

Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged”, “American Samoa where” for “such island or islands where”, and “American Samoa.” for “Puerto Rico and the Virgin Islands.”

Subsec. (e). Pub. L. 101-157, §4(a)(3), struck out subsec. (e) which related to the application of sections 206 and 208 to employees in Puerto Rico or the Virgin Islands.

1974—Subsec. (e). Pub. L. 93-259 added subsec. (e).

1961—Subsec. (a). Pub. L. 87-30 inserted “or employed in any enterprise engaged in commerce or in the production of goods for commerce” after “production of goods for commerce” in two places.

1955—Subsec. (a). Act Aug. 12, 1955, struck out provisions which subjected the Administrator to provisions of section 208 of this title in determination of minimum rates of wages and classifications.

1949—Act Oct. 26, 1949, amended section generally, making it applicable only to Puerto Rico and the Virgin Islands.

1940—Subsec. (e). Joint Res. June 26, 1940, added subsec. (e).

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-259 effective May 1, 1974, see section 29(a) of Pub. L. 93-259, set out as a note under section 202 of this title.

#### EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-30 effective upon expiration of one hundred and twenty days after May 5, 1961, except as otherwise provided, see section 14 of Pub. L. 87-30, set out as a note under section 203 of this title.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 26, 1949, effective ninety days after Oct. 26, 1949, see section 16(a) of act Oct. 26, 1949, set out as a note under section 202 of this title.

#### TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Labor and functions of all agencies and employees of that Department, with exception of functions vested by Administrative Procedure Act (now covered by sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees) in hearing examiners employed by Department, transferred to Secretary of Labor, with power vested in him to authorize their performance or performance of any of his functions by any of those officers, agencies, and employees, by Reorg. Plan No. 6 of 1950, §§1, 2, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5.

#### DEFINITION OF “ADMINISTRATOR”

The term “Administrator” as meaning the Administrator of the Wage and Hour Division, see section 204 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 206, 208 of this title.

### § 206. Minimum wage

#### (a) Employees engaged in commerce; home workers in Puerto Rico and Virgin Islands; employees in American Samoa; seamen on American vessels; agricultural employees

Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

(1) except as otherwise provided in this section, not less than \$4.25 an hour during the period ending on September 30, 1996, not less

than \$4.75 an hour during the year beginning on October 1, 1996, and not less than \$5.15 an hour beginning September 1, 1997;

(2) if such employee is a home worker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Administrator, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such home work employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term “home worker”; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by home workers;

(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b) of this section, not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint pursuant to sections 205 and 208 of this title. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection;

(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or

(5) if such employee is employed in agriculture, not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977.

#### (b) Additional applicability to employees pursuant to subsequent amendatory provisions

Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) of this section applies) who in any workweek is engaged in commerce or in the pro-

duction of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this chapter by the Fair Labor Standards Amendments of 1966, title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or the Fair Labor Standards Amendments of 1974, wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1) of this section.

**(c) Repealed. Pub. L. 104-188, [title II], § 2104(c), Aug. 20, 1996, 110 Stat. 1929**

**(d) Prohibition of sex discrimination**

(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this chapter.

(4) As used in this subsection, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

**(e) Employees of employers providing contract services to United States**

(1) Notwithstanding the provisions of section 213 of this title (except subsections (a)(1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

(2) Notwithstanding the provisions of section 213 of this title (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965 [41 U.S.C. 351 et seq.] every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b) of this section, except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section.

**(f) Employees in domestic service**

Any employee—

(1) who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under subsection (b) of this section unless such employee's compensation for such service would not because of section 209(a)(6) of the Social Security Act [42 U.S.C. 409(a)(6)] constitute wages for the purposes of title II of such Act [42 U.S.C. 401 et seq.], or

(2) who in any workweek—

(A) is employed in domestic service in one or more households, and

(B) is so employed for more than 8 hours in the aggregate,

shall be paid wages for such employment in such workweek at a rate not less than the wage rate in effect under subsection (b) of this section.

**(g) Newly hired employees who are less than 20 years old**

(1) In lieu of the rate prescribed by subsection (a)(1) of this section, any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than \$4.25 an hour.

