



An Roinn Fiontar,  
Trádála agus Fostaíochta  
Department of Enterprise,  
Trade and Employment

# Statutory Review Report

Payment of Wages (Amendment) (Tips and  
Gratuities) Act 2022

April 2024

## Table of Contents

<b>Executive Summary</b>	<b>4</b>
<b>Payment of Wages (Amendment) (Tips and Gratuities) Act 2022</b>	<b>7</b>
Background	7
Purpose of the Act	7
Scope of the Act	8
Policy Objectives	11
National Minimum Wage Act 2000 (Amendment of Schedule 1) Regulations 2023	12
Workplace Relations Act 2015 (Fixed Payment Notice) Regulations 2023	13
Operation of the Act	15
Statutory Review Process	17
<b>Are Tips and Gratuities and service charges liable to Tax?</b>	<b>18</b>
<b>Contract Workers and the Act</b>	<b>19</b>
<b>Unlawful Deductions under the Act</b>	<b>20</b>
<b>Employee / Employer / Other Stakeholder Responses</b>	<b>21</b>
Should additional employers/sectors be covered by the Act?	21
Tips and Gratuities Notice	22
Should ‘cash tips’ be included more under the Act?	23
Treatment of “electronic tips” under the Act	23
What about platform or ‘contract workers’ as defined in the Act?	24
Treatment of “service charges” under the Act.	24
Fair distribution of tips and gratuities.	25
The use of tronc schemes in the distribution of tips and gratuities.	26
Costs and Benefits for employers and employees.	26
The benefit to introducing a Code of Practice in respect of tips and gratuities.	27

<b>Public Opinion Survey - Summary</b>	<b>28</b>
Should additional employers/sectors be covered by the Act?	29
Tips and Gratuities Notice	29
Should 'cash tips' be included more under the Act?	31
Treatment of "electronic tips" under the Act	32
What about platform or 'contract workers' as defined in the Act?	33
Treatment of "service charges" under the Act.	34
Fair distribution of tips and gratuities.	35
The use of tronc schemes in the distribution of tips and gratuities.	36
Costs and Benefits for employers and employees.	39
Have employees have benefitted under the Act.	40
The benefit to introducing a Code of Practice in respect of tips and gratuities.	40
Respondent Profiles and Locations.	41
<b>Conclusion</b>	<b>42</b>

## Executive Summary

A statutory review process was included in the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 to allow for the impact of the legislation to be assessed once it had been in place for a year, when employees, employers, and customers all had experience of how the legislation works in practice, and to make any changes if required. The review must be completed within six months and laid before each House of the Oireachtas.

This Report completes this statutory review. The Review was undertaken by the Department of Enterprise, Trade and Employment. The Department wrote on 25<sup>th</sup> January 2024 to twelve stakeholder groups representing employee and employer interests in the sectors to which the Act applies. The Department also published a public consultation document on its website<sup>1</sup> on a range of topics. Views from stakeholders and interested parties were requested no later than 3pm on Thursday, 22 February 2024. Seven responses were received to the public consultation document.

The Department of Enterprise, Trade and Employment also conducted a Public Opinion Survey between 25<sup>th</sup> January and 29<sup>th</sup> February 2024, as part of a statutory review of tips and gratuities in the workplace. Close to three hundred responses were received with a relatively even split between employees and employers. The vast majority of respondents were engaged in the restaurant / pub business with 224 responses from a total of 289.

The responses from stakeholders and responses to the public opinion survey conclude that broadly, the Act is meeting its objectives. The Regulations define the sectors to which the Act applies, whilst in general, stakeholders do not believe there is any need to expand the classes of employers to which the Act applies, one recommended consideration be given to excluding fast-food outlets (including the large multiple fast-food chains) which have seated areas for consumption of food on their premises but do not provide a table/waiter service.

It was recommended that, while accepting that one size cannot fit all situations, more specific sample display notices should be prepared for each defined sector, including sample wording and notice formats to ensure a consistent approach across the thousands

---

<sup>1</sup> <https://enterprise.gov.ie/en/consultations/public-consultation-on-the-payment-of-wages-amendment-tips-and-gratuities-act-2022.html>

of businesses required to comply with the Act. While the vast majority (80%) of respondents to the public opinion survey believed that display notice obligations were being met, there did not appear to be widespread recognition that the notice must be displayed on the premises at which the service is provided and also at one principal payment point on that premises.

Some respondents called for additional enforcement. The Workplace Relations Commission advised that their Inspectorate operates on a compliance model with the focus of inspections to bring non-compliant employers into compliance with their legal obligations. The majority of contraventions of the Act to date relate to the statutory requirement to display a tips and gratuities notice. Out of a total 5,498<sup>2</sup> inspections conducted between 1 December 2022 and 31st January 2024 the WRC Inspectorate detected a total of 484 contraventions in relation to the requirement to display a Tips and Gratuities Notice providing early indications that compliance is high.

There was agreement by stakeholders and survey respondents that cash tips should not be included under the Act, as these are not under the control of the employer. The Workplace Relations Commission advised that, based on their inspectors' experience arising from inspection activity, it would appear that in the vast majority of cases where tips and gratuities are applicable that the employers do not have any involvement in cash tips, so enforcing any changes to include cash tips in the legislation would be extremely difficult.

Regarding the use of electronic tips, while some respondents advised that the most common method of payment of electronic tips by customers is by credit/debit card or smart card there is also anecdotal evidence to suggest that some employers will only accept cash tips which do not fall under the legislation. 89% of survey respondents believed that employees were receiving all of their 'electronic tips' as required under the Act.

There was agreement by stakeholders and survey respondents that the definition of service charge is clear and that there is no particular need for a review. The Hair and Beauty Industry Confederation (HABIC) advised that service charges are not in place in the hair and beauty industry. 63% of survey respondents believed that the term should not be prohibited while 37% believed that it should.

Respondents seem happy that the existing range of relevant factors, to describe fair distribution of tips and gratuities is reasonable. Respondents also advised that while there

---

<sup>2</sup> Not all 5,498 inspections fell within the scope of the Act.

is some additional administrative time involved, and some costs in terms of signage etc., generally speaking, compliance costs are not substantial.

Most respondents believe that there is no benefit or need for a Code of Practice given the Act itself is in place, which places legal obligations on employers though some see a benefit to the introduction of a “Code of Practice” for the purpose of promoting fairness and transparency in the distribution of qualifying tips, gratuities, and service charges.

---

# Payment of Wages (Amendment) (Tips and Gratuities) Act 2022

## BACKGROUND

There was anecdotal evidence that some employers, particularly in the restaurant and hospitality sectors, used tips or gratuities given by customers and intended for staff as a means of meeting their payroll obligations and other overheads.

There was also no legislation obliging employers to pass on any tips received by them to their staff. Therefore, a customer had no way of knowing if the tip they left was given to the intended recipient(s) and the worker had no protection if their employer chose to keep some or all the tips left by customers. While most employers treat their staff well, there were examples where some tips were simply included as part of overall business income or used to contribute to employees' contractual base wages.

## PURPOSE OF THE ACT

The Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 was enacted on 20 July 2022 and was commenced on 27<sup>th</sup> October 2022<sup>3</sup>. The Act took effect on 1<sup>st</sup> December 2022<sup>4</sup> when Regulations were made specifying those sectors to which it applies.

The Act provides clarity on the meaning of tips, gratuities, and service charges; places tips and gratuities outside the scope of a person's contractual wages; obliges employers to display prominently their policy on the distribution of both cash and card tips; and

---

<sup>3</sup> S.I. No 543 of 2022 Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 (Commencement) Order 2022.

