

TITLE 70: DEPARTMENT OF FINANCE

**CHAPTER 70-60
RETROACTIVE SALARY ADJUSTMENT PAYMENT FOR
OVERTIME HOURS COMPUTATION REGULATIONS**

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Chapter Authority: 1 CMC § 2557; 1 CMC § 8213-8217; SLL 13-8 (effective June 17, 2002) (as amended by SLL 13-11 (effective Jan. 7, 2003)) (codified in part at 10 CMC §§ 30101-30106).

Chapter History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).

Commission Comment: 1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department to, among other things, collect, control and disburse funds of the Commonwealth. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

PL 7-31, the “Commonwealth Compensation Adjustment and Salary Act of 1991,” codified in part at 1 CMC §§ 8213-8215, provided a new salary schedule for CNMI government employees effective retroactive to May 19, 1991. SLL 13-8 (effective June 17, 2002) and SLL 13-11 (effective Jan. 7, 2003) appropriated funds for the payment of the salary adjustments. See 10 CMC §§ 30101-30106.

Part 001 - General Provisions

§ 70-60-001 Purpose

Pursuant to PL 7-31 [1 CMC § 8213 et seq.], certain employees of the CNMI government are to receive overtime pay for the time period between the pay period ending June 1, 1991, through the pay period ending August 20, 1994, when there were insufficient funds available to pay overtime as earned. The purpose of the regulations in this chapter is to address the method of proving entitlement to such overtime and the methods of calculating amounts owed to eligible employees.

Modified, 1 CMC § 3806(d).

History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).

§ 70-60-005 Definitions

The following definitions shall be applicable to the regulations in this chapter.

- (a) “Eligible Time Period” - The retroactive salary adjustment payment for overtime hours covers the period beginning, pay period ending June 1, 1991 through pay period ending August 20, 1994.*

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*So in original; see 27 Com. Reg. at 24667 (July 20, 2005).

(b) “Individual Contribution Record” - A record provided by the Northern Mariana Islands Retirement Fund, showing the gross amount earned and contribution made for each employee by pay period in a fiscal year.

(c) “Notification of Personnel Action Record” - The “NOPA” record is provided by the Office of Personnel Management. The record shows among other things, the effective date of any salary adjustment earned by the employee, the old salary level, the new salary level if the salary adjustment were made, the difference between the old and new salary level, and the number of days that the salary level was in effect.

(d) “Pay Stub” - That portion of a CNMI government or agency payroll check given to the employee at time of pay showing hours worked, overtime, and leave.

(e) “Premium Pay” - Any form of earnings pay other than the base, 80 hours per pay period authorized by law. These include but are not limited to, overtime hours, typhoon hours, holiday hours, night differential, hazardous pay, stand-by pay, or on-call pay.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e). The Commission inserted quotation marks around terms defined.

In subsection (e), the Commission changed “is” to “are” to correct a manifest error.

Part 100 - Computation Process

§ 70-60-101 Required Documents

(a) Pay Stubs as Evidence of Overtime

Any employee desiring to obtain unpaid overtime for the eligible time period shall submit original or copies of pay stubs for those pay periods in which the employee is seeking payment of previously unpaid overtime. Upon satisfactory compliance and verification of the submitted pay stubs, the Department of Finance will initiate and process the overtime payment request.

(b) Lack of Pay Stubs

Where an employee claiming unpaid overtime for the eligible time period is unable to submit original or copies of pay stubs for those pay periods, the following procedure may be available. The employee, or former employee, claiming a retroactive salary adjustment payment for overtime hours may submit a copy of their individual contribution record, from the Northern Mariana Islands Retirement Fund, for fiscal years 1991, 1992, 1993, and 1994. Since such records do not specifically delineate overtime from other premium pay (which may include sums not eligible for payment under this program), the following

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formula will be used to calculate the amount such employee may receive where the original or copies of pay stubs are not available.

Modified, 1 CMC § 3806(f).

History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (b).

§ 70-60-105 Computation Method

(a) Take the gross amount in the individual contribution record for each pay period less the old pay level in the NOPA record for each period to get the premium pay for each pay period. Take the old pay level per pay period from the NOPA records divided by 80 hours and then multiply the amount by 1.5 hours to get the Hourly overtime rate. Next take the premium pay for each pay period divided by the hourly overtime rate to get the retroactive salary adjustment for overtime hours owed to the employee. Add up the adjustment for each pay period to get the total adjustment owed for the entire period. The following is the formula for computing the retroactive salary adjustment for overtime hours:

- (1) Gross Amount Per Pay Period - Old Pay Level Per Pay Period = Premium Pay
- (2) (Old Pay Per Pay Period/80 hours) x 1.5 hours = Hourly Overtime Rate
- (3) Premium Pay/Hourly Overtime Rate = Retroactive Salary Adjustment
- (4) Sum up the Retroactive Salary Adjustment for each pay period to get the total adjustment owed.

(b) Assumptions

Because the individual contribution record does not indicate regular hours, overtime hours, or any other form of premium pay, the following assumptions are being made to adjust for this lack of information.

- (1) Fifteen percent of the retroactive salary adjustment payment will be deducted from all police, fire, corrections, customs, immigration and quarantine employees to factor out night differential pay. This is based on the assumption that at least a portion of premium pay for these employees is not eligible for this retroactive overtime payment.
- (2) Any typhoon overtime hours will be paid at 1.5 rate rather than the 2.0 rate.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 70-60-110 Source of Funding and Eligibility

The funding source for the payment of any retroactive salary adjustment for overtime hours shall be made from local poker fee revenues generated in the Third Senatorial District. Only employees from Saipan will be eligible for this payment. In the event

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amounts are made available for employees from other Senatorial Districts, these rules may be similarly applied.

History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).

§ 70-60-115 Waiver of Liability

Each employee accepting the terms of this chapter shall sign a waiver and release form releasing the CNMI government from any liability upon acceptance of the computed amount of retroactive salary adjustment owed.

Modified, 1 CMC § 3806(d).

History: Adopted 27 Com. Reg. 24773 (Aug. 22, 2005); Proposed 27 Com. Reg. 24662 (July 20, 2005).