

**SUPPLEMENT FOR FOOD SERVICE AND HOTEL AND MOTEL
OCCUPATIONS REGULATIONS
UNDER NEW JERSEY WAGE AND HOUR LAW**

Effective July 24, 2009, the minimum rate under the New Jersey Wage and Hour Law is \$7.25 per hour.

Restaurant and Hotel and Motel Occupations are also affected by this raise. The suggested cash minimum to correspond with the \$7.25 rate would be \$4.35 per hour (60% of the minimum rate of \$7.25) for all food service and other occupations receiving tips and food or lodging. For chambermaids in seasonal and nonseasonal hotels, the percentage rate in the Wage Order are maintained but with \$7.25 per hour as the base as of July 24, 2009.

All employers who are not paying the full minimum in cash; i.e., those who are taking credits for food, lodging and gratuities, now are advised to recalculate the credits. What must be established is the fact that the cash payment and the credits for food, lodging and tips add up to \$7.25 per hour as of July 24, 2009.

The same method is to be used as allowed in the past for calculation of the credits actual food costs and the cost of providing the lodging according to the formula in existence since 1966.

Proof must be established of the credits for tips, food and lodging used to establish the minimum rate. If an employee can establish that tips and meals (if received) do not meet the difference between the cash rate and the minimum wage, then the employee would be entitled to an additional cash amount to bring the total up to the minimum rate.

The increase in the minimum wage also results in an increase in the overtime payment required. The minimum overtime rate for those covered by the overtime provision is \$10.88 per hour as of July 24, 2009. If the employee's regular hourly wage rate is more than the minimum per hour, the overtime rate is one and one-half times the employee's regular rate.

Under the Wage Order and Regulations, food and lodging supplied to employees shall not be included in wages for those hours worked in excess of forty (40) hours per week. Gratuities cannot be counted toward the premium part of the overtime. The additional half-time must be in cash - at least \$3.63 (1/2 of \$7.25) as of July 24, 2009. The total suggested minimum cash in overtime hours would be \$4.35 plus \$3.63 or \$7.98 per hour as of July 24, 2009.

REMINDER: The regulations permit the employer to establish an average minimum fair value of gratuities and cost of supplying food and lodging in the employer's establishment subject to agreement of the employees. Such agreement must be documented and must specify the elements of the wage rate - cash, food, lodging and gratuities.