



# Employment (Allocation of Tips) Act 2023

## 2023 CHAPTER 13

### 9 Code of practice about tips etc

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

*“Code of practice about tips etc*

#### **27P Issue of code of practice**

- (1) The Secretary of State may issue a code of practice under section 27Q for the purpose of promoting fairness and transparency in the distribution of qualifying tips, gratuities and service charges.
- (2) The Secretary of State may from time to time revise the whole or any part of a code of practice and issue that revised code of practice under section 27Q.

#### **27Q Procedure for issue of code of practice**

- (1) If the Secretary of State proposes to issue a code of practice under this section the Secretary of State must—
  - (a) consult ACAS;
  - (b) publish a draft of the code of practice;
  - (c) consider any representations made about the draft code of practice and modify the draft code of practice accordingly.
- (2) If the Secretary of State decides to proceed with the draft code of practice, the Secretary of State must—
  - (a) lay it before both Houses of Parliament, and
  - (b) if it is approved by resolution of each House, issue the code of practice in the form of the draft.

- (3) A code of practice issued under this section comes into effect on such day as the Secretary of State may by regulations appoint.

#### **27R Consequential revision of code of practice**

- (1) A code of practice issued under section 27Q may be revised by the Secretary of State in accordance with this section for the purpose of bringing it into conformity with subsequent statutory provisions by the making of consequential amendments and the omission of obsolete passages.
- (2) In this section “subsequent statutory provisions” means provisions made by or under an Act of Parliament and coming into force after the code of practice was issued.
- (3) If the Secretary of State proposes to revise a code of practice under this section, the Secretary of State must lay a draft of the revised code of practice before each House of Parliament.
- (4) If within the period of 40 days beginning with the day on which the draft is laid before Parliament, or, if copies are laid before the two Houses on different days, with the later of the two days, either House so resolves, no further proceedings are to be taken thereon, but without prejudice to the laying before Parliament of a new draft.
- (5) In reckoning the period of 40 days no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (6) If no such resolution is passed, the Secretary of State must issue the code of practice in the form of the draft and it comes into effect on such day as the Secretary of State may by regulations appoint.

#### **27S Revocation of code of practice**

A code of practice issued under this Part may be revoked by the Secretary of State by regulations.

#### **27T Failure to comply with code of practice**

- (1) In proceedings before an employment tribunal, a code of practice issued under this Part is to be admissible in evidence, and any provision of the code of practice which appears to the tribunal to be relevant to any question arising in the proceedings is to be taken into account in determining that question.
- (2) A failure on the part of an employer to observe any provision of a code of practice issued under this Part does not of itself render the employer liable to any proceedings.”