

How to Comply with D.C. Wage Theft Amendment Act

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The **D.C. Wage Amendment Act's** broad changes to the **District of Columbia's** wage and hour laws greatly increases employer obligations, potential penalties, and liability, while creating a cumbersome administrative hearing process in order to vindicate their rights.

Most significant for many employers are the enhanced timekeeping requirements for non-exempt employees and wage statement requirements for all employees, including *exempt* employees. (For details, see our articles, [D.C. Wage Theft Prevention Act Amended by Council to Remove Certain Exempt-Employee Mandates](#), [Amended D.C. Wage Theft Prevention Act Effective February 26](#), and [Amended D.C. Wage Theft Prevention Act Adds Employer Obligations and Onerous Penalties for Violations](#).) The D.C. Wage Amendment Act went into effect on February 26, 2015.

This article discusses recent updates and steps that affected employers should take.

Post Required Notice

Employers are required to post the **Notice** of the Act conspicuously in the workplace. Additionally, while the Act does not appear to require it, the D.C. Department of Employment Services (DOES) says that employers also must distribute the Notice to covered employees.

Notice to New Hires, Current Employees

The law, as amended, requires employers to provide pay notice information “in the form of the sample template made available by the Mayor.” On March 3, 2015, D.C. Mayor Muriel Bowser issued pay notice templates. One [template is for direct employers](#) and the other is [for temporary staffing agencies](#). Both are available on the D.C. Department of Employment Services (DOES) website in English. DOES should issue the Spanish-language version shortly. The law requires that employers provide the notice to an employee in English *and* the employee’s primary language *if* the Mayor has issued a template in that language. Employers who need templates in languages other than English or Spanish should check periodically with the Department of Employment Services.

Contrary to the specific language in the law, as amended, DOES has stated that the Notice issued by the agency is only a template and employers should modify the document as they see fit. Most employers, we anticipate, will use the language in the template, as a cautionary measure. Nevertheless, to the extent the template does not contain information appropriate and necessary to give notice to certain employees (e.g., because of lack of space for salary information or because the outside sales exemption is not listed as a potential basis for exempt classification), employers should add the relevant information.

For direct employers, the law states that notices must be in writing, signed and dated by both the employer and the employee, and retained as proof of compliance. The law allows temporary staffing employers to give notice by email, text, facsimile, or regular mail. DOES has stated that direct employers also may give notice electronically. (Jackson Lewis attorneys have requested clarification from DOES regarding this conflict between the law’s language and DOES’ instructions and are awaiting a response.) Because the notice requirement in the law is relevant not only to DOES investigations, but also to claims brought by plaintiffs, relying on the DOES interpretation may present a risk.

All notices also must be reissued in amended form any time required information is changed.

Review Exempt Status of Covered Employees

The template notice requires not only that employers identify employees who are exempt from minimum wage and overtime, but also identify which exemption applies to each employee (Executive, Professional or Administrative are the options listed). Employers should review carefully the exempt status of each employee receiving a notice to ensure that each such employee indeed is exempt. Employers will need to understand the requirements for each exemption and be prepared to defend their determination for each exempt employee.

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