

“(2) TERMINATION.—This subsection shall terminate on September 30, 2023.

“(c) LIMITATION.—A Government lodging program developed under the authority in subsection (a), and a requirement under subsection (a) with respect to an employee of the Department of Defense, may not be construed to be subject to a duty to negotiate under chapter 71 of title 5, United States Code.”

DEPOSIT IN SPECIAL FUND OF RENTS AND CHARGES
COLLECTED FOR USE OR OCCUPANCY OF QUARTERS

Pub. L. 98-473, title I, §101(c) [title III, §320], Oct. 12, 1984, 98 Stat. 1837, 1874, as amended by Pub. L. 100-446, title III, §316, Sept. 27, 1988, 102 Stat. 1826; Pub. L. 101-121, title III, §317, Oct. 23, 1989, 103 Stat. 745, provided that: “Notwithstanding title 5 of the United States Code or any other provision of law, after September 30, 1984, rents and charges collected by payroll deduction or otherwise for the use or occupancy of quarters of agencies funded by this Act [probably means Department of the Interior and Related Agencies Appropriation Act, 1985, as set forth in section 101(c) of Pub. L. 98-473] shall thereafter be deposited in a special fund in each agency, to remain available until expended, for the maintenance and operation of the quarters of that agency: *Provided*, That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act, as amended (25 U.S.C. 450 et seq.) [former 25 U.S.C. 450f et seq., now 25 U.S.C. 5321 et seq.], under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.”

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under subsec. (f) of this section to issue regulations provided for therein (relating to provision, occupancy, and availability of quarters and facilities, determination of rates and charges therefor, and other related matters, as are necessary and appropriate to carry out provisions of this section) delegated to Director of Office of Management and Budget, see section 9(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5912. Quarters in Government owned or rented buildings; employees in foreign countries

Under regulations prescribed by the head of the agency concerned and approved by the President, an employee who is a citizen of the United States permanently stationed in a foreign country may be furnished, without cost to him, living quarters, including heat, fuel, and light, in a Government owned or rented building. The rented quarters may be furnished only within the limits of appropriations made therefor.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 509.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118a.	June 26, 1930, ch. 622, 46 Stat. 818. Sept. 6, 1960, Pub. L. 86-707, § 511(c)(6), 74 Stat. 801.

The words “which appropriations are hereby authorized” are omitted as unnecessary in view of section 5509.

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

§ 5913. Official residence expenses

(a) For the purpose of this section, “agency” has the meaning given it by section 5721 of this title.

(b) Under such regulations as the President may prescribe, funds available to an agency for administrative expenses may be allotted to posts in foreign countries to defray the unusual expenses incident to the operation and maintenance of official residences suitable for—

(1) the chief representatives of the United States at the posts; and

(2) such other senior officials of the Government of the United States as the President may designate.

(c) Funds made available under subsection (b) may be provided in advance to persons eligible to receive reimbursements.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510; Pub. L. 109-140, § 7, Dec. 22, 2005, 119 Stat. 2652.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3039.	Aug. 2, 1946, ch. 744, §22, added Sept. 6, 1960, Pub. L. 86-707, §311(a), 74 Stat. 796.

The word “agency” is substituted for “department” and defined to conform to the definition of “department” in section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

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. (c). Pub. L. 109-140 added subsec. (c).

Executive Documents

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations governing allotment to posts in foreign countries, for purpose stated in this section, of funds available to the departments for administrative expenses, and to designate senior officials of this Government in foreign countries, see section 1(c) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

SUBCHAPTER III—OVERSEAS DIFFERENTIALS AND ALLOWANCES

§ 5921. Definitions

For the purpose of this subchapter—

(1) “Government” means the Government of the United States;

(2) “agency” means an Executive agency and the Library of Congress, but does not include a Government controlled corporation;

(3) “employee” means an employee in or under an agency and more specifically defined by regulations prescribed by the President;

(4) “United States”, when used in a geographical sense, means the several States and the District of Columbia;

(5) “continental United States” means the several States and the District of Columbia, but does not include Alaska or Hawaii; and

(6) “foreign area” means—

(A) the Trust Territory of the Pacific Islands; and

(B) any other area outside the United States, the Commonwealth of Puerto Rico, the Canal Zone, and territories and possessions of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3032.	Sept. 6, 1960, Pub. L. 86-707, § 111, 74 Stat. 792.

