

UNITED STATES DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
WASHINGTON, D. C.

FINAL AMENDED DETERMINATION AND ORDER RE  
EMPLOYMENT OF LEARNERS IN THE TEXTILE  
INDUSTRY AT WAGES LOWER THAN THE MINIMUM  
WAGE APPLICABLE UNDER SECTION 6 OF THE  
FAIR LABOR STANDARDS ACT OF 1938

WHEREAS, the original applications made by the Cotton Textile Institute and sundry other parties pursuant to 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to employ learners in the Textile Industry at wages less than the minimum applicable under Section 6 of the Act were withdrawn after a public hearing was held upon said applications in Washington, D. C., on November 28, 29, and 30, 1938, before Merle D. Vincent, a representative of the Administrator duly authorized to conduct said hearing; and

WHEREAS, the Cotton Textile Institute and sundry other parties made application for a reconvening of the said hearing under said Act and regulations and for permission to employ learners in the Cotton Textile Industry at wages lower than the minimum wage applicable under Section 6 of the Act by virtue of the Textile Wage Order; and

WHEREAS, after due notice a reconvened public hearing was held on these applications in Washington, D. C., on October 12, 1939, before Merle D. Vincent, authorized representative of the Administrator, who was duly designated to preside at the hearing and to determine:

- (a) What, if any, occupation or occupations in the Textile Industry require a learning period; and
- (b) The factors which may have a bearing upon curtailment of opportunities for employment within the Textile 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 Textile Industry, or branch thereof, for whatever occupation, or occupations, if any, are found to require a learning period; and

WHEREAS, on October 31, 1939, the said Merle D. Vincent duly made findings of fact, copies of which were filed in the office of the Acting Administrator on November 4, 1939, and are there available for inspection by interested parties, and made the following determination and order:

1. On or after October 31, 1939, special certificates shall be issued permitting employment of learners in the Textile Industry at subminimum rates in the textile occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, except that no certificate shall be deemed to apply to any employees performing functions similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, time keepers, machine cleaners, janitors, and truckers. In the tufted bedspread branch of the industry, certificates shall be issued for the occupations of punchwork operation and chenille operation, and only such occupations. In the curtain branch of the industry, certificates shall be issued for the operation of sewing machines, but for no other occupations.

All such special certificates shall be issued, upon the following terms, to all plants 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 be paid at a rate of not less than 25 cents an hour; provided that in all plants where experienced operators are paid on a piece-work rate, learners in the same occupations shall be paid at least the same piece-work rate and shall receive earnings paid on this rate, if in excess of the above-stated minimum.
- (b) No learner shall be employed under the certificate longer than 6 weeks; provided that in the tufted bedspread branch of the industry no learner shall be employed longer than 8 weeks as a chenille operator, and not longer than 16 weeks as a punchwork operator, and not longer than one 8-week retraining period for chenille operators learning punchwork; provided, further, that in the curtain branch of the industry no learner shall be employed under the certificate longer than 8 weeks.
- (c) Learners employed under the certificates shall not exceed 3 percent of the total number of persons in

the learner occupations, provided that in the tufted bedspread branch of the industry learners shall not exceed 5 percent of the total number of chenille and punchwork operators; provided further that, in the curtain branch of the industry, learners shall not exceed 5 percent of the total number of sewing-machine operators; and provided finally that the employment of as many as 3 learners may be authorized by any certificate except that in the tufted bedspread and curtain branches of the industry as many as 5 learners may be authorized by any certificate. In cases of plant expansion or new plants, certificates may be issued under Part 522 of the Regulations for a larger number of learners if need therefor is found.

- (d) Only learners shall be employed at a subminimum wage under the certificate, and no learner shall be employed under the certificate unless hired when an experienced worker was not available.
  - (e) No learner shall be employed at a subminimum wage under the certificate until and unless a copy of this certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.
2. Any special certificate issued pursuant to this order may be cancelled as of the date of issue if it is found that such certificate was issued when experienced workers were available and may be cancelled prospectively or as of the date of violation if it is found that any of its terms have been violated or that skilled workers have become available. No certificate issued pursuant to this order shall be valid after October 24, 1940, subject to modification or extension on or before that time following an appropriate reconsideration of this Order.
  3. In this Order the term "learner" shall mean a person who has had less than 6 weeks' experience in the aggregate in any of the learner occupations in any branch of the Textile Industry except tufted bedspreads and curtains. In the tufted bedspread branch of the industry the term "learner" shall mean a person who has had less than 8 weeks' experience as a chenille operator, or 16 weeks' experience as a punchwork operator, or less than 8 weeks' experience as a chenille operator plus 8 weeks retraining as a punchwork operator. In the curtain branch of the industry, the term "learner" shall mean a person who has had less than 8 weeks' experience as a sewing-machine operator. If any worker has partially completed the applicable learning period, as prescribed above, the time thus served shall be deducted from the learning period authorized by special certificate upon any subsequent employment.

