

SOME SIMPLE FACTS
ABOUT THE FAIR LABOR STANDARDS ACT
(MINIMUM WAGE LAW)

Although the federal minimum wage law, like many laws, is somewhat complex, there are a few simple facts about it that everyone can and should understand. This leaflet explains these facts, the background of the law, its regulations in general, how it is enforced.

You can get additional information about the law, how it applies to a particular industry or a particular job, by sending for the free publications of the United States Department of Labor's Wage and Hour Division. Or you can visit the Division's nearest field office or ask questions by telephone or letter. A list of addresses and phone numbers of field offices is included in this kit. Also included is a list of publications.

HOW FEDERAL MINIMUM WAGES BEGAN

The first Fair Labor Standards Act, sometimes called the Minimum Wage Law or the Wage and Hour Law, was passed in 1938, during the New Deal period. It put a "floor" under wages of 25¢ an hour for the first year, rising gradually to 40¢ an hour seven years later. Only 12 to 13 million of the nation's then 55 million workers were covered by this very low minimum. Among the other 40-odd million, employers could legally pay less than 25¢ an hour.

Over the years the minimum wage has been revised upward several times. Also the Act has been amended to include new classes of enterprises and employees, so that many kinds of employment which were not at first covered by the law are covered now.

The latest revision, passed in 1966, took effect in February, 1967. On that date the minimum hourly rate for

about 32 million already covered employees was raised from \$1.25 to \$1.40. Also, over 9 million employees who had not previously been covered had a floor put under their wages of \$1.00 per hour. Among these 9 million newly covered employees are many who have been among the lowest paid employees in the nation, and probably also in your community. The floor for both groups will continue to rise. Previously covered employees will be entitled to at least \$1.60 in 1968. By 1971 newly covered employees will reach the \$1.60 per hour level. Agricultural workers now covered are scheduled to go to a legal minimum of \$1.30 per hour in 1969.

COVERAGE AND MINIMUM HOURLY RATES AS OF FEBRUARY 1967

Every job falls into one of three categories: (1) it was already covered by the Wage and Hour Law before February, 1967; (2) it was not covered by the Act before February, 1967, but it is covered by the Act after February, 1967; (3) it was not covered by the Act before, and it is still not covered.

Industries and Enterprises Covered before February 1967.
Many industries and enterprises have been covered for some time. But since February there is a higher minimum wage for these enterprises.

Beginning in February, 1967, the minimum wage for previously covered jobs is \$1.40 an hour. Beginning February, 1968, it will be \$1.60 an hour. Also, one and a half times the hourly rate must be paid for all hours over 40 in one week; the time-and-a-half provision applies even if the employee is earning more than the minimum. (There are some exceptions to the time-and-a-half provision; consult the closest Wage and Hour Division field office if you need to know them.)

If an enterprise is covered, that means that supporting personnel like porters, watchmen, maids, elevator operators, and so on are all covered. Here are some examples of previously covered enterprises. (This is not the full

list of all enterprises covered; there are many more.)

Most companies in communications industries:

telephone, telegraph, radio, television

Most companies in these transportation industries:

highway building and repair; railroads; airlines,
interstate bus; interstate trucking

Almost all factories

Almost all wholesale enterprises

Almost all mining enterprises

Large lumbering enterprises

Large retail stores or smaller stores (doing over
\$250,000 of business annually) in a chain

Large construction companies

Large gasoline service stations

Most city bus companies

Banks, insurance companies, and most advertising
companies.

Industries and Enterprises Covered beginning February, 1967.

Beginning in February, 1967, many industries that were never covered before will be covered, and in some industries where previously only large enterprises were covered, now many smaller enterprises will be covered also. But the newly covered jobs will begin by having a lower minimum wage and a longer basic work week than the previously covered jobs.

The minimum wage for newly covered jobs is \$1.00 an hour beginning February, 1967. It will go up to \$1.15 an hour beginning February, 1968. One and a half times the hourly rate must be paid beginning February, 1967 for all hours over 44 in a week, and beginning February, 1968, for all hours over 42 in a week. The time-and-a-half provision applies even if the employee is earning more than the minimum. But it does not apply to certain exempted jobs and industries, of which farming is one.

Here are some examples of newly covered industries and enterprises. Again if an enterprise is covered, unskilled maintenance employees are included. This is not a full list of all newly covered jobs; there are others.

Industries That Were Never Covered Before

Hospitals and nursing homes
 All schools and colleges, public and private
 Laundries and dry-cleaning establishments
 Farms that employed more than 500 man-days
 of hired labor in a calendar quarter
 (about seven full time employees) last year
 Large motels, hotels, restaurants
 Large automobile, trailer, and farm-implement dealers.

Smaller Enterprises in Previously Covered Industries

Some smaller retail stores (doing more than \$250,000
 business annually)
 All smaller construction companies (that is, all
 construction companies not previously covered)
 Many smaller city bus companies
 Many large taxicab companies (drivers are exempt
 from overtime).

Industries and Jobs Not Previously Covered and Still
 Not Covered. The Fair Labor Standards Act does not cover
 employment of the following.

Professional, administrative, and executive
 employees
 Outside Salesmen
 Domestic workers
 Members of an employer's immediate family
 Employees of motion-picture theaters
 Fishermen

There are others that are not covered.

