

"WAGE PAYMENT AND COLLECTION LAW"
ACT of 1961, P.L. 637, No. 329

"WAGE PAYMENT AND COLLECTION LAW"

Act of 1961, P.L. 637, No. 329

AN ACT

Relating to the payment of wages or compensation for labor or services; providing for regular pay days; conferring powers and duties upon the Department of Labor and Industry, including powers and duties with respect to the civil collection of wages; providing civil and criminal penalties for violations of the act; providing for their collection and disposition and providing for additional civil damages.

TABLE OF CONTENTS

Section 1.	Short Title.
Section 2.	Definitions. (Repealed)
Section 2.1.	Definitions.
Section 3.	Regular Payday.
Section 4.	Notification.
Section 4.1.	Computation of Wages by Railroads.
Section 5.	Employes Who Are Separated from Payroll before Paydays.
Section 6.	Unconditional Payment of Wages Conceded to Be Due.
Section 7.	Provisions of Law May Not Be Waived by Agreement.
Section 8.	Enforcement.
Section 9.	Notice to Employer and Penalties. (Repealed)
Section 9.1.	Civil Remedies and Penalties.
Section 10.	Liquidated Damages.
Section 11.	Civil Remedies. (Repealed)
Section 11.1.	Criminal Penalties.
Section 12.	Repealer.
Section 13.	Effective Date.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.

This act shall be known and may be cited as the "Wage Payment and Collection Law."

Section 2. Definitions.

(2 repealed July 14, 1977, P.L. 82, No. 30)

Section 2.1. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Authorized representative." An employe of the Department of Labor and Industry who is empowered to perform duties assigned in conformity with all existing laws, rules and regulations administered by the department.

"Check." A draft drawn on a bank and payable on demand.

"Department." The Department of Labor and Industry.

"Employer." Includes every person, firm, partnership, association, corporation, receiver or other officer of a court of this Commonwealth and any agent or officer of any of the above-mentioned classes employing any person in this Commonwealth.

"Fringe benefits or wage supplements." Includes all monetary employer payments to provide benefits under any employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.; as well as separation, vacation, holiday, or guaranteed pay; reimbursement for expenses; union dues withheld from the employees' pay by the employer; and any other amount to be paid pursuant to an agreement to the employee, a third party or fund for the benefit of employees.

"Secretary." The Secretary of Labor and Industry.

"Wages." Includes all earnings of an employee, regardless of whether determined on time, task, piece, commission or other method of calculation. The term "wages" also includes fringe benefits or wage supplements whether payable by the employer from his funds or from amounts withheld from the employees' pay by the employer.

(2.1 added July 14, 1977, P.L. 82, No. 30)

Section 3. Regular Payday.

(a) Wages other than fringe benefits and wage supplements. Every employer shall pay all wages, other than fringe benefits and wage supplements, due to his employees on regular paydays designated in advance by the employer. Overtime wages may be considered as wages earned and payable in the next succeeding pay period. All wages, other than fringe benefits and wage supplements, earned in any pay period shall be due and payable within the number of days after the expiration of said pay period as provided in a written contract of employment or, if not so specified, within the standard time lapse customary in the trade or within 15 days from the end of such pay period. The wages shall be paid in lawful money of the United States or check, except that deductions provided by law, or as authorized by regulation of the Department of Labor and Industry for the convenience of the employee, may be made including deductions of contributions to employee benefit plans which are subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.

(b) Fringe benefits and wage supplements. Every employer who by agreement deducts union dues from employees' pay or agrees to pay or provide fringe benefits or wage supplements, must remit the deductions or pay or provide the fringe benefits or wage supplements, as required, within 10 days after such payments are required to be made to the union in case of dues or to a trust or pooled fund, or within 10 days after such payments are required to be made directly to the employee, or within 60 days of the date when proper claim was filed by the employee in situations where no required time for payment is specified.

(3 amended July 14, 1977, P.L. 82, No. 30)

Section 4. Notification.

It shall be the duty of every employer to notify his employees at the time of hiring of the time and place of payment and the rate of pay and the amount of any fringe benefits or wage supplements to be paid to the employee, a third party or a fund for the benefit of the employee and any change with respect to any of these items prior to the time of said change. Alternatively, however, every employer may give such notification by posting the aforementioned facts and keeping them posted conspicuously at the employer's place of business. Further, in cases where wages, amounts of any fringe benefits or wage supplements are set forth in a bona fide collective bargaining agreement and copies of that agreement are available to employees, then this shall satisfy the employer's duty to give notice.

