

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.)