

Thursday, August 24, 1939

BEFORE THE UNITED STATES DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

WASHINGTON, D. C.

-----  
In the matter of the :

APPLICATION :

OF :

THE NATIONAL ASSOCIATION  
OF HOSIERY MANUFACTURERS,  
ET AL. :

FINDINGS AND DETERMINATION

OF THE

PRESIDING OFFICER

August 21, 1939

To employ learners at wages lower than  
the minimum wage applicable under Sec-  
tion 6 of the Fair Labor Standards Act  
of 1938 pursuant to Section 14 of the  
Act and Part 522, as amended, of re-  
gulations issued thereunder.

APPLICATION AND                    The National Association of Hosiery Manufacturers,  
NOTICE OF HEARING                The National Knitted Outerwear Association, The  
Underwear Institute, and sundry other parties having made application under  
Section 14 of the Fair Labor Standards Act of 1938 and regulations (Part 522 -  
Regulations Applicable to Employment of Learners pursuant to Section 14 of  
the Fair Labor Standards Act of 1938 - Title 29, Labor, Chapter V, - Wage and  
Hour Division) issued by the Administrator thereunder for permission to employ  
learners in the Knitted Wear and Hosiery Industry at wages lower than the  
minimum wage applicable under Section 6 of the Act, the Deputy Administrator  
on November 28, 1938, gave notice of a public hearing to be held at the  
Raleigh Hotel, 12th and Pennsylvania Avenue, Northwest, Washington, D. C., at  
10 o'clock a.m., December 14, 1938, and designated the undersigned as Presiding  
Officer to conduct the said hearing.

Pursuant to the notice the undersigned convened the  
hearing on December 14, 1938, and an opportunity was afforded to all who  
appeared to present testimony and to question witnesses through the Presiding  
Officer. The hearing continued through December 15 and was reconvened on  
January 31, and on June 7, for the hosiery industry alone to determine  
(1-3, 445-7, 500-3):

- "(a) What, if any, occupation or occupations in the hosiery industry, or branch thereof, require a learning period, and
- (b) the factors which may have a bearing upon curtailment of opportunities for employment within the hosiery industry, or branch thereof, and
- (c) under what limitations as to wages, time, number, proportion, and length of service special certificates may be issued to employers in the hosiery industry, or branch thereof, for whatever occupation or occupations, if any, are found to require a learning period."

DEFINITION OF                    The term "knitted wear and hosiery" industry, as used  
INDUSTRY                            in the notice, include men's, women's, infants', and

children's knitted apparel, accessories and hosiery. The hosiery industry was further defined (503) in the notice for the June 7 hearing as:

"The manufacture or processing of hosiery including, among other processes, the knitting, dyeing, clocking, and all phases of finishing hosiery, but not including the manufacture or processing of yarn or thread."

These findings and determination deal solely with the Hosiery Industry. Action on the applications of the representatives of the knitted outerwear industry and of the underwear and allied products industry will be taken at a later date.

Appearances for the application of the National Association of Hosiery Manufacturers, Inc. consisted of Earl Constantine, President of the National Association of Hosiery Manufacturers, Inc., New York, New York, and Taylor R. Durham, Executive Secretary of the Southern Hosiery Manufacturers Association, Charlotte, North Carolina. Alfred Hoffman, Research Manager, the American Federation of Hosiery Workers, (hereinafter referred to as the Union) appeared on behalf of labor in the industry (2, 446, 498-9).

Briefs, additional data and communications were filed subsequent to the hearings in support of, in opposition to, and in modification of the applications and were made part of the whole record upon which these findings and determinations are made.

