

**Issued by**

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**Department of Industrial Relations**

**DIVISION OF LABOR STANDARDS ENFORCEMENT**

**RULES AND REGULATIONS  
GARMENT MANUFACTURING  
INDUSTRY**

**Excerpts from the  
California Labor Code – 2011  
California Code of Regulations - 2011**



**CALIFORNIA LABOR CODE**  
**Division 2. Employment Regulations and Supervision**  
**Part 11. Garment Manufacturing**

*Chapter 1. General Provisions*

**2670.** It is the intent of the Legislature, in enacting this part, to establish a system of registration, penalties, confiscation, bonding requirements, and misdemeanors for the imposition of prompt and effective criminal and civil sanctions against violations of, and especially patterns and practices of violations of, any of the laws as set forth herein and regulations of this state applicable to the employment of workers in the garment industry. The civil penalties provided for in this part are in addition to any other penalty provided by law. This part shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, safety, and peace of the people of the State of California.

**2671.** As used in this part:

(a) "Person" means any individual, partnership, corporation, limited liability company, or association, and includes, but is not limited to, employers, manufacturers, jobbers, wholesalers, contractors, subcontractors, and any other person or entity engaged in the business of garment manufacturing.

"Person" does not include any person who manufactures garments by himself or herself, without the assistance of a contractor, employee, or others; any person who engages solely in that part of the business engaged solely in cleaning, alteration, or tailoring; any person who engages in the activities herein regulated as an employee with wages as his or her sole compensation; or any person as provided by regulation.

(b) "Garment manufacturing" means sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for sale or resale by any person or any persons contracting to have those operations performed and other operations and practices in the apparel industry as may be identified in regulations of the Department of Industrial Relations consistent with the purposes of this part. The Department of Industrial Relations shall adopt, and may from time to time amend, regulations to clarify and refine this definition to be consistent with current and future industry practices, but the regulations shall not limit the scope of garment manufacturing, as defined in this subdivision.

(c) "Commissioner" means the Labor Commissioner.

(d) "Contractor" means any person who, with the assistance of employees or others, is primarily engaged in sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for another person. "Contractor" includes a subcontractor that is primarily engaged in those operations.

**2672.** The commissioner shall promulgate all regulations and rules necessary to carry out the provisions of this part. The commissioner, upon good cause, may impose, in his or her discretion, the terms of penalties, the revocation of registrations, and the confiscation or disposal of goods in accordance with such rules and regulations.

**2673.** Every employer engaged in the business of garment manufacturing shall keep accurate records for three years which show all of the following:

(a) The names and addresses of all garment workers directly employed by such person.

(b) The hours worked daily by employees, including the times the employees begin and end each work period.

(c) The daily production sheets, including piece rates.

(d) The wage and wage rates paid each payroll period.

(e) The contract worksheets indicating the price per unit agreed to between the contractor and manufacturer.

(f) The ages of all minor employees.

(g) Any other conditions of employment.

**2673.1.** (a) To ensure that employees are paid for all hours worked, a person engaged in garment manufacturing, as defined in Section 2671, who contracts with another person for the performance of garment manufacturing operations shall guarantee payment of the applicable minimum wage and overtime compensation, as required by law, that are due from that other person to its employees that perform those operations.

(b) Where the work of two or more persons is being performed at the same worksite during the same payroll period, the liability of each person under this guarantee shall be limited to his or her proportionate share, as determined by the Labor Commissioner pursuant to paragraph (3) or (4) of subdivision (d).

(c) Employees may enforce this guarantee solely by filing a claim with the Labor Commissioner against the contractor and the guarantor or guarantors, if known, to recover unpaid wages. Guarantors whose identity or existence is unknown at the time the claim is filed may be added to the claim pursuant to paragraph (2) of subdivision (d).

(d) Claims filed with the Labor Commissioner for payment of wages pursuant to subdivision (c) shall be subject to the following procedure:

(1) Within 10 business days of receiving a claim pursuant subdivision (c), the Labor Commissioner shall give written notice to the employee, the contractor, and persons that may be guarantors of the nature of the claim and the date of the meet-and-confer conference on the claim. Within 10 business days of receiving the claim, the Labor Commissioner shall issue a subpoena duces tecum requiring the contractor to submit to the Labor Commissioner those books and records as may be necessary to investigate the claim and determine the identity of any potential guarantors for the payment of the wage claim, including, but not limited to, invoices for work performed for any and all persons during the period included in the claim. Compliance with such a request for books and records, within 10 days of the mailing of the notice, shall be a condition of continued registration pursuant to Section 2675. At the request of any party, the Labor

Commissioner shall provide to that party copies of all books and records received by the Labor Commissioner in conducting its investigation.

(2) Within 30 days of receiving a claim pursuant to subdivision (c), the Labor Commissioner shall send a notice of the claim and of the meet-and-confer conference to any other persons who may be guarantors with respect to the claim.

(3) Within 60 days of receiving a claim pursuant to subdivision (c), the Labor Commissioner shall hold a meet-and-confer conference with the employee, the contractor, and all known potential guarantors to attempt to resolve the claim. Prior to the meet-and-confer conference, the Labor Commissioner shall conduct and complete an investigation of the claim, shall make a finding and assessment of the amount of wages owed, and shall conduct an investigation and determine each guarantor's proportionate share of liability. The investigation shall include, but not be limited to, interviewing the employee and his or her witnesses and making a finding and assessment of back wages due, if any, to the employee. An employee's claim of hours worked and back wages due shall be presumed valid and shall be the Labor Commissioner's assessment, unless the contractor provides specific, compelling, and reliable written evidence to the contrary and is able to produce records pursuant to subdivision (d) of Section 1174 or Section 2673 that are accurate and contemporaneous, itemized wage deduction statements pursuant to Section 226, bona fide complete and accurate payroll records, and evidence of the precise hours worked by the employee for each pay period during the period of the claim. If the Labor Commissioner finds falsification by the contractor of payroll records submitted for any pay period of the claim, any other payroll records submitted by the contractor shall be presumed false and disregarded.

The Labor Commissioner shall present his or her findings and assessment of the amount of wages owed and each guarantor's proportionate share thereof to the parties at the meet-and-confer conference and shall make a demand for payment of the amount of the assessment. If no resolution is reached, the Labor Commissioner shall, at the meet-and-confer conference, set the matter for hearing pursuant to paragraph (4). The Labor Commissioner's assessment, pursuant to this paragraph, of the amount of back wages due is solely for purposes of the meet-and-confer conference and shall not be admissible or be given any weight in the hearing conducted pursuant to paragraph (4). If the Labor Commissioner has not identified any potential guarantors after investigation and the matter is not resolved at the conclusion of the meet-and-confer conference, the Commissioner shall proceed against the contractor pursuant to Section 98.

(4) The hearing shall commence within 30 days of, and shall be completed within 45 days of, the date of the meet-and-confer conference. The hearing may be bifurcated, addressing first the question of liability of the contractor and the guarantor or guarantors, and immediately thereafter the proportionate responsibility of the guarantors. The Labor Commissioner shall present his or her proposed findings of the guarantor's proportionate share at the hearing. Any party may present evidence at the hearing to support or rebut the proposed findings. Except as provided in this paragraph, the hearing shall be held in accordance with the procedure set forth in subdivisions (b) to (h), inclusive, of Section 98. It is the intent of the Legislature that these hearings be conducted in an informal setting preserving the rights of the parties.

(5) Within 15 days of the completion of the hearing, the Labor Commissioner shall issue an order, decision, or award with respect to the claim and shall file the order, decision, or award in accordance with Section 98.1.

(e) An employee shall be entitled to recover, from the contractor, liquidated damages in an amount equal to the wages unlawfully withheld, as set forth in Section 1194.2, and liquidated damages in an amount equal to unpaid overtime compensation due. A guarantor under subdivision (a) shall be liable for its proportionate share of those liquidated damages if the guarantor has acted in bad faith, including, but not limited to, failure to pay or unreasonably delaying payment to its contractor, unreasonably reducing payment to its contractor where it is established that the guarantor knew or reasonably should have known that the price set for the work was insufficient to cover the minimum wage and overtime pay owed by the contractor, asserting frivolous defenses, or unreasonably delaying or impeding the Labor Commissioner's investigation of the claim.

(f) If either the contractor or guarantor refuses to pay the assessment, and the employee prevails at the hearing, the party that refuses to pay shall pay the employee's reasonable attorney's fees and costs. If the employee rejects the assessment of the Labor Commissioner and prevails at the hearing, the employer shall pay the employee's reasonable attorney's fees and costs. The guarantor shall be jointly and severally liable for the contractor's share of the attorney's fees and costs awarded to an employee only if the Labor Commissioner determines that the guarantor acted in bad faith, including, but not limited to, failure to pay, unreasonably delaying payment to the contractor, unreasonably reducing payment to the contractor where it is established that the guarantor knew or reasonably should have known that the price set for the work was insufficient to cover the applicable minimum wage and overtime pay owed by the contractor, asserting frivolous defenses, or unreasonably delaying or impeding the Labor Commissioner's investigation of the claim.

(g) Any party shall have the right to judicial review of the order, decision, or award of the Labor Commissioner made pursuant to paragraph (5) of subdivision (d) as provided in Section 98.2. As a condition precedent to filing an appeal, the contractor or the guarantor, whichever appeals, shall post a bond with the Commissioner in an amount equal to one and one-half times the amount of the award. No bond shall be required of an employee filing an appeal pursuant to Section 98.2. At the employee's request, the Labor Commissioner shall represent the employee in the judicial review as provided in Section 98.4.

(h) If the contractor or guarantor appeals the order, decision, or award of the Labor Commissioner and the employee prevails on appeal, the court shall order the contractor or guarantor, as the case may be, to pay the reasonable attorney's fees and costs of the employee incurred in pursuing his or her claim. If the employee appeals the order, decision, or award of the Labor Commissioner and the contractor or guarantor prevails on appeal, the court may order the employee to pay the reasonable attorney's fees and costs of the contractor employer or guarantor only if the court determines that the employee acted in bad faith in bringing the claim.