In paragraph (1), the words “of America” are omitted as unnecessary.

In paragraph (2), the word “agency” is substituted for “Government agency”. The term “Executive agency” is substituted for the reference to “each executive department of the Government, each independent establishment or agency in the executive branch of the Government, including each corporation wholly owned (either directly or through one or more corporations) by the Government”. The exception of “a Government controlled corporation” is added to preserve the application of this subchapter to corporations wholly owned by the Government.

In paragraph (3), the word “employee” is substituted for “individual in the civilian service” in view of the definition of “employee” in section 2105. Reference to “ambassadors, ministers, and officers of the Foreign Service under the Department of State” is omitted as included in the definition of “employee”.

In paragraph (4), the words “of the United States of America” are omitted as unnecessary.

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

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Inter-course.

Statutory Notes and Related Subsidiaries

LIMITATION ON HOUSING BENEFITS

Pub. L. 101-246, title I, § 156, Feb. 16, 1990, 104 Stat. 46, provided that:

“(a) IN GENERAL.—The Secretary of State shall establish and implement an appropriate housing policy and space standards in consultation with all agencies with employees outside the United States who are under the authority of the chief of mission or with other agencies or employees who participate in the overseas housing program. Such policy may not provide housing or related benefits based solely on the representational status of the employee, except if such individual is the ambassador, deputy chief of mission, permanent charge, or the consul general when serving as the principal officer.

“(b) WAIVER.—The Secretary of State may grant exceptions to the restriction on providing housing or related benefits on a representational basis under subsection (a) on a case-by-case basis where a documented need for such exception is established. The Secretary of State shall prepare a comprehensive list annually of all such exceptions granted under this subsection.”

AMENDMENT, MODIFICATION, OR SUPERSEDITION OF PROVISIONS INCONSISTENT WITH THE OVERSEAS DIFFERENTIALS AND ALLOWANCES ACT

Pub. L. 86-707, title V, § 511(b), Sept. 6, 1960, 74 Stat. 800, provided that: “Any provision of law which is not

repealed by subsection (a) of this section but is inconsistent with any provision of this Act or of any amendment made by this Act [enacting chapter 37 of former title 5 (now covered by this subchapter), amending other sections as shown in the Tables, and enacting provisions set out as notes under this section and section 912 of Title 26, Internal Revenue Code] shall be held and considered to be amended, modified, or superseded to the extent necessary to carry out the purposes of and conform to such provision of this Act or of such amendment.”

APPROPRIATIONS

Pub. L. 86-707, title V, § 501(a), Sept. 6, 1960, 74 Stat. 800, provided that: “There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act and the amendments made by this Act [enacting chapter 37 of former title 5 (now covered by this subchapter), amending other sections as shown in the Tables, and enacting provisions set out as notes under this section and section 912 of Title 26, Internal Revenue Code].”

REFERENCES TO PROVISIONS AFFECTED BY THE OVERSEAS DIFFERENTIALS AND ALLOWANCES ACT

Pub. L. 86-707, title V, § 521, Sept. 6, 1960, 74 Stat. 802, provided that: “Whenever reference is made in any other law or in any regulation to any provision of law which is repealed, modified, amended, or superseded by reason of section 511 of this Act [repealing sections 170g(b), 170r, and 170s of former title 5, sections 888, 1132, 1133 and 1136(9) of Title 22, Foreign Relations and Intercourse, and sections 3501(d) and 3505(b) of Title 50, War and National Defense, amending section 118a of former title 5, section 1131 of Title 22, and sections 3501(c) and 3505(1)(A), (3) (A-C) of Title 50, and enacting provisions set out as a note under this section], such reference, unless inconsistent with this Act shall be held and considered to refer to this Act or the appropriate provision of, or amendment made by, this Act.”