(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

(3) Any employer who violates this subsection shall be considered to have violated section 215(a)(3) of this title.

(4) This subsection shall only apply to an employee who has not attained the age of 20 years.

(June 25, 1938, ch. 676, §6, 52 Stat. 1062; June 26, 1940, ch. 432, §3(e), (f), 54 Stat. 616; Oct. 26, 1949, ch. 736, §6, 63 Stat. 912; Aug. 12, 1955, ch. 867, §3, 69 Stat. 711; Aug. 8, 1956, ch. 1035, §2, 70 Stat. 1118; Pub. L. 87-30, §5, May 5, 1961, 75 Stat. 67; Pub. L. 88-38, §3, June 10, 1963, 77 Stat. 56; Pub. L. 89-601, title III, §§301-305, Sept. 23, 1966, 80 Stat. 838, 839, 841; Pub. L. 93-259, §§2-4, 5(b), 7(b)(1), Apr. 8, 1974, 88 Stat. 55, 56, 62; Pub. L. 95-151, §2(a)-(d)(2), Nov. 1, 1977, 91 Stat. 1245, 1246; Pub. L. 101-157, §2, 4(b), Nov. 17, 1989, 103 Stat. 938, 940; Pub. L. 101-239, title X, §10208(d)(2)(B)(i), Dec. 19, 1989, 103 Stat. 2481; Pub. L. 104-188, [title II], §§2104(b), (c), 2105(c), Aug. 20, 1996, 110 Stat. 1928, 1929.)

## REFERENCES IN TEXT

The Fair Labor Standards Amendments of 1966, referred to in subsec. (b), is Pub. L. 89-601, Sept. 23, 1966, 80 Stat. 830. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 201 of this title and Tables.

The Education Amendments of 1972, referred to in subsec. (b), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Fair Labor Standards Amendments of 1974, referred to in subsec. (b), is Pub. L. 93-259, Apr. 8, 1974, 88 Stat. 55. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 201 of this title and Tables.

The Service Contract Act of 1965, referred to in subsec. (e)(1), (2), is Pub. L. 89-286, Oct. 22, 1965, 79 Stat. 1034, as amended, which is classified generally to chapter 6 (§351 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 41 and Tables.

The Social Security Act, referred to in subsec. (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of such Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-188, §2104(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “except as otherwise provided in this section, not less than \$3.35 an hour during the period ending March 31, 1990, not less than \$3.80 an hour during the year beginning April 1, 1990, and not less than \$4.25 an hour after March 31, 1991;”.

Subsec. (c). Pub. L. 104-188, §2104(c), struck out subsec. (c) which related to employees in Puerto Rico.

Subsec. (g). Pub. L. 104-188, §2105(c), added subsec. (g).

1989—Subsec. (a)(1). Pub. L. 101-157, §2, amended par. (1) generally. Prior to amendment, par. (1) read as follows: “not less than \$2.65 an hour during the year beginning January 1, 1978, not less than \$2.90 an hour during the year beginning January 1, 1979, not less than \$3.10 an hour during the year beginning January 1, 1980, and not less than \$3.35 an hour after December 31, 1980, except as otherwise provided in this section;”.

Subsec. (a)(3). Pub. L. 101-157, §4(b)(1), substituted “pursuant to sections 205 and 208 of this title” for “in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this chapter as amended from time to time. Each such committee shall have the same powers and duties and shall apply the same standards with respect to the application of the provisions of this chapter to employees employed in American Samoa as pertain to special industry committees established under section 205 of this title with respect to employees employed in Puerto Rico or the Virgin Islands”.

Subsec. (c). Pub. L. 101-157, §4(b)(2), amended subsec. (c) generally, substituting provisions relating to the application of wage rates under subsec. (a)(1) to employees in Puerto Rico for provisions relating to the superseding of subsec. (a)(1) wage rates by wage orders of a special industry committee for employees in Puerto Rico and the Virgin Islands.

Subsec. (f)(1). Pub. L. 101-239 substituted “209(a)(6)” for “209(g)”.

