

Appropriations authorized.

during the same fiscal year, and the Secretary of Agriculture is authorized to make expenditures on the certificate of the State official having charge of the cooperative work for the State that State expenditures as provided for in this section have been made. There is hereby authorized to be appropriated to enable the Secretary of Agriculture to carry out the provisions of this section not more than \$1,000,000 for the fiscal year ending June 30, 1950; \$1,500,000 for the fiscal year ending June 30, 1951; \$2,000,000 for the fiscal year ending June 30, 1952; and \$2,500,000 for each subsequent fiscal year."

16 U. S. C. § 568.

SEC. 3. Section 5 of the Act of June 7, 1924 (43 Stat. 654), is hereby amended to read as follows:

Cooperation with land grant colleges.

"SEC. 5. The Secretary of Agriculture is hereby authorized and directed, in cooperation with the land grant colleges and universities of the various States or, in his discretion, with other suitable State agencies, to aid farmers through advice, education, demonstrations, and other similar means in establishing, renewing, protecting, and managing wood lots, shelter belts, windbreaks, and other valuable forest growth, and in harvesting utilizing, and marketing the products thereof. Except for preliminary investigations, the amount expended by the Federal Government under this section in cooperation with any State or other cooperating agency during any fiscal year shall not exceed the amount expended by the State or other cooperating agency for the same purpose during the same fiscal year, and the Secretary of Agriculture is authorized to make expenditures on the certificate of the appropriate State official that the State expenditures, as provided for in this section, have been made. There is hereby authorized to be appropriated annually out of any money in the Treasury not otherwise appropriated, not more than \$500,000 to enable the Secretary of Agriculture to carry out the provisions of this section."

Limitation on expenditures.

Appropriation authorized.

Restriction on use of funds.

16 U. S. C. §§ 564, 566; Supp. II, § 565. Exception.

SEC. 4. Notwithstanding any other provision of law, no funds heretofore or hereafter authorized to be appropriated to the Department of Agriculture or available under any other than the Act of June 7, 1924 (43 Stat. 653), shall be used for carrying out the programs or activities authorized by sections 1, 2, and 3 of said Act, as amended: *Provided*, That whenever the programs and activities being carried out under the provisions of sections 1, 2, and 3 of said Act are inadequate to the needs and purposes of programs and activities authorized by other law the use of funds specifically authorized to be appropriated to the Department of Agriculture or made available under other law shall not be prohibited to the extent that the programs and activities under said sections of the Act of June 7, 1924, are inadequate to accomplish the purposes of such other programs or activities.

Approved October 26, 1949.

[CHAPTER 736]

AN ACT

To provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes.

October 26, 1949
[H. R. 5856]
[Public Law 393]

Fair Labor Standards Amendments of 1949.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1949".

DECLARATION OF POLICY

52 Stat. 1060.
29 U. S. C. § 202 (b).

SEC. 2. Section 2 (b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the

several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power."

DEFINITIONS

SEC. 3. (a) Section 3 (b) of such Act is amended to read as follows:

"(b) 'Commerce' means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof."

52 Stat. 1060.
29 U. S. C. § 203 (b).
"Commerce."

(b) Section 3 (j) of such Act is amended to read as follows:

"(j) 'Produced' means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State."

52 Stat. 1061.
29 U. S. C. § 203 (j).
"Produced."

(c) Clause (1) of section 3 (1) of such Act is amended to read as follows:

"(1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation,"

52 Stat. 1061.
29 U. S. C. § 203 (1).
(1).

(d) Section 3 of such Act is further amended by adding at the end thereof two new paragraphs as follows:

52 Stat. 1060.
29 U. S. C. § 203.

"(n) 'Resale' shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided*, That the sale is recognized as a bona fide retail sale in the industry.

"Resale."

"(o) Hours Worked.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee."

Hours worked.
Post, p. 912.

ADMINISTRATOR

SEC. 4. Section 4 (a) of such Act is amended by striking out "\$10,000" and inserting in lieu thereof "\$15,000".

52 Stat. 1061.
29 U. S. C. § 204 (a)

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Section 5 of such Act is amended to read as follows:

"SEC. 5. (a) The Administrator shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce, or the Administrator may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce or in the production of goods for commerce in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee

52 Stat. 1062.
29 U. S. C. § 205.

Post, p. 912.

Composition.

was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees and the administrator shall be subject to the provisions of section 8.

Post, p. 915.

“(b) An industry committee shall be appointed by the Administrator without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the Administrator shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the Administrator shall give due regard to the geographical regions in which the industry is carried on.

Quorum.

