

Minimum Wages and Overtime Premium in Light of Saudi Labor Law and the Fair Labor Standards Act (FLSA)

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Abstract

This study primarily focuses on clarifying the legal dimensions of minimum wages and overtime premium as statutory safeguards designed to promote fairness in labor relations between employers and employees. Legislators have established minimum wage standards to protect workers from exploitation and to ensure a decent standard of living that satisfies their basic needs. Likewise, labor legislation has introduced regulatory frameworks governing overtime compensation to achieve balance in the work environment and to protect workers' rights from exploitation resulting from excessive working hours without fair compensation. To address the research problem and its subsidiary questions, the researcher has adopted an analytical-comparative methodology in examining the wage and overtime premium provisions. The research concludes that the FLSA establishes a federal minimum wage of \$7.25 per hour, which serves, as a floor not a ceiling. Accordingly, no state may set a wage below this threshold, though states retain the authority to establish higher rates. In contrast, Saudi Arabia has not enacted a statutory minimum wage. Instead, it has implemented a national program known as Nitaqat, which mandates specific Saudization percentages for employers. However, the obligation to pay the minimum wage applies only to a portion of Saudi workers—those counted toward the mandatory Saudization percentage—and does not extend to all Saudi employees within an establishment. Finally, this research shows that both prescribe the same overtime premium rate, specifically time-and-a-half for each additional hour worked. However, there is a difference between the two laws, as under the Fair Labor Standards Act (FLSA), all covered employees are entitled to this premium once their weekly overtime hours exceed 40, whereas the Saudi Labor Law grants the same entitlement only when weekly overtime surpasses 48 hours.

Keywords: Minimum wage, Overtime, Labor Law, FLSA, Wage, Hour.

الحد الأدنى للأجور وعلاوة العمل الإضافي في ضوء قانون العمل السعودي وقانون معايير العمل العادلة

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أستاذ القانون المدني المساعد، قسم القانون الخاص، كلية الحقوق، جامعة الملك فيصل، الأحساء، المملكة العربية السعودية

ملخص البحث

تركز هذه الدراسة بشكل أساسي على توضيح الأبعاد القانونية للحد الأدنى للأجور وعلاوة العمل الإضافي، باعتبارها ضمانات قانونية تهدف إلى تعزيز العدالة في علاقات العمل بين أصحاب العمل والعمال. وقد وضع المشرعون معايير للحد الأدنى للأجور لحماية العمال من الاستغلال، وضمان مستوى معيشي لائق يلبي احتياجاتهم الأساسية. وبالمثل، أدخلت تشريعات العمل أطراً تنظيمية تحكم تعويضات العمل الإضافي، لتحقيق التوازن في بيئة العمل، وحماية حقوق العمال من الاستغلال الناتج عن ساعات العمل المفرطة دون تعويض عادل. ولمعالجة مشكلة البحث والأسئلة الفرعية المتعلقة بها، اعتمد الباحث منهجية تحليلية مقارنة في دراسة أحكام الأجور وعلاوة العمل الإضافي. وخلص البحث إلى أن قانون معايير العمل العادلة (FLSA) في الولايات المتحدة الأمريكية يحدد حداً أدنى للأجور على المستوى الفيدرالي قدره 7.25 دولاراً أمريكياً في الساعة، وهو بمثابة حد أدنى وليس حداً أقصى. وبناءً على ذلك، لا يجوز لأي ولاية أن تحدد أجراً أقل من هذا الحد، مع احتفاظ الولايات بسلطة تحديد معدلات أعلى. في المقابل، لم تُقر المملكة العربية السعودية حداً أدنى للأجور، وبدلاً من ذلك، نفذت برنامجاً وطنياً يُعرف باسم "نطاقات"، يُلزم أصحاب العمل بنسب محددة من التوظيف. ومع ذلك، فإن الالتزام بدفع الحد الأدنى للأجور لا ينطبق إلا على جزء من العمال السعوديين - وهم الذين يُحتسبون ضمن نسبة التوظيف الإلزامي - ولا يشمل جميع الموظفين السعوديين في المنشأة. أخيراً، تبين من خلال هذا البحث أن كلا القانونين ينصان على نفس معدل علاوة العمل الإضافي، وهو أجر ساعة ونصف عن كل ساعة عمل إضافية. غير أن هناك فرقاً بين القانونين، إذ يخول قانون معايير العمل العادلة لجميع الموظفين المشمولين به الحصول على هذه العلاوة بمجرد تجاوز ساعات عملهم الأسبوعية 40 ساعة، بينما يمنح قانون العمل السعودي الحق نفسه فقط عندما تتجاوز ساعات العمل الأسبوعية 48 ساعة.

الكلمات المفتاحية: الحد الأدنى للأجور، العمل الإضافي، قانون العمل، قانون معايير العمل العادلة، الأجور، ساعات العمل.

Introduction*

In principle, the wage is determined by agreement between the two parties without interference from any external parties.⁴³³⁰ However, not only does the wage have an economic aspect, which is in exchange for work, but it also has a more significant social aspect because it represents the sustenance of a worker and their family.⁴³³¹ Also, the application of this principle manifestly leads to the employer exploiting his economic position as the stronger party by offering wages that are insufficient, unfair, or lacking in providing a decent standard of living.⁴³³²

The absence of legal protections for employees prevents the achievement of societal welfare and creates obstacles that have negative effects on the country's economic and social level in the

* Since the journal's website has not identified a prescribed citation format, the researcher has employed the Bluebook citation system, as it is the prevailing citation standard in U.S. legal writing.

4330 MANSOUR EBRAHIM ALATOUM, THE EXPLANATION OF LABOR LAW ACCORDING TO THE LATEST AMENDMENTS: A COMPARATIVE STUDY 159 (3rd ed. 2021); see also Bin Salah Adel, *The Advantage of the Wage Element in the Employment Relationship*, 11 J. OF LAB. & EMP. L. 1, 109 (2026).

4331 GHALEB A. ALDAWUDI, EXPLANATION OF LABOR LAW: A COMPARATIVE STUDY 143 (2nd ed. 2015).

4332 TAWFIG HASSAN FARAJ & WAEI ANWAR BANDAQ, THE NEW LABOR LAW: A STUDY OF THE PROVISIONS OF THE INDIVIDUAL EMPLOYMENT CONTRACT IN LAW NO. 12 OF THE YEAR, AND THE DECISIONS IMPLEMENTING IT IN THE LIGHT OF THE LATEST VIEWS OF JURISPRUDENCE AND THE JUDICIARY OF CASSATION 312 (3rd ed. 2007); see also Anas Musa Abu Al-Awn and Ibrahim Khalid Yahya, *The Legal Protection of the Worker's Wage in the Palestinian Law: A Comparative Study*, 84 J. OF SHARIA & L., 464 (2020).

long term.4333 Simply, when workers' financial conditions deteriorate, the economy is directly damaged due to a lack of demand in line with supply in the local market, leading to economic stagnation due to the weak financial returns for employees.4334 Thus, Labor laws in countries around the world have accelerated to provide legal protections for employees.

Among these legal protections granted are the minimum wage and overtime premium. Although some oppose the application of the minimum wage, claiming that the minimum wage increases unemployment, this claim is not reasonable, as the minimum wage and overtime contribute to preventing employees from being exploited by employers by giving them insufficient and unfair wages.4335 Moreover, labor laws have sought to determine actual working hours in order to prevent employers from exploiting workers by forcing them to work long hours.4336 Overtime premium has been a privilege to workers, in return, becoming a burden on some employers and a deterrent to others from significantly infringing upon workers' rights.4337

Research Significance

Regulating minimum wages and overtime is of paramount importance and constitutes a significant challenge to legislation in countries, given its direct impact on individuals and its indirect social and economic effects on society. The gap between wages and the actual cost of living has become a growing concern for both economists and legislators. This study is crucial to discover the legal provisions concerning minimum wages and overtime in Saudi Arabia and to compare them with those in the United States of America, which preceded Saudi Arabia in enacting such provisions. This legal protection granted to workers is among the most important labor protections nowadays. Finally, since Saudi Arabia's 2030 vision aims toward privatizing several sectors, which will absolutely result in an increase in the number of workers in the private sector, this study seeks to contribute to raising legal awareness among both workers and employers regarding minimum wage and overtime provisions.

Research Problem

The research problem lies in the main question: To what extent do the Kingdom of Saudi Arabia and the United States apply minimum wages and overtime premiums? This question branches into several sub-questions, which are answered in two chapters. The first chapter answers the following questions: (1) whether the Kingdom of Saudi Arabia has legislated a minimum wage for workers, and (2) when an employee is entitled to overtime pay and what the overtime pay rate is per additional hour. The second chapter answers the following questions: (1) What is the minimum wage applied in the United States of America? and (2) What working hours can be counted and considered as time worked for pay under the Fair Labor Standards Act?

