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## **ATTENTION CLIENTS NEW YORK STATE WAGE THEFT PREVENTION ACT**

As of January 31, 2012 **ALL EMPLOYEES, including salaried,** must have the correct *"Notice and Acknowledgement"* form completed.

New York State will be assessing a \$50 fine to employers for each employee that does not have documentation.

This is now an annual requirement. **Every employee must complete a new form by January 31<sup>st</sup> of each year and at any time during the year that they are given a raise in pay. The original must be retained by the employer and a copy given to the employee.**

It is our understanding at this time that this is one of the items on NYS Department of Labor audits to be checked in 2012.

Attached is information on the NYS Labor Law along with the most applicable new *"Notice and Acknowledgement"* templates.

If you have any questions about this please contact our office so that we may assist you in complying with this new requirement.



New York State Department of Labor  
Division of Labor Standards

## Guidelines for Written Notice of Rates of Pay and Regular Payday

Effective April 9, 2011 Section 195.1 of the Labor Law, requires all employers, other than government agencies, to give employees at the time of hire (before work is performed) and on or before February 1 of each year, notice of the following:

1. the employee's rate or rates of pay
2. the overtime rate of pay, if the employee is subject to overtime regulations
3. the basis of wage payment (per hour, per shift, per week, piece rate, commission, etc.)
4. any allowances the employer intends to claim as part of the minimum wage including tip, meal, and lodging allowances
5. the regular payday
6. the employer's name and any names under which the employer does business (DBA)
7. the physical address of the employer's main office or principal place of business and, if different, the employer's mailing address
8. the employer's telephone number

Employers must provide the notice in English and the employee's primary language.

### Employee Acknowledgement

The employer must have the employee sign a statement acknowledging receipt of the written notice in English and the employee's primary language. Employees must also acknowledge that they have properly identified their primary language to their employer. The employer must keep the signed and dated notice and acknowledgement for six years and provide a copy to the employee.

### Notice and Acknowledgement Templates

The Department of Labor (DOL) has prepared templates for several common types of pay agreements, including dual language versions in Chinese, Haitian-Creole, Korean, Polish, Russian and Spanish. An employee acknowledgement of receipt section is included in the templates prepared by the Department. Templates are available on the Department's web site at [www.labor.ny.gov](http://www.labor.ny.gov) and in hard copy.

If the Department of Labor does not make a template in a particular language available, employers may provide notice to that employee in English only.

Employers will not be penalized for errors in the prepared templates issued by DOL.

The Department reserves the right to require use of DOL forms in the future, if employer notices do not meet requirements.

See LS 53 Instructions: Templates for Notice of Pay Rates, Paydays and Employee Acknowledgement under Section 195.1 of the NYS Labor Law to find a template that may be appropriate for your particular pay agreement.

### Overtime Rate

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.

### Exempt Employees

The notice to exempt employees may state the specific exemption that applies.

## **Payday**

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.

## **Other Notice Requirements**

For the following types of employees there are additional notice provisions required by Labor Law and or Regulation. Please refer to the sections cited below for more information.

- Commissioned Sales Employees (191.1c)
- Farm Employees (190-6.1)
- Hospitality Industry Employees (146-2.2)

## **Temporary Help Firms**

The Department has developed a notice form and separate guidelines for use by temporary help firms (LS 50). It is available at the Department's web site or in hard copy. The use of those guidelines and form is strictly limited to employers that meet 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 web site at [www.labor.ny.gov](http://www.labor.ny.gov).

### **Albany District**

State Office Campus  
Bldg. 12, Rm. 185A  
Albany, NY 12240  
(518) 457-2730

### **Garden City District**

400 Oak St., Suite 101  
Garden City, NY 11530  
(516) 794-8195

### **Syracuse District**

333 East Washington St., Rm. 121  
Syracuse, NY 13202  
(315) 428-4057

### **Binghamton Sub-district**

44 Hawley St., Rm. 909  
Binghamton, NY 13901  
(607) 721-8014

### **Buffalo District**

65 Court St., Rm. 202  
Buffalo, NY 14202  
(716) 847-7141

### **White Plains District**

120 Bloomingdale Rd.  
White Plains, NY 10605  
(914) 997-9521

### **New York City District**

75 Varick St., 7th Floor  
New York, NY 10013  
(212)775-3880

### **Rochester Sub-district**

109 S. Union St., Rm. 318  
Rochester, NY 14607  
(585) 258-4550

## **Wage Theft Prevention Act Frequently Asked Questions (FAQ)**

The Wage Theft Prevention Act, which goes into effect April 9, 2011, amends the notice of wage rate requirements and expands the civil and criminal remedies that are available when employers fail to comply with these provisions.