“(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as compensation for their services a reasonable per diem, which the Administrator shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The Administrator shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

Compensation.

Legal, etc., assistance.

Data, witnesses, etc.

“(d) The Administrator shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses whom he deems material. An industry committee may summon other witnesses or call upon the Administrator to furnish additional information to aid it in its deliberations.”

MINIMUM WAGES

52 Stat. 1062.
29 U. S. C. § 206 (a).

SEC. 6. (a) Section 6 (a) of such Act is amended by striking out subparagraphs (1), (2), (3), and (4) and inserting in lieu thereof the following:

“(1) not less than 75 cents an hour;”

54 Stat. 616.
29 U. S. C. § 206 (a).

(b) Such section 6 (a) is further amended by striking out “(5)” and inserting in lieu thereof “(2)”.

54 Stat. 616.
29 U. S. C. § 206 (c).

(c) Section 6 (c) of such Act is amended to read as follows:

“(c) The provisions of paragraph (1) of subsection (a) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands engaged in commerce or in the production of goods for commerce only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Administrator pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That the wage order in effect prior to the effective date of this Act for any industry in Puerto Rico or the Virgin Islands shall apply to every employee in such industry covered by subsection (a) of this section until superseded by a wage order hereafter issued pursuant to the recommendations of a special industry committee appointed pursuant to section 5.”

Applicability of prior wage orders.

Ante, p. 911.

MAXIMUM HOURS

52 Stat. 1063.
29 U. S. C. § 207.
Ante, p. 446; *post*, p. 920.
Length of work-week.

SEC. 7. Section 7 of such Act is amended to read as follows:

“SEC. 7. (a) Except as otherwise provided in this section, no employer shall employ any of his employees who is 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.

Overtime compensation.

“(b) No employer shall be deemed to have violated subsection (a) 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—

Exceptions to restriction on excess employment without overtime compensation.

Ante, p. 912.

“(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 forty hours in the workweek 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) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Administrator to be of a seasonal nature,

and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

“(c) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Administrator), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged.

Dairying, cotton ginning, and processing of sugar beets, etc.

Canning or packing of agricultural or horticultural commodity, etc.

“(d) As used in this section the ‘regular rate’ at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include—

“Regular rate.”

Exclusions.

Gifts.

“(1) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency;

- Vacations, etc. “(2) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer’s interests and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;
- Recognition of services. “(3) Sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the Administrator set forth in appropriate regulations which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Administrator) paid to performers, including announcers, on radio and television programs;
- Profit-sharing plan, etc. “(4) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident, or health insurance or similar benefits for employees;
- Talent fees. “(5) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or forty in a workweek or in excess of the employee’s normal working hours or regular working hours, as the case may be;
- Retirement, etc. “(6) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in nonovertime hours on other days; or
- Hours in excess of normal working hours, etc. “(7) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding forty hours, where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.
- Holiday and Sunday work, etc. “(e) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of forty hours if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in section 6 (a) and compensation at not less than one and one-half times such rate for all hours worked in excess of forty in any workweek, and (2) provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.
- Work outside hours of contract or agreement. “(f) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of forty hours if, pursuant to an agreement or understanding arrived at between the
- Contract pay plan. *Ante*, p. 912.
- Ante*, p. 912.
- Agreement covering overtime computation. *Ante*, p. 912.

employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in such workweek in excess of forty hours—

“(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half times the bona fide piece rates applicable to the same work when performed during nonovertime hours; or

Conditions.

“(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half times such bona fide rates applicable to the same work when performed during nonovertime hours; or

“(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Administrator as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

Regulation.

and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection (d) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

Ante, pp. 913, 914.

“(g) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection (d) shall be creditable toward overtime compensation payable pursuant to this section.”

Crediting of payments.
Ante, p. 914.

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 8. Section 8 of such Act is amended to read as follows:

52 Stat. 1064.
29 U. S. C. § 208.

“SEC. 8. (a) The policy of this Act with respect to industries in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6 (a) in each such industry. The Administrator shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce in any such industry or classifications therein.

Ante, p. 912.

Ante, p. 911.

“(b) Upon the convening of any such industry committee, the Administrator shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, may hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Administrator the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

Reference of question to industry committee.

Recommendations.

Classifications with-
in any industry.

Ante, p. 912.

“(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6 (a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee and the Administrator shall consider among other relevant factors the following:

“(1) competitive conditions as affected by transportation, living, and production costs;

“(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

“(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

Report by industry
committee.

Approval by Ad-
ministrator.

Disapproval by Ad-
ministrator.

Contents of orders.

Publication in Fed-
eral Register.

