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Wages and pay

Workers' Rights

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Wages, hours, and payment

✓ What is the current minimum wage?

For workers in New York City, Long Island, and Westchester, the minimum wage is \$15.00 per hour. For workers in other parts of New York State, the minimum wage is \$13.20 and set to increase every year on December 31 until it reaches \$15.00 per hour. For workers in the fast food or hospitality industry, the minimum wage is \$15.00 per hour regardless of where they work in the state.

General information about the minimum wage overall and by certain industries, as of December 31, 2021, is below:

Location	Basic minimum hourly wage ¹	Building service industry ²	Farm workers ³
New York City	\$15.00	\$15.00 ⁶	\$15.00

Location	Basic minimum hourly wage ¹	Building service industry ²	Farm workers ³
Long Island and Westchester	\$15.00	\$15.00	\$15.00
Remainder of New York	\$13.20	\$13.20	\$13.20

✓ What is overtime pay? Am I entitled to overtime pay?

Overtime pay is a higher pay rate for hours worked after 40 in a work week. New York Labor Law requires employers to pay one and a half times your regular rate of pay (instead of your regular rate) for hours worked after 40 in a work week. Almost all workers are entitled to overtime pay, but there are some exceptions.

Example: A worker who receives \$15.00 per hour is entitled to overtime pay of \$22.50 per hour (one and a half times the regular rate) for any hour they work after 40 hours in a work week.

✓ Is there any limit on how long an employer can make me work? Can my employer require me to work seven days a week?

There is no general legal limit on how long the employer can require adults to work, but you are entitled to overtime pay for all hours worked after 40 in a work week. Factories, stores, hotels, restaurants, and some other employers are required to give all employees at least one full day of rest (24 consecutive hours) each calendar week. There are limits on how

long people under age 18 can work, and for some workers, such as drivers, safety laws limit how many hours of work are permitted. For more information, contact the New York State Department of Labor at 1-800-662-1220 or visit <https://www.labor.ny.gov>, or contact the U.S. Department of Labor at 1-866-4-USWAGE or visit <http://www.dol.gov>.

✓ If I receive tips, how much is my employer required to pay me?

Your employer may be able to pay you less than the normal minimum wage if all of the factors below are met:

- You regularly receive tips as part of your job.
- Your hourly tips and wage add up to at least the normal minimum wage.
- Your employer informed you that it is paying you less than the minimum wage because you regularly receive tips.
- Your employer keeps a weekly record of the amount of tips you earned each week.

Tips can come in the form of cash, check, credit card, or any other form of payment.

No tip credit is permitted for fast food employees.⁷

The minimum wage and maximum allowable tip credit for food service workers and service workers, as of December 31, 2021, is below:

Tipped food-service workers	Minimum hourly wage (per hour) ⁸	Maximum credit (per hour)
New York City	\$10.00	\$5.00

Tipped food-service workers	Minimum hourly wage (per hour)⁸	Maximum credit (per hour)
Long Island and Westchester	\$10.00	\$5.00
Remainder of New York	\$8.80	\$4.40

Tipped service workers⁹	Minimum hourly wage (per hour)	Maximum credit (per hour)
New York City	\$12.50	\$2.50
Long Island and Westchester	\$12.50	\$2.50
Remainder of New York	\$12.50	\$2.50

✓ If I receive a salary, am I still entitled to the minimum wage and overtime?

Some occupations are not subject to overtime requirements under both New York law and the federal law. These include executive employees, administrative employees, and professional employees. But when the New York minimum wage increases, the state's minimum salary required for executive and administrative employees also increases proportionally.

Executive and administrative salary-based exemption	Minimum salary required (per week) as of 12/31/2021¹⁰
New York City	\$1,125.00
Long Island and Westchester	\$1,125.00
Remainder of New York	\$990.00

✓ If I am a farm worker, how much is my employer required to pay me?

Your employer is required to pay at least the New York basic minimum wage based on location. For farm workers in New York City, Long Island, and Westchester, the minimum wage is \$15.00 per hour. For farm workers in other parts of the state, the minimum wage is \$13.20 and set to increase every year on December 31 until it reaches \$15.00 per hour.

Farm workers also receive overtime pay, beginning after 60 hours of work per week at of one and a half times the wage. Employers are also required to provide at least 24 hours of consecutive rest in a week. Unless you're a seasonal worker, your employer may be able to deduct from your wages specific allowances such as for meals and lodging.

