



Employment (Allocation of Tips) Act 2023:

What Businesses Need to Know

A comprehensive guide to understanding and implementing the new tipping legislation in UK hospitality venues, ensuring compliance and maintaining positive relationships with staff and customers.

What You'll Discover

This whitepaper provides essential guidance on:

- Understanding the core requirements of the new legislation
- Implementing compliant tip allocation systems
- Managing financial implications and operational changes
- Creating transparent policies and documentation
- Avoiding common compliance pitfalls
- Maintaining positive staff and customer relationships

The Employment (Allocation of Tips) Act 2023:

Implications for the Hospitality Industry

The Employment (Allocation of Tips) Act 2023, which came into force on October 1, 2024, represents a significant shift in the regulation of tipping practices within the UK hospitality sector. This legislation ensures fair and transparent distribution of tips to workers, addressing long-standing concerns about employers retaining or unfairly allocating gratuities. This whitepaper examines the key provisions of the Act, its current impact on the hospitality industry, and the steps businesses must take to ensure compliance.

Tipping has long been a contentious issue in the hospitality industry, with concerns about fairness, transparency, and the potential for exploitation. The Employment (Allocation of Tips) Act 2023 addresses these issues by mandating that all qualifying tips be passed on to workers without deductions, except those required by law. This legislation has far-reaching implications for hospitality businesses, their employees, and customers.

Key Provisions of the Act

1. Allocation of Tips

The Act requires employers to allocate all qualifying tips, gratuities, and service charges to workers fairly and transparently. This applies to tips received directly by employers (e.g., through card payments) and worker-received tips over which the employer exercises control or significant influence. Money must only be paid to staff who work at the venue in which it was generated. The exception to this is where employees work off-site at a 'non-public' place such as a head office or dark kitchen. These employees are allowed to receive a fair share of funds generated at a trading site.

2. Prohibition on Deductions

Employers are prohibited from making any deductions from qualifying tips, except those required by law (such as tax and National Insurance contributions). This means practices such as using tips to cover processing fees or taking a share of tips as profit will become illegal. If there is no tronc scheme in operation, employee's National Insurance contributions and pension contributions must be deducted, but businesses cannot recover employer's National Insurance or pension contributions. Additionally, if a service charge is not advertised as discretionary, businesses must deduct the VAT element.

3. Timely Distribution

Qualifying tips must be paid to workers no later than the end of the month following the month in which they were received from customers. For example, money received on 5th October must be paid to staff by 30th November.

4. Agency Workers

The Act extends its protections to eligible agency workers, ensuring they receive a fair allocation of tips when working in hospitality establishments.

5. Written Policy Requirement

Employers must have a written policy on dealing with qualifying tips and make this policy available to all workers. Employers must proactively provide a copy of these policies and rules to all employees; this is not just 'on request'.

6. Record Keeping

Businesses are required to maintain records of all qualifying tips received and their allocation for a period of three years.

7. Enforcement

Workers have the right to request information about an employer's tipping practices and can bring claims to an Employment Tribunal for breaches of the Act. Agency workers have the right to bring a claim against their agency, the operator of the business where they worked, or both. Should a tribunal find in favour of a claimant, the tribunal can award up to £5,000, and this will apply to all similarly affected workers. Where a business has allocated tips themselves, a tribunal can order them to amend the allocation. Where a valid tronc arrangement is in place, an automatic presumption of fairness will apply. In this case, an employee cannot bring a claim on the grounds of fairness provided that the Troncmaster has acted in accordance with the Code of Practice.

8. Timing of Implementation

The new legislation became effective on October 1, 2024, with no grace period for implementation. All businesses were required to be fully compliant from day one.

Impact on the Hospitality Industry

Financial Implications

The implementation of the Act is expected to have significant financial implications for many hospitality businesses. A survey conducted by Three Rocks found that 83% of businesses anticipate incurring costs of at least £12,000 per year to comply with the legislation, with nearly one in five claiming costs could increase by £60,000 to £360,000 annually.

These increased costs may arise from:

- Administrative expenses related to implementing new systems for tracking and distributing tips
- Potential loss of revenue for businesses that previously retained a portion of tips
- Increased payroll costs due to the full distribution of tips to workers

Operational Changes

Businesses will need to review and potentially overhaul their existing tipping practices. **This may include:**

- Implementing new point-of-sale systems to accurately track tips
- Developing fair allocation methods for distributing tips among staff
- Creating and maintaining detailed records of tip allocation
- Training staff on new tipping policies and procedures

Employee Relations

The Act is likely to have a positive impact on employee relations and job satisfaction within the hospitality sector.

Benefits may include:

- Increased transparency in tip allocation, potentially reducing conflicts among staff
- Improved financial outcomes for workers who will receive a larger share of tips
- Enhanced trust between employers and employees

However, businesses will need to manage the transition carefully to ensure all staff understand and accept the new tipping practices.

Customer Perceptions

The Act may influence customer behavior and perceptions regarding tipping. **Potential effects include:**

- Increased customer confidence that their tips are going directly to staff
- Possible changes in tipping habits as customers become aware of the new regulations
- Potential for customers to question or scrutinise businesses' tipping practices more closely

Preparing for Compliance

To ensure compliance with the Employment (Allocation of Tips) Act 2023, hospitality businesses should take the **following steps**:

1. Review Current Practices

Conduct a thorough audit of existing tipping practices, including:

- How tips are currently collected and distributed
- Any deductions made from tips
- The involvement of management in tip allocation
- Treatment of tips for tax and National Insurance purposes

2. Develop a Fair Allocation Method

Create a clear and objective system for allocating tips among staff. Factors to consider may include:

- Hours worked
- Job role and responsibilities
- Performance metrics
- Length of service

3. Create a Written Tipping Policy

Develop a comprehensive written policy that outlines:

- How tips are collected and recorded
- The method for allocating tips among staff
- Timelines for tip distribution
- How the policy will be communicated to staff and customers

4. Implement Robust Record-Keeping Systems

Establish systems to accurately track and record:

- All qualifying tips received
- Allocation of tips to individual workers
- Dates of tip distribution

Ensure these records are maintained for the required three-year period.

5. Train Staff and Management

Provide comprehensive training to all staff, including:

- Details of the new legislation and its implications
- The business's new tipping policy and allocation method
- Procedures for recording and distributing tips
- How to communicate the new practices to customers

6. Review and Update Employment Contracts

Examine existing employment contracts and update them if necessary to reflect the new tipping practices and ensure compliance with the Act.

7. Consider Technology Solutions

Investigate point-of-sale and payroll systems that can help automate tip tracking and distribution, reducing administrative burden and potential for errors.

8. Plan for Financial Impact

Assess the potential financial impact of the new legislation on the business and develop strategies to mitigate any negative effects, such as:

- Reviewing pricing strategies
- Identifying operational efficiencies
- Exploring alternative revenue streams

9. Engage with Staff

Maintain open communication with staff throughout the transition process. Consider:

- Holding informational sessions to explain the new legislation and its impact
- Seeking input from staff on fair allocation methods
- Addressing concerns and questions promptly

10. Monitor Compliance and Gather Feedback

Once new practices are implemented:

- Regularly review tip allocation to ensure fairness and compliance
- Gather feedback from staff on the new system
- Be prepared to make adjustments as necessary

Challenges and Considerations

Tronc Systems

Many hospitality businesses currently use tronc systems to distribute tips. While the Act allows for the continued use of independent trons, businesses must ensure that:

- The tronc operator meets the definition of being independent under the Act
- The tronc system complies with all new requirements, including fair allocation and record-keeping

Businesses using tronc systems should review them carefully to ensure compliance and consider whether adjustments are needed.

Agency Workers

Including agency workers in tip allocation may present challenges, particularly for businesses that frequently use temporary staff.

Considerations include:

- Developing fair methods for allocating tips to agency workers who may work irregular hours
- Ensuring agency workers have access to the written tipping policy
- Coordinating with agencies to ensure proper distribution of allocated tips

Eligibility for Tips

Only staff employed by the business or by an employee agency can receive a share of the tips. Individuals who are self-employed or working through their own personal service company cannot receive any tips. Company directors must also be concurrently employed and paid via the payroll to receive tips.

Customer Education

Businesses may need to educate customers about the new legislation and its impact on tipping practices. This could involve:

- Updating menu information regarding service charges and tipping policies
- Training staff to explain the new practices to customers if asked
- Considering whether to adjust pricing or introduce new service charge models in light of the legislation

Additionally, from October 1, 2024, businesses cannot reduce an employee's wage/salary if that reduction is in any way connected to receiving tips/service charges (even if consensual). This does not change any agreements made before October 1, 2024.

Potential for Disputes

The new legislation may lead to an increase in disputes related to tip allocation. Businesses should:

- Ensure their allocation method is as objective and transparent as possible
- Establish clear procedures for addressing staff concerns about tip allocation
- Be prepared to provide detailed records if faced with a complaint or tribunal claim

From October 1, 2024, employees will be entitled to make a written request for information including the total value of tips and gratuities received by their employer in a month. This information must be provided within 28 days.

The Employment (Allocation of Tips) Act 2023 represents a significant change for the UK hospitality industry. While it presents challenges and potential costs for businesses, it also offers an opportunity to improve transparency, fairness, and employee satisfaction in relation to tipping practices.

Successful implementation requires careful planning, clear communication, and potentially significant operational changes. However, businesses that embrace the spirit of the legislation and develop fair, transparent tipping practices may find themselves with more engaged employees and increased customer trust.

With the Act now in force as of October 1, 2024, it is imperative for all hospitality businesses to ensure they fully understand the legislation, have assessed its impact on their operations, and have implemented comprehensive compliance strategies. Those who have successfully adapted to the new regulations may find themselves at a competitive advantage in an industry where staff retention and customer perception are key to success. For businesses still working towards full compliance, immediate action is crucial to avoid potential legal and reputational risks.

Sources:

- <https://kpmg.com/uk/en/home/insights/2024/06/tmd-new-rules-on-allocating-tips-five-questions-to-ask-yourself-now>
- <https://www.iris.co.uk/blog/payroll/unpacking-the-employment-allocation-of-tips-act-2023/>
- <https://www.crosslandsolicitors.com/site/media/Employment-Allocation-of-Tips-Act-2023>
- <https://www.hilldickinson.com/insights/articles/employment-allocation-tips-act-2023-code-practice-provisions>
- <https://www.blakemorgan.co.uk/new-rules-on-tips-imminent-what-do-they-mean-for-employers/>
- <https://docs.google.com/document/d/1leSPL0y4Cza7PkNrY70jr8exSl5YmUDipAESpWtEdA/edit>
- <https://docs.google.com/document/d/1leSPL0y4Cza7PkNrY70jr8exSl5YmUDipAESpWtEdA/edit>
- <https://www.threerocks.co.uk/news/tipping-point-how-will-new-government-legislation-impact-businesses>

Looking Ahead

Thank you for engaging with this crucial guide to the Employment (Allocation of Tips) Act 2023. The hospitality industry is entering a new era of transparency and fairness in tipping practices, and your organisation's success depends on proper implementation of these requirements.

Quick Action Points

1. Review your current tipping practices against the new requirements
2. Develop your written tipping policy
3. Implement robust recording systems
4. Train staff on new procedures
5. Update customer communications

Need More Support?

For additional guidance on implementing these changes, **consult [Grateful.com](https://www.grateful.com) and book a call with one of our experts.**

