

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

OVERTIME PAYABLE REGARDLESS OF UNION CONTRACTS

The obligation to pay time and one-half after 40 hours, under the Fair Labor Standards Act, is not voided by the existence of a union contract calling for a workweek of more than 40 hours without the payment of overtime--except in certain instances--Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, warned today.

"Since the requirement that time and one-half be paid after 40 hours became effective on October 24, we have received many inquiries from union members, business agents, and employers about the status of union contracts calling for a longer workweek without the payment of overtime," Colonel Fleming explained.

"A clause providing for a workweek of more than 40 hours without the payment of overtime does not relieve the employer of the necessity of paying time and one-half in accordance with the provisions of the Act.

"Such a clause will have no legal effect, although the rest of the contract may stand.

"The Wage and Hour Division will not give weight to such a clause in making an inspection to determine whether the law is being complied with by an employer. The standards fixed in the Act may not be lowered by any kind of agreement."

Under Section 7(b) of the Act employees working under agreements providing for an absolute maximum of 1,000 hours' work in any 26-week period or 2,000 hours' work in 52 weeks may be worked up to 12 hours a day and 56 hours a week without the payment of overtime if:

1. the agreement was made as the result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board;

2. there is in the agreement limiting the hours of work to 2,000 in 52 weeks a provision for a fixed annual wage or continuous employment for either 52 weeks or 2,000 hours.

"Should the 1,000 or 2,000 hour maxima be exceeded, overtime is due the employees for all hours in excess of 40 in any given workweek," Colonel Fleming declared.

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