Section 195 of the Labor Law, as amended by the Act, requires that employers provide notice to employees of their rate(s) of pay, designated pay day, the employer's intent to claim allowances (like tip or meal allowances) as part of the minimum wage, and the basis of wage payment (whether paying by hour, shift, day, week, piece, etc.). The law requires that the notice contain the employer's "doing business as" names, and that it be provided at the time of hiring, annually on or before February 1<sup>st</sup> of each year of employment, and within 7 days of a change if the change is not listed on the employee's pay stub for the following pay period. The notice must be provided in the employee's primary language, as identified by the employee, through translated notices provided by the Department of Labor. Those notice templates are below. The Act also amends the recordkeeping and statutory payroll record and paystub requirements to include information currently required pursuant to regulation, and requires employers to maintain copies of payroll records for six years (as is currently required by regulation).

The Act clarifies and expands the Department of Labor's authority to enforce the Labor Law, and expands an employee's ability to bring complaints and private actions for such violations. The protection against prohibited retaliation is strengthened by closing loopholes on what actions constitute retaliation and expands the remedies available to employees.

Based upon inquiries received by the Department in anticipation of the Act's effective date, the following are frequently asked questions regarding the Notice requirements of the Wage Theft Prevention Act:

**1. Q: What is the Wage Theft Prevention Act?**

A: A new law, effective April 9, 2011, gives greater protection to workers, and makes changes in the way they are notified of their pay rates and receive wage statements.

**2. Q: Who is covered by the law?**

A: All private sector employers are covered. If you have employees who work in other states they are not covered. Federal, state and local government employers are also not covered, but it is important to note that charter schools, private schools, and not-for-profit corporations are covered, as they are not public entities.

**3. Q: What does the law require?**

A: Workers have to receive yearly pay notices, proper wage statements, and be free from retaliation for complaining about possible violations of the Labor Law.

**4. Q: What is required in the pay notice given to workers?**

A: The Notice must contain the following information:

- The employee's rate(s) of pay;
- The basis of the employee's rate(s) of pay (e.g. by the hour, shift, day, week, salary, piece, commission, or other);
- Whether the employer intends to claim allowances as part of the minimum wage, including tip, meal, or lodging allowances, and the amount of those allowances;
- The employee's regular pay day designated by the employer in accordance with the frequency of pay requirements in the Labor Law<sup>1</sup>;
- The name of the employer and any "doing business as" names used by the employer;
- The physical address of the employer's main office or principal place of business, and a mailing address if different;
- The telephone number of the employer;
- Any "such other information as the commissioner deems material and necessary."

**5. Q: What if a worker's primary language is not English?**

A: Notices need to be given in a worker's primary language if the Department of Labor provides notice templates in that language. Otherwise the notice need only be provided in English. Those template are available on our website, below.

**6. Q: For what languages will the Department provide templates?**

A: Templates will be available in English, Spanish, Chinese, Korean, Creole, Polish and Russian. They will cover a number of likely situations companies may face. You can choose the one which meets your needs.

**7. Q: Do I have to use the Department's templates?**

A: No, employers can develop their own notices so long as they contain all the information required by the law.

**8. Q: When are pay notices required?**

A: Notices are required at the time of hire, yearly between January 1 and February 1,

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<sup>1</sup> Section 191 of the New York State Labor Law regulates how frequently an employee must be paid. Under that Section, "manual workers" must be paid on a weekly basis, "clerical and other workers," must be paid according to the terms of their employment agreement and "not less frequently than semi-monthly on regular pay days designated in advance by the employer," "railroad workers" must be paid on or before Thursday of each week the wages earned during the seven-day period ending in Tuesday of the preceding week; "commission salespersons" must be paid in accordance with their agreed terms of employment but not less frequently than once in each month and not later than the last day of the month following the month in which the wages are earned; and employees employed in a "bona fide executive, administrative or professional capacity whose earnings are in excess of nine hundred dollars a week" must be paid according to the terms of their employment contract.

and when there are changes in the information on the pay notices.