1977—Subsec. (a)(1). Pub. L. 95-151, §2(a), substituted “not less than \$2.65 an hour during the year beginning January 1, 1978, not less than \$2.90 an hour during the year beginning January 1, 1979, not less than \$3.10 an hour during the year beginning January 1, 1980, and not

less than \$3.35 an hour after December 1, 1980” for “not less than \$2 an hour during the period ending December 31, 1974, not less than \$2.10 an hour during the year beginning January 1, 1975, and not less than \$2.30 an hour after December 31, 1975”.

Subsec. (a)(5). Pub. L. 95-151, §2(b), substituted provisions for a minimum wage rate of not less than the minimum wage rate in effect under par. (1) after Dec. 31, 1977, for provisions for a minimum wage rate of not less than \$1.60 an hour during the period ending Dec. 31, 1974, \$1.80 an hour during the year beginning Jan. 1, 1975, \$2 an hour during the year beginning Jan. 1, 1976, \$2.20 an hour during the year beginning Jan. 1, 1977, and \$2.30 an hour after Dec. 31, 1977.

Subsec. (b). Pub. L. 95-151, §2(c), substituted provisions for a minimum wage rate, effective after Dec. 31, 1977, of not less than the minimum wage rate in effect under subsec. (a)(1) of this section, for provisions for a minimum wage rate of not less than \$1.90 an hour during the period ending Dec. 31, 1974, not less than \$2 an hour during the year beginning Jan. 1, 1975, not less than \$2.20 an hour during the year beginning Jan. 1, 1976, and not less than \$2.30 an hour after Dec. 31, 1976.

Subsec. (c)(1). Pub. L. 95-151, §2(d)(2)(A), inserted “(A)” before “heretofore” and cl. (B), and substituted “subsection (a)(1)” for “subsections (a) and (b)”.

Subsec. (c)(2). Pub. L. 95-151, §2(d)(1), added par. (2). Former par. (2), relating to applicability, etc., of wage rate orders effective on the effective date of the Fair Labor Standards Amendments of 1974, and effective on the first day of the second and each subsequent year after such date, was struck out.

Subsec. (c)(3). Pub. L. 95-151, §2(d)(1), (2)(B), (C), redesignated par. (5) as (3) and substituted references to subsec. (a)(1) of this section, for references to subsec. (a) or (b) of this section. Former par. (3), relating to appointment of a special industry committee for recommendations with respect to highest minimum wage rates for employees employed in Puerto Rico or the Virgin Islands subject to the amendments to this chapter by the Fair Labor Standards Amendments of 1974, was struck out.

Subsec. (c)(4). Pub. L. 95-151, §2(d)(1), (2)(B), (D), redesignated par. (6) as (4) and struck out “or (3)” after “(2)”. Former par. (4), relating to wage rates of employees in Puerto Rico or the Virgin Islands subject to the former provisions of subsec. (c)(2)(A) or (3) of this section, was struck out.

Subsec. (c)(5), (6). Pub. L. 95-151, §2(d)(2)(B), redesignated pars. (5) and (6) as (3) and (4), respectively.

1974—Subsec. (a)(1). Pub. L. 93-259, §2, substituted “not less than \$2 an hour during the period ending December 31, 1974, not less than \$2.10 an hour during the year beginning January 1, 1975, and not less than \$2.30 an hour after December 31, 1975” for “not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter”.

Subsec. (a)(5). Pub. L. 93-259, §4, substituted provisions for a minimum wage rate not less than: \$1.60 an hour during period ending Dec. 31, 1974; \$1.80, \$2, and \$2.20 an hour during years beginning Jan. 1, 1975, 1976, and 1977, respectively; and \$2.30 an hour after Dec. 31, 1977 for former provisions for a minimum wage rate not less than \$1 an hour during first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during second year from such date, and not less than \$1.30 an hour thereafter.

