1984—Subsec. (f). Pub. L. 98–459 inserted provision defining "employee" as including any individual who is a citizen of the United States employed by an employer in a workplace in a foreign country.
1974—Subsec. (b). Pub. L. 93–259, § 28(a)(1), (2), substituted in first sentence "twenty-five" for "twenty-five" and, in second sentence, defined term "employer" to include a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, and deleted text excluding from such term a State or political subdivision thereof.
Subsec. (c). Pub. L. 93–259, § 28(a)(3), struck out text excluding from term "employment agency" an agency of a State or political subdivision of a State, but including the United States Employment Service and the system of State and local employment services receiving federal assistance.
Subsec. (f). Pub. L. 98–459, § 28(a)(4), excepted from the term "employee" elected public officials, persons chosen by such officials for such officials' personal staff, appointees on policymaking level, and immediate advisers with respect to exercise of constitutional or legal powers of the public office but excluded from such exemption employees subject to civil laws of a State government, governmental agency, or political subdivision.

Statutory Notes and Related Subsidiaries

Effective Date of 1990 Amendment
Amendment by Pub. L. 101–413 applicable only to any employee benefit established or modified on or after Oct. 16, 1990, and other conduct occurring more than 180 days after Oct. 16, 1990, except as otherwise provided, see section 105 of Pub. L. 101–413, set out as a note under section 623 of this title.

Effective Date of 1986 Amendment

Effective Date of 1984 Amendment

Effective Date of 1974 Amendment
Amendment by Pub. L. 93–259 effective May 1, 1974, see section 29(a) of Pub. L. 93–259, set out as a note under section 292 of this title.

Executive Documents

Transfer of Functions

§ 631. Age limits
(a) Individuals at least 40 years of age
The prohibitions in this chapter shall be limited to individuals who are at least 40 years of age.

(b) Employees or applicants for employment in Federal Government
In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 633a of this title, the prohibitions established in section 633a of this title shall be limited to individuals who are at least 40 years of age.

(c) Bona fide executives or high policymakers
(1) Nothing in this chapter shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $44,000.

(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Equal Employment Opportunity Commission, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.


Editorial Notes

Amendments

1989—Subsec. (a). Pub. L. 101–239 struck out "(except the provisions of section 632(g) of this title)" after "in this chapter".

1986—Subsec. (a). Pub. L. 99–592, § 2(c)(1), which directed that "but less than seventy years of age" be struck out was executed by striking out "but less than 70 years of age" after "40 years of age" as the probable intent of Congress.

Subsec. (d). Pub. L. 99–592, § 6(a), (b), temporarily added subsec. (d) which read as follows: "Nothing in this chapter shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1141(a) of title 20)." See Effective and Termination Dates of 1986 Amendments note below.

1984—Subsec. (c)(1). Pub. L. 98–459 substituted "$44,000" for "$27,000".

1978—Pub. L. 95–256, § 3(a), designated existing provisions as subsec. (a), substituted "40 years of age but less than 70 years of age" for "forty years of age but
less than sixty-five years of age”, added subsecs. (b) and (c), and temporarily added subsec. (d). See Effective and Termination Dates of 1978 Amendment note below.

Statutory Notes and Related Subsidiaries

Effective Date of 1989 Amendment

Effective and Termination Dates of 1986 Amendments
Amendment by Pub. L. 99–592 effective Jan. 1, 1987, with certain exceptions, see section 7(a) of Pub. L. 99–592, §6(b), Oct. 31, 1986, 100 Stat. 3344, provided that: ‘‘The amendment made by subsection (a) of this section [amending this section] is repealed December 31, 1993.’’


Effective Date of 1984 Amendment
Pub. L. 98–459, title VIII, §802(c)(2), Oct. 9, 1984, 98 Stat. 1792, provided that: ‘‘The amendment made by paragraph (1) of this subsection [amending this section] shall not apply with respect to any individual who retires, or is compelled to retire, before the date of the enactment of this Act [Oct. 9, 1984].’’

Effective and Termination Dates of 1978 Amendment
Pub. L. 95–256, §3(b), Apr. 6, 1978, 92 Stat. 190, provided that:

‘‘(1) Sections 12(a), 12(c), and 12(d) of the Age Discrimination in Employment Act of 1967, as amended by subsection (a) of this section [subsecs. (a), (c), and (d) of this section] shall take effect on January 1, 1979.

‘‘(2) Section 12(b) of such Act, as amended by subsection (a) of this section [subsec. (b) of this section], shall take effect on September 30, 1978.

‘‘(3) Section 12(d) of such Act, as amended by subsection (a) of this section [enacting subsec. (d) of this section], is repealed on July 1, 1982.’’

Executive Documents

Transfer of Functions


§ 632. Omitted

Editorial Notes

Codification


§ 633. Federal-State Relationship

(a) Federal action superseding State action

Nothing in this chapter shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age except that upon commencement of action under this chapter such action shall supersede any State action.

(b) Limitation of Federal action upon commencement of State proceedings

In the case of an alleged unlawful practice occurring in a State which has a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practice, no suit may be brought under section 626 of this title before the expiration of sixty days after proceedings have been commenced under the State law, unless such proceedings have been earlier terminated: Provided, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State law. If any requirement for the commencement of such proceedings is imposed by a State authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State authority.


Executive Documents

Transfer of Functions


§ 633a. Nondiscrimination on account of age in Federal Government employment

(a) Federal agencies affected

All personnel actions affecting employees or applicants for employment who are at least 40 years of age (except personnel actions with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, in executive agencies as defined in section 105 of title 5 (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Regulatory Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the judicial branch of the Federal Government having positions in the competitive service, in the Smithsonian Institution, and in the Government Publishing Office, the Government Accountability Office, and the Library of...