

# Overtime Pay

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**Overtime Pay**

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The federal overtime provisions are contained in the Fair Labor Standards Act (FLSA). Unless exempt, employees covered by the Act must receive overtime pay for hours worked over 40 in a workweek at a rate not less than time and one-half their regular rates of pay. There is no limit in the Act on the number of hours employees aged 16 and older may work in any workweek. The Act does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless overtime is worked on such days.

The Act applies on a workweek basis. An employee's workweek is a fixed and regularly recurring period of 168 hours — seven consecutive 24-hour periods. It need not coincide with the calendar week, but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted. Normally, overtime pay earned in a particular workweek must be paid on the regular pay day for the pay period in which the wages were earned.

On May 20, 2020, the Department of Labor announced a final rule that allows employers to pay bonuses or other incentive based pay to salaried, nonexempt employees whose hours vary from week to week. The final rule clarifies that payments in addition to the fixed salary are compatible with the use of the fluctuating workweek method under the Fair Labor Standards Act. For more information, please visit [www.dol.gov/agencies/whd/overtime/fww](http://www.dol.gov/agencies/whd/overtime/fww).

On May 18, 2020, the U.S. Department of Labor announced a final rule to withdraw the partial lists of establishments that lack or may have a “retail concept” under the Fair Labor Standards Act. For more information, please visit [www.dol.gov/agencies/whd/overtime/2020-7i](http://www.dol.gov/agencies/whd/overtime/2020-7i).

On December 12, 2019, the U.S. Department of Labor announced a Final Rule that will allow employers to more easily offer perks and benefits to their employees. For more information, please visit [www.dol.gov/agencies/whd/overtime/2019-regular-rate](http://www.dol.gov/agencies/whd/overtime/2019-regular-rate).

On September 24, 2019, the U.S. Department of Labor announced a final rule to make 1.3 million American workers



## General Guidance

Guidance materials about overtime topics, including an Employment Law Guide, Qs & As, guide to overtime laws in the states, and more.

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## Fact Sheets

Learn more by reading fact sheets that cover a variety of overtime topics.

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## E-tools

Access a collection of interactive online tools and presentations that address overtime pay requirements.

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## Posters

Every employer of employees subject to the Fair Labor Standards Act's minimum wage provisions must post, and keep posted, a notice explaining the Act in a conspicuous place in all of their establishments so as to permit employees to readily read it. The poster is available in English as well as nine other languages.

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## Interpretive Guidance

Review Administrator Interpretations, Opinion and Ruling Letters as well as pertinent chapters of the WHD Field Operations Handbook.

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## Applicable Laws and Regulations

Review the laws and regulations that govern overtime in the United States.

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