Employers’ FAQs about the New Law for Domestic Workers

The Domestic Workers’ Bill of Rights goes into effect on April 1, 2015. It will be straightforward to comply with for the vast majority of employers—much of it reinforces current law.

1. Am I an “employer” under the new law?
   YES: If you employ a domestic worker who works within a private home.
   NO: If you are a staffing, employment, or placement agency registered and licensed under Chapter 140.

2. Who is a “domestic worker” under the new law?
   THOSE WHO: Are paid to perform work of a domestic nature within a household, including: housekeeping, house cleaning, home management, nanny services, caretaking, laundering, cooking, home companion services, and other household services for the family or guests.
   BUT NOT: Personal care attendants who are paid by MassHealth,¹ or people whose services primarily consist of childcare on a casual basis (those for whom it is not a vocation or career).

3. Does this law tell me how much I have to pay my nanny/house cleaner/laundry person/etc.?
   NO. This law requires you to be upfront about how much you are paying. Under current law, you must pay at least minimum wage.² Best practice is to pay above that rate to retain employees.
   Note: House cleaners must be paid for time spent traveling between jobs. Only if they are employed by the same employer.

4. Under the new law, do I have any obligations in terms of time off or leave?
   YES: If anyone works for you for 40 hours/week or longer, you must give them at least 24 consecutive hours off per calendar week, and at least 48 consecutive hours off during a calendar month.
   YES: Employees have job-protected leave of 8 weeks for the birth or adoption of their (or their spouse’s) child.

¹ Except in cases of sexual harassment.
² The minimum wage in Massachusetts is currently $8.00; it will be $9.00 on January 1, 2015; $10.00 January 1, 2016; and $11.00 on January 1, 2017.
5. So, what’s the definition of “time off”?
   Basically, it means complete freedom from all duties; your employees can leave your premises (or even stay on them) to engage in purely personal pursuits.

6. But what if my employee has to be on duty for 24 consecutive hours or more?
   You and your employee may reach a written agreement (that complies with the law — see No. 3, above) to exclude from pay a regularly scheduled sleeping period of 8 hours or less for each 24-hour period.
   Example: Employer Joan and employee Alma agree in writing that (a) Alma, while on 24-hour duty, gets an uninterrupted sleep period of 6 hours each night, and (b) this sleep period will not be paid. If she is woken up by the employer during this period, you must pay her for the entire period.
   NOTE: Unless a prior written agreement is made, all break, sleep, and meal periods must be paid.

7. Can I deduct lodging/meals from my employee’s wages if she lives at my house and/or eats food I provide?
   LODGING: Yes: but only if she freely accepts, wants, and uses it, and it’s for her benefit. You must get her prior written consent to deduct this. Lodgings must meet legal standards for adequate and sanitary lodgings; your charges must be reasonable and cannot exceed $35/week for a room used by one person.
   MEALS: Yes: but, as with lodging, only if she agrees and freely chooses the food and drink, and it’s for her benefit. Again, you must get her prior written consent to any charges. If you do charge, the price must accurately reflect the cost and cannot exceed $1.50 for breakfast, $2.25 for lunch, and $2.25 for dinner. You may not charge if she cannot easily bring meals to or prepare meals on your premises.

8. Do I have the right to choose whom I hire or fire?
   Of course: as long as you do not hire or fire people—or pay them more or less—because of their race, color, national origin, sex, sexual orientation, gender identity, national origin, religion, or disability, or because they are pregnant.

9. What happens if I want to fire an employee?
   If she is a live-in employee and you’re firing her without cause, you must give written notice and either (a) 30 days’ lodging; or (b) 2 weeks’ salary for severance pay. If you have cause, then you must provide a written explanation.

10. What else do I need to know or do, to comply with the law?
    PRIVACY: You can’t restrict or interfere with your employee’s means of private communications, monitor their private communications, take their documents or personal effects, or engage in conduct that constitutes forced services.
Example: You can tell your nanny not to use her cell phone while working (unless it’s an emergency) but you can’t take it away. If she doesn’t have a cell phone and she needs to make calls she should be able to use your phone, with her own phone card if need be.

HARRASSMENT: Neither you or anyone in your household can engage in unwelcome sexual behavior—such as sexual advances, sexual pressure, suggestive language—with your employees or those applying for employment.

WRITTEN DOCUMENTS

(1) EVALUATION: After 3 months, and then annually, an employee may request a written evaluation of his/her work performance.

(2) RECORDS: You must keep a record of wages and hours for two years—this has been the law for years.

(3) AGREEMENT: If your employee works 16 hours/week or more, you must provide a written contract detailing:
--pay rate, including overtime and other compensation for added duties or multilingual skills;
--hours of work, including meal breaks and other time off;
--what you provide in benefits (including days off, health insurance, and so on)
--any fees or other costs, such as for meals, lodging, etc.
--job responsibilities
--process for raising and addressing grievances and raising compensation if duties are added
--right to collect workers compensation if injured on the job
--circumstances under which you can enter employees’ designated living space in your home
--the required notice of termination, by either party
--any other rights or benefits afforded to your employee

(4) MEALS, LODGING, DAYS OFF, REST/MEAL PERIODS:
Agreements about these issues, which apply to all domestic workers regardless of hours worked, must be in writing in certain circumstances (see FAQs 4, 6, 7, and 9, above).

(5) NOTICE: You must provide all domestic workers written notice of these rights under the new law, and all applicable state and federal laws that apply to his/her employment.
Sample notices of all these laws, in various languages, will available online.

CONTACT:
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