At the time of the original hearing the statutory minimum was 25¢ per hour. Testimony by the applicants in support of sub-minimum rates for learners and testimony by the Union opposing such rates were related to this statutory minimum of 25¢. Before findings of fact on this record were made, the applicant, the National Association of Hosiery Manufacturers, requested in writing that findings of fact on the record of the hearing be

not made until the Hosiery Industry Committee made its recommendation of increased rates (Constantine's letter 2-24, F-16). Thereafter the Industry Committee recommended a minimum wage of  $32\frac{1}{2}\%$  per hour for the seamless branch and 40% per hour for the full-fashioned. Thereupon the Industry and the Union requested a reconvening of the hearing to enable them to submit additional

evidence on the subject and in particular to show that the new proposed higher minimum rates if and when made effective would make the training of learners a greater cost burden. Hence the hearing was reconvened on June 7 to consider additional testimony in view of these higher proposed minimum rates. Since that time the Administrator has announced his approval of the recommendation. These findings and determinations are based on the new rates of  $32\frac{1}{2}\%$  and 40% respectively, which are to take effect September 18, 1939. The findings will remain valid for a period of one year to allow for the industry's adjustment to the new minima, unless the minima are altered during the interim.

THE APPLICATION FOR LEARNERS IN THE HOSEIERY  
INDUSTRY

DESCRIPTION OF INDUSTRY According to figures furnished by the industry as of October, 1938, the hosiery industry embraced 803 active plants employing 154,372 workers. It was divided between the full-fashioned and the seamless branches, 347 full-fashioned mills furnishing employment to 87,707 workers, as against 456 seamless plants with 66,665 workers (31). The average seamless mill therefore employed 146 workers, the average full-fashioned mill 253. Chief seamless producing states are Pennsylvania, North Carolina, Tennessee and Georgia; chief full-fashioned locations are in Pennsylvania, New Jersey, New York City, North Carolina and Tennessee with a scattering in the Lake States and the South (638, Table 3, Ec. Report).

Full-fashioned wages have in the past been relatively high and, although they have come down considerably since the peak in the late twenties, they are still far above the seamless average.

The seamless product is lower priced than the full-fashioned and the average wage in 1938, according to the 1938 B. L. S. survey was 35.1¢ per hour in that branch as against 65.8¢ in the full fashioned. Pay is principally on a piece-work basis, although hourly rates are found (599,600).

The Union has agreements with 100 full-fashioned mills and 34 commercial finishers of full-fashioned hose, which represents 78% of the capacity of the full-fashioned branch. Seamless mills are largely unorganized. Only 11 agreements are currently in effect with the Union (F. 15, p. 13).

Large numbers of plants of both classifications, but especially the full-fashioned, have engaged during the past decade, and particularly within the last two or three years, in a widespread migration from urban centers such as Philadelphia and Reading to rural localities and small towns (32, 69, 130, 135).

This migration has created many difficult labor problems. In urban centers from which companies have moved they have left behind them stranded populations of unemployed hosiery workers. This trend has had a depressing effect upon the wage structure in the industry, which is further threatened by the competition of the new mills set up in low wage areas. The older centers are more unionized than the new, and in addition to low wage as well as unorganized labor, subsidies of one form or another from the new localities (tax-exemptions, free buildings, free or low rent, cheap power, etc.) have been added inducements to companies to relocate (33, 67, 69).

POSITION OF THE  
APPLICANT

The position of the applicant was:

(1) That there had been a substantial increase in the number of establishments and workers in the industry in the past three years particularly in non-industrialized areas where the lack of experienced hosiery workers made the problem of training labor an important one (31-5);

(2) That due to their lack of productivity and their spoilage of material, learners were an expense to the employer that was magnified in proportion to the rate of turnover among them (39,565-6); guaranteeing a learner any applicable minimum hourly rate would create dissatisfaction among trained employees (51-2);

(3) That there had already been discharges of 435 learners (12% of all learners reported) and more discharges might be expected (40-1; Durham's letter 6/8).

