

CHAPTER 59

INDUSTRIAL HOME WORK LAW

Authority

Unless otherwise expressly noted, all provisions of this Chapter 59 were adopted by the Commissioner of Labor and Industry, pursuant to authority delegated at N.J.S.A. 34:6-136.7, and were filed and became effective prior to September 1, 1969.

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SUBCHAPTER 1. GENERAL PROVISIONS

12:59-1.1 Purpose; authority

These rules and regulations supplement the Industrial Home Work Law, Chapter 308, Laws of 1941 and are promulgated by virtue of Section 17 of said law.

12:59-1.2 Compliance by distributors

All New Jersey distributors of industrial home work must comply with the laws and rules and regulations governing employment of women and minors in the home and factory as well as the general factory laws.

12:59-1.3 Distribution of industrial home work

The distribution of industrial home work to a home worker can only occur from a factory or business located in New Jersey.

12:59-1.4 Limitation on number of home workers

The number of home workers that is permitted for any one employer is restricted to one-third of the employees in the factory or business.

12:59-1.5 Employer's permit; home worker's certificate

(a) Under no circumstances can industrial home work be distributed unless:

1. An employer is in possession of a valid employer's permit;

2. The home worker is in possession of a valid home worker's certificate where such industrial home work is distributed to said home worker by the employer;

3. Where subsequent distribution is intended, such person is in possession of a valid employer's permit.

(b) The employer's permit must be kept on file on the premises from which the industrial home work is distributed.

12:59-1.6 Applications

(a) Requests for application forms for an employer's permit and home worker's certificates must be made by an employer and completed applications for employer's permit and permit fee and home workers' certificates must be mailed by the employer to:

Wage and Hour Bureau
Division of Labor
Department of Labor and Industry
John Fitch Plaza
Trenton, New Jersey 08625

(b) The Division of Labor will not recognize any applications for home worker's certificates if requests are made directly by the home worker.

(c) To eliminate any question concerning the validity of home workers' certificates, employers must file applications for home worker's certificate with the Wage and Hour Bureau of the Division of Labor. A home worker's certificate is valid for one employer only. Where a home worker does work for several employers, each employer must procure a home worker's certificate from the Division of Labor for the said home worker.

12:59-1.7 Workmen's Compensation Insurance

All employers of home workers must provide Workmen's Compensation Insurance coverage for all such home workers.

12:59-1.8 Employment of minors

(a) No minor under 16 years of age is permitted to manufacture industrial home work in either the factory or in the home.

(b) All minors between 16 and 18 years of age who are engaged in the manufacture of industrial home work at any place (factory, business or home) must comply with the following requirements:

1. An employment certificate must be secured and kept on file by the employer. These certificates are procurable from the issuing officer in the school district where the minor resides.

2. Such minors may not work in excess of eight hours per day or 40 hours per week and cannot be employed more than six consecutive days.

3. Male minors may not work before 6:00 A.M. nor after 10:00 P.M. Female minors may not work before 7:00 A.M. nor after 10:00 P.M.

4. The employer must post an abstract of the Child Labor Law and a schedule of hours of work for minors in the place where the minor is directly employed.

5. The employer must keep an accurate work time record for such minors showing:

- i. Name of minor;
- ii. Address of minor;
- iii. Date of birth;
- iv. Time of commencing and stopping work and time allowed for meal periods;
- v. Wages paid to minors.

(c) Such minors must receive a 30-minute meal period after five consecutive hours of work.

(d) The employer is responsible for compliance with the provisions of the Child Labor Law insofar as any phase of industrial home work operations may be concerned.

12:59-1.9 Records to be kept¹

(a) Each employer (including distributors or independent contractors and any person who sells or causes to be sold to another person any articles or materials for the purpose of having such articles or materials manufactured within this State in a home and of then rebuying such articles or materials, after such manufacture, either by himself or by someone designated by him) shall keep the following complete and accurate records in one book, said records to be kept for a period of one year:

1. Names of all persons engaged in industrial home work directly or indirectly for or in behalf of such employer;
2. Address of all places where such persons work;
3. All articles or materials directly or indirectly distributed to such persons;
4. All articles or materials manufactured by such persons;
5. The net cash wages received by each home worker and such piecework rates at which each home worker is compensated;
6. All independent contractors to whom materials to be manufactured by industrial home work have been furnished (this includes distributors and other persons who may be engaged in resale transaction as indicated in this Section);

7. The number of the employer's permit or home worker's certificate, whichever is applicable;

8. Daily hours of work by each home worker on all articles or materials furnished by the employer. Time spent in transporting articles or materials to and from the home from and to the point of distribution will be considered working time when same is done by the home worker and must appear on the time record.

¹The records required under Section 1.9 of this Chapter must be available for inspection during regular business hours.

12:59-1.10 Home worker time record

Each home worker must furnish the employer with a statement in writing showing hours worked each day, shown by date, on such articles or materials. This time record must be transcribed by the employer to work time record for home worker as noted above.

12:59-1.11 Limitations on female employees' hours

Female employees (including home workers) are not permitted to work more than ten hours in any one day, 54 hours per week.

12:59-1.12 Minimum wage requirements

(a) In accordance with the Minimum Wage Law, true and accurate records of the hours worked by each worker together with the wages paid must be kept. Such records must be kept regardless of the form of employment. The employer is solely and directly responsible for having true and accurate records.

(b) Where such records (see N.J.A.C. 12:59-1.9(a)7 and 8) are not true and accurate, the employer will be subject to the penalties provided in the Minimum Wage Law.

(c) The following New Jersey Minimum Wage Orders are in effect:

1. Mandatory Order No. 13—CLEANING AND DYEING OCCUPATIONS AND LAUNDRY OCCUPATIONS.

(d) All occupations covered by this chapter shall be paid at a rate of pay not less than the current statutory minimum wage rate pursuant to N.J.S.A. 34:11-56a.4.

(e) A copy of the applicable order must be posted in a conspicuous place in every room where workers are employed. Copies of these orders and any additional information may be secured upon request from:

New Jersey Department of Labor
Office of Wage and Hour Compliance
PO Box 389
Trenton, New Jersey 08625-0389

Amended by R.1997 d.360, effective September 2, 1997.
See: 29 N.J.R. 2621(a), 29 N.J.R. 3844(a).

In (b), amended N.J.A.C. references; in (c), deleted (c)1 and (c)2 and recodified (c)3 as (c)1; inserted new (d); recodified (d) as (e); and in (e), substituted "workers" for "women or minors" and amended the Department of Labor's address.

12:59-1.13 Federal compliance

Compliance with the provisions of the New Jersey Minimum Wage Law does not excuse any failure on the part of the employer from complying with the Federal Fair Labor Standards Act.