

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

REGULATIONS ON LEARNERS, APPRENTICES, MESSENGERS
AND HANDICAPPED WORKERS ISSUED BY
WAGE-HOUR ADMINISTRATOR

Regulations governing employment of learners, apprentices, handicapped persons and messengers at rates less than those required by Section 6 of the Fair Labor Standards Act were issued today (Friday) by Elmer F. Andrews, Administrator of the Wage and Hour Division of the United States Department of Labor.

Employment of such persons at a rate lower than the normal provisions of the Act will be allowed only under special certificates issued by the Administrator. The regulations provide that such applications "may be made to the Administrator. . . to employ learners in any occupation at a wage lower than the minimum wage applicable under Section 6. . . whenever employment at such lower rate is necessary to prevent curtailment of employment opportunities." The regulations were issued under Section 14 of the Act.

In the regulations governing learners, it is provided that, "such applications may be filed by an employer or employee or group of employers or employees," but that "preferential consideration will be given to applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof."

Mr. Andrews ruled that such applications "will be considered upon the basis of the needs of the employees and employers in the industry as a whole rather than on the basis of needs of individual employees or employers."

In filing applications, under the learner regulation, seven specific types of information must be furnished: Identification of the industry and occupations affected; description of the processes to be learned; statement of whether experienced workers are available for employment; statement of average hourly earnings of experienced workers; statement of why learners should be employed at a lesser wage; the proposed hourly wage rate for learners, and any other pertinent information.

Hearings will be held before the Administrator or his representative on such applications, at which witnesses may be summoned. The burden of proof will be on the applicants in such hearings.

If it is determined that a lower wage rate than that applicable under Section 6 is necessary "to prevent curtailment of employment opportunities," the Administrator will issue regulations permitting such employment of learners under special certificates "subject to such limitations as to time, number, proportion and length of service as he determines to be proper on the basis of evidence presented."

Anyone disagreeing with the action may petition the Administrator for a review within 15 days. If the request is granted, all interested parties will have an opportunity to be heard.

Administrator Andrews defined an apprentice as "a person at least 16 years of age who is covered by a written agreement with an employer, or with an association of employers, which has been approved by the State Apprenticeship Council or other established authority of the State or, if none such exists, by the Federal

Committee on Apprenticeships, and provides for not less than 4,000 hours of reasonably continuous employment for such person, for his participation in an approved schedule of work experience through employment and at least 144 hours per year of related supplemental instruction."

Applications to employ apprentices at rates less than those required by Section 6 of the Act must be signed jointly by the employer and the apprentice.

In the case of handicapped persons, applications must be signed by both the worker and the employer, and must set forth these facts:

"That the worker is handicapped within the meaning of Section 14 of the Act; that such handicap has impaired the earning capacity of the worker for the particular position" involved; "the extent of such handicap; and that such worker should be employed at a wage lower than the minimum wage applicable under Section 6."

The facts may be accepted as presented, or an investigation may be ordered and a medical examination required.

"No wage rate fixed for a handicapped worker shall be less than 75 percent of the minimum wage applicable under Section 6, until approved by the Administrator after investigation showing that such lesser wage rate is justified," according to the regulations.

"All special certificates issued for handicapped workers prior to July 1, 1939, shall terminate on September 1, 1939.

"No special certificates will be issued for a worker because he is shown to be slow or inexperienced, unless he is handicapped within the meaning of the Act and these regulations."

Applications covering employment of messengers shall "identify the industry in which messengers, to be engaged exclusively in delivering letters and messages, are requested to be employed at a wage lower than those applicable under Section 6; set forth the proposed hourly rate; state why messengers should be employed" at a lesser wage and "include any other information believed to be pertinent."

Provisions for review of regulations on messengers and handicapped persons are provided similar to those governing learners and apprentices.

Forms will be provided by the Wage and Hour Division for applications in the case of apprentices and handicapped workers and certificates will be issued upon investigation.

No formal application forms are provided for the employment of learners and messengers at the lower wage. Certificates will be issued in such cases only after a hearing and upon issuance of regulations for each industry.