(i) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other provision of state or federal law. If a finding and assessment is not issued as specified and within the time limits in

paragraph (3) of subdivision (d), the employee may bring a civil action for the recovery of unpaid wages pursuant to any other rights and remedies under any other provision of the laws of this state unless, prior to the employee bringing the civil action, the guarantor files a petition for writ of mandate within 10 days of the date the assessment should have been issued. If findings and assessments are not made, or a hearing is not commenced or an order, decision, or award is not issued within the time limits specified in paragraphs (4) and (5) of subdivision (d), any party may file a petition for writ of mandate to compel the Labor Commissioner to issue findings and assessments, commence the hearing, or issue the order, decision, or award. All time requirements specified in this section shall be mandatory and shall be enforceable by a writ of mandate.

(j) The Labor Commissioner may enforce the wage guarantee described in this section in the same manner as a proceeding against the contractor. The Labor Commissioner may, with or without a complaint being filed by an employee, conduct an investigation as to whether all the employees of persons engaged in garment manufacturing are being paid minimum wage or overtime compensation and, with or without the consent of the employees affected, commence a civil action to enforce the wage guarantee. Prior to commencing such a civil action and pursuant to rules of practice and procedure adopted by the Labor Commissioner, the commissioner shall provide notice of the investigation to each guarantor and employee, issue findings and an assessment of the amount of wages due, hold a meet-and-confer conference with the guarantors and employees to attempt to resolve the matter, and provide for a hearing.

(k) Except as expressly provided in this section, this section shall not be deemed to create any new right to bring a civil action of any kind for unpaid minimum wages, overtime pay, penalties, wage assessments, attorney's fees, or costs against a registered garment manufacturer based on its use of any contractor that is also a registered garment manufacturer.

(l) The payment of the wage guarantee provided in this section shall not be used as a basis for finding that the registered garment manufacturer making the payment is a joint employer, coemployer, or single employer of any employees of a contractor that is also a Registered garment manufacturer.

(m) The Labor Commissioner may, in his or her discretion, revoke the registration under this part of any registrant that fails to pay, on a timely basis, any wages awarded pursuant to this section, after the award has become final.

**2674.** The Division of Labor Standards Enforcement shall enforce Section 2673 and Chapter 2 (commencing with Section 2675).

**2674.1.** The commissioner shall appoint an advisory committee on garment manufacturing to advise him or her of common industry problems and to effect liaison between his or her office and various segments of the industry. The committee shall consist of a cross section of the industry and shall include representatives of unions, employees, contractor associations, jobbers, and manufacturers.

**2674.2.** In the annual budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution, the Governor shall include a detailed statement of the cost of regulation and estimated revenues pursuant to the provisions of this part.

The Legislature intends that the fees established and other revenue received pursuant to this part shall provide sufficient funds to meet all state costs incurred pursuant to this part.

## ***Chapter 2. Registration***

**2675.** (a) For purposes of enforcing this part and Sections 204, 209, 212, 221, 222, 222.5, 223, 226, 227, and 227.5, Chapter 2 (commencing with Section 300) and Article 2 (commencing with Section 400) of Chapter 3 of Part 1 of this division, Sections 1195.5, 1197, 1197.5, and 1198, Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200), every person engaged in the business of garment manufacturing, shall register with the commissioner.

The commissioner shall not permit any person to register, nor shall the commissioner allow any person to renew registration, until all the following conditions are satisfied:

(1) The person has executed a written application therefor in a form prescribed by the commissioner, subscribed and sworn by the person, and containing:

(A) A statement by the person of all facts required by the commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to engage in the business of garment manufacturing if the registration is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed business of garment manufacturing together with the amount of their respective interests, except that in the case of a publicly traded corporation a listing of principal officers shall suffice.

(2) The commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) In the case of a person who has been cited and penalized within the prior three years under this part, the person has deposited or has on file a surety bond in the sum and form that the commissioner deems sufficient and adequate to ensure future compliance, not to exceed five thousand dollars (\$5,000). The bond shall be payable to the people of California and shall be for the benefit of any employee of a registrant damaged by the registrant's failure to pay wages and fringe benefits, or for the benefit of any employee of a registrant damaged by a violation of Section 2677.5.

(4) The person has documented that a current workers' compensation insurance policy is in effect for the employees of the person seeking registration.

(5) The person has paid an initial or renewal registration fee to the commissioner. The fee for initial registration and for each registration renewal shall be established in an amount determined by the Labor Commissioner to be sufficient to defray the costs of administering this part and shall be based on the applicant's annual volume, but shall be not less than two hundred fifty dollars (\$250) and shall be not more than one thousand dollars (\$1,000) for contractors and two thousand five hundred dollars (\$2,500) for all other registrants.

(b) At the time a certificate of registration is originally issued or renewed, the commissioner shall provide related and supplemental information regarding business

administration and applicable labor laws. This related and supplemental information, as much as reasonably possible, shall be provided in the primary language of the garment manufacturer. The information shall include all subject matter on which persons seeking registration are examined pursuant to subdivision (c), and shall be available to persons seeking registration prior to taking this examination.

(c) Effective January 1, 1991, persons seeking registration under this section for the first time, and persons seeking to renew their registration pursuant to subdivision (f), shall comply with all of the following requirements:

(1) Demonstrate, by an oral or written examination, or both, knowledge of the pertinent laws and administrative regulations concerning garment manufacturing as the commissioner deems necessary for the safety and protection of garment workers.

(2) Demonstrate, by an oral or written examination, or both, knowledge of state laws and regulations relating to occupational safety and health which shall include, but not be limited to, the following:

(A) Section 3203 of Title 8 of the California Code of Regulations (Injury Prevention Program).

(B) Section 3220 of Title 8 of the California Code of Regulations (Emergency Action Plan).

(C) Section 3221 of Title 8 of the California Code of Regulations (Fire Prevention Plan).

(D) Section 6151 of Title 8 of the California Code of Regulations which provides for the placement, use, maintenance, and testing of portable fire extinguishers provided for the use of employees.

(3) Sign a statement which provides that he or she shall do all of the following:

(A) Comply with those regulations specified in paragraph (2) which establish minimum standards for securing safety in all places of employment.

(B) Ensure that all employees are made aware of the existence of these regulations and any other applicable laws and are instructed in how to implement the Injury Prevention Program, Emergency Action Plan, and Fire Prevention Plan, specified in paragraph (2), in the workplace.

(C) Ensure that all employees are instructed in the use of portable fire extinguishers.

(D) Post the Injury Prevention Program, Emergency Action Plan, and Fire Prevention Plan, specified in paragraph (2), in a prominent location in the workplace.

(d) The Division of Occupational Safety and Health shall assist the Division of Labor Standards Enforcement in developing the examination which shall include, but not be limited to, the state's occupational safety and health laws specified in paragraph (2) of subdivision (c).

(e) The commissioner shall charge a fee to persons taking the examinations required by subdivision (c) which is sufficient to pay for costs incurred in administering the examinations.

(f) A person seeking renewal of registration shall be required to take both of the examinations, and sign the statement, specified in subdivision (c). However, once a renewal of registration has been granted based on these examinations, subsequent examinations shall only be required at the discretion of the commissioner if, in the



preceding year, the registrant has been found to be in violation of subdivision (a) or any of the sections enumerated in that subdivision.

(g) Proof of registration shall be by an official Division of Labor Standards Enforcement registration form. Every person, as set forth in Section 2671, shall post the registration form where it may be read by employees during the workday.

(h) At least 90 days prior to the expiration of each registrant's registration, the commissioner shall mail a renewal notice to the last known address of the registrant. The notice shall include all necessary application forms and complete instructions for registration renewal. However, omission of the commissioner to provide notice in accordance with this subdivision shall not excuse a registrant from making timely application for renewal of registration, shall not be a defense in any action or proceeding involving failure to renew registration, and shall not subject the commissioner to any legal liability under this section.

**2675.2.** Whenever an application for renewal of registration is received by the Labor Commissioner 30 days prior to the expiration of the registration, and the Labor Commissioner cannot process the application before the expiration date, the Labor Commissioner may extend the registration for no more than 90 days if the applicant has submitted a complete application, owes no outstanding penalties, owes no back wages, meets all applicable bonding requirements, and meets all other requirements for registration. Upon a showing of extenuating circumstances, the Labor Commissioner may provide such an extension with respect to a renewal application not received 30 or more days prior to expiration.

**2675.5.** (a) The commissioner shall deposit seventy-five dollars (\$75) of each registrant's annual registration fee, required pursuant to paragraph (5) of subdivision (a) of Section 2675, into one separate account. Funds from the separate account shall be disbursed by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and benefits by any garment manufacturer, jobber, contractor, or subcontractor after exhausting a bond, if any, to ensure the payment of wages and benefits. Any disbursed funds subsequently recovered by the commissioner shall be returned to the separate account.

(b) The remainder of each registrant's annual registration fee not deposited into the special account pursuant to subdivision (a) shall be deposited in a subaccount and applied to costs incurred by the commissioner in administering the provisions of Section 2673.1, Section 2675, and this section, upon appropriation by the Legislature.

**2676.** Any person engaged in the business of garment manufacturing who is not registered is guilty of a misdemeanor, except as provided in subdivision (d) of Section 2678.

**2676.5.** (a) Every person registered as a garment manufacturer shall display on the front entrance of his or her business premise, and also, if the front entrance is within the interior of a building, on or near the main exterior entrance of the building in which his or her business premise is located, his or her name, address, and garment manufacturing registration number, all in letters not less than three inches high.

(b) The Labor Commissioner may waive the requirements of this section if he or she finds compliance to be unfeasible due to the design or layout of a business premise.

(c) This section shall not apply to a showroom or a building containing a showroom if no garment manufacturing or only incidental garment manufacturing is conducted in the showroom or the building.

(d) As used in this section, "showroom" means a room where merchandise is exposed for sale or where samples are displayed.

**2676.7.** Any local agency which issues business licenses or permits shall require, as a condition of issuing any business license or permit for a garment manufacturing business, proof that the person applying for the license or permit is registered pursuant to this chapter. The official Division of Labor Standards Enforcement registration form issued pursuant to Section 2675 shall constitute proof of registration.

A person may apply for a business license or permit prior to registration with the commissioner.

**2677.** (a) Any person engaged in the business of garment manufacturing who contracts with any other person similarly engaged who has not registered with the commissioner or does not have a valid bond on file with the commissioner, as required by Section 2675, shall be deemed an employer, and shall be jointly liable with such other person for any violation of Section 2675 and the sections enumerated in that section.