Research Objectives

- 1- Demonstrate the extent of the application of the minimum wage in Saudi Arabia and the U.S.

4333 Rahmani Rania & Munad Ali, *The Effect of Minimum Wage on Unemployment in Algeria During the Period (1991–2021)*, 9(2) AL-BASHAER ECON. J., 18 (2023).

4334 Amr Mohamed Ghanem Mohamed Abu El'aa, *Minimum Wage and Its Role in the Redistribution of National: Income Comparative Jurisprudence Study*, 34 J. OF SHARIA & L., 690 (2018).

4335 Sharafawi Omar, *The Problem of Determining the Minimum Wage Between Theory and Reality*, 6 THE SCI. REV. OF FUTURE ECON., 186 (2018).

4336 MUHAMMED ALI ALTAI, *LABOR LAW* 63 (2018).

4337 WAHEEB ALESPER, *INDIVIDUAL EMPLOYMENT CONTRACT* 184-85 (2021).

- 2- Clarify the working hours legally stipulated under both laws.
- 3- State when overtime pay is calculated and what is the rate of overtime premium for each additional hour for both the FLSA and Saudi Labor Law.

Research Methodology

The research has adopted an analytical comparative methodology to study the issue of wage and overtime premium. This paper has dealt with the significant research questions related to wage and overtime premium in labor field, and the researcher carried out extensive and in-depth research to provide decisive answers to those questions according to the Saudi labor law. Subsequently, these findings were compared to the Fair Labor Standards Act (FLSA) in the U.S.

Research Limitation

This research addresses the matter of the minimum wage and overtime in Saudi Arabia and the United States of America within last five years. The scope of this study is limited to workers who are covered by the Saudi Labor Law and the Fair Labor Standards Law, and does not extend to any other categories of workers. It will employ various sources to conduct this study, including laws, regulations, books, articles, dissertations, and online materials.

Research Structure

This research consists of an introduction and two chapters, as follows:

- **Introduction:**
- **Chapter One:**
 - 1.1. Saudi Labor Law's Coverage and Exclusion
 - 1.2. Wage
 - 1.3. Working Hours and Overtime
- **Chapter Two:**
 - 2.1. The FLSA Coverage
 - 2.2. The FLSA's Exemptions
 - 2.3. Minimum Wage
 - 2.4. Overtime Premium
 - 2.5. Compensable Hours Worked
- **Conclusion**
- **Results**
- **Recommendations**
- **References**

First Chapter:

1.1. Saudi Labor Law's Coverage and Exclusion

Basically, Saudi Labor Law applies to all *workers** working for employers and under their management and supervision regardless of the nature or type of work.4338 Saudi Labor Law can be

* Saudi labor law doesn't distinguish between worker or employee terms because they are synonyms in Arabic, so the researcher uses both terms in the Saudi part of this research.

4338 MUHAMMED ABDUL SATAR ABDUL WAHAB, EXPLAINING LABOR LAW AND SOCIAL INSURANCE LAW IN SAUDI ARABIA 32 (2nd ed. 2020).

described as "a set of legal rules governing the relationship arising when a person works for another and under his direction and supervision in return for a wage."⁴³³⁹ Therefore, in order to be covered under the legal protection of Saudi Labor Law, a worker must be working for—or be subordinate to—his employer and must not work independently, as is the case for what is called an *independent contractor* in the U.S.⁴³⁴⁰

Although this coverage applies broadly to labor relations, it is not entirely absolute.⁴³⁴¹ An employee subject to the Saudi Labor Law is distinct from a government employee, who is governed by the *Civil Service Law*,⁴³⁴² which is completely different from the Labor Law.

For more clarification on coverage, all workers falling under these categories are covered workers under the protection of the Labor Law, including the issue of wages and hours:

- 1- "Any worker commits himself to work for an employer and under his management or supervision, for a wage.
- 2- Workers of the government and public organizations and institutions including those who work in pastures or agriculture.
- 3- Workers of charitable institutions.
- 4- Part-time workers with respect to safety, occupational health, and work injuries, as well as decisions issued by the Minister."⁴³⁴³

It is worth noting that workers employed by the government and public organizations and institutions are those appointed on a wage system within administrative entities, pursuant to Decision No. 141 issued by the Civil Service Council Resolution on 27/05/1399 AH. Those appointed on a wage system are classified into several groups, including: (1) the general workers group (cleaners, security guards, elevator operators, porters, agricultural workers, and waiters); (2) the skilled tradesmen group (mechanics, electricians, mail sorters and distributors, drivers, clerks, cooks, plumbers, and carpenters); and (3) the assistant technicians group (workers in radiology, laboratories, hospitals, factories, workshops, and training centers).

On the other hand, Saudi legislators have excluded certain categories of jobs from the scope of the Labor Law. Therefore, any employee who falls within the exempted categories is not covered by the Labor Law's provisions— including, for example, those relating to minimum wage and overtime pay.⁴³⁴⁴

Pursuant to Article 7(1) of Saudi Labor Law, employees that Labor Law exempts them from the application of the rules of this law are the following:

- A) " The employer's family members, namely, the spouse and the ascendants and descendants who constitute the only workers of the firm.

⁴³³⁹ OSAMA ATIA ABDULAL, THE BRIEF IN SAUDI LABOR LAW EXPLANATION 17 (2014).

⁴³⁴⁰ An independent contractor is an individual or a business that performs service or services for another individual or business without being under the control or supervision of the individual or business for whom the service or services are performed; see *Independent Contractor vs. Employee*, 26(2) DRAMATIST, 22 (2024).

⁴³⁴¹ RICHARD A. BALES, JEFFREY M. HIRSCH & PAUL M. SECUNDA, UNDERSTANDING EMPLOYMENT LAW 135 (2013).

⁴³⁴² SHAWAKH MUHAMMED ALAHMED, THE BRIEF IN SAUDI LABOR LAW 25 (2015).

⁴³⁴³ Labor Law, issued by Royal Decree No. M/51 September, 27, 2005, art. 8. [hereinafter, the "Saudi Labor Law"].

⁴³⁴⁴ ALAHMED, *supra* note 13 at 93.

- B) Players and coaches of sports clubs and federations.
- C) Domestic workers and the like.
- D) Agricultural workers, private herdsmen, and the like.
- E) Sea workers working on board vessels with a load of less than 500 tons.
- F) Non-Saudi workers entering the Kingdom to perform a specific task for a period not exceeding two months."⁴³⁴⁵

1.2. Wage

Under Saudi Labor Law, a worker's wage may take various forms and be subject to multiple methods of calculation. Accordingly, the term *wage* within this legal framework does not merely denote the minimum wage but also encompasses broader and more significant meanings. Diving directly into the subject of minimum wages without first explaining these relevant topics concerning employee remuneration makes it difficult to understand the actual meaning of wages in matters of minimum wage and overtime.

1.2.1. The Wage's Definition and its Types

Some scholars have defined wage as "it is everything acquired by workers in return of work performance."⁴³⁴⁶ Conversely, any sum received by the worker for reasons outside the performance of work is not considered a wage.⁴³⁴⁷ It may come as a surprise to some that the wage need not be paid solely in cash; rather, it may be composed partly of cash and partly of benefits in kind.⁴³⁴⁸ The in-kind component includes, for instance, private housing, food, or services such as transportation of the worker from his residence to the workplace and back.⁴³⁴⁹

Article (2) of the Saudi Labor Law, however, differentiates between two types of wages.⁴³⁵⁰ The first type is the *basic wage*, defined as "all that is given to a worker for his work by virtue of a written or unwritten employment contract, regardless of the kind of wage or its method of payment, in addition to periodic increments."⁴³⁵¹ The second type is the *actual wage*, which is "the basic wage plus all other due increments decided for a worker for the effort he exerts at work or for risks he encounters in the course of performing his work, or those decided for the worker for the work under the employment contract or work organization regulation."⁴³⁵² The actual wage could encompass commissions, percentage from sales or profits, increments, in-kind privileges⁴³⁵³ allowances, or rewards.⁴³⁵⁴

Ultimately, the term "wage" as used in the law refers to the actual wage unless the law expressly invokes the basic wage.⁴³⁵⁵ Furthermore, although allowances are generally included as

4345 Art. 7(1) Saudi Labor Law.

4346 Bouadjila Musa & Ibn Tayyibi Mubarak, *Protection of the Worker's Wages Through the Provisions of the Algerian Labor Code*, 6 AL-NAQED J. 2, 700 (2022); see also Al-Tahir Qarin, *The Importance Wage of the Individual Employment Relationship*, 30 J. OF HUM. SCI. 3, 75 (2019).