<sup>4</sup> S.I. No 544 of 2022 Payment of Wages Act 1991 (Application of Sections 4B to 4F) Regulations 2022

obliges employers to distribute in a manner that is fair in the circumstances tips that are received in electronic form. Any charge called a ‘service charge’ or anything that would lead a customer to believe it is a charge for service, must be distributed to staff as if it were a tip or gratuity received by electronic means.

## **SCOPE OF THE ACT**

The Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 amends the Payment of Wages Act 1991.

The Minister made Regulations titled the Payment of Wages Act 1991 (Application of Sections 4B to 4F) Regulations 2022 which prescribe the services to which the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 applies. Where an employee’s responsibilities relate, in whole or in part, to one or more of the services mentioned below, the employer is prescribed as an employer to which sections 4B to 4E of the Payment of Wages Act 1991 applies. It should be noted that this list may be amended in the future to include additional services if such services would typically attract a tip or service charge.

### **Classes of Employers prescribed by Regulations under the Act:**

The following service areas are those within the economy where tipping is prevalent. There may be additions to this list in the future if new areas where tipping is prevalent emerge in the economy over time. The sectors are:

1. The sale of beverages (including intoxicating liquor) or food for consumption on the premises at which such beverage or food is sold.
2. The sale of beverages (including intoxicating liquor) or food by means of casual trading (within the meaning of section 2 of the Casual Trading Act 1995 (No. 19 of 1995)).
3. The accommodation of overnight guests on a commercial basis in a hotel, guesthouse, hostel, bed and breakfast, self-catering accommodation facility or any similar accommodation facility.



4. Providing guided tours.
5. Carrying out non-surgical cosmetic procedures including the following: cosmetic nail care; nail styling; skin care; hair care; hair styling; tattoo services; and piercing services.
6. Gaming (within the meaning of the Gaming and Lotteries Act 1956 (No. 2 of 1956)) carried on exclusively amongst members of a Private Members' Club (howsoever described) and which is the primary purpose of such Private Members' Club.
7. The provision of services as a licensed bookmakers (within the meaning of the Betting Act 1931 (No. 27 of 1931)).
8. Providing transport services by means of a public service vehicle.

While employers are required to include detail on how cash tips are dealt with when displaying their policy towards tips and gratuities, there is no other regulation of 'cash tips'. Cash tips are not under the control of the employer.

**Display Notice Requirements prescribed by Regulations under the Act:**

The following display notice requirements apply to employers in service areas such as restaurants, pubs, hotels, guesthouses, tour companies, hairdressers, beauty salons, bookmakers. A tips and gratuities notice must be displayed –

- (a) at the premises, or the part of the premises, on which the employer provides the relevant service, and in at least one location at which consumers may pay in person for the relevant service, or

---

<sup>5</sup> S.I. No 545 of 2022 Payment of Wages Act 1991 (Display of Notices) Regulations 2022

- (b) where the premises, or the part of the premises, does not have an entrance that may be accessed by consumers, in at least one location at which consumers may pay in person for the relevant service, and
- (c) on each website, mobile application and other online digital platform used by the employer in connection with a relevant service.

The following display notice requirements apply to employers in service areas such as taxis, hackneys, coach hire, limousines. A tips and gratuities notice must be displayed—

- (a) on each website, mobile application and other online digital platform used by the employer in connection with a relevant service,
- (b) in such a position as to be clearly visible and easily accessible to, and in such form and manner as to be capable of being easily read by consumers travelling in the public service vehicle (within the meaning of the Regulations of 2022) concerned.

The Act also provides for display notice provisions for new models of work such as platform workers who are not direct employees, but their work typically attracts tips e.g., food or goods delivery apps or taxis booked through platform operators.

A ‘contract worker’ means a natural person who carries out work other than as an employee, including on a contract for service. This definition is necessary to ensure that ‘platform workers’ who are engaged in contracts for services benefit from tips and gratuities. Those who use contract workers to deliver services are required to display a contract workers tips and gratuities notice.

A ‘platform-style’ business to whom the Act applies (referred to in the Act as a ‘prescribed person’) must display information on the manner in which tips or gratuities and mandatory charges are shared or distributed to ‘contract workers. The information to be displayed must state –

- o whether tips or gratuities are distributed to and amongst contract workers,

- o where tips or gratuities are distributed to and amongst contract workers, the way they are distributed and the amounts so distributed,
- o whether mandatory charges, or any portion of them, are distributed to and amongst contract workers, and if so, the way they are distributed and the amounts so distributed, and
- o such further or additional information as may be prescribed Regulation.

A 'platform-style' business that contravenes these display obligations is guilty of an offence and liable on summary conviction to a Class C fine, currently up to €2,500.

WRC inspectors have powers under section 27 of the Workplace Relations Act 2015 to inspect at employer premises or prescribed persons who engage contract workers. An employer who contravenes these display obligations will be guilty of an offence and liable on summary conviction to a Class C fine, currently up to €2,500.

## **POLICY OBJECTIVES**

There are 5 main aims for the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022:

1. The Act provides a legal entitlement for workers to receive tips and gratuities paid in electronic form with a provision that these tips and gratuities should be paid out to workers in a manner that is fair in the circumstances. The employer must provide a statement to workers showing the amount of tips obtained in a period and the portion paid to the individual employee for that particular period. This ensures transparency.
2. An employer may not retain any share of tips received electronically, unless such retention is required by the Act, e.g., to pay an employee's portion of tax, PRSI or USC or bank charges arising from providing electronic modes of tipping, or only

where they regularly perform to a substantial degree the same work performed by some or all the employees, such amount that is fair in the circumstances.

3. The Act also requires businesses to clearly display their policy on how tips, gratuities and service charges are distributed. The customer will be better informed about how tips are treated. The resulting transparency can have a very strong and positive impact on how people will behave. The Act also provides for similar provisions for new models of work such as platform workers who are not direct employees, but their work typically attracts tips e.g., food takeaway delivery or taxi services apps.
4. Any charge called a ‘service charge’ or anything that would lead a customer to believe it is a charge for service, has to be distributed to staff as if it were a tip or gratuity received by electronic means.
5. The Act prohibits employers from using tips and gratuities to ‘make up’ contractual rates of pay. An employer cannot make a deduction from a person’s wage in relation to tips and gratuities. The policy intent is to ensure tips and gratuities are additional to the wage and are not subsumed into the wage.

### **NATIONAL MINIMUM WAGE ACT 2000 (AMENDMENT OF SCHEDULE 1) REGULATIONS 2023**

On 24<sup>th</sup> May 2023, the National Minimum Wage Act 2000 (Amendment of Schedule 1) Regulations 2023 were made. The purpose of these Regulations is to re-classify service charges as a non-reckonable component in the calculation of the average hourly rate of pay. This re-classification only applies to the sectors in the economy to whom the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 applies. The Regulations have the effect of ensuring that service charges are not used by employers in those sectors when calculating an employee’s hourly rate of pay for the purposes of the National Minimum Wage Act 2000.