Subsec. (b). Pub. L. 93-259, §3, inserted references to “title II of the Education Amendments of 1972” and “Fair Labor Standards Amendments of 1974” and substituted provisions for a minimum wage rate not less than \$1.90 an hour during period ending Dec. 31, 1974; \$2 and \$2.20 an hour during years beginning Jan. 1, 1975, and 1976, respectively; and \$2.30 an hour after Dec. 31, 1976 for former provisions for a minimum wage rate not less than: \$1 an hour during first year from effective date of Fair Labor Standards Amendments of 1966; \$1.15, \$1.30, and \$1.45 an hour during second, third, and fourth years from such date; and \$1.60 an hour thereafter.

Subsec. (c)(2) to (6). Pub. L. 93-259, §5(b), added pars. (2) to (6) and struck out former pars. (2) to (4) which had provided:

“(2) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) of this section would otherwise apply, the following rates shall apply:

“(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee therefore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 205 of this title, whichever is later.

“(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

“(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

“(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held on a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee be-

cause of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(3) In the case of any such employee to whom subsection (a)(5) or subsection (b) of this section would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 205 of this title to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 208 of this title, but not in excess of the applicable rate provided by subsection (a)(5) or subsection (b) of this section, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b) of this section, as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

“(4) The provisions of sections 205 and 208 of this title, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 208 of this title, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b) of this section) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.”

Subsec. (f). Pub. L. 93-259, §7(b)(1), added subsec. (f). 1966—Subsec. (a). Pub. L. 89-601, §301(a), inserted “, or is employed in an enterprise engaged in commerce or in the production of goods for commerce,” in opening provisions.

Subsec. (a)(1). Pub. L. 89-601, §301(a), raised minimum wage to not less than \$1.40 an hour during first year from the effective date of the Fair Labor Standards Amendments of 1966, and not less than \$1.60 thereafter, except as otherwise provided in this section.

Subsec. (a)(4). Pub. L. 89-601, §301(b), added par. (4).

Subsec. (a)(5). Pub. L. 89-601, §302, added par. (5).

Subsec. (b). Pub. L. 89-601, §303, substituted provisions for a minimum wage for employees covered for first time by the Fair Labor Standards Amendments of 1966 (other than newly covered agricultural employees) at not less than \$1 an hour during first year from the effective date of the 1966 amendments, not less than \$1.15 an hour during second year from such date, not less than \$1.30 an hour during third year from such date, not less than \$1.45 an hour during fourth year from such date, and not less than \$1.60 an hour thereafter, for provisions setting a timetable for increases in the minimum wage of employees first covered by the Fair Labor Standards Amendments of 1961.

Subsec. (c). Pub. L. 89-601, §304, provided for a percentage minimum wage increase for employees in Puerto Rico and the Virgin Islands who are covered by wage orders already in effect as the equivalent of the percentage increase on the mainland, provided for minimum wages for employees brought within coverage of this chapter for the first time by the Fair Labor Standards Amendments of 1966 at rates to be set by special industry committees so as to reach as rapidly as is economically feasible without substantially curtailing employment the objectives of the minimum wage prescribed for mainland employees, and eliminated the re-

view committees that has been established by the Fair Labor Standards Amendments of 1961.

Subsec. (e). Pub. L. 89-601, §305, added subsec. (e).

1963—Subsec. (d). Pub. L. 88-38 added subsec. (d).

1961—Subsec. (a). Pub. L. 87-30, §5(a)(1), inserted “in any workweek” in opening provisions.

Subsec. (a)(1). Pub. L. 87-30, §5(a)(2), increased minimum wage from not less than \$1 an hour to not less than \$1.15 an hour during first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter.

Subsec. (a)(3). Pub. L. 87-30, §5(a)(3), inserted “in lieu of the rate or rates provided by this subsection or subsection (b) of this section” and “as amended from time to time” and struck out “now” before “applicable to”.

Subsec. (b). Pub. L. 87-30, §5(b), added subsec. (b). Former subsec. (b) had provided that “This section shall take effect upon the expiration of one hundred and twenty days from June 25, 1938.”

Subsec. (c). Pub. L. 87-30, §5(c), added subsec. (c). Former subsec. (c) had provided for wage orders recommended by special industrial committees and covering employes in Puerto Rico and the Virgin Islands to supersede minimum wages of \$1 an hour and for continuance of wage orders in effect prior to effective date of this chapter until superseded by wage orders recommended by the special industrial committees.

