

Gratuities Guidebook

Labour Act (2021 Revision)

gov.ky/dlp

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**Department of
Labour and Pensions**
Cayman Islands Government

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Disclaimer: This guidebook is part of a public education campaign and is intended to provide general information about gratuities under the Labour Act (2021 Revision) and the relevant regulations. It does not cover every provision of the Act or regulations and should not be treated as legal advice. The guidebook may be updated when the legislation or applicable requirements change. Persons with detailed or case-specific legal questions should consult a qualified attorney. For general information about gratuities, contact the Department of Labour and Pensions at dlpgrats@gov.ky

Introduction

The collection and distribution of gratuities in the Cayman Islands is governed by the Labour Act (2021 Revision) and the applicable gratuity regulations.

Businesses that collect gratuities must ensure that the money is properly recorded, distributed to eligible employees and reported to the Department of Labour and Pensions.

Before a business begins collecting or distributing gratuities, it must have an approved gratuity distribution scheme registered with the Director of the Department of Labour and Pensions.

This guidebook explains:

- which businesses and employees are covered by the gratuity requirements;
- how gratuities must be distributed;
- the approved methods of distribution;
- how a business can register a gratuity scheme;
- the records and reports that must be maintained;
- how the Department monitors compliance;
- how an approved scheme can be amended or de-registered; and
- the penalties that may apply when the requirements are not followed.

Making a Gratuity Complaint

Any person who has a concern about the collection or distribution of gratuities may contact DLP. A complaint may relate to matters such as:

- Undistributed or late gratuities;
- Exclusion from a gratuity scheme;
- Incorrect share calculations or records; or
- Gratuities collected without approval.

Complaints may be emailed to dlpgrats@gov.ky or made by appointment at DLP:

2nd Floor, Midtown Plaza, George Town
Monday to Friday, 9:00 a.m.–4:00 p.m.

A person submitting a complaint should provide as much relevant information as possible. This may include the name of the business, the period affected, the nature of the concern and any available records or supporting documents.

Understanding Gratuities

Gratuity

Gratuity means money or anything else of value collected or received from a customer in addition to the basic amount they are required to pay. It is collected in relation to the service provided and includes any fixed percentage or other amount added to a customer's bill for service at a hotel, condominium, restaurant, licensed premises or other place of entertainment.

As defined in the Act:

“gratuity” means any money or other thing of value collected or received from a customer or client of any business which is in excess of the basic contractual liability of that customer and is, or is purported to be, collected or received in respect of the quality of service afforded to that customer and, without prejudice to the generality of the foregoing, includes any sum whether calculated on the basis of a fixed percentage or otherwise, levied on the amount charged to the customer of any hotel, condominium, restaurant, licensed premises or other place of entertainment, and expressed to be in respect of service.

Service Employer

Service employer means an employer operating a hotel, condominium, restaurant, licensed premises or other place of entertainment that collects or receives gratuities for services provided by the business.

Businesses may contact the Department of Labour and Pensions for clarification on whether they are permitted to collect gratuities.

As defined in the Act:

“service employer” means an employer carrying on the business of a hotel, condominium, restaurant, licensed premises or other place of entertainment where the employer collects or receives gratuities in respect of services provided by the business.

Service Employee

Service employee means an employee of a service employer who works in the Cayman Islands and falls within a class or description of employees entitled to gratuities under the regulations.



What Customers Should Know

Gratuities are commonly added to bills for services provided by certain businesses, including hotels, condominiums, restaurants, licensed premises and other places of entertainment.

A gratuity is an amount collected or received from a customer in addition to the basic amount charged for the service provided. It may be shown as a fixed percentage or another amount on a bill, menu, price list or other customer document.

The gratuity rate must be displayed

Where a business collects gratuities, the applicable gratuity rate must be clearly displayed where customers can easily see it.

The rate may be shown on a:

- menu;
- price list;
- bill;
- brochure; or
- other customer notice.

Is a customer required to pay gratuity?

The inclusion of a gratuity on a customer's bill does not automatically create a contractual obligation for the customer to pay it.

A business may state that the gratuity is shown at the minimum rate recommended by the Government and that payment is discretionary.

Where does the gratuity go?

Businesses that collect gratuities must operate an approved gratuity distribution scheme registered with the Department of Labour and Pensions (DLP).