## **WORKPLACE RELATIONS ACT 2015 (FIXED PAYMENT NOTICE) REGULATIONS 2023**

On 29<sup>th</sup> December 2023, the Workplace Relations Act 2015 (Fixed Payment Notice) Regulations 2023 were made. The purpose of these Regulations is to prescribe the form of Fixed Payment Notices in lieu of prosecution, if appropriate, and the amount of the fixed payment in each case in relation to alleged offences under Section 36(1) of the Workplace Relations Act 2015, as follows:

- The amount of €2,000 is prescribed for the purposes of section 11 of the Protection of Employment Act 1977 (No. 7 of 1977). This provides that an employer who fails to initiate consultations under section 9 of the Act of 1977 or fails to comply with section 10 of that Act shall be guilty of an offence.
- The amount of €1,500 is prescribed for the purposes of –
  - (a) section 4 (4) of the Payment of Wages Act 1991. This provides that an employer who fails to provide a statement in writing clearly specifying the gross amount of the wages payable to the employee and the nature and amount of any deduction (a wages statement) or who fails to ensure that the statement is treated confidentially by the employer and his agents and by any other employees, shall be guilty of an offence.
  - (b) section 23 of the National Minimum Wage Act 2000 (No. 5 of 2000). This provides that an employer who fails to provide a written statement of an employee's average hourly rate of pay for any pay reference period, or who provides false or misleading information to an employee in a statement knowing it to be false or misleading, shall be guilty of an offence.
  - (c) section 6B of the Terms of Employment (Information) Act 1994 (No. 5 of 1994). This provides that an employer who fails to provide an employee with a statement of terms of employment (required by section 3(1A) of that Act) or provides false or misleading information to an employee, or who is

reckless as to whether or not false or misleading information is provided, shall be guilty of an offence.

- The amount of €750 is prescribed for the purposes of –
  - (a) section 4B (8) of the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022. This provides that an employer who fails to provide an employee with a written statement of the total amount of tips or gratuities distributed by the employer for the period to which the statement relates, and the amount of tips or gratuities distributed to the employee to whom the statement is provided, shall be guilty of an offence.
  - (b) section 4D (2) of the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022. This provides that an employer who describes a charge (including a mandatory charge) imposed on a customer as a ‘service charge’, or uses any similar or cognate term, whether in a tips and gratuities notice or in any other medium, or in any other way leads customers to believe that a mandatory charge shall be distributed to employees, must treat that charge as if it were a tip or gratuity received by an electronic mode of payment. An employer who fails to do so shall be guilty of an offence.
- The amount of €500 is prescribed for the purposes of –
  - (a) section 4E (3) of the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022. This provides that an employer who fails to display a ‘Tips and Gratuities Notice’ in the prescribed form shall be guilty of an offence.
  - (b) section 4F (3) of the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022. This provides that an employer who fails to display a ‘Contract Workers Tips and Gratuities Notice’ in the prescribed form shall be guilty of an offence.

The Workplace Relations Act 2015 (Fixed Payment Notice) Regulations 2015 (S.I. No. 419 of 2015 and the Workplace Relations Act 2015 (Fixed Payment Notice) Regulations 2017 (S.I. No. 32 of 2017) were revoked.

## **OPERATION OF THE ACT**

The Workplace Relations Commission (WRC) is the statutory body with responsibility for enforcing and seeking compliance with the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022.

The objective of the WRC, in its compliance and enforcement function, is to seek to achieve compliance on a voluntary basis and, where possible, to avoid recourse to legal proceedings which are both expensive and time consuming to undertake.

Employees who either do not receive statements of their core terms of employment within 5 days or who receive a statement that is deliberately false, or misleading may refer a complaint to the WRC.

Employees may also refer a complaint to the WRC in relation to

- any unlawful deductions from tips and gratuities.
- any failure to distribute in a manner that is fair in the circumstances tips or gratuities received by the employer by an electronic mode of payment.
- any unlawful retention of any share of tips or gratuities received by the employer electronically, unless such retention is -
  - required by law (e.g., deductions for income tax, PRSI, USC), or
  - to cover the direct costs of distribution (e.g., bank charges), or
  - where the employer regularly performs the same kind of work as the employees, such an amount that is fair having regard to the amount of work performed by the employer.

Where a complaint is upheld, an employee may be awarded compensation not exceeding four weeks' remuneration. An employee must have at least one month's continuous

service with that employer before they are entitled to refer a complaint to the WRC. If an employee feels that their employer has breached any of obligations under the Act, the employee can make a complaint to the WRC. A complaint must be presented within 6 months of the date of the alleged breach.

In considering a complaint under Part 4 of the Workplace Relations Act 2015 regarding whether or not a distribution of tips or gratuities to an employee is fair in the circumstances, a WRC adjudication officer must have regard to all of the factors or circumstances that he or she considers relevant, including—

- (a) the seniority or experience of the employee,
- (b) the value of sales, income or revenue generated for the business by the employee,
- (c) the proportion or number of hours worked by the employee during the pay period in which the tip or gratuity was made,
- (d) whether the employee is on a full-time or part-time contract of employment,
- (e) the role and influence of the employee in providing service to customers,
- (f) whether the employee was consulted in relation to the manner of distribution, and
- (g) whether there is an agreement, whether formal or informal, between the employer and the employee providing for the manner in which tips or gratuities are to be distributed.

Every WRC workplace inspection includes a compliance check to ensure the employer complies with the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022. The data recorded by the WRC between 1 December 2022 and 31<sup>st</sup> January 2024 provides early indications that compliance is high. Approximate figures indicating that out of a total 5,498<sup>6</sup> inspections conducted during the period, the WRC Inspectorate detected a total of 484 contraventions in relation to the requirement to display a Tips and Gratuities Notice (i.e. Sections 4E and 4F). The statutory requirement to display a tips and gratuities notice represents is the area of the legislation where the vast majority of contraventions have been detected by WRC Inspectors.

---

<sup>6</sup> Not all 5,498 inspections fell within the scope of the Act.



WRC Inspectors can deploy a range of interventions depending on the nature of the contravention, the outcome of inspections and associated enquiries, these interventions may include prosecutions under Employment Rights legislation. The WRC Inspectorate's objective is to facilitate voluntary compliance insofar as contraventions are concerned. In this regard, employers are afforded all reasonable opportunity to rectify contraventions and, where relevant, pay any unpaid wages and/or make good on entitlements arising from these contraventions. However, it is the policy of the Commission to issue Compliance Notices or Fixed Payment Notices and/or to initiate legal proceedings in cases where an employer has failed or is unwilling to effect compliance.

Post enactment, during the month of December 2022, the WRC conducted a campaign involving both the Information and Customer Services Unit and the Inspectorate, aimed at highlighting the changes in relation to tips and gratuities under the then newly enacted Act. Targeting both employers and employees in industries commonly associated with tips and gratuities (including hospitality, tourism, hairdressing, taxi, delivery services), the aim of the campaign was to inform employers of their obligations and employees of their rights under the new legislation. During the month, the WRC carried out over 700 site visits as part of the campaign.

The WRC have produced an extensive Information Guide to the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 on their website at [https://www.workplacerelements.ie/en/what\\_you\\_should\\_know/hours-and-wages/tips-and-gratuities/](https://www.workplacerelements.ie/en/what_you_should_know/hours-and-wages/tips-and-gratuities/).

## **STATUTORY REVIEW PROCESS**

A statutory review process was included in the Act that would allow for the impact of the legislation to be assessed once it has been in place for a year, when employees, employers, and customers all have experience of how the legislation works in practice, and to make any changes if required. The review must be completed within six months and laid before the Oireachtas. This will help determine what further changes, if any, may be required.

## **Are Tips and Gratuities and service charges liable to Tax?**

Despite the fact that there is no change in the tax treatment of tips or gratuities and service charges under the Act, significant focus and perhaps confusion has arisen in this area. All tips and gratuities and service charges are chargeable to income tax under Schedule E of the Taxes Consolidation Act (TCA) 1997. Any charge called a ‘service charge’ or anything that would lead a customer to believe it is a charge for service, will have to be distributed to staff as if it were a tip or gratuity received by electronic means and these are also chargeable to income tax.

