

DC's Wage Theft Prevention Amendment Act In Effect: Pay Notices Required

The District of Columbia's Wage Theft Prevention Amendment Act of 2014 took effect on February 26, 2015. Among other things, employers must post a summary of the law and provide pay notices to employees that contain detailed wage and other information. The Department of Employment Services has now issued the summary along with sample templates of the required notices. Employers should be sure to provide pay notices to new employees at the time of hire and to existing employees by May 27.

Background

In September 2014, then District of Columbia (DC) Mayor Vincent Gray signed the Wage Theft Prevention Amendment Act (WTPAA), increasing employer penalties for violations of local wage and hour laws and instituting formal hearing procedures for employee complaints. The new law took effect on February 26 when it cleared the 30-day congressional review period. Two emergency amendments to the law also took effect. (See our [February 20, 2015 For Your Information](#).)

Among other things, the law requires employers to provide written pay notices to employees and establishes procedures for workers to file grievances with the DC Office of Wage-Hour (OWH). OWH has begun a public education campaign for employers and employees. In addition to webinars, conference calls and information sessions, OWH is conducting an outreach campaign (the Zip Code Project) in coordination with the Office of Occupational Safety and Health to educate, inform, and ensure enforcement of DC wage laws, OSHA regulations, and Worker Compensation laws via site visits to local businesses. According to the Department of Employment Services (DOES) [website](#), the project will initially focus on: construction, restaurants, home healthcare, daycare, and retail industries.



Pay Notices and Postings

The WTPAA requires employers in DC to provide to all new employees at hire, and to all existing employees by May 27, a notice containing information concerning the employer's identity, employee's rate and basis of pay, and the employee's regular pay day. A similar notice must be provided whenever the pay rate or other information changes. The notice must be signed and dated by both the employer and the employee acknowledging receipt, and copies must be retained by the employer as proof of compliance.

On February 27, the DC mayor's office released two template notices for use by employers and by staffing agencies to satisfy their obligations to new hires and to existing employees under the WTPAA. The DOES has posted on its wage and hour compliance website the English version of both templates, as well as some general guidance.

Other Primary Languages

The templates note that employees have a right to notice in a language other than English only if the DOES has developed a dual-language notice for use.

While the WTPAA requires notice to be provided in English as well as in the employee's primary language if other than English, the DOES has not yet posted any foreign language templates. While the DOES says that it will provide dual language notices and acknowledgements in English and Spanish on request, they are not yet available on its website. In the form's employee acknowledgement (section 8), the employee confirms his or her primary language but also represents "I have been given this pay notice in English only, because Office of Wage-Hour does not yet offer a pay notice form in my primary language."

Notice for Use by Employers

The two-page [Notice of Hire to Employees Template](#) form for employers has check-off boxes to indicate whether the form is being used for new hires, for distribution to current employees as is required by May 27, or for pay rate changes (including new assignments at different pay rates). Employers must indicate on the form whether they claim a tip credit, whether there is a tip pool, and if so, how it operates. Multiple rates may be listed, if applicable. The form also includes a section to indicate whether the employee is being paid the minimum wage, the living wage rate, or an employer determined wage rate. The employer form must identify the applicable overtime rate, and specify the basis for any claimed exemption from overtime.

Notice for Use by Temporary Staffing Firms

A slightly different form must be provided by temporary staffing firms. The [Notice of Hire for Temporary Staffing Firms Template](#) has check-off boxes indicating whether the form is being used at an initial interview or particular assignment and allows some flexibility in stating pay frequency and pay day. Information about the particular assignment and the legal entity responsible for workers' compensation insurance must be included.

Workplace Posting

The WTPAA also requires employers to display a copy or a summary of the law. The DOES has issued a [notice](#) of the 2014 WTPAA that summarizes the new law and explains its provisions for employers and employees. Employers may use the notice to satisfy their workplace posting requirement.

Comment. Although the WTPAA does not appear to require employers to distribute copies of this notice to covered employees, the DOES has indicated that it may require its distribution.

In Closing

Employers are already required to provide pay notices required by the new law to all new employees at hire, and will have to provide notices by May 27 to employees who were hired prior to February 26, 2015. Employers may use the new templates for those purposes, as well as for other changes that trigger a notice obligation (particularly changes in pay rates). Employers with DC employees should confirm that they have satisfied their workplace posting obligations, and continue to monitor the DOES website for guidance on any additional requirements.

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