1956—Subsec. (a)(3). Act Aug. 8, 1956, added par. (3).

1955—Subsec. (a)(1). Act Aug. 12, 1955, increased minimum wage from not less than 75 cents an hour to not less than \$1 an hour.

1949—Subsec. (a). Act Oct. 26, 1949, §6(a), (b), struck out subpars. (1), (2), (3), and (4), inserted subpar. (1) fixing the minimum wage rate at not less than 75 cents an hour, and redesignated subpar. (5) as (2).

Subsec. (c). Act Oct. 26, 1949, §6(c), continued existing minimum wage rates in Puerto Rico and the Virgin Islands until superseded by special industry committee wage orders.

1940—Subsec. (a)(5). Act June 26, 1940, added par. (5).

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as a note under section 203 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by sections 2 to 4 and 7(b)(1) of Pub. L. 93-259 effective May 1, 1974, see section 29(a) of Pub. L. 93-259, set out as a note under section 202 of this title.

Section 5(b) of Pub. L. 93-259 provided that the amendment made by that section is effective Apr. 8, 1974.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-601 effective Feb. 1, 1967, except as otherwise provided, see section 602 of Pub. L. 89-601, set out as a note under section 203 of this title.

#### EFFECTIVE DATE OF 1963 AMENDMENT

Section 4 of Pub. L. 88-38 provided that: “The amendments made by this Act [amending this section and enacting provisions set out below] shall take effect upon the expiration of one year from the date of its enactment [June 10, 1963]: *Provided*, That in the case of employes covered by a bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act [June 10, 1963], entered into by a labor organization as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938, as amended [subsec. (d)(4) of this section], the amendments made by this Act shall take effect upon the termination of such collective bargaining agreement or upon the expiration of two years from the date of enactment of this Act [June 10, 1963], whichever shall first occur.”

#### EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-30 effective upon expiration of one hundred and twenty days after May 5, 1961,

except as otherwise provided, see section 14 of Pub. L. 87-30, set out as a note under section 203 of this title.

#### EFFECTIVE DATE OF 1955 AMENDMENT

Section 3 of act Aug. 12, 1955, provided that the amendment made by that section is effective Mar. 1, 1956.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 26, 1949, effective ninety days after Oct. 26, 1949, see section 16(a) of act Oct. 26, 1949, set out as a note under section 202 of this title.

#### TRANSFER OF FUNCTIONS

Functions relating to enforcement and administration of equal pay provisions vested by this section in Secretary of Labor and Administrator of Wage and Hour Division of Department of Labor transferred to Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, §1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

Functions of all other officers of Department of Labor and functions of all agencies and employees of that Department, with exception of functions vested by Administrative Procedure Act (now covered by sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees) in hearing examiners employed by Department, transferred to Secretary of Labor, with power vested in him to authorize their performance or performance of any of his functions by any of those officers, agencies, and employees, by Reorg. Plan No. 6 of 1950, §§1, 2, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5.

#### TRAINING WAGE

Section 6 of Pub. L. 101-157 provided that:

“(a) IN GENERAL.—

“(1) AUTHORITY.—Any employer may, in lieu of the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), pay an eligible employee the wage prescribed by paragraph (2)—

“(A) while such employee is employed for the period authorized by subsection (g)(1)(B)(i), or

“(B) while such employee is engaged in on-the-job training for the period authorized by subsection (g)(1)(B)(ii).

“(2) WAGE RATE.—The wage referred to in paragraph (1) shall be a wage—

“(A) of not less than \$3.35 an hour during the year beginning April 1, 1990; and

“(B) beginning April 1, 1991, of not less than \$3.35 an hour or 85 percent of the wage prescribed by section 6 of such Act, whichever is greater.

“(b) WAGE PERIOD.—An employer may pay an eligible employee the wage authorized by subsection (a) for a period that—

“(1) begins on or after April 1, 1990;

“(2) does not exceed the maximum period during which an employee may be paid such wage as determined under subsection (g)(1)(B); and

“(3) ends before April 1, 1993.