4347 MUHAMMED HUSSAIN MANSOUR, *LABOR LAW IN EGYPT AND LEBANON* 164 (1995).

4348 YOUSEF ELIAS, *THE BRIEF IN EXPLAINING LABOR LAW* No. 71 OF 1987 99 (1989).

4349 ABDULLAH MORAY ALKINDI, *THE RIGHTS AND OBLIGATIONS OF THE WORKER AND THE EMPLOYER IN THE SAUDI LAW* 59 (1996).

4350 Hussaini Ibrahim Ahmed Ibrahim, *Legal Protection of the Worker's Wages According to the Saudi Labor Law in Light of the Text of Article 41 of the Executive Regulations of the Labor Law Issued by Ministerial Resolution No. (70273) Dated 04/11/1440 AH and the Emerging Corona Virus Pandemic*, 8 LEGAL J. OF CAIRO UNIV. 1748 (2020).

4351 Art. 2 Saudi Labor Law.

4352 Art. 2 Saudi Labor Law.

4353 Art. 2 Saudi Labor Law.

4354 Mansour Mohammed Al-Faridi & Mustafa Rateb Hassan Ali, *Legal Controls for Protecting Employee Rights in the Workplace (in Saudi Labor Law): An Analytical Study*, 37(4) J. FAC. SHARIA & L. ASSIUT, 735 (2025).

4355 Art. 2 Saudi Labor Law.

part of the actual wage as noted above, certain allowances are excluded from the wage.⁴³⁵⁶ This exclusion applies specifically where an allowance is not provided in return for work performed, but rather as compensation for expenses or losses incurred by the employee or which have otherwise affected his financial position.⁴³⁵⁷ For example, a traveling allowance is excluded where the employee's duties require him to travel to other cities or countries.⁴³⁵⁸

1.2.2. Minimum Wage

Most countries establish minimum wage provisions into their labor legislation in order to achieve economic objectives⁴³⁵⁹ and ensure a decent standard of living for workers, thereby safeguarding them from the poverty line.⁴³⁶⁰ International instruments have also made significant contributions in this regard, including the Universal Declaration of Human Rights, which stipulates in Article 23(3): such as the Universal Declaration of Human Rights⁴³⁶¹ what it stipulated in Article 23(3): "Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection."⁴³⁶²

In Saudi Arabia, the legislature has authorized the Council of Ministers to establish a minimum wage pursuant to Article 89 of the Labor Law.⁴³⁶³ This provision authorizes the Council of Ministers to set a minimum wage when deemed necessary, upon the proposal of the Minister of Human Resources and Social Development.⁴³⁶⁴ In addition, the Council of Ministers enjoys full discretion to exercise this authority either generally, by prescribing a minimum wage applicable to all professions and occupations, or specifically, by imposing a minimum wage restricted to a particular region or profession.⁴³⁶⁵

The procedural framework for initiating such a measure requires that the Minister of Human Resources and Social Development consult a committee comprising representatives from the Ministry of Human Resources and Social Development, the Ministry of Finance, the Ministry of Economy, the Ministry of Petroleum and Mineral Resources, and the Ministry of Commerce, in addition to two experienced members appointed by the minister.⁴³⁶⁶

It seems not surprising that Saudi Arabia has not yet implemented the minimum wage provision, given that it has not found such intervention necessary, owing to the comparatively high wage rates prevailing in the Kingdom relative to other countries.⁴³⁶⁷ However, there have been

⁴³⁵⁶ RIZG MAGBOOL ALRAIS & REDHA MAHMOOD ALABD, EXPLAINING THE PROVISIONS OF SAUDI LABOR LAW 120 (3rd ed. 2020).

⁴³⁵⁷ ABDUL RAZAG HUSSAIN YASSIN, AL WASEET IN EXPLAINING THE PROVISIONS OF LABOR AND SOCIAL INSURANCE LAWS. PART ONE; THE SECOND BOOK 673 (1992).

⁴³⁵⁸ *Id.*

⁴³⁵⁹ ABDUL MOHSIN MUHAMMED ALFAWZAN & MUHAMMED BARAK ALFAWZAN, ALPHABETICAL IN THE SAUDI LABOR SYSTEM: ACCORDING TO THE LATEST AMENDMENTS TO THE LABOR SYSTEM FOR THE YEAR 2020 AND A REMEDY FOR THE CORONA PANDEMIC IN ACCORDANCE WITH ARTICLE (41) OF THE EXECUTIVE REGULATIONS ISSUED BY THE MINISTRY OF LABOR 37 (2021).

⁴³⁶⁰ MUHAMMED MUHAMMED AHMED SWAILEM, THE BRIEF IN THE PROVISIONS OF THE LABOR AND SOCIAL INSURANCE LAWS 118 (2017).

⁴³⁶¹ MUHAMMED ALI ABDAH, LEBANESE LABOR LAW 78 (2007).

⁴³⁶² United Nations, *Universal Declaration of Human Rights*, UNITED NATIONS 23(3), <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited April 26, 2026).

⁴³⁶³ HUSSAINI IBRAHIM AHMED IBRAHIM, *supra* note 21 at 1773.

⁴³⁶⁴ KHALED ALSAID MUHAMMED MOSA, THE NEW IN EXPLAINING THE LABOR LAW, SOCIAL SECURITY AND SOCIAL INSURANCE IN THE KINGDOM OF SAUDI ARABIA, ACCORDING TO THE LATEST AMENDMENTS ISSUED 178 (2nd ed. 2018).

⁴³⁶⁵ ALFAWZAN AND ALFAWZAN, *supra* note 30 at 37.

⁴³⁶⁶ Walid Al-Hadi Al-Arabi, *The Wage in the Saudi Labor Law*, 27 J. OF THE FAC. OF SHARIA & L. TAFAHNA AL-ASHRAF - DAKHLIA 2, 957 (2023).

⁴³⁶⁷ KHALED ALSAID MUHAMMED MOSA, MEDIATOR IN EXPLAINING LABOR LAW IN SAUDI ARABIA 251 (2015).

efforts by the Ministry of Human Resources and Social Development to establish a minimum wage in a new manner, targeting only Saudi workers in the non-governmental sector.⁴³⁶⁸ To that end, the ministry has launched a program called *Nitaqat**, which aims to increase the percentage of Saudi workers in the private sector by providing job opportunities for them in establishments.⁴³⁶⁹

Nitaqat categorizes establishments into five ranges: red, low green, medium green, high green, and platinum. On the basis of the Saudization rate prescribed by Nitaqat for each establishment, the program offers various privileges and administrative facilitations to those establishments that meet the specified Saudization targets.⁴³⁷⁰ Conversely, failure to comply with the applicable Saudization percentage exposes an establishment to the risk of losing some or all of the government-granted privileges and facilitations.⁴³⁷¹ For example, an employer in the red range is not allowed to renew work licenses for foreign workers employed by him.

As a result, when calculating a Saudi worker within the Saudization percentage of an establishment, Nitaqat requires that the Saudi worker's actual wage generally be no less than 4,000 Saudi Riyals (SAR) per month. However, if the Saudi worker's actual wage is between 3,000 and 3,999 SAR per month, he is counted toward the establishment's Saudization percentage as half of a Saudi worker. If the wage is less than 3,000 SAR, the Saudi worker is not counted in Nitaqat.

As an illustration, a minimum wage has been set for a few professions. The minimum wage for Saudi teachers in private and international schools, pursuant to Royal Order No. (A/121) of 04/06/2011, shall be no less than 5,600 SAR per month.⁴³⁷² Likewise, Saudi dentists are entitled to receive a minimum of 9,000 SAR as a wage in order to be counted toward the mandated Saudization percentage. Last but not least, wages for engineering professions have been set at no less than 8,000 SAR,⁴³⁷³ and wages for those working in legal jobs—such as legal counsels in law firms—have been set at no less than 5,500 SAR.⁴³⁷⁴

The researcher contends that the Nitaqat program introduced by the Kingdom of Saudi Arabia represents an innovative and largely commendable initiative. Nevertheless, it would be more appropriate to establish a general minimum wage of 4,000 Saudi riyals per month, applicable to all workers, with the exception of those in professions for which minimum wage levels have already been determined by the Ministry of Human Resources and Social Development. The objective is to preclude employers from ceasing to hire Saudi nationals once they have fulfilled the percentage required by Nitaqat. The researcher has also observed that the Saudi Council of Ministers has not yet exercised its authority to set a minimum wage stipulated in Article 89.

⁴³⁶⁸ Alriyadh Newspaper, <https://www.alriyadh.com/1886966> (last visited May 2, 2026).

* Nitaqat was established in 2011, then it was issued a developed version by the ministerial decisions No.182495 in 12/21/2021.

⁴³⁶⁹ Procedural Guide for the Developed Nitaqat Program (2026), <https://www.hrsd.gov.sa/sites/default/files/2026-03/ntaqat-almtwr.pdf> (last visited May 2, 2026).

⁴³⁷⁰ Procedural Guide for the Developed Nitaqat Program, *supra* note 32.

⁴³⁷¹ *Id.*

⁴³⁷² Ministry of Education (2017), <https://www.moe.gov.sa/ar/mediacenter/MOEnews/Pages/national-sa.aspx> (last visited May 2, 2026).

