

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
WASHINGTON, D. C.

NOTICE OF HEARING FOR RECONSIDERATION OF THE  
OPINION, FINDINGS AND ORDER RE EMPLOYMENT OF  
LEARNERS IN THE APPAREL INDUSTRY AT WAGES  
LOWER THAN THE MINIMUM WAGE APPLICABLE UNDER  
SECTION 6 OF THE FAIR LABOR STANDARDS ACT OF  
1938

AND

PROPOSED REGULATIONS

WHEREAS, the Administrator of the Wage and Hour Division caused to be published in the Federal Register on October 12, 1939, a notice which set forth in full the Administrator's ORDER RE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY AT WAGES LOWER THAN THE MINIMUM WAGE APPLICABLE UNDER SECTION 6 OF THE FAIR LABOR STANDARDS ACT OF 1938 which had been signed by him; and

WHEREAS, in that OPINION, FINDINGS AND ORDER the Administrator stated that those findings "did not foreclose further proceedings under a higher minimum than thirty cents an hour"; and

WHEREAS, Wage Orders for the Apparel Industry recommended by Industry Committee No. 2 have been approved by the Administrator to become effective July 15, 1940, establishing minimum rates for various branches of the Apparel Industry higher than 30 cents per hour; and

WHEREAS, experience under the existing Determination and Order for the Industry under the 30-cent minimum wage rate and the probable effect of higher minimum rates has been considered by the Division; and

WHEREAS, additional information has been presented in letters, applications of numerous employers, in hearings on individual applications, and by briefs filed with the Division and in informal conferences attended by representatives of trade associations and Unions and representatives of the Administrator,

NOW, THEREFORE, notice is hereby given of a public hearing to commence at 10 A.M. on Thursday, June 27, 1940, at Room 3229, Department of Labor, Washington, D. C., before Merle D. Vincent, Director of the Hearings Branch, hereby duly authorized to conduct said hearing as Presiding Officer on the following proposed regulations for the employment of learners in the Apparel Industry;

1. Special Certificates permitting the employment as learners at sub-minimum rates in the Apparel Industry of persons, (except those employed in the cutting, shipping and office departments) engaged in machine operations, pressing and hand sewing, shall be issued upon the following terms and conditions to any plant making application therefor on forms provided by the Wage and Hour Division:

(a) Learners employed under the certificate for labor turnover shall not exceed at any one time 5 per cent of the total number of workers in the plant engaged in the occupations of machine operator, presser and hand sewer in the Apparel Industry (excepting that no learners may be employed in the cutting, shipping and office departments) 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 after 320 hours experience in the occupations of machine operator, presser and hand sewer.

(c) Learners employed under the certificate shall be paid not less than 25 cents an hour in those branches of the Apparel Industry for which the Administrator has fixed a minimum wage of  $32\frac{1}{2}$  cents an hour; not less than  $27\frac{1}{2}$  cents an hour in those branches of the Apparel Industry for which the Administrator has fixed a minimum wage of 35 cents or  $37\frac{1}{2}$  cents an hour, and not less than 30 cents an hour in those branches of the Apparel Industry for which the Administrator has fixed a minimum wage of 40 cents an hour; and in plants where experienced operators are paid on a piece work rate learners shall be paid at least the same piece work rate and shall receive earnings paid on this rate if in excess of the sub-minimum rate for learners above stated.

(d) Certificates for labor turnover shall authorize the employment of learners at sub-minimum rates where skilled workers are not available in the area from which the employer draws his supply of labor; provided that no certificate for labor turnover shall be issued where the employment of learners would tend to lower labor standards or discriminate against experienced workers; or where special investigation of the local labor market shows that an adequate supply of experienced workers in the learner occupations are available. Investigations of local labor market conditions when necessary shall be made with the cooperation of the Public Employment Offices, employers' associations, trade unions and by field investigations of the Wage and Hour Division.

2. Special Certificates permitting the employment of learners at sub-minimum rates in excess of the turnover percentage as stated herein shall be issued to new or expanding plants to the extent of actual needs, which shall be stated in the application, provided however, that such certificates shall not be issued when:

(a) Experienced workers are available to the employer.

(b) The issue of a certificate in excess of the percentage allowable for labor turnover would tend to create unfair competition in the Industry or depress labor standards.

3. Revocation of special learner certificates:

(a) Any special certificate issued pursuant to this Determination and Order may be cancelled at any time for cause.

(b) Any special certificate issued pursuant to this Order shall be cancelled as of the date of issue if it is found that the certificate was obtained by misrepresentation.

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

4. Only learners may be employed at a sub-minimum wage under certificates issued.

In this Order, the term "learner" means:

(a) A person employed as a machine operator who has not been so employed within the previous three years in the Apparel Industry for more than 320 hours.

(b) A person employed as a hand sewer who has not been so employed within the previous three years in the Apparel Industry for more than 320 hours.

(c) A person employed as a presser who has not been so employed within the previous three years in the Apparel Industry for more than 320 hours.

5. An experienced worker for the purpose of this Order is hereby defined as any person who has been employed in the same occupation during the previous three years for more than 320 hours as a machine operator, hand sewer or presser.

6. The definition of the term "Apparel Industry", for the purpose of this hearing, shall be the same as that used in the Administrator's Wage Orders for the industry as published in the Federal Register, except that for the purpose of this hearing, the glove and artificial flower branches, for which separate learner determinations are or will be made, are not included.

Any interested party wishing to appear at this hearing may do so by filing notice of intention and approximate time required with Merle D. Vincent, Director of the Hearings Branch, Wage and Hour Division, U. S. Department of Labor, Washington, D. C., prior to June 26, 1940, or, if unable to appear, may file briefs and arguments pertaining to this proposed Order by July 8, 1940.

On the close of the hearing the Presiding Officer shall file a complete record of the proceedings with, and shall make findings of fact and recommendations to, the Administrator.

Signed at Washington, D. C., this 20th day of June, 1940.



---

Philip B. Fleming  
Administrator  
Wage and Hour Division  
U. S. Department of Labor

Published in Federal Register, June 21, 1940.