(4) That the Union was in substantial agreement with the Industry as to the desirability and scope of the proposed learner exemptions; the exceptional degree of cooperation between the Union and the Industry in stabilizing employment and standards in the past testified to the soundness of the proposals and would aid in bringing about voluntary observance of the Act throughout the Industry; and that every reasonable facility for adjustment to the provisions of the Act should be afforded an industry that was willing to assume for such a substantial proportion of its workers the maximum wage provided by the Act before the letter was a year old (547, 561-2).

DETAILS OF  
APPLICATION

For these reasons the applicant's revised application requested special sub-minimum rates for learners as follows:

(1) Not less than 20¢ per hour in the seamless branch and 25¢ per hour in the full-fashioned for an aggregate of 12 forty-hour weeks (i. e., 480 hours) whether employment was with one or more employers for (543, 546; Constantine's letter 6/14):

Knitters	Boarders	Weltors
Loopers	Pairors	Winders
Seamers	Folders	Trimmers
Toppers	Examinors & Inspectors	Menders

(2) An additional learning period of an aggregate of 12 weeks (i. e., 480 hours) at a minimum of 25¢ per hour for the seamless branch and 30¢ per hour for the full-fashioned for (543-4; Constantine's letter 6/14):

<u>Seamless</u>	<u>Full-fashioned</u>
Knitters (Transfer top only)	Knitters
Loopers	Loopers
	Seamers
	Toppers

(3) Skilled workers in one occupation to be able to become learners in another occupation at not less than 25¢ per hour in the seamless branch and 30¢ per hour in the full-fashioned for an aggregate of 480 hours (544).

(4) The number of learners in any established plant to be limited to 5% of all factory workers; an application for a learner to be filed within 24 hours of employing such learner together with a certification that reasonable efforts have been made to secure skilled help (544, 628).

(5) In the case of "new operations" (including reutilization of long unused equipment) there should be no percentage limit for learners for 8 months (545).

(6) Regular piece rate earnings to be paid, if earned in excess of the above learner minima (545).

In view of the substantial differences between the seamless and full-fashioned branches of the industry, the position of the Union is set forth separately for each branch.

POSITION OF THE  
UNION

The Seamless Branch

In relation to the seamless branch the position of the Union was:

(1) That there had been a decrease in average monthly employment in the last two years of 6,548, i. e., from 62,355 in 1936 to 55,807 in 1938 (119). "Practically 8,000 trained workers are available to the industry, which is not expanding; if anything it is shrinking" (121-2); the Bureau of Labor Statistics study of 1938 showed that learners constituted only 2.1% of total employment in the seamless branch (594); many skilled workers (knitters in particular) would travel long distances to get work (122-3, 623).

(2) That there was a natural channel of promotion in hosiery mills. Finishing department workers were often interchangeable in the various finishing department operations. The different knitting operations were often interchangeable. Operators for the more skilled jobs were recruited from those employed at the less skilled (108-10), 213).

(3) That important technological changes were taking place in the industry, due, among other things, to the development of new methods for utilizing rubber-cored yarns, which were eliminating from the industry large numbers of "rib knitters, end pullers, top cutters, sewers, weltors, and transfer top knitters" (118-9) and were making necessary the re-training of presently trained operators (596).



(4) That also in view of the proposed 32 $\frac{1}{2}$ % minimum wage, consideration should be given to special learner minima for certain selected occupations (594), (but only in accordance with the regulations proposed by the Union), which special rates were socially desirable and were necessary to prevent curtailment of opportunities for employment (602,616).

RECOMMENDATION

OF THE UNION

For these reasons the Union recommended that:

(1) For the occupations of:

Rib Knitting	Mending
String knitting	Pairing and/or finished inspecting
Automatic knitting	Folding
Transfer top knitting	Embroidery machine operation,
Looping	spanning and watching
Welting	End pulling and trimming of
Cuff Sewing	Fidelity tops and
Hemming and cover seaming	full-fashioned tops only
Back seaming and mock seaming	Hand Embroidery
Grey examining	Monogram machine operation
Winding and coning	Boarding

a learning period of 12 weeks (i. e., 480 hours) in the aggregate in one or more establishments be allowed at a minimum wage of 25¢ per hour (597-8).

