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CHANGES TO NORTH CAROLINA WAGE AND HOUR ACT EFFECTIVE JULY 8, 2021

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By Susan Milner Parrott

Newly **enacted revisions** to the North Carolina Wage and Hour Act (NCWHA) may affect how employers address certain payroll practices. As of July 8, 2021, employers must provide written notification of promised wages and give a lengthier period of notice prior to making any changes in promised wages. Separated employees must submit a request in writing if they want their final paycheck mailed to them, and the paycheck must be sent using trackable mail.

At the time of hiring, written notification is required of the promised wages and the day and place for payment. The revisions to the NCWHA modified North Carolina General Statute §95-25.13(1) by deleting the word “orally,” thus, an employer no longer has the option of *orally* notifying employees of promised wages and the day and place for the payment of wages and must make such required notification *in writing* at the time of hire. The statute does not require any particular form of notice and the current regulation (13 NCAC 12.0804) provides that, “An employee’s signature on an employer’s written notice of the promised wages which bears the date on which the employee was provided with the notice shall be presumptive evidence of the employer’s notification.”

Any change in pay requires written notice at least one pay period in advance. The revisions increased the length of the notice period required for any change in promised wages from “at least 24 hours” to “at least one pay period” (N.C.G.S. §95-25.13(3)). However, the statute continues to provide that wages may be “retroactively increased without the prior notice,” thus, the change is most important for notice of any reduction in wages.

Final pay to separated employees may be made through “regular pay channels or by trackable mail.” The revisions also modified the portion of North Carolina General Statute §95-25.7 that addresses final pay for separated employees by providing that separated employees shall be paid all wages due on or before the next regular payday “either through the regular pay channels or by *trackable* mail if requested by the employee *in writing*” (italics added). Previously, the final paycheck could be sent by mail if requested by the employee, now the request must be made by the employee in writing and the mail must be trackable.

Employers should confirm that their payroll practices are in compliance with the newly enacted revisions to the North Carolina Wage and Hour Act. For additional information concerning the North Carolina Wage and Hour Act revisions, please contact the Smith Anderson lawyer with whom you normally work.

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