(b) Any employee of a person or persons engaged in garment manufacturing who are not registered as required by this part may bring a civil action against any person deemed to be an employer pursuant to subdivision (a) to recover any wages, damages, or penalties to which the employee may be entitled because of a violation by the unregistered person or persons of any provision specified in subdivision (a) of Section 2675, or may file a claim with the Labor Commissioner pursuant to Section 2673.1. In any civil action brought pursuant to this subdivision, the court shall grant a prevailing plaintiff's reasonable attorney's fees and costs.

**2677.5.** It shall be illegal for any person registered pursuant to this chapter and contracting with another registrant to engage in any business practice which causes or is likely to cause a violation of this chapter.

**2678.** (a) A penalty, as provided in subdivision (c), may be imposed against any person for any of the following:

(1) Failure to comply within 15 days of any judgment due for violation of any labor laws applicable to garment industry workers.

(2) Failure to comply with the registration requirements of this part.

(3) Failure to comply with Section 2673 or any section enumerated in Section 2675.

(b) The order imposing the penalty may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. The order shall be in writing and shall describe the nature of the violation, including reference to the statutory provisions, rules, or regulations alleged to have been violated.

(c) The penalties shall be a civil penalty of one hundred dollars (\$100) for each affected employee for the initial violation and a civil penalty of two hundred dollars (\$200) for each affected employee for the second or subsequent violation.

(d) If a person is subject to civil penalties for a violation described in subdivision (a), but does not employ one or more workers, the civil penalty shall be five hundred dollars (\$500), and the person shall not be guilty of a misdemeanor as specified in Section 2676.

**2679.** (a) The commissioner, in addition to any civil penalty imposed pursuant to Section 2679, may require that as a condition of continued registration, such employer deposit with him or her within 10 days a bond to ensure payment of wages and benefits in such sum and form as the commissioner may deem sufficient and adequate in the circumstances but not to exceed ten thousand dollars (\$10,000). The bond shall be payable to the commissioner and shall provide that the employer shall pay his or her employees in accordance with the provisions of Section 2675. In lieu of the deposit of a bond, the commissioner, in his or her discretion, may accept other evidence of financial security sufficient to guarantee payment of wages to affected employees.

(b) The commissioner, in addition to any civil penalty imposed, shall require a bond as set forth in subdivision (a) upon any second or subsequent violation within any two-year period. The commissioner may revoke the registration of any person for any period ranging from 30 days to one year upon a third or subsequent violation within any two-year period and may confiscate any garment or wearing apparel, assembled or partially assembled, if the violation relates to minimum wages, child labor, or maximum hours of labor. If the commissioner does exercise the authority to confiscate upon such a third or subsequent violation, the commissioner shall notify persons for whom assembly is performed and shall provide for the return of such garment owner's confiscated garments or wearing apparel upon such assumption and satisfaction of liability for the violation.

**2680.** (a) Any garment or wearing apparel, assembled or partially assembled by or on behalf of any person who has not complied with the registration requirements of this part, may be confiscated by the Division of Labor Standards Enforcement. Garments and wearing apparel confiscated pursuant to this section shall be placed in the custody of the division, which shall be charged with the responsibility of destroying or disposing of them pursuant to regulations adopted under Section 2672, provided that the goods shall not enter the mainstream of commerce and shall not be offered for sale. The division shall, by registered mail and telephone, give notice of the removal and the location where the confiscated goods are held in custody to the known manufacturer and contractor.

(b) If the person from whom garments or wearing apparel are confiscated pursuant to subdivision (a) was providing the confiscated garments or wearing apparel as a contractor and has previously, within the immediately preceding five-year period, had garments or wearing apparel confiscated pursuant to subdivision (a), the Labor Commissioner may, in addition to the remedies set forth in subdivision (a), confiscate the means of production, including all manufacturing equipment and the property where the current unregistered garment manufacturing operations have taken place. This

subdivision does not apply where nonregistration of the contractor was due to delayed renewal of registration.

(c) The proceeds from the sale of any equipment or property under subdivision (b) shall be deposited into a single account in the General Fund, to be known as the Back Wages and Taxes Account. At the Labor Commissioner's discretion, and upon appropriation by the Legislature, funds from that account may be disbursed to pay back wages owed to garment workers, including, but not limited to, workers of the unregistered contractor whose violation caused the confiscation, and for the payment of taxes.

**2680.5.** The commissioner shall have the authority to investigate and mediate pricing and quality disputes arising out of written contracts between manufacturers and contractors in the garment industry.

**2681.** (a) Any person against whom a penalty is assessed or whose goods are confiscated shall, in lieu of contesting the penalty or the confiscation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after the issuance of the citation.

(b) If a person desires to contest an assessment of a penalty or the confiscation of goods, he or she shall, within 15 business days after service of the citation or confiscation of the goods, or both, petition, in writing, the office of the Labor Commissioner which appears on the citation or on the receipt for the confiscated goods of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the penalty set forth in the citation or the issue of the confiscation of the goods, or both, shall be affirmed, modified, or dismissed. If confiscated goods are involved, the hearing shall be held within 10 days. The decision of the Labor Commissioner shall consist of a notice of findings, findings, and order which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court, as long as the party agrees to pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ must be taken within 45 days of service of the notice of findings, findings, and order thereon.

(c) When no petition objecting to a citation or the proposed assessment of a civil penalty or confiscation of goods, or both, is filed, a certified copy of the citation or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.

(d) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of these

findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

**2682.** Moneys recovered under this chapter shall be applied first to payment of wages due affected employees. If insufficient funds are withheld or recovered, the money shall be prorated among all such workers. Any remainder shall be paid to the General Fund of the state.

**2684.** (a) The Legislature finds and declares that persons who are primarily engaged in sewing or assembly of garments for other persons engaged in garment manufacturing frequently close down their sewing shops to avoid paying their employees' wages and subsequently reopen under the conditions described in subdivision (b), and are more likely to do so than are other types of persons engaged in garment manufacturing.

(b) A successor to any employer that is primarily engaged in sewing or assembly of garments for other persons engaged in the business of garment manufacturing, as defined by subdivision (b) of Section 2671, that owes wages to the predecessor's former employee or employees is liable for those wages if the successor meets any of the following criteria:

(1) Uses substantially the same facilities or work force to produce substantially the same products for substantially the same type of customers as the predecessor employer.

(2) Shares in the ownership, management, control of labor relations, or interrelations of business operations with the predecessor employer.

(3) Has in its employ in a managerial capacity any person who directly or indirectly controlled the wages, hours, or working conditions of the affected employees of the predecessor employer.

(4) Is an immediate family member of any owner, partner, officer, or director of the predecessor employer or of any person who had a financial interest in the predecessor employer.

This section does not impose liability upon a successor for the guarantee of unpaid minimum wages and overtime compensation set forth in subdivision (a) or (b) of Section 2673.1.

### ***Chapter 3. Arbitration***

**2685.** The commissioner shall establish, in accordance with the provisions of this chapter, procedures for mandatory arbitration of pricing and product quality disputes arising out of written contracts between manufacturers and contractors.

**2686.** Upon the written request of any manufacturer or contractor, the Conciliation Service of the Department of Industrial Relations shall notify the other party to the dispute of the request for arbitration and shall, within seven days of receipt of the request, appoint an arbitration panel to hear and render a decision regarding the dispute. The panel shall be constituted as follows:

(a) A management level representative from a manufacturer in the general geographic area in which the dispute arises, provided that insofar as possible the manufacturer shall not be a direct competitor of the manufacturer involved in the dispute to be arbitrated. This panel member also shall be selected in accordance with the terms of the written contract.

(b) A representative from the contractors' association whose membership encompasses the general geographic area in which the dispute arises. This panel member also shall be selected in accordance with the terms of the written contract.

(c) A third party to be chosen and agreed upon by the first two parties to the dispute from a list of arbitrators provided by the American Arbitration Association. This party shall act as chairperson of the panel.

**2687.** Within seven days of appointment, the chairperson of the panel shall notify the parties in writing of the date, time, and location of the hearing before the panel. The hearing date shall be scheduled no later than 21 days after the filing of the request for arbitration, provided, however, that each party shall have no less than five days notice prior to the hearing date.

2688. On the date and time specified in the hearing notice, the chairperson shall convene the hearing and shall determine whether each party is represented. If neither party is represented, the arbitration shall be terminated, with costs assigned to the party requesting arbitration, and the parties shall forfeit any further rights under this section relating to the dispute for which arbitration was requested. In the event only one party is in attendance, the arbitration shall proceed and the panel shall make its award based upon the evidence presented. Appearance at the hearing by a party shall be deemed to waive any alleged defect in notice.

**2689.** To facilitate the conduct of the hearing, the following procedures shall govern:

(a) Upon good cause shown by a party, the chairperson shall be empowered to issue subpoenas duces tecum and ad testificandum.

(b) Each party may be represented by an attorney at the party's own expense.

(c) The formal rules of evidence shall not be applicable, but any relevant evidence shall be admitted if it is evidence upon which responsible persons would rely in the conduct of serious business affairs.

(d) All testimony shall be taken under oath.

(e) No formal written records shall be kept unless one or both parties agree to employ at their own expense a qualified court reporter for that purpose. In such case, a copy of the record shall be provided to the panel and a copy shall be made available to the other party at the standard cost for such additional copies.

(f) Those in attendance at the hearing shall be limited to the panel, the parties and their counsel, a court reporter, interpreters when requested by a party or the panel, and witnesses while testifying.

(g) Upon the request of a panel member, the panel may allow a period, not to exceed three days following the conclusion of the hearing, during which time a party may submit otherwise admissible evidence not available during the course of the hearing.

**2690.** Within 15 days after the conclusion of the hearing, the panel shall make a written award, which shall determine all questions submitted for arbitration. All decisions of the panel shall be by majority vote and the award shall be signed by the members concurring therein. The panel immediately shall provide written notice of the award to the parties and to the commissioner.

**2691.** Within 10 days of receipt of notice of the award, the party or parties who are required to comply with the terms of the award shall so comply and file proof of such compliance with the commissioner or shall file a notice of appeal with the superior court for the county in which the hearing was held. Upon the filing of such an appeal, a trial de novo shall be held, provided, however, that the decision reached by the panel as stated in the award shall be received as evidence by the trial court.