Tips and gratuities and service charges must be included by employees in their tax returns, (where these have not already been accounted for by an employer or tronc master), and employers or tronc masters’ must deduct tax where they are distributed through payroll / troncs. If customers give cash tips directly to employees or leave them on the table and individual employees keep them without any involvement from the employer, then the employer has no responsibility or liability towards the tax treatment of these tips.

In these circumstances, it is the responsibility of the individual employee to advise Revenue of the amounts of money received by way of tips and gratuities and service charges. The tax will then be recovered by way of an adjustment to the employee’s personal tax position. Also, while tips and gratuities may be perceived as a gift in the sense that it is a voluntary payment, such tips are given as a reward for services rendered during the individual’s employment. This is a key distinction between personal gifts and tips. If the individual was not working in that position or role, they would not have received the tip. Tips are explicitly linked to the service being provided by the recipient in the course of their employment and are not made on grounds purely personal to the individual. They are payments made in return for being an employee. As such, tips cannot be classified as a gift and are therefore assessable to income tax.

---

## Contract Workers and the Act

Employers and platform-style businesses (referred to in the Act as ‘prescribed persons’) to whom the Act applies are required to display information on the manner in which tips or gratuities and mandatory charges are shared or distributed to employees or ‘contract workers’.

A ‘contract worker’ means a natural person who carries out work other than as an employee, including on a contract for service. This definition is necessary to ensure that ‘platform workers’ who are engaged in contracts for services will benefit from tips and gratuities. The contract workers tips and gratuities notice must be displayed on each online digital platform used by ‘prescribed persons’ in such form and manner as to be capable of being easily read by consumers using the online digital platform in connection with a relevant service.

WRC inspectors have powers under section 27 of the Workplace Relations Act 2015 to inspect at ‘platform-style’ businesses to ensure that a contract workers tips and gratuities notice is being properly displayed. A ‘platform-style’ business that contravenes these display obligations shall be guilty of an offence and shall be liable on summary conviction to a Class C fine, currently up to €2,500.

## Unlawful Deductions under the Act

An employer may not retain any share of tips received electronically, unless such retention is required by the Act, which states that “the deduction can only be *“to the extent as is fair and reasonable in order to meet costs directly arising from paying tips or gratuities by means of electronic modes of payment”*.e.g., to pay an employee’s portion of tax, PRSI or USC or bank charges arising from providing electronic modes of tipping, or only where they regularly perform to a substantial degree the same work performed by some or all the employees, such amount that is fair in the circumstances.

Employers cannot use tips and gratuities to make up an employee’s contractual wage. Employees can refer a complaint to the WRC under the Payment of Wages Act in relation an unlawful deduction from tips and gratuities.

## Employee / Employer / Other Stakeholder Responses

The Department of Enterprise, Trade and Employment wrote on 25th January 2024 to twelve stakeholder groups representing employee and employer interests in the sectors to which the Act applies, as part of a statutory review of tips and gratuities in the workplace. The Department also published a public consultation document on its website on a range of topics.

Seven responses were received to the public consultation document from the WRC and from organisations who are representative of employers and workers engaged in the hospitality and hairdressing businesses, as follows:

1. Restaurants Association of Ireland (RAI).
2. Licensed Vintners Association (LVA)
3. Hair and Beauty Industry Confederation (HABIC)<sup>7</sup>
4. UNITE the Union
5. Ibec
6. Small Firms Association (SFA)
7. Workplace Relations Commission (WRC)

The following is a synopsis of their responses to the questions raised:

### **SHOULD ADDITIONAL EMPLOYERS/SECTORS BE COVERED BY THE ACT?**

Representative organisations were asked to comment on whether additional sectors should be covered by the Act that have not already been prescribed or whether some sectors should be removed.

Employer representative organisations do not believe that there is a requirement currently to expand the classes of employers to which the Act applies. Unite welcomes the statutory

---

<sup>7</sup> The Irish Hairdressers Federation had been invited to make a submission. A response was received from the Hair and Beauty Industry Confederation (HABIC).

review of the Payment of Wages Act and hopes that the review will address some of the enforcement issues that are preventing the full impact of this important legislation. The WRC advised that the definition covering food consumed on a premises is too broad and potentially covers certain categories of fast-food outlets which may have a seated area for consumption of the food on its premises but do not provide a table/waiter service.

## **TIPS AND GRATUITIES NOTICE**

Respondents were asked whether, in their experience, statutory display notice requirements are being adhered to; whether the display notice requirements should be altered; and to comment on where is the statutory display notice most predominantly displayed.

Employer representative bodies are satisfied that their members have been made aware of the need to comply with the requirement to have a visible display notice on their premises and are doing so. In cases where the Workplace Relations Commission (WRC) has taken issue with a restaurant's compliance with this statutory requirement, minor alterations around the wording of the notice were all that were deemed necessary to achieve full compliance.

One employer representative body recommended that the Department of Enterprise Trade and Employment or the WRC should produce standard templates or signage, by sector differentiating / hospitality / retail / hairdressing / beauty etc., to facilitate businesses, and that the key point is to communicate to customers that all tips are fully distributed to staff.

One employee representative body advised that the significant changes brought about by legislation (a) securing the tips for employees, (b) the obligation to provide a written statement to employees in relation to the distribution of tips and (c) the requirement to publicly display tips policy, are all welcome but need to be enforced across the board.

WRC advised that during the period from 01/12/2022 to 31/01/2024 (i.e. the relevant period of time since the commencement of the Act) the WRC Inspectorate detected a total of 484 contraventions in relation to the requirement to display a Tips and Gratuities Notice (i.e. Sections 4E and 4F of the Act). The statutory requirement to display a Tips and Gratuities Notice represents, by far, the area of the legislation where the vast majority of contraventions have been detected by WRC Inspectors.

The WRC takes the view that it may be an opportune time to conduct a further information or awareness campaign to reinforce the statutory requirements of the legislation. The WRC also strongly recommends that a standard template be developed for a Tips and Gratuities Notice for employers to use.

### **SHOULD ‘CASH TIPS’ BE INCLUDED MORE UNDER THE ACT?**

While employers are required to include detail on how cash tips are dealt with when displaying their policy towards tips and gratuities, there is no other regulation of ‘cash tips’ under the Act. Representative organisations were asked to comment on whether the requirements under the Act in respect of the distribution of ‘electronic tips’ should be extended to cover ‘cash tips’. If cash tips were to be regulated, representative organisations were asked to comment on how any enforcement challenges would be met, as cash tips may not be traceable or under the control of the employer.

One employer representative body advised that cash gratuities take the form of either being paid directly to a staff member at the table or at the point of delivery of bill (“Direct system”) where an individual staff member retains 100% of tips and gratuities or they are paid in cash to a staff member and subsequently pooled (“Pooling system”). Involving the employer in the pooling system would damage the confidence that staff have in the system and, as a result, staff would be incentivised to encourage customers to pay at the table thereby circumventing the pooling system.

The Workplace Relations Commission advised that based on their inspectors’ experience arising from inspection activity it would appear that, in the vast majority of cases where tips and gratuities are applicable, employers do not have any involvement in cash tips, so enforcing any changes to include cash tips in the legislation would be extremely difficult. Accordingly, the WRC would not be in favour of including cash tips in the legislation on the basis that such a measure would be extremely difficult to enforce.

### **TREATMENT OF “ELECTRONIC TIPS” UNDER THE ACT**

Representative organisations were asked whether, in their experience, employees are receiving all of their “electronic tips” as required under the Act; what payment methods are currently in use when paying or distributing tips to employees; and whether any new mechanisms should be put in place to ensure transparency in the distribution of electronic tips and gratuities among employees.