TRANSITIONAL PROVISIONS FOR PAYMENT OF ALLOWANCES AND DIFFERENTIALS

Pub. L. 86-707, title V, § 522, Sept. 6, 1960, 74 Stat. 802, provided that: “Notwithstanding any provision of this Act [enacting chapter 37 of former title 5 (now covered by this subchapter), amending other sections as shown in the Tables, and enacting provisions set out as notes under this section and section 912 of Title 26, Internal Revenue Code] and until such time as regulations are issued under this Act, employees shall continue to be paid allowances and differentials in accordance with rules and regulations issued pursuant to the laws in effect immediately prior to the enactment of this Act [Sept. 6, 1960] and such rules and regulations may be amended or revoked in accordance with the provision of such laws.”

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

EX. ORD. NO. 10903. DELEGATION OF REGULATORY AUTHORITY

Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, as amended by Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739; Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447; Ex. Ord. No. 11380, Nov. 8, 1967, 32 F.R. 15627; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and various provisions of law cited in the body of this order, and as

President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of State is hereby designated and empowered to perform the following-described functions without the approval, ratification, or other action of the President:

(a) The authority vested in the President by section 5921(3) of title 5, United States Code, to prescribe regulations defining the term "employee".

(b) The authority vested in the President by subchapter III of chapter 59 of title 5 of the United States Code, to prescribe regulations, including the regulations referred to in sections 5922(b), 5922(c), and 5924(4)(B) of that title (governing, respectively, (1) certain waivers of recovery, (2) the payment of allowances and differentials authorized by said subchapter and certain other matters, and (3) travel expenses for dependents of certain employees).

(c) The authority vested in the President by section 5913 of title 5 of the United States Code, (1) to prescribe regulations governing the allotment to posts in foreign countries, for the purpose stated in that section, of funds available to the departments for administrative expenses, and (2) to designate senior officials of this Government in foreign countries.

(d) The authority vested in the President by other provisions of law (including section 235(2) [now 707(a)(2)] of title 38 of the United States Code) to prescribe regulations governing representation allowances similar to those authorized by section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085).

(e) The authority vested in the President by section 5912 of title 5 of the United States Code to approve regulations prescribed by heads of agencies (under which employees who are citizens of the United States permanently stationed in foreign countries may be furnished, without cost to them, living quarters, including heat, fuel, and light, in government-owned or rented buildings).

(f) [Repealed by Ex. Ord. No. 12292, § 4(f), Feb. 23, 1981, 46 F.R. 13967]

(g) [Redesignated (e) by Ex. Ord. No. 12292, § 4(f), Feb. 23, 1981, 46 F.R. 13967]

SEC. 2. (1) [Superseded by Ex. Ord. No. 11230, § 2(8), June 28, 1965, 30 F.R. 8447]

SEC. 2. (2) [Superseded by Ex. Ord. No. 11228, § 3(5), June 14, 1965, 30 F.R. 7739]

SEC. 3. That portion of section 2 of Executive Order No. 10624 of July 28, 1955 [set out as a note under section 1762 of Title 7, Agriculture], which precedes the proviso thereof, is hereby amended to read as follows:

"SEC. 2. In addition to rules and regulations, pertaining to allowances and benefits, otherwise applicable to personnel assigned abroad under Title VI of the Act of August 28, 1954 [chapter 43 of Title 7, Agriculture], there shall be applicable to the personnel rules and regulations prescribed by the Secretary of State in pursuance of (1) so much of the authority vested in the President by Title II of the Overseas Differentials and Allowances Act [sections 5922-5925, of this title], or by any amendment thereof, as relates to quarters allowances of cost-of-living allowances, and (2) so much of the authority vested in the President and the Secretary of State by Title IX of the Foreign Service Act of 1946 [subchapter IX of chapter 14 of Title 22, Foreign Relations and Intercourse], or by any amendment thereof, as relates to allowances and benefits under the said Title IX [subchapter IX of chapter 14 of Title 22.]"

