



Employment (Allocation of Tips) Act 2023

2023 CHAPTER 13

7 Enforcement: dealing with tips etc

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

“Enforcement

27K Complaints to employment tribunal about tips etc

- (1) A worker may present a complaint to an employment tribunal that the worker’s employer has failed to comply with—
 - (a) section 27D (how tips etc must be dealt with), or
 - (b) section 27G (when tips etc must be dealt with),in relation to the worker.
- (2) An eligible agency worker may also present a complaint to an employment tribunal that an agent has failed to comply with the requirement to make a payment to the eligible agency worker that the agent was required to make under section 27H(4).
- (3) An employment tribunal must not consider a complaint under this section unless it is presented before the end of the period of twelve months beginning with the date of the failure to comply.
- (4) But, if the employment tribunal is satisfied that it was not reasonably practicable for a complaint to be presented before the end of the relevant period of twelve months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.
- (5) If a complaint is presented under this section in respect of a series of failures to comply, the reference in subsection (3) to the date of the failure to comply is to the date of the last failure in the series.

Changes to legislation: There are currently no known outstanding effects for the Employment (Allocation of Tips) Act 2023, Section 7. (See end of Document for details)

- (6) An eligible agency worker may present a complaint under subsection (2) whether or not the eligible agency worker also presents a complaint under subsection (1).
- (7) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (3).

27L Determination of complaints about tips etc

- (1) If an employment tribunal finds a complaint under section 27K well founded—
 - (a) it must make a declaration to that effect, and
 - (b) it may—
 - (i) in the case of a complaint under section 27K(1), make an order requiring the employer to deal with qualifying tips, gratuities and service charges that were paid at, or were otherwise attributable to, a place of business of the employer in accordance with this Part;
 - (ii) in the case of a complaint under section 27K(2), make an order requiring the agent to make a payment to the eligible agency worker of the amount that the agent was required under section 27H to pay to the eligible agency worker.
- (2) An order made under subsection (1)(b)(i) may in particular—
 - (a) require the employer to revise an allocation made by the employer under section 27D;
 - (b) make a recommendation to the employer regarding that allocation;
 - (c) require the employer to make a payment to one or more workers of the employer in accordance with this Part (including a worker who is not the complainant).
- (3) A recommendation made under subsection (2)(b) is not binding on an employer, but is to be admissible in evidence in proceedings before an employment tribunal; and any provision of the recommendation 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.
- (4) An order made under subsection (1)(b)(i) following a complaint presented by a worker does not prevent a different worker from presenting a complaint under this Part in relation to the same employer or the same qualifying tips, gratuities and service charges.

27M Compensation: dealing with tips etc

- (1) If an employment tribunal makes a declaration under section 27L(1)(a), it may order the employer or agent (as the case may be) to pay to the complainant such amount, not exceeding £5,000, as the tribunal considers appropriate in all the circumstances to compensate the complainant for any financial loss sustained by the complainant which is attributable to the matter complained of.
- (2) The tribunal may make an order under this section whether or not an order under section 27L(1)(b) has been made.”

Changes to legislation: There are currently no known outstanding effects for the
Employment (Allocation of Tips) Act 2023, Section 7. (See end of Document for details)

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Commencement Information

- I1** S. 7 not in force at Royal Assent, see [s. 14\(2\)](#)
- I2** [S. 7](#) in force at 31.7.2023 for specified purposes by [S.I. 2023/876, reg. 3\(a\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Employment (Allocation of Tips) Act 2023, Section 7.