⁴³⁷³ Ministry of Human Resources and Social Development (2026), <https://www.hrsd.gov.sa/media-center/news/%D8%B1%D9%81%D8%B9-%D9%86%D8%B3%D8%A8-%D8%A7%D9%84%D8%AA%D9%88%D8%B7%D9%8A%D9%86-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D9%87%D9%86-%D8%A7%D9%84%D9%87%D9%86%D8%AF%D8%B3%D9%8A%D8%A9-%D9%88%D9%85%D9%87%D9%86-> (last visited May 2, 2026).

⁴³⁷⁴ Ministry of Human Resources and Social Development (2021), <https://www.hrsd.gov.sa/media-center/news/972498> (last visited May 3, 2026).

1.3. Working Hours and Overtime

Regulating working hours and overtime forms the cornerstone of the balance between safeguarding the health and financial well-being of workers and ensuring employer productivity.⁴³⁷⁵ Consequently, labor laws no longer afford employers unfettered discretion to set working hours under the doctrine of freedom of contract.⁴³⁷⁶ In Saudi Arabia, for instance, regulators have introduced controls and safeguards designed to protect employee rights in this regard, as will be examined in further detail below.

1.3.1. Working Hours

Basically, Saudi Labor Law provides that the maximum number of daily hours worked by an employee is eight actual hours when an employer uses the daily standard.⁴³⁷⁷ Nevertheless, under the weekly standard, employers shall not force employees to work more than forty-eight hours of actual work, such that the workweek comprises a maximum of six consecutive days of actual work.⁴³⁷⁸ Meanwhile, only for Muslims and only during Ramadan, the law grants a privilege whereby the number of daily working hours shall be reduced to a maximum of six hours per day, or not more than thirty-six hours per week.⁴³⁷⁹

However, the law has authorized the Minister of Human Resources and Social Development to designate categories of businesses and industries in which the actual daily working hours of workers may be increased to nine hours or reduced to seven hours, depending on the nature of their work.⁴³⁸⁰

Moreover, establishments whose nature requires work to be performed on a rotating basis may require the worker to work hours in excess of eight actual working hours per day or forty-eight hours per week, provided that the average working hours over a period of three weeks is less than eight hours per day or forty-eight hours per week.⁴³⁸¹

In all cases, the worker shall not be permitted to remain in the workplace for any reason for more than twelve hours.⁴³⁸² A rest period (break) is due to the worker after five consecutive hours of work.⁴³⁸³ Accordingly, rest periods are counted as part of the hours spent in the workplace, particularly when the employee remains within the workplace.⁴³⁸⁴

1.3.1.1. The Actual Hours

Despite the clarity of the statutory language concerning working hours, the term "actual working hours" is not defined in the definitions section of Article 2 of the Saudi Labor Law. Actual working hours may be understood as the period during which the worker is placed at the employer's

4375 RIZG MAGBOOL ALRAIS & REDHA MAHMOOD ALABD, EXPLAINING THE PROVISIONS OF SAUDI LABOR LAW 310 (2nd ed. 2017); see also Ali Hussein Al-Jilani Hussein, *The Employers Legal Obligation to Organize Work Time: A Study of Sudanese Labor Law*, 20 (1) GEZIRA J. OF EDUC. SCI. & HUMANITIES 59 (2023).

4376 MUHAMMED ALI ABDAL, LEBANESE LABOR LAW 128 (2007).

4377 MUHAMMED SAAD ALRAHAHLEH & ENAS KHALF ALKHALDI, THE BRIEF IN EXPLAINING SAUDI LABOR LAW 150 (2014); see also Mehdi Bekhedda, *Regulating Working Hours in Islamic Law and Algerian Law*, 6 RESSALAT ELMASSJID, 23 (2011).

4378 Hours of Work Convention art. 3, adopted June 28, 1930, ILO.

4379 Rodhwan Obeidat & Nael Mesaadah, *The Legality of Child Labor in Jordanian Law: A Comparative Study*, 18 AL-MANARAH FOR RSCH. & STUD. J. 107, 124 (2012).

4380 MUHAMMED JAMAL ALTHNIBAT, THE EXPLANATION OF LABOR LAW 160 (2014).

4381 HUSSAINI IBRAHIM AHMED IBRAHIM, THE BRIEF IN EXPLAINING THE PROVISIONS OF THE LABOR AND SOCIAL INSURANCE LAWS 213 (2020).

4382 Mehdi Bekhedda, *Legal Determination of Working Time*, 75 LAW J. 1, 100 (2010).

4383 Hashim Ahmed Bany Khalaf, *Equality in Rights between Working Man and Working Woman in Saudi Labour System*, 7 ACAD. J. OF LEGAL RSCH. (SPECIAL ISSUE) 76, 81-82 (2017).

4384 Shareef Mohammed Abdel Fattah, *The Legal System of Working Hours in the Egyptian and Kuwaiti Laws – Comparative Study*, 110 THE SPIRIT OF L. J. 2, 1299 (2025).

disposal and is available to perform his duties, even where working conditions prevent him from actually carrying out such duties.⁴³⁸⁵ Therefore, travel time between the worker's residence and the workplace is not counted as actual working hours, nor are preparatory activities such as assuming work duties, or putting on and removing work attire, included within such hours.⁴³⁸⁶ Lastly, time allocated for prayers, meals, and rest falls outside the ambit of actual working hours.⁴³⁸⁷

1.3.2. Overtime

There can be no doubt that the legislative rationale behind prescribing this *additional amount* * is to provide an effective safeguard for compensating workers who exert extra effort.⁴³⁸⁸ This additional amount effectively constitutes supplementary income, which has a tangible bearing on the overall welfare of employees.⁴³⁸⁹ The additional amount may be defined as "the monetary compensation received by the worker in return for performing additional work alongside his original work, or as a result of performing work hours in excess of the number of working hours specified by law."⁴³⁹⁰

Workplace conditions may necessitate that the worker perform additional work beyond the standard actual working hours.⁴³⁹¹ As such, the question of employees working in excess of actual working hours is no longer a subject of debate, since the law expressly permits additional work where operational exigencies so require, provided that such work is compensated by additional monetary remuneration.⁴³⁹² Therefore, all hours worked on rest days and public holidays are likewise counted as overtime.⁴³⁹³

1.3.2.1. Computation of Overtime

Under Article 107 of the Saudi Labor Law, overtime compensation is computed on the basis of the worker's basic wage rather than the actual wage.⁴³⁹⁴ The employer is required to pay the worker an additional amount for overtime hours equivalent to the hourly wage plus 50% of the basic wage.⁴³⁹⁵ It should be observed, however, that the provision appears to suffer from a drafting imprecision, as the generally understood and accepted formula for overtime calculation is the hourly wage plus 50% of the hourly wage (i.e., time-and-a-half), not 50% of the basic wage.⁴³⁹⁶

The researcher deduces a significant feature of Saudi legislation: unlike various other legal systems, it does not distinguish between day and night shifts when calculating overtime compensation. Saudi law requires employers to remunerate workers at a rate of one and a half times

4385 AHMED IBRAHIM, *supra* note 52 at 213.

4386 AHMED ALSAID ALZQRID, THE EXPLANATION OF LABOR LAW IN SAUDI ARABIA 244 (2017); see also ALI HUSSEIN AL-JILANI HUSSEIN, *supra* note 46 at 65.

4387 AHMED IBRAHIM, *supra* note 52 at 215.

* The Saudi law uses the term "additional amount" instead of "Overtime Premium", with both terms being similar in the meaning.

4388 ABDULAL, *supra* note 10 at 160.

4389 *Id.*

4390 AYMEN AHMED ALDLLOA & MUHAMMED MUHAMMED YOUSEF EID, THE USEFUL EXPLANATION OF THE NEW SAUDI LAW 169 (2018).

4391 ALFAWZAN AND ALFAWZAN, *supra* note 30 at 172.

4392 Nidal Ghaith, *The Legal Regulation of Working Hours and Its Role in Achieving Balance Between the Two Parties to The Work Contract: A Study in the Moroccan Labour Code and The Palestinian Labour Law*, 37(1) AN-NAJAH UNIV. J. FOR RSCH. (HUMANITIES), 66 (2023).

4393 ALRAIS AND ALABD, *supra* note 46 at 345.

4394 Art. 107(1) Saudi Labor Law.

4395 ALKINDI, *supra* note 20 at 100.

4396 SWAILEM, *supra* note 31 at 135.

their basic hourly wage for each hour of overtime worked, irrespective of whether the work is performed during daytime or nighttime hours. Furthermore, Saudi legislators have chosen to compute the overtime premium on the basis of time-and-a-half of the basic wage, yet no compelling rationale appears to justify this choice over calculation based on the actual wage. Given that labor legislation is widely recognized as fundamentally designed to protect workers' interests, legislators should reconsider the basis for calculating overtime pay and make it based on actual wages in order to be more beneficial to workers.

