

§ 40. Exceptions from Walsh-Healey provisions; modification of contracts; variations; overtime; suspension of representations and stipulations

Upon a written finding by the head of the contracting agency or department that the inclusion in the proposal or contract of the representations or stipulations set forth in section 35 of this title will seriously impair the conduct of Government business, the Secretary of Labor shall make exceptions in specific cases or otherwise when justice or public interest will be served thereby. Upon the joint recommendation of the contracting agency and the contractor, the Secretary of Labor may modify the terms of an existing contract respecting minimum rates of pay and maximum hours of labor as he may find necessary and proper in the public interest or to prevent injustice and undue hardship. The Secretary of Labor may provide reasonable limitations and may make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of sections 35 to 45 of this title respecting minimum rates of pay and maximum hours of labor or the extent of the application of said sections to contractors, as hereinbefore described. Whenever the Secretary of Labor shall permit an increase in the maximum hours of labor stipulated in the contract, he shall set a rate of pay for any overtime, which rate shall be not less than one and one-half times the basic hourly rate received by any employee affected: *Provided*, That whenever in his judgment such course is in the public interest, the President is authorized to suspend any or all of the representations and stipulations contained in section 35 of this title.

(June 30, 1936, ch. 881, § 6, 49 Stat. 2038; June 28, 1940, ch. 440, title I, § 13, 54 Stat. 681.)

AMENDMENTS

1940—Act June 28, 1940, inserted proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 450j.

§ 41. “Person” defined in Walsh-Healey provisions

Whenever used in sections 35 to 45 of this title, the word “person” includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under title 11, or receivers.

(June 30, 1936, ch. 881, § 7, 49 Stat. 2039; Pub. L. 95-598, title III, § 326, Nov. 6, 1978, 92 Stat. 2679.)

AMENDMENTS

1978—Pub. L. 95-598 substituted “trustees in cases under title 11” for “trustees in bankruptcy”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43a of this title; title 25 section 450j.

§ 42. Effect of Walsh-Healey provisions on other laws

The provisions of sections 35 to 45 of this title shall not be construed to modify or amend Title III of the act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved May 3, 1933 (commonly known as the Buy American Act) [41 U.S.C. 10a et seq.], nor shall the provisions of sections 35 to 45 of this title be construed to modify or amend sections 3141-3144, 3146, and 3147 of title 40, nor the labor provisions of Title II of the National Industrial Recovery Act, approved June 16, 1933, as extended, or of section 7 of the Emergency Relief Appropriation Act, approved April 8, 1935; nor shall the provisions of sections 35 to 45 of this title be construed to modify or amend chapter 307 and section 4162¹ of title 18.

(June 30, 1936, ch. 881, § 8, 49 Stat. 2039.)

REFERENCES IN TEXT

The Buy American Act, referred to in text, is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which is classified generally to sections 10a, 10b, and 10c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10a of this title and Tables.

The National Industrial Recovery Act, referred to in text, is act June 16, 1933, ch. 90, 48 Stat. 195. Title II of the National Industrial Recovery Act was classified principally to subchapter I (§401 et seq.) of chapter 8 of former Title 40, Public Buildings, Property, and Works, and was terminated June 30, 1943, by act June 27, 1942, ch. 450, §1, 56 Stat. 410. Provisions of title II of the Act which were classified to former Title 40 were repealed by section 6(b) of Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1304. For complete classification of this Act to the Code, see Tables.

Section 7 of the Emergency Relief Appropriation Act, approved April 8, 1935, referred to in text, is act Apr. 8, 1935, ch. 48, §7, 49 Stat. 115, which is not classified to the Code.

Section 4162 of title 18, referred to in text, was repealed by Pub. L. 98-473, title II, §218(a)(4), Oct. 12, 1984, 98 Stat. 2027.)

CODIFICATION

“Sections 3141-3144, 3146, and 3147 of title 40” substituted in text for “the Act entitled ‘An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes’, approved March 3, 1931 (commonly known as the Bacon-Davis Act), as amended from time to time” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

“Chapter 307 and section 4162 of title 18” substituted for “the Act entitled ‘An Act to provide for the diversification of employment of Federal prisoners, for their training and schooling in trades and occupations, and for other purposes’, approved May 27, 1930, as amended and supplemented by the Act approved June 23, 1934” on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure. Prior to the enactment of Title 18, the act of May 27, 1930, as amended, had been classified to sections 744a to 744n of Title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43a of this title; title 25 section 450j.

¹ See References in Text note below.