

Employment Law Updates Coming in 2026

The new year's ball will be dropping before we know it. As we finish out 2025, New York employers must be "checking their lists" to prepare for changes to employment laws that will take effect in the new year.

Increases to New York Minimum Wage and Minimum Salaries

--Non-Exempt Employees

Starting on January 1, 2026, the minimum wage will increase by fifty cents, to \$17.00 per hour in New York City, Westchester, and Long Island ("downstate"), and to \$16.00 per hour in the rest of the state. This increase also means that overtime rates will rise accordingly for non-exempt employees, to \$25.50 for every hour worked over 40 in a week for those working downstate, and to \$24.00 per overtime hour for those working in the rest of the state.

Employers should ensure that their payroll providers timely update pay rates to appropriately reflect these changes. Employees in the hospitality industry must also receive an updated Notice of Pay, pursuant to the New York Wage Theft Prevention Act. For employees in other industries, the updated pay rates may simply be noted on the employee's pay stubs.

--Exempt Employees

In addition, the minimum salary for exempt employees, i.e., those whose pay and job duties exempt them from earning overtime, will increase in the new year for those working downstate to \$1,275.00 per week (\$66,300.00 per year) and for employees in the rest of the state will increase to \$1,199.10 per week (\$62,353.20 per year). If an exempt employee's salary is below these rates, the employer must either increase the minimum base salary to meet the exempt minimum salary or convert the employee to non-exempt status.

Additional Considerations in New York City

The new year brings more change for New York City-based employers in the form of expanded employee protections under the Earned Safe and Sick Time Act ("ESSTA"), beginning on February 22, 2026.

ESSTA already requires most employers to provide either 40 or 56 hours of paid sick and safe leave annually (depending on the size of the employer). Employers have the option either to frontload the leave, or have employees accrue it based on hours worked. Employees who accrue safe and sick time may carry over their hours to the next year but are limited to using only 40 or 56 hours in a year, regardless of the total amount accrued.

Under the amendment to ESSTA, employers must begin providing their workers with an additional 32 hours of unpaid leave beyond the leave already available to them. This additional unpaid leave must be frontloaded (i.e.,

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available immediately to employees upon hire and at the start of each calendar year), but unused unpaid time does not carry over into the following year.

Employers must first provide any available paid leave under ESSTA, with the new unpaid hours applying only after paid leave is exhausted, unless the employee specifically requests otherwise.

The amendment to the ESSTA also codifies an additional 20 hours of paid prenatal leave (which is already provided under New York state law) that can be taken during any 52-week calendar period.

In addition to the existing reasons employees may take ESSTA (e.g., for an employee's or family members' illness etc.), the updates to the law add other approved reasons for taking leave, including (i) closure of the employer's place of business or an employee's child's school due to a public disaster, like a terrorist attack, fire, or severe weather; (ii) where the employee or a member of their family has been a victim of workplace violence; and (iii) for time to attend to legal proceedings to receive subsistence benefits or housing.

The updated reasons to take ESSTA subsume the previous requirements under New York City's Temporary Schedule Change law. Employers no longer need to include a stand-alone policy relating to the Temporary Schedule Change law in employee handbooks.

Employers are reminded that employee paystubs (or another format accessible to the employee) must reflect ESSTA leave accrual and usage.

Given the various revisions to ESSTA, employers should review their handbook policies and ensure that they are updating and providing the required Notice of Employee Rights: Safe and Sick Leave, which likely will be revised closer to the effective date to include information related to these amendments.

Recommendations for Employers

Keeping track of annual changes to employment requirements is daunting.

We are ready to assist employers to ensure their compliance with employment laws in New York and other jurisdictions. Please contact an attorney in MSF's Employment Group if you have any questions.



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