SEC. 4. (a) Section 2 of Executive Order No. 10853 of November 27, 1959, is hereby amended to read as follows:

"SEC. 2. The Secretary of State is hereby authorized and directed to exercise the following-described statutory powers of the President:

"(a) That part of the functions vested in the President by section 7(a) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 216; 5 U.S.C. 2355(a)) [section 905(a) of Title 20, Education] which consists of authority to prescribe regulations relating to quarters and quarters allowance.

"(b) The authority vested in the President by section 8(a)(1) of the Defense Department Overseas and Teachers Pay and Personnel Practices Act (73 Stat. 216; 5 U.S.C. 2355(a)(1)) [section 906(a)(1) of Title 20, Education] to prescribe regulations relating to cost-of-living allowances.

"(c) The authority vested in the President by section 235(a) [now 707(a)(5)] of title 38 of the United States Code to prescribe rules and regulations with respect to allowances and benefits similar to those provided for in section 941 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1156)."

(b) The reference in section 1 of Executive Order No. 10853 of November 27, 1959, to the regulations contained in Executive Order No. 10000 of September 16, 1948, shall be deemed to include a reference to the corresponding regulations prescribed in pursuance of the provisions of this order.

SEC. 5. (a) The following-described Executive order and parts thereof are hereby revoked, subject to the provisions of section 5(b) of this order:

1. Parts I, III, IV, and V of Executive Order No. 10000 of September 16, 1948.

2. Executive Order No. 10011 of October 22, 1948.

3. Executive Order No. 10085 of October 28, 1949.

4. Executive Order No. 10100 of January 28, 1950.

5. Executive Order No. 10187 of December 4, 1950.

6. Executive Order No. 10261 of June 27, 1951.

7. Executive Order No. 10313 of December 14, 1951.

8. Executive Order No. 10391 of September 3, 1952.

9. Executive Order No. 10503 of December 1, 1953.

10. Executive Order No. 10623 of July 23, 1955.

11. Section 1 and, to the extent that it pertains to Executive Order No. 10000, section 3 of Executive Order No. 10636 of September 16, 1955.

(b) Existing rules and regulations prescribed in or pursuant to the Executive order provisions revoked by section 5(a) of this order, other existing rules and regulations pertaining to allowances, differentials, and other benefits corresponding to those authorized by the provisions of law referred to in this order and actions heretofore taken in pursuance of any thereof shall remain in effect until hereafter superseded in pursuance of the provisions of this order.

SEC. 6. This order and such of the regulations prescribed by the Secretary of State, the Director of the Office of Management and Budget, and the Office of Personnel Management thereunder as the Secretary, Director, and Office shall, respectively, determine, shall be published in the Federal Register.

EX. ORD. NO. 11137. ALLOWANCES AND BENEFITS

Ex. Ord. No. 11137, Jan. 7, 1964, 29 F.R. 223, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and by the various provisions of law cited in the body of this order, and as President of the United States it is ordered as follows:

PART I—ALLOWANCES AND DIFFERENTIALS IN FOREIGN AREAS

SECTION 101. The term "employee", as defined in 5 U.S.C. 5921(3), is hereby further defined as including civilian employees, compensated from non-appropriated funds, of the instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c).

SEC. 102. The Secretary of each military department with respect to his department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by 5 U.S.C. 5922(c) to prescribe regulations governing payments of allowances and differentials in foreign areas to the extent that the said authority is in respect of employees referred to in section 101 of this order whose rates of

basic compensation from nonappropriated funds are fixed in accordance with regulations prescribed by the Secretary concerned.

SEC. 103. Regulations prescribed under authority delegated by the provisions of Section 102 hereof:

(a) Shall, so far as practicable, be uniform.

(b) In the case of regulations prescribed by the Secretaries of the military departments, shall require the approval of the Secretary of Defense.