**9. Q: When is the first yearly notice required to be given?**

A: Between January 1 and February 1 of 2012.

**10. Q: Can I give a notice at other times of the year to satisfy the yearly requirement?**

A: No.

**11. Q: May the notice be included in letters and/or employment agreements provided to new hires?**

A: Yes, but must be on its own form.

**12. Q: I have a seasonal business. If a worker is on layoff between January 1 and February 1, when is the annual notice required?**

A: As soon as the worker first returns from layoff. Only one annual notice needs to be given.

**13. Q: Can a worker waive the notice requirement?**

A: No.

**14. Q: Can the notice be given electronically?**

A: Yes, but there needs to be a system where the worker can acknowledge the receipt of the notice and print out a copy of the notice.

**15. Q: What if a worker refuses to sign the notice?**

A: The employer should still give the notice to the worker and note the worker's refusal on its copy of the notice.

**16. Q: Do employers have to keep a copy of the notice?**

A: Yes. Notices must be kept for six years and be available to the Department upon request.

**17. Q: Do I have to give a new notice every time a wage rate changes?**

A: Except for the employers in the hospitality industry, notice is not required where there is an increase in a rate and the new rate is shown on the next payment of wages. For any reduction of wage rate, an employee must be notified in writing prior to the reduction being implemented. Employers in the hospitality industry currently

need to give a new notice every time a wage rate changes.

**18. Q: What procedures should be followed if an employee has multiple pay rates?**

A: An employer must put all pay rates on the wage statement.

**19. Q: Does a new notice need to be given each year even if none of the information has changed?**

A: Yes.

**20. Q: Do workers exempt from state overtime requirements still need to get a pay notice?**

A: Yes.

**21. Q: Does the employer have to identify the specific state exemption for workers exempt from overtime requirements?**

A: No.

**22. Q: What should we do if the worker has multiple hourly or piece rates?**

A: The purpose of the notice is to inform workers of the wage rates that apply to them. Multiple rates need to be identified either on the notice or on a separate sheet attached to the notice. Only the rates used to determine a worker's pay need be shown on the wage statement for that period.

**23. Q: What about salespersons whose wages are all or partially based on commissions?**

A: Labor Law section 191.1c already requires commission salespersons to receive and sign for a copy of their commission agreement. This agreement should be attached to the pay notice and a copy of each document kept by the employer.

**24. Q: What if I have a bonus or incentive plan on a weekly or less frequent time period?**

A: So long as the employee initially was given a description or it is clearly shown on the wage statement for the period in which it is paid, no additional notice is required.

**25. Q: What about retroactive wage increases?**

A: The amounts need to be noted separately on the wage statement for the period in which it is paid.

**26. Q: Does the notice requirement apply to workers covered by a union contract?**

A: Yes. Union contracts may cover wage rates for multiple titles and not give the specific pay date or other information required by the law. Individual workers need to have notices of the wage rates that apply to them.

**27. Q: Are exempt employees, including professionals, executives, or administrators, excluded from the notice requirements?**

A: No. Since Section 195 does not contain any exclusions or exemptions from the notice requirements, the notice requirements in Section 195 apply to all employees regardless of their exempt status.

**28. Q: What is the penalty for not giving proper notice?**

A: Employers can be assessed damages by the Department of \$50.00 per week per worker if proper notice is not given.

**29. Q: Can a worker sue for damages on his/her own?**

A: Yes, but the maximum amount an individual worker can recover is \$2,500.00.

**30. Q: How often must wage statements be given?**

A: A statement must be given with each payment of wages.

**31. Q: In addition to those items previously required on wage statements such as wage rates, hours worked, gross wages, allowances and deductions taken and net wages paid are there any new requirements?**

A: Yes. The statement has to show the name, address and phone number of the employer as well as the beginning and ending date for the period covered by that payment.