The table below shows the amounts your employer may deduct from your wages for certain allowances:

Allowances	Amount
Meal allowances (per meal)	\$1.70
Lodging and utilities: single occupancy (per week)	\$18.95

Allowances	Amount
Lodging and utilities: multiple occupancy (per week)	\$12.65
Lodging and utilities: employer-furnished house or apartment, individual occupancy (per day)	\$5.00
Lodging and utilities: employer-furnished house or apartment, family (per day)	\$8.00

For more information about farmworker pay, visit:

[Minimum wage order](#)

[Farm Workers](#)

✓ Can my employer change my work schedule at the last minute?

For retail and fast food workers¹² in New York City, employers must give advance notice of an employee's scheduling change. If the notice of certain scheduling changes is not timely, the employer may be required to pay a premium to the employee.

For retail workers not covered by a collective bargaining agreement:

- Employers must give 72 hours' advance notice of an employee's work schedule.
- Employers must not request "on-call" shifts or "call-in" shifts from employees within 72 hours' of the start of the shift.
- Employers must not add shifts to an employee with less than 72 hours' notice without the employee's consent.
- Employers must not cancel a shift with less than 72 hours' notice.

For fast food workers:

- Employers must give 14 days' advance notice to the employee of their work schedule.
- Employers must make a good-faith estimate of the employee's schedule and provide the employee with their regular and first work schedules on or before their first day of work.
- Employers must pay a \$100 premium for employees who close a business location and then open that location the following day.
- Employers must give premium pay for all schedule changes in accordance with the chart below.

Premium pay for schedule changes for fast food workers

	Less than 14 days notice	Less than 7 days notice	Less than 24 hours notice
Additional hours or shifts (per change)	\$10.00	\$15.00	\$15.00
Changes to shift hours causing loss of hours (per change)	\$10.00	\$15.00	\$15.00
Subtraction of hours (per change)	\$20.00	\$45.00	\$75.00
Cancellation of shift (per change)	\$20.00	\$45.00	\$75.00

For more information about protections for retail and fast food workers in New York City, visit:

What fast food employers/workers need to know

You can file a complaint with New York City in any of the following ways:

- Visit the [workplace complaint page](#) and submit a complaint (forms in multiple languages).
- Fill out the [OLPS intake form](#) and email it to OLPS@dca.nyc.gov.
- Call 311.

✓ Can my fast food employer fire me without reason or cause?

For fast food workers in New York City, employers cannot fire an employee or reduce their average hours by more than 15% without just cause. If an employer has an economic reason to fire an employee, the employer must fire employees in reverse order of seniority and attempt to reinstate fired employees before hiring a new employee. If the employer does not have just cause, the employee must have the opportunity to be reinstated into their prior position or have their hours restored. (NYC Admin Code § 20-1271)

For more information about protections for retail and fast food workers in New York City, visit:

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✓ What is "split shift" or "spread shift" pay? Am I entitled to it?

If your hours of work are split (not consecutive), or if your shift lasts more than 10 hours, you may be entitled to one additional hour's pay for the day, at the minimum wage hourly rate for New York.

✓ I was required to report to work, but sent home when I arrived. Am I entitled to pay?

If you are required or permitted to report to work, even if you are not assigned actual work, you may be entitled to "call-in pay." Usually, restaurant or hotel workers are entitled to three hours' pay at the applicable minimum rate, and employees in other private workplaces are entitled to four hours' pay at the applicable minimum rate.

✓ My employer wants to reduce my salary or change my hours or my job, and says I will be fired unless I accept the change. I am not represented by a union and do not have an employment contract. Can they do this?

Yes. If you are not in a union and do not have an employment contract, an employer can change the conditions of employment, including salary, provided that they pay at least the minimum wage and any required overtime, and continue to follow any other applicable laws. An employer may not, however, change your salary after the fact for time you have

already worked, or change your salary or hours in retaliation for your exercise of rights protected by labor law.

✓ Am I legally entitled to a wage higher than the minimum wage, such as the "prevailing wage" or a "living wage"?

If you work under a contract — either a collective-bargaining agreement or an individual contract — then the employer must pay you the wage the contract calls for. Even without a contract, some workers may be legally entitled to a wage higher than the minimum wage, depending on the type of work and location.