Employer representative bodies advised that while a common method of payment of electronic tips by customers is by credit/debit card, systems like Strike Pay or Tip Jar are also increasingly being used. Employees in pubs may prefer cash. As pub trading hours are late employees often use their cash tips to pay for their taxi journey home. Some businesses offer cash back to the customer; and it is then up to the customer to tip the staff member directly if they want to.

The Workplace Relations Commission advised that, based on their inspectors' experience arising from inspection activity, there is anecdotal evidence to suggest that a significant number of employers are refusing to accept electronic tips and will only accept cash tips to avoid obligations under the legislation. There is also anecdotal evidence to suggest that customers frequently request "cash back" when paying their bill by electronic means and will then leave an amount in cash by way of a tip for the staff. The treatment of such cash tips would appear to fall outside the scope of the legislation and does not fall within the remit of the WRC to enforce.

### **WHAT ABOUT PLATFORM OR 'CONTRACT WORKERS' AS DEFINED IN THE ACT?**

A 'contract worker' means a natural person who carries out work other than as an employee, including on a contract for service. This definition is necessary to ensure that 'platform workers' who are engaged in contracts for services will benefit from tips and gratuities. Other than the requirement to display a 'Contract Workers Tips and Gratuities Notice', there is no other regulation of contract workers tips and gratuities. Representative organisations were asked whether 'contract workers' should have the same rights under the Act as employees and whether 'contract workers' receive all of their 'electronic tips.

Some employer representative bodies advised that 'contract workers' are not used in their industries. The Workplace Relations Commission advised that they have not encountered any evidence to suggest that 'contract workers' are inadequately protected under the Act.

### **TREATMENT OF "SERVICE CHARGES" UNDER THE ACT.**

Any charge called a 'service charge' or anything that would lead a customer to believe it is a charge for service, is required under the Act to be distributed to staff as if it were a tip or gratuity received by electronic means. The Act also requires businesses to clearly



display their policy on how mandatory charges, including services charges, are distributed, and if so, the manner in which they are distributed and the amounts so distributed. Representative organisations were asked whether ‘service charges’ defined under the Act should be further reviewed, and if so, how.

Employer representative bodies advised that members continue to distribute 100% of service charges to staff; that the definition of service charge is clear; and that there is no particular need for a review. The Workplace Relations Commission advised that they do not consider that there is any requirement to further review the term “service charges” as currently defined under the Act.

### **FAIR DISTRIBUTION OF TIPS AND GRATUITIES.**

Employees and employers were asked to comment on what factors should be considered under the Act when determining whether the distribution of tips and gratuities to an employee is fair.

While some employer representative bodies are satisfied that the existing range of relevant factors, as set out on page 18 of the Public Consultation, are reasonable to them, some believe that the method of the distribution is a matter for the business.

The Workplace Relations Commission advised that in a decision by the WRC Adjudication Services (Ref. No. IR - SC – 00001262), the Adjudication Officer noted that section 4B of the Act places the responsibility for the fair distribution of electronic tips on the employer and the Adjudication Officer considered that the cashing up of such tips and inclusion with cash tips did not meet the requirements of this section.

The Adjudication Officer noted that following the Act, an employer must establish a policy for the distribution of electronic tips. Furthermore, the Adjudication Officer considered that the Act required more detail in the tips and gratuities policy than provided in the employer’s policy. A policy should include: the job title of the person responsible for managing electronic tips and communicating the amount received in tips to employees; the frequency of the calculation and distribution of electronic tips; the employees eligible for electronic tips; and the proportion of tips to be given to each category of employee.

The Adjudication Officer also considered that the employer’s notice to customers fell short of what was required by section 4E (1) of the Act and specifically in not stating the manner in which tips and gratuities are distributed and the amounts distributed. The Adjudication Officer considered that customers “*must be informed how frequently tips are distributed*

*to staff, if they are paid in cash or through wages and the proportion of the tips given to each category of employee”.*

The WRC also drew the Department’s attention to a draft Code of Practice (Code of Practice on Fair and Transparent Distribution of Tips)<sup>8</sup> that is currently out on consultation under similar legislation in the UK which relates to the distribution of tips and gratuities amongst workers i.e. the Employment (Allocation of Tips) Act 2023. WRC believe that this may be of assistance to the Department in terms of its consideration of the statutory review.

### **THE USE OF TRONC SCHEMES IN THE DISTRIBUTION OF TIPS AND GRATUITIES.**

A Tronc scheme is a common fund into which tips or gratuities and service charges are paid to be divided out amongst staff according to a certain formula. An employer has no role in determining the allocation of tips in a Tronc Scheme. Troncs are common in the hospitality and gambling leisure sectors. A ‘troncmaster’ is a person, other than an employer, who is responsible for all arrangements for sharing tips amongst employees and for all aspects of operating a PAYE scheme. A ‘troncmaster’ may be held liable for any failure to deduct tax from payments from the tronc. The operation of tronc schemes is unaffected by the Act.

Representative organisations were asked whether tronc schemes were used in their employment sector. One employer representative body advised that where understood, ‘Tronc Schemes’ operate extremely efficiently and are the preferred option of many members. One key benefit, from the owner’s perspective, is that such schemes keep the owners out of any involvement in the gathering or distributing of tips. It is a matter for the staff themselves. The process is run by staff, supervised by staff, and run separately to the operation of the business.

### **COSTS AND BENEFITS FOR EMPLOYERS AND EMPLOYEES.**

Representative organisations were asked whether any significant costs had arisen for employers under the Act; to what extent employees have benefitted under the Act; and

---

<sup>8</sup> <https://assets.publishing.service.gov.uk/media/657c77151c0c2a000d18ce70/consultation-document-code-of-practice-on-fair-and-transparent-distribution-of-tips.pdf>

whether there are other areas not covered by the Act that would be beneficial to employees' rights.

One employer representative body advised that the Act has formalised the employer's responsibilities in the area of tips and gratuities, offering some welcome clarifications, and has benefitted employees in instances where employers were previously not distributing gratuities in their entirety. Another employer representative body advised that while there is some additional administrative time involved, and some costs in terms of signage etc., generally speaking, these are not substantial.

A further employer representative body advised that the most significant costs for employers are not directly related to the Act but are related to labour costs. The increase in the minimum wage and increases in labour costs due to auto-enrolment, expanded sick pay and the Living Wage has resulted in many businesses seeing labour related costs rise by 20%.

### **THE BENEFIT TO INTRODUCING A CODE OF PRACTICE IN RESPECT OF TIPS AND GRATUITIES.**

Representative organisations were asked whether there was a benefit to introducing a 'Code of Practice' for tips and gratuities for the purpose of promoting fairness and transparency in the distribution of qualifying tips, gratuities, and service charges.

Most employer representative bodies advised that they don't believe there will be any benefit of introducing a code of practice. One, however, would support the development of a code of practice. Such a code should be subject to reviews every few years to keep up with the everchanging landscape of payment systems and technologies. Fundamentally, a good code of practice needs to be worded in a comprehensible way. This way, confusion can be avoided, and the document should be easily accessible to all employees. The code of practice must be regularly updated, and its contents can be communicated during training courses.

The Workplace Relations Commission advised that they believe that there would be benefit to the introduction of a "Code of Practice" for the purpose of promoting fairness and transparency in the distribution of qualifying tips, gratuities, and service charges. It would be a matter for the WRC Advisory Services to determine the content of any Code of Practice in this area in the discharge of duties under Section 20(1) of the Workplace Relations Act 2015 following consultation with appropriate persons including trade unions and employer representative bodies.

