**Fair Labor Standards Act**

**Name**

**Affiliation**

**Date**

1. **The basis for the Act**

Until the laws of 1935, the American bosses were, for the most part, globally free to hire and fire, to manage the company according to their employer's prerogative. This situation sparked outrage among workers for the formation for Standard Labor Act. The Fair Labor Standards Act of 1938 for the protection of employees had imposed itself in the US industry and dealt with the forty-hour week with overtime pay, the minimum wage and the minimum age of the worker. The Social Security Act of 1935, Social Security Act, had also introduced, from employee and employer contributions, collective social rights: unemployment insurance, welfare for poor families called welfare and Social Security, the only fund affecting all American workers, including self-employed, and equivalent to French pension insurance (Clinton, 2011).

When the federal minimum wage was introduced in 1938 by Franklin D. Roosevelt to the Fair Labor Law, his policy came into force after the collapse of the 1929 market during the Great Depression. The bill was strongly opposed by the Supreme Court, which rejected several laws on minimum wage before it came into force and created sections in the Democratic Party at that time. After much resistance, however, FLSA became the final part of the New Deal legislation that came into force (Samuel, 2000).

1. **Summary of the Act**

The FLSA was published at a time when the US was suffering from the Great Depression, Congress had the idea that it should be widely applied so that could provide a real cure for then existing the disgraceful working circumstances. In the nonexistence of a wide application, dishonest companies would perhaps have benefited through the modest benefit of being capable to offer biased concessions to disadvantage FLSA compliant employees, creating damage to employers' employees complacent. The comprehensive scope of the FLSA defends workforces by encompassing the responsibility for the failure to comply with its terms beyond the limits of ordinary work (Clinton, 2011).

FLSA includes in the field of application the concept of joint employment. The parties who were found to be combined employers, their position was analyzed through using multi-factor financial truth test, each thing is held responsible jointly and individually for acquiescence with the FLSA for use during the specific workweek.

The responsibility to be a joint employer guarantees that labors are paid their legitimate salaries and guards genuine deeds from one-sided rivalry. The joint employment is understood in a broad sense for achieving the objectives of the FLSA. The FLSA was approved by Congress and enacted on June 25, 1938. The Supreme Court considered the constitutional FLSA in the case of 1941 US vs Darby Lumber Co. (312 US 100). The FLSA deals with four macro-areas: the minimum wage, the pay provisions of the overtime, child labor, and equal pay for equal work, and regulate the public sector than the private sector (Nicole Long, 2015).

The ability to hire and fire is generally considered a strong indicator of status of an employer. The DOL indicates that this consideration sets the requirements of the lenders, clarifying that setting simple requirements to ensure consumer safety, such as requesting a criminal background check and first aid certification or that of cardio pulmonary resuscitation ( CPR cardiopulmonary resuscitation ), should be considered a weak indicator of employer status, similar to the common requirements of authorization at state and local level, which does not suggest the existence of an employment relationship. However, "the lender's broader requirements, such as meeting all training requirements provided by the State (in addition to the training required for the licenses in question), must be considered a strong indicator of the status of the employer (Mayer, G., & Collins, B. 2013).

1. **Compliance Requirements for Employers**

FLSA call for the employers to pay non-exempt and covered workers the minimum wage and remuneration for overtime hours, quantified at one and a half times the normal hourly wage. Under the FLSA, employers must pay employees with a salary not less than the federal lowest wage which from July/2009 is 7.25 USD per hour. There is no legislation which indicates a particular pay period but generally takes place weekly (Nicole Long, 2015).

Under the FLSA, employers must pay overtime every hour at 40 weekly with an hourly fee equal to one and a half times the normal hourly cost of the worker. The timetable for the calculation of overtime is weekly, the daily overtime is not expected if it has not been regulated by a collective agreement or a regulation specific to some Member State. The work week does not necessarily correspond to the calendar week. The workweek is a fixed period of the applicant for seven consecutive days (168 hours). The workers may prefer overtime to be commuted to them through the bank. The legitimacy of this exchange depends on whether the worker works in the public sector or private sector; in private this procedure is not possible if overtime is required under the FLSA, while in the public it is allowed (Mayer, G., & Collins, B. 2013)..

Not all employees covered by the FLSA are entitled to the payment of overtime or are subject to the minimum salary. The FLSA defines four general categories of workers, which are exempt from the minimum wage and overtime requirements of the Statute. These exempt employees are managers, administrators, professionals, and door-to-door salespeople. Salespeople are defined by the FLSA employees who sell their employer’s services, facilities or products, to clients as a representative of their employer, by selling door-to-door at the client’s home or those who sell products, services to clients outside the company headquarters, and in general both at the customer's home and at the place where he works) (Samuel, 2000).

1. **Benefits for employees by the Fair Labor Standards Act**

The FLSA Act. 1938 offers a bundle of advantages to the employees as the employers have to pay covered and non-exempt workers the minimum wage and remuneration for overtime hours, quantified at one and a half times the normal hourly wage. There is no legislation which indicates a particular pay period (unless there is legislation in one of the states members), but usually takes place weekly and is on a weekly basis that must be respected. Moreover, FLSA must pay employers overtime with an hourly fee equal to one and a half times the normal hourly cost of the worker. This is beneficial for the employees (Mayer, G., & Collins, B. 2013).

1. **Violation reporting process and remedies for Employees**

The FLSA is applied by the Department of Labor (DOL). The Wage and Hour division carries out inspections and investigations and publishes rules and regulations. The Minister of Labor is authorized to file a complaint on behalf of workers seeking to recover wages and overtime and may also request compensation for an amount equal to the number of wages due and unpaid. The minister may also issue an injunction against violations of the law. The criminal proceedings for intentional violations can be instituted by the Department of Justice. Employees can file a complaint to recover wages and overtime liquidation of damages for an equal amount. They can also get reinstatement. The limitation period is two years; while the intentional willful violations are extended to three years (Samuel, 2000).

1. **Steps employers should take to ensure compliance**

Disputes sometimes arise concerning the identity of the employer, since the status of the employer work generally determines who will be held legally responsible if workers' rights are violated. As a general rule, employers are legally responsible for their actions. When a company deliberates the power to influence the work decisions of managers or supervisors, the company is accountable if the latter use the power to make work decisions in ways that disrupt the law. The argument that the employer was not aware of the actions of the employee or that the employee's actions were contrary to company policy will not save him from this responsibility (Mckay, D. 2018).

Employers must prudently choose, train, observe and analyse the actions of their staffs, in particular, those accountable for judgements in the area of human resources. There are limits to this responsibility which is limited to the actions of the employees undertaken within the scope of the task for which they were hired. The behaviors of harmful employees adopted outside of their duties could constitute employer liability in the event of negligence or recklessness on the part of the latter or if he has expanded or made to believe that he had done the responsibility of the employee who commits the fact (Nicole Long, 2015).

1. **The reaction of employers to the December 1, 2016 change in Fair Labor Standards Act**

The updated version of the Fair Labor Standards Act (FLSA) published by the United States Department Of Labor (DOL) is aimed at increasing the salaries of employees who were exempted from the overtime wages. The changes have been done the first time after the year 2004. These changes have provided relief to the executive, administrative, computer and sales professionals. The new regulations have significantly heightened their weekly income. This decision has not been respected by the employees as they will have to pay these professionals much more than before. Therefore, they have raised their concerns in front of the US Department of Labour (DOL) (Mckay, D. 2018).

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