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U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

FLEMING TO HEAR ORAL ARGUMENTS ON EMPLOYMENT OF LEARNERS
IN KNITTED WEAR INDUSTRY

Oral arguments in review of the determination and order with respect to employment of learners in the knitted wear industry at wages under the statutory minimum will be heard by Colonel Philip B. Fleming, Administrator, Wage and Hour Division, May 2, instead of April 23, he announced today. The hearing will begin at 10 a.m., Room 214, Hutchins Building (939 D Street, Washington, D. C.).

This hearing will mark a new procedure in conducting arguments on learner exemptions. As a basis for oral arguments a tentative determination amending the original determination (published in the Federal Register last October 24) has been prepared.

In addition, the Notice of Hearing said, "argument may be addressed to the legal and administrative considerations surrounding the problem of the employment of learners when experienced workers are available."

Under the present regulations (Part 522) governing the employment of learners at sub-minimum wages, no learner certificates may be issued unless the applicant shows conclusively that skilled workers are unavailable to him.

Interested persons must file notice of intention to appear before the close of business April 30. Supplementary briefs or memoranda must be filed with the Administrator prior to the close of business April 26.

The original determination and order which will be reviewed was written by Merle D. Vincent, Director of the Hearings Branch. At that time he found that "A reconsideration of the determinations * * * may be appropriate if a Wage Order for either or both industries becomes effective before October, 24, 1940." The orders referred to have been issued on recommendation of Industry Committees Nos. 7 and 8. A minimum wage of 35 cents becomes effective for the Knitted

Outerwear Industry effective July 1. A minimum of $33\frac{1}{2}$ cents becomes effective for the Knitted Underwear Industry May 6.

The probable effect of these orders was taken into consideration in drafting the tentative determination to serve as the basis for oral arguments.

Additional information presented in letters and briefs filed with the Administrator by the Underwear Institute, the International Ladies' Garment Workers' Union, the Textile Workers' Union of America also was considered. The tentative determination follows:

1. Special certificates permitting the employment of learners at sub-minimum rates in the occupations of machine knitter, machine stitcher, presser, winder, dyeing machine operator, brush machine operator and dryer operator shall be issued upon the following terms to any plant in the industry making application therefor, representing that experienced workers are not available to the plant unless experienced workers are found to be available.
 - (a) Learners employed under the certificate shall not exceed 5% of the total number of workers in the plant engaged in the occupations of machine knitter, machine stitcher, presser, winder, dyeing machine operator, brush machine operator and dryer operator in the knitted wear industry, provided, however, that employment of as many as five learners may be authorized in any certificate.
 - (b) No learner shall be employed under the certificate longer than 480 hours in the occupation of machine knitter, 320 hours in the occupations of machine stitcher and presser, and 240 hours in the occupations of winder, dyeing machine operator, brush machine operator and dryer operator.
 - (c) Learners employed under the certificate shall be paid not less than 25¢ an hour and in plants where experienced operators are paid on a piece-work rate shall be paid at least the same piece-work rate and shall receive earnings paid on this rate if in excess of the 25¢ minimum.
 - (d) No learner shall be employed at a subminimum wage under the certificate until and unless the certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.
2. (a) Any special certificate issued pursuant to this Order shall be cancelled if it is found that experienced workers are available. However, in the absence of fraud, learners already hired under a special certificate may be retained under the terms of the certificate if the learning period extends beyond the date on which the certificate has been cancelled.

- (b) Any special certificate issued pursuant to this order shall be cancelled as of the date of issue if it is found that fraud has been exercised in obtaining the certificate or in hiring workers thereunder.
- (c) Any special certificate issued pursuant to this Order shall be cancelled as of the date of violation if it is found that any of its terms have been violated.

3. Only learners may be employed at a subminimum wage under the certificate. In this Order, the term "learner" means a person who has not been employed within the previous two years in the knitted wear industry for more than 480 hours in the occupation of machine knitter, or 320 hours in the occupations of machine stitcher or presser, or 240 hours in the occupations of winder, dyeing machine operator, brush machine operator or dryer operator; the term "experienced worker" means a person who has been employed within the previous two years in the knitted wear industry for more than 480 hours in the occupation of machine knitter, or 320 hours in the occupations of machine stitcher or presser, or 240 hours in the occupations of winder, dyeing machine operator, brush machine operator or dryer operator; the term "knitted wear industry" includes the commercial knitting of fabrics and men's, women's, infants' and children's knitted apparel and accessories except gloves and hosiery as defined by Industry Committees Nos. 7 and 8.

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(b) Any special certificate issued pursuant to this order shall be cancelled as of the date of issue if it is found that fraud has been exercised in obtaining the certificate or in hiring workers thereunder.

(c) Any special certificate issued pursuant to this Order shall be cancelled as of the date of violation if it is found that any of its terms have been violated.

3. Only learners may be employed at a subminimum wage under the certificate. In this Order, the term "learner" means a person who has not been employed within the previous two years in the knitted wear industry for more than 480 hours in the occupation of machine knitter, or 320 hours in the occupations of machine stitcher or presser, or 240 hours in the occupations of winder, dyeing machine operator, brush machine operator or dryer operator; the term "experienced worker" means a person who has been employed within the previous two years in the knitted wear industry for more than 480 hours in the occupation of machine knitter, or 320 hours in the occupations of machine stitcher or presser, or 240 hours in the occupations of winder, dyeing machine operator, brush machine operator or dryer operator; the term "knitted wear industry" includes the commercial knitting of fabrics and men's, women's, infants' and children's knitted apparel and accessories except gloves and hosiery as defined by Industry Committees Nos. 7 and 8.