(c) Shall not, with respect to any locality, authorize allowances or differentials which exceed those prescribed under Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], for other employees of the United States in the same locality.

SEC. 104. Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], is hereby modified to the extent of the definition and the delegations of authority contained in Sections 101 and 102 hereof.

PART II—COST OF LIVING ALLOWANCES IN CERTAIN NON-FOREIGN AREAS

SEC. 201. The Secretary of Defense with respect to the military departments, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by paragraph (2) of Section 912 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 912(2)), to approve the regulations there contemplated to the extent that the said regulations are in respect of the payment of cost-of-living allowances to employees, compensated from non-appropriated funds, of instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c), who are stationed outside the continental United States or in Alaska.

SEC. 202. Regulations approved under authority delegated by the provisions of Section 201 hereof:

(a) Shall, so far as practicable, be uniform.

(b) Shall not apply to employees who are stationed in either the Canal Zone or in any "foreign area" as defined in 5 U.S.C. 5921(6).

(c) Shall be limited to employees whose rates of basic compensation are fixed in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility to employees stationed in the continental United States, exclusive of Alaska.

(d) Shall not, with respect to any locality, authorize allowances which exceed those prescribed under Executive Order No. 10000 of September 16, 1948, as amended, for other employees of the United States in the same locality.

PART III—GENERAL PROVISIONS

SEC. 301. All actions heretofore taken by the President or his delegate with respect to the matters affected by this order, and in effect at the time of the issuance of this order, including any regulations prescribed or approved by the President or his delegate with respect to such matters, shall, except as they are inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to appropriate authority.

SEC. 302. This order, and the regulations prescribed or approved under the authority thereof, shall be published in the Federal Register.

§ 5922. General provisions

(a) Notwithstanding section 5536 of this title and except as otherwise provided by this subchapter, the allowances and differentials authorized by this subchapter may be granted to an employee officially stationed in a foreign area—

- (1) who is a citizen of the United States; and
- (2) whose rate of basic pay is fixed by statute or, without taking into consideration the allowances and differentials provided by this

subchapter, is fixed by administrative action pursuant to law or is fixed administratively in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility in the continental United States.

To the extent authorized by a provision of statute other than this subchapter, the allowances and differentials provided by this subchapter may be paid to an employee officially stationed in a foreign area who is not a citizen of the United States.

(b) Allowances granted under this subchapter may be paid in advance, or advance of funds may be made therefor, through the proper disbursing official in such sums as are considered advisable in consideration of the need and the period of time during which expenditures must be made in advance by the employee. An advance of funds not subsequently covered by allowances accrued to the employee under this subchapter is recoverable by the Government by—

- (1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and
- (2) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned, under regulations of the President, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(c) The allowances and differentials authorized by this subchapter shall be paid under regulations prescribed by the President governing—

- (1) payments of the allowances and differentials and the respective rates at which the payments are made;
- (2) the foreign areas, the groups of positions, and the categories of employees to which the rates apply; and
- (3) other related matters.

(d) When a quarters allowance or allowance related to education under this subchapter, or quarters furnished in Government-owned or controlled buildings under section 5912, would be furnished to an employee but for the death of the employee, such allowances or quarters may be furnished or continued for the purpose of allowing any child of the employee to complete the current school year at post or away from post notwithstanding the employee's death.

(e) When an allowance related to education away from post under this subchapter would be authorized with respect to an employee but for the evacuation or authorized departure status of the post, such an allowance may be furnished or continued for the purpose of allowing any dependent children of such employee to complete the current school year.

(f)(1) If an employee dies at post in a foreign area, a transfer allowance under section 5924(2)(B) may be granted to the spouse or dependents of such employee (or both) for the purpose of providing for their return to the United States.

(2) A transfer allowance under this subsection may not be granted with respect to the spouse

or a dependent of the employee unless, at the time of death, such spouse or dependent was residing—

- (A) at the employee's post of assignment; or
- (B) at a place, outside the United States, for which a separate maintenance allowance was being furnished under section 5924(3).