For example, employees performing work on a “public works project” — usually construction projects performed for a government or public agency — may be entitled to a “prevailing wage” determined by the New York State Department of Labor’s Bureau of Public Work or (for jobs in New York City) the New York City Comptroller’s Bureau of Labor Law. Some building service workers, such as janitors, are also entitled to the prevailing wage when working under a contract for a government or public agency. For more information about prevailing-wage requirements, contact the New York State Department of Labor, Bureau of Public Work, at 1-800-662-1220 or the New York City Comptroller’s Bureau of Labor Law at 1-212-669-3500.

In addition, some local laws within the state require that certain employees working under a contract with the local government receive a “living wage” set by the law. Check with your local government to see if such laws apply to your employment.

✓ How frequently is my employer required to pay me?

It depends on your job. New York Labor Law section 191 generally provides:

Employee category	Required pay frequency
Manual worker (mechanic or laborer)	At least once a week, not more than a week after the wages were earned
Commission-based salesperson	As agreed, but at least once a month — on written request, you are also entitled to a statement of earnings due
Other types of workers	At least twice a month, on a regular pay day designated in advance

✓ My employer told me that I am an independent contractor. Does that mean I don't have to be paid minimum wage?

Sometimes employers “misclassify” workers as independent contractors instead of employees. Independent contractors do not have as many rights as employees, and aren’t entitled to minimum wage and overtime protection. Whether you are an employee or independent contractor depends on a variety of factors that relate to the level of control that your employer has over your work. If you suspect that you have been misclassified as an independent contractor, please submit [a labor-related complaint](#) to the Labor Bureau.

For more information, visit <https://labor.ny.gov/ui/dande/ic.shtm>

✓ What can I do if my employer isn't paying me wages that I am owed?

Employees have a right to sue to collect wages, but it is often more practical to complain to the Labor Standards Division of the New York State Department of Labor, which has many local offices around the state. To find the nearest office, you can check the [Department of Labor's website](#). You can also contact the Labor Bureau by submitting a [labor-related complaint](#).

✓ Can my employer fire me for reporting violations to the Attorney General's Office or to the Department of Labor?

No. You have the right to report violations. It is against the law for your employer to retaliate against you, or punish you in any way, for reporting violations. Employers who retaliate against workers for reporting violations are subject to a \$10,000 penalty per violation, in addition to being liable for lost compensation and up to \$10,000 per violation in liquidated damages.

¹New York Codes, Rules, and Regulations (NYCRR) title 12, section 142.

²The building service industry includes any person, corporation or establishment engaged in renting, servicing, cleaning, maintaining, selling, or managing buildings or buildings space, and all related occupations, operations, and services. NYCRR title 12, section 141.

³12 NYCRR § 190. See also [Farm Workers Wage Order Summary](#).

⁴A fast food establishment is a business that primarily serves food or drinks, offers limited service, where customers order and pay before eating, and is part of a chain of 30 or more establishments nationally. NYCRR title 12, section 146-3.13(b).

⁵The hospitality industry includes hotels and restaurants. NYCRR title 12, section 146-3.1.

⁶NYCRR title 12, section 141-1.3. If the employee works in an executive or administrative capacity, see NYCRR title 12, section 141-3.2(c). If the employee works as a resident janitor, see NYCRR title 12, sections 141-3.4, 3.5, 3.10. If the employer does not launder a required uniform, see NYCRR title 12, section 141-3.11.

⁷NYCRR title 12, section 146-1.3(c).

⁸Where an employer provides lodging or meals, refer to the maximum allowed credits provided in NYCRR title 12, section 146. If the employee works in an executive or administrative capacity, see NYCRR title 12, section 146-3.2(c).

⁹A service employee is an employee, other than a food service worker or fast food employee, who customarily receives tips at or above the tip threshold rate in NYCRR title 12, section 146-1.3(a). NYCRR title 12, section 146-3.3(a).

¹⁰NYCRR title 12, section 141-3.2(c)(1)(i)(e)(3); New York State Department of Labor, Miscellaneous Industry Wage Order Summary, Wage Order Summary (last visited July 29, 2021).

¹¹Order of Commissioner Roberta Reardon regarding pursuant to labor law sections 674(a) and 656

¹²A fast food employee is any person employed by or permitted to work at or for a fast food establishment by any employer where such person's job duties include at least one of the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning or routine maintenance. "Fast food employee" does not include any employee who is salaried. New York City Administrative Code section 20-1201.