Second Chapter:

2.1. The FLSA Coverage

The Fair Labor Standards Act (FLSA) was enacted in 1938 with the objective of eliminating certain detrimental labor conditions that were adversely affecting the American economy.⁴³⁹⁷ These conditions had prevented workers from attaining even a basic standard of living; therefore, this federal legislation was introduced to address matters pertaining to minimum wage, overtime compensation, and child labor.⁴³⁹⁸ This part of the chapter is designed to clarify the FLSA's coverage and exemptions.

2.1.1. The Employer-Employee Relationship and Individual Coverage

The FLSA governs the employer-employee relationship, and it is therefore necessary to clarify the definitions of "employee," "employer," and "employ" as used under the Act.⁴³⁹⁹ According to the FLSA, an employee may be described as "any individual employed by an employer";⁴⁴⁰⁰ an employer may be described as "any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization"; and finally, "employ" is defined as "to suffer or permit to work."⁴⁴⁰¹

Consequently, the distinction between employee and independent contractor constitutes the most diffuse controversy regarding employee status.⁴⁴⁰² Pursuant to the common law test, an independent contractor is a person who performs a given task for a specified price and retains the right of control over the manner in which the work is achieved.⁴⁴⁰³ However, not every individual who agrees to be classified as an independent contractor is considered one; rather, the substantive difference between an employee and an independent contractor must clearly appear.⁴⁴⁰⁴ Many courts have held that an individual who is economically dependent on the enterprise or the employer is, in fact, an employee of that enterprise or employer.⁴⁴⁰⁵

To determine whether an individual is an independent contractor or an employee, the economic reality test was developed and has become a legal tool applied by the courts for this purpose.⁴⁴⁰⁶ In applying this test, courts consider the following factors⁴⁴⁰⁷ as a guide to determine whether the worker has sufficient economic independence to qualify as an independent

4397 BALES, HIRSCH, AND SECUNDA, *supra* note 12 at 134–135.

4398 *Id.* at 134.

4399 MARK A. ROTHSTEIN ET AL., EMPLOYMENT LAW 338 (2015).

4400 29 U.S.C. § 203(e)(1).

4401 29 U.S.C. § 203(g).

4402 ROTHSTEIN ET AL., *supra* note 70 at 338.

4403 LITTLER, MENDELSON, FASTIFF, TICHY & MATHIASON, FUNDAMENTALS OF EMPLOYMENT LAW 110 (1994).

4404 FUNDAMENTALS OF EMPLOYMENT LAW 484 (Karen E. Ford et al. eds., 2nd ed. 2000).

4405 *Id.*

4406 ROTHSTEIN ET AL., *supra* note 70 at 338.

4407 *Id.*

contractor4408: "(1) the nature and degree of the alleged employer's control as to the manner in which the work is to be performed; (2) the alleged employee's opportunity for profit or loss depending upon his managerial skill; (3) the alleged employee's investment in equipment or materials required for his task, or his employment of workers; (4) whether the service rendered requires a special skill; (5) the degree of permanency and duration of the working relationship; [and] (6) the extent to which the service rendered is an integral part of the alleged employer's business."4409

However, classifying an individual as an employee under the economic reality test does not necessarily mean that he is directly covered by the FLSA.4410 Under individual coverage, the FLSA extends its protection to any employee regularly engaged in activities related to interstate commerce, whether by actually engaging in commerce or by being involved in the production of goods for commerce.4411 Thus, courts do not focus on the nature of the business, but rather on the employee's work activities or job duties.4412 In some cases, employees may fail to be covered by the FLSA due to the dollar volume test of the enterprise (discussed below), but this does not prevent them from being entitled to the FLSA's protections as long as they are involved in interstate commerce on the basis of individual coverage.4413

Furthermore, it is worth noting the types of covered employees' work or activities that fall within the scope of *engagement in commerce* or the field of *production of goods for commerce*.4414 Firstly, employees covered by the FLSA are those who are engaged in activities that affect the movement of goods, persons, or transmissions between states or even to any place outside the country.4415 The doctrine of "engaged in commerce" includes,4416 for example, all employees in the communications and transportation industries, as well as employees in the shipping industry who unload, load, or handle goods received from out-of-state.4417 Secondly, employees engaged in the production of goods for commerce are also covered under the FLSA.4418 Engaging in the production of goods for commerce includes producing, manufacturing, mining, handling, transporting,4419 packing, overseeing, warehousing, and shipping.4420

2.1.2. Employer or Enterprise Coverage

Prior to 1961, individual coverage under the FLSA was predicated exclusively on an employee-by-employee analysis, whereby each worker's duties were examined to ascertain whether he fell within the minimum wage and overtime protections of the Act.4421 However, the FLSA failed to fully realize its remedial objective of extending coverage to the broadest possible

4408 FRED S. STEINGOLD ATTORNEY, THE EMPLOYER'S LEGAL HANDBOOK 3/5 (2011).

4409 Olden v. Quality Care & Advocacy Group, Inc. (S.D. Ga. Sep. 14, 2021.)

4410 BALES, HIRSCH, AND SECUNDA, *supra* note 12 at 136.

4411 *Id.*

4412 Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA), DOL, <https://www.dol.gov/agencies/whd/fact-sheets/14-flsa-coverage> (last visited May 15, 2026).

4413 *Id.*

4414 ELLEN C. KEARNS & MONICA GALLAGHER, THE FAIR LABOR STANDARDS ACT 105–06 (1999).

4415 *Id.*

4416 JOSEPH E. KALET, PRIMER ON FLSA & OTHER WAGE & HOUR LAWS 26 (3rd ed. 1994).

4417 ROTHSTEIN ET AL., *supra* note 70 at 340.

4418 KEARNS AND GALLAGHER, *supra* note 85 at 113.

4419 29 U.S.C.A. § 203(j).

4420 ROTHSTEIN ET AL., *supra* note 70 at 340.

4421 KEARNS AND GALLAGHER, *supra* note 85 at 127.

spectrum of employment relationships.⁴⁴²² As a result, in 1961, Congress introduced enterprise coverage to broaden and reinforce the Act's reach.⁴⁴²³ Similar to individual coverage, enterprise coverage applies the same interstate commerce test.⁴⁴²⁴

The distinctive feature of the enterprise standard, however, is that once an enterprise is determined to be covered and not exempt under the FLSA, the Act extends its protections to all employees of that enterprise⁴⁴²⁵ —without regard to their individual engagement in interstate commerce or their particular job duties.⁴⁴²⁶ Furthermore, for a business to qualify as nonexempt under enterprise coverage, three cumulative requirements must be satisfied: (1) the entity must meet the statutory definition of "enterprise"; (2) it must satisfy the interstate commerce criterion; and (3) it must meet the dollar volume threshold.⁴⁴²⁷

2.1.2.1 The Definition of Enterprise

The absence of a precise statutory definition of "enterprise" created a significant obstacle to extending FLSA coverage to all branches of an employer's operations and also resulted in the exemption of certain subsidiary branches based on the dollar volume test. This concern ultimately prompted Congress to recognize the necessity of formally defining "enterprise" for purposes of FLSA coverage.⁴⁴²⁸ Under the FLSA, an "enterprise" is defined as "the related activities performed by any person or persons for a common business purpose, and includes all such activities....."⁴⁴²⁹

From this definition, it is manifest that the concept of enterprise depends on three factors:

- 1- "Related activities" refer to activities that are identical or rationally related to the primary function of the enterprise.⁴⁴³⁰
- 2- "Common control or unified operation" indicates the power to direct and govern, or to unite and combine the performance of related activities.⁴⁴³¹
- 3- "Common business operation" means existence of a profit motive or commercial activity, even if carried out by nonprofit organizations such as universities, hospitals, public agencies, and others.⁴⁴³²

2.1.2.2. The Interstate Commerce Standard

In principle, the terms "engaged in commerce" and "production of goods for commerce," as defined in the FLSA, carry identical meanings regardless of whether the individual or enterprise standard is applied. To determine whether an enterprise falls within the Act's coverage, courts generally apply the principles of individual coverage as a means of examining employees' interstate activities. ⁴⁴³³ Accordingly, an employer satisfies the employee requirement for enterprise

⁴⁴²² KALET, *supra* note 87 at 20.

⁴⁴²³ ROTHSTEIN ET AL., *supra* note 70 at 340.

⁴⁴²⁴ *Id.*

⁴⁴²⁵ *Id.*

⁴⁴²⁶ KEARNS AND GALLAGHER, *supra* note 85 at 128.

⁴⁴²⁷ *Id.*

⁴⁴²⁸ KALET, *supra* note 87 at 22.

⁴⁴²⁹ 29 U.S.C. § 203(r)(1).

⁴⁴³⁰ ROTHSTEIN ET AL., *supra* note 70 at 340.

⁴⁴³¹ KEARNS AND GALLAGHER, *supra* note 85 at 150–151.