## Public Opinion Survey - Summary

The Department of Enterprise, Trade and Employment conducted a Public Opinion Survey between 25<sup>th</sup> January and 29<sup>th</sup> February 2024, as part of the statutory review of tips and gratuities in the workplace. Close to three hundred responses were received with a relatively even split between employees and employers. The vast majority of respondents were engaged in the restaurant / pub business with 224 responses from a total of 289.

### 1. Employment Status

[More Details](#)

[Insights](#)

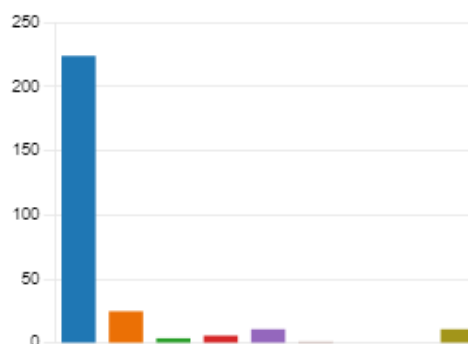
Employee	144
Employer	138
Self-employed	5
Platform Worker	2



### 2. Employment Sector

[More Details](#)

Restaurant / Pub	224
Hotel	25
Guest House / Self-Catering Acc...	4
Retail	6
Hairdressing	11
Taxi / Transport	1
Tour Guides	0
Gaming industry / Bookmakers' ...	0
Other	11



A very small number of respondents worked in sectors not covered by the Act such as bookkeeping, advertising, IT, and Healthcare.

## SHOULD ADDITIONAL EMPLOYERS/SECTORS BE COVERED BY THE ACT?

Respondents were asked to comment on whether other sectors should be covered by the Act that have not already been prescribed. 56% of respondents didn't know. Of those who did express an opinion, 34% were satisfied with the existing sectors covered and 10% felt one or more additional sectors should be covered.

### 3. Should additional employers/sectors be covered by the Act?

[More Details](#)

● Yes	28
● No	97
● Don't Know	161



Some additional sectors mentioned by respondents included the outdoor adventure industry and take-away and delivery drivers. A sector that should be excluded are fast-food retail outlets that facilitate food being consumed on the premises but do not provide a table service, as staff do not routinely receive tips in such workplaces. This is especially important in respect of display notice obligations being placed on employers who serve food but do not provide a staffed table service.

## TIPS AND GRATUITIES NOTICE

Respondents were asked to comment on whether a tips and gratuities notice was displayed at their place of employment. It is interesting to note that while 87% (248) of respondents confirmed that a tips and gratuities notice is displayed, 40% advised that the notice is displayed at each entrance and 53% advised that the notice is displayed in at least one location at which consumers may pay in person for the relevant service. By law, in accordance with Regulations made under section 4E (2) of the Act, tips and gratuities notices must be displayed at both locations in a workplace.

### Is a Tips and Gratuities Notice displayed at your place of employment?

[More Details](#)

[Insights](#)

- Yes 248
- No 37



### 6. Where is the Tips and Gratuities Notice displayed?

[More Details](#)

- At each entrance by which cons... 124
- In at least one location at which ... 162
- On each website, mobile applica... 21



The survey advised that every employer is required to display information on the manner in which tips or gratuities and mandatory charges are shared or distributed to employees. The information to be displayed must state whether tips or gratuities are distributed to and amongst employees; the way they are distributed and the amounts so distributed; whether mandatory charges, or any portion of them are distributed to and amongst employees, and if so, the way they are distributed and the amounts so distributed.

Respondents were asked whether, in their experience, statutory display notice requirements are being adhered to. 80% (221) respondents were satisfied that display notices were being adhered to and 20% did not believe so.

### In your experience are the statutory display notice requirements being adhered to?

[More Details](#)

- Yes 221
- No 56



Respondents were asked whether, in their experience, display notice requirements should be altered and, if so, how. One respondent stated that they should be altered by explaining exactly how each premises divides their tips, so it is clear to customers and the employees alike.

Another respondent advised that display notice requirements need to be simplified, and templates should be made available via the WRC website. Another stated that it should be sufficient to state that the legislation is being adhered to with no requirement for detail. Another stated notices should not be displayed as they put customers under pressure to give tips. Another stated that one place for customers to see the display notice is fine.

Another respondent stated that restaurants are already required to have numerous mandatory signs by various sectors. Another stated that in each bill booklet that goes to the customer there should be a little card explaining how the tips are divided.

### SHOULD 'CASH TIPS' BE INCLUDED MORE UNDER THE ACT?

While employers are required to include detail on how cash tips are dealt with when displaying their policy towards tips and gratuities, there is no other regulation of 'cash tips'. However, respondents were asked to comment on whether the requirements under the Act in respect of the distribution of 'electronic tips' should be extended to cover 'cash tips'. The overwhelming response from respondents was 'No' with 87% (218) of respondents who expressed an opinion not in favour.

#### Should the manner by which 'electronic tips' are distributed be extended to cover 'cash tips' under the Act?

[More Details](#)

[Insights](#)

Yes	33
No	218
Don't Know	52



Respondents were also asked if cash tips were to be regulated, how would any enforcement challenges be met, as cash tips may not be traceable or under the control of the employer. Some suggested a central area for cash tips, or that all tips should be

recorded (cash or electronic) through a designated portal. Another mentioned that customers leave a tip on the card machine and employees take it out of the till and place it in their cash tip-jar.

Another respondent believed that cash tips should be treated as a gift to staff and should be treated accordingly. Another respondent stated that due to uncertainty around taxation of tips, employees insist on cash, and this makes transparency difficult.

## TREATMENT OF “ELECTRONIC TIPS” UNDER THE ACT

With an ever-increasing number of ways of ‘tipping’ using ‘cash-less’ and ‘contact-less’ apps, the payment of tips by electronic means may well become the predominant way of tipping staff into the future. And so, respondents were asked if they believed employees were receiving all of their ‘electronic tips’ as required under the Act. 89% believed that electronic tips were being distributed and 11% thought this was not the case.

**In your experience, are employees receiving all of their ‘electronic tips’ as required under the Act?**

[More Details](#)

[Insights](#)

● Yes	209
● No	25
● Don't Know	49



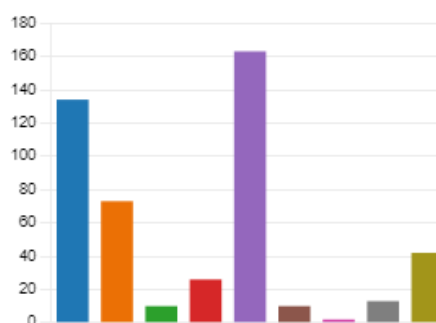
Respondents were asked to identify which payment methods are currently in use when paying or distributing tips to employees. The largest at 39% (163) was cash tips through a tip-jar. The next was by debit / credit card at 32% (134) and the next by using a smart card at 17% (73) with all other types at 11% (48). Interestingly, all payment types were being used.



**12. In your experience, what payment methods are currently in use when paying or distributing tips to employees?**

[More Details](#)

● Credit / Debit card	134
● Smart Phone/Card e.g. Revolut	73
● Strikepay	10
● JustTip / Tip-Jar (Electronic Tips)	26
● Tip-Jar (Cash)	163
● QR Codes	10
● Push-notification apps.	2
● Don't Know	13
● Other	42



One respondent stated that the employers that they knew are refusing to deal with electronic tips, operating cash only, so the staff are losing out on possible electronic tips. Another respondent stated that they noticed that employers are going away from electronic tips due the hassle, most are going to cash only tips. A further stated clarity was required on the position of employers converting cashless tips into cash using cash back from the till as it is difficult trying to enforce this when employees are unable to clarify for the employer whether this scenario would constitute it being a cash tip or not.