(3) The President may prescribe any regulations necessary to carry out this subsection.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510; Pub. L. 102-138, title I, §147(c), Oct. 28, 1991, 105 Stat. 669; Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §335], Nov. 29, 1999, 113 Stat. 1536, 1501A-441.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 3033.	Sept. 6, 1960, Pub. L. 86-707, §201, 74 Stat. 793.
(b)	5 U.S.C. 3034.	Sept. 6, 1960, Pub. L. 86-707, §202, 74 Stat. 793.
(c)	5 U.S.C. 3035.	Sept. 6, 1960, Pub. L. 86-707, §203, 74 Stat. 793.

In subsection (a), the word “only” is omitted as surplusage.

In subsection (b), the words “disbursing official” are substituted for “disbursing officer” because of the definition of “officer” in section 2104 which excludes a member of a uniformed service.

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

- 1999—Subsec. (f). Pub. L. 106-113 added subsec. (f).
- 1991—Subsecs. (d), (e). Pub. L. 102-138 added subsecs. (d) and (e).

Executive Documents

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

§ 5923. Quarters allowances

(a) When Government owned or rented quarters are not provided without charge for an employee in a foreign area, one or more of the following quarters allowances may be granted when applicable:

- (1) A temporary subsistence allowance for the reasonable cost of temporary quarters (including meals and laundry expenses) incurred by the employee and his family—

- (A) for a period not in excess of 90 days after first arrival at a new post of assignment in a foreign area or a period ending with the occupation of residence quarters, whichever is shorter; and

- (B) for a period of not more than 30 days immediately before final departure from the post after the necessary evacuation of residence quarters.

- (2) A living quarters allowance for rent, heat, light, fuel, gas, electricity, and water, without regard to section 3324(a) and (b) of title 31.

(3) Under unusual circumstances, payment or reimbursement for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred in initial repairs, alterations, and improvements to the privately leased residence of an employee at a post of assignment in a foreign area, if—

- (A) the expenses are administratively approved in advance; and

- (B) the duration and terms of the lease justify payment of the expenses by the Government.

(b) The 90-day period under subsection (a)(1)(A) and the 30-day period under subsection (a)(1)(B) may each be extended for not more than 60 additional days if the head of the agency concerned or his designee determines that there are compelling reasons beyond the control of the employee for the continued occupancy of temporary quarters.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 511; Pub. L. 97-258, §3(a)(15), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 102-138, title I, §147(d), Oct. 28, 1991, 105 Stat. 669.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3036.	Sept. 6, 1960, Pub. L. 86-707, §211, 74 Stat. 793.

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

1991—Pub. L. 102-138 designated existing provisions as subsec. (a), substituted “subsistence” for “lodging” and inserted “(including meals and laundry expenses)” after “quarters” in par. (1), substituted “90 days” for “3 months” in par. (1)(A), substituted “30 days” for “1 month” in par. (1)(B), and added subsec. (b).

1982—Par. (2). Pub. L. 97-258 substituted “section 3324(a) and (b)” for “section 529”.

§ 5924. Cost-of-living allowances

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

- (1) A post allowance to offset the difference between the cost of living at the post of assignment of the employee in a foreign area and the cost of living in the District of Columbia, except that employees receiving the temporary subsistence allowance under section 5923(1) are ineligible for a post allowance under this paragraph.

- (2) A transfer allowance for extraordinary, necessary, and reasonable subsistence and other relocation expenses (including unavoidable lease penalties), not otherwise compensated for, incurred by an employee incident to establishing himself at a post of assignment in—

- (A) a foreign area (including costs incurred in the United States, its territories or possessions, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the areas and installations in the

Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements prior to departure for a post of assignment in a foreign area); or

(B) the United States after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned.

(3) A separate maintenance allowance to assist an employee who is compelled or authorized, because of dangerous, notably unhealthful, or excessively adverse living conditions at the employee's post of assignment in a foreign area, or for the convenience of the Government, or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents, to meet the additional expenses of maintaining, elsewhere than at the post, the employee's spouse or dependents, or both.