All gratuities collected or received must be distributed among eligible service employees in accordance with the approved scheme.

Gratuities must be distributed:

- twice each month;
- on the same day employees receive their wages or salaries; and
- according to the distribution method

approved by the Director of the Department of Labour and Pensions.

How are gratuities distributed?

Businesses may use different approved methods to distribute gratuities among eligible employees.

The method used will depend on the approved gratuity scheme for that establishment and may take into account factors such as:

- employee sales;
- shifts worked;
- hours worked; or
- points assigned to eligible positions

Customers are not expected to calculate or determine how gratuities are distributed. The business is responsible for ensuring that gratuities are recorded and distributed in accordance with its approved scheme.

How can I check whether a business has an approved gratuity scheme?

DLP maintains a list of approved gratuity registrations, which is available to the public on gov.ky/dlp on the publications page.

Customers may use this list to confirm whether an establishment is registered to collect and distribute gratuities.

What happens after a gratuity is collected?

Businesses operating an approved gratuity scheme must keep records showing the gratuities collected and how they were distributed.

Records must include information such as:

- the service provided;
- the amount charged;
- the gratuity shown
- the amount of gratuity received; and
- points assigned to eligible positions
- the date or period in which the service was provided.

Registered service employers must also submit monthly reports to the Department of Labour and Pensions showing the gratuities received and how they were distributed.

Employees Entitled to Receive Gratuities

All employees of the service employer, excluding those employed at a managerial level, are entitled to participate in the distribution of gratuities. An employee's eligibility does not depend on whether the employee is paid a salary, hourly wage, or another form of remuneration.

Employees who are considered managerial

For gratuity purposes, an employee is considered to be working at a managerial level where the employee performs the functions of a manager, director or chief.

An employee may also be considered managerial where the employee supervises or controls all or part of an area of the business.

Employees working in managerial or supervisory positions in these areas are not entitled to participate

in the distribution of gratuities.

When an employee's entitlement begins

A service employee is entitled to participate in the distribution of gratuities collected for services provided after the employee began working as a service employee at the premises.

Employees who leave the business

An employee who stops working for the business remains entitled to receive their share of any gratuities collected for services provided before the employee stopped working as a service employee.

An employer must therefore ensure that former employees receive any gratuity payments that they earned before their employment ended.

Collecting and Distributing Gratuities

Approval is required before gratuities are collected

A person or business that intends to collect and distribute gratuities must first obtain approval and register a gratuity distribution scheme with the Director of the Department of Labour and Pensions.

Collecting or distributing gratuities without this required approval is a breach of the Labour Act. Cases of non-compliance may be referred to the Office of the Director of Public Prosecutions with a recommendation that charges be considered.

Businesses that do not collect gratuities

Where a service employer does not collect or distribute gratuities, DLP recommends that the establishment confirm this to the Department each year. A standard declaration form is available on DLP's website at gov.ky/dlp.

All gratuities must be distributed

A service employer must distribute all gratuities collected or received among the eligible service employees.

Gratuities must be distributed:

- twice each month;
- on the same day employees receive their wages or salaries; and
- according to the scheme approved and registered by the Director.



Approved Gratuity Distribution Methods

A business must identify how gratuities will be divided among eligible employees. The proposed method must be included in the registration application and approved by the Director before it is used.

There are four approved methods of gratuity distribution.

Volume of Sales Method

The Volume of Sales Method is generally used for front-of-house employees, such as servers. Under this method, the employee receives a set percentage of the gratuities generated from their total sales during the gratuity period.

The remaining gratuities are placed into a pool and distributed to eligible back-of-house employees using another approved method.

Volume of Sales Example:

If an employee makes \$4,100 in sales and the gratuity rate is 10%, they would receive \$410 in gratuities. If they worked 90 hours, their hourly gratuity rate would be \$4.56 per hour.

Shift Point Method

Under the Shift Point Method, the employer assigns a number of points to each eligible position.

The number of points assigned to each position is determined by the employer and must form part of the approved distribution scheme. The points assigned to the employee's position are multiplied by the number of shifts the employee worked during the gratuity period.

The employee's share is then calculated based on the total number of points earned by all participating employees.

This method may be used for all eligible employees.

Shift Point Example:

If a server with a point value of 6 who works 10 shifts earns 60 gratuity points. If each point is worth \$6.96, the employee receives \$417.60 in gratuities. If they worked 90 hours, this equals an hourly gratuity rate of \$4.64.