(4 amended July 30, 1977, P.L. 82, No. 30)

Section 4.1. Computation of Wages by Railroads.

(a) Every common carrier by railroad shall furnish to each of its employees at the time of payment a separate listing of each daily wage and how it was computed.

(b) The department shall issue rules and regulations to carry out the intent of subsection (a) and provide penalties for violation thereof, not to exceed two hundred dollars (\$200) per employe per month.

(4.1 added July 1, 1978, P.L. , No. 136)

Section 5. Employes Who Are Separated from Payroll before Paydays.

(a) Separated Employes. Whenever an employer separates an employe from the payroll, or whenever an employe quits or resigns his employment, the wages or compensation earned shall become due and payable not later than the next regular payday of his employer on which such wages would otherwise be due and payable. If requested by the employe, such payment shall be made by certified mail.

((a) amended July 14, 1977, P.L. 82, No. 30)

(b) Industrial Disputes. In the event of the suspension of work as the result of an industrial dispute, the wages and compensation earned and unpaid at the time of said suspension shall become due and payable not later than the next regular payday of his employer on which such wages would otherwise be due and payable: Provided, That if the employer is unable to prepare the payroll due to industrial disputes or for other reasons beyond the control of the employer, the employer shall not be deemed in violation of section 3 of this act.

Section 6. Unconditional Payment of Wages Conceded to Be Due.

In case of a dispute over wages, the employer shall give written notice to the employe or his counsel of the amount of wages which he concedes to be due and shall pay such amount without condition within the time set by this act. Acceptance by the employe of any payment made hereunder shall not constitute a release as to the balance of his claim.

Section 7. Provisions of Law May Not Be Waived by Agreement.

Nothing contained in this act shall in any way limit or prohibit the payment of wages or compensation at more frequent intervals or in greater amounts or in full when or before due. No provision of this act shall in any way be contravened or set aside by a private agreement.

Section 8. Enforcement.

The Secretary of Labor and Industry shall have the duty, but not the exclusive right, to enforce and administer the provisions of this act, to investigate any alleged violations of this act and to institute prosecutions and actions as provided hereunder. Nothing in this act shall authorize the secretary to initiate a civil action for unpaid wages which are subject to disposition under grievance and arbitration procedures of a collective bargaining agreement. The Department of Labor and Industry shall have the power to make rules and regulations for the administration of this act.

Every employer shall keep open to inspection by the secretary or his authorized representative, all payroll records or other records or documents relative to the enforcement of this act. Such inspection may be made by the secretary or his authorized representative at any reasonable time. Every employer shall permit the secretary or any authorized representative to interrogate any employe in the place of employment and during work hours with respect to such records or documents. Where such records are maintained at a central record keeping office outside of the Commonwealth, such records shall be made available for inspection at the place of employment within seven calendar days following verbal or written notice from the secretary or his authorized representative. Where a microfilm or any other method is authorized for record keeping purposes, the employer shall make available to the secretary or his authorized representative, the equipment which is necessary to facilitate review of the records.

(8 amended July 14, 1977, P.L. 82, No. 30)

Section 9. Notice to Employer and Penalties.

(9 repealed July 14, 1977, P.L. 82, No. 30)

Section 9.1.Civil Remedies and Penalties.

(a) Any employe or group of employes, labor organization or party to whom any type of wages is payable may institute actions provided under this act.

(b) Actions by an employe, labor organization, or party to whom any type of wages is payable to recover unpaid wages and liquidated damages may be maintained in any court of competent jurisdiction, by such labor organization, party to whom any type of wages is payable or any one or more employes for and in behalf of himself or themselves and other employes similarly situated, or such employe or employes may designate an agent or representative to maintain such action or on behalf of all employes similarly situated. Any such employe, labor organization, party, or his representative shall have the power to settle or adjust his claim for unpaid wages.

