

CHAPTER 55
WAGE PAYMENTS

Authority

N.J.S.A. 34:1-20, 34:1A-3(e), 34:11-4.4 and 34:11-4.11.

Source and Effective Date

R.2007 d.147, effective April 12, 2007.
See: 38 N.J.R. 4980(a), 39 N.J.R. 1743(b).

Chapter Expiration Date

Chapter 55, Wage Payments, expires on April 12, 2012.

Chapter Historical Note

Chapter 55, was adopted as N.J.A.C. 12:56-16, Payroll Deductions for Mass Transportation, by R.1990 d.215, effective April 16, 1990. See: 22 N.J.R. 148(a), 22 N.J.R. 1270(a).

N.J.A.C. 12:56-16, Payroll Deductions for Mass Transportation, was recodified as Chapter 55, Wage Payments, by R.1990 d.520, effective November 5, 1990. See: 22 N.J.R. 2235(a), 22 N.J.R. 3379(b).

Chapter 55, Wage Payments, was repealed and a new Chapter 55, Wage Payments, was adopted by R.1991 d.605, effective December 16, 1991. See: 23 N.J.R. 2939(a), 23 N.J.R. 3807(a).

Pursuant to Executive Order No. 66(1978), Chapter 55, Wage Payments, was readopted as R.1996 d.553, effective November 6, 1996. See: 28 N.J.R. 4160(a), 28 N.J.R. 5075(b).

Chapter 55, Wage Payments, was readopted as R.2001 d.430, effective October 25, 2001. See: 33 N.J.R. 3304(a), 33 N.J.R. 3898(a).

Chapter 55, Wage Payments, was readopted as R.2007 d.147, effective April 12, 2007. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS; VIOLATIONS; FEES AND PENALTIES; HEARINGS

- 12:55-1.1 Purpose and scope
- 12:55-1.2 Definitions
- 12:55-1.3 Powers of the Commissioner
- 12:55-1.4 Violation; punishment
- 12:55-1.5 Administrative fee
- 12:55-1.6 Administrative penalty
- 12:55-1.7 Interest
- 12:55-1.8 Hearings

SUBCHAPTER 2. PAYROLL DEDUCTIONS

- 12:55-2.1 Payroll deductions; general
- 12:55-2.2 Payroll deductions for mass transportation commuter tickets
- 12:55-2.3 Voluntary wage deduction for repayment of financial obligations to the State of New Jersey
- 12:55-2.4 Time and mode of payment
- 12:55-2.5 Withholding of income tax for foreign jurisdictions

SUBCHAPTER 1. GENERAL PROVISIONS; VIOLATIONS; FEES AND PENALTIES; HEARINGS

12:55-1.1 Purpose and scope

(a) The purpose of this chapter is to establish rules to effectuate N.J.S.A. 34:11-4.1 et seq., an act regarding the payment of wages.

(b) The chapter is applicable to:

1. Wages and hours subject to the Act;
2. Wages paid to an employee for services rendered; and
3. Time and mode of payment.

(c) This chapter shall not apply to:

1. Volunteers; or
2. Patients.

Administrative correction.
See: 39 N.J.R. 2364(a).

12:55-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means N.J.S.A. 34:11-4.1 et seq., an act regarding the payment of wages.

“Check-deposit-return fee” means a charge which results from a payroll check having been returned due to insufficient or uncollected funds.

“Commissioner” means the Commissioner of Labor and Workforce Development or his or her designee.

“Direct deposit” means payment of the wages of an employee by causing the amount of such employee’s wages to be deposited in an account or accounts maintained in a financial institution or financial institutions in the name of the employee.

“Employee” means any person suffered or permitted to work by an employer, except that independent contractors and subcontractors shall not be considered employees.

“Employer” means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person in this State. For the purposes of the Act and this chapter, the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation.

“Financial institution” means any State-chartered or Federally-chartered institution authorized to accept deposits in New Jersey.