Hourly Point Method

The Hourly Point Method also uses points assigned to each eligible position. However, instead of multiplying the points by the number of shifts worked, the points are multiplied by the number of hours worked during the gratuity period.

The employee's share is calculated using the total points earned by all participating employees. This method may be used for all eligible employees.

Hourly Point Example:

If a Chef with a point value of 4 who works 90 hours earns 360 gratuity points. If each point is worth \$0.98, the employee receives \$352.80 in gratuities, equal to an hourly gratuity rate of \$3.92.

Hourly Method

Under the Hourly Method, gratuities are distributed based only on the number of hours each eligible employee worked during the two-week gratuity period.

Employees who work more hours during the period will generally receive a larger share of the available gratuities.

Hourly Example:

If total gratuities are \$1,597.40 and employees worked a combined 543 hours, the hourly gratuity rate is \$2.94. An employee who worked 90 hours would receive \$264.76 in gratuities.

Visit gov.ky/dlp to view sample reports for each of the approved gratuity distribution methods.

Comparing the approved methods

Method	Generally used for
Volume of Sales	Front-of-house employees
Shift Point	All eligible employees
Hourly Point	All eligible employees
Hourly	All eligible employees

Registering a Gratuity Distribution Scheme

A business must complete the registration process before it begins collecting or distributing gratuities.

Step 1: Obtain the registration form

The Gratuity Distribution Scheme Registration Form is available from the Department of Labour and Pensions.

The form may be obtained:

- from the DLP website at gov.ky/dlp; or
- by emailing dlpgrats@gov.ky.

Step 2: Complete the registration form

The business must provide all information requested on the form. This includes information about the business, its employees, the gratuity percentage and the proposed method of distribution.

The information provided should clearly explain how gratuities will be calculated and divided among eligible employees.

Step 3: Prepare the supporting documents

The completed application must be submitted with the required documents.

Applications should be carefully reviewed before submission. Incomplete applications will not be accepted.

Step 4: Submit the application

The completed registration form and supporting documents should be emailed to: dlpgrats@gov.ky

Step 5: Review and determination

Once all required information and supporting documents have been received, the Department will review the application.

The registration will be sent to the Director of the Department of Labour and Pensions for a determination within 30 days of receiving the complete application.

The business must not begin collecting or distributing gratuities until approval has been granted.

Required Document	Information to be Provided
Trade and Business Licence	A valid licence for the establishment
Sample Gratuity Report	An example showing how gratuities will be recorded and distributed
Menu or Customer Document	A copy showing the gratuity percentage, identified as a gratuity and not a service charge
Staff List	The name or relevant details of employees, including their positions and wages or salaries
Employee Acceptance Letter	Confirmation that employees have been informed of and accepted the proposed scheme
Authorisation Letter	Required where another person will act on behalf of the establishment
Identification	Identification for the owner or owners and the authorised representative

Operating an Approved Gratuity Scheme

Once a scheme has been approved, the employer must operate it according to the terms of the approval and the requirements of the Labour Act.

Paying wages and gratuities

Employees participating in the approved scheme must receive at least CI\$6.56 per hour.

Employees must also receive all gratuities earned under the approved distribution method.

Important - Gratuities must not be used to supplement or offset wages to meet the applicable national minimum basic wage. The basic wage is the employer's responsibility. Gratuity payments must be paid separately from the employee's required basic wage.

Distribution schedule

Gratuities must be distributed twice each month on the same day that employees receive their wages or salaries.

The employer must use the distribution method approved by the Director.

The employer should ensure that each employee can clearly identify the amount received as gratuity.

Informing employees about the scheme

The employer must provide eligible service employees with a copy of the approved gratuity scheme.

Employees should be able to understand:

- the method used to distribute gratuities;

- how their individual share is calculated;
- the period covered by each distribution;
- when gratuities will be paid; and
- where they can raise questions or concerns.

Displaying the gratuity rate to customers

The gratuity rate must be displayed where customers can easily see it.

The rate may be shown on a menu or another document that customers would normally read, such as a price list, bill, brochure or customer notice.

Minimum gratuity rates

The Cabinet may prescribe a minimum gratuity rate for certain businesses or business activities.

