

Maine Labor Laws

Frequently Asked Questions

This document addresses topics and specific questions that are often asked of the Maine Department of Labor. Many additional answers to questions not addressed here may be obtained from other materials on this website or by calling the Department at 207-623-7900. Depending on the nature of your inquiry, you may need to seek legal guidance from private counsel on questions not governed by Maine's labor laws.

This FAQ document is considered general guidance and is not to be considered an official statement in place of legal positions. Please be sure to see the list of laws under [M.R.S. Title 26, Chapter 7: Employment Practices](#) for the written statute.

1. What is the minimum wage?

- Effective January 1, 2021, Minimum wage is \$12.15 per hour.
- Effective January 1, 2022, Minimum wage is \$12.75 per hour.
- See [26 MRS §663.3](#) for specific exemptions from the state minimum wage.

* Special note: Exemptions from federal minimum wage may differ. For federal minimum wage information please contact the USDOL at 1-866-487-9243 or visit their [website](#).

2. What is a service employee's minimum wage?

Effective January 1st, 2021 "Service employee" means any employee engaged in an occupation in which the employee customarily and regularly receives more than:

- A) Prior to January 1, 2022, \$30 a month in tips;
- B) Beginning January 1, 2022, \$100 a month in tips; or
- C) Beginning January 1, 2023, \$175 a month in tips.

On January 1st, and every January 1st thereafter, the monetary amount over which an employee is considered a service employee under this subsection must be increased by the same percentage of the increase, if any, in the cost of living. The increase in the cost of living is measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the increase rounded to the nearest multiple of \$1.

Employers must pay service employees a direct service wage of at least 50% of the State Minimum Wage.

Effective January 1, 2022, the State Minimum Wage will be \$12.75 per hour and the direct service wage cannot be less than \$6.38 per hour.

If the employee's wages, when combined with actual tips received, do not average at least the State Minimum Wage at the end of the week, the employer must increase the direct service wage by the difference.

Tips belong to the employee providing the service to the customer. Valid tip pooling arrangements only is permissible among service employees.

Overtime (one and one-half times the regular rate of pay) is due on all hours worked over 40 in a workweek in most employment situations.

3. How many hours is full-time employment? How many hours is part-time?

Full-time and part-time employment is not generally defined. These are determined by the employer and are commonly used to define how company benefits are earned.

4. I feel that I have been unfairly discharged. What can I do?

Most employment is "at-will," which means an employer may hire or fire at will and an employee may decide to work or not work for a company at will. This means an employer may legally fire an employee without notice and cause.

An employer **may not** discriminate against an employee because of:

- Race;
- Skin color;
- Gender;
- Sexual orientation;
- Age;
- Physical or mental disability;
- Genetic predisposition;
- Religion;
- Ancestry; or
- National origin.

If you feel your employer has discriminated against you based on one of these reasons, you should contact the Maine Human Rights Commission at 624-6290.

If you would like to file for unemployment benefits because you believe that you lost your job through no fault of your own, visit the [Department's Unemployment website](#).

5. My employer has changed my work schedule and pay -- is this legal?

Maine labor laws do not prohibit an employer from changing work hours or schedules. The rate of pay can be lowered when the employer gives at least a one-day advanced notice to the affected employee. An employer may never lower the rate below the established minimum wage.

6. My final paycheck is being held by the employer. What can I do?

All earned wages are due on the next regularly scheduled payday after the termination of employment. If the final payment of wages is to be made in check form, the employer must have that check available for the employee to pick up at the business location on the established payday. If the employer is going to mail the check, then the check must be mailed so that it reaches the employee's actual address no later than the established payday. An employee who is denied payment on the established payday can call 623-7900 to talk with a Wage and Hour representative.

7. Who can be placed on salary?

There are two salary types. One is for employees (commonly referred to as non-exempt) whose job duties do not meet the Executive, Administrative or Professional exemptions established in [26 MRS §663 \(K\)](#). Non-exempt salaried employees are paid a predetermined fixed amount regardless of the number of hours they work. However, if they work more than 40 hours in any given week, their salary must be converted to an hourly rate that cannot amount to less than the State Minimum Wage and they must be paid overtime for all hours worked in excess of 40 in any given week.

