

Wage and Hour Division, Labor

§ 783.28

rates of pay for overtime, as shown in the schedule below.

| Beginning | Minimum wage (29 U.S.C. 206(b)) | Overtime pay (29 U.S.C. 207(a)(2)) |
|--|---------------------------------|------------------------------------|
| Sept. 3, 1961 .. | \$1 an hour | None required. |
| Sept. 3, 1963 .. | No change | After 44 hours in a workweek |
| Sept. 3, 1964 .. | \$1.15 an hour | After 42 hours in a workweek. |
| Sept. 3, 1965 ¹ and thereafter. | \$1.25 an hour | After 40 hours in a workweek. |

¹ Requirements identical to those for employees under "old" coverage. (Minimum wage rates for newly covered employees, in Puerto Rico, the Virgin Islands, and American Samoa are set by wage order on recommendations of special industry committees (29 U.S.C. 206(a)(3); 206(c)(2). Information on these rates may be obtained at any office of the Wage and Hour and Public Contracts Divisions.)

THE STATUTORY PROVISIONS REGARDING SEAMEN

§ 783.24 The section 13(a)(14) exemption.

Section 13(a)(14) of the Fair Labor Standards Act exempts from the minimum wage and overtime pay requirements of the Act, but not from its child labor provisions, "any employee employed as a seaman on a vessel other than an American vessel".

§ 783.25 The section 13(b)(6) exemption.

Section 13(b)(6) of the Act exempts from the overtime pay requirements of the Act, but not from its other requirements, "any employee employed as a seaman".

§ 783.26 The section 6(b)(2) minimum wage requirement.

Section 6(b), with paragraph (2) thereof, requires the employer to pay to an employee, "if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)." The "hourly rate prescribed by" paragraph (1) of the

subsection is the minimum wage rate applicable according to the schedule shown in § 783.23.

§ 783.27 Scope of the provisions regarding "seamen".

In accordance with the above provisions of the Act as amended, an employee employed as a seaman is exempt only from its overtime pay provisions under the new section 13(b)(6), unless the vessel on which he is employed is not an American vessel. Section 13(a)(14) as amended continues the prior exemption, from minimum wages as well as overtime pay, for any employees employed as a seaman on a vessel other than an American vessel. Thus, to come within this latter exemption an employee now must be "employed as" a "seaman" on a vessel other than an "American vessel", while to come within the overtime exemption provided by section 13(b)(6) an employee need only be "employed as" a "seaman". The minimum wage requirements of the Act, as provided in section 6(b) and paragraph (2) of that subsection apply if the employee is "employed as" a "seaman" on an "American vessel". The meaning and scope of these key words, "employed as a seaman" and "American vessel" are discussed in subsequent sections of this part. Of course, if an employee is not "employed as" a "seaman" within the meaning of this term as used in the Act, these exemptions and section 6(b)(2) would have no relevancy and his status under the Act would depend, as in the case of any other employee, upon the other facts of his employment, (§§ 783.18 through 783.20).

LEGISLATIVE HISTORY AND JUDICIAL CONSTRUCTION OF THE EXEMPTIONS

§ 783.28 General legislative history.

As originally enacted in 1938, section 13(a)(3) of the Fair Labor Standards Act exempted from both the minimum wage and overtime pay requirements "any employee employed as a seaman" (52 Stat. 1050). In 1949 when several amendments were made to the Act (63 Stat. 910), this exemption was not changed except that it was renumbered section 13(a)(14). In the 1961 amendments (75 Stat. 65), a like exemption