

(2) AN ORDER OF THE COMMISSIONER UNDER PARAGRAPH (1) OF THIS SUBSECTION IS FINAL 15 DAYS AFTER PASSAGE OF THE ORDER.

(G) ORDER OF COMMISSIONER ON ABATEMENT REQUIREMENTS.

AFTER AN OPPORTUNITY FOR A HEARING UNDER THIS SECTION, THE COMMISSIONER MAY PASS AN ORDER THAT AFFIRMS OR MODIFIES A REQUIREMENT OF A CITATION FOR ABATEMENT OF A VIOLATION IF AN EMPLOYER SHOWS THAT THE EMPLOYER:

(1) MADE A GOOD FAITH EFFORT TO COMPLY WITH THE REQUIREMENT; AND

(2) HAS NOT COMPLIED BECAUSE OF A FACTOR BEYOND THE REASONABLE CONTROL OF THE EMPLOYER.

REVISOR'S NOTE: Subsections (a), (b), and (d) through (g) of this section are new language derived without substantive change from former Art. 89, § 37(e) and (f), the second and third sentences of (c), and the first sentence of (c), as that sentence related to the duty of the Commissioner to hold a hearing, and the second and third sentences of (d).

Subsection (c) of this section is standard language added to demonstrate clearly the intended application of the referenced subtitle to administrative hearings under this section.

Subsection (e) of this section includes only those provisions of the former law that seemed to add to the provisions of Title 10, Subtitle 2 of the State Government Article. Thus, the first sentence of former Art. 89, § 37(d), which allowed appointment of a hearing examiner, is deleted in light of SG § 10-207. Similarly, the former requirement that the record include "exhibits" is deleted in light of SG § 10-210(2), while the former requirement for a written report is deleted in light of SG § 10-207(b)(2).

The Labor and Employment Article Review Committee notes that the requirement for the record to include "testimony" is retained. SG § 10-211 generally requires transcription only on request and payment of costs. Thus, the specific requirement revised in subsection (e)(1) of this section seemingly is more stringent than the requirement generally imposed on units of the Executive Branch.

Defined terms: "Commissioner" § 5-101

"County" § 1-101 "Employee" § 5-101

"Employer" § 5-101