(2) There be an additional learning period of 12 weeks (i. e., 480 hours) in the aggregate on transfer top knitting, looping, and embroidery machine operation at not less than 29¢ per hour (598).

(3) A trained worker being re-trained into a new occupation should be classed as an intermediate learner for a period not to exceed an aggregate of 12 weeks (i. e., 480 hours) at not less than 27 $\frac{1}{2}$ % per hour (598-9).

(4) Learners should not exceed five per cent of the total employees in a plant, with adequate provisions for reporting and certification, and only where (a) the earnings of experienced workers are such as would justify a differential for learners, (b) the learner privilege is not

abused, and (c) proof is furnished "that reasonable efforts to secure available skilled help have been made through Federal, State, and City employment bureaus" (603-4, 606).

(5) When the employer does not have piecework rates the following rates should prevail (599, 600):

	<u>Primary Learning Period</u>	<u>Secondary Learning Period</u>	<u>Intermediate Learners</u>
First 160 hours	\$ .25	\$ .29	\$ .27½
Second 160 hours	.26	.30	.28½
Third 160 hours	.27½	.31½	.30

(6) When the earnings of a learner calculated on a basis of prevailing piece rates exceed the learner's earnings for the week on the basis of the learner minimum, such workers should then be paid at full piecework rates (599).

(7) No learner shall repay nor shall any employer deduct from the wage of the learner any monies received in wages by virtue of the minima established under this Act, either during or after the period of training (601).

(8) There be no blanket, industry-wide exemptions for learners in either section of the industry, but that Special Certificates to employ learners be issued only on individual plant applications (603).

(9) Hearings be provided for review of objections to the issue of Special Certificates to employ learners, upon complaint (604).

The Union also contended that in some cases trained workers were currently available (121-2), and that in others inexperienced workers could be trained at the statutory minimum which then existed (25 cents per hour) without undue hardship; but that on the basis of a 32½¢ minimum rate special learner provisions were necessary to prevent curtailment of opportunities for employment in view of (1) the

substantial number of workers who would be affected by the 32<sup>1</sup>/<sub>2</sub>% minimum and the more significant burden of training learners at that rate; and (2) the absence of experienced workers in many communities where mills are located.

The Full-Fashioned Branch

POSITION AND RECOMMENDATION : The Union found many of its observations on the  
: OF THE UNION : seamless branch equally applicable to the full-  
fashioned branch. Employment, however, until recently has held up much better than in the seamless division, but today there is considerable unemployment, particularly in the Pennsylvania - New York and surrounding areas (605). Knitters and toppers have migrated as far as California in search of work (623).

However, in view of the Industry Committee's proposal of a 40% minimum wage agreed to by both parties to be effective within the first year of administration of the Act, the Union joined with the industry to urge that special certificates to employ learners at less than the minimum wage be issued for certain selected occupations (589), (but only in accordance with the general regulations proposed by the Union under the seamless branch above; to the extent necessary to prevent curtailment of opportunities for employment (616).

For those reasons the Union, in addition to its general recommendations previously noted under the seamless branch, recommended specifically for the full-fashioned division that:

(1) For the occupations of:

- |                |                         |
|----------------|-------------------------|
| Knitting       | T-Topping               |
| Looping        | Boarding                |
| Seaming        | Pairing and/or finished |
| Grey examining | inspecting              |
| Grey mending   | Folding                 |
| Topping        | Finished mending        |

a total learning period of 12 weeks (i.e., 480 hours) in one or more establishments be allowed at a minimum wage of 25¢ per hour (590-1).

(2) There be an additional learning period of an aggregate of 12 weeks (i.e., 480 hours) for full-fashioned knitting, topping, looping, and seaming at not less than  $32\frac{1}{2}\%$  per hour (591).

