

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

SUBCHAPTER VIII—APPOINTMENT, RE-ASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

Editorial Notes

PRIOR PROVISIONS

A prior subchapter VIII, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1056, which related to part-time career employment opportunities, was redesignated as chapter 34 of this title by Pub. L. 95-454, title IX, §906(c)(1)(A), Oct. 13, 1978, 92 Stat. 1226.

§ 3391. Definitions

For the purpose of this subchapter, “agency”, “Senior Executive Service position”, “senior executive”, “career appointee”, “limited term appointee”, “limited emergency appointee”, “non-career appointee”, and “general position” have the meanings set forth in section 3132(a) of this title.

(Added Pub. L. 95-454, title IV, §403(a), Oct. 13, 1978, 92 Stat. 1161.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3391, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1056, which related to definitions for part-time career employment opportunities, was renumbered as section 3401 of this title by Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b) of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

§ 3392. General appointment provisions

(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in the agency—

(1) in accordance with requirements established by the Office of Personnel Management, with respect to standards for career reserved positions, and

(2) after consultation with the Office, with respect to standards for general positions.

(b) Not more than 30 percent of the Senior Executive Service positions authorized under section 3133 of this title may at any time be filled by individuals who did not have 5 years of current continuous service in the civil service immediately preceding their initial appointment to the Senior Executive Service, unless the President certifies to the Congress that the limitation would hinder the efficiency of the Government. In applying the preceding sentence, any break in service of 3 days or less shall be disregarded.

(c)(1) If a career appointee is appointed by the President, by and with the advice and consent of

the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule, the career appointee may elect (at such time and in such manner as the Office may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, leave, and retirement apply as if the career appointee remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

(A) to the extent provided under regulations prescribed by the Office, and

(B) so long as the appointee continues to serve under such Presidential appointment.

(2) An election under paragraph (1) may also be made by any career appointee who is appointed to a civilian position in the executive branch—

(A) which is not in the Senior Executive Service; and

(B) which is covered by the Executive Schedule, or the rate of basic pay for which is fixed by statute at a rate equal to 1 of the levels of the Executive Schedule.

An election under this paragraph shall remain effective so long as the appointee continues to serve in the same position.

(d) Appointment or removal of a person to or from any Senior Executive Service position in an independent regulatory commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.

(Added Pub. L. 95-454, title IV, §403(a), Oct. 13, 1978, 92 Stat. 1161; amended Pub. L. 101-335, §7(a), July 17, 1990, 104 Stat. 325.)

Editorial Notes

REFERENCES IN TEXT

The Executive Schedule, referred to in subsec. (c), is set out as section 5311 et seq. of this title.

PRIOR PROVISIONS

A prior section 3392, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1056, which related to the establishment of part-time career employment programs, was renumbered as section 3402 of this title by Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-335 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-335, §7(b)(1), July 17, 1990, 104 Stat. 325, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [July 17, 1990].”

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through