(7) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding 8 hours) or workweek (not exceeding the maximum workweek applicable to such employee under subsection (a), where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.

This definition, which is discussed at length in part 778 of this chapter, also governs the computation of ''regular rate'' for purposes of the special overtime exemption of certain commission employees of retail or service establishments which is contained in section 7(i) of the Act and is discussed in subpart E of this part.

§ 779.19 Employer, employee, and employ.

The Act's major provisions impose certain requirements and prohibitions on every ''employer'' subject to their terms. The employment by an ''employer'' of an ''employee'' is, to the extent specified in the Act, made subject to minimum wage and overtime pay requirements and to prohibitions against the employment of oppressive child labor. The Act provides its own definitions of ''employer,'' ''employee'', and ''employ'', under which ''economic reality'' rather than ''technical concepts'' determines whether there is employment subject to its terms (*Goldberg* v. *Whitaker House Cooperative*, 366 U.S. 28; *United States* v. *Silk*, 331 U.S. 704; *Rutherford Food Corp.* v. *McComb*, 331 U.S. 722). An ''employer'', as defined in section 3(d) of the Act, ''includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State (except with respect to employees of a State or a political subdivision thereof, employed (a) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (b) in the operation of a railway or carrier referred to in such sentence), or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization''. An ''employee'', as defined in section 3(e) of the Act, ''includes any individual employed by an employer'' (except that the term is further qualified for purposes of counting man-days of employment by an employer in agriculture). ''Employ'', as used in the Act, is defined in section 3(g) to include ''to suffer or permit to work''. It should be noted, as explained in the interpretative bulletin on general coverage, part 776 of this chapter, that in appropriate circumstances two or more employers may be jointly responsible for compliance with the statutory requirements applicable to employment of a particular employee. It should also be noted that ''employer'', ''enterprise'', and ''establishment'' are not synonymous terms, as used in the Act. An employer may have an enterprise with more than one establishment, or he may have more than one enterprise, in which he employs employees within the meaning of the Act. Also, there may be different employers who employ employees in a particular establishment or enterprise.

§ 779.20 Person.

As used in the Act (including the definition of ''enterprise'' set forth in § 779.21), ''person'' is defined as meaning ''an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.'' (Act, section 3(a).)

§ 779.21 Enterprise.

(a) Section 3(r) of the Act provides, in pertinent part that ''enterprise'' as used in the Act:

> means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and