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## Wage Payment and Collection Act FAQ

1. IDOL launched an online Wage Claim application to modernize the wage claim process. The online complaint process guides claimants through the steps to submit a complete and accurate claim. It also allows claimants to log-in and check the status of their wage claim at their convenience. In order to access the system, claimants will first need to create an Illinois Public ID account. How to create an Illinois Public ID? Any claims for unpaid wages received on outdated complaint forms will no longer be processed by the Department.
2. What is the Wage Payment and Collection Act?
3. Who is covered by the Wage Payment and Collection Act?
4. Can I file a claim if I am in a union (covered by a collective bargaining agreement)?
5. Can I file a claim if I have an employment contract (written agreement) with my employer?
6. Do I have to have a written contract to have a claim?
7. Can my employer reduce my rate of pay?
8. How often must an employer pay wages?
9. How soon after I quit/fired do I have to be paid?
10. How long after separation from employment do I have to file a claim?
11. If I quit or am fired, am I entitled to severance pay, sick pay or holiday pay upon separation?
12. When I separate from employment, does my employer have a legal obligation to give me any other form of compensation?
13. What if an employer places on a check that the check represents payment in full for all amounts owed and in fact the employer owes an employee more money?
14. Can I be paid by payroll card?
15. Vacation Questions

### **IDOL launched an online Wage Claim application**

**(<https://webapps.illinois.gov/dol/wageclaims/>) to modernize the wage claim process. The online complaint process guides claimants through the steps to submit a complete and accurate claim. It also allows claimants to log-in and check the status of their wage claim at their convenience. In order to access the system, claimants will first need to create an Illinois Public ID account. How to create an Illinois Public ID (/sites/accounts/Pages/default.aspx)? Any claims for unpaid wages received on outdated complaint forms will no longer be processed by the Department.**

### **What is the Wage Payment and Collection Act?**

The Wage Payment and Collection Act, 820 ILCS 115/1, is the law that governs the payment of wages to employees and the deductions that an employer can make from an employee's paycheck.

### **Who is covered by the Wage Payment and Collection Act?**

1. The law covers private employers and units of local government.
2. State and Federal Employees are exempt from the Act.
3. The work has to be performed in Illinois for an employee to make a claim under the Act. For example, a truck driver that lives in Illinois but travels throughout the United States to perform their work is likely not covered by the Act.
4. Bona fide independent contractors and persons who meet the legal definition of an independent contractor cannot make a claim under the Act. Because an employer may call or classify an employee an independent contractor neither satisfies the legal definition of an independent contractor nor exempts an employer from the application of the Act. A determination of whether an individual is an employee or an independent contractor requires a fact based inquiry. See [Section 300.460 \(http://www.ilga.gov/commission/jcar/admincode/056/056003000A04600R.html\)](http://www.ilga.gov/commission/jcar/admincode/056/056003000A04600R.html).
5. [Section 300.400 \(http://www.ilga.gov/commission/jcar/admincode/056/056003000004000R.html\)](http://www.ilga.gov/commission/jcar/admincode/056/056003000004000R.html).

## **Can I file a claim if I am in a union (covered by a collective bargaining agreement)?**

You may not have a claim:

- Where there is in effect a valid collective bargaining agreement and the dispute between the employee and employer arises out of the interpretation of the collective bargaining agreement.
- Where the collective bargaining agreement provides for a grievance procedure to resolve such disputes between the employer and the employee, the matter must be taken up under the collective bargaining agreement and not through the Department by filing a claim under the Wage Payment and Collection Act.

However, if a claim arises from a failure to pay overtime (time and one-half after forty hours) or because of an employer's failure to pay the prevailing wage, a claim can be filed with the Department under these acts.

## **Can I file a claim if I have an employment contract (written agreement) with my employer?**

You may not have a claim:

1. If the employment contract has a clause requiring me to arbitrate all disputes regarding wages and benefits with my employer. Instead, you must pursue your remedies under the arbitration provision in your agreement and the Department will defer to that process.
2. If the employment contract has a "choice of law" clause requiring me to bring all claims in a state other than Illinois. You must pursue your remedies under the choice of law clause in your agreement and the Department will defer to that process.

