

# EMPLOYMENT LAW SUMMARY

## New Jersey: Wage Payment Requirements



*Because You're Different*

Several federal laws regulate wage payments, including the Fair Labor Standards Act (FLSA), the Davis-Bacon Act and the Service Contract Act. New Jersey law also imposes state wage payment requirements. When federal and state laws are different, the law that is more favorable to the employee will apply.

The New Jersey [Department of Labor and Workforce Development](#) (LWD) enforces wage payment requirements throughout the state.

## METHOD OF PAYMENT

New Jersey law requires employers to pay wages in lawful United States currency by:

- Cash;
- Check;
- Payroll debit card; or
- Direct deposit.

Employers may use payroll debit cards to pay their employees' wages if they can ensure that each employee can make **at least one withdrawal or transfer** per pay period without incurring any costs to the amount contained on the card.

In addition, employers must secure each employee's written authorization before using payroll debit cards. Employee consent must **not** be a condition of employment **nor** be obtained through duress, intimidation or coercion.

Employers that pay their employees through direct deposit or with a payroll debit card must provide each employee with a statement that shows all deductions taken from the employee's wages at the time the wages are paid.

## FREQUENCY OF PAYMENT

In general, an employer must pay employee wages at least **twice per month** on established paydays that are designated in advance by the employer. However, employers may establish less frequent regular paydays (once per month) for executive, supervisory and other special classes of employees. Railroad, express, car-loading and car-forwarding employers must pay their employees at least **once per week**.

Regular paydays generally must take place **within 10 calendar** days after the end of a pay period. If a payday falls on a weekend, holiday or other non-working day, employers must pay wages on the working day immediately prior to the non-working day. Collective bargaining agreements may override the frequency of employee wage payments.

## WAGE STATEMENTS

State law requires New Jersey employers to notify their employees of their payroll deductions, for each period when a deduction is made. **Beginning May 20, 2020**, New Jersey employers **with 10 or more employees** must include, at a minimum, the following information in their employee's wage statements:

- The employee's gross wages;
- The employee's net wages;
- The employee's rate of pay; and
- The number of hours the employee worked during that pay period, if this information is relevant to the calculation of that employee's wages for that pay period.

Employers will be able to provide this information electronically, unless the employee specifically asks to receive it in print.

## WITHHOLDINGS AND DEDUCTIONS

Employers may withhold or divert a portion of an employee's wages only when it is:

- Required or allowed by law (state or federal);
- Necessary to correct a payroll error; or
- Authorized by the employee or under a collective bargaining agreement.

Payroll deductions authorized by an employee or collective bargaining agreement must be in writing and for a lawful purpose accruing to the employee's benefit. These include:

- Contributions to employee welfare, insurance, hospitalization, medical or surgical, pension, retirement and profit-sharing plans;
- Contributions to company-operated thrift plans; • Purchase of security options and company stock;
- Payments into employee personal savings accounts;
- Payments for company products, employer loans to employees, work-safety equipment and replacing an employee identification;
- Installment payments to satisfy a financial obligation owed by the employee to the state;
- Payments for the purchase of U.S. government bonds;
- Donations to charitable institutions and political committees (certain conditions apply);
- Payments for the rental or cleaning of work clothing and uniforms; • Labor organization dues, union initiation fees and other labor organization charges permitted by law;
- Payments for health club membership fees or child care services;
- Mass transportation commuter tickets or other employer-provided transportation, if available to all employees; or
- Any other deductions allowed by the LWD.

Employers must record each withholding accurately. In general, wage deductions and withholdings may not reduce an employee's gross wages below the minimum wage rate, unless authorized by law. Employers may not derive any financial gain from making wage deductions.

## LAST PAYMENT OF WAGES

Employees separated from their employers, whether by discharge, voluntary resignation or any other reason, are entitled to receive their unpaid wages **by the next regular payday**. If an employee's wages are paid in part or in full on an incentive system (such as by commission), the employer must pay a reasonable approximation of all wages due until the exact amount is computed. However, when an employee departs because of a labor dispute involving employees who processed payroll information, the employer has an additional 10 days to pay that employee's last wages.

In the event of an employee's death, all outstanding wages may be paid directly to either the person who pays for the funeral expenses or the decedent's surviving spouse, children over the age of 18 (or their legal guardians, if they are under 18 years of age), parents or siblings.

## DISPUTED WAGES

In case of a dispute over the amount of wages owed to an employee, an employer must pay any undisputed portion of the employee's wages in accordance with the regulations described above. In doing so, the parties to the dispute do not waive their right to collect or dispute the remaining balance.

## ENFORCEMENT

The LWD enforces compliance with wage laws across the state. [State law](#) authorizes the LWD to perform comprehensive investigations and enter an employer's premises to determine compliance with all wage, benefit and tax laws. The LWD may (among other things) examine payroll, inspect other records, interview employees, call hearings, administer oaths, take testimony under oath and take depositions to assess compliance.

To enforce compliance, the LWD may issue:

- A fine of at least \$1,000 for each day an employer hinders or delays a compliance investigation; and
- A stop-work order, to prevent the employer from operating until the employer pays every assessed penalty and becomes compliant with state laws. Employers that operate in violation of a stop-work order may be fined \$5,000 per day.

## MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on wage payment and work hour laws in New Jersey.

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