



# Employment (Allocation of Tips) Act 2023

## 2023 CHAPTER 13

### 6 Information

After section 27H of the Employment Rights Act 1996 insert—

#### *“Information*

##### **27I Written policy**

- (1) Where qualifying tips, gratuities and service charges are paid at, or are otherwise attributable to, a place of business of an employer on more than an occasional and exceptional basis, the employer must have a written policy on dealing with qualifying tips, gratuities and service charges for the place of business.
- (2) A written policy for a place of business must include the following information—
  - (a) whether the employer requires or encourages customers to pay tips, gratuities and service charges at the place of business;
  - (b) how the employer ensures that all qualifying tips, gratuities and service charges paid at, or otherwise attributable to, the place of business are dealt with in accordance with this Part, including how the employer allocates qualifying tips, gratuities and service charges between workers at the place of business.
- (3) Where an employer is required by this section to have a written policy for a place of business, the employer must make the written policy available to all workers of the employer at the place of business.
- (4) Subsection (5) applies in a case where—
  - (a) an employer is not required by this section to have a written policy for a place of business, but

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*Status: This is the original version (as it was originally enacted).*

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- (b) the employer would be required by this section to have such a written policy if worker-received tips paid at, or otherwise attributable to, the place of business were qualifying tips, gratuities and service charges.
- (5) In that case, the employer must make the following information available to all workers of the employer at the place of business—
- (a) the fact that the employer is not required by this section to have a written policy for the place of business, and
  - (b) the reasons why the employer is not required by this section to have such a written policy.
- (6) Where—
- (a) an employer makes a written policy available to workers at a place of business under this section, and
  - (b) the employer subsequently amends that policy,
- the employer must make the amended version of the policy available to all workers of the employer at the place of business.

### **27J Records**

- (1) Where qualifying tips, gratuities and service charges are paid at, or are otherwise attributable to, a place of business of an employer on more than an occasional and exceptional basis, the employer must—
- (a) create a record of how every qualifying tip, gratuity and service charge paid at, or otherwise attributable to, the place of business has been dealt with in accordance with this Part, and
  - (b) maintain that record for a period of three years beginning with the date on which the qualifying tip, gratuity or service charge was paid.
- (2) The record required by subsection (1) must include—
- (a) the amount of qualifying tips, gratuities and service charges paid at, or otherwise attributable to, the place of business;
  - (b) the amount of those qualifying tips, gratuities and service charges—
    - (i) that the employer allocated to workers of the employer at the place of business;
    - (ii) that the employer arranged to be allocated to workers of the employer at the place of business by an independent *tronc* operator in accordance with section 27F.
- (3) A worker of an employer may make a written request for the employer to provide the following records for a period specified in the request in relation to a place of business of the employer that the worker worked at—
- (a) the amount of qualifying tips, gratuities and service charges paid at, or otherwise attributable to, the place of business;
  - (b) the amount of those qualifying tips, gratuities and service charges—
    - (i) that the employer allocated to the worker;
    - (ii) that the employer arranged to be allocated to workers of the employer at the place of business by an independent *tronc* operator in accordance with section 27F.
- (4) Where—

- (a) an employer receives a request from a worker under subsection (3) for records in relation to a place of business of the employer, and
  - (b) the employer is required by this section to maintain those records,the employer must, within the response period, provide the worker with the requested records in respect of the period specified in the request or a substantially similar period.
- (5) Subsection (6) applies in a case where—
  - (a) an employer receives a request from a worker under subsection (3) for records in relation to a place of business of the employer,
  - (b) the employer is not required by this section to maintain those records, but
  - (c) the employer would be required by this section to maintain those records if worker-received tips paid at, or otherwise attributable to, the place of business were qualifying tips, gratuities and service charges.
- (6) In that case, the employer must, within the response period, notify the worker—
  - (a) that the employer is not required by this section to maintain the requested records, and
  - (b) of the reasons why the employer is not required by this section to maintain those records.
- (7) A worker may request records under this section in respect of a period only if—
  - (a) the period is a period of one month or two or more consecutive months,
  - (b) the period begins no more than three years before the date of the request,
  - (c) the period ends before the date of the request, and
  - (d) the worker worked for the employer at any time during each month that forms part of the request.
- (8) A worker may not make more than one request for records under this section in any three month period.
- (9) Except as provided by subsection (10), a disclosure of information required by subsection (4) does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (10) Subsection (4) does not require a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, the duty imposed by that subsection is to be taken into account).
- (11) In this section—
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);
  - “date of the request” means the date that the request is received by the employer;
  - “response period” means the period of four weeks beginning with the date of the request.”