The second type is for employees (commonly referred to as exempt) whose primary job duties meet the Executive, Administrative or Professional exemptions established in [26 MRS §663 \(K\)](#). These employees are paid a predetermined fixed amount regardless of the hours worked. The minimum salary amount must be at least \$735.59 per week as of January 1, 2022. Teachers and highly skilled computer staff may also be paid as exempt-salaried employees. Please check the [Maine Wage and Hour Division Rules](#) for specific guidance.

8. Is there a new minimum amount that salaried “exempt” workers must be paid?

As of January 1, 2022, the new minimum salary requirement is \$735.59 per week. The previous minimum salary requirement as of January 1, 2021, was \$700.97 per week.

9. Does my employer have to pay my earned paid-vacation, paid-holidays, or paid-sick leave?

Under Maine law, only the unused accrued vacation time is required to be paid upon termination in cases where the employer’s policy specifically states that the unused balance will be paid upon termination.

Effective January 1st, 2021, employers must provide up to 40 hours of unrestricted Earned Paid Leave to all covered employees. There are some exceptions to this requirement.

Visit the Bureau of Labor Standard’s [Earned Paid Leave web page](#) for more information.

10. Does my employer have to provide me with rest breaks?

Employers must offer employees a consecutive 30-minute unpaid or paid rest break after 6 hours worked. An employee may waive his or her right to a rest break (preferably in writing). When the employer allows the employee to work through a rest break period, that time must be included as hours worked.

Shorter breaks are common but not required by law. Shorter breaks or pauses away from performing duties must be paid and cannot be deducted from the employee’s time worked.

11. Can my employer require me to take a consecutive 30-minute rest break?

Yes.

12. At what age can a child work?

In most cases, the minimum age is 14. For exceptions see [26 MRS §771: Minors under 14 years of age](#).

In most cases, an approved work permit is required for everyone under 16 years of age. Agricultural labor does not have a minimum age or work permit requirement.

13. How does a minor obtain a work permit?

In most cases, a work permit is required for minors under 16 years of age. The permit can be completed online [here](#) and printed. The minor submits the completed form to their area superintendent with the job offer and parental signature sections completed. The superintendent submits the application to the Bureau of Labor Standards for approval. The minor cannot work until the permit is approved.

Minors can have one active permit during the school year and can have two during the summer. This process is described in more detail in our [Guide to Maine Laws Governing the Employment of Minors](#).

14. My employer has told me that any cash mistakes I make must be paid back. Can they do that?

No. An employer cannot require or allow an employee to pay back for cash shortages, damages, customer walkouts, or credit card errors.

15. My employer is verbally abusing/harassing me. Whom should I contact?

For assistance with workplace sexual harassment or illegal discrimination, contact the Maine Human Rights Commission at 624-6290.

16. I work as an independent contractor. What do I need to know about labor laws?

The Department of Labor website includes information regarding the criteria used to determine [Independent Contractors](#) in Maine. It includes questions and answers as well as phone numbers to call for more information. The IRS also establishes guidelines on the issues in determining employee or independent contractor status.

17. What posters must be displayed at work?

A list of required State and Federal labor law posters can be found [here](#) on the Maine Department of Labor's website. They are printable and provided at no cost.

18. How does a fixed salary pay arrangement with fluctuating hours work?

Fluctuating workweek overtime pay agreements are a way to comply with overtime requirements. The employee's salary is meant to cover all hours worked in the week at straight time.

Example:

- An employee receives a salary of \$573.75 for 45 hours worked. This equates to \$12.75 per hour (which must be at least the State Minimum Wage). In this example, one-half of the average hourly rate multiplied by the number of hours worked over 40 in that week would be paid to cover overtime; therefore, \$12.75 divided by two equals \$6.38. Multiply \$6.38 by the 5 overtime hours worked and you get \$31.90 of additional overtime wages due. The employee would be paid $\$573.75 + \$31.90 = \$605.65$ gross wages for that

week. However, when the hours worked are below 40, for example, 38 hours, the employee is still paid the guaranteed \$573.75 for the week and no overtime would be due.

- In a fluctuating workweek overtime pay agreement, an employer will pay the guaranteed salary to the employee in weeks where the employee works fewer than 40 hours. In this agreement, the average hourly rate cannot be less than the State Minimum Wage rate currently in effect.
- More detail can be found in Federal Law under [29 CFR 778.114](#) or by calling Maine's Wage & Hour Division at 623-7900.
- Each workweek stands alone, so true and accurate time records must be maintained and a clear agreement with the employee(s) should be in place.