(c) The employe or group of employes, labor organization or party to whom any type of wages is payable may, in the alternative, inform the secretary of the wage claim against an employer or former employer, and the secretary shall, unless the claim appears to be frivolous, immediately notify the employer or former employer of such claim by certified mail. If the employer or former employer fails to pay the claim or make satisfactory explanation to the secretary of his failure to do so within ten days after receipt of such certified notification, thereafter, the employer or former employer shall be liable for a penalty of ten percent (10%) of that portion of the claim found to be justly due. A good faith dispute or contest as to the amount of wages due or the good faith assertion of a right of set-off or counter-claim shall be deemed a satisfactory explanation for nonpayment of such amount in dispute or claimed as a set-off or counter-claim. The secretary shall have a cause of action against the employer or former employer for recovery of such penalty and the same may be included in any subsequent action by the secretary on said wage claim or may be exercised separately after adjustment of such wage claim without court action.

(d) In any civil action brought under the provisions of this act, the Secretary of Labor and Industry may require the employer to post bond or security to secure payment of the entire claim of the employe with credit in the amount of any good faith assertion of a right of set-off or counter-claim. Such bond or security shall be posted in the court where the civil action is brought. The request for bond or security shall be signed by the secretary and shall provide that such bond or security in the amount stated shall be posted within 30 days of service thereof on the employer. If such bond or security is not posted within the 30-day period, the employer will be deemed to have admitted his liability and execution may immediately ensue.

(e) If the secretary determines that wages due have not been paid and that such unpaid wages constitute an enforceable claim, the secretary shall, upon the request of the employe, labor organization or party to whom any type of wages is payable, take an assignment in trust, from the requesting party of such claim for wages without being bound by any of the technical rules respecting the validity of any such assignments and may bring any legal action necessary to collect such claim, subject to the right by the employer to set-off or counter-claim against the assigning party. Upon any such assignment, the secretary shall have the power to settle and adjust any such claim to the same extent as might the assigning party.

(f) The court in any action brought under this section shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs for reasonable attorneys' fees of any nature to be paid by the defendant.

((f) repealed in part Oct. 5, 1980, P.L. , No. 142)

(g) No administrative proceedings or legal action instituted under the provisions of this act for the collection of unpaid wages or liquidated damages more than three years after the day on which such wages were due and payable as provided in sections 3 and 5.

(9.1 added July 14, 1977, P.L. 82, No. 30)

Section 10. Liquidated Damages.

Where wages remain unpaid for thirty days beyond the regularly scheduled payday, or, in the case where no regularly scheduled payday is applicable, for sixty days beyond the filing by the employe of a proper claim or for sixty days beyond the date of the agreement, award or other act making wages payable, or where shortages in the wage payments made exceed five percent (5%) of the gross wages payable on any two regularly scheduled paydays in the same calendar quarter, and no good faith contest or dispute of any wage claim including the good faith assertion of a right of set-off or counter-claim exists accounting for such non-payment, the employe shall be entitled to claim, in addition, as liquidated damages an amount equal to twenty-five percent (25%) of the total amount of wages due, or five hundred dollars (\$500), whichever is greater.

(10 amended July 14, 1977, P.L. 82, No. 30)

Section 11. Criminal Remedies.

(11 repealed July 14, 1977, P.L. 82, No. 30)

Section 11.1 Criminal Penalties.

(a) The secretary or any employe, group of employes, labor organization or party to whom any type of wages is payable may institute prosecutions under this act.

(b) In addition to any other penalty or punishment otherwise prescribed by law, any employer who violates any provisions of this act shall be guilty of a summary offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300), or by imprisonment up to 90 days, or by both, for each offense. The good faith contest or dispute by any employer of any wage claim or the good faith assertion of a right of set-off or counter-claim shall not be considered a violation of this act: Provided, That the employer has paid all wages due in excess of the amount in dispute or asserted to be subject to a right of set-off or counter-claim. Nonpayment of wages to, on account of, or for the benefit of each individual employe shall constitute a separate offense.

(c) Where such employer is a corporation, the president, secretary, treasurer or officers exercising corresponding functions shall each be guilty of such summary offense.

(d) All fines or penalties collected under this act shall be paid into the State Treasury through the Department of Revenue to the credit of the General Fund.

(11.1 added July 14, 1977, P.L. 82, No. 30)

Section 12. Repealer.

All acts or parts of acts are repealed in so far as they are inconsistent herewith except any act enacted in this session of the Legislature providing for different standards concerning payment of wages.

Section 13. Effective Date.

This act shall become effective thirty days after final enactment.