“(c) WAGE CONDITIONS.—No eligible employee may be paid the wage authorized by subsection (a) by an employer if—

“(1) any other individual has been laid off by such employer from the position to be filled by such eligible employee or from any substantially equivalent position; or

“(2) such employer has terminated the employment of any regular employee or otherwise reduced the number of employees with the intention of filling the vacancy so created by hiring an employee to be paid such wage.

“(d) LIMITATIONS.—

“(1) EMPLOYEE HOURS.—During any month in which employees are to be employed in an establishment

under this section, the proportion of employee hours of employment to the total hours of employment of all employees in such establishment may not exceed a proportion equal to one-fourth of the total hours of employment of all employees in such establishment.

“(2) DISPLACEMENT.—

“(A) PROHIBITION.—No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in subsection (a).

“(B) DISQUALIFICATION.—If the Secretary determines that an employer has taken an action in violation of subparagraph (A), the Secretary shall issue an order disqualifying such employer from employing any individual at such wage.

“(e) NOTICE.—Each employer shall provide to any eligible employee who is to be paid the wage authorized by subsection (a) a written notice before the employee begins employment stating the requirements of this section and the remedies provided by subsection (f) for violations of this section. The Secretary shall provide to employers the text of the notice to be provided under this subsection.

“(f) ENFORCEMENT.—Any employer who violates this section shall be considered to have violated section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)). Sections 16 and 17 of such Act (29 U.S.C. 216 and 217) shall apply with respect to the violation.

“(g) DEFINITIONS.—For purposes of this section:

“(1) ELIGIBLE EMPLOYEE.—

“(A) IN GENERAL.—The term ‘eligible employee’ means with respect to an employer an individual who—

“(i) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a non-immigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a));

“(ii) has not attained the age of 20 years; and

“(iii) is eligible to be paid the wage authorized by subsection (a) as determined under subparagraph (B).

“(B) DURATION.—

“(i) An employee shall initially be eligible to be paid the wage authorized by subsection (a) until the employee has been employed a cumulative total of 90 days at such wage.

“(ii) An employee who has been employed by an employer at the wage authorized by subsection (a) for the period authorized by clause (i) may be employed by any other employer for an additional 90 days if the employer meets the requirements of subsection (h).

“(iii) The total period, as authorized by clauses (i) and (ii), that an employee may be paid the wage authorized by subsection (a) may not exceed 180 days.

“(iv) For purposes of this subparagraph, the term ‘employer’ means with respect to an employee an employer who is required to withhold payroll taxes for such employee.

“(C) PROOF.—

“(i) IN GENERAL.—An individual is responsible for providing the requisite proof of previous period or periods of employment with other employers. An employer’s good faith reliance on the proof presented to the employer by an individual shall constitute a complete defense to a charge that the employer has violated subsection (b)(2) with respect to such individual.

“(ii) REGULATIONS.—The Secretary of Labor shall issue regulations defining the requisite proof required of an individual. Such regulations shall establish minimal requirements for req-

uisite proof and may prescribe that an accurate list of the individual’s employers and a statement of the dates and duration of employment with each employer constitute requisite proof.

“(2) ON-THE-JOB TRAINING.—The term ‘on-the-job training’ means training that is offered to an individual while employed in productive work that provides training, technical and other related skills, and personal skills that are essential to the full and adequate performance of such employment.

“(h) EMPLOYER REQUIREMENTS.—An employer who wants to employ employees at the wage authorized by subsection (a) for the period authorized by subsection (g)(1)(B)(ii) shall—

“(1) notify the Secretary annually of the positions at which such employees are to be employed at such wage,

“(2) provide on-the-job training to such employees which meets general criteria of the Secretary issued by regulation after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and other interested persons,

“(3) keep on file a copy of the training program which the employer will provide such employees,

“(4) provide a copy of the training program to the employees,

“(5) post in a conspicuous place in places of employment a notice of the types of jobs for which the employer is providing on-the-job training, and

“(6) send to the Secretary on an annual basis a copy of such notice.

The Secretary shall make available to the public upon request notices provided to the Secretary by employers in accordance with paragraph (6).