SOME SPECIAL PROVISIONS

Equal Pay. All employers covered by the Act, whether
 before or since February, 1967, must pay women workers the same
 rate as men workers for the same job, and they may not reduce
 the men's pay to make it equal to the women's. This applies
 even if the employees are receiving more than the minimum rate.

Child Labor. All employers covered by the Act are prohibited from employing children under certain conditions. No children under 14 years of age may be employed at all, except in agriculture and then only outside of school hours. Children between 14 and 16 may be employed only outside of school hours, except in agriculture. And children under 18 may not work in certain dangerous occupations. (In addition, many states have special state regulations regarding child labor which occasionally may be stricter than the federal regulations. You also should consult your state department of labor if you believe children are being employed illegally.)

Students and Handicapped Persons. There are special, lower minimums for learners, students and handicapped persons if the employer has a certificate from the Wage and Hour Division.

Contract Services to the Federal Government. Employers who provide goods or services to any branch or agency of the federal government must pay at least the higher minimum for previously covered employees in nearly all cases.

Determining the Hourly Rate. Some workers are paid by the day, the week, the month, or by a piece rate. The hourly rate can be determined by dividing a week's wages before any overtime is added by the number of hours worked. This gives the basic or regular rate. The employee is then entitled to half again as much for each hour worked over 40, or over 44 if he is newly covered. Remember to make this calculation using the employee's gross pay before deductions, not his take-home pay. The employee has a right to know from his employer what his gross pay is.

WARNING: The regulations have been explained in a very general way here. There are many refinements and exceptions. You can find out more specifically whether a particular job in a particular firm is covered by the law by consulting the various publications listed in the booklet or by inquiring at your nearest field office of the Wage and Hour Division of the U.S. Department of Labor.

ENFORCEMENT

The Wage and Hour Division of the United States Department of Labor is responsible for enforcing the law. It acts on its own in uncovering intentional or unintentional violations. It also responds to requests for investigation and complaints.

Who May Lodge a Complaint. Anyone may inform the Division that he believes a particular employee is not being paid in accordance with the law. Complaints are sometimes made by a firm's competitors, by labor unions or by individual employees. The Division never reveals to the employer the name of the individual or group making the complaint. It will also make an investigation on the basis of an anonymous complaint. But, of course, an individual who makes a complaint without revealing his name can't receive an answer from the Division. Besides the fact that the Division will not reveal the name of the person making the complaint, any employer who fires an employee for going to the Wage and Hour Division with an inquiry or complaint can be punished under the law.

Where and How to File a Complaint. If you think an employee is being underpaid according to the law's minimum or is not being paid overtime, or if you think a woman is being paid less than a man for doing the same work you should report the case to the nearest field office of the Wage and Hour Division. If you are not certain whether an employer or an employee is covered by the law, you can still ask the field office to investigate.

You can telephone, visit in person, or write. You should have as much information about the employer's business and about the employee's job as you can get. The white sample information sheet shows some of the kinds of information the Division needs in order to investigate. But do not fail to file just because you can't get all the information, the Division investigator will get it himself.

You may want to mail the postcard in your kit to

your nearest office asking for the "Employment Information Form" on which to file a request for an investigation.

What Happens after You File A Complaint. Your complaint should be acknowledged within a few days. After that, it may take several weeks to a few months, depending on how busy the office is, for an investigation to be made.

If the complaint is justified, that is, if the employee or employees are being underpaid according to the law, the Division will order the employer to make up the whole amount the employee lost during the entire time he was underpaid and to pay him in accordance with the law from that time on. In the rare case where the employer does not obey such an order, the Division may take him to court. The burden of enforcing the law is on the government, not on the employee. If the complaint is unjustified, that is if there is no violation of the law, the Division will make a report to the person who filed the complaint explaining why it holds that there is no violation.

If there is no response after a reasonable time or if the response seems unsatisfactory, you may ask the regional office of the Division to review the case.

Detailed reports are not given to organizations or outsiders. If your group wants to act on behalf of one or several employees and you want the Division's responses to come to your organization's address, file in the name of an individual employee, with his consent, with an address in care of your organization.

Problem Areas. The industries and firms that are being covered for the first time are those where there are most likely to be violations or misunderstandings. Therefore, you would do well to be especially sensitive to conditions in the following fields:

Agriculture--If last year a farmer employed six or seven employees more or less regularly, or regularly during the season, he may be covered this year. Many large farmers who have never been covered before will now have to pay at least \$1 an hour, and the same piece rate to children as to adults.

Laundries, dry-cleaning establishments, hospitals, nursing homes, schools--These kinds of enterprises have traditionally paid their maintenance and kitchen personnel very low wages for very long hours. Almost all of them will now be covered by the law. The lowest-paid workers will now have to be paid at least \$1.00 an hour for hours up to 44 and \$1.50 for hours over 44. Most workers will have to be paid time-and-a-half for hours over 44.

Restaurants, motels, hotels--Many large hotels, motels, restaurants will be covered for the first time. Tips may be counted toward earnings, but only up to 50 percent; at least 50 percent must be paid in wages by the employer.

It would also be worthwhile to investigate the situation of any workers who were receiving \$1.25 an hour before February, 1967. If they were covered by the law then, they should now receive \$1.40 an hour.