Notice of hearings.

“(d) The industry committee shall file with the Administrator a report containing its recommendations with respect to the matters referred to it. Upon the filing of such report, the Administrator, after due notice to interested persons, and giving them an opportunity to be heard, shall by order approve and carry into effect the recommendations contained in such report, if he finds that the recommendations are made in accordance with law, are supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the industry committee, will carry out the purposes of this section; otherwise he shall disapprove such recommendations. If the Administrator disapproves such recommendations, he shall again refer the matter to such committee, or to another industry committee for such industry (which he may appoint for such purpose), for further consideration and recommendations.

“(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the Administrator finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein. No such order shall take effect until after due notice is given of the issuance thereof by publication in the Federal Register and by such other means as the Administrator deems reasonably calculated to give to interested persons general notice of such issuance.

“(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Administrator deems reasonably calculated to give general notice to interested persons.”

INVESTIGATIONS, INSPECTIONS, RECORDS, AND HOMEWORK REGULATIONS

SEC. 9. Section 11 of such Act is amended by adding at the end thereof the following new subsection:

“(d) The Administrator is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion

of and to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Administrator relating to industrial homework are hereby continued in full force and effect.”

CHILD LABOR PROVISIONS

SEC. 10. (a) Section 12 (a) of such Act is amended to read as follows:

“(a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.”

52 Stat. 1067, 29 U. S. C. § 212.

Exception.

Effect of prosecution and conviction.

(b) Section 12 of such Act is further amended by adding at the end thereof the following new subsection:

52 Stat. 1067, 29 U. S. C. § 212.

“(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce.”

EXEMPTIONS

SEC. 11. Section 13 of such Act is amended to read as follows:

“SEC. 13. (a) The provisions of sections 6 and 7 shall not apply with respect to (1) any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator); or (2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment’s annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A ‘retail or service establishment’ shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or (3) any employee employed by any establishment engaged in laundering, cleaning or repairing clothing or fabrics, more than 50 per centum of which establishment’s annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment’s annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or (4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment’s annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or (5) any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or

52 Stat. 1067, 29 U. S. C. § 213. *Ante*, p. 912. Executive, etc., positions.

“Retail or service establishment.”

Laundering, etc., establishment.

Exempt retail establishment.

Fishery employees.

- in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or byproducts thereof; or (6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or (7) any employee to the extent that such employee is exempted by regulations or orders of the Administrator issued under section 14; or (8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or (9) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or (10) any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or (11) any switchboard operator employed in a public telephone exchange which has not more than seven hundred and fifty stations; or (12) any employee of an employer engaged in the business of operating taxicabs; or (13) any employee or proprietor in a retail or service establishment as defined in clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or (14) any employee employed as a seaman; or (15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.
- “ (b) The provisions of section 7 shall not apply with respect to (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or (2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or (3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or (4) any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or (5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state.
- “ (c) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.
- “ (d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer.”
- LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS**
- SEC. 12.** Section 14 of such Act is amended by striking out in clause (1) the word “exclusively” and inserting in lieu thereof the word “primarily”.
- Irrigation workers.
- Administrator's exemption.
- Post, p. 919.
Small newspapers.
- Street railway, etc., employees.
- Canning, etc.
- Switchboard operators.
- Taxicabs.
- Contract telegraphic agency.
Ante, p. 917.
Ante, p. 912.
- Seaman.
Forestry or lumbering operations.
- Common carriers.
Ante, p. 912.
- 49 Stat. 546.
49 U. S. C. § 304.
24 Stat. 379.
49 U. S. C. §§ 1-27;
Supp. II, § 1 *et seq.*
Ante, p. 485.
49 Stat. 1189.
45 U. S. C. §§ 181-188.
- Inapplicability of child labor laws.
Ante, p. 917.
- Ante*, pp. 912, 917.
Newspaper delivery.

PROHIBITED ACTS

SEC. 13. (a) Section 15 (a) (1) of such Act is amended by adding at the end thereof the following: "and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful."

52 Stat. 1068.
29 U. S. C. § 215 (a)
(1).

(b) Section 15 (a) (5) of such Act is amended by inserting after "section 11 (c)" the following: "or any regulation or order made or continued in effect under the provisions of section 11 (d)".