(3) A trained worker being re-trained into a new occupation should be classed as an intermediate learner for a period not to exceed an aggregate of 12 weeks (i.e., 480 hours) at not less than 30¢ per hour (591).

(4) When the employer does not have piecework rates the following hourly rates should prevail (592):

	<u>Primary Learning Period</u>	<u>Secondary Learning Period</u>	<u>Intermediate Learners</u>
First 160 hours	\$ .25	\$ $.32\frac{1}{2}$	\$ .30
Second 160 hours	.27 $\frac{1}{2}$	.35	.32 $\frac{1}{2}$
Third 160 hours	.30	.37 $\frac{1}{2}$	.35

(5) As a temporary measure, due to the current volume of unemployment, no exemptions be permitted in the Eastern Pennsylvania, New Jersey, Delaware, Maryland, and New York City areas (604-5).

DETERMINATION OF OCCUPATIONS : The first question requiring a determination is IN THE SEAMLESS BRANCH : REQUIRING A LEARNING PERIOD : "What, if any, occupation or occupations in the seamless branch require a learning period?" (502). Table I gives an occupational distribution of workers in the seamless branch.

The occupations of winding and coning are excluded from consideration and differentials because they are embraced by the textile not the hosiery industry definition (503).

The Industry and the Union both agreed that the following were skilled occupations in the seamless branch and required a substantial learning period before many operatives' earnings would approximate the  $32\frac{1}{2}\%$  minimum:

TABLE I  
OCCUPATIONAL DISTRIBUTION  
OF WORKERS IN THE SEAMLESS BRANCH \*

<u>Median Hourly Earnings</u>	<u>Occupation</u>	<u>Number of Workers Employed **</u>	<u>Per Cent **</u>
.636	Machine fixing	3,334	5.91
.429	Automatic knitting	2,816	4.99
.340	String Work "	930	1.65
.337	Transfer "	8,359	14.82
.322	Rib "	1,715	3.04
.362	Topping	280	.50
.376	Looping	10,467	18.55
.345	Welting	781	1.38
.335	Grey mending	1,243	2.20
.330	Finished mending	638	1.13
.370	Mock seaming	1,743	3.09
.399	Boarding	4,052	7.18
.356	Pairing, folding stamping, rider ticketing, boxing	6,784	12.03
.327	Grey inspecting	2,786	4.94
.382	Winding	636	1.13
.326	Trimming rib-top cutting	1,092	1.94
.363	ALL OCCUPATIONS SPECIFIED	47,656	84.48
All other occupations		<u>8,753</u>	<u>15.52</u>
TOTAL NUMBER IN SEAMLESS BRANCH		56,409	100.00

\* Exhibit D. A-6

\*\* Survey of the National Association of Hosiery Manufacturers as of September 1937

Knitting  
Looping  
Seaming  
Topping  
Boarding

Pairing  
Folding  
Examining and  
Inspecting  
Mending  
Welting

Trimming and  
End Pulling  
Embroidering  
Hemming & Mock  
Seaming  
Cuff Sewing  
Monogramming

On the basis of the full record, I find that these occupations are skilled occupations, and except for transfer top knitting and looping, require a learning period of approximately 480 hours before typical learners can be expected to attain the productivity of the least skilled experienced workers. Transfer top knitting and looping require in addition a second learning period of 480 hours (at a higher rate but less than the minimum).

DETERMINATION OF OCCUPATIONS : For the full-fashioned branch the first question  
IN THE FULL FASHIONED BRANCH :  
REQUIRING A LEARNING PERIOD : requiring a determination is "What, if any,  
occupation or occupations in the full-fashioned branch require a learning period?"  
(502). Table II gives an occupational distribution of workers in the full-fashioned branch.

The occupation of winding is excluded from consideration for a differential because it is embraced by the textile not the hosiery industry definition (503).