**32. Q: Can wage statements be provided electronically?**

A: Yes, but workers must be able to access their statements on a computer provided by the employer and be able to print a copy for their records.

**33. Q: Will the Department of Labor provide a model wage statement for employers to use?**

A: Because wage statement entries will vary greatly from employer to employer, the Department will prepare a sample statement showing types of entries which may be



necessary.

**34. Q: What is the penalty for not providing a proper wage statement?**

A: Employers can be assessed changes by the Department of \$100.00 per week per worker if proper wage statements are not given.

**35. Q: Can a worker sue for not receiving a proper wage statement?**

A: Yes, but damages are capped at \$2,500.00 per worker.

**36. Q: What is retaliation?**

A: Any action which negatively affects workers such as discharge, suspension, transfer to another shift, reduction in wages or hours, which is done because a worker has engaged in a protected activity. Even threatening an employee can be considered retaliation.

**37. Q: What are some of these protected activities?**

A: Employees have the right to complain to their employer, the Department of Labor, or the Attorney General about a possible violation of the Labor Law and regulations issued under it. They can file a complaint about these possible violations and give information about their conditions of employment to the Department or Attorney General and testify at hearings or other proceedings.

**38. Q: Does there really have to be a violation for the worker to be protected?**

A: No. If the worker has a good faith belief that there is a problem in the workplace, their activities are protected.

**39. Q: What happens if I am accused of retaliation?**

A: The Department will discuss the accusation with you and give you a chance to prove that the negative action was not a result of the workers exercising their rights.

**40. Q: What are the penalties for retaliation?**

A: Employers or their agents can be fined up to \$10,000 and assessed another \$10,000 in liquidated damages. The Department can also request reinstatement of the worker and/or compensation for lost wages. There are also potential criminal penalties but those would be prosecuted by an agency other than DOL.

**41. Q: What if I have any other questions about the Wage Theft Prevention Act?**

A: You can email your questions to [LSASK@labor.ny.gov](mailto:LSASK@labor.ny.gov) We will address your concerns in a timely manner.



**New York State Department of Labor, Division of Labor Standards**  
**Instructions: Templates for Notice of Pay Rates, Pay Days and Employee Acknowledgement**  
**Under Section 195.1 of the NYS Labor Law**

The Department of Labor provides templates for several common types of pay agreements including dual language notices and acknowledgements in Chinese, Haitian-Creole, Korean, Polish, Russian and Spanish. Employers may create their own notices, use or adapt the Labor Department forms, as long as the:

- Required information appears in English and the employee's primary language (if template available)
- Employee receives a copy
- Employee signs an acknowledgment of receipt, and identifies their primary language to the employer
- Employer keeps a copy of the notice and acknowledgement for 6 years

Below are instructions for choosing among the templates. For details or help, see the Guidelines (LS 52) or contact the Division of Labor Standards.

**LS 54 Notice for Hourly Rate Employees**

This form is for hourly employees who are not exempt from coverage under the applicable State and Federal overtime provisions. For example, use for an employee whose regular rate of pay is \$10 per hour and overtime rate is \$15 per hour.

**LS 55 Notice for Multiple Hourly Rate Employees**

This form is for employees who are paid more than one rate for different types of work or different shifts. For example, use this form for an employee who is paid \$10 per hour for work as a janitor and \$12 per hour for work as a landscaper, or an employee who is paid one rate for working the day shift and another rate for the night shift.

**LS 56 Notice for Employees Paid a Weekly Rate or a Salary for a Fixed Number of Hours (40 or Fewer in a Week)\***

This form is for employees who receive a weekly rate or a salary for a fixed number of hours (40 or fewer in a workweek).

- The employee's regular rate is the weekly rate or salary divided by the number of hours it intends compensate.
- The overtime rate is 1½ times the regular rate.

Except in very limited circumstances, it is illegal to pay a fixed (unchanging) weekly rate for work weeks that vary over 40 hours. Even where there is a standard work week, there are usually occasions when work hours vary. For this reason, we have not provided a template for weekly rates for workweeks of over 40 hours. To avoid overtime violations, the Department strongly recommends that employers pay an hourly rate to overtime eligible employees whose standard workweek is over 40 hours.

