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Republic of Ireland Head Office
Jackie Pollock, Regional Secretary

Unite Hospitality Branch Position on the Treatment of Service Charges

PAYMENT OF WAGES (Amendment) (Tips and Gratuities) BILL

14th April 2022

Unite welcomes all attempts to improve workers' rights and we are grateful to the Tánaiste for seeking our views regarding the treatment of service charges in the Hospitality sector.

In recent months we have seen that improvements in working conditions in the Hospitality sector are not only crucial for employees, but essential for the sector itself in maintaining the high standards the service industry in Ireland is internationally renowned for.

Unite the Union research carried out in June 2021, shows that 'tip theft' is a common and raging issue in the sector. This is the reason why the regulation proposed by the government is so important and will have a beneficial value for thousands of workers in Hospitality as well as giving much needed clarity to every person who interacts with the industry daily (link to survey [here](#)).

Unite understands the challenges this legislation is facing. It is extremely difficult to protect every aspect of tips and avoid all unwanted consequences.

There are challenges to be overcome regarding cash tip protection, tax, but the legislation at the moment is significantly flawed regarding 'mandatory service charges'. As your invite letter to the meeting sets out, clarity is the key to protecting workers, customers, and businesses acting in good faith.

Currently service charges in Ireland, in most establishments, are optional. The proposed mandatory service charge is an attempt to differentiate service charges from tips by removing one of the main characteristics of tips and gratuities which is voluntary as opposed to mandatory for service charges.

WHO IS THIS PROTECTION WRITTEN FOR AND WHAT IS TO BE ACHIEVED BY IT?

The proposed legislation must be focused on the protection of workers' tips, given as they are by grateful customers. To be effective, the legislation must ensure workers receive all monies intended for them by customers whether by cash, credit cards or service charges.

In short, it is essential that there is clarity on where a customer's money is going and also that all workers will have their tips protected in legislation.

Recently Unite has come to understand that some restaurants are introducing service charges on every table. This is affecting the amount of tips received by workers as customers are reluctant to leave a tip on the top of service charges. This is one of the reasons why the proposed legislation needs to be precise in that it is the protection of workers' legal rights to their tips/service charges that is essential and not unintentionally given free rein to some employers to further abuse and engage in dishonest practices that only create profit for employers at the expense of employees and customers.

Service charges are so called because they are for the 'service' provided. Customers generally believe that service charges go to the workers because it is called a 'service charge'. If employers see a need to introduce an extra charge on top of their prices which do not go to employees, for the sake of clarity it should be given its proper title of 'business charge' or 'employer charge'.

As the legislation currently stands service charges are instead a lucrative 'top up' to an employer's profits. This is bizarre. After all each business's running costs are already factored into the establishment's price list which is calculated solely by the employer. There is no need, in fact it is dishonest to customers, to have a second extra charge added to bills which customers believe is for employees. It is fundamentally dishonest to then label such a charge a 'service charge' unless it is guaranteed to go to the server.

THE ECONOMY

Service charges in Ireland were traditionally imposed on tables of six or more. From the perspective of the business, six separate people will create the same or less profit than if there is one table of six or three tables of two. In fact, large groups tend to spend more. It is essential to remember that the only reason why service charges were introduced on large tables was to ensure workers wouldn't be left with little or no tips after catering for a large group. They have no other logical purpose.

Customers intend to give service charges to workers, not to employers. The public is fully aware of the struggle low paid Hospitality workers are facing due to the pandemic, low pay, and poor working conditions and raging inflation.

Service charges and tips are a crucial means of improving the low income of many workers in Hospitality. It is widely accepted that the Hospitality industry in Ireland has some of the lowest paid workforce in the Irish economy and any opportunity to improve the working conditions of those employed by the sector, let alone to make the sector an attractive career choice, should be taken.

Government are constantly seeking methods of relieving the cost of living on vulnerable people. This legislation provides that opportunity with zero cost to the public purse simply by clearly legislating for the service charges that customers intend for low paid workers in Hospitality to go to them.

SUMMARY

This legislation must ensure that service charges are distributed to workers for the following reasons:

- To provide clarity for customers;
- To improve workers and consumer rights;
- To ensure monies given as tips reaches those it was intended for; and
- To improve the lives of thousands of workers

ENDS

Julia Marciak
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Hospitality & Tourism Branch Secretary

14th April 2022