⁴⁴³² ROTHSTEIN ET AL., *supra* note 70 at 341.

⁴⁴³³ KEARNS AND GALLAGHER, *supra* note 85 at 130–131.

coverage if it has at least two employees⁴⁴³⁴ who are engaged in commerce or in the production of goods for commerce.⁴⁴³⁵

Conversely, an employer may have employees who are not covered under the individual standard because they do not engage in commerce or in the production of goods for commerce.⁴⁴³⁶ Nevertheless, provided that the enterprise has at least two other covered employees, it is deemed a non-exempt enterprise, and all of its employees are brought within the scope of FLSA coverage by operation of law, once the dollar volume threshold is satisfied.⁴⁴³⁷

2.1.2.3. Dollar Volume Test

The volume of an employer's business constitutes the primary and most significant element of the enterprise coverage standard. The FLSA established a uniform threshold based on the annual gross sales of an enterprise, rather than maintaining separate thresholds for retail and non-retail businesses, in order to simplify the enterprise coverage test.⁴⁴³⁸ Where a business achieves an annual dollar volume of sales of not less than \$500,000,⁴⁴³⁹ it qualifies as a covered enterprise, provided that it also satisfies the other two requirements: the statutory definition of "enterprise" and the interstate commerce test.⁴⁴⁴⁰

Conversely, enterprises with annual gross sales not exceeding \$500,000 are exempt from enterprise coverage under the Act. In such instances, employees of these enterprises are not covered under enterprise coverage.⁴⁴⁴¹ However, this does not leave all employees entirely unprotected, as they may still be eligible for coverage under the individual coverage provisions of the FLSA.⁴⁴⁴²

2.2. The FLSA's Exemptions

The FLSA serves as the principal federal statute establishing fundamental wage and hour protections for the majority of public and private employees, though not for all.⁴⁴⁴³ Certain categories of workers are expressly excluded from the Act's minimum wage and overtime provisions.⁴⁴⁴⁴ However, such employees may not be entirely exempt from both requirements; they may be exempt from only one while remaining subject to the other.⁴⁴⁴⁵ Among the most significant exemptions under the FLSA are those applicable to white-collar workers:

2.2.1. Executive, Administrative, and Professional Exemption

Employees classified as white-collar workers—for instance, those serving in a "bona fide executive, administrative, or professional capacity"—are exempt from the minimum wage and overtime protections of the FLSA.⁴⁴⁴⁶ Notably, although the Act itself does not define these

4434 Fact Sheet #14, *supra* note 83; *see also* Ford v. Sharp, 758 F.2d 1018, 1020 (5th Cir. 1985), in this case, the court's judgment clearly established that the Act "simply requires more than one employee" and that it is sufficient if two employees work "regularly". It refused Sharp's argument that the Act does not cover his business because he had only one employee on duty at a time.

4435 KEARNS AND GALLAGHER, *supra* note 85 at 130–31.

4436 ROTHSTEIN ET AL., *supra* note 70 at 341–42.

4437 *Id.*

4438 KALET, *supra* note 87 at 21.

4439 Fact Sheet #14, *supra* note 83.

4440 KALET, *supra* note 87 at 21.

4441 *Id.*

4442 *Id.*

4443 DAVID BRADLEY, OVERTIME EXEMPTIONS IN THE FAIR LABOR STANDARDS ACT FOR WHITE-COLLAR EMPLOYEES: FREQUENTLY ASKED QUESTIONS 1.

4444 BALES, HIRSCH, AND SECUNDA, *supra* note 12 at 136.

4445 ROTHSTEIN ET AL., *supra* note 70 at 350.

4446 Gerald Mayer, Benjamin Collins & David H Bradley, *The Fair Labor Standards Act (FLSA): An Overview*, 8.

classifications, it has delegated to the Department of Labor (DOL) the authority to regulate all matters pertaining to this area, 4447 including the definition of such terms. 4448 Under DOL regulations, the exempt nature of an employee's work is assessed in determining whether the employee qualifies for an exemption. 4449 To be exempt from the FLSA's provisions, the employee must satisfy three cumulative requirements: the salary basis test, the salary level test, and the duties test. 4450

2.2.1.1. Salary Basic Test

Employees qualify as exempt executive, administrative, or professional (EAP) workers when they are compensated on a salary basis—that is, on a fixed and predetermined amount—for work performed on a weekly or less frequent basis, provided that their compensation is not subject to reduction based on variations in the quantity or quality of work performed. 4451 In addition, a salaried employee who is ready and willing to perform work remains entitled to his full salary even if no work is available at a particular time. 4452

The matter of permissible deductions, however, is neither as simple nor as straightforward as it may initially appear. The underlying purpose of the salary basis requirement is to prevent employers from improperly classifying hourly employees as exempt in order to evade the Act's protections. 4453 Thus, where an employer imposes a disciplinary deduction from an employee's salary as a financial penalty, such a deduction constitutes compelling evidence that the employee should be reclassified as non-exempt, as he has been treated as an hourly employee. 4454

That said, the statute does permit certain deductions from salaried employees' pay without losing their exempt status, 4455 for instance, when employees are absent for a full day or more, 4456 except in circumstances involving jury duty, military leave, or court attendance as a witness. 4457 Conversely, employers may not make deductions when employees are absent for only a few hours to attend to personal matters, provided such absence does not exceed a full day, as salaried employees frequently perform overtime work without receiving additional compensation. 4458

2.2.1.2. Salary Level Test

Payment on a salary basis alone is insufficient to render an employee exempt from the FLSA's overtime requirements; rather, the employee's salary must also meet a minimum threshold established by regulation. 4459 This salary level has been adjusted upward on nine separate occasions since the Act's enactment in 1938, when the initial threshold was first set. At present, exempt EAP employees must receive a salary of no less than \$684 per week; failure to satisfy this requirement precludes application of the exemption. 4460 Furthermore, the DOL has extended the

4447 BALES, HIRSCH, AND SECUNDA, *supra* note 12 at 143.

4448 DAVID H. BRADLEY, *Overtime Exemptions in the Fair Labor Standards Act for Executive, Administrative, and Professional Employees*, 3.

4449 FUNDAMENTALS OF EMPLOYMENT LAW, *supra* note 75 at 486.

4450 *Id.*

4451 29 C.F.R § 541.602(a).

4452 29 C.F.R § 541.602(a)(2).

4453 BALES, HIRSCH, AND SECUNDA, *supra* note 12 at 144.

4454 *Id.*

4455 REBECCA HANNER WHITE, *EMPLOYMENT LAW AND EMPLOYMENT DISCRIMINATION: ESSENTIAL TERMS AND CONCEPTS* 162 (1998).

4456 KALET, *supra* note 87 at 32.

4457 ATTORNEY, *supra* note 79 at 3/10.

4458 *Id.*

4459 BRADLEY, *supra* note 119 at 3.

4460 *Id.*

overtime exemption to a distinct category of employees—highly compensated employees (HCE)—who earn an annual salary of at least \$100,000 and regularly perform at least one of the duties characteristic of EAP positions.⁴⁴⁶¹

2.2.1.3. Duties Test

After the employee's compensation correctly satisfies the salary basis test and the salary level test, the analysis proceeds to the duties test. Under this test, the primary focus is on the actual executive, administrative, and professional duties performed, rather than on job titles, in determining exempt status.

Pursuant to 29 C.F.R. § 541.100(a)(2), (3), and (4), the general rule for *executive employees* provides the following duties test:

- "Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof;
- Who customarily and regularly directs the work of two or more other employees; and
- Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight."⁴⁴⁶²

According to 29 C.F.R. § 541.200(a)(2) and (3), the general rule for *administrative employees* provides the following duties test:

- "Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance."⁴⁴⁶³

Pursuant to 29 C.F.R. § 541.300(a)(2), the general rule for professional employees provides the following duties test:

- "Whose primary duty is the performance of work:
 - (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or
 - (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor."⁴⁴⁶⁴

2.2.2. Other Exemptions

Besides the white-collar exemption, the FLSA excludes several categories of employees from its minimum wage and overtime protections.⁴⁴⁶⁵ Some exemptions from both the minimum wage and overtime requirements include, for example and without limitation, the following:

1. All employees working at organized camps or recreational establishments.⁴⁴⁶⁶
2. Employees performing work involving catching, farming, packing, loading, or unloading seafood.⁴⁴⁶⁷

⁴⁴⁶¹ *Id.*

⁴⁴⁶² 29 CFR § 541.100(a)(2), (3) and (4).

⁴⁴⁶³ 29 CFR § 541.200(a)(2) and (3).

⁴⁴⁶⁴ 29 CFR § 541.300(a)(2).

⁴⁴⁶⁵ FUNDAMENTALS OF EMPLOYMENT LAW, *supra* note 75 at 491.

⁴⁴⁶⁶ 29 U.S.C. § 213(a)(3).

⁴⁴⁶⁷ 29 U.S.C. § 213(a)(5).