**LS 57 Notice for Employees Paid a Salary for Varying Hours, Day Rate, Piece Rate, Flat Rate, or Other Non-Hourly Basis\***

This form is for non-exempt employees who are paid a salary for varying hours of work, a daily rate, piece rates, flat rates, or any other pay that is not based on actual hours worked. In each overtime week, the employer must:

- Calculate the regular rate (total regular pay divided by total hours worked)
- Calculate the overtime premium (1/2 the regular rate)
- Multiply the overtime premium by the number of overtime hours and
- Pay the overtime premium in addition to the salary, day rate, piece rate, flat rate, or other pay

**LS 58 Notice for Prevailing Rate and Other Jobs**

Use this form when the employee:

- Works on public work projects (i.e., projects covered by the prevailing wage provisions in State and Federal Law) or
- Does mixed prevailing rate and non-prevailing rate work

There is space on the form for the employer to enter the regular and overtime rates to be paid for the other (non-prevailing wage) work. The form explains to the employee that any premium pay received on prevailing wage jobs in a week will be credited toward any overtime premium due for working over 40 hours in the week.

**LS 59 Notice for Exempt Employees \***

Use this form for employees who are exempt from premium overtime pay under either State regulations or the Federal Fair Labor Standards Act. The employer should identify the overtime exemption or, if an employee is outside of the definition of the term "employee" in Article 19 of the New York State Labor Law, the employer should identify the minimum wage exemption.

\* Employers in the Hospitality Industry may not pay a non-exempt employee a non-hourly rate, except for commissioned salespeople.



**Notice and Acknowledgement of Pay Rate and Payday**  
**Under Section 195.1 of the New York State Labor Law**  
**Notice for Hourly Rate Employees**

**1. Employer Information**

Name: \_\_\_\_\_

Doing Business As (DBA) Name(s): \_\_\_\_\_

FEIN (optional): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_

- 2. Notice given:**
- At hiring
  - On or before February 1st
  - Before a change in pay rate(s), allowances claimed or payday

**3. Employee's rate of pay:**  
 \$ \_\_\_\_\_ per hour

- 4. Allowances taken:**
- None
  - Tips \_\_\_\_\_ per hour
  - Meals \_\_\_\_\_ per meal
  - Lodging \_\_\_\_\_
  - Other \_\_\_\_\_

**5. Regular payday:** \_\_\_\_\_

- 6. Pay is:**
- Weekly
  - Bi-weekly
  - Other

**7. Overtime Pay Rate:**  
 \$ \_\_\_\_\_ per hour (This must be at least 1½ times the worker's regular rate with few exceptions.)

**8. Employee Acknowledgement:**  
 On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

**Check one:**

- I have been given this pay notice in English because it is my primary language.
- My primary language is \_\_\_\_\_, I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

\_\_\_\_\_  
 Print Employee Name

\_\_\_\_\_  
 Employee Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Preparer's Name and Title

**The employee must receive a signed copy of this form. The employer must keep the original for 6 years.**



**Notice and Acknowledgement of Pay Rate and Payday**  
**Under Section 195.1 of the New York State Labor Law**  
**Notice for Multiple Hourly Rate Employees**

<p><b>1. Employer Information</b></p> <p>Name: _____</p> <p>Doing Business As (DBA) name(s): _____</p> <p>FEIN (optional): _____</p> <p>Physical Address: _____</p> <p>Mailing Address: _____</p> <p>Phone: _____</p>
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**3. Employee's rate(s) of pay for each type of work or shift:**

\$ \_\_\_\_\_ per hour for \_\_\_\_\_

\$ \_\_\_\_\_ per hour for \_\_\_\_\_

\$ \_\_\_\_\_ per hour for \_\_\_\_\_

**4. Allowances taken:**

None

Tips \_\_\_\_\_ per hour

Meals \_\_\_\_\_ per meal

Lodging \_\_\_\_\_

Other \_\_\_\_\_

**5. Regular payday:** \_\_\_\_\_

**6. Pay is:**

Weekly

Bi-weekly

Other

**7. Overtime Pay Rate(s) for each type of work or shift:**

This must be at least 1½ times the worker's weighted average of the multiple rates of pay for the week, with few exceptions. The weighted average is the total regular pay divided by the total hours worked in the week. The overtime rate may vary from week to week depending on how many hours you worked at

**2. Notice given:**

At hiring

On or before February 1

Before a change in pay rate (s), allowances claimed or payday

each rate of pay. The overtime rate may vary from week to week.

