

the continental United States and warrant additional pay as a recruitment and retention incentive. A post differential may be granted to an employee officially stationed in the United States who is on extended detail in a foreign area. A post differential under this subsection may not exceed 35 percent of the rate of basic pay.

(b) Any employee granted a differential under subsection (a) of this section may be granted an additional differential for an assignment to a post determined to have especially adverse conditions of environment which warrant additional pay as a recruitment and retention incentive for the filling of positions at that post. An additional differential for any employee under this subsection—

(1) may be paid for each assignment to a post determined to have such conditions;

(2) may be paid periodically or in a lump sum; and

(3) may not exceed 15 percent of the rate of basic pay of that employee for the period served under that assignment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 96-465, title II, § 2309, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 108-199, div. D, title V, § 591(a), Jan. 23, 2004, 118 Stat. 207; Pub. L. 109-140, § 4(b), Dec. 22, 2005, 119 Stat. 2651.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3038.	Sept. 6, 1960, Pub. L. 86-707, § 231, 74 Stat. 795.

In the last sentence, the words “Additional compensation paid as” are omitted as surplusage.

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

#### Editorial Notes

##### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-140 struck out “25 percent of the rate of basic pay or, in the case of an employee of the United States Agency for International Development,” after “may not exceed” in last sentence.

2004—Subsec. (a). Pub. L. 108-199 inserted “or, in the case of an employee of the United States Agency for International Development, 35 percent of the rate of basic pay” after “25 percent of the rate of basic pay”.

1980—Pub. L. 96-465 designated existing provisions as subsec. (a), inserted “under this subsection” before “may not exceed”, and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-199, div. D, title V, § 591(c), Jan. 23, 2004, 118 Stat. 207, which provided that except for employees of the United States Agency for International Development stationed in Iraq and Afghanistan, the amendments made by subsections (a) and (b), amending this section and section 5928 of this title, would not take effect until the same authority was enacted for employees of the Department of State, was repealed by Pub. L. 109-140, § 4(a), Dec. 22, 2005, 119 Stat. 2651.

##### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L.

96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

#### CRITERIA

Pub. L. 109-140, § 4(d), Dec. 22, 2005, 119 Stat. 2651, provided that: “The Secretary of State shall inform the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate of the criteria to be used in determinations of appropriate adjustments in post differentials under section 5925(a) of title 5, United States Code, as amended by subsection (b), and danger pay allowances under section 5928 of title 5, United States Code, as amended by subsection (c).”

#### EXTENSION OF FOREIGN POST DIFFERENTIALS TO CERTAIN FEDERAL EMPLOYEES WHO SERVED IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102-190, div. A, title X, § 1093, Dec. 5, 1991, 105 Stat. 1487, provided that:

“(a) WAIVER OF REQUIREMENT THAT EMPLOYEE BE DETAILED TO A POST FOR AN ‘EXTENDED’ PERIOD.—An individual who performed service of a type described in subsection (b) shall, upon appropriate written application, be granted the total amount to which such individual would have been entitled for such service under section 5925(a) of title 5, United States Code, disregarding any eligibility requirement relating to the minimum period of time for which an individual must serve at, or be detailed to, a post.

“(b) DESCRIPTION OF SERVICE INVOLVED.—This section applies with respect to any period of service if, or to the extent that—

“(1) it was performed as an employee—

“(A) in connection with Operation Desert Storm;

“(B) during the Persian Gulf conflict;

“(C) at a post within the area designated by the President, in Executive Order 12744 [26 U.S.C. 112 note], as a ‘combat zone’ for purposes of section 112 of the Internal Revenue Code of 1986 [26 U.S.C. 112]; and

“(D) while a differential under section 5925(a) of title 5, United States Code, was authorized with respect to such post; and

“(2) no differential under such section 5925(a) was granted to such employee for such service.

“(c) REGULATIONS.—The President may prescribe any regulations necessary to carry out this section.

“(d) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘employee’ has the meaning given such term by section 5921(3) of title 5, United States Code;

“(2) the term ‘Operation Desert Storm’ has the meaning given such term by section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 [Pub. L. 102-25] (10 U.S.C. 101 note); and

“(3) the term ‘Persian Gulf conflict’ means the period beginning on August 2, 1990, and ending on June 2, 1991.”