4. In this Order the term "Textile Industry" is defined as under the Textile Wage Order as follows:

- (a) The manufacturing or processing of yarn or thread and all processes preparatory thereto, and the manufacturing, bleaching, dyeing, printing and other finishing of woven fabrics (other than carpets and rugs) from cotton, silk, flax, jute or any synthetic fiber, or from mixtures of these fibers; or from such mixtures of these fibers with wool or animal fiber (other than silk) as are specified in clauses (g) and (h); except the chemical manufacturing of synthetic fiber and such related processing of yarn as is conducted in the establishments manufacturing synthetic fiber;
- (b) The manufacturing of batting, wadding or filling and the processing of waste from the fibers enumerated in clause (a);
- (c) The manufacturing, bleaching, dyeing, or other finishing of pile fabrics (except carpets and rugs) from any fiber or yarn;
- (d) The processing of any textile fabric, included in this definition of this industry, into any of the following products: bags; bandages and surgical gauze, bath mats and related articles; bedspreads; blankets, diapers; dishcloths, scrubbing cloths and washcloths; sheets and pillow cases; tablecloths, lunchcloths and napkins; towels; and window curtains;
- (e) The manufacturing or finishing of braid, net or lace from any fiber or yarn;
- (f) The manufacturing of cordage, rope or twine from any fiber or yarn;
- (g) The manufacturing or processing of yarn or thread by systems other than the woolen system from mixtures of wool or animal fiber (other than silk) with any of the fibers designated in clause (a), containing not more than 45 percent by weight of wool or animal fiber (other than silk);
- (h) The manufacturing, bleaching, dyeing, printing or other finishing of woven fabrics (other than carpets and rugs) from mixtures of wool or animal fiber (other than silk) containing not more than 25 percent by weight of wool or animal fiber (other than silk), with any of the fibers designated in clause (a), with a margin of tolerance of 2 percent to meet the exigencies of manufacture.

This definition shall not be deemed to include the Wool Industry, and the operations of said industry are excluded from this Determination and Order; and

WHEREAS, pursuant to hearing held before Merle D. Vincent as presiding officer on December 13, 1939, said Determination and Order was amended by notice published in the Federal Register on January 23, 1940, (5 F.R. 265) as follows:

1. The sewing-machine operation in the (novelty) curtain branch of the Textile Industry is a simple semi-skilled occupation that does not require any learning period at subminimum wages.
2. No certificates authorizing the employment of learners at subminimum wages shall be issued to employers in the (novelty) curtain branch of the Textile Industry.
3. All matters set forth in the Undersigned's Determination and Order on the employment of learners in the Textile Industry dated October 31, 1939, inconsistent with the foregoing are hereby rescinded; and

WHEREAS, the Throwsters Research Institute, and the Southern Cotton Manufacturers' Association filed petitions for review of the said Determination and Order; and

WHEREAS, the Administrator caused to be published in the Federal Register on January 23, 1940, (5 F.R. 265) a notice which stated that the Administrator for the purpose of reviewing the aforementioned presiding officer's Determination and Order, as amended, and to make a final determination of the questions set forth in the third paragraph of this notice, would receive briefs from interested parties, provided that original briefs were filed with the Administrator prior to the close of business February 23, 1940, and provided that rebuttal briefs were filed with the Administrator prior to the close of business March 8, 1940; and

WHEREAS, the Throwsters Research Institute duly filed its brief requesting amendments to the aforesaid Determination and Order with respect to the silk throwing branch of the industry; and

WHEREAS, no other party to this proceeding has filed a brief requesting modification of the Determination and Order with respect to other branches of the industry; and

WHEREAS, additional information with respect to silk throwing establishments has been obtained from letters of numerous applicants and from informal conferences attended by representatives of the Throwsters Research Institute, the Textile Workers' Union of America, and representatives of the Administrator; and

WHEREAS, upon due examination and consideration of the record of the several hearings before Merle D. Vincent and the aforesaid briefs,

letters and other data, I have found that the Determination and Order, as amended, is appropriate for all branches of the Textile Industry, with the exception of the silk throwing branch of said industry, and that certain provisions of the Determination and Order with respect to the silk throwing branch of the industry require amendment as provided herein.


NOW, THEREFORE, the Determination and Order of October 31, 1939, as amended, is amended as follows:

1. In the silk throwing branch of the Textile Industry, the learning period shall be 12 weeks for the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, except that no certificate shall be deemed to apply to any employees performing functions similar to those performed by the following: sweepers, scrubbers, yard-employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors and truckers.
2. In the silk throwing branch of the Textile Industry the term "learner" shall mean a person who has had less than 12 weeks' experience in the learner occupations specified in the preceding paragraph.
3. In the silk throwing branch of the Textile Industry learners employed under the certificate shall not exceed 3% of the total number of persons in the learner occupations, provided, that the employment of as many as 3 learners may be authorized by any certificate for establishments having 30 or fewer employees engaged in the learner occupations, and, provided further, that the employment of as many as 5 learners may be authorized by any certificate for establishments having 31 or more employees engaged in the learner occupations.

The above amendments shall become effective upon publication of this Notice in the Federal Register.

All provisions of the Textile Industry Learner Determination and Order of October 31, 1939, as amended, which are not inconsistent with the foregoing, are hereby affirmed.

Signed at Washington, D. C., this 26th day of April, 1940.

  
 Philip B. Fleming  
 Administrator  
 Wage and Hour Division

Published in Federal Register, April 27, 1940.