**8. Employee Acknowledgement:**

On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated payday on the date given below. I told my employer what my primary language is.

**Check one:**

I have been given this pay notice in English because it is my primary language.

My primary language is \_\_\_\_\_ I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

\_\_\_\_\_  
 Print Employee Name

\_\_\_\_\_  
 Employee Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Preparer Name and Title

**The employee must receive a signed copy of this form. The employer must keep the original for 6 years.**



**Notice and Acknowledgement of Pay Rate and Payday  
Under Section 195.1 of the New York State Labor Law**

**Notice for Employees Paid a Weekly Rate or a Salary for a Fixed Number of Hours (40 or Fewer in a Week)**

**1. Employer Information**

Name: \_\_\_\_\_

Doing Business As (DBA) Name(s): \_\_\_\_\_

FEIN (optional): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**3. Employee's Pay Rate:**

\$ \_\_\_\_\_ per \_\_\_\_\_

Weekly hours \_\_\_\_\_ (Specify the number of hours for which the weekly rate or salary will be paid.)

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

**4. Allowances taken:**

- None
- Tips \_\_\_\_\_ per hour
- Meals \_\_\_\_\_ per meal
- Lodging \_\_\_\_\_
- Other \_\_\_\_\_

**5. Regular payday:** \_\_\_\_\_

**6. Pay is:**

- Weekly
- Bi-weekly
- Other

**7. Overtime Pay Rate:**

\$ \_\_\_\_\_ per hour (This must be at least 1½ times the worker's regular rate, with few exceptions.)

**2. Notice given:**

- At hiring
- On or before February 1
- Before a change in pay rate(s), allowances claimed or payday

**8. Employee Acknowledgement:**

On this day, I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated payday. I told my employer what my primary language is.

**Check one:**

- I have been given this pay notice in English because it is my primary language.
- My primary language is \_\_\_\_\_. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name \_\_\_\_\_

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

Preparer Name and Title \_\_\_\_\_

**The employee must receive a signed copy of this form. The employer must keep the original for 6 years.**



**Notice and Acknowledgement of Pay Rate and Payday Under Section 195.1 of the New York State Labor Law**  
**Notice for Employees Paid Salary for Varying Hours, Day Rate, Piece Rate, Flat Rate or Other Non-Hourly Pay**

<p><b>1. Employer Information</b></p> <p>Name: _____</p> <p>Doing Business As (DBA) Name(s): _____</p> <p>FEIN (optional): _____</p> <p>Physical Address: _____</p> <p>Mailing Address: _____</p> <p>Phone: _____</p>
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**4. Employee's Pay Rate:**

\$ \_\_\_\_\_ per \_\_\_\_\_  
 Specify the basis for the rate paid, i.e. salary for varying hours, day rate, etc.

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

**5. Allowances taken:**

- None
- Tips \_\_\_\_\_ per hour
- Meals \_\_\_\_\_ per meal
- Lodging \_\_\_\_\_
- Other \_\_\_\_\_

**6. Pay is:**

- Weekly
- Bi-weekly
- Other

**7. Overtime Pay Rate:**

In most cases the overtime rate will be 1½ times the regular rate of pay for the week. The regular rate of pay is the total weekly pay divided by the hours worked in the week.

In most cases, it is illegal to pay a fixed weekly rate for varying hours worked over 40 per week. The Department of Labor strongly discourages weekly rates for non-exempt employees, since underpayments often result.

**2. Notice given:**

- At hiring
- On or before February 1
- Before a change in pay rate(s), allowances claimed or payday

**3. Regular payday:** \_\_\_\_\_

**8. Employee Acknowledgement:**

On this day, I received notice of my pay rate, overtime rate (if eligible), allowances, and designated payday. I told my employer what my primary language is.

**Check one:**

I have been given this pay notice in English because it is my primary language.