#### § 5926. Compensatory time off at certain posts in foreign areas

(a) Under regulations prescribed pursuant to this subchapter, and notwithstanding subchapter V of chapter 55 of this title or any other law, the head of an agency may, on request of an employee serving in a foreign area—

(1) at an isolated post performing functions required to be maintained on a substantially continuous basis, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work; or

(2) at a post in a locality that customarily observes irregular hours of work or where other special conditions are present, in order

to cope with those special circumstances, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work for use during the pay period in which it is earned.

Credit for compensatory time off earned under paragraph (2) shall not form the basis for any additional compensation.

(b) Compensatory time earned under this section shall be for use only while the employee is assigned to the post where it is earned. Any such compensatory time not used at the time the employee is reassigned to another post shall be forfeited.

(Added Pub. L. 95-426, title IV, §411(a), Oct. 7, 1978, 92 Stat. 980.)

#### § 5927. Advances of pay

(a) Up to three months' pay may be paid in advance—

(1) to an employee upon the assignment of the employee to a post in a foreign area;

(2) to an employee, other than an employee appointed under section 303 of the Foreign Service Act of 1980 (and employed under section 311 of such Act), who—

(A) is a citizen of the United States;

(B) is officially stationed or located outside the United States pursuant to Government authorization; and

(C) requires (or has a family member who requires) medical treatment outside the United States, in circumstances specified by the President in regulations; and

(3) to an employee compensated pursuant to section 408 of the Foreign Service Act of 1980, who—

(A) pursuant to United States Government authorization is located outside the country of employment; and

(B) requires medical treatment outside the country of employment in circumstances specified by the President in regulations.

(b) For the purpose of this section, the term “country of employment”, as used with respect to an individual under subsection (a)(3), means the country (or other area) outside the United States where such individual is hired (as described in subsection (a)(3)) by the Government.

(Added Pub. L. 96-465, title II, §2310(a), Oct. 17, 1980, 94 Stat. 2166; amended Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §337], Nov. 29, 1999, 113 Stat. 1536, 1501A-442; Pub. L. 107-228, div. A, title III, §320, Sept. 30, 2002, 116 Stat. 1380.)

#### Editorial Notes

##### REFERENCES IN TEXT

Sections 303, 311, and 408 of the Foreign Service Act of 1980, referred to in subsec. (a)(2), (3), are classified to sections 3943, 3951, and 3968, respectively, of Title 22, Foreign Relations and Intercourse.

##### AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107-228, §320(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “to a foreign national employee appointed under section 303 of the Foreign Service Act of 1980, or a nonfamily member United States citizen appointed

under such section 303 (and employed under section 311 of such Act) for service at such nonfamily member's post of residence, who—

“(A) is located outside the country of employment of such foreign national employee or nonfamily member (as the case may be) pursuant to Government authorization; and

“(B) requires medical treatment outside the country of employment of such foreign national employee or nonfamily member (as the case may be), in circumstances specified by the President in regulations.”

Subsec. (b). Pub. L. 107-228, §320(2), substituted “hired” for “appointed”.

1999—Pub. L. 106-113 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Up to three months' pay may be paid in advance to an employee upon the assignment of the employee to a post in a foreign area.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as a note under section 3901 of Title 22, Foreign Relations and Intercourse.

#### § 5928. Danger pay allowance

An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or war-time conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 35 percent of the basic pay of the employee, except that if an employee is granted an additional differential under section 5925(b) of this title with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 35 percent of the basic pay of the employee. The presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.

(Added Pub. L. 96-465, title II, §2311(a), Oct. 17, 1980, 94 Stat. 2166; amended Pub. L. 98-164, title I, §131, Nov. 22, 1983, 97 Stat. 1028; Pub. L. 108-199, div. D, title V, §591(b), Jan. 23, 2004, 118 Stat. 207; Pub. L. 109-140, §4(c), Dec. 22, 2005, 119 Stat. 2651.)

#### Editorial Notes

##### AMENDMENTS

2005—Pub. L. 109-140 substituted “35 percent of the basic pay of the employee” for “25 percent of the basic pay of the employee or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development” in two places.

2004—Pub. L. 108-199 inserted “or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development” after “25 percent of the basic pay of the employee” in two places.