**2692.** The basic costs of the arbitration proceeding, including interpreters requested by the panel, shall be borne equally by all parties to the proceeding, provided, however, that the panel may as a part of its award impose all such costs on the party requesting arbitration if a majority of the panel determines that the matter brought before it was frivolous. In addition, in the case of a frivolous claim the panel may impose upon the party requesting arbitration the costs of translators, court reporters, and reasonable attorneys fees incurred by the other party.

**CALIFORNIA CODE OF REGULATIONS  
TITLE 8, DIVISION 1,  
CHAPTER 6, SUBCHAPTER 7. INDUSTRIAL HOMEWORK**

***ARTICLE 1. ENFORCEMENT OF INDUSTRIAL HOMEWORK ACT***

**§13600. Definitions.**

Employee means anyone engaged, suffered, or permitted to do industrial homework. It shall be the presumption that persons working in their homes for remuneration on articles to be delivered to another person not for his (her) personal or his (her) family's use are employees and not independent contractors.

**§13601. Records.**

(a) Industrial homeworkers shall keep an accurate count of the hours they work daily, and shall record said hours required in the handbook furnished by the Division of Labor Standards Enforcement. The homeworker shall submit regularly to the employer all information regarding hours worked which are required for his (her) records.

(b) The record keeping required of an employer of industrial homeworkers shall include an accurate recording of the hours worked during the pay roll period as reported by each industrial homeworker, and these hours shall be posted to the same record as wages. Industrial homeworkers shall be designated as such on the pay roll records.

**§13602. Preliminary Information Required by Employer.**

Prior to obtaining an industrial homework license, the employer shall submit an application in accordance with Labor Code Section 2665, to the Division of Labor Standards Enforcement on a form supplied by the Division of Labor Standards Enforcement (see Exhibit A).

(b) Within 30 calendar days of receipt of an application for a license to employ industrial homeworkers the Division of Labor Standards Enforcement shall inform the applicant in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(c) Within 60 calendar days from the date of filing of a completed application, the Division of Labor Standards Enforcement shall inform the applicant in writing of its decision regarding the application.



### **§13603. Inspections.**

(a) Every employer possessing an industrial homework license shall allow any duly authorized representative of the Division of Labor Standards Enforcement free access to his (her) place of business for the purpose of making inspections of, or excerpts from, all books, reports, contracts, pay rolls, documents or papers relating to the employment of homeworkers; or for the purpose of inspecting any articles sent out for industrial homework or samples thereof; or in order to make time studies of work performed in a factory to determine whether the piece rates paid for industrial homework are sufficient to yield the legal minimum wage.

(b) Industrial homeworkers shall permit entry into their homes by duly authorized representatives of the Division of Labor Standards Enforcement possessing a search warrant as defined in Labor Code Section 2656, for the purpose of making investigations as to the homeworker's compliance with Sections 2651 and 2661 of the State Labor Code; to inspect articles on which industrial homework is being performed; to check homeworker's observance of record keeping requirements; or to make on the homeworker's premises, or elsewhere, such time studies of work performance as may be required to determine compliance with legal wage requirements.

### **§13604. Revocations of Licenses or Permits.**

If, after investigation the Division of Labor Standards Enforcement, believes that an employer possessing an industrial homework license, or an industrial homeworker possessing an industrial homework permit has failed to comply with provisions of the Industrial Homework Act or its rules and regulations, a hearing may be held by the Division of Labor Standards Enforcement to determine whether there has been a violation. Before denying, suspending or revoking any license or permit, the Labor Commissioner shall afford the applicant or holder an opportunity to request a hearing in accordance with Chapter 5 Part I of Division 3 of Title 2 of the Government Code Sections 11500 et. seq. Any such hearing on appeal of a denial of a license or permit or on the proposed suspension or revocation of such license or permit, shall be conducted in accordance with Chapter 5 of Part I of Division 3 of Title 2 of the Government Code (Section 11500 et seq.) and the Labor Commissioner shall have all the powers granted therein. Written notices of such hearing will be sent to the employer or industrial homeworker in question and the license or permit may be revoked upon a finding that there has been such violation.

## ***Article 2. Prohibiting Industrial Homework in the Garment Manufacturing Industry***

### **§13620. Prohibiting Industrial Homework in the Garment Manufacturing Industry.**

Industrial homework and the distribution of articles for industrial homework by any employer in the garment manufacturing industry is prohibited.

**§13621. Definitions.**

The garment manufacturing industry is defined as follows: All persons engaged in the business of manufacturing garments for wear upon the human body.

For the purpose of this order the term garment manufacturing means and includes every process, either hand or machine, involved in the manufacture of any or all garments for wear upon the human body, whether such process be applied to fabric, textile, fur, leather, or leather substitute, or other material of a similar nature, and also means to prepare, alter, repair, or finish in whole or in part.

Hand knitting is hereby specifically excepted from the operation of this order.

"Employer" means any person who, directly or indirectly or through an employee, agent, independent contractor, or any other person, delivers to another person any materials or articles to be manufactured in a home and thereafter to be returned to him, not for the personal use of himself or of a member of his family.

"Industrial homework" means any manufacture in a home of materials or articles for an employer.

"Industrial homemaker" means any person who does industrial homework.

All outstanding permits to employers and all outstanding certificates to industrial homeworkers in the garment manufacturing industry, as defined above, shall be null and void after September 1, 1941, and no permits shall hereafter be issued to employers for the distribution of articles for industrial homework and no certificates shall hereafter be issued to homeworkers on such articles, except in accordance with the provisions of Sections 11022 and 11023.

**§13622. Special Authorization for Aged and Disabled Homeworkers.**

(a) Terms of Issuance. If not inconsistent with the purposes of Part 10, Labor Code, employers and homeworkers in the garment manufacturing industry may be granted special homework permits and certificates on condition that the Chief of the Division of Industrial Welfare, after investigation, finds:

(1) That the industrial homemaker was working for an employer as an industrial homemaker in the garment manufacturing industry on or prior to September 1, 1941, and is:

(A) Unable to adjust to factory work because of advanced age; or

(B) Physically or mentally disabled or suffering from an injury and an examination by a physician, designated by the Chief of the Division of Industrial Welfare, reveals that such disability would prevent the worker from adjusting to factory employment; or

(C) Unable to leave home because such worker's services are essential to care for an invalid in the home.

(2) That the industrial homemaker is covered by workmen's compensation insurance;

(3) That the employer maintains a factory in which one or more employees are employed on operations which are similar to the homework operations.

### **§13623. Conditions of Employment.**

(a) Work for One Employer Only. An industrial homemaker shall be permitted to work for one employer only.

(b) Factory Work Prohibited to Homemaker. The industrial homemaker shall not be employed as a factory worker while he or she holds a homework certificate.

(c) Work Distributed Directly to the Homemaker. The employer shall distribute and collect all materials and articles free of charge to the homemaker.

(d) Labels. The employer shall conspicuously affix to each article or material or, if this is impossible, to the package or other container in which such goods are delivered or are to be kept, a label or other mark of identification bearing the employer's name and address, printed or written legibly in English.

(e) Limitation of Work. The maximum amount of work which may be given to any industrial homemaker in any week shall not exceed the average weekly amount produced by workers working legal hours on similar operations in the shop.

(f) Rates Paid to Homeworkers. On any operation, a female or minor homemaker shall be paid a piece-rate sufficient to yield to workers on similar operations in the factory the legally established minimum wage established by the Industrial Welfare Commission.

(g) Employer's Record:

(1) The employer shall keep a record of the name and address of the industrial homemaker, of all articles or materials which such homemaker has manufactured, the date on which articles or materials are issued to the homemaker, a list of articles or materials given out, the kind of work performed on such articles or materials, and the operations to be performed, the piece rates per dozen or per unit paid to the homemaker, the date and amount of finished articles or materials returned, the wages paid for each lot of articles or materials returned, and the total weekly payment made to the homemaker.

Each employer shall, on demand, submit to the Chief of the Division of Industrial Welfare or to her representative a sworn copy of such records, together with such information as the Chief of the Division of Industrial Welfare may in her discretion deem necessary.

(2) Any person who does not deliver articles or materials directly to an industrial homemaker shall keep the name and address of each agent, distributor, or contractor through whom industrial homework is distributed and of all persons from whom he has received materials or articles to be so manufactured.

(h) Homemaker's Record. The homemaker shall keep a record on a form issued by the Division of Industrial Welfare on which the homemaker shall enter the date on which articles or materials are received by the homemaker; a list of all articles or materials received; the kind of work performed on such articles or materials; the piece rates paid per dozen or per unit; the date and amount of finished articles or materials returned; an accurate record of the number of hours worked per day and the total hours worked per week; the total amount received for the work performed during each week; and the date payment was received. All of the above required information shall be certified to by the homemaker. Such records shall be the property of the Division of Industrial Welfare and shall be returned to the division not later than the 10th of the month succeeding the month in which the work was performed; or at any time upon demand by the division.

(i) Revocation of Certificates and Permits. Industrial homework certificates and permits may be revoked or suspended at any time after the holder has been given reasonable notice and an opportunity to be heard, if, upon investigation, the Chief of the Division of Industrial Welfare finds that the industrial homemaker is performing industrial homework contrary to the above conditions or has permitted any person not holding a valid homemaker's certificate to assist him or her in performing industrial homework, or that the employer has not complied with the above regulations or any applicable provision of the Labor Code or the orders or regulations of the Industrial Welfare Division.

#### **13624. Effect of Invalid Sections.**

Every section or part of this order is declared to be separate and independent of every other section or part and if any section or part of this order is declared invalid, said construction shall not invalidate any of the remaining sections or parts of said order, but the same shall remain in full force and effect as if the invalid portion had never been enacted.

(This is Prohibitory Order No. 1 in the Garment Manufacturing Industry. Effective September 1, 1941.)

**CALIFORNIA CODE OF REGULATIONS  
TITLE 8, DIVISION 1,  
CHAPTER 6, SUBCHAPTER 8. GARMENT MANUFACTURERS**

**§13630. Registration of Manufacturers and Contractors.**

All persons, within the meaning of Labor Code Section 2671(a), engaged in “garment manufacturing,” as defined in Labor Code Section 2671(b), must register with the Labor Commissioner as either a “contractor”(defined at Labor Code Section 2671(d)), or a “manufacturer,” according to that person's bona fide business practices. A person's designation on a registration as a “contractor” or “manufacturer” shall not preclude the introduction of evidence in any proceeding before the Labor Commissioner on the actual business practices of such person.