(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents (or, to the extent education away from post is involved, official assignment to service in such area or areas), as follows:

(A) An allowance not to exceed the cost of obtaining such kindergarten, elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States (including such educational services as are provided by the States under the Individuals with Disabilities Education Act), plus, in those cases when adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest United States locality where an adequate school is available, without regard to section 3324(a) and (b) of title 31. When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post. The amount of the allowance granted shall be determined on the basis of the educational facility used.

(B) The travel expenses of dependents of an employee to and from a secondary or post-secondary educational institution, not to exceed one annual trip each way for each dependent, except that an allowance payment under subparagraph (A) may not be made for a dependent during the 12 months following the arrival of the dependent at the selected educational institution under authority contained in this subparagraph.

(C) In those cases in which an adequate school is available at the post of the em-

ployee, if the employee chooses to educate the dependent at a school away from post, the education allowance which includes board and room, and periodic travel between the post and the school chosen, shall not exceed the total cost to the Government of the dependent attending an adequate school at the post of the employee.

(D) Allowances provided pursuant to subparagraphs (A) and (B) may include, at the election of the employee, payment or reimbursement of the costs incurred to store baggage for the employee's dependent at or in the vicinity of the dependent's school during one trip per year by the dependent between the school and the employee's duty station, except that such payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage in connection with the trip, and such payment or reimbursement shall be in lieu of transportation of the baggage.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 511; Pub. L. 92-187, § 2, Dec. 15, 1971, 85 Stat. 644; Pub. L. 93-126, § 12, Oct. 18, 1973, 87 Stat. 454; Pub. L. 93-475, § 13, Oct. 26, 1974, 88 Stat. 1443; Pub. L. 94-141, title IV, § 405, Nov. 29, 1975, 89 Stat. 770; Pub. L. 96-53, title V, § 510, Aug. 14, 1979, 93 Stat. 380; Pub. L. 96-100, title V, § 502, Nov. 2, 1979, 93 Stat. 734; Pub. L. 96-132, § 4(h), Nov. 30, 1979, 93 Stat. 1045; Pub. L. 96-465, title II, §§ 2307, 2308, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 97-258, § 3(a)(15), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 99-251, title III, § 303, Feb. 27, 1986, 100 Stat. 26; Pub. L. 101-510, div. A, title XII, § 1206(h), Nov. 5, 1990, 104 Stat. 1662; Pub. L. 102-138, title I, § 147(e), Oct. 28, 1991, 105 Stat. 670; Pub. L. 103-236, title I, § 176, Apr. 30, 1994, 108 Stat. 413; Pub. L. 104-201, div. C, title XXXV, § 3548(a)(7), Sept. 23, 1996, 110 Stat. 2869; Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title III, § 336], Nov. 29, 1999, 113 Stat. 1536, 1501A-442; Pub. L. 107-228, div. A, title III, § 319, Sept. 30, 2002, 116 Stat. 1380; Pub. L. 109-472, § 3, Jan. 11, 2007, 120 Stat. 3554.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3037.	Sept. 6, 1960, Pub. L. 86-707, § 221, 74 Stat. 794.

In paragraph (1), the word "Washington" is omitted as covered by "District of Columbia".

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

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (4)(A), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

2007—Par. (4)(A). Pub. L. 109-472, § 3(1), inserted "United States" after "nearest" in first sentence.

Par. (4)(B). Pub. L. 109-472, § 3(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) related to

educational travel expenses of dependents of an employee.

Par. (4)(D). Pub. L. 109-472, §3(3), added subpar. (D).

2002—Par. (4)(B). Pub. L. 107-228 inserted after first sentence “At the election of the employee, in lieu of the transportation of the baggage of a dependent from the dependent’s school, the costs incurred to store the baggage at or in the vicinity of the school during the dependent’s annual trip between the school and the employee’s duty station may be paid or reimbursed to the employee, except that the amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.”

