

New York's Domestic Workers' Bill of Rights became effective on November 28, 2010. The key provisions of the New York Domestic Workers' Bill of Rights are summarized below:

## 1. Payroll Frequency

Household employees in NYS must be paid on a WEEKLY basis. The pay day is at the employer's discretion, but must consistently be the same day of the week.

## 2. Overtime

Live-out domestic workers and domestic workers who perform certain companionship services are entitled to overtime calculated at 1.5 times their "normal wage rate" if they work over 40 hours per week. Live-in domestic workers are entitled to overtime if they work over 44 hours per week. Employees can bring a claim for unpaid wages under New York law up to six years after the wages were earned. An employer found to be non-compliant is liable for the unpaid wages, 25% liquidated damages, a civil penalty up to 200% of the unpaid wages (if the commissioner of labor is involved), attorneys' fees, and potential criminal penalties.

**TIP:** Nannies are non-exempt employees. You need to agree to and document an hourly wage. The Hourly Wage Calculator at [HomeWorkSolutions.com](http://HomeWorkSolutions.com) will work backwards from a weekly salary to compute the hourly wage, including overtime.

## 3. Minimum Wage Act Protection

Domestics who provide companionship services are now included with nannies and housekeepers in the protections extended by the [New York Minimum Wage Act](#). As a result, this previously excluded subcategory of domestic workers could now be eligible for spread-of-hours, call-in, and split-shift pay.

## 4. Paid time off

Employers must provide the domestic worker a minimum of three paid days off per year after one year of employment. The paid day off must be at the regular pay rate. NYC domestics earn 2 days paid sick leave after 1 year of employment effective 4/1/2014. . (Effective 10/1/2015 sick leave at the rate of 2 days per year will apply for all domestics after 1 year of employment.)

## 5. Disability benefits coverage

Household employers in NY must obtain disability benefits coverage for domestic workers.

## 6. Protection from harassment

An employer may not subject a domestic worker to harassment based on gender, race, religion, or national origin. Household employers are now subject to harassment complaints, and liability for damages to the domestic worker, as well as civil penalties to the state, can be as much as \$100,000.

*Families employing a nanny or other household worker in New York State need to be proactive – keep good records, comply with state law, and stay current with payroll tax obligations.*

When a Wage and Hour complaint is lodged, the burden of proof is on the employer. Keep accurate and contemporaneous time tracking records, and don't get behind in your wage reporting.

Kathleen Webb  
**President**  
[HomeWork Solutions Inc.](#)

*Under common law, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. It does not matter if the work is performed on a full time or part time basis. It does not matter whether the worker lives with you or not.*



## 7. Day of Rest

Household workers are entitled to receive 24 consecutive hours of rest per week unless they voluntarily 1) agree to work on their rest day and 2) are paid overtime for that day. The day off should coincide with the traditional day reserved by the worker for religious worship.

## 8. Collective bargaining rights

The act requires the commissioner of labor to report to the governor and legislature before November 1, 2010 on whether it would be feasible to extend collective bargaining rights to domestic workers.

*(As of 11-Nov-2010 there is no public information on this report available.)*

## 9. Workers' Compensation Insurance

Not addressed by the act, and unchanged, is the requirement that NYS household employers obtain a workers' compensation insurance policy. Most household employers obtain this policy from the New York State Insurance Fund ([nysif.com](http://nysif.com)). Insurance questions should be directed to your casualty insurance agent.

## So what does this mean for NY household employers?

We strongly encourage New York household employers to review their recordkeeping practices, and be sure they have proper documentation. This includes time tracking (daily and weekly hours worked), time off (meal, rest, and sleep time), hourly pay rate to include calculation of gross and net wages, and records of payments made. Keep all documentation and records for a minimum of 6 years.

If you have not done so already, contact the [New York State Insurance Fund](#) to ensure you have disability benefits and workers' compensation coverage in place for your household workers.

It goes without saying that New York household employers should keep all tax reporting up to date. The most common way a household employer who is avoiding the nanny taxes gets caught is when the relationship is over and the nanny files for unemployment benefits.

## 2011 Wage Theft Prevention Act

The NYS Wage Theft Prevention Act requires all private employers to provide notice to employees of their rate(s) of pay and designated pay day.

The notice must be provided:

- At the time of hire
- Within 7 days of a change in pay rates if the change is not listed on an employee's pay stub.

Best Practice: State the employee's pay rate(s) in rate per hour term. Federal and state law require that household employees must be paid an agreed amount for every hour on duty.

## What HWS Clients are Saying...

“ I would like to take a moment to express my thanks to HomeWork Solutions for many years of prompt, professional and courteous service. You are a pleasure to work with!”

“Your staff is outstanding and your web services are so user friendly.”

“I can go about my business confident that my nanny's payroll is in good hands. ”

“ HomeWork Solutions is so easy to work with. Dealing with seniors every day, I know the assurance that required paperwork is completed accurately, reliably and on time for elder care and other domestic employees is invaluable.”

© 2015 HomeWork Solutions, Inc. Information believed to be true and accurate as of date of publication. HWS assumes no liability for incorrect information. This document is not intended to be specific tax, legal or insurance advice. For information specific to your situation you should consult the appropriate tax, legal or insurance professional of your own choice.