

Wage and Hour Division, Labor

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AUTHORITY: Secs. 1-19, 52 Stat. 1060, as amended; 29 U.S.C. 201-219.

SOURCE: 27 FR 8309, Aug. 21, 1962, unless otherwise noted.

INTRODUCTORY

§ 783.0 Purpose of this part.

This part 783 is the official interpretation of the Department of Labor with respect to the meaning and application of sections 6(b)(2), 13(a)(14), and 13(b)(6) of the Fair Labor Standards Act, as amended, which govern the application of the minimum wage and overtime pay requirements of the Act to employees employed as seamen. Prior to the Fair Labor Standards Amendments of 1961, which became effective on September 3, 1961, all employees employed as seamen were exempt from both the minimum wage and overtime pay provisions of the Act. The 1961 amendments have narrowed this exemption so as to extend the minimum wage provisions of the Act to employees employed as seamen on American vessels. Employees employed as seamen on vessels other than American vessels continue to be exempt from both the minimum wage and the overtime pay requirements of the Act. It is the purpose of this part to make available in one place the interpretations of the law relating to employees employed as seamen which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act.

§ 783.1 General scope of the Act.

The Fair Labor Standards Act, as amended, is a Federal statute of general application which establishes minimum wage, overtime pay, and child labor requirements that apply as provided in the Act. All employees, whose employment has the relationship to interstate or foreign commerce which the Act specifies, are subject to the prescribed labor standards unless specifically exempt from them. Employers having such employees are required to comply with the Act's provisions in

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this regard unless relieved therefrom by some exemption in the Act. Such employers are also required to comply with specified recordkeeping requirements contained in part 516 of this chapter. The law authorizes the Department of Labor to investigate for compliance and, in the event of violations, to supervise the payment of unpaid wages or unpaid overtime compensation owing to any employee. The law also provides for enforcement in the courts.

§ 783.2 Matters discussed in this part.

This part 783 discusses the meaning and application of the exemptions provided in sections 13(a)(14) and 13(b)(6) of the Act. The provisions of section 6(b)(2) of the Act, which relate to the calculation of minimum wages and the hours worked by seamen on American vessels, are also discussed in this part. Other provisions of the Act are discussed only to make clear their relevance to these provisions and are not considered in detail in this part. Interpretations and regulations also published elsewhere in this title deal in some detail with such subjects as the general coverage of the Act (part 776 of this chapter), methods of payment of wages (part 531 of this chapter), hours worked (part 785 of this chapter), recordkeeping requirements (part 516 of this chapter), and qualifications for exempt executive, administrative, and professional employees (part 541 of this chapter). Reference should also be made to subpart G of part 570 of this chapter which contains the official interpretations of the child labor provisions of the Act. Copies of any of these documents may be obtained from any office of the Wage and Hour Division.

§ 783.3 Significance of official interpretations.

This part contains the official interpretations of the Department of Labor pertaining to the provisions of section 6(b)(2) and the exemptions provided in sections 13(a)(14) and 13(b)(6) of the Act. It is intended that the positions stated concerning the Act will serve as "a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it"

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(*Skidmore v. Swift*, 323 U.S. 134). The Secretary of Labor and the Administrator will follow these interpretations in the performance of their duties under the Act, unless and until they are otherwise directed by authoritative decisions of the courts or conclude upon re-examination of an interpretation that it is incorrect. The interpretations contained herein may be relied upon in accordance with section 10 of the Portal-to-Portal Act (29 U.S.C. 251-262), so long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect.

§ 783.4 Basic support for interpretations.

The ultimate decisions on interpretations of the Act are made by the courts (*Mitchell v. Zachry*, 362 U.S. 310; *Kirschbaum v. Walling*, 316 U.S. 517). Court decisions supporting interpretations contained in this part are cited where it is believed they may be helpful. On matters which have not been determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore v. Swift*, 323 U.S. 134). In order that these positions may be made known to persons who may be affected by them, official interpretations are issued by the Administrator on the advice of the Solicitor of Labor, as authorized by the Secretary (reorg. Pl. 6 of 1950, 64 Stat. 1263; Gen. Ord. 45A, May 24, 1950, 15 FR 3290). As included in this part, these interpretations are believed to express the intent of the law as reflected in its provisions and as construed by the courts and evidenced by its legislative history. References to pertinent legislative history are made in this part where it appears that they will contribute to a better understanding of the interpretations.

§ 783.5 Interpretations made, continued, and superseded by this part.

On and after publication of this part 783 in the FEDERAL REGISTER, the interpretations contained therein shall be in effect and shall remain in effect until