The Industry and the Union both agreed that the following were skilled occupations in the full-fashioned branch and required a substantial learning period before many operatives' earnings would approximate the 40¢ minimum:

Knitting  
Looping  
Seaming

Topping  
Boarding  
Pairing  
Folding

Examining and  
Inspecting  
Mending

TABLE II

OCCUPATIONAL DISTRIBUTION

OF WORKERS IN THE FULL-FASHIONED BRANCH\*

<u>Median Hourly Earnings</u>	<u>Occupation</u>	<u>Number of Workers Employed**</u>	<u>Per Cent**</u>
\$1.206	Footing	5,958	7.36
.994	Legging	13,313	22.61
.613	Topping	13,440	16.59
.579	Looping	5,391	6.65
.559	Seaming	7,459	9.21
.709	Boarding	3,189	3.93
.483	Grey Mending	1,977	2.44
.530	Finished Mending	947	1.17
.451	Grey Examining	3,457	4.27
.505	Finished Inspecting	1,150	1.42
.492	Pairing, folding, stamping, boxing	4,249	5.25
.445	Winding Elastic fabric mounters	1,974	2.44
	<u>ALL OCCUPATIONS SPECIFIED</u>		
.646		67,504	83.34
	All other occupations	<u>13,491</u>	<u>16.66</u>
	<u>TOTAL NO. IN FULL-FASHIONED BRANCH</u>	80,995	100.00

\* Exhibit C, A-4

\*\* Survey of the National Association of Hosiery Manufacturers as of September 1937

On the basis of the full record I find that these occupations are skilled occupations and, except for knitting, looping, seaming and topping, require a learning period of approximately 480 hours before typical learners can be expected to attain the productivity of the least skilled experienced workers. Knitting, looping, seaming and topping require in addition a second learning period of 480 hours (at a higher rate but less than the minimum).

SOME EXEMPTIONS NECESSARY TO PREVENT CURTAILMENT OF OPPORTUNITIES FOR EMPLOYMENT

While the record shows that there is unemployment in both branches of the hosiery industry, it also shows that the unemployed are not available in every locality where learners are now in demand. It is also clear that while some employers neither need nor employ learners, a considerable number do. Furthermore, the findings of the Administrator in approving the wage order for the hosiery industry indicate that the industry will be required to undergo some readjustment of wage scales to conform with the increased minimum wage rates and will be required to increase, in some measure at least, its wage bill. These findings of the Administrator refer to Section 14 of the Act and indicate that it may be necessary within the meaning of that Section to permit employment of learners at sub-minimum rates during the period of readjustment following the issuance of the wage order. In view of these findings of the Administrator, therefore, and also on the facts recited above and to insure that the hosiery wage order will not discourage employment of learners in the hosiery industry during the period of readjustment following the issuance of the wage order, I find that in plants operating under the increased minimum wage rates it will be necessary in order to prevent curtailment of opportunities for employment during the year following September 18, 1939, to issue special certificates for employment of a limited proportion of learners at special minimum rates upon the terms hereafter set forth.



TERMS AND CONDITIONS OF  
CERTIFICATES

(1) Wages. The findings of the Administrator in approving the wage order of  $32\frac{1}{2}\%$  per hour for the seamless branch and  $40\%$  per hour for the full-fashioned branch of the Hosiery Industry indicate that the industry will be required to undergo some readjustment of wage scales and to increase its wage bill to conform to these minima, even though no substantial curtailment of employment will result. The wages to be set by Special Certificates must be such, at least during the period of adjustment, as to take these factors into account. Accordingly, at the present time, an equitable distribution of the cost of learning between employee and employer is shown by the whole record to be approximately two-thirds of the wage order minima, in those occupations requiring a 480 hour learning period and in the first 480 hours of the 960 hour learning period, for such learners as are employed on a piece rate basis (seamless  $22\frac{1}{2}\%$ ; full-fashioned  $25\%$ ).