“(i) REPORT.—The Secretary of Labor shall report to Congress not later than March 1, 1993, on the effectiveness of the wage authorized by subsection (a). The report shall include—

“(1) an analysis of the impact of such wage on employment opportunities for inexperienced workers;

“(2) any reduction in employment opportunities for experienced workers resulting from the employment of employees under such wage;

“(3) the nature and duration of the training provided under such wage; and

“(4) the degree to which employers used the authority to pay such wage.”

PRACTICE OF PUBLIC AGENCY IN TREATING CERTAIN INDIVIDUALS AS VOLUNTEERS PRIOR TO APRIL 15, 1986; LIABILITY

Certain public agencies not to be liable for violations of this section occurring before Apr. 15, 1986, with respect to services deemed by that agency to have been performed for it by an individual on a voluntary basis, see section 4(c) of Pub. L. 99-150, set out as a note under section 203 of this title.

EFFECT OF AMENDMENTS BY PUBLIC LAW 99-150 ON PUBLIC AGENCY LIABILITY RESPECTING ANY EMPLOYEE COVERED UNDER SPECIAL ENFORCEMENT POLICY

Amendment by Pub. L. 99-150 not to affect liability of certain public agencies under section 216 of this title for violation of this section occurring before Apr. 15, 1986, see section 7 of Pub. L. 99-150, set out as a note under section 216 of this title.

INAPPLICABILITY TO NORTHERN MARIANA ISLANDS

Pursuant to section 503(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands with the United States of America, as set forth in Pub. L. 94-241, Mar. 24, 1976, 90 Stat. 263, set out as a note under section 1801 of Title 48, Territories and Insular Possessions, this section is inapplicable to the Northern Mariana Islands.

RULES, REGULATIONS, AND ORDERS PROMULGATED WITH REGARD TO 1966 AMENDMENTS

Secretary authorized to promulgate necessary rules, regulations, or orders on and after the date of the enactment of Pub. L. 89-601, Sept. 23, 1966, with regard to the amendments made by Pub. L. 89-601, see section 602 of Pub. L. 89-601, set out as a note under section 203 of this title.

CONGRESSIONAL FINDING AND DECLARATION OF POLICY

Section 2 of Pub. L. 88-38 provided that:

“(a) The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex—

“(1) depresses wages and living standards for employees necessary for their health and efficiency;

“(2) prevents the maximum utilization of the available labor resources;

“(3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;

“(4) burdens commerce and the free flow of goods in commerce; and

“(5) constitutes an unfair method of competition.

“(b) It is hereby declared to be the policy of this Act [amending this section, and enacting provisions set out as notes under this section], through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.”

DEFINITION OF “ADMINISTRATOR”

The term “Administrator” as meaning the Administrator of the Wage and Hour Division, see section 204 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 205, 207, 208, 213, 214, 215, 216, 218, 721, 2617, 2931 of this title; title 2 sections 60k, 1313; title 3 section 413; title 5 sections 2302, 5343, 5349, 7702; title 7 sections 2015, 2026; title 10 section 1588; title 15 section 1673; title 20 section 1085; title 21 section 849; title 22 sections 2506, 3905, 3967, 3968, 3969, 4131; title 24 section 422; title 26 section 45B; title 38 sections 1720, 3485; title 41 section 351; title 42 sections 300e-9, 431, 1320b-22, 1396d, 2000e-2, 2753, 3056, 3056d, 8009, 8011, 9848.

§ 207. Maximum hours

(a) **Employees engaged in interstate commerce; additional applicability to employees pursuant to subsequent amendatory provisions**

(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this chapter by the Fair Labor Standards Amendments of 1966—

(A) for a workweek longer than forty-four hours during the first year from the effective

date of the Fair Labor Standards Amendments of 1966,

(B) for a workweek longer than forty-two hours during the second year from such date, or

(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) **Employment pursuant to collective bargaining agreement; employment by independently owned and controlled local enterprise engaged in distribution of petroleum products**

No employer shall be deemed to have violated subsection (a) of this section by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks; or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two consecutive weeks the employee shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty-hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under subsection (a) of this section or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed; or

(3) by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

(A) the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,

(B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and

(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale,