

Preparing for change: Tipping Act and Code of Practice Webinar

Our speakers



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What is the Employment (allocation of tips) Bill? Aka Tipping Bill

In 2015 media reports alleged unfair tipping practices by major restaurant chains and other hospitality outlets, whereby tips were being deducted before passing them on to workers and in some cases no tips being passed on.



In 2018, the Government announced its intention to prohibit employers from making deductions. This led to a proposed legislation in the Queens Speech 2019.



Finally, in May 2023 the tipping bill (a private members bill) achieved Royal Assent with a view of coming into affect from July 2024.



Objective is to ensure that employers or an independent troncmaster fairly pass on 100% of all tips, service charges and gratuities to employees, and that it is ultimately fair to all.

10 Key points of the legislation

1. Qualifying tips, gratuities and service charges

- Tips not paid in money – E.g. voucher, stamp, token or similar item.
- Employer-received tips and worker received tips that are subject to employer control.

Employer-received tips

an amount paid by a customer which:

- (a) is received upon its payment or subsequently by the employer, or
- (b) is received upon its payment by a person under a payment arrangement made between the employer and that person.

Worker-received tips

an amount paid by a customer which:

- (a) is received upon its payment by a worker of the employer, and
- (b) is not subsequently received by the employer or an associated person.

2. How tips must be dealt with?

- Total amount of 'qualifying tip' must be allocated fairly between workers. NO DEDUCTIONS.
- In line with the Code of Practice.
- Tips collected at a place of business of the employer must be allocated to workers at that place of business.
- Non-customer facing workers can receive an allocation of tips.



3. Independent Troncs

- An employer can choose to allocate and distribute tips fairly and transparently by using a tronc.
- If an employer makes arrangements for an independent tronc operator, and fair to do so 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.
- If an employer becomes aware of an independent tronc operator acting in an unfair or improper manner, they are obliged to act to address this in order to maintain a fair allocation of tips.
- Failure to act to address this can be regarded as failure to comply with the Code of Practice.
- Independent and non-independent (in house) troncs benefit from NI savings.

4. When tips must be dealt with?

- No later than the end of the month following the month in which the tip, gratuity or service charge was paid by the customer.
- E.g. tips collected on 7th March must be passed on no later than 30th April.
- No reserves going forward.



5. Agency workers

- An “eligible agency worker” is an individual:

(a) who is supplied by a person (the “agent”) to do work for another person (the “principal”) under a contract or other arrangements made between the agent and the principal, but

(b) who is not, as respects that work, a worker of the principal because of the absence of a worker’s contract between the individual and the principal, and

(c) who is not a party to a contract under which the individual undertakes to do the work for another party to the contract whose status is, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual.

- To be treated the same as employees.

6. Written Policy aka Tipping Policy

- Must include whether the employer requires or encourages customers to pay tips, gratuities and service charges at the place of business; and
- How the employer allocates the ‘qualifying tips’ to employees.
- Must be available to all workers.
- If a tipping policy is not required, an employer must make this information available to employees.



7. Records

- Create a record of how every qualifying tip has been dealt with.
- Must include amount of qualifying tips collected and how much has been allocated to workers.
- Workers may make written request of records.
- Employer must provide records to employees within response time.
- Workers cannot make more than one request within a 3-month period.
- Records must be kept for 3 years.

8. Complaints to employment tribunal about tips

- A worker may present a complaint to an employment tribunal that the worker's employer has failed to comply with the legislation.
- Agency workers may also present a complaint.
- Within 12 months of the relevant period.
- If deemed unfair an Employment tribunal can order an employer to pay the worker such amount, not exceeding £5,000.
- Employers cannot recover amounts that have been overpaid to employees.

9. Wages

- An amount of tips can not be contractually agreeable.
- Can not negotiate with employees to vary their contractual salary/wages, in return for a share of tips.
- Check job adverts, contracts and other T&Cs.



10. Code of Practice

- Will sit alongside the legislation.
- Will explain how tips can be allocated fairly to employees.
- Employers are permitted to distinguish between workers based on a "clear and objective set of factors" and are not obligated to "allocate the same proportion of tips to all workers".
- Workers have the right to request information about the tip amount generated and their own award value, however, they are unable to request knowledge of the tip amounts their fellow workers are allocated.



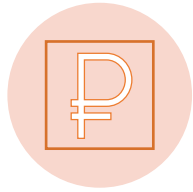
Summary of Key points of the legislation



100% of all tips/service charges received will have to be distributed.



Paid no later than the end of the following month in which they were paid by the customer.



Agency workers benefit from the bill and will be treated the same as direct employees.



Employer must keep a record of all tips and policy.



Workers can make written requests to access parts of employer's tipping records.



Tips paid by customers must be paid to workers who have worked at the same place of business as the tip was received at.

Key points for businesses to consider before the legislation goes live?



CONTRACTS



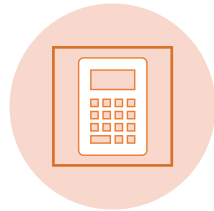
RECORD KEEPING



POLICIES



FAIRNESS



RESERVES/DEDUCTIONS



TRONC COMMITTEE

Common issues

- Employers contractually agreeing to pay an amount of tips to subsidise wages above the National Minimum wage.
- Employers allocating tips based on cashflow needs rather than in period following the tip being made, so reserve built up.
- Retention of tips to cover admin costs such as credit card charges.
- Pooling of sites.
- Employers not utilising the NI free benefit from running a tronc scheme.
- Employees not knowing how tips are allocated and no published policy in place.
- Internal troncmaster who have little/no knowledge of pending legal requirement no HMRC requirements for NI exemption.
- Employees on low income amounts near NMW levels guaranteed a certain weekly/monthly sum from the tips.

How we can help run your tronc scheme?

- Having Buzzacott as your independent troncmaster safeguards you from any HM Revenue & Customs (HMRC) challenge. Our independent tronc schemes are completely transparent, conform fully to HMRC requirements and the pending Employment (Allocation of Tips) Bill, provide an exemption from National Insurance Contributions and offer significant savings to employers and staff.
- Choosing Buzzacott as your external troncmaster relieves your staff of the administrative burden of running the tronc and lets them focus solely on their daily tasks at hand.
- An independent troncmaster ensures the tronc is not influenced by employers, nor by bias or favouritism, and represents what's in the best interest of all employees.
- We understand the struggles that many businesses go through with recruiting and retaining staff, and the labour shortage in the hospitality industry only amplifies the matter. Our independent tronc arrangements are bespoke and tailored to assist you in recruiting, retaining and incentivising employees, giving you one less thing to worry about.

Points to take away

	Tipping bill requirements
Fairness of allocations	100% of all qualifying tips must be allocated to workers fairly.
Policies	Employers must have a tipping policies made available to all workers.
Tip retention	No retention of tips. 100% must be allocated to employees.
Tronc schemes	Paying tips through a tronc arrangement will benefit from NI exemption.
Reserves	All tips must be paid to workers by the end of the following month collected. No reserves.
Agency workers	To receive tips in line with employees.
Pooling of sites	All sites must be kept separately and can not be pooled together.
Record of tips	Records must be retained for 3 years.
Worker requests	Workers may request details of the total tips collected and their personal allocation.
Contracts	Contracts cannot be varied in return for a share of tips.
Admin fees	Employers cannot deduct an amount from tips to cover any admin fees.
Disputes	Workers can complain to an employment tribunal about their employer.
Code of Practice	Issued to promote fairness and transparency.

Get in touch

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