“Mass transportation” means railroads operated by steam, electricity or other power, rapid transit lines and ferries, buses or other vehicles which possess a certificate of public convenience and necessity issued by the New Jersey Department of Transportation.

“Payroll debit card” means a magnetically encoded card issued by a financial institution, which provides an employee with the means of obtaining the full amount of all wages earned in a pay period in a form that is equivalent to payment in lawful money of the United States, payment by check or payment by direct deposit.

“Wages” means the direct monetary compensation for labor or services rendered by an employee, where the amount is determined on a time, task, piece, or commission basis excluding any form of supplementary incentives and bonuses which are calculated independently of regular wages and paid in addition thereto.

Amended by R.1996 d.553, effective December 2, 1996.

See: 28 N.J.R. 4160(a), 28 N.J.R. 5075(b).

Amended by R.2000 d.197, effective May 15, 2000.

See: 31 N.J.R. 4220(a), 32 N.J.R. 1773(a).

In “Mass transportation”, inserted a reference to other vehicles.

Amended by R.2007 d.147, effective May 7, 2007.

See: 38 N.J.R. 4980(a), 39 N.J.R. 1743(b).

In definition “Commissioner”, inserted “and Workforce Development”.

Amended by R.2008 d.300, effective October 6, 2008.

See: 39 N.J.R. 3871(a), 40 N.J.R. 5809(a).

Added definitions “Check-deposit-return fee”, “Direct deposit”, “Financial institution” and “Payroll debit card”.

12:55-1.3 Powers of the Commissioner

(a) The Commissioner shall enforce and administer the provisions of the Act and the Commissioner or his or her authorized representatives are empowered to investigate charges of violations of the Act.

(b) The Commissioner or his or her authorized representatives are empowered to enter and inspect such places, question such employees and investigate such facts, conditions or matters as they may deem appropriate to determine whether any person has violated any provision of the Act or this chapter or which may aid in the enforcement of the provisions of the Act or this chapter.

(c) The Commissioner or his or her authorized representatives shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits in any proceeding before the Commissioner.

(d) If a person fails to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter

regarding which he or she may be lawfully interrogated, it shall be the duty of the Superior Court, on application by the Commissioner, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(e) The Commissioner is authorized to supervise the payment of amounts due to employees pursuant to Article 1 of chapter 11 of Title 34 of the Revised Statutes, and the employer may be required to make these payments to the Commissioner to be held in a special account in trust for the employees, and paid on order of the Commissioner directly to the employee or employees affected. The employer shall also pay the Commissioner an administrative fee equal to not less than 10 percent or more than 25 percent of any payment made to the Commissioner pursuant to this section. The amount of the administrative fee is specified in N.J.A.C. 12:55-1.5. The fee shall be applied to enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

12:55-1.4 Violation; punishment

Any employer who knowingly and willfully violates any provision of P.L. 1965, c.173 (N.J.S.A. 34:11-4.1 et seq.) shall be guilty of a disorderly persons offense and, upon conviction for a violation, shall be punished by a fine of not less than \$100.00 nor more than \$1,000. Each day during which any violation of the Act continues shall constitute a separate and distinct offense.

12:55-1.5 Administrative fee

(a) The employer shall pay the Commissioner an administrative fee on all payments of gross amounts due employees pursuant to N.J.S.A. 34:11-4.1 et seq.

(b) A schedule of fees is as follows:

1. First violation—10 percent of the amount due the employee;
2. Second violation—18 percent of the amount due the employee;
3. Third and subsequent violations—25 percent of the amount due the employee.

(c) All payments shall be made payable to the Commissioner of Labor and Workforce Development, Wage Payment Trust Fund by certified check or money order, or in the form suitable to the Commissioner of Labor and Workforce Development.

Amended by R.2007 d.147, effective May 7, 2007.

See: 38 N.J.R. 4980(a), 39 N.J.R. 1743(b).

In (c), inserted “and Workforce Development” twice.