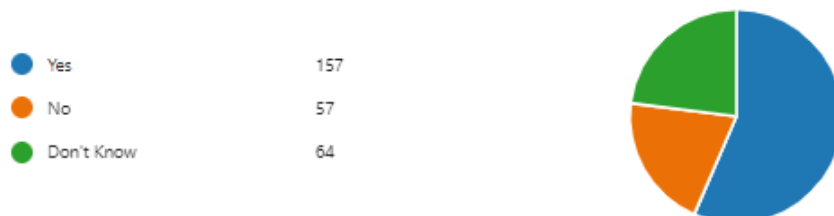
### **WHAT ABOUT PLATFORM OR 'CONTRACT WORKERS' AS DEFINED IN THE ACT?**

A 'contract worker' means a natural person who carries out work other than as an employee, including on a contract for service. This definition is necessary to ensure that 'platform workers' who are engaged in contracts for services will benefit from tips and gratuities. Other than the requirement to display a 'Contract Workers Tips and Gratuities Notice', there is no other regulation of contract worker tips and gratuities.

Respondents were asked whether 'Contract Workers' should have the same rights under the Act as employees. Of those who expressed an opinion, 73% (157) agreed and 27% (57) felt contract workers did not require further regulation of their tips and gratuities.

**Should ‘Contract Workers’ have the same rights under the Act as employees?**

[More Details](#)



Respondents were asked, based on their experience, whether ‘contract workers’ receive all of their ‘electronic tips. A significant 58% (160) of respondents had no experience of platform worker tips and gratuities. Of those who did have experience, 34% (94) believed that contract workers are receiving all of their ‘electronic tips’ while 7% (20) felt they were not.

**14. In your experience, are ‘Contract Workers’ receiving all of their ‘electronic tips’?**

[More Details](#)



One respondent advised that they would much prefer if the Government put more energy into protecting Deliveroo workers.

**TREATMENT OF “SERVICE CHARGES” UNDER THE ACT.**

Any charge called a ‘service charge’ or anything that would lead a customer to believe it is a charge for service, is required under the Act to distributed to staff as if it were a tip or gratuity received by electronic means. The Act will also require businesses to clearly display their policy on how mandatory charges, including services charges, are distributed, and if so, the manner in which they are distributed and the amounts so distributed.

Respondents were asked, based on their experience, whether employees receive all of their ‘service charges’. 33% (92) of respondents had no experience of receiving service charges. Of those who did have experience, 59% (165) believed that contract workers are receiving all of their ‘service charges’ while 8% (22) felt they were not.

**In your experience, are employees receiving all of their ‘service charges’ as required under the Act?**

[More Details](#)

[Insights](#)

● Yes	165
● No	22
● No Experience	92



Respondents were asked whether using the term ‘service charges’ should be prohibited under the Act. 63% (168) believed that the term should not be prohibited while 37% (97) believed that it should.

**16. Should the use of the term ‘service charges’ be prohibited under the Act?**

[More Details](#)

[Insights](#)

● Yes	97
● No	168



**FAIR DISTRIBUTION OF TIPS AND GRATUITIES.**

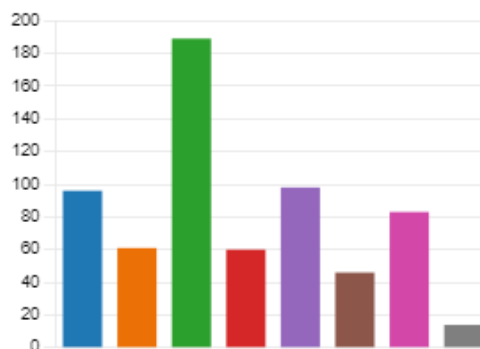
Employees and employers were asked to comment on what factors should be considered under the Act when determining whether the distribution of tips and gratuities to an employee is fair.

One comment stated that employers working in the kitchen or on a restaurant floor where they actively work alongside their employees’ generating tips and gratuities should have the option to receive tips in a fair manner if divided evenly among staff. This is provided for under the Act under the new section 4B (3) of the Act which states that an employer may retain a share of tips or gratuities received by the employer by an electronic mode of payment where that employer (i) regularly performs, to a substantial degree, the same work performed by some or all of the employees, and (ii) retains a share of tips or gratuities received by an electronic mode of payment that is no more than an amount that is fair and reasonable in the circumstances having regard to the amount of such work so performed by that employer.

**What are the factors that should be considered under the Act when determining whether the distribution of tips and gratuities to an employee is fair?**

[More Details](#)

- the seniority or experience of th... 96
- the value of sales, income or rev... 61
- the proportion or number of ho... 189
- whether the employee is on a fu... 60
- the role and influence of the em... 98
- whether the employee was cons... 46
- whether there is an agreement, ... 83
- Other 14

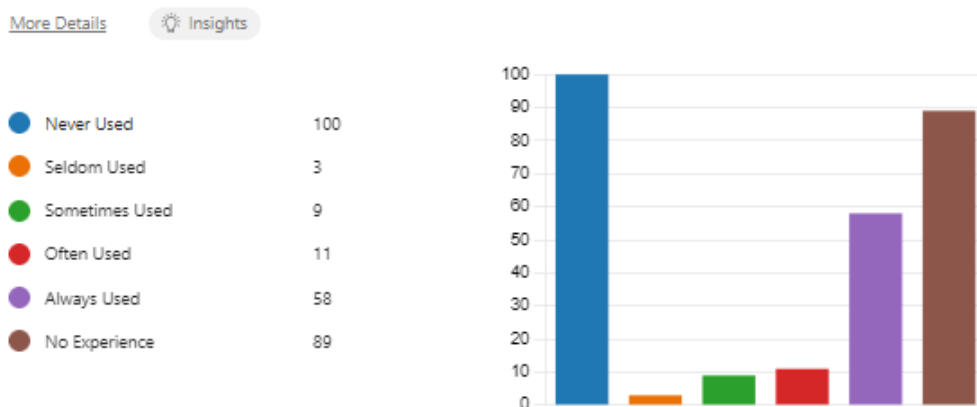


**THE USE OF TRONC SCHEMES IN THE DISTRIBUTION OF TIPS AND GRATUITIES.**

A Tronc scheme is a common fund into which tips or gratuities and service charges are paid to be divided out amongst staff according to a certain formula. An employer has no role in determining the allocation of tips in a Tronc Scheme. Troncs are common in the hospitality and gambling leisure sectors. A ‘troncmaster’ is a person, other than an employer, who is responsible for all arrangements for sharing tips amongst employees and for all aspects of operating a PAYE scheme. A ‘troncmaster’ may be held liable for any failure to deduct tax from payments from the tronc. The operation of tronc schemes is unaffected by the Act.

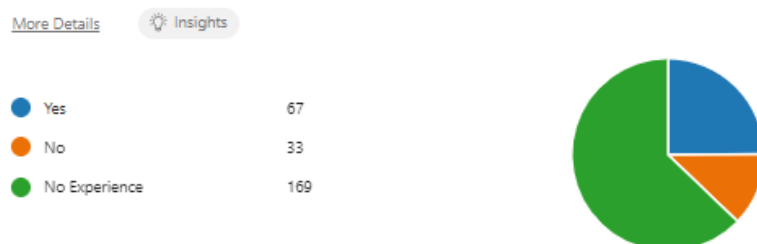
Respondents were asked to state whether tronc schemes were used in their employment sector. 70% (189) of respondents had no experience or have never used tronc schemes; 26% (69) use or have used tronc facilities; and 4% (12) have sometimes or seldom used tronc schemes.