Different rates may be established for different types of businesses or activities. Where a minimum rate applies, the business must show or include a gratuity at a rate that is not lower than the prescribed amount.

The Cabinet may provide a written exemption to a specific business where the business does not collect or receive gratuities.

Is the customer required to pay the gratuity?

Including a gratuity on a customer's bill does not automatically create a contractual obligation for the customer to pay it.

A business may state that the gratuity is shown at the minimum rate recommended by the Government and that payment is discretionary.



Amending an Approved Scheme

A business must request an amendment when it wishes to change information that forms part of its approved gratuity registration.

An amendment may be required where the business proposes to change:

- Distribution method
- Gratuity percentage
- Ownership
- Business identity - A change to the approved business name
- Other approved information - A material change to the registered scheme

Minor changes may not require a formal amendment application. The employer should discuss the proposed change with a Gratuity Officer before applying.

Amendment application process

The employer must complete the [Gratuity Distribution Scheme Amendment Request Form](#) available at gov.ky/dlp/forms.

The completed form should be submitted with:

Supporting Document	When Required
Updated Trade and Business Licence	To confirm the current business details
Sample gratuity report	To show how the amended scheme will operate
Updated staff list	To show employee positions and wages or salaries
Employee acceptance letter	To confirm employees have been informed
Updated authorisation letter	Where the authorised representative has changed

The request may be emailed to dlpgrats@gov.ky or delivered to the Department of Labour and Pensions at 2nd Floor, Midtown Plaza, George Town, Grand Cayman.

Incomplete applications will be refused and returned.

Once the completed amendment form and supporting documents have been received, the application will be reviewed within 30 days.

Where the amendment is approved, the Director will issue an official amendment letter. The employer must not introduce the change before receiving written approval.



Records and Monthly Reports

Accurate record keeping is an important part of operating a gratuity scheme as it allows employees and DLP to confirm how much gratuity was collected and how it was distributed.

How long must records be kept?

A service employer must retain gratuity records for at least three years. Records may be kept electronically or in another format, provided the information can be stored and retrieved when required.

Information that must be recorded

The employer must maintain records covering the following areas:

- Monthly totals - The total gratuities collected or received during each month
- Customer accounts - The service provided, the amount charged, the gratuity shown and the date or period of service
- Payments received - The amount paid for the service, the gratuity received and the date it was received
- Other gratuities - Gratuities received outside of a customer account or bill
- Employee record - The name of each service employee who worked while services were being provided
- Gratuity distribution - The period covered, the distribution date and the amount paid to each employee

Where a customer pays more than the amount charged for the service, the additional amount is treated as a gratuity for record-keeping purposes.

Records must be accurate and complete. An employer must not knowingly keep information that is false or misleading.

Monthly gratuity reports

A registered service employer must submit a report to the Director showing:

- the gratuities received during the month; and
- how the gratuities were distributed.

The report must be submitted in the format approved by the Director.

Reporting deadline

The monthly gratuity report must be provided within six weeks after the end of the month being reported.

For example, the report for gratuities collected during January must be submitted within six weeks after 31 January.

Employee access to reports

When the employer submits the monthly report to the Director, the details must also be made available, upon request, to the employees named in the report.

The information must remain available for at least two weeks.

Requests from the Director

When requested, the employer must produce the gratuity records for inspection.

The employer must also provide a copy or printout of any information stored electronically or in another record-keeping system.

Compliance and Monitoring

DLP monitors registered gratuity schemes to ensure that employers are meeting their obligations. Monitoring may include on-site inspections, monthly audits, employee interviews and reviews of records.

On-site inspections

Gratuity Inspectors conduct inspections throughout the Cayman Islands.

Under the Labour Act, the Director, Deputy Director and Labour Inspectors may enter a workplace without advance notice during the workplace's operating hours.

During an inspection, an officer may:

- examine the workplace and its records;
- carry out enquiries considered necessary;
- question an employer or employee;
- request documents that must be maintained under the Act; and
- copy information from those records or documents.

The purpose of the inspection is to determine whether the business is complying with the Labour Act, the applicable gratuity regulations and the terms of its approved scheme.

Speaking with employees

Gratuity Officers may interview employees and provide guidance about concerns raised during an inspection.

Employees may be interviewed privately. The identity of an employee who raises a concern will not be disclosed to the employer.

