

ance with prevailing rates and practices prior to August 19, 1972, shall be negotiated on and after the date of the enactment of this Act [Oct. 13, 1978] in accordance with the provisions of section 9(b) of Public Law 92-392 without regard to any provision of chapter 71 of title 5, United States Code (as amended by this title [title VII of Pub. L. 95-454]), to the extent that any such provision is inconsistent with this paragraph.

“(b) The pay and pay practices relating to employees referred to in paragraph (1) of this subsection shall be negotiated in accordance with prevailing rates and pay practices without regard to any provision of—

“(A) chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph;

“(B) subchapter IV of chapter 53 and subchapter V of chapter 55 of title 5, United States Code; or

“(C) any rule, regulation, decision, or order relating to rates of pay or pay practices under subchapter IV of chapter 53 or subchapter V of chapter 55 of title 5, United States Code.”

CONVERSION RULES FOR WAGE SCHEDULE; SERVICE FOR ONE STEP INCREASE; PROHIBITION OF DECREASE IN BASIC PAY RATE; RETAINED PAY CONTINUED

Section 9(a) of Pub. L. 92-392 provided that:

“(1) Except as provided by this subsection, an employee's initial rate of pay on conversion to a wage schedule established pursuant to the amendments made by this Act [see Effective Date note under section 5341 of this title] shall be determined under conversion rules prescribed by the Civil Service Commission. Service by an employee in a grade of a wage schedule performed before the effective date of the conversion of the employee to a wage schedule established pursuant to the amendments made by this Act shall be counted toward not to exceed one step increase under the time in step provisions of section 5343(e)(2) of title 5, United States Code, as amended by the first section of this Act [subsec. (e)(2) of this section].

“(2) In the case of any employee described in section 2105(c), 5102(c)(7), (8), or (14) of title 5, United States Code, who is in the service as such an employee immediately before the effective date, with respect to him, of the amendments made by this Act [see Effective Date note under section 5341 of this title], such amendments shall not be construed to decrease his rate of basic pay in effect immediately before the date [see Effective Date note under section 5341 of this title] on which such amendments become effective with respect to him. In addition, if an employee is receiving retained pay by virtue of law or agency policy immediately before the date on which the first wage schedule applicable to him under this Act is effective, he shall continue to retain that pay in accordance with the specific instructions under which the retained pay was granted until he leaves his position or until he becomes entitled to a higher rate.”

LABOR CONTRACTS PERTAINING TO WAGES, TERMS AND CONDITIONS OF EMPLOYMENT, AND OTHER EMPLOYMENT BENEFITS

Section 9(b) of Pub. L. 92-392 provided that: “The amendments made by this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2, The Congress] shall not be construed to—

“(1) abrogate, modify, or otherwise affect in any way the provisions of any contract in effect on the date of enactment of this Act [Aug. 19, 1972] pertaining to the wages, the terms and conditions of employment, and other employment benefits, or any of the foregoing matters, for Government prevailing rate employees and resulting from negotiations between Government agencies and organizations of Government employees;

“(2) nullify, curtail, or otherwise impair in any way the right of any party to such contract to enter into negotiations after the date of enactment of this Act [Aug. 19, 1972] for the renewal, extension, modification, or improvement of the provisions of such contract or for the replacement of such contract with a new contract; or

“(3) nullify, change, or otherwise affect in any way after such date of enactment [Aug. 19, 1972] any agreement, arrangement, or understanding in effect on such date [Aug. 19, 1972] with respect to the various items of subject matter of the negotiations on which any such contract in effect on such date [Aug. 19, 1972] is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date [Aug. 19, 1972].”

WAGE SURVEY

Section 15(b) of Pub. L. 92-392 provided that: “A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act [see note under section 5341 of this title], for a wage schedule which becomes effective after that effective date [Aug. 19, 1972], is deemed to meet the requirement in this Act for a survey by a lead agency.”

EQUITABLE WAGE ADJUSTMENTS FOR CERTAIN PREVAILING RATE EMPLOYEES

Pub. L. 92-298, §§1, 2, May 17, 1972, 86 Stat. 146, provided: “That this Act [enacting this note and amending sections 60a-1 and 60a-2 of Title 2, The Congress] may be cited as the ‘Prevailing Rate Equalization Adjustment Act of 1972’.

“SEC. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

“(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12]; or

“(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 23, 1972;

shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States (Code), had the fiscal year 1972 schedule for wage surveys for such employees been followed.

“(b) Retroactive pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code.”

§ 5344. Effective date of wage increase; retroactive pay

(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day, excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government

of the District of Columbia on the date of the issuance of the order granting the increase; or

(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 568.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5343 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

[§ 5345. Repealed. Pub. L. 95-454, title VIII, § 801(a)(2), Oct. 13, 1978, 92 Stat. 1221]

Section, added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 569, related to retained rate of pay on reduction in grade or reassignment.

A prior section 5345, added Pub. L. 90-206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, which provided for position classification appeals, was omitted in the general amendment of this subchapter, and is covered by section 5346(c) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, and an employee receiving pay on day before such effective date not to have such pay reduced or terminated and, unless section 5362 applies, employee is entitled to continuation of such pay, etc., see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

§ 5346. Job grading system

(a) The Office of Personnel Management, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Office shall—

- (1) establish the basic occupational alignment and grade structure or structures for the job grading system;
- (2) establish and define individual occupations and the boundaries of each occupation;
- (3) establish job titles within occupations;
- (4) develop and publish job grading standards; and
- (5) provide a method to assure consistency in the application of job standards.

(b) The Office, from time to time, shall review such numbers of positions in each agency as will enable the Office to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Office finds that a position is not placed in its proper occu-

pation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(c) On application, made in accordance with regulations prescribed by the Office, by a prevailing rate employee for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Office shall—

- (1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;
- (2) decide whether the position has been placed in the proper occupation and grade; and
- (3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Office shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Added Pub. L. 90-206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, §5345; renumbered §5346 and amended Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 570; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

AMENDMENTS

1978—Subsecs. (a) to (c). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

1972—Subsecs. (a), (b). Pub. L. 92-392 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 92-392 designated existing provisions as subsec. (c) and substituted in introductory text “Commission”, “a prevailing rate of employee” and “in placing his position in an occupation and grade” for “Civil Service Commission”, “an employee subject to section 5341(a) of this title” and “in classifying his position”, respectively, in par. (2) “placed in the proper occupation and grade” for “properly classified”, in par. (3) “in placing the position in an occupation and grade” for “in classifying the position” and in last sentence “subsection” for “section”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

§ 5347. Federal Prevailing Rate Advisory Committee

(a) There is established a Federal Prevailing Rate Advisory Committee composed of—