



FAIR LABOR
ASSOCIATION®

Improving Workers' Lives Worldwide

ISSUE BRIEF

AUGUST 2019

PAYMENT OF PREMIUM RATE FOR OVERTIME IN THE UNITED KINGDOM

THE ISSUE

A recent report by the United Kingdom's Low Pay Commission found that the number of people paid less than the statutory minimum wage had increased dramatically, reaching 439,000 workers as of April 2018.¹

Employers in the UK are not legally required to pay an overtime premium unless there is an individual employment contract signed between the employer and each worker that specifically states a premium rate for overtime work.² Unless there is statutory legislation, a collective agreement allowing local agreements on overtime premium rates, or an active collective bargaining agreement, an employer can decide whether to pay a premium rate for overtime hours.

Without a requirement, some employers set their own rules and practices which may lead to violations of international labor standards and the FLA Code of Conduct and benchmarks. For example, individual employment contracts may differ from worker to worker, providing for overtime premiums for some workers but not others. There may not be clear guidance, criteria, or reasoning to support the divergent contracts, resulting in possible workplace discrimination.

¹ <https://www.gov.uk/government/news/minimum-wage-underpayment-on-the-rise-low-pay-commission-finds>

² <https://www.gov.uk/overtime-your-rights>

FLA CODE ELEMENT: HOURS OF WORK & COMPENSATION



FLA Code Language:

Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate.

C.7 Calculation Basis for Overtime

Payments: Employers shall compensate workers for all hours worked.

C.7.1 – The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days and overtime

C.7.2 – Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country

C.7.2.1 – In those countries where there is no legally established overtime premium, employees shall be compensated for overtime hours at the prevailing industry premium rate or at the internationally recognized overtime rate, whichever is higher.

C.7.3 – Employers shall not set production targets, piecework, or any other incentive or production system at such level that the payment for overtime work performed is less than the premium pay required by law or the FLA Workplace Code.

See additional Compensation benchmarks in the [FLA Workplace Code of Conduct and Benchmarks](#).

RECOMMENDATIONS

The FLA's Workplace Code of Conduct and benchmarks provide clear guidance on protecting the rights of the workers in supply chains where local laws fall short. With regard to overtime premiums, Benchmark C.7.1.2 provides that, "In those countries where there is no legally established overtime premium, employees shall be compensated for overtime hours at the prevailing industry premium rate or at the internationally recognized overtime rate, whichever is higher."

In countries like the UK where there is no legally-mandated overtime premium rate and there is no prevailing industry overtime premium rate, the FLA recommends that affiliates follow the International Labor Organization's guidance. According to ILO Conventions No. 1 and No. 30, the rate of pay for overtime shall be not less than one-and-one-quarter times the regular rate (i.e. overtime should be at least 125 percent of the normal wage rate).^{3,4}

To mitigate the risk of underpayment or discrimination of workers, FLA affiliates sourcing from the UK should exercise additional due diligence to ensure that:

- All overtime work is consensual and voluntary, regardless of the applicability of an agreement on overtime between the employer and workers. Workers should be free to refuse overtime.
- Production capacity calculation of the factories should be based on weekly regular working hours, which is 48 hours per week for the UK.
- Any overtime work that goes beyond the 48 hours per-week limit shall be compensated at a premium rate which should not be less than one-and-one quarter times the regular rate in the following pay period.
- Affiliates should pay attention to potential cases of discrimination in the payment of overtime premium rates and check carefully during factory visits to ensure all workers are offered and paid the overtime premium.

³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C001

⁴ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312175

About the Fair Labor Association

The FLA is a multi-stakeholder organization combining the efforts of businesses, universities, and civil-society organizations to improve conditions for workers around the world. Occasionally, the FLA publishes briefs on current issues in the global supply chain. We intend for these briefs to provide an overview of the various perspectives on a given issue. At all times, the FLA expects its business affiliates to comply with all legal requirements, as well as the provisions of its Workplace Code of Conduct.