inserted by [2023 c. 20 Sch. para. 24\(3\)](#)
- s. 80EB(2)(f) and word inserted by [2023 c. 20 Sch. para. 25\(b\)](#)
- s. 99(3)(cc) inserted by [2023 c. 20 Sch. para. 28](#)
- s. 101B inserted by [2008 c. 25 s. 38](#)
- s. 104H inserted by [2020 c. 7 Sch. 7 para. 14](#)
- s. 104CA inserted by [2023 c. 46 Sch. para. 9](#)
- s. 105(4B) inserted by [2008 c. 25 s. 39\(3\)](#)
- s. 105(7BC) inserted by [2020 c. 7 Sch. 7 para. 15](#)
- s. 105(7BAA) inserted by [2023 c. 46 Sch. para. 10](#)
- s. 108(3)(gia) inserted by [2023 c. 46 Sch. para. 11](#)
- s. 108(3)(de) inserted by [2008 c. 25 s. 39\(4\)](#)
- s. 108(3)(gn) inserted by [2020 c. 7 Sch. 7 para. 16](#)
- s. 110(3A) inserted by [2002 c. 22 s. 44](#)
- s. 163(6) inserted by [2022 c. 35 Sch. 5 para. 27](#)
- s. 205A(2)(ba) inserted by [2023 c. 46 Sch. para. 16\(2\)](#)
- s. 205A(8A) inserted by [2023 c. 46 Sch. para. 16\(3\)](#)
- s. 225(7)(8) inserted by [2023 c. 46 Sch. para. 17](#)
- s. 227(1)(zb)(zc) inserted by [2023 c. 46 Sch. para. 18](#)