

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
LABOR STANDARDS DIVISION**

December 2013

**RULES AND REGULATIONS RELATING TO EMPLOYER EXEMPTIONS
FROM WEEKLY PAY REQUIREMENTS UNDER R.I. GEN. LAWS § 28-14-2.2**

1. Any employer that has an average payroll that exceeds two hundred percent (200%) of the state minimum wage as defined in R.I. Gen. Laws § 28-12-3 may petition the Director to pay wages less than weekly so long as the employer makes payment of wages regularly and on a predesignated date no less than twice a month, provides proof of a surety bond or other sufficient demonstration of security in the amount of the highest payroll exposure in the preceding year for the employees subject to the petition and if the involved employees are subject to collective bargaining, the employer provides the written consent of the collective bargaining representative for all involved employees. For purposes of these regulations, “other sufficient demonstration of security” shall mean a letter of credit from a financial institution.
2. Any employer whose average payroll is less than two hundred percent (200%) of the state minimum wage as defined in R.I. Gen. Laws § 28-13-3 and demonstrates good cause may petition the Director to pay wages less than weekly so long as the employer has provided the Department with the following information: (i) the method by which wages will be paid; (ii) the employer’s designated payday(s); (iii) the job classification of the employees involved; (iv) the salary range of the employees involved; and (v) the employer’s federal identification number. In addition, the employer must make payment of wages regularly on a predesignated date no less than twice per month, have no history of wage and hour violations, provide proof of a surety bond or other sufficient demonstration of security in the amount of the highest biweekly payroll exposure in the preceding year for the employees subject to the petition, and if the involved employees are subject to collective bargaining, the employer shall provide the Department with the written consent of the collective bargaining representative for all involved employees. For purposes of these regulations, “other sufficient demonstration of security” shall mean a letter of credit from a financial institution.
3. Any employer who petitions the Director under either Rule 1 or Rule 2 above, must submit a completed, signed and notarized application along with the requested supporting documentation. The application may be accessed through the Department’s website. All applications shall contain original signatures.
4. Upon receipt of the above-referenced application, the Director shall either grant the petition, deny the petition, or request additional information.
5. Permission to pay less than weekly shall not be valid until the employer receives written approval from the Department.

6. If the Director approves the petition, the employer must notify the affected employees subject to the petition of the pay change fourteen (14) calendar days in advance of the pay change.
7. By signing the application, the employer agrees to continued compliance with the requirements of R.I. Gen. Laws § 28-14-2.2 and these regulations. Employer shall have the burden of notifying the Department, in writing within thirty (30) days, if circumstances supporting approval no longer apply.
8. Affidavit of Continued Compliance: Every four (4) years from the original date of approval to pay less than weekly, each employer must sign and submit an Affidavit of Continued Compliance. The Affidavit of Continued Compliance will be available on the Department's website and must be notarized. An employer's permission to pay less than weekly is valid for an indefinite period of time, unless the employer is deemed to not be in continued compliance pursuant to R.I. Gen. Laws § 28-14-2.2 and is specifically notified by the Department, in writing, of its noncompliance. The Department shall notify an employer sixty (60) days prior to submittal date of its obligation to submit the Affidavit of Continued Compliance.
9. The obligation to obtain a surety bond or "other sufficient demonstration of security" referenced in these regulations is perpetual in nature and must be maintained and satisfied for the duration of the exemption from the weekly pay requirement.
10. An employer, whose initial application for exemption has been denied or who has been found to not be in continued compliance, may, within ten (10) days from the date of the Director's notice, request an appeal hearing before the Director or the Director's designee.
11. All appeals of final administrative determinations hereunder shall be subject to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-15.
12. Any employer found in violation of R.I. Gen. Laws § 28-14-2.2 and/or these regulations shall, after notice and hearing, be subject to rescission of the employer's exemption from the weekly pay requirement for a period of one (1) year from the date of final administrative determination. Subsequent violations shall be subject to rescission for a period of two (2) years from the date of final administrative determination.
13. For purposes of these regulations, "Director" refers to the Director of the Department of Labor and Training.
14. For purposes of these regulations, "Department" refers to the Department of Labor and Training.