

Wage and Hour Division, Labor

§ 783.45

to a limited extent, the status of seamen (Sen. Rep. No. 145, 87th Cong., 1st sess., p. 32, 50).

COMPUTATION OF WAGES AND HOURS

§ 783.43 Computation of seaman's minimum wage.

Section 6(b) requires, under paragraph (2) of the subsection, that an employee employed as a seaman on an American vessel be paid wages at not less than the rate which will provide to the employee, for the period covered by the wage payment, wages which are equal to compensation for all hours on duty in such period at the hourly rate prescribed for employees newly covered by the Act's minimum wage requirements by reason of the 1961 Amendments (see §§ 783.23 and 783.26). Although the Act takes the workweek as the unit of time to be used in determining compliance with the minimum wage of overtime requirements and in applying the exemptions, Congress, in recognition of the unique working conditions of seamen and of the customs in the industry, made this special provision. Under section 6(b)(2) periods other than a workweek may be used, in accordance with established customs in the industry, as the basis for calculating wages for covered seamen provided the wages equal the compensation at the applicable minimum hourly rate which would be due to the employee for his hours actually spent on duty in the period. This would mean that the wage period may properly cover, for example, the period of a month or of a voyage so long as the seaman receives at the appropriate time compensation at least equal to the prescribed minimum rate for each compensable hour in that pay period. (See also § 531.26 of this chapter concerning requirements of other laws governing calculation of wages and frequency and manner of payment.) To illustrate, where seamen have customarily been paid monthly under an arrangement to perform seamen's duties during stipulated periods and to be off duty during stipulated periods during the month, if such a seaman works 300 hours during the month and receives his monthly compensation in an amount equal to a payment for that

number of hours at the applicable minimum rate, there would be compliance with the requirements of section 6(b)(2). The fact that this seaman works a varying number of hours during the weeks comprising the monthly period or that the monthly compensation is disbursed in two or four partial payments to the seaman during the month would not warrant a contrary conclusion.

§ 783.44 Board and lodging as wages.

The wages for the period covered by the wage payment include all remuneration for employment paid to or on behalf of the employee for all hours actually on duty intended to be compensated by such wage payment. The reasonable cost or fair value, as determined by the Secretary of Labor pursuant to section 3(m) of the Act, of board and lodging furnished the employee during such period, if customarily furnished by the employer to his employees, is also included as part of the wages for the actual hours worked in the period (see § 783.16). However, the cost of board and lodging would not be included as part of the wages paid to the employee to the extent it is excluded from the employee's wages under terms of a bona fide collective bargaining agreement applicable to such employee, whether or not customarily furnished to the employee. Where such an exclusion is not provided for in any bona fide collective bargaining agreement applicable to the employee, the reasonable cost or fair value thereof, whichever is appropriate, as determined in accordance with the standards set forth in the regulations in part 531 of this chapter, is included as part of the wage paid to such employee. Part 531 of this chapter also contains the official regulations and interpretations of the Department of Labor concerning the application of section 3(m) to other facilities as well as board and lodging furnished to an employee.

§ 783.45 Deductions from wages.

Where deductions are made from the wages of a seaman subject to section 6(b) of the Act, consideration must be given as to whether or not such deductions are permitted to be made when they result in the seaman receiving