

§783.37. A workweek is a fixed and regularly recurring interval of 7 consecutive 24-hour periods. It may begin at any hour of any day set by the employer and need not coincide with the calendar week. Once the workweek has been set it commences each succeeding week on the same day and at the same hour. Changing of the workweek for the purpose of escaping the requirements of the Act is not permitted.

§783.50 Work exempt under another section of the Act.

Where an employee performs work during his workweek, some of which is exempt under one section of the Act, and the remainder of which is exempt under another section or sections of the Act, the exemptions may be combined. The employee's combination exemption is controlled in such case by that exemption which is narrower in scope. For example, if part of his work is exempt from both minimum wage and overtime compensation under one section of the Act, and the rest is exempt only from the overtime pay requirements under section 13(b)(6), the employee is exempt that week from the overtime pay provisions but not from the minimum wage requirements.

§783.51 Seamen on a fishing vessel.

In extending the minimum wage to seamen on American vessels by limiting the exemption from minimum wages and overtime provided by section 13(a)(14) of the Act to "any employee employed as a seaman on a vessel other than an American vessel," and at the same time extending the minimum wage to "onshore" but not "offshore" operations concerned with aquatic products, the Congress, in the 1961 Amendments to the Act, did not indicate any intent to remove the crews of fishing vessels engaged in operations named in section 13(a)(5) from the exemption provided by that section. The exemption provided by section 13(a)(14), and the general exemption in section 13(b)(6) from overtime for "any employee employed as a seaman" (whether or not on an American vessel) apply, in general, to employees, working aboard vessels, whose services are rendered primarily as an aid to navigation (§§783.31-783.37). It appears,

however, that it is not the custom or practice in the fishing industry for a fishing vessel to have two crews; namely, a fishing crew whose duty it is primarily to fish and to perform other duties incidental thereto and a navigational crew whose duty it is primarily to operate the boat. Where, as is the typical situation, there is but one crew which performs all these functions, the section 13(a)(5) exemption from both the minimum wage and the overtime provisions would apply to its members. For a further explanation of the fishery exemption see part 784 of this chapter.

PART 784—PROVISIONS OF THE FAIR LABOR STANDARDS ACT APPLICABLE TO FISHING AND OPERATIONS ON AQUATIC PRODUCTS

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