**§13631. Recordkeeping.**

Every employer engaged in the business of garment manufacturing shall keep accurate records as required by Labor Code Sections 226 and 2673, any applicable order of the Industrial Welfare Commission, and section 13659 of this subchapter. These records shall be maintained for a period of no less than four years, unless otherwise specified, at the place of employment or at a central location within the State of California, and shall be made available to the Labor Commissioner, or his or her agents, upon request for inspection and/or copying. Failure to provide these records to the Labor Commissioner within ten days of the date of request, or providing records that have been falsified, shall constitute grounds for revocation of registration or denial of an application for registration.

**§13632. Advisory Committee.**

The Labor Commissioner shall appoint a 15 member advisory committee on issues related to employment and the enforcement of wage and hour laws in the garment industry, which shall meet, at least semi-annually, alternately in Los Angeles and San Francisco. Members shall serve without compensation or reimbursement for expenses. At each meeting the Committee may authorize distribution of a publication to be prepared by the Division of Labor Standards Enforcement, focusing on industry practices and patterns of violations.

### **§13633. Registration of Employee Leasing Companies and Temporary Agencies.**

(a) Every employee leasing company or temporary agency that leases or otherwise provides garment manufacturers or contractors with the services of employees engaged in sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or article of wearing apparel or accessories designed or intended to be worn by any individual is itself engaged in garment manufacturing, and must register with and obtain a valid registration certificate from the Labor Commissioner as a contractor.

(b) Every employee leasing company or temporary agency shall provide the Labor Commissioner with written notice whenever it enters into, or terminates, an arrangement to lease or otherwise provide employees engaged in any of the above enumerated garment manufacturing operations to a garment manufacturer or contractor. This notice shall include the name and address of the garment manufacturer or contractor that was or will be a party to the arrangement, the dates from beginning to end that employees were or will be leased or otherwise provided under the arrangement, the address(es) where the employees performed or will perform the garment manufacturing operations, and the number of employees that have been or will be leased or otherwise provided to the garment manufacturer or contractor under the arrangement. This notice shall be mailed to: Division of Labor Standards Enforcement, Licensing & Registration Unit, PO Box 420603, San Francisco, CA 94142. Failure to provide this notice within ten days of the date of entering into or terminating the arrangement will constitute grounds for revocation of registration or denial of an application for registration.

### **§13634. Requirements for Registration.**

(a) Applicants for registration shall complete the application form provided by the Labor Commissioner entitled, "Application for Registration Garment Manufacturing Industry" [DLSE 810 (REV. 03/02)], which is hereby incorporated by reference. The form includes the following information which the applicant shall certify under penalty of perjury:

(1) Name and business address of applicant, and the address of each location where employees will be engaged in garment manufacturing;

(2) Form of business entity;

(3) Name, social security number, California driver's license number, and residence address of owner, if sole proprietorship;

(4) Name(s), social security number(s), California driver's license number(s), and residence address(es) of co-owners, if any;

(5) Fictitious name, if any, under which the business is operated;

(6) Names, social security number(s), California driver's license number(s), and residence addresses of all partners, if a partnership;

(7) Names, social security numbers, California driver's license numbers, and residence addresses of all officers and directors, and their respective titles, if a corporation;

(8) Number of employees, and a copy of the most recently filed quarterly report to the Employment Development Department reflecting the number of employees employed;

(9) Type of business, and whether the business primarily operates as a garment manufacturer or a garment contractor;

(10) Proof of current workers' compensation insurance coverage;

(11) The name(s), address(es), and form(s) of business entities of persons and entities engaged in the business of garment manufacturing with whom the applicant has entered into contracts for the performance of garment manufacturing services during the past three years;

(12) The applicant's employer tax identification number;

(13) Name(s), social security number(s), California driver's license number(s), and residence address(es) of all managers and supervisors who directly or indirectly control the wages, hours, or working conditions of the applicant's employees.

(14) Name(s), social security number(s), California driver's license number(s), and residence addresses of all substantial shareholders, and the percentage of their ownership in the business, if a corporation. For the purpose of this section, the term "substantial shareholder" shall mean any shareholder who owns at least 20% of the total value of all classes of stock, or, if no stock has been issued, who owns at least 20% of the beneficial interests in the corporation.

(15) Names, social security number(s), California driver's license number(s), and residence addresses of all members, if a limited liability corporation.

(16) Name and business address of the agent for service of process, if a corporation or limited liability company.

(17) The amount of gross sales receipts, as defined in section 13635(d), for the 12-month period immediately preceding the filing of the application.

(18) A list of all assessments of wages due and all penalty citations for violations of provisions of the Fair Labor Standards Act or the California Labor Code that were issued by the United States Department of Labor or the California Department of Industrial Relations within the past three years to the applicant or the applicant's owner(s), partners (if the applicant is a partnership), corporate officers, directors and substantial

shareholders (if the applicant is a corporation), members (if the applicant is a limited liability company), or managers and supervisors; the names of the persons and businesses that were cited or assessed; the date and amount of each citation or assessment; the disposition of any appeal on the citation or assessment; and whether or not the citation or assessment has been paid, and if so, the date it was paid.

(19) A list of all judgments and settlement agreements for unpaid wages that were entered within the past five years against the applicant or the applicant's owner(s), partners (if the applicant is a partnership), corporate officers, directors and substantial shareholders (if the applicant is a corporation), members (if the applicant is a limited liability company), or managers and supervisors; the names of the persons and businesses against whom judgments or settlement agreements for unpaid wages were entered; the date of entry of judgment or the date of execution of the settlement agreement; the court that entered the judgment, the case number, and the amount found due in each judgment or settlement agreement; and whether or not the judgment or settlement agreement has been paid, and if so, the date it was paid.

(20) Whether the applicant or the applicant's owner(s), partners (if the applicant is a partnership), corporate officers, directors and substantial shareholders (if the applicant is a corporation), members (if the applicant is a limited liability company), or managers and supervisors have had a garment registration certificate revoked or an application for registration denied, and if so, the name and address of the business whose registration or application for registration was revoked or denied, the period of revocation or date of denial, and the reasons for the revocation or denial.

(21) For any applicant that had an application for registration denied, or a registration revoked or suspended, pursuant to proceedings under section 13646 at any time during the past three years, whether the applicant has had any gross sales receipts, as defined in section 13635(d), at any time during the three years prior to the filing of the application.

(22) For new applicants, whether the applicant or the applicant's owner(s), partners (if the applicant is a partnership), corporate officers, directors and substantial shareholders (if the applicant is a corporation), members (if the applicant is a limited liability company), managers and supervisors, or immediate family members of any of the above persons have ever previously operated as a garment manufacturer, contractor, or in any other capacity in garment manufacturing, including but not limited to exercising direct or indirect control over garment workers' wages, hours and working conditions, and if so, the name(s) and address(es) of the business(es), dates of operation, garment registration number(s), and dates of registration.

(b) Every person applying for registration as a manufacturer shall certify in writing that he or she is aware of the wage guarantee provision of Labor Code Section 2673.1, under which every garment manufacturer guarantees payment of his or her proportionate share of any unpaid minimum wages and overtime wages owing to any employees of the



contractors with whom the manufacturer contracts, for work performed by the contractor's employees on behalf of the manufacturer.

(c) The residence addresses, social security numbers, and California driver's license numbers listed in the application for registration pursuant to subsections (a)(3),(4), (6), (7), (13), (14) and (15), above, are for the Labor Commissioner's use for licensing and law enforcement purposes, and are confidential and shall not be disclosed to any person other than an employee of a law enforcement agency, except if required by court order or if necessary for the prosecution, by the Labor Commissioner, of any judicial or administrative proceeding.

### **§13635. Registration and Examination Fees.**

(a) The Labor Commissioner shall collect the following amounts in fees for initial registration and annual renewal of registration from contractors who have not had an application for registration denied or a registration revoked or suspended pursuant to proceedings under section 13646 during any portion of the three year period prior to the submission of the application for registration:

(1) A \$250 fee for contractors with gross sales receipts of \$100,000 or less during the 12-month period prior to application.

(2) A \$350 fee for contractors with gross sales receipts from \$100,001 to \$500,000 during the 12-month period prior to application.

(3) A \$500 fee for contractors with gross sales receipts from \$500,001 to \$1,000,000 during the 12-month period prior to application.

(4) A \$1,000 fee for contractors with gross sales receipts of \$1,000,001 or more during the 12-month period prior to application.

(b) The Labor Commissioner shall collect the following amounts in fees for initial registration and annual renewal of registration from manufacturers who have not had an application for registration denied or a registration revoked or suspended pursuant to proceedings under section 13646 during any portion of the three year period prior to the submission of the application for registration:

(1) A \$750 fee for manufacturers with gross sales receipts of \$500,000 or less during the 12-month period prior to application.

(2) A \$1,000 fee for manufacturers with gross sales receipts from \$500,001 to \$3,000,000 during the 12-month period prior to application.

(3) A \$1,500 fee for manufacturers with gross sales receipts from \$3,000,001 to \$7,000,000 during the 12-month period prior to application.

(4) A \$2,500 fee for manufacturers with gross sales receipts of \$7,000,001 or more during the 12-month period prior to application.

(c) The Labor Commissioner shall collect the following amounts in fees for initial registration and annual renewal of registration from any manufacturer or contractor who has had an application for registration denied or a registration revoked or suspended, pursuant to proceedings under section 13646, at any time during the three year period prior to the submission of the application for registration:

(1) A \$500 fee for contractors with no gross sales receipts during the three-year period prior to application.

(2) A \$1,000 fee for contractors with any gross sales receipts during the three-year period prior to application.

(3) A \$1,500 fee for manufacturers with no gross sales receipts during the three-year period prior to application.

(4) A \$2,500 fee for manufacturers with any gross sales receipts during the three-year period prior to application.

(d) For the purpose of this section, gross sales receipts means all amounts received by the applicant, in the form of money, promissory notes, credit, or any other items of value, for the sale or transfer of goods, or for services provided by the applicant or its employees. In determining gross sales receipts, the applicant shall not deduct from sales receipts or adjust sales receipts for any expenses, including but not limited to the cost of material, labor, services, storage, transportation, rent, utilities, interest on loans, insurance, taxes, and any business losses.

