Subpart A—General Provisions

CHAPTER 21—DEFINITIONS

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AMENDMENTS


1979—Pub. L. 96-347, § 1(d), Sept. 12, 1980, 94 Stat. 1150, substituted “this Act” for “this Act and the amendments made by this title”.

§ 2101. Civil service; armed forces; uniformed services.

For the purpose of this title—

(1) the “civil service” consists of all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services;

(2) “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard; and

(3) “uniformed services” means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(Historical and Revision Notes)

1965 Reorganization Plan No. 2 (79 Stat. 1318), effective July 13, 1965, which consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration.

AMENDMENTS

1979—Par. (3). Pub. L. 96-54 substituted “National Oceanic and Atmospheric” for “Environmental Science Services”.

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

Short Title of 1998 Amendment


Short Title of 1994 Amendment

Pub. L. 103-226, § 1, Mar. 30, 1994, 108 Stat. 111, provided that: “This Act [amending sections 3301, 3103, 4105, 4107, 4108, 4113, 4116, 5597, 8351, 8433 to 8435, 8478, 8480, 8481, 8482, 8483, and sections 106 of Title 2, The Congress, and amending provisions set out as notes under sections 8437, 8440a to 8440d of this title and section 1206 of Title 49, Transportation] may be cited as the ‘Veterans Employment Opportunities Act of 1994’.”

Short Title of 1990 Amendment

Pub. L. 101-508, title VII, § 7202(a), Nov. 5, 1990, 104 Stat. 1388-335, provided that: “This section [amending sections 2101, 2103, 4105, 4107, 4108, 4113, 4118, 5597, 8351, 8433 to 8435, 8437, 8440a to 8440d of this title and section 1206 of Title 49, Transportation] may be cited as the ‘Portability of Benefits for Nonappropriated Fund Employees Act of 1990’.”

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Coordination of Title VII of Pub. L. 101-508 With Section 909 of Title 2

Pub. L. 101-508, title VII, § 7801, Nov. 5, 1990, 104 Stat. 1388-341, provided that: “For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987 [probably means section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. 100-113, which was formerly classified to section 909 of Title 2, The Congress], this title and the amendments made by this title [amending sections 552a, 2105, 3502, 5334, 5335, 5365, 5551, 6308, 6312, 8331, 8332, 8437, 8438, 8491, 8492, 8493, 8494, 8495, 8496, 8901, 8902, 8904, 8906, 8909, and 8910 of this title, and enacting provisions set out as notes under this section and sections 542 and 592 of Title 6] may be cited as the ‘Portability of Benefits for Nonappropriated Fund Employees Act of 1990’.”
§ 2101a. The Senior Executive Service

The “Senior Executive Service” consists of Senior Executive Service positions (as defined in section 3129(a)(2) of this title).

(A) positions which are specifically excepted from the competitive service by statute;

(B) positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs; and

(C) positions in the Senior Executive Service;

(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;

(3) positions in the government of the District of Columbia which are specifically included in the competitive service by statute.

(b) Notwithstanding subsection (a)(1)(B) of this section, the “competitive service” includes positions to which appointments are made by nomination for confirmation by the Senate when specifically included therein by statute.

(c) As used in other Acts of Congress, “classified civil service” or “classified service” means the “competitive service”.


Effective Date

§ 2102. The competitive service

(a) The “competitive service” consists of—

(1) all civil service positions in the executive branch, except—

(A) positions which are specifically excepted from the competitive service by or under statute;

(B) positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs; and

(C) positions in the Senior Executive Service;

(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;

(3) positions in the government of the District of Columbia which are specifically included in the competitive service by statute.

(b) Notwithstanding subsection (a)(1)(B) of this section, the “competitive service” includes positions to which appointments are made by nomination for confirmation by the Senate when specifically included therein by statute.

(c) As used in other Acts of Congress, “classified civil service” or “classified service” means the “competitive service”.


Historical and Revision Notes

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<th>Derivation</th>
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Subsection (a) is restated in the form of a definition.

Subsection (a)(1) is based on former section 638, which placed positions in the executive branch of the Government generally in the competitive service by the requirement that employment be predicated on passing an examination or being exempted from examination, and section 1 of the Act of Nov. 26, 1940, ch. 919, title I, 54 Stat. 1211 (see table III), which authorized the President, subject to certain exceptions, to place in the classified civil service positions in the Executive departments, independent establishments, and other agencies of the Government. In that Act the word “excepted” has been construed to modify “departments”, “independent establishments”; and “other agency”. This construction is supported by the language of the Act of Jan. 16, 1883, which is embodied in Civil Service Rule I. Acting under this statute, the President has placed all but a comparatively few of the positions covered by the Act of Nov. 26, 1940, in the competitive service. The remainder are covered by the exceptions contained in the Civil Service Rules and Regulations. The authority of the President conferred by the Act of Nov. 26, 1940, has been superseded in part by exceptions created by statutes enacted after that date. The effect of these exceptions and the power conferred on the President by former section 633/28 (last sentence) to make exceptions to the Civil Service Rules are preserved by the words “positions which are specifically excepted from the competitive service by or under statute”.

In subsection (a)(1)(B), the words “or to pass an examination” are omitted as covered by the exclusion from the “competitive service”.

Subsection (a)(2) preserves the exception stated in former section 638 modified to recognize the several statutory exceptions to this exception that have been enacted. The language of former section 638 relative to examination is codified in sections 3304(b) and 3361. The reference to veterans’ preference is omitted because the statute referred to, R.S. §1754, was superseded by sections 3 and 21 of the Act of June 18, 1929, as amended, which is carried into this title, Rights preserved by section 18 of the Act of June 27, 1944, are further preserved by technical section 8. The exception for laborers and workmen was superseded by the Act of Nov. 26, 1940.

Subsection (b) is added because of the provisions in section 3311 of title 39.

Subsection (c) is supplied for conformity inasmuch as the terms are coextensive by definition.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

Effective Date of 1978 Amendment

§ 2103. The excepted service

(a) For the purpose of this title, the “excepted service” consists of those civil service positions which are not in the competitive service or the Senior Executive Service.

(b) As used in other Acts of Congress, “unclassified civil service” or “unclassified service” means the “excepted service”.


Historical and Revision Notes

The section is supplied for convenience. The “excepted service” has come to mean all employees not in the competitive service, for whatever reason.

Amendments

Effective Date of 1978 Amendment
Amendment by Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of