## **Do I have to have a written contract to have a claim?**

No. You only need to have an agreement with an employer. See [Section 300.450 \(http://www.ilga.gov/commission/jcar/admincode/056/056003000A04500R.html\)](http://www.ilga.gov/commission/jcar/admincode/056/056003000A04500R.html).

## **Can my employer reduce my rate of pay?**

An employer may reduce your rate of pay IF you are notified of the change prior to performing the work and your wage does not fall below minimum wage. See [Section 300.630 \(http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html\)](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06300R.html).

## **How often must an employer pay wages?**

Every employer is required to pay all wages earned at least semi-monthly. The wages are to be paid no later than 13 days after the end of the pay period in which the wages were earned.

Wages of executive, administrative and professional employees as defined in the Fair Labor Standards Act of 1938, may be paid once per month.

Also, commissions may be paid once per month. 820 ILCS 115/3.

### **How soon after I quit/fired do I have to be paid?**

All final compensation, including bonus payments, vacation pay, wages and commissions must be paid on your next regularly scheduled payday. 820 ILCS 115/5.

### **How long after separation from employment do I have to file a claim?**

An employee must file his/her wage/final compensation complaint with the Department within one (1) year after such wages or final compensation were due. 820 ILCS 115/11.

### **If I quit or am fired, am I entitled to severance pay, sick pay or holiday pay upon separation?**

An employee is not entitled to severance pay, sick pay or holiday upon separation, unless the employer has promised the pay in an employment contract or other agreement. 820 ILCS 115/2.

### **When I separate from employment, does my employer have a legal obligation to give me any other form of compensation?**

When an employee leaves an employer's employment, the employer is required to pay the final compensation of separated employees in full at the time of separation, if possible, but in no event later than the next regularly scheduled payday for such employee. Unless the individual employment contract or agreement provides for severance pay, none is due. Final compensation can include wages, salaries, earned commissions, earned bonuses and the monetary equivalent of earned vacations and earned holidays and other compensation as defined by that agreement which is owed and has not been paid.

### **What if an employer places on a check that the check represents payment in full for all amounts owed and in fact the employer owes an employee more money?**

An employee's acceptance of a disputed paycheck does not constitute a release of the balance of an employee's claim, and any release or restricted endorsement that an employer requires or places on a check as a condition to payment violates the Wage Payment and Collection Act and shall be void and of no effect. See [Section 300.920 \(http://www.ilga.gov/commission/jcar/admincode/056/056003000D09200R.html\)](http://www.ilga.gov/commission/jcar/admincode/056/056003000D09200R.html).

### **Can I be paid by payroll card?**

See [Section 300.600 \(http://www.ilga.gov/commission/jcar/admincode/056/056003000C06000R.html\)](http://www.ilga.gov/commission/jcar/admincode/056/056003000C06000R.html).

## **Vacation Questions**

See the [FAQ page \(/idol/FAQs/Pages/Vacation-FAQ.aspx\)](/idol/FAQs/Pages/Vacation-FAQ.aspx).

## **UNPAID WAGES**

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**[Wage Payment and Collection Act FAQ \(/idol/FAQs/Pages/wage-payment-faq.aspx\)](/idol/FAQs/Pages/wage-payment-faq.aspx)**

**[Bonus Pay and Severance and Commission FAQ \(/idol/FAQs/Pages/Other-Pay-FAQ.aspx\)](/idol/FAQs/Pages/Other-Pay-FAQ.aspx)**

**[Holiday FAQ \(/idol/FAQs/Pages/Holiday-FAQ.aspx\)](/idol/FAQs/Pages/Holiday-FAQ.aspx)**

**[Vacation FAQ \(/idol/Laws-Rules/FLS/Documents/VA FAQ.pdf\)](/idol/Laws-Rules/FLS/Documents/VA FAQ.pdf)**

**[Form Of Payment FAQ \(/idol/FAQs/Pages/Form-Of-Payment.aspx\)](/idol/FAQs/Pages/Form-Of-Payment.aspx)**

**[Deductions From Pay FAQ \(/idol/FAQs/Pages/Deductions-From-Pay-FAQ.aspx\)](/idol/FAQs/Pages/Deductions-From-Pay-FAQ.aspx)**