3. Agricultural employees working for small employers or employees who are members of the employer's immediate family.4468
4. Employees employed as seamen on vessels or boats other than American vessels.4469
5. Babysitters and domestic service workers providing companionship services on a casual basis.4470

Other categories are exempt only from the overtime requirement, such as:

- 1- Most employees working in railway and air transportation.4471
- 2- Individuals employed as outside buyers of cream, milk, and eggs.4472
- 3- Employees of radio or television stations, such as news editors and announcers.4473
- 4- Taxi drivers.4474
- 5- Domestic service workers who provide services in a household where they reside.4475

The researcher observes that a potential issue arises when an employee performs duties that are partly exempt and partly non-exempt. In such instances, the workweek serves as the basis for determining the applicability of the exemption. Furthermore, if a workweek includes a combination of exempt and non-exempt work, the exemption is forfeited for the entire week. Nevertheless, this rule is not absolute, as the employer may still establish the exemption, bearing the burden of persuasion on this issue.4476

2.3. Minimum Wage

The FLSA requires employers to pay a minimum hourly wage to all covered employees under the Act, with a federal minimum wage of \$7.25 per hour.4477 This federal minimum wage is only a floor,4478 not a ceiling; states may set their own minimum wage higher than the federal limit according to their policy, but they are not permitted to set a minimum wage below the federal rate.4479 The minimum wage is also measured only on the basis of the workweek.4480 In other words, compensation for a non-exempt employee must be calculated for each workweek, and when divided by the number of hours worked, must be equal to or greater than the minimum wage rate.4481

Moreover, the Act clearly indicates that the minimum wage is based on the hourly rate.4482 However, this reference does not mean that payment on a weekly, monthly, or annual basis, or by piece rate or commission,4483 is prohibited; all such methods are permissible as long

4468 29 U.S.C. § 213(a)(6).

4469 29 U.S.C. § 213(a)(12).

4470 29 U.S.C. § 213(a)(15).

4471 29 U.S.C. § 213(b)(2) and (3).

4472 29 U.S.C. § 213(b)(5).

4473 29 U.S.C. § 213(b)(9).

4474 29 U.S.C. § 213(b)(17).

4475 29 U.S.C. § 213(b)(21).

4476 ROTHSTEIN ET AL., *supra* note 70 at 350.

4477 *Id.* at 342.

4478 WHITE, *supra* note 126 at 163.

4479 LITTLER, MENDELSON, FASTIFF, TICHY & MATHIASON, *supra* note 74 at 115.

4480 *Id.*

4481 *Id.*

4482 ROTHSTEIN ET AL., *supra* note 70 at 342.

4483 STEPHEN L. BERRY, EMPLOYMENT LAW HANDBOOK: A COMPLETE REFERENCE FOR BUSINESS 81 (1993).

as the weekly pay divided by the hours worked equals or exceeds the minimum wage.⁴⁴⁸⁴ In addition, the employee must receive the minimum wage in cash or in facilities furnished, and employers are obligated to avoid paying employees' wages in forms that are not easily convertible into money.⁴⁴⁸⁵ On the other hand, the law permits the employer to deduct from the worker's wages the reasonable cost and fair value of lodging, meals, and other facilities, provided that: the employer furnishes them; the employer has informed the employee of the deduction; the employee has voluntarily accepted them; and such facilities are customarily furnished by employers.⁴⁴⁸⁶

Finally, as mentioned above, the employee's wage is paid only for hours worked.⁴⁴⁸⁷ These hours are referred to as compensable time.⁴⁴⁸⁸ To elaborate, when an employee is ready and willing to make a physical or mental effort for the benefit of the employer, his time is compensable.⁴⁴⁸⁹ Therefore, in *PEREZ v. MOUNTAIRE FARMS, INC.*, the court held that activities considered compensable—whether for minimum wage or overtime premium—are only those that are "integral and indispensable to the principal activities."⁴⁴⁹⁰ Otherwise, activities such as those that are "preliminary or postliminary to the principal activities" are not considered compensable, unless they constitute "integral and indispensable to the principal activities" of the employees.⁴⁴⁹¹

2.4. Overtime Premium

Under the Act, overtime remuneration is calculated at a rate of one and one-half times the employee's regular rate of pay for each hour worked in excess of the statutory threshold of forty hours within a single workweek.⁴⁴⁹² The regular rate of pay serves as the basis for computing the overtime premium.⁴⁴⁹³ There is no single uniform regular rate, as it varies according to the compensation structure applicable to each employee—whether hourly wages, commissions, a fixed salary, or piecework rates.⁴⁴⁹⁴ The Mechanism for determining overtime compensation entails dividing the employee's total weekly remuneration by the total number of hours worked during that week, provided that the resulting regular rate does not fall below the applicable minimum wage.⁴⁴⁹⁵

Moreover, the computation of overtime parallels that of the minimum wage in that both are measured on a workweek basis.⁴⁴⁹⁶ Thus, employers are precluded from either refusing to pay the required overtime premium or circumventing this obligation by averaging hours worked over a period of two or more weeks.⁴⁴⁹⁷ By way of illustration, if an employee works thirty-five hours in the first week and forty-five hours in the second, the average over the two-week period is forty hours per week.⁴⁴⁹⁸ Nevertheless, the employer cannot assert that the employee has worked only

4484 LITTLER, MENDELSON, FASTIFF, TICHY & MATHIASON, *supra* note 74 at 115.

4485 KALET, *supra* note 87 at 45.

4486 *Id.* at 45-46.

4487 WHITE, *supra* note 126 at 163.

4488 *Id.*

4489 *Id.*

4490 *Perez v. Mountaire Farms, Inc.*, 650 F.3d 350 (4th Cir. 2011).

4491 *Id.*

4492 KALET, *supra* note 87 at 47-48.

4493 ROTHSTEIN ET AL., *supra* note 70 at 344.

4494 *Id.* at 344.

4495 WHITE, *supra* note 126 at 165.

4496 ROTHSTEIN ET AL., *supra* note 70 at 344.

4497 *Id.*

4498 *Id.*

forty hours per week, as such an argument lacks legal merit; the overtime requirement mandates that each workweek be considered independently for purposes of computation.⁴⁴⁹⁹

In addition to the prohibition on averaging hours, private employers are likewise forbidden from offering compensatory time off in lieu of overtime compensation.⁴⁵⁰⁰ In contrast, the Act authorizes public employers to grant compensatory time off as an alternative to overtime pay, provided that the employee's consent is obtained prior to the performance of the work in question.⁴⁵⁰¹

It is worth mentioning that although the Act does not prescribe a maximum number of working hours that employees may be required to perform,⁴⁵⁰² it affords nonexempt employees a significant protection in the form of overtime compensation, which is payable to those whose hours worked exceed forty per workweek.⁴⁵⁰³

2.5. Compensable Hours Worked

As with the minimum wage, overtime compensation must be extended to all covered employees who work in excess of forty hours, at a rate of one and one-half times their regular rate for each additional hour worked.⁴⁵⁰⁴ Moreover, while the FLSA does not define compensable time—i.e., hours worked—it does define "employ" as "to suffer or permit to work."⁴⁵⁰⁵ The Portal-to-Portal Pay Act subsequently sought to clarify this concept by requiring employers to compensate nonexempt employees for all time during which they are under the employer's control or which inures to the employer's benefit.⁴⁵⁰⁶ Therefore, certain circumstances warrant clarification in order to eliminate ambiguity and to enable employees to ascertain their rights and the circumstances under which they may assert a claim for overtime compensation.⁴⁵⁰⁷

2.5.1. Break Time and Meals Period

Employees are entitled to rest periods, and such brief breaks are compensable as working time when they do not exceed twenty minutes.⁴⁵⁰⁸ Unauthorized extensions of these breaks,

⁴⁴⁹⁹ *Id.*

⁴⁵⁰⁰ WHITE, *supra* note 126 at 165.

⁴⁵⁰¹ *Id.*

⁴⁵⁰² The absence of a federal cap on working hours for employees aged 16 and over in the United States reflects not a legislative omission, but rather a deliberate feature of the statutory design and its underlying philosophy. The logic is that employers, confronted with the obligation to pay an overtime premium, will find it more economical to hire additional workers than to require excessive hours from existing staff. The Act thus discourages overwork through economic deterrence: mandatory overtime compensation for all hours worked in excess of 40 in a single workweek. In practice, where the statute does not impose an absolute maximum, working hours are typically established through collective bargaining between labor unions and employers; see Ashburn, Nancy, Fair Labor Standards Act: A law aimed at protecting workers (2025), <https://www.britannica.com/money/Fair-Labor-Standards-Act> ; see also Jorge Cabrita, Balancing the clock: How Europe works and rests (2025),

<https://www.eurofound.europa.eu/en/publications/all/balancing-the-clock-how-europe-works-and-rests> . By way of comparison, it is notable that in Japan, although a 40-hour workweek is legally prescribed, overtime is permissible up to 45 hours per month, and special provisions may authorize exceptions to this ceiling, see: Daniel López, The Global Landscape of Working Time Regulations: A Comparative Analysis (2025), <https://www.bakertilly.es/en/insights/the-global-landscape-of-working-time-regulations-a-comparative-analysis>

⁴⁵⁰³ WHITE, *supra* note 126 at 165.

