

LABOR AND WORKFORCE DEVELOPMENT

DIVISION OF WAGE AND HOUR COMPLIANCE

N.J.A.C. 12:56-3.1

Notice of Administrative Changes

Minimum Wage

Take notice that the Department of Labor and Workforce Development has requested, and the Office of Administrative Law has agreed to permit, an administrative change to N.J.A.C. 12:56-3.1(a). In pertinent part, that subsection states that “except as provided in N.J.A.C. 12:56-3.2, every employee shall, effective January 1, 2018, be paid not less than \$8.60 per hour, the minimum hourly wage rate set by section 6(a)(1) of the Federal ‘Fair Labor Standards Act of 1938’ (29 U.S.C. §206(a)(1)), or the rate provided under N.J.S.A. 34:11-56a4, whichever is greatest.” Pursuant to N.J.A.C. 12:56-3.1(b), on an annual basis, on or about September 30, the Department shall revise the minimum hourly wage rate, “based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States Department of Labor, Bureau of Labor Statistics.” N.J.A.C. 12:56-3.1 indicates further that the Department shall annually, (1) through a public notice published in the New Jersey Register, provide the new CPI-adjusted minimum hourly wage rate, and (2) no later than September 30 of each year, publish the afore-mentioned public notice on the Department’s website. The percent increase in the CPI-W, U.S. City Average, for the one-year period, August 2017 through August 2018, is 2.88 percent. That is, the CPI-W, U.S. City Average, in August 2017 was 239.448, and in August 2018 it was 246.336. Consequently, the change in the index over the one-year period equals 6.888, or an increase of

2.88 percent ($6.888/239.448 \times 100$). Using as a base for the calculation the current New Jersey minimum hourly wage rate of \$8.60 (since as of this date, \$8.60 is greater than both the minimum hourly wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act and the rate provided under N.J.S.A. 34:11-56a4), a 2.88 percent increase (rounded to the nearest penny) is \$0.25, yielding an adjusted State minimum hourly wage rate, effective January 1, 2019, of \$8.85. Therefore, pursuant to Article 1, Paragraph 23, of the New Jersey Constitution, and N.J.A.C. 12:56-3.1(b), the State minimum hourly wage rate, effective January 1, 2019, must be changed from \$8.60 to \$8.85. This requires making two administrative changes to N.J.A.C. 12:56-3.1(a): (1) the date, January 1, 2018, must be replaced by the date, January 1, 2019, and (2) the amount, \$8.60, must be replaced by the amount, \$8.85.

Full text of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:56-3.1 Statutory minimum wage rates for specific years

(a) Except as provided in N.J.A.C. 12:56-3.2, every employee shall, effective [January 1, 2018] **January 1, 2019**, be paid not less than [\$8.60] **\$8.85** per hour, the minimum hourly wage rate set by section 6(a)(1) of the Federal “Fair Labor Standards Act of 1938” (29 U.S.C. §206(a)(1)), or the rate provided under N.J.S.A. 34:11-56a4, whichever is greatest.

(b) (No change.)

(c) (No change.)