

## § 780.1005

homeworkers must be for use in making the wreaths by homeworkers.

### § 780.1005 Homeworkers.

The exemption applies to “any homeworker.” A homeworker within the meaning of the Act is a person who works for an employer in or about a home, apartment, tenement, or room in a residential establishment.

### § 780.1006 In or about a home.

Whether the work of an employee is being performed “in or about a home,” so that he may be considered a homeworker, must be determined on the facts in the particular case. In general, however the phrase “in or about a home” includes any home, apartment, or other dwelling place and surrounding premises, such yards, garages, sheds or basements. A convent, orphanage or similar institution is considered a home.

### § 780.1007 Exemption is inapplicable if wreath-making is not in or about a home.

The section 13(d) exemption does not apply when the wreaths are made in or about a place which is not considered a “home”. Careful consideration is required in many cases to determine whether work is being performed in or about a home. Thus, the circumstances under which an employee may engage in work in what ostensibly is a “home” may require the conclusion, on an examination of all the facts, that the work is not being performed in or about a home within the intent of the term and for purposes of section 13(d) of the Act.

### § 780.1008 Examples of places not considered homes.

The following are examples of work-places which, on examination, have been considered not to be a “home”:

(a) Living quarters allocated to and regularly used solely for production purposes, where workers work regular schedules and are under constant supervision by the employer, are not considered to be a home.

(b) While a convent, orphanage or similar institution is considered a home, an area in such place which is set aside for and used for sewing or

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other productive work under supervision is not a home.

(c) Where an employee performs work on wreaths in a home and also engages in work on the wreaths for the employer during that workweek in a factory, he is not exempt in that week, since some of his work is not performed in a home.

### § 780.1009 Wreaths.

The only product which may be produced under the section 13(d) exemption by a homeworker is a wreath having no less than the specified evergreen content. The making of a product other than a wreath is nonexempt even though it is made principally of evergreens.

### § 780.1010 Principally.

The exemption is intended to apply to the making of an evergreen wreath. Such a wreath is one made “principally” of evergreens. *Principally* means chiefly, in the main or mainly (*Hartford Accident and Indemnity Co. v. Casualty Underwriters Insurance Co.*, 130 F. Supp. 56). A wreath is made “principally” of evergreens when it is comprised mostly of evergreens. For example, where a wreath is composed of evergreens and other kinds of material, the evergreens should comprise a greater part of the wreath than all the other materials together, including materials such as frames, stands, and wires. The principal portion of a wreath may consist of any one or any combination of the evergreens listed in section 13(d), including “other evergreens.” The making of wreaths in which natural evergreens are a secondary component is not exempt.

### § 780.1011 Evergreens.

The material which must principally be used in making the wreaths is listed as “natural holly, pine, cedar, or other evergreens.” Other plants or materials cannot be used to satisfy this requirement.

### § 780.1012 Other evergreens.

The “other evergreens” of which the wreath may be principally made include any plant which retains its greenness through all the seasons of the year, such as laurel, ivy, yew, fir,