The record also shows that advancing skill or demonstrated aptitude makes a rate of five cents higher than the above appropriate for the second 480 hours of the 960 hour learning period in seamless hosiery ( $27\frac{1}{2}\%$ ) and four cents higher in full-fashioned ( $29\%$ ).

For the retraining period, the general experience and adaptability of the worker in at least one occupation justify an intermediate learner rate of two and one-half cents higher than the original learner rate in seamless and five cents higher in full-fashioned (seamless  $25\%$ ; full-fashioned  $30\%$ ).

Learners must in all instances be paid the same piece rates as experienced workers and not less than the total amount earned at piece rates when this amount exceeds the learner minimum.

When piece rates are not in effect, certain adjustments in the foregoing must be made. In general, since, even under piece rates, during the original 480 hour learning period, learners cannot be expected to earn more than the learner minimum, the  $22\frac{1}{2}\%$  and 25% minima can be retained under hourly rates. However, for the second 480 hour period and for the retraining period, the absence of opportunity to earn more than the learner minimum must be compensated by a higher learner minimum. Appropriate rates under these circumstances appear to be 29 cents for seamless and 35 cents for full-fashioned.

(2) Time. The record herein and the Administrator's findings in the wage order determination indicate that the adjustment period for the industry to the new basic minimum rates may be expected to continue for a year. Accordingly, the certificates for learners should be limited to a year's period. The altered conditions at the end of that time may require new findings. In the case of new plants or plants with extensive additions to plant facilities, the certificate period should coincide with the normal expansion period. The record indicates that this is approximately eight months.

(3) Number and Proportion. The record indicates that the industry as a whole employs a very small percentage of learners for normal turnover but that individual plants may require a somewhat larger number. The evidence shows that the issuance of special certificates for learners up to 5% of the total number of factory workers in the plant will normally adequately care for the needs of employers without inviting abuse and such certificates will be issued when no skilled workers are available. However, to allow for unusual circumstances in small plants, as many as five learners should be permitted upon a proper showing of need, regardless of the general percentage limitation. In the case of a new plant

or expansion of an already existing plant, it may also be necessary to employ learners in excess of the 5 percent provided in these special certificates. Applications for learners in excess of 5% under these circumstances may be made under Section 522 of the Regulations.

(4) Special Conditions. In relation to the findings made above on preventing curtailment of opportunities for employment, it is clear that special certificates should not permit and should in fact expressly prohibit the employment of learners at subminimum rates when the employer can by reasonable diligence obtain experienced workers to fill vacancies. This conclusion is concurred in by all parties to the proceeding. The parties also concur in the desirability of all reasonable regulations to enforce the foregoing. I therefore find that no special certificate should be valid unless it remains posted at all times, during the period of its validity, in a conspicuous place in the plant.

THE HOSIERY INDUSTRY

Determination

Upon the whole record of evidence, a summary and review of which appears above, I make the following determination:

That it is necessary, in order to prevent curtailment of opportunities for employment, to issue to employers in the hosiery industry, upon individual applications, Special Certificates for the employment of learners at sub-minimum rates, in certain specific occupations and subject to the terms herein set forth, except where experienced workers are available for such employment. In no case shall the employment of learners under Special Certificates be authorized where experienced workers are available for employment by the plant making application. A periodic review of the availability of experienced workers will be made and Special Certificates suspended or revoked where an adequate supply of experienced workers is indicated.

All Special Certificates granted shall be subject to the following terms:

1. Definition of Learner

- (a) A learner is a worker who has had (1) less than 480 hours of experience in the aggregate in the following occupations:

Seamless Branch

Knitting (except transfer top  
Knitting)

Seaming  
Topping  
Boarding  
Pairing  
Folding  
Examining and Inspecting  
Mending  
Welting  
Trimming and End Pulling  
Embroidering  
Hemming and Mock-seaming  
Cuff Sewing  
Monogramming

Full-fashioned Branch

Boarding

Pairing  
Folding  
Examining and Inspecting  
Mending

or (2) less than 960 hours of experience in any one of the following occupations:

Seamless Branch

Knitting (Transfer top knitting only)  
Looping

Full-fashioned Branch

Knitting  
Looping  
Seaming  
Topping

*These occupations  
not the ones on  
preceding page  
with*

(b) Provided that, he has had no previous experience in a particular occupation for which a learning period of 960 hours is allowed, a learner may serve one retraining period of 480 hours in such occupations; provided, however, that a learner may be retrained only once at sub-minimum rates.

