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## 29 C.F.R. § 790.20

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### Right of employees to sue; restrictions on representative actions.

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Section 16(b) of the Fair Labor Standards Act, as amended by section 5 of the Portal Act, no longer permits an employee or employees to designate an agent or representative (other than a member of the affected group) to maintain, an action for and in behalf of all employees similarly situated. Collective actions brought by an employee or employees (a real party in interest) for and in behalf of himself or themselves and other employees similarly situated may still be brought in accordance with the provisions of section 16(b). With respect to these actions, the amendment provides that no employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The amendment is expressly limited to actions which are commenced on or after the date of enactment of the Portal Act. Representative actions which were pending on May 14, 1947 are not affected by this amendment. <sup>[1]</sup> However, under sections 6 and 8 of the Portal Act, a collective or representative action commenced prior to such date will be barred as to an individual claimant who was not specifically named as a party plaintiff to the action on or before September 11, 1947, if his written consent to become such a party is not filed with the court within a prescribed period. <sup>[2]</sup>

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