(e) An applicant or registrant shall, within a reasonable time and in no event more than 15 days from the date of a request, provide the Labor Commissioner any documents deemed necessary by the Labor Commissioner for verifying gross receipts. Failure to provide the requested documentation or providing any false and misleading information concerning gross receipts shall constitute grounds for denial of the application or revocation of registration.

(f) Every applicant required to take the examination(s) provided by Labor Code Section 2675(c) or (f) shall pay an examination fee of \$25 to the Labor Commissioner prior to taking the examination(s). An individual will not be permitted to take the examination(s) on behalf of an applicant unless the individual has at least a 20% ownership interest in the applicant's business, or will function as the applicant's director of labor relations, and in that capacity will exercise direct or indirect control over employees' wages, hours and working conditions.

**§13635.1. Filing Schedule for Applications.**

(a) Within 30 calendar days of receiving an application, the Labor Commissioner shall inform the applicant in writing that either:

(1) the application is complete and has been accepted for processing, or

(2) the application is incomplete, and specify the information or items needed to correct the deficiency.

(b) Within 60 days from the date on the written notice of an incomplete application, the applicant must correct the application by providing the required information or items, and return the application to the Labor Commissioner. If the applicant fails to meet this deadline, the application will be rejected, and the applicant shall forfeit the application fee. Following a rejection pursuant to this subsection, the applicant may submit a subsequent application which must be accompanied by the required fee.

(c) Within 60 calendar days after accepting a completed application, the Labor Commissioner shall inform the applicant in writing of the decision on the application.

(d) In the event that the Labor Commissioner fails to reach an application decision within 60 days of accepting a completed application, the applicant may appeal to the Secretary of the Labor and Workforce Development Agency in accordance with the following procedure:

(1) The appeal shall be in writing and shall be delivered in person or postmarked within 15 calendar days after the maximum time period specified in subsection (c) has elapsed.

(2) After receiving the appeal, the Secretary of the Labor and Workforce Development Agency shall determine whether or not the maximum time period of subsection (c) was exceeded, and if so, whether there was good cause for the failure to comply. Good cause as set forth in this section means, in accordance with Government Code Section 15376, that either:

(A) the Labor Commissioner processed 15% more applications than in the same calendar quarter of the proceeding year, or;

(B) the Labor Commissioner was required to rely on another public or private entity to process any part of the application, and that other entity was responsible for the delay, or;

(C) the delay was caused by a natural disaster or other catastrophe that substantially impeded the Labor Commissioner's ability to process the application in a timely manner.

(3) If the Secretary of the Labor and Workforce Development Agency finds no good cause for the failure to reach a decision on the completed application within the time set forth in subsection(c), the Labor Commissioner shall refund any applicable filing fee in

full, and shall ensure that the application is expeditiously processed without any additional fee.

(4) If the Secretary of the Labor and Workforce Development Agency finds good cause for the failure to reach a decision on the completed application within the time set forth in subsection (c), the Labor Commissioner shall not refund the applicable filing fee or any portion thereof.

(5) A finding of untimely processing by the Labor Commissioner shall have no bearing on the merits of the application or the decision on whether to issue a Registration Certificate. Any such application shall be subject to denial under the criteria set out at Labor Code Section 2675, and in accordance with the procedures set out under section 13646, below.

(e) The following information is provided pursuant to Government Code Section 15376: During the past two years, the Labor Commissioner's time periods for processing an application for registration from receipt of the application to the final issuance or denial of registration were as follows:

- (1) The median time was 45 calendar days.
- (2) The minimum time was 7 calendar days.
- (3) The maximum time was 365 calendar days.

**§13636. Registration Certificate.**

The Registration Certificate shall be valid for a period of one year from the date of issuance, unless revoked. The Certificate is non-transferrable and is valid only for the address(es) shown on its face.

**§13637. Amended Certificate.**

The registrant shall notify the Labor Commissioner in writing at least two weeks prior to any change(s) of address. Such notification is required as to each location not already listed on the Registration Certificate where employees will be engaged in garment manufacturing. Following receipt of written notice from a garment contractor or manufacturer in possession of a current Registration Certificate, the Labor Commissioner shall, without additional cost, issue an amended certificate listing the new address(es), unless the business of garment manufacturing cannot legally or safely be carried on at the proposed address(es).

### **13638. Duplicate Certificate.**

If the original certificate is lost, the Labor Commissioner shall, on written request and without additional cost, issue a duplicate certificate.

### **§13639. Penalty Assessment.**

Penalties assessed under Labor Code Section 2678(a) shall be computed by using any of the following:

- (a) The number of affected employees present at the time of the inspection;
- (b) The number of affected employees present when the violations occurred, as determined from the employers' records;
- (c) The number of affected employees present when the violations occurred, as established from other information available to the Division of Labor Standards Enforcement.

### **§13640. Notice of Penalty Assessment and Right to Hearing.**

If penalties are assessed under Labor Code Section 2678(a), the Division of Labor Standards Enforcement shall serve written notice as required by Labor Code Section 2678(b) on all persons liable as well as those who may assume liability for the violations. Notice shall include information on hearing and appeal rights under Labor Code Section 2681.

### **§13641. Bonds for Continued Registration.**

(a) The amount of the registration bond to be deposited with the Labor Commissioner under the provisions of Labor Code Sections 2675(a)(3), 2679(a) and 2679(b) shall be sufficient to insure payment of wages and benefits to all employees up to a maximum of four calendar weeks. In no event shall the number of employees used for such computations be less than the highest number of employees employed during any one pay period during the preceding 12-month period. The registration bond shall be issued by a surety licensed to do business in the State of California.

(b) An undertaking in the form of a cashier's check or money order made payable to the Labor Commissioner may be provided to the Labor Commissioner in lieu of depositing a surety bond as a condition for continued registration under Labor Code Sections 2675(a)(3), 2679(a) and 2679(b). The Labor Commissioner shall deposit the undertaking in a bank account in which the Labor Commissioner is named as a trustee. Any earned interest, along with the principal, shall be used to satisfy claims against the undertaking.

Upon return of the undertaking, any remaining amount, including interest, shall be transmitted to the employer.

**§13642. Return of Registration Bond.**

If an employer that has posted a bond or undertaking pursuant to section 13641 of this subchapter does not commit additional violations as set forth in Labor Code Sections 2673, 2675 and 2678 within any three-year period, the bond or undertaking shall be returned to the employer.

**§13643. Action Against Registration Bond.**

If an employer that has posted a bond or undertaking pursuant to section 13641 of this subchapter fails to pay wages and benefits to employees, as set forth in Labor Code Section 2675, the Labor Commissioner may proceed against the bond or undertaking by written notice to the employer and the surety; and shall take appropriate action to recover the unpaid wages and benefits from the bond or undertaking.

**§13644. Bonds for Filing an Appeal from an Order, Decision or Award.**

(a) The bond that is required pursuant to Labor Code Section 2673.1(g), as a condition precedent to filing an appeal from an order, decision or award of the Labor Commissioner, shall be issued by a surety licensed to do business in the State of California, in an amount equal to one and one-half times the award, and shall be made payable to and posted with the Labor Commissioner. An undertaking in the form of a cashier's check or money order made payable to the Labor Commissioner may be provided to the Labor Commissioner in lieu of posting this surety bond. The surety bond or undertaking shall be delivered to the office of the Labor Commissioner where the hearing that resulted in the order, decision or award was held. The bond or undertaking shall be conditioned that if any judgment is entered in favor of the employee, the contractor or guarantor shall pay the amount owed pursuant to the judgment, and if the appeal is withdrawn or dismissed without entry of judgment, the contractor or guarantor shall pay the amount owed pursuant to the order, decision or award of the Labor Commissioner unless the parties have executed a settlement agreement for payment of some other amount, in which case the contractor or guarantor shall pay the amount that it is obligated to pay under the terms of the settlement agreement. If the contractor or guarantor fails to pay the amount owed within 10 days of the entry of judgment, dismissal or withdrawal of the appeal, or the execution of a settlement agreement, a portion of the bond or undertaking equal to the amount owed, or the entire bond or undertaking if the amount owed exceeds the bond or undertaking, shall be forfeited to the employee.

(b) Upon receipt of this appeal bond or undertaking, the Labor Commissioner shall provide the contractor or guarantor posting the bond or undertaking with a notice of posting of the bond with the Labor Commissioner pursuant to Labor Code Section

2673.1, stating the name and case number of the order, decision or award, the amount posted with the Labor Commissioner, the date this amount was posted, and that no additional appeal bond need be posted with the court because this case involves minimum wages or overtime compensation owed to garment workers, and thus, the appeal bond provisions of Labor Code Section 2673.1(g), rather than the appeal bond provisions of Labor Code Section 98.2(b), apply to the filing of a de novo appeal from the Labor Commissioner's order, decision or award. The contractor or guarantor filing an appeal from the order, decision or award shall advise the court with which it is filing this appeal that it has posted the required bond with the Labor Commissioner by attaching to its notice of appeal a copy of the notice of posting of the bond with the Labor Commissioner.

### **13645. Periods of Revocation.**

(a) Revocation periods under Labor Code Section 2679(b) shall be 30-90 days if one of the violations relates to minimum wage, overtime, or child labor; 3-6 months if two of the violations relate to minimum wage, overtime, or child labor; and 6 months-1 year if three or more of the violations relate to minimum wage, overtime, or child labor.

(b) A garment manufacturer or contractor whose registration is revoked under this section may apply for a new registration upon expiration of the revocation. An application for new registration will be denied unless all judgments and settlement agreements for the payment of wages have been satisfied.

### **§13646. Hearings to Deny an Application and to Revoke or Suspend Registration.**

(a) Denial of an application for registration and revocation or suspension of registration shall be upon proper notice and upon hearing, if appealed. The appeal shall be directed to the Labor Commissioner who shall assign the matter to a hearing officer for hearing. The hearing shall be conducted according to the rules set forth below, and except as specifically provided herein, the provisions of Title 2, Division 3, Part 1, Chapter 5 of the Government Code (commencing with Government Code Section 11500) shall not apply to these proceedings.

(b) Proceedings to determine whether a registration shall be revoked, suspended or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which set forth in ordinary and concise language the acts or omissions with which the registrant is charged, and shall specify the statutes or rules which the registrant is alleged to have violated. The accusation shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the Division of Labor Standards Enforcement.