⁴⁵⁰⁴ ROTHSTEIN ET AL., *supra* note 70 at 346.

⁴⁵⁰⁵ FLSA Hours Worked Advisor, <https://webapps.dol.gov/elaws/whd/flsa/hoursworked/sufferpermit.asp> (Last visited on May 21, 2026)

⁴⁵⁰⁶ ATTORNEY, *supra* note 79 at 3/29.

⁴⁵⁰⁷ *Id.*

⁴⁵⁰⁸ Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA), DOL 1, <https://www.dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked> (last visited May 25, 2026).

however, are not counted as hours worked, particularly where employers have expressly notified employees that extensions are prohibited without prior authorization and that violations may result in disciplinary action.⁴⁵⁰⁹ Employers are furthermore obligated to provide meal periods—typically of at least thirty minutes' duration—during which employees must be entirely relieved of their work duties.⁴⁵¹⁰ Nevertheless, such periods are treated as compensable working time where employees are required to perform work-related tasks while eating.⁴⁵¹¹

2.5.2. On-Call Time

Time spent by employees on call while remaining on the employer's premises constitutes working time and is compensable.⁴⁵¹² By contrast, when employees are on call at home, such time is compensable only to the extent that the employee is actually responding to work-related demands; it is not compensable in its entirety, as time spent on call at home does not qualify as hours worked where the employee is free to engage in personal activities.⁴⁵¹³

2.5.3. Waiting Time

Waiting time is generally classified into two categories for the purpose of determining whether it constitutes compensable hours worked.⁴⁵¹⁴ The first category arises where the employee is engaged to wait; in such instances, the waiting time is compensable.⁴⁵¹⁵ The second category arises where the employee is waiting to be engaged; in such instances, the waiting time is not compensable,⁴⁵¹⁶ as the employee is effectively relieved of duties and is at liberty to devote the time to personal pursuits.⁴⁵¹⁷

2.5.4. Sleeping Time

Where work requires an employee to remain on duty at the workplace for a period of less than 24 hours, the employee does not forfeit the right to have sleeping time counted as compensable hours, even if permitted to sleep during such period.⁴⁵¹⁸ Conversely, when the duty period extends to 24 hours or more, sleeping time is likewise compensable, unless the employer and employee mutually agree to exclude up to eight hours from the computation of hours worked, provided that the employer makes available adequate facilities for uninterrupted sleep.⁴⁵¹⁹

4509 *Id.*

4510 *Id.*

4511 *Id.*

4512 *US Department of Labor. (2018) Opinion Letter FLSA 2018-1*, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/2018_01_05_01_FLSA.pdf (last visited May 25, 2026).

4513 *Id.*

4514 Fact Sheet #22, *supra* note 179 at 1.

4515 *Id.*

4516 *Id.*

4517 BERRY, *supra* note 154 at 84.

4518 *See Armour & Co. v. Wantock*, 323 U.S. 126, 133 (1944), in which the Supreme Court ruled that employees who are required to remain at the employer's workplace in a state of preparedness are engaged in working time even during inactive periods because they are engaged to wait rather than waiting to be engaged. *See also Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944), in which the Court affirmed that waiting time is compensable where an employee remains subject to the employer's control and is incapable of utilizing the time effectively for his own purposes.

4519 *See Ramos v. SimplexGrinnell LP*, 740 F.3d 852 (2d Cir. 2014), in which the Second Circuit decided that exceptions from compensable work time must conform with applicable statutory requirements under the FLSA. *See also Bouchard v. Regional Governing Board of Region V Mental Retardation Services*, 939 F.2d 1323 (8th Cir. 1991), in which the Eighth Circuit affirmed the exclusion of sleep time only where the requirements of § 785.22 were fulfilled, requiring the presence of an express agreement between the parties and proper sleeping conditions.

However, where the sleep period is five hours or less and is subject to recurrent interruptions, such sleeping time must be deemed compensable.⁴⁵²⁰

2.5.5. Travelling Time

It is well established that time spent commuting between one's residence and the workplace does not constitute compensable hours worked.⁴⁵²¹ However, where an employee travels from home to a job site and thereafter to another designated location, the travel time between the initial job site and the subsequent location is compensable as hours worked.⁴⁵²² Similarly, when an employee is recalled to the regular workplace to address emergency circumstances outside of normal working hours, the employer is obligated to compensate the employee for such travel time, which is deemed hours worked.⁴⁵²³

Conclusion

This research addresses minimum wages and overtime premiums as statutory safeguards designed to achieve balance in labor relations. Undoubtedly, minimum wages and overtime have positive effects that extend beyond employees to benefit society as a whole, by enabling workers to earn wages that support a decent standard of living. The research problem lies in the central question: examining the extent to which the Kingdom of Saudi Arabia and the United States apply minimum wages and overtime premiums.

The research concludes that both the Saudi Labor Law and the Fair Labor Standards Act (FLSA) contain specific legal provisions regulating minimum wage and overtime premiums. The application of these safeguards has become, within both legal systems, a legal imperative rather than a mere legislative option, given its direct impact on protecting workers' rights as the economically vulnerable party in the employment relationship. Although both statutes prescribe an identical rate for overtime premiums, the research has discovered a notable distinction in the mechanisms employed for minimum wage implementation between the two countries.

Results:

- 1- The FLSA has addressed the matter of minimum wage; since its enactment, the statute established a minimum wage, which has been amended upward on several occasions until the federal minimum wage stabilized at \$7.25 per hour.
- 2- The FLSA further prohibits the payment of wages below this rate, while permitting states to establish higher rates.
- 3- The Kingdom of Saudi Arabia has not enacted a statutory minimum wage. Instead, it has implemented a national program known as Nitaqat, which mandates specific Saudization percentages for employers. However, the obligation to pay the minimum wage applies only to a portion of Saudi workers—those counted toward the mandatory Saudization quota—and does not extend to all Saudi employees within an establishment.
- 4- The minimum wage in Saudi Arabia does not cover foreign workers.
- 5- Both statutes prescribe an identical overtime premium rate, specifically time-and-a-half for each additional hour worked.
- 6- Under the Fair Labor Standards Act (FLSA), covered employees are entitled to this premium once their weekly overtime hours exceed 40.
- 7- Under the Saudi Labor Law, covered employees are entitled to the same premium only once their weekly overtime hours exceed 48.

⁴⁵²⁰ ATTORNEY, *supra* note 79 at 3/31.

⁴⁵²¹ US Department of labor. (2018) Opinion Letter FLSA 2018-1, *supra* note 183.

⁴⁵²² ATTORNEY, *supra* note 79 at 3/30.

⁴⁵²³ *Id.* at 3/30.

Recommendations:

This study recommends the following regarding the minimum wage and overtime:

- 1- The minimum wage should be increased to 5,500 SAR per month due to the current high cost of living. According to Rahmani Rania & Munad Ali (2023), in their article titled "The effect of minimum wage on unemployment in Algeria during the period (1991–2021)," published in Volume 9, Issue 2 of the Al Bashaer Economic Journal, the findings indicate a significant inverse relationship between the minimum wage and the unemployment rate over the long term. In other words, when the minimum wage becomes higher, the unemployment rate decreases. As a result, raising the minimum wage contributes to achieving one of the goals of Saudi Arabia's Vision 2030, which is to reduce the unemployment rate to 7%.
- 2- The minimum wage should be reviewed periodically, and this threshold should be raised annually by a specified percentage in accordance with changes in the price level and the annual inflation rate.
- 3- It is proposed that Saudi legislators should follow what is applied in the FLSA with regard to working hours, which should be reduced to 40 hours per week. According to Yoonsoo Park and Wooram Park in their article "The Impact of a Workweek Reduction on Labor Productivity," the reduction of the standard workweek from 44 to 40 hours resulted in a 1.5% increase in annual output per worker, suggesting that efficiency improved as a consequence of eliminating "inefficiently long" working hours. Similarly, the International Labor Organization report entitled *Flexible Work Arrangements: A Benefit to All* observes that significant reductions in working hours contribute to both enhanced productivity and a healthier work-life balance for workers.
- 4- It is proposed that the text of Article 107 of Saudi labor law be amended, as the provision currently suffers from drafting imprecision. The legislative intent was clearly that overtime premium should be calculated as the hourly wage plus 50% of the hourly wage (i.e., time-and-a-half), rather than the hourly wage plus 50% of the basic wage.
- 5- It is proposed that Saudi legislators reconsider the basis for calculating overtime pay and adopt the actual wage as the criterion, as this would be more beneficial to workers.

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