1999—Par. (4). Pub. L. 106-113 substituted “between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest locality where an adequate school is available,” for “between that post and the nearest locality where adequate schools are available,” in subpar. (A) and added subpar. (C).

1996—Par. (3). Pub. L. 104-201 struck out at end “Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term ‘foreign area’ includes the Republic of Panama.”

1994—Par. (4)(A). Pub. L. 103-236, §176(a), inserted after first sentence “When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post.”

Par. (4)(B). Pub. L. 103-236, §176(b), inserted “(or to and from a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the United States at which the dependent is enrolled, with the allowable travel expense not to exceed the cost of travel to and from the school in the United States)” after “in the United States”.

1991—Par. (1). Pub. L. 102-138, §147(e)(1), substituted “Columbia, except that employees receiving the temporary subsistence allowance under section 5923(1) are ineligible for a post allowance under this paragraph” for “Columbia”.

Par. (2). Pub. L. 102-138, §147(e)(2), in introductory provisions substituted “subsistence and other relocation expenses (including unavoidable lease penalties)” for “expenses”, in subpar. (A) inserted “the Commonwealth of the Northern Mariana Islands,” after “Puerto Rico,” and in subpar. (B) substituted “after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned” for “between assignments to posts in foreign areas”.

Par. (4). Pub. L. 102-138, §147(e)(3), in introductory provisions substituted “dependents (or, to the extent education away from post is involved, official assignment to service in such area or areas)” for “dependents”, in subpar. (A) substituted “United States (including such educational services as are provided by the States under the Individuals with Disabilities Education Act)” for “United States”, and in subpar. (B) substituted “postsecondary educational institution education (other than a program of post-baccalaureate education)” for “undergraduate college education” in two places and inserted at end provision defining “educational institution” for purposes of subpar. (B).

1990—Par. (3). Pub. L. 101-510 inserted at end “Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term ‘foreign area’ includes the Republic of Panama.”

1986—Par. (2)(A). Pub. L. 99-251 inserted “, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements”.

1982—Par. (4)(A). Pub. L. 97-258 substituted “section 3324(a) and (b)” for “section 529”.

1980—Par. (3). Pub. L. 96-465, §2307, inserted “or authorized” after “compelled” and “or who requests such an allowance because of special needs or hardship involving the employee or the employee’s spouse or dependents” after “of the Government,”.

Par. (4)(B). Pub. L. 96-465, §2308, substituted “one annual trip each way for each dependent” for “(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, of the Department of Justice, of the Agency for International Development, of the Central Intelligence Agency, or of the National Security Agency, or (ii) or one trip each way for each dependent of any other employee, for the purpose of obtaining each type of education”.

1979—Par. (4)(B). Pub. L. 96-132 inserted reference to the Department of Justice.

Pub. L. 96-100 inserted provisions relating to applicability to dependents of employees of the Central Intelligence Agency and the National Security Agency.

Pub. L. 96-53 substituted “(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, or of the Agency for International Development, or (ii)” for “one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or”.

1975—Par. (2)(A). Pub. L. 94-141 expanded applicability to include costs incurred in the United States prior to departure for a post of assignment in a foreign area.

1974—Par. (4)(B). Pub. L. 93-475 substituted “one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee,” for “one trip each way for each dependent”.

1973—Par. (4)(A). Pub. L. 93-126 inserted “kindergarten,” before “elementary”.

1971—Par. (3). Pub. L. 92-187 substituted “the employee’s post” for “his post” and “the employee’s spouse or” for “his wife or his”.

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

Executive Documents

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations governing travel expenses for dependents of certain employees, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

§ 5925. Post differentials

(a) A post differential may be granted on the basis of conditions of environment which differ substantially from conditions of environment in

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.

1983—Pub. L. 98-164 inserted provision that presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section, and that 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 action taken and circumstances justifying it.

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.

DANGER PAY ALLOWANCE; DEA OR FBI EMPLOYEE

Pub