(c) Proceedings to determine whether a registration certificate shall be issued or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the applicant must show compliance by producing proof at the hearing and, in addition, any particular matters that

have come to the attention of the initiating party that would authorize a denial of the application for registration. The statement of issues shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the Division of Labor Standards Enforcement.

(d) Upon the filing of an accusation or statement of issues, the Division of Labor Standards Enforcement shall serve a copy thereof on the registrant or applicant in a manner provided by Government Code Section 11505(c). The copy of the accusation or statement of issues shall include or be accompanied by:

(1) a statement that the respondent may request a hearing by filing a notice of defense within 15 days after service upon the respondent of the accusation or statement of issues, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and

(2) a form entitled notice of defense which, when signed by or on behalf of the respondent and returned to the Division, will constitute a request for a hearing.

(e) Within 15 days after service of the accusation or statement of issues, the respondent may file with the Division a notice of defense in which the respondent may:

(1) Request a hearing;

(2) Object to the accusation or statement of issues on the ground that it does not state acts or omissions upon which the Division may proceed;

(3) Object to the form of the accusation or statement of issues on the ground that it is so indefinite or uncertain that the respondent cannot prepare a defense;

(4) Admit the accusation or statement of issues in whole or in part; or

(5) Present new matter by way of a defense.

The respondent shall be entitled to a hearing on the merits if the respondent files a timely notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation or statement of issues not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the Division, in its discretion, may nevertheless grant a hearing.

(f) If the respondent either fails to file a notice of defense or to appear at the hearing, the Division may take action based upon the respondent's express admissions or upon other evidence, and declarations may be used as evidence without any notice to respondent; and where the burden of proof is on the respondent to establish that the respondent is entitled to the issuance or renewal of a registration, the Division may proceed by default without scheduling a hearing or taking evidence.



(g) Declarations may be admitted into evidence at a contested hearing in accordance with the procedure for admitting affidavits set forth at Government Code Section 11514.

(h) At any time before the matter is submitted for decision, the Division may file or permit the filing of an amended or supplemental accusation or statement of issues. If the amended or supplemental accusation or statement of issues presents new charges, the Division shall afford the respondent a reasonable opportunity to prepare a defense thereto. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or statement of issues may be made orally during the hearing.

(i) The provisions of Government Code Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding to deny an application for registration or to revoke or suspend a registration. A party shall have 20 days from the date of the mailing of the request for discovery to provide the requested discovery to the requesting party. Any party claiming non-compliance with a discovery request made under this section may file with the hearing officer a motion to compel discovery. Any such motion shall be served upon the party from whom discovery is sought within 15 days of that party's failure or refusal to provide the discovery. The party against whom discovery is sought may file a written response to the motion by filing such response within 10 days of service of the motion. The motion may be decided with or without a hearing, at the discretion of the hearing officer. The order denying the motion, or granting the motion in whole or in part, shall be in writing.

(j) The Division shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing. The notice of hearing shall be in substantially the same form as set forth at Government Code Section 11509, and shall include notice of the right to request an interpreter for a party or witness who cannot proficiently speak or understand English.

(k) The hearing shall be presided over by a hearing officer appointed by the Labor Commissioner. A contested hearing shall be conducted in accordance with the procedures set forth at sections 13651 to 13654 of this subchapter.

(l) The hearing officer's proposed decision shall be in writing, be based on the record, and include a statement of the factual and legal basis of the decision, as provided in Government Code Section 11425.50. Within 45 days of the conclusion of the hearing, the hearing officer shall transmit the proposed decision to the Labor Commissioner, who may either:

(1) Adopt the proposed decision in its entirety, or

(2) Modify any part of the proposed decision, including the order, or

(3) Remand the case to the hearing officer for further proceedings. Within 60 days of the conclusion of the hearing, copies of the Labor Commissioner's decision, and the hearing officer's proposed decision which shall be attached thereto, shall be delivered to the

parties personally or sent to them by certified mail. The decision shall become effective 30 days after it is delivered or mailed to the respondent, unless the decision provides for an earlier date, or a stay of execution has been granted by the Division. A stay of execution may be included in the decision or granted by the Division at any time before the decision becomes effective, and may be accompanied by an express condition that the respondent comply with specified conditions or terms of probation.

**§13647. Registration After Revocation.**

After the revocation period expires, and liabilities set forth in Labor Code Sections 2673.1, 2677, 2678, and 2679(b) have been assumed and satisfied, the garment manufacturer or contractor may file a new application for registration with the Labor Commissioner.

**§13648. Confiscation.**

(a) If garments are confiscated pursuant to Labor Code Section 2679(b), or 2680(a), a notice of confiscation and hearing and appeal rights, as provided by Labor Code Section 2681, shall be served on all persons liable or who may assume liability for violations.

(b) If the contractor's means of production, including manufacturing equipment or property, are confiscated pursuant to Labor Code Section 2680(b), notice of confiscation and hearing and appeal rights shall be served on the contractor and on any other person or entity known to have an ownership interest in the equipment or property. Hearing and appeal rights shall be according to the same provisions for the appeal and hearing of garment confiscations, as set forth in Labor Code Section 2681, and section 13650 of this subchapter.

**§13649. Disposition of Confiscated Goods.**

(a) Garments or wearing apparel confiscated pursuant to Labor Code Section 2658.7, 2664, 2679(b), or 2680(a), and not otherwise returned, shall be disposed of as follows:

(1) The confiscated goods may be released to nonprofit organizations whose articles of association or incorporation include religious, charitable, social, and educational purposes, provided that the organizations agree, in writing, that these goods will be made available at no cost to impoverished or needy persons, that these goods will not be offered for sale to any person, and that these goods will not be given to any for-profit business; or

(2) The confiscated goods may be released to public agencies, including, but not limited to, State agencies, political subdivisions, municipal corporations, or school districts, which conduct power machine sewing classes, for instructional use in such classes; or

(3) The confiscated goods may be destroyed by shredding, by burning, or by otherwise rendering them useless as items of wearing apparel.

(b) Confiscated manufacturing equipment or property (other than garments or wearing apparel) may be disposed of by destruction, donation to a non-profit charitable organization or educational institution, or by sale to any purchaser. If such equipment or property is sold by the Labor Commissioner, the proceeds of the sale shall be deposited as provided by Labor Code Section 2680(c).

**§13650. Hearings on Appeals of Penalty Assessments or Confiscations.**

A hearing held pursuant to Labor Code Section 2681 on an appeal of a garment penalty assessment or a confiscation of garments, wearing apparel or other property shall be conducted in accordance with the procedures set forth at sections 13651 to 13654 of this subchapter.

**§13651. Conduct of Hearing; Rules of Evidence.**

(a) The hearing need not be conducted according to the technical rules of evidence relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions, except that the rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.

(b) Hearsay evidence may be used to supplement or explain other evidence, but shall not of itself be sufficient to support a finding. An objection is timely if made before submission of the case.

**§13652. Rights of Parties at Hearing; Taking of Evidence; and Rules of Procedure.**

(a) Each party to a hearing shall have the right to appear in person and by counsel; to call and examine witnesses and cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; to rebut evidence; and to introduce documentary exhibits and other evidence.

(b) Oral evidence shall be taken only on oath or affirmation.

(c) The hearing proceedings shall be electronically recorded. In lieu of or supplemental to an electronic recording, the hearing officer shall allow a party to have the proceedings transcribed by a court reporter, provided that the court reporter furnish the Labor Commissioner with a certified copy of the transcript as soon as it is prepared, and that the party requesting that the proceedings be transcribed pay the cost of all transcripts.

### **§13653. Role of Hearing Officer.**

The hearing officer who presides over the hearing, in exercising sound discretion, may control the order of presentation of evidence at the hearing; keep out repetitive and cumulative evidence; and otherwise rule on the evidence.

### **§13654. Issuance of Subpoenas.**

Subpoenas and subpoenas duces tecum may be issued for the attendance of witnesses at the hearing, and for the production of documents at any reasonable place and time or at a hearing, in accordance with the procedures set forth at Government Code Sections 11450.05 to 11450.50.

### **§13655. Determination of Guarantor's Proportionate Share of Liability.**

The Labor Commissioner may determine the proportionate share of liability of a wage guarantor under Labor Code Section 2673.1 by using any one of the following methods, at the discretion of the Labor Commissioner. Records maintained by the contractor and guarantor(s) may be used to establish proportionate share, but in the event that any necessary records are not produced, incomplete, or inaccurate, the Labor Commissioner may rely on any other available evidence, including the testimony of claimants, with respect to these issues:

- (a) Contractor's Gross Sales -- The amount earned by the contractor as a result of work performed by the contractor's employees on behalf of the wage guarantor during a pay period as a percentage of the total amount earned by the contractor as a result of work performed by its employees during that pay period.
- (b) Employees' Hours Worked -- The amount of time that the contractor's employees spent performing work on behalf of the wage guarantor during a pay period as a percentage of the total hours worked by the contractor's employees during that pay period.
- (c) Garments Produced -- The number of garments or articles of wearing apparel finished, assembled, produced or otherwise prepared by the contractor's employees on behalf of the wage guarantor during a pay period as a percentage of the total number of garments or articles of wearing apparel finished, assembled, produced or otherwise prepared by the contractor's employees during that pay period.
- (d) Presumption in the Absence of Records -- In the absence of records, the Labor Commissioner will make just and reasonable inferences about a guarantor's proportionate share based on the competent testimony of the claimant(s). If such testimony is insufficient to allow the Labor Commissioner to determine proportionality based on subsections (a), (b), or (c) above, the full amount of the claim for unpaid minimum wages and overtime will be apportioned equally amongst the known guarantors.