Inspection reports and corrective action

After the inspection, the Department will prepare a report for the operator.

The report will identify any areas of non-compliance or breaches of the Act and explain the action required to correct them.

The operator will be given 14 days from the date the report is received to make the required changes.

Failure to take corrective action may result in the matter being referred to the Office of the Director of Public Prosecutions with a recommendation that prosecution be considered through the Summary Court.

Monthly gratuity audits

Gratuity Officers review the reports submitted by registered service employers each month.

The purpose of the audit is to confirm that gratuities were distributed according to the scheme approved by the Director.

Where a discrepancy is identified, the Department may request more information, investigate the matter or conduct an on-site inspection.

Information sharing

The official list of approved service employer gratuity registrations may be shared with Workforce Opportunities and Residency Cayman.

This information may assist with the processing of work permit applications submitted by service employers where required.

The list of approved gratuity registrations is also made available to the public through the Department of Labour and Pensions website.



De-registering an Approved Gratuity Scheme

A business must de-register its gratuity scheme when the approved registration is no longer required. De-registration allows the Department to confirm that gratuity collection has ended, ensure that affected employees have been informed and remove the establishment from the published list of approved businesses.

A gratuity scheme may be de-registered where:

- the business has permanently closed;
- the business will continue operating but no longer wishes to collect gratuities; or
- the business has been sold.

De-registration application process

The business must complete the [Service Employer Declaration Gratuities De-registration Form](#) available at gov.ky/dlp/forms or may be requested by emailing dlpgrats@gov.ky.

The documents required will depend on the circumstances of the business.

Where the business will continue operating without gratuities, the updated customer materials must clearly show that the gratuity has been removed.

The request may be emailed to dlpgrats@gov.ky or delivered to DLP at 2nd Floor, Midtown Plaza, George Town, Grand Cayman.

Once the completed form and supporting documents have been received, the application will be reviewed within 30 days.

After de-registration

The Director will issue an official de-registration letter confirming that the establishment is no longer permitted to collect or distribute gratuities.

After de-registration, the establishment must stop collecting and distributing gratuities.

Where the business wishes to collect gratuities again in the future, it must submit a new registration application and receive approval from the Director of DLP before doing so.

Required Document	Purpose
Current staff list	To identify affected employees, their positions and wages or salaries
Employee acknowledgement letters	To confirm affected employees have been informed
Outstanding gratuity reports	To bring the business's reporting obligations up to date
Employee closure letter	Required where the business is closing
Updated menu, website or brochure	Required where the business will continue operating without gratuities

Offences and Penalties

Offence	Penalty
Failure to distribute all gratuities twice monthly according to an approved scheme or prescribed formula	CI\$25,000 fine & 12 months' imprisonment
Failure to keep the required gratuity records	CI\$25,000 fine & 12 months' imprisonment
Knowingly keeping false or misleading gratuity records	CI\$25,000 fine & 12 months' imprisonment
Failure to submit monthly gratuity information within six weeks after the end of the month	CI\$5,000 fine & six months' imprisonment
Failure to make the monthly details available to affected employees for at least two weeks	CI\$5,000 fine & six months' imprisonment
Failure to produce records when requested by the Director	CI\$5,000 fine & six months' imprisonment
Failure to retain records for at least three years	CI\$5,000 fine & six months' imprisonment
Failure to display the applicable gratuity rate to customers	CI\$10,000 fine
Failure to show or include a prescribed minimum gratuity rate	CI\$10,000 fine

Where an employer is convicted for failing to distribute gratuities, the court may also order the employer to distribute the outstanding gratuities to the affected employees within a specified period.

Contact Information

For registration forms, amendment requests, de-registration applications, complaints or general gratuity information, contact the Department of Labour and Pensions:

Website: gov.ky/dlp

Phone: (345) 945-8960

Forms: gov.ky/web/dlp/forms

Location: 2nd Floor, Midtown Plaza, George Town, Grand Cayman

Email: dlpgrats@gov.ky

Appointments are available Monday to Friday between 9:00 a.m. and 4:00 p.m.

Final Disclaimer: This guidebook is provided as part of a public education campaign and is intended for general information only. It does not cover the entire Labour Act (2021 Revision) or all accompanying regulations and should not be treated as legal advice. For further information, contact the Department of Labour and Pensions at dlpgrats@gov.ky or (345) 945-8960.



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