

UNITED STATES DEPARTMENT OF LABOR
Washington, D. C.

noted
g

TITLE 41 - PUBLIC CONTRACTS

CHAPTER II - DIVISION OF PUBLIC CONTRACTS

-----x
IN THE MATTER OF THE
DETERMINATION OF THE PRE-
VAILING MINIMUM WAGE IN THE
MEN'S NECKWEAR INDUSTRY

DETERMINATION OF
THE SECRETARY

-----x
This matter is before me pursuant to Section 1(b) of the Act of June 30, 1936 (49 Stat. 2036, 41 U.S.C., Supp. III 35), entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," otherwise known as the Walsh-Healey Public Contracts Act.

On July 28, 1937, I issued the following determination:

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture and supply of men's neckwear (exclusive of knitted neckwear) shall be 50 cents per hour, or \$20.00 per week for a forty hour week arrived at either upon a time or piece work basis, and

(2) That a tolerance of not to exceed 10 percent of the workers in any one establishment shall be granted for those workers who are in fact learners, handicapped or superannuated workers, exclusive of boxers and trimmers, with an additional tolerance to persons actually employed as boxers and trimmers, provided that all such workers including learners, handicapped and superannuated workers and boxers and trimmers, be paid not less than 37.5 cents per hour or \$15.00 per week for a forty hour week and not less than the piece rates paid to all other workers in the same occupational classification, and provided further that all such employees be qualified for such exemption in accordance with such requirements as may be established hereafter.

On August 12, 1942, I issued regulations (Ti. 41, c. 2, Code of Federal Regulations, Section 201.1102) permitting employment of handicapped workers at subminimum rates under the Public Contracts Act in accordance with

the regulations of the Administrator of the Wage and Hour Division under the Fair Labor Standards Act, and amended all prevailing minimum wage determinations, including the Men's Neckwear Wage Determination, to provide that handicapped or superannuated workers may not be employed at subminimum rates under any other condition.

The minimum wage required to be paid by the manufacturers of men's neckwear subject to the provisions of the Fair Labor Standards Act of 1938 is 40 cents an hour pursuant to the wage order for the Miscellaneous Apparel Industry issued by the Administrator of the Wage and Hour Division under date of November 28, 1941. It appears that substantially all employees subject to the Men's Neckwear Wage Determination of the Secretary are engaged in commerce or in the production of goods for commerce as that term is defined in the Fair Labor Standards Act of 1938, and that, consequently, the aforementioned wage order of the Administrator has had the effect of establishing 40 cents per hour as the prevailing minimum wage for boxers and trimmers in the Men's Neckwear Industry.

It is deemed desirable, for the purpose of coordinating the administration of the Fair Labor Standards Act of 1938 and the Public Contracts Act, to amend the Men's Neckwear Wage Determination of the Secretary to provide that learners may be employed at subminimum rates in accordance with the present applicable regulations of the Administrator of the Wage and Hour Division (Regulations, Title 29, chapter V, Part 522). The Men's Neckwear Wage Determination of the Secretary has been interpreted to apply to the manufacture and supply of women's ties of design and construction similar to the men's neckwear expressly mentioned in the determination, and it appears desirable to clarify the language of the determination by expressly mentioning such women's ties.

On December 10, 1942, the Administrator of the Division of Public Contracts issued a Notice of Opportunity to Show Cause on or before December 31, 1942 why I should not make the following determination pursuant to the provisions of Section 1(b) of the Act of June 30, 1936, Pub. No. 846, 74th Congress (49 Stat. 2036; 41 U.S.C. Supp. III, sec. 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," otherwise known as the Walsh-Healey Public Contracts Act:

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture and supply of men's neckwear (exclusive of knitted neckwear) and of women's ties of design and construction similar to such men's neckwear is 50 cents per hour or \$20.00 per week for a 40-hour week arrived at either upon a time or piece work basis, provided that learners may be employed at subminimum rates in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division under the Fair Labor Standards Act which are hereby adopted for the purpose of this determination, and

(2) That a tolerance of not to exceed 10 percent of the workers in any one establishment shall be granted for persons actually employed as boxers and trimmers, provided that such boxers and trimmers be paid not less than 40 cents per hour or \$16.00 per week for a 40-hour week

and not less than the piece rates paid to all other workers in the same occupational classification, and provided further that they be qualified for such exemption in accordance with such requirements as may be established hereafter.

There was no protest to the show cause notice. In view of the fact, however, that the tolerance on boxers and trimmers was originally made "to permit the development of new personnel in the industry and to recognize those beginners who are engaged as boxers and trimmers," and because of the turnover incident to the war of employees in similar classifications in similar industries, I find it consistent to leave the tolerance for boxers and trimmers without restriction other than that they are actually employed as boxers and trimmers and that they shall be paid not less than 40 cents an hour or \$16 per week for a 40 hour week and not less than piece rates paid to all other workers in the same occupational classification.

Upon consideration of all the facts and circumstances, I HEREBY DETERMINE:

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture and supply of men's neckwear (exclusive of knitted neckwear) and of women's ties of design and construction similar to such men's neckwear is 50 cents per hour or \$20.00 per week for a 40-hour week arrived at either upon a time or piece work basis, provided that learners and apprentices may be employed at subminimum rates in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division under the Fair Labor Standards Act which are hereby adopted for the purpose of this determination, and

(2) That establishments manufacturing products as defined in this industry shall be granted a tolerance for persons actually employed as boxers and trimmers, provided that such boxers and trimmers be paid not less than 40 cents per hour or \$16.00 per week for a 40-hour week and not less than the piece rates paid to all other workers in the same occupational classification.

This determination shall be effective and the minimum wage hereby established shall apply to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced by the contracting agency on or after July 8, 1943, except that learners and apprentices may be employed at subminimum rates in accordance with the present applicable regulations of the Administrator of the Wage and Hour Division, on or after July 8, 1943, in the performance of contracts bids for which were solicited or negotiations otherwise commenced by the contracting agency prior to that date.

Nothing in this determination shall affect such obligations for the payment of minimum wages as the employer may have under any other law or agreement more favorable to employees than the requirements of this determination.