2. Learners' Rates

- (a) In the occupations providing a learning period of 480 hours, learners employed on a piece-rate basis shall be paid not less than  $22\frac{1}{2}\%$  an hour in the seamless branch and not less than 25¢ an hour in the full-fashioned branch.
- (b) In the occupations providing a learning period of 960 hours, learners employed on a piece-rate basis in the seamless branch shall be paid not less than  $22\frac{1}{2}\%$  for the first 480 hours and not less than  $27\frac{1}{2}\%$  for the second 480 hours, and in the full-fashioned branch not less than 25¢ for the first 480 hours and not less than 30¢ for the second 480 hours.
- (c) A worker employed on a piece-rate basis who is being retrained in accordance with 1(b) above shall be paid not less than 25¢ an hour in the seamless branch and not less than 30¢ an hour in the full-fashioned.
- (d) If experienced operators are paid on a piece work rate, learners shall be paid at least the same piece work rate as that paid workers already employed on similar work in the establishment; learners shall receive full piece work earnings whenever these exceed the applicable minimum hourly wage.

- (e) Where piece rates are not in effect, the minimum hourly learner wage for occupations limited to a 480 hour learning period and for the first 480 hours for the occupations permitting a 960 hour learning period shall be not less than  $22\frac{1}{2}\%$  for the seamless branch and not less than 25¢ for the full-fashioned; and for the second 480 hours for the occupations permitting a 960 hour learning period the minimum hourly learner wage where piece rates are not in effect shall be not less than 29¢ for the seamless branch and not less than 35¢ for the full-fashioned.
- (f) Where piece rates are not in effect, a worker being retrained in accordance with 1(b) above shall be paid not less than 29¢ an hour in the seamless branch and not less than 35¢ an hour in the full-fashioned branch.

3. Number of Learners

- (a) Except as otherwise provided in this Section, no learners' certificate shall authorize the employment of learners in excess of 5% of the total number of factory workers (not including office and sales personnel) employed in the plant; provided, however, that employment of as many as five learners may be authorized in any certificate.
- (b) The number of learners to be employed under any Special Certificate authorizing the employment of learners in new plants or for extensive expansion shall be limited to the number of learners whose employment at sub-minimum rates is shown necessary by the employer to prevent curtailment of opportunities for employment under Section 14 of the Act.

4. Duration of Certificates

Special Learner Certificates authorizing the employment of learners not in excess of 5% of total factory employees or certificates authorizing not more than 5 learners shall be valid for a period of one year unless sooner revoked because an adequate supply of experienced workers are available or for other cause, or unless the wages set by the Administrator's Wage Order are changed. Special Certificates authorizing the employment of learners in excess of 5% shall be valid for a period not exceeding eight months unless sooner revoked for cause or unless the wages set by the Administrator's Wage Order are changed.

5. Learners' Certificates

All Special Certificates shall include, among other matters, the learner occupations, periods of service and rates set forth hereinabove; the definition of a learner; the requirement that the employer shall exercise due diligence to secure experienced workers before employing inexperienced workers at learner rates in their stead; the requirement that the certificate shall be posted continuously during its validity in a conspicuous place in the plant where the learners are to be employed; and a prohibition against the violation of any of the terms and conditions set forth in the Certificate.

Signed at Provincetown, Massachusetts, this 21st day of August, 1939.



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Merle D. Vincent  
Presiding Officer