My primary language is \_\_\_\_\_.

I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

\_\_\_\_\_  
 Print Employee Name

\_\_\_\_\_  
 Employee Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Preparer Name and Title

**The employee must receive a signed copy of this form. The employer must keep the original for 6 years.**



**Notice and Acknowledgement of Pay Rate and Payday  
Under Section 195.1 of the New York State Labor Law  
Notice for Prevailing Rate and Other Jobs**

**1. Employer Information**

Name: \_\_\_\_\_

Doing Business As (DBA) Name(s): \_\_\_\_\_

FEIN (optional): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_

- 2. Notice given:**
- At hiring
  - On or before February 1
  - Before a change in pay rate(s), allowances claimed or payday

**3. Regular payday:** \_\_\_\_\_

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- 4. Prevailing Rate Jobs Pay Rate(s):** Your rate of pay will be the posted rate for the occupation(s). \_\_\_\_\_

Occupation: \_\_\_\_\_

- 5. Prevailing Rate Jobs Overtime Pay Rate:**  
Your overtime rate(s) are payable after 8 hours in a day and after 5 days in a week, or as noted in the applicable prevailing wage schedule. Overtime rates will be those posted for the occupation. \_\_\_\_\_

- 6. Non-Prevailing Rate Jobs Pay Rate:**  
\$ \_\_\_\_\_ per hour.

- 7. Non-Prevailing Rate Jobs Overtime Pay Rate:** \$ \_\_\_\_\_ per hour.

- 8. Overtime for Prevailing Rate and Non-Prevailing Rate Jobs in the Same Week:** For most employees in NYS the overtime rate will be 1 1/4 times the regular pay rate for the work you are performing for hours over 40 in a workweek. Any overtime premium earned on a prevailing rate job during the same week can be credited toward non-prevailing rate overtime pay.

- 9. Allowances taken:**
- None
  - Tips \_\_\_\_\_ per hour
  - Meals \_\_\_\_\_ per meal
  - Lodging \_\_\_\_\_
  - Other \_\_\_\_\_

- 10. Pay is:**
- Weekly
  - Bi-weekly
  - Other: \_\_\_\_\_

- 11. Employee Acknowledgement:**  
On this date, I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated payday. I told my employer what my primary language is. \_\_\_\_\_

- Check one:**
- I have been given this pay notice in English only, because it is my primary language.
  - My primary language is \_\_\_\_\_, I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name \_\_\_\_\_

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

Preparer Name and Title \_\_\_\_\_

**The employee must receive a signed copy of this form. The employer must keep the original for 6 years.**



**Notice and Acknowledgement of Pay Rate and Payday  
Under Section 195.1 of the New York State Labor Law  
Notice for Exempt Employees**

**1. Employer Information**

Name: \_\_\_\_\_

Doing Business As (DBA) Name(s): \_\_\_\_\_

FEIN (optional): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**3. Employee's pay rate(s):** State if pay is based on an hourly, salary, day rate, piece rate, or other basis. \_\_\_\_\_

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

**4. Allowances taken:**

- None
- Tips \_\_\_\_\_ per hour
- Meals \_\_\_\_\_ per meal
- Lodging \_\_\_\_\_
- Other \_\_\_\_\_

**5. Regular payday:** \_\_\_\_\_

**6. Pay is:**

- Weekly
- Bi-weekly
- Other: \_\_\_\_\_

**7. Overtime Pay Rate:**

Most workers in NYS must receive at least 1½ times their regular rate of pay for all hours worked over 40 in a workweek, with few exceptions. A limited number of employees must only be paid overtime at 1½ times the minimum wage rate, or not at all.

This employee is exempt from overtime under the following exemption (optional): \_\_\_\_\_

**8. Employee Acknowledgement:**

On this day, I received notice of my pay rate, overtime rate (if eligible), allowances, and designated payday. I told my employer what my primary language is.

**Check one:**

- I have been given this pay notice in English because it is my primary language.
- My primary language is \_\_\_\_\_. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name \_\_\_\_\_

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

Preparer Name and Title \_\_\_\_\_

**The employee must receive a signed copy of this form. The employer must keep the original for 6 years.**