**§13656. Amounts Included in Assessment of Wages Owed and Order, Decision or Award.**

The Labor Commissioner's assessment of wages owed issued pursuant to Labor Code Section 2673.1, and any subsequently issued order, decision or award, shall set out the amounts owed by the contractor and wage guarantor(s) as follows:

- (a) The amounts owed by the contractor for:
  - (1) Unpaid minimum wages;
  - (2) Unpaid overtime wages;
  - (3) Other unpaid wages;
  - (4) Other compensation owed, including unreimbursed business expenses, pursuant to the Labor Code or applicable Industrial Welfare Commission order;
  - (5) Liquidated damages in an amount equal to the unpaid minimum wages;
  - (6) Liquidated damages in an amount equal to the unpaid overtime wages,
  - (7) Interest on all unpaid wages and on the liquidated damages from the date such wages became due, pursuant to Labor Code Section 98.1(c);
  - (8) Penalties pursuant to Labor Code Section 203; and,
  - (9) Any other penalties or damages arising under the Labor Code or applicable Industrial Welfare Commission order.
- (b) The amounts owed by each wage guarantor for the guarantor's proportionate share of liability for:
  - (1) Unpaid minimum wages;
  - (2) Unpaid overtime wages;
  - (3) Interest on all unpaid minimum wages and overtime wages from the date such wages became due, pursuant to Labor Code Section 98.1(c); and,
  - (4) If it is found that the guarantor acted in bad faith within the meaning of Labor Code Section 2673.1(e), liquidated damages in an amount equal to the unpaid minimum wages and overtime wages, plus interest thereon.

### **§13657. Attorney's Fees and Costs.**

(a) For the purpose of Labor Code Section 2673.1(f), the failure by the contractor or guarantor to pay the full amount of the assessment at the meet- and-confer conference shall be deemed to constitute a refusal to pay the full amount of the assessment, and the employee will subsequently be deemed to have prevailed at the hearing held pursuant to Labor Code Section 2673.1(d)(4), if the Labor Commissioner issues an order, decision or award in any amount in favor of the employee.

(b) For the purpose of Labor Code Section 2673.1(f), if the employee rejects the assessment at the meet-and-confer conference, the employee will subsequently be deemed to have prevailed at the hearing held pursuant to Labor Code Section 2673.1(d)(4), if the Labor Commissioner issues an order, decision or award in favor of the employee for a total amount (excluding attorney's fees and costs) greater than the amount deposited with the Labor Commissioner by the contractor or guarantor for payment to the employee of the amount assessed against the contractor or guarantor. To be considered for this purpose, the full amount of the assessment must be deposited with the Labor Commissioner at the meet-and-confer conference held pursuant to Labor Code Section 2673.1(f), for immediate and unconditional payment to the employee, regardless of the outcome of the hearing. Any such amounts deposited with the Labor Commissioner shall be transmitted to the employee forthwith, and a form shall be transmitted by a deputy labor commissioner to the hearing officer stating (without specifying the amount) that prior to the conclusion of the meet-and-confer conference, the contractor and/or guarantors unconditionally paid the full amount of the assessment to the employee. In the event that the full amount of the assessment is not so paid, attorney's fees shall be awarded to the claimant on the basis of any net recovery at the adjudicative hearing.

(c) Attorney's fees recoverable under Labor Code Section 2673.1(f) shall be based on the reasonable hours expended on the case multiplied by a reasonable hourly rate for the legal work performed. A reasonable hourly rate is the prevailing hourly rate charged by private attorneys in the geographic area with similar experience to that of the attorney(s) making the application for fees.

(d) Costs recoverable under Labor Code Section 2673.1(f) shall mean the costs of preparing for and proceeding with the hearing, including but not limited to witness fees, mileage fees, and cost of service of process.

(e) At the hearing held pursuant to Labor Code Section 2673.1(d)(4), the employee, or his or her attorney(s), shall submit evidence of reasonable attorneys' fees and costs sought to be recovered under Labor Code Section 2673.1(f). Such evidence may be in the form of a declaration signed by the attorney(s) under penalty of perjury, setting forth an itemization of hours worked on the case, the basis of the hourly rate(s) claimed, and costs incurred. The other parties at the hearing shall have the right to present any contrary evidence, and to cross-examine the employee, or his or her attorney(s), on these matters.

(f) Reasonable attorneys' fees and costs, if any, shall be included in the order, decision or award of the Labor Commissioner as follows:

(1) Reasonable fees and costs are awarded against the contractor if the contractor refused to pay the assessment and the claimant prevails at the hearing, as provided in subsection (a) herein;

(2) Reasonable fees and costs are awarded against the contractor if the claimant rejects the assessment and prevails at the hearing, as provided in subsection (b) herein;

(3) Reasonable fees and costs are awarded against the guarantor(s) if the guarantor(s) refuse(s) to pay the assessment, and the claimant prevails at the hearing, as provided in subsection (a) herein;

(4) Reasonable fees and costs are awarded jointly and severally against the guarantor(s) for the contractor's share of the attorney's fees and costs if the guarantor(s) acted in bad faith, within the meaning of Labor Code Section 2673.1(f).

**§13658. Labor Commissioner's Enforcement of Wage Guarantee.**

(a) The Labor Commissioner may, during the course of an investigation pursuant to Labor Code Section 2673.1(j), serve a subpoena duces tecum on any contractor or manufacturer subject to the investigation in order to examine any books and records as may be necessary to determine the amount of wages or other compensation that may be owed to any employees and the identity of any potential guarantors for payment of the unpaid wages. The failure to comply with such a request for books and records, within 10 days of service of the notice, shall constitute grounds for revocation of registration or denial of an application for registration.

(b) The Labor Commissioner may perform a payroll audit based on the relevant documentation and information received during the course of the investigation. If the Labor Commissioner decides to proceed against any wage guarantors, he or she shall issue findings and an assessment of the amount of wages due, which shall include a determination of each wage guarantor's proportionate share of liability. The Labor Commissioner shall schedule a meet-and-confer conference with the guarantors, contractors, and affected employees to attempt to resolve the matter, and shall provide written notice to each contractor, wage guarantor and affected employee, to the extent that the identities and whereabouts of such persons are known, of the assessment and the date, time, location and purpose of the meet-and-confer conference.

(c) During the meet-and-confer conference, the Labor Commissioner's investigator shall present his or her findings and assessment of wages owed and each guarantor's proportionate share, and shall make a demand for payment of the amount of the assessment. In the event that the amounts found due are not paid within 10 days of the conclusion of the meet-and-confer conference, the Labor Commissioner shall set the matter for an investigative hearing. The contractor, wage guarantors and affected

employees, to the extent that the identities and whereabouts of such persons are known, shall be provided with written notice of the date, time, location, and purpose of the investigative hearing.

(d) The hearing conducted under this section shall be investigative in nature, and the purpose of the hearing is to assist the Labor Commissioner in deciding whether to initiate a civil action pursuant to Labor Code Section 2673.1(j). The provisions of Government Code Sections 11400, et seq. are not applicable to this hearing. The Labor Commissioner may subpoena the attendance of witnesses and the production of records to the hearing as provided by Labor Code Section 92. The hearing officer shall inquire fully into all matters at issue. The hearing may be electronically recorded, and testimony shall be given under oath or affirmation. In the hearing officer's discretion, the parties may be permitted to call, examine, and cross-examine witnesses, and to introduce documentary evidence. The hearing shall be informal, and shall not be conducted in accordance with technical and formal rules of evidence. Evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs. The investigator's findings and assessment shall be admitted into evidence, provided the investigator is available to testify thereto. Within thirty days after the close of the hearing, the hearing officer shall issue a written recommended disposition of the case, stating the amounts, if any, that the hearing officer believes are owed by the contractor and wage guarantors. The hearing officer's recommended disposition shall have no res judicata or collateral estoppel effect, and shall be entitled to no weight in any subsequently filed civil action.

(e) If the matter is not resolved to the Labor Commissioner's satisfaction within 10 days of the issuance of the hearing officer's recommended disposition, the Labor Commissioner may thereupon file a civil action to enforce the wage guarantee, and for any other appropriate relief. Any guarantors whose identity or existence was unknown at the time of the investigative hearing may be sued in the civil action without the necessity of further administrative proceedings.

(f) The time limits set forth in Labor Code Section 2673.1(d) shall not apply to any proceedings under this section.

(g) All notices under this section may be served by regular first class mail to the last known address of the affected employees, and to the last address of record for the contractor and wage guarantors, as set forth on the most recent application for registration as required under this subchapter.

**§13659. Information To Be Contained in Contracts Between Manufacturers and Contractors, and on Itemized Wage Statements Provided to Employees.**

(a) Every applicant for registration shall certify, in writing and under oath, that the applicant will maintain for inspection and copying, and will make available upon request to the Labor Commissioner or any agent thereof, for a period of no less than four years from the date of execution, a written contract with each party with whom it contracts for



the manufacture, sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories. Each such contract shall contain the following:

(1) The garment manufacturer's correct legal entity, any fictitious business names, and if a corporation or limited liability company, the name and address of the designated agent for service of process;

(2) The garment manufacturer's business address, telephone and facsimile numbers;

(3) The garment manufacturer's garment registration certificate number, and its date of expiration;

(4) The garment manufacturer's workers' compensation carrier, policy number, and its date of expiration;

(5) The contractor's correct legal entity, any fictitious business names, and if a corporation or limited liability company, the name and address of the designated agent for service of process;

(6) The contractor's business address, telephone and facsimile numbers;

(7) The contractor's garment registration certificate number, and its date of expiration;

(8) The contractor's workers' compensation carrier, policy number, and its date of expiration;

(9) The date the contract was entered into;

(10) The date the contracted garments or articles of wearing apparel are due for completion;

(11) The unit price, number of garments or articles of wearing apparel covered by the contract, and a description of the garment or apparel type, style, and color;

(12) The style numbers, cut or lot numbers;

(13) The total price of the contract; and,

(14) The date that payment is due from the manufacturer.

(15) Any changes from the original contract, including but not limited to changes in completion dates, unit price, number of units, and total price.

(b) Every contract between persons engaged in garment manufacturing for the manufacture, sewing, cutting, making, processing, repairing, finishing, assembling, or

preparation of any garment or article of wearing apparel or accessories for sale or resale shall be in writing, shall be maintained for no less than four years from the date of its execution, shall be made available upon request to the Labor Commissioner or any agent thereof for inspection and copying, and shall contain the information set out in subsection (a)(1)-(15), above. The failure to maintain such written contracts, or to make them available to the Labor Commissioner for inspection and copying, shall constitute grounds for revocation of registration or denial of an application for registration.

(c) Every garment contractor shall include, in the written itemized wage earnings and deduction statements it is required, pursuant to Labor Code Section 226, to provide to its employees whenever wages are paid, the name(s) of any manufacturer(s) for whom the contractor performed any garment manufacturing operations at the location at which such employees were employed during the pay period covered by the itemized wage statements. The failure to include this information on employees' itemized wage statements shall constitute grounds for revocation of registration or denial of an application for registration.