

### § 209. Attendance of witnesses

For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 49 and 50 of title 15 (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Administrator, the Secretary of Labor, and the industry committees.

(June 25, 1938, ch. 676, §9, 52 Stat. 1065; 1946 Reorg. Plan No. 2, §1(b), eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095.)

#### 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.

“Secretary of Labor” substituted in text for “Chief of the Children’s Bureau” by 1946 Reorg. Plan No. 2. See Transfer of Functions note set out under section 203 of this title.

#### DEFINITION OF “ADMINISTRATOR”

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

### § 210. Court review of wage orders in Puerto Rico and the Virgin Islands

(a) Any person aggrieved by an order of the Secretary issued under section 208<sup>1</sup> of this title may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify (including provision for the payment of an appropriate minimum wage rate), or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review by the court shall be limited to questions of law,

and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before such industry committee or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Administrator’s order. The court shall not grant any stay of the order unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the order, in the event such order is affirmed, of the amount by which the compensation such employees are entitled to receive under the order exceeds the compensation they actually receive while such stay is in effect.

(June 25, 1938, ch. 676, §10, 52 Stat. 1065; Aug. 12, 1955, ch. 867, §5(f), 69 Stat. 712; Pub. L. 85-791, §22, Aug. 28, 1958, 72 Stat. 948; Pub. L. 93-259, §5(c)(2), Apr. 8, 1974, 88 Stat. 58.)

#### REFERENCES IN TEXT

Section 208 of this title, referred to in subsec. (a), was repealed by Pub. L. 110-28, title VIII, §8103(c)(1)(A), May 25, 2007, 121 Stat. 189.

#### AMENDMENTS

1974—Subsec. (a). Pub. L. 93-259 inserted “(including provision for the payment of an appropriate minimum wage rate)” in third sentence after “modify”.

1958—Subsec. (a). Pub. L. 85-791 substituted “transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record of the industry committee” for “served upon the Secretary, and thereupon the Secretary shall certify and file in the court a transcript of the record” in second sentence, and inserted “as provided in section 2112 of title 28”, and substituted “petition” for “transcript” in third sentence.

1955—Subsec. (a). Act Aug. 12, 1955, amended subsec. (a) generally to make subsection conform to new procedure applicable to Puerto Rico and Virgin Islands.

<sup>1</sup> See References in Text note below.