**A Tronc scheme is a common fund into which tips and gratuities are paid to be divided out amongst staff according to a certain formula. An employer has no role in determining the allocation of tips in a Tronc Scheme. If used in your place of work, to what extent are 'Tronc Schemes' used in the distribution of tips and gratuities to employees?**



Respondents were asked whether the operation of tronc schemes should be incentivised e.g., be exempt from PRSI? 63% (169) of respondents had no experience; 25% (67) believed that some form of incentive would be helpful and 12% (33) felt incentives would not be helpful. One respondent stated that employer PRSI on tips is a major cost to the employer - this is not the case in the UK where employer PRSI on tip distribution in 'Tronc schemes' is waived as this is a transaction between the guest and the server.

19. A 'troncmaster' is a person, other than an employer, who is responsible for all arrangements for sharing tips amongst employees and for all aspects of operating a PAYE scheme. A 'troncmaster' may be held liable for any failure to deduct tax from payments from the tronc. If used in your place of work, should the operation of 'Tronc Schemes' by a troncmaster in the distribution of tips and gratuities to employees be incentivised in some way e.g., be exempt from PRSI?



Respondents were asked whether the use of ‘Tronc Schemes’ in the distribution of tips and gratuities was beneficial to employees/employers. 59% (159) of respondents had no experience; 31% (85) believed that they would be helpful and 10% (26) felt they would not be helpful.

**20. Is the use of ‘Tronc Schemes’ in the distribution of tips and gratuities beneficial to employees/employers?**

[More Details](#)

[Insights](#)

<span style="color: blue;">●</span> Yes	85
<span style="color: orange;">●</span> No	26
<span style="color: green;">●</span> No experience	159



Respondents were asked how the use of ‘Tronc Schemes’ is beneficial to employees/employers, based on a set of defined options. 47% (139) of respondents had no experience; 24% (72) believe that they help with fairness; 22% (66) believe that they help with transparency; and 4% (11) believe that they help with reducing costs.

**21. If so, how is the use of ‘Tronc Schemes’ beneficial to employees/employers?**

[More Details](#)

<span style="color: blue;">●</span> Transparency	66
<span style="color: orange;">●</span> Fairness	72
<span style="color: green;">●</span> Cost	11
<span style="color: red;">●</span> No Experience	139
<span style="color: purple;">●</span> Other	7



## COSTS AND BENEFITS FOR EMPLOYERS AND EMPLOYEES.

Respondents were asked whether any significant costs had arisen for employers under the Act. 30% (90) of respondents believe that display notice obligations have increased employer costs; 24% (74) believe that the cost of distributing electronic tips have increased such costs; 23% (70) believe that the providing employees with a written statement of tips and gratuities has increased employer costs; and 15% (47) believe that the obligation to provide employees with a new or revised statement of terms of employment has increased employer costs.

### Have any significant costs arisen for employers under the Act?

[More Details](#)

● Display Notice Obligations	90
● Distribution of Electronic Tips	74
● Written Statement of tips and gr...	70
● Written Statement of Terms of E...	47
● Other	24



One respondent stated that it costs the employer €100 per week to pay a 'tronicmaster' to distribute tips fairly. Another respondent stated that the greatest cost is when people add the tip to the charge and there is a merchant service charge for this, but the employee gets the gross amount. However, this is provided for under the Act under the new section 4C (b) (ii) of the Act which states that an employer may retain a share of tips or gratuities received by the employer to the extent as is fair and reasonable in order to meet costs directly arising from paying tips or gratuities by means of electronic modes of payment.

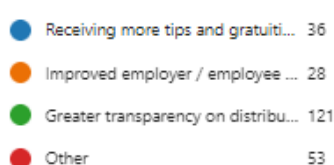
Another stated that an employer's tips and gratuities policy has to be written into all employee's contracts, which takes up a lot of office time. However, this is also provided for under the Act as the obligation to provide new contracts of employment only arises for new employees or where an employee so requests.

## HAVE EMPLOYEES HAVE BENEFITTED UNDER THE ACT.

Respondents were asked whether employees have benefitted under the Act. 51% (121) of respondents believe that the Act has led to greater transparency; 15% (36) believed that staff were receiving more tips and gratuities; and 12% (28) felt that employee / employer relationships had improved. One respondent believed that some customers are tipping less.

### 24. Have employees benefitted under the Act, and if so, how?

[More Details](#)



## THE BENEFIT TO INTRODUCING A CODE OF PRACTICE IN RESPECT OF TIPS AND GRATUITIES.

Respondents were asked whether there was a benefit to introducing a 'Code of Practice' for tips and gratuities for the purpose of promoting fairness and transparency in the distribution of qualifying tips, gratuities, and service charges. 35% (93) of respondents did not know whether a code of practice would be beneficial; 32% (84) believed a code of practice would be beneficial and 32% (85) believed that it would not. One respondent commented that codes of practice are not actionable in their own right and can only be used in evidence. Another respondent stated that the company they work for is larger than most involved in hospitality, and they spend time discussing with the staff about the fairest way to distribute tips. A code of practice or suggested guidelines for distributing tips would help.



**Is there a benefit to introducing a 'Code of Practice' for tips and gratuities for the purpose of promoting fairness and transparency in the distribution of qualifying tips, gratuities, and service charges?**

[More Details](#)

● Yes	84
● No	85
● Don't Know	93



**RESPONDENT PROFILES AND LOCATIONS.**

Respondents were asked to indicate their age profile. 45% (121) of respondents were aged 36 to 50; 20% (54) were aged 51 to 60; a further 20% (53) were aged 26 to 35; 8% (23) were aged 16 to 25; and 7% (20) were aged 61 or over.

29. Profile

**Age Profile**

[More Details](#)

● 16 - 25	23
● 26-35	53
● 36-50	121
● 51 – 60	54
● 61 or over	20



Respondents were asked to indicate their location profile. 37% (102) of respondents were based in Dublin; 15% (40) were based in the cities of Cork/Galway/Limerick/Waterford; a further 23% (63) were based in the Leinster Region; 15% (40) were based in the Munster Region; 7% (18) were based in the Connacht Region; and 4% (12) were based in Donegal/Cavan/Monaghan.

## Conclusion

The Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 brought, for the first time in Ireland, clarity, and transparency to how tips, gratuities, and mandatory charges are treated. This benefits both workers, particularly in the hospitality sector, and customers. Employees have recourse to the WRC if they feel they have been unfairly treated in relation to the distribution of tips and gratuities. The inclusion of a review process has allowed the impact of the legislation to be assessed once it has been in place for a year and to make any changes required.

The responses from stakeholders and responses to the public opinion survey conclude that broadly, the Act is meeting its objectives. The Regulations made under the Act, which currently define the sectors to which the Act applies, may need to be modified to exclude fast-food outlets (including the large multiple fast-food chains) which may have seated areas for consumption of food on their premises, but which do not provide a table/waiter service. As this proposal for the exclusion of fast-food retail outlets was only raised by a single respondent, further work and engagement are needed to ascertain whether there is a requirement to amend the legislation. There are examples of fast-food retail outlets with a hybrid take-away/dining models, and it would therefore be important to avoid any unintended consequences of excluding any members of its workforce with premature amendments.

The sectors to which the Act applies will be kept under review and consideration will be given to making more specific sample display notices available for each defined sector to ensure a consistent approach across the range of businesses required to comply with this legislation. The Department of Enterprise Trade and Employment will consult with the WRC to progress developing an agreed standard display notice template.

There are no changes recommended to the Act.