

DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS

Statutory Authority: 19 Delaware Code, Section 1114 (19 **Del.C.** §1114)

GENERAL NOTICE

1328 Rules Regulating Deductions from Wages for Wage Payment and Collection

***Please note that the following regulation was adopted prior to the effective date of the current Administrative Procedures Act. The following is presented for informational purposes only.**

Background: The Regulations Regulating Deductions from Wages for Wage Payment and Collections were adopted February 1, 1979, by Secretary Donald P. Whitely. The regulations were adopted in compliance with the Administrative Procedures Act ("APA"), 29 **Del.C.** §§10101 *et seq.* For unknown reasons the regulations were never incorporated into the Administrative Code during the period of transition in the latter part of the 1990s to the current APA system. Therefore, this notice serves to announce that the Regulations Regulating Deductions from Wages for Wage Payment and Collections will be added to Title 19 of the Administrative Code.

1328 Rules Regulating Deductions from Wages for Wage Payment and Collection

1.0 Definitions

As used herein:

"**Check**" means a draft drawn on a bank and payable on demand.

"**Department**" means the Department of Labor or its authorized representatives.

"**Employee**" means any person suffered or permitted to work by an employer under a contract of employment either made in Delaware or to be performed wholly or partly therein.

"**Employer**" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee or successor of any of the same employing any person.

"**Wages**" means compensation for labor or services rendered by an employee, whether the amount is fixed or determined on a time, task, piece, commission, or other basis of calculation.

2.0 Shortage Deductions

- 2.1 Cash and/or inventory shortages may not be deducted from an employee's pay in any case. Any written agreement permitting an employer to make such deductions is in violation of §1107.3 of the Wage Payment and Collection Act.
- 2.2 These regulations also will apply to shortages incurred as a result of failure to follow proper credit card, check cashing, or accounts receivable procedures.

3.0 Cash Advances and Charges for Goods or Services

- 3.1 If a cash advance or charges for goods or services are to be repaid through payroll deductions, both the employer and the employee must sign a written agreement specifying the amount of the advance or the value of the goods or services, the repayment schedule, and the method of repayment.
- 3.2 No such agreement shall provide for a repayment schedule of more than 15% of an employee's gross wages per pay period.
- 3.3 If, upon termination, an employee owes an amount greater than 15% of gross wages, that amount may be withheld from the employee's final compensation, but only if such an arrangement was included in the original agreement.

4.0 Damaged Property

A financial loss suffered by an employer due to damage to the employer's property or to that of a customer or client may not be deducted from an employee's pay in any case. Any written agreement permitting an employer to make such deductions is in violation of §1107.3 of the Wage Payment and Collection Act.

5.0 Return of Employer's Property

- 5.1 In no case shall an employer withhold all or part of the final compensation due an employee while the employer awaits return of property in the possession of the employee. Any written agreement which permits such withholding is in violation of §1107.3 of the Wage Payment and Collection Act.
- 5.2 An employer may request that a deposit be paid on a particular piece of property but such a deposit may not be deducted from the employee's wages without the employee's written consent. If the deposit is to be paid out of the employee's wages, the full deduction must be made by the first regular payday following the issuance of the property to the employee.
- 5.3 A deposit must be returned to the employee along with any financial compensation, provided the employee has returned the property on which the deposit was paid.
- 5.4 If property is returned after all other final compensation has been paid, the deposit on the property must be given to the employee immediately upon return of the property, if possible, but in no case later than the next regular payday.

6.0 Miscellaneous Provisions

- 6.1 Nothing in these regulations should be construed as preventing an employee from voluntarily reimbursing an employer.
- 6.2 Acceptance by an employee of a disputed amount of wages will not be considered evidence that the employee has agreed to the deductions in question.
- 6.3 The Secretary of Labor may, at any time, upon the Secretary's own motion or upon written request of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of these regulations.

Approved this 1st day of February, 1979
Donald P. Whiteley, Secretary of Labor

21 DE Reg. 57 (07/01/17) (Gen. Notice)