52 Stat. 1068.
29 U. S. C. § 215 (a)
(6).

PENALTIES

SEC. 14. Section 16 of such Act is amended by adding at the end thereof the following new subsection:

52 Stat. 1069.
29 U. S. C. § 216;
Supp. II, § 216.

"(c) The Administrator is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or section 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. When a written request is filed by any employee with the Administrator claiming unpaid minimum wages or unpaid overtime compensation under section 6 or section 7 of this Act, the Administrator may bring an action in any court of competent jurisdiction to recover the amount of such claim: *Provided*, That this authority to sue shall not be used by the Administrator in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Administrator if it does involve any issue of law not so finally settled. The consent of any employee to the bringing of any such action by the Administrator, unless such action is dismissed without prejudice on motion of the Administrator, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Administrator on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Administrator, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Administrator under this subsection for the purposes of the two-year statute of limitations provided in section 6 (a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action."

Ante, p. 912.
Waiver by employ-
ee.

52 Stat. 1069.
29 U. S. C., Supp.
II, § 216 (b).
Court action.

Ante, p. 912.

Restriction.

Waiver by employ-
ee.

Special deposit ac-
count.

Miscellaneous re-
ceipts.

61 Stat. 87, 88.
29 U. S. C., Supp.
II, § 255 (a).

INJUNCTION PROCEEDINGS

SEC. 15. Section 17 of such Act is amended to read as follows:

"SEC. 17. The district courts, together with the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands shall

52 Stat. 1069.
29 U. S. C. § 217.

52 Stat. 1068.
29 U. S. C. § 215.
Ante, p. 919.
Restriction.

have jurisdiction, for cause shown, to restrain violations of section 15 : *Provided*, That no court shall have jurisdiction, in any action brought by the Administrator to restrain such violations, to order the payment to employees of unpaid minimum wages or unpaid overtime compensation or an additional equal amount as liquidated damages in such action."

MISCELLANEOUS AND EFFECTIVE DATE

Ante, p. 911.

SEC. 16. (a) The amendments made by this Act shall take effect upon the expiration of ninety days from the date of its enactment; except that the amendment made by section 4 shall take effect on the date of its enactment.

Ante, pp. 911, 919.

(b) Except as provided in section 3 (o) and in the last sentence of section 16 (c) of the Fair Labor Standards Act of 1938, as amended, no amendment made by this Act shall be construed as amending, modifying, or repealing any provision of the Portal-to-Portal Act of 1947.

61 Stat. 84.
29 U. S. C., Supp.
II, §§ 251-262.
Existing orders.

(c) Any order, regulation, or interpretation of the Administrator of the Wage and Hour Division or of the Secretary of Labor, and any agreement entered into by the Administrator or the Secretary, in effect under the provisions of the Fair Labor Standards Act of 1938, as amended, on the effective date of this Act, shall remain in effect as an order, regulation, interpretation, or agreement of the Administrator or the Secretary, as the case may be, pursuant to this Act, except to the extent that any such order, regulation, interpretation, or agreement may be inconsistent with the provisions of this Act, or may from time to time be amended, modified, or rescinded by the Administrator or the Secretary, as the case may be, in accordance with the provisions of this Act.

52 Stat. 1060.
29 U. S. C. § 201;
Supp. II, § 216.

(d) No amendment made by this Act shall affect any penalty or liability with respect to any act or omission occurring prior to the effective date of this Act; but, after the expiration of two years from such effective date, no action shall be instituted under section 16 (b) of the Fair Labor Standards Act of 1938, as amended, with respect to any liability accruing thereunder for any act or omission occurring prior to the effective date of this Act.

52 Stat. 1069.
29 U. S. C., Supp.
II, § 216 (b).

(e) No employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended (in any action or proceeding commenced prior to or on or after the effective date of this Act), on account of the failure of said employer to pay an employee compensation for any period of overtime work performed prior to July 20, 1949, if the compensation paid prior to July 20, 1949, for such work was at least equal to the compensation which would have been payable for such work had section 7 (d) (6) and (7) and section 7 (g) of the Fair Labor Standards Act of 1938, as amended, been in effect at the time of such payment.

52 Stat. 1060.
29 U. S. C. §§ 201-
219; Supp. II, § 216.

(f) Public Law 177, Eighty-first Congress, approved July 20, 1949, is hereby repealed as of the effective date of this Act.

Ante, pp. 914, 915.

Approved October 26, 1949.

Repeal.
Ante, p. 446.

[CHAPTER 737]

JOINT RESOLUTION

To clarify the status of the Architect of the Capitol under the Federal Property and Administrative Services Act of 1949.

October 26, 1949
[H. J. Res. 340]
[Public Law 394]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "the Senate and the House of Representatives", as used in the Federal Property and Administrative Services Act of 1949, shall be construed to include the Architect of the Capitol and any activities under his direction,

Architect of the
Capitol.
"The Senate and the
House of Representa-
tives."
Ante, p. 377.