**[Filing A Claim \(/idol/FAQs/Pages/How-To-File-A-Claim.aspx\)](/idol/FAQs/Pages/How-To-File-A-Claim.aspx)**

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**Wage Claims Process FAQ (</idol/FAQs/Pages/Wage-Claims-Process-FAQ.aspx>)****HEARINGS**

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**Preparing For A Better Hearing (</idol/FAQs/Pages/Preparing-For-A-Better-Hearing.aspx>)****Wage Claim Hearing FAQ (</idol/FAQs/Pages/wage-claim-hearing-faq.aspx>)****MINIMUM WAGE AND BREAKS**

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**Minimum Wage/Overtime FAQ (</idol/FAQs/Pages/minimum-wage-overtime-faq.aspx>)****One Day Rest in Seven Act FAQ (</idol/FAQs/Pages/odrisa-faq.aspx>)****Equal Pay Act FAQ (</idol/FAQs/Pages/equal-pay-faq.aspx>)****Meals and Breaks FAQ (</idol/FAQs/Pages/meals-breaks-faq.aspx>)****CONCILIATION AND PREVAILING WAGE**

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**Prevailing Wage Landscaping FAQ (</idol/FAQs/Pages/Landscaping.aspx>)****Prevailing Wage Act FAQ (</idol/FAQs/Pages/prevailing-wage-faq.aspx>)****Prevailing Wage Contractor FAQ (</idol/FAQs/Pages/contractor-faq.aspx>)****Employee Classification Act FAQ (</idol/FAQs/Pages/ECAFAQ.aspx>)****Prevailing Wage Public Body FAQ (</idol/FAQs/Pages/public-body-faq.aspx>)****Prevailing Wage Employee FAQ (</idol/FAQs/Pages/employee-faq.aspx>)****Prevailing Wage Material Tester FAQ (</idol/FAQs/Pages/material-tester-faq.aspx>)****ILLINOIS OSHA**

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**Safety and Health Consultation FAQ (</idol/FAQs/Pages/safety-health-consultation.aspx>)****AMUSEMENT RIDES AND ATTRACTIONS SAFETY**

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**Haunted House FAQ (</idol/FAQs/Pages/haunted-house-faq.aspx>)****Amusement Ride and Attraction Safety FAQ (</idol/FAQs/Pages/carnival-licensing-faq.aspx>)****OTHER FAQs**

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**Child Labor Law FAQ (</idol/FAQs/Pages/child-labor-faq.aspx>)****Day and Temporary Labor Service Agency FAQ (</idol/FAQs/Pages/day-temp-labor-faq.aspx>)****Personnel Records Review Act FAQ (</idol/FAQs/Pages/personnel-records-review-faq.aspx>)****Private Employment Agency FAQ (</idol/FAQs/Pages/Private-Employment-Agency-FAQ.aspx>)****School Visitation Rights Factsheet (</idol/FAQs/Pages/School-Visitation-Rights.aspx>)****RELATED LABOR LAWS**

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**EMPLOYER FAQ (</IDOL/FAQS/PAGES/EMPLOYER-FAQ.ASPX>)**

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[FOIA \(/idol/Laws-Rules/legal/Pages/Freedom-of-Information-Act.aspx\)](/idol/Laws-Rules/legal/Pages/Freedom-of-Information-Act.aspx)

[Privacy Statement \(/Pages/About/Privacy.aspx\)](/Pages/About/Privacy.aspx) | [Kids Privacy \(/Pages/About/Kids-Privacy.aspx\)](/Pages/About/Kids-Privacy.aspx)

| [Web Accessibility \(http://www.dhs.state.il.us/page.aspx?item=32765\)](http://www.dhs.state.il.us/page.aspx?item=32765)

| [Report Error \(mailto:DOL.questions@illinois.gov?Subject=Technical%20Error%20On%20Site\)](mailto:DOL.questions@illinois.gov?Subject=Technical%20Error%20On%20Site)