

where collective-bargaining agreement covers any such service employees in accordance with the rates for such employees provided for in such agreement, including prospective wage increases provided for in such agreement as a result of arm's-length negotiations.

Subsec. (a)(2). Pub. L. 92-473, §1(b), provided for fringe benefits to be furnished service employees where collective-bargaining agreement covers any such service employees, to be provided for in such agreement, including prospective fringe increases provided for in such agreement as a result of arm's-length negotiations.

Subsec. (a)(5). Pub. L. 92-473, §2, added par. (5).

#### EFFECTIVE DATE

Section 9 of Pub. L. 89-286 provided that: "This Act [enacting this chapter] shall apply to all contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after ninety days from the date of enactment of this Act [Oct. 22, 1965]."

#### SHORT TITLE

Section 1 of Pub. L. 89-286 provided that: "This Act [enacting this chapter] may be cited as the 'Service Contract Act of 1965'."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 353, 357, 358 of this title; title 38 section 1720.

### § 352. Violations

#### (a) Liability of responsible party; withholding payments due on contract; payment of underpaid employees from withheld payments

Any violation of any of the contract stipulations required by section 351(a)(1) or (2) or of section 351(b) of this title shall render the party responsible therefor liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of such contract. So much of the accrued payment due on the contract or any other contract between the same contractor and the Federal Government may be withheld as is necessary to pay such employees. Such withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the head of the Federal agency or the Secretary has found to be due pursuant to this chapter shall be paid directly to the underpaid employees from any accrued payments withheld under this chapter.

#### (b) Enforcement of section

In accordance with regulations prescribed pursuant to section 353 of this title, the Federal agency head or the Secretary is hereby authorized to carry out the provisions of this section.

#### (c) Cancellation of contract; contracts for completion of original contract; liability of original contractor for additional cost

In addition, when a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency. Whereupon, the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

(Pub. L. 89-286, §3, Oct. 22, 1965, 79 Stat. 1035.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

### § 353. Law governing authority of Secretary

#### (a) Enforcement of chapter

Sections 38 and 39 of this title shall govern the Secretary's authority to enforce this chapter, make rules, regulations, issue orders, hold hearings, and make decisions based upon findings of fact, and take other appropriate action hereunder.

#### (b) Limitations and regulations allowing variations, tolerances, and exemptions

The Secretary may provide such reasonable limitations and may make such rules and regulations allowing reasonable variation, tolerances, and exemptions to and from any or all provisions of this chapter (other than section 358 of this title), but only in special circumstances where he determines that such limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of government business, and is in accord with the remedial purpose of this chapter to protect prevailing labor standards.

#### (c) Predecessor contracts; employees' wages and fringe benefits

No contractor or subcontractor under a contract, which succeeds a contract subject to this chapter and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract: *Provided*, That in any of the foregoing circumstances such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.

#### (d) Duration of contract

Subject to limitations in annual appropriation Acts but notwithstanding any other provision of law, contracts to which this chapter applies may, if authorized by the Secretary, be for any term of years not exceeding five, if each such contract provides for the periodic adjustment of wages and fringe benefits pursuant to future determinations, issued in the manner prescribed in section 351 of this title no less often than once every two years during the term of the contract, covering the various classes of service employees.

(Pub. L. 89-286, §4, Oct. 22, 1965, 79 Stat. 1035; Pub. L. 92-473, §3, Oct. 9, 1972, 86 Stat. 789.)

#### AMENDMENTS

1972—Subsec. (b). Pub. L. 92-473, §3(a), excluded section 358 of this title from being subject to Secretary's authority to provide limitations and to make regulations respecting application of provisions of this chapter, substituted "but only in special circumstances where he determines that such limitation, variation, tolerance, or exemption is necessary and proper" for "as he may find necessary and proper", and authorized administrative action in accord with the remedial pur-