

CHAPTER 61
WAGE COLLECTION

Authority

N.J.S.A. 34:1-20, 34:1A-3(e) and 34:11-57 et seq.

Source and Effective Date

R.2007 d.148, effective April 12, 2007.
See: 38 N.J.R. 4981(a), 39 N.J.R. 1744(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 61, Wage Collection, expires on April 12, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 61, Wage Collection, was adopted as R.1991 d.608, effective December 16, 1991. See: 23 N.J.R. 2947(a), 23 N.J.R. 3814(a).

Pursuant to Executive Order No. 66(1978), Chapter 61, Wage Collection, was readopted as R.1996 d.554, effective November 6, 1996. See: 28 N.J.R. 4161(a), 28 N.J.R. 5076(a).

Chapter 61, Wage Collection, was readopted as R.2001 d.431, effective October 25, 2001. See: 33 N.J.R. 3304(b), 33 N.J.R. 3899(a).

Chapter 61, Wage Collection, was readopted as R.2007 d.148, effective April 12, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

12:61-1.1 Purpose; scope

(a) The purpose of this subchapter is to establish rules to effectuate N.J.S.A. 34:11-57 et seq., the New Jersey State Wage Collection Law, to empower the Commissioner of Labor and Workforce Development means of collecting wages due.

(b) The chapter is applicable to:

1. Wages and hours subject to the New Jersey State Wage Collection Law;
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.

Amended by R.2007 d.148, effective May 7, 2007.
See: 38 N.J.R. 4981(a), 39 N.J.R. 1744(a).
In (a), inserted "and Workforce Development".

12:61-1.2 Definitions

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

"Commissioner" means the Commissioner of Labor and Workforce Development or any person or persons in the Department designated in writing by him or her for the purposes of this article.

"Employee" means any natural person who works for another for hire.

"Employer" means any person, partnership, firm or corporation employing another for hire.

"Service" means proper legal service of a summons, subpoena, or any other legal document referred to in this subchapter. Service shall be in accordance with the New Jersey Civil Court Rules.

"Wages" means any monies due an employee from the employer, pursuant to laws administered by the Commissioner, whether payable by the hour, day, week, semi-monthly, monthly or yearly and shall include commissions, bonuses, piecework compensation and any other benefits arising out of an employment contract.

Amended by R.1996 d.554, effective December 2, 1996.
See: 28 N.J.R. 4161(a), 28 N.J.R. 5076(a).
Amended by R.1999 d.251, effective August 2, 1999.
See: 31 N.J.R. 736(a), 31 N.J.R. 2222(a).

In "Wages", inserted "pursuant to laws administered by the Commissioner," following "employer".

Amended by R.2007 d.148, effective May 7, 2007.
See: 38 N.J.R. 4981(a), 39 N.J.R. 1744(a).

In definition "Commissioner", inserted "and Workforce Development".

12:61-1.3 Powers of the Commissioner

(a) The Commissioner of Labor and Workforce Development or his or her representative is authorized and empowered to investigate any claim for wages due an employee. In conducting such investigation, the Commissioner or his or her representative may do the following:

1. Summon the defendant;
2. Subpoena witnesses;
3. Administer oaths; and
4. Take testimony.

(b) The Commissioner of Labor and Workforce Development or his or her duly authorized representative shall upon such proceeding make a decision or award when the sum in controversy, exclusive of costs, does not exceed \$30,000.

(c) Such decision or award as mentioned in (b) above shall be a judgment when a certified copy thereof is filed with the Superior Court.

(d) The Commissioner of Labor and Workforce Development is authorized to supervise payments of amounts due to employees.

(e) The Commissioner or his or her representative shall make the final decision of the Department.

(f) Appeals of the final decision of the Department shall be made to the Superior Court of New Jersey, Law Division pursuant to N.J.S.A. 34:11-63 and Rule 4:74-8 of the New Jersey Rules of Court.

Amended by R.1995 d.319, effective June 19, 1995.
See: 27 N.J.R. 1520(a), 27 N.J.R. 2409(a).

Deleted former (b) to (d); relettered former (e) to (g) as (b) to (d); and added new (e) and (f).

Amended by R.2007 d.148, effective May 7, 2007.

See: 38 N.J.R. 4981(a), 39 N.J.R. 1744(a).

In the introductory paragraph of (a), and in (b) and (d), inserted "and Workforce Development".

Administrative correction.

See: 45 N.J.R. 751(a).

12:61-1.4 Administrative fees

(a) The employer shall pay the Commissioner an administrative fee on all payment of gross amounts due employees pursuant to N.J.S.A. 34:11-58. Although the administrative fee is not collected by the Commissioner until the actual payment of wages due, the duty to pay the fee attaches immediately upon the filing of a claim for wages.

(b) A schedule of fees are as follows:

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

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

(d) All fees shall become part of the judgment as mentioned in 12:61-1.3(d).

Amended by R.1999 d.251, effective August 2, 1999.

See: 31 N.J.R. 736(a), 31 N.J.R. 2222(a).

In (a), added a second sentence.

Amended by R.2007 d.148, effective May 7, 2007.

See: 38 N.J.R. 4981(a), 39 N.J.R. 1744(a).

In (c), inserted "and Workforce Development" two times.

12:61-1.5 Interest

(a) When the Commissioner makes an award of back pay, he or she may also award interest in the following situations:

1. When an employer has unreasonably delayed compliance with an order of the Commissioner to pay wages owed to an employee;
2. Where an equitable remedy is required in order to recover the loss of the present value of money retained by the employer over an extensive period of time; or
3. Where the Commissioner finds sufficient cause based on the particular case.

(b) Where applicable, interest deemed owed to an employee shall be calculated at the annual rate as set forth in New Jersey Court Rules, 4:42-11.

New Rule, R.2001 d.278, effective August 6, 2001.

See: 33 N.J.R. 1850(a), 33 N.J.R. 2676(a).

Former N.J.A.C. 12:61-1.5, Wage settlement agreements, recodified to N.J.A.C. 12:61-1.6.

12:61-1.6 Wage settlement agreements

(a) The terms of any settlement agreement entered into between an employer and employee(s) subsequent to the initiation of the wage collection process shall be conveyed to the Commissioner or his or her designee for review.

(b) The Commissioner or his or her designee shall thereupon determine if the settlement agreement comports with the applicable wage statutes and rules of the State of New Jersey.

(c) Any settlement agreement entered into in violation of the wage laws of the State shall be deemed by the Commissioner or his or her designee to be null, void and unenforceable.

New Rule, R.1999 d.251, effective August 2, 1999.

See: 31 N.J.R. 736(a), 31 N.J.R. 2222(a).

Recodified from N.J.A.C. 12:61-1.5 by R.2001 d.278, effective August 6, 2001.

See: 33 N.J.R. 1850(a), 33 N.J.R. 2676(a).