



New York State Department of Labor
Division of Labor Standards

Guidelines for Written Notice of Rates of Pay and Regular Payday

Starting on October 26, 2009, Section 195.1 of the Labor Law provides as follows:

Every employer shall:

1. Notify his or her employees, in writing, at the time of hiring of the rate of pay and of the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article, and obtain a written acknowledgement from each employee of receipt of this notice. Such acknowledgement shall conform to any requirements established by the commissioner with regard to content and form. For all employees who are eligible for overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by law or regulation, the notice must state the regular hourly rate and overtime rate of pay.

This law requires all employers, other than governmental agencies and school districts, to give newly hired employees a written notice of:

- Their rates of pay
- Their regular payday.

If the employee is covered by an overtime provision of labor law, the written notice also must include:

- The overtime rate of pay.

The written notice must be given at the time of hiring, before any work is performed. No particular form is required but model notices for several common types of pay agreements are available on the Department website www.labor.state.ny.us and in hard copy. The Department reserves the right to require use of Department-provided forms in the future if employer notices do not meet requirements.

Most employees must receive overtime pay at 1½ times their regular rates of pay for all hours worked over 40 in a workweek. In a few occupations that are exempt from overtime under the federal Fair Labor Standards Act, New York State Labor Law requires the employees be paid at least 1½ times the minimum hourly rate for their overtime hours. A few occupations are exempt from the overtime pay provisions of the both state and federal law. The notice to exempt employees must state the specific exemption that applies.

The regular payday must be at least weekly for manual workers, at least twice a month for clerical and other workers, and at least monthly for commissioned salespeople.

The employer must have the employee sign a statement acknowledging receipt of the written notice. The employer must keep the signed notice for six years.

Commissioned salespersons:

Section 191.1(c) of the Labor Law requires that the terms of employment for commissioned salespersons be in writing, signed by both the employer and the employee, and kept on file by the employer for not less than three years. The written statement will satisfy the employer's obligations under Section 195.1 of the Labor Law if the following conditions are met:

- it meets all of the requirements of Section 191.1(c);
- it tells the salesperson if he or she is eligible for overtime pay, and if not, specifies the exemption under which the salesperson falls;

- it notifies the eligible salesperson of the method of calculating his or her overtime rate of pay. This must include commissions as part of the regular rate;
- it notifies the salesperson of his or her designated pay day or method for determining when the salesperson will be paid;
- it is acknowledged in writing as received by the employee; and
- it is kept on file for six years.

Farm employees:

New York Code of Rules and Regulations (NYCRR) Section 190-6.1 requires that employers notify each farm employee, in writing, of the conditions of employment (work agreement) at the time of commitment to hire, including:

- the full name, address and telephone number of the employer;
- the location and type of work;
- housing arrangements, including cost, number of rooms, cooking facilities;
- allowances if any, for meals and lodging to be deducted from wages;
- benefits to be provided by the employer;
- wages to be paid and time of payment;
- period of employment;
- all other planned payroll deductions;
- non-economic terms and conditions of employment; and
- overtime provisions.

Such writing will satisfy the employer's obligations under Section 195.1 of the Labor Law if it meets all of the requirements of NYCRR 190-6.1, it is acknowledged in writing as received by the employee, and it is kept on file for six years.

Temporary Help Firms:

A notice form and separate guidelines have been developed by the Department for use by temporary help firms. It is available at the Department's website or in hard copy. The use of those guidelines and form is strictly limited to employers meeting the definition of the term "temporary help firms" in Section 916.5 of the Labor Law.

For more information or assistance, please contact the NYS Department of Labor, Division of Labor Standards office nearest you or visit our website at www.labor.state.ny.us.

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Binghamton Sub-district

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Binghamton, NY 13901
(607) 721-8014

New York City District

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(212) 775-3880

Garden City District

400 Oak St., Suite 101
Garden City, NY 11530
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Buffalo District

65 Court St., Rm. 202
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Rochester Sub-district

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(585) 258-4550

Syracuse District

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White Plains District

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