

Notice to Employers Regarding Implementation of Wage Order  
New York State Department of Labor  
Minimum Wage Requirements for the Hospitality Industry

This volume of the New York State Register contains the final rulemaking associated with changes to minimum wage requirements for the Hotel and Restaurant Industries, now collectively referred to as the Hospitality Industry Minimum Wage Order. ID Number LAB-42-10-00005-P. The effective date for all provisions in the final rule is January 1, 2011.

Changes to the federal and state minimum wage became effective in July 2009. Employees in the hospitality industry are deserving of the protections afforded other minimum wage workers since that time. Likewise, the Department's final rule contains provisions that will assist employees by making changes that clarify and simplify various provisions of the current Wage Orders. Consequently, there is a strong basis for establishing an immediate effective date for this rule.

At the same time, the Department has heard from representatives of the industries affected by this rule and others that the immediate effective date will impose a practical hardship on them as they move to reflect the various wage changes in payroll systems and bookkeeping operations. In response to these concerns, the Department will exercise discretion with regard to its enforcement of these provisions to allow employers in these industries an implementation period to run through February 28, 2011 to make necessary payroll system changes needed to come into compliance with the requirements of this rule. As of March 1, 2011, or their next regularly scheduled pay day following March 1, 2011, all employees covered by this rule must be paid any additional wages owed to them on account of this rule, ***computed retroactively*** to January 1, 2011.

Employers are obligated to maintain payroll records, which clearly identify the retroactive payments along with regular wage payments, and to make such records available to the Commissioner upon request.

Employers are also obligated to post in their establishments in a location accessible to and frequented by employees covered by this rule a notice regarding this implementation period and their entitlement to retroactive payment of wages under the new Hospitality Wage Order at the end of this period. The Department will develop a notice for this purpose and post it on its website, <http://www.labor.ny.gov>, for downloading prior to the effective date of this rule.

Employers who are able to fully comply with the rule as of its effective date or between such date and February 28, 2011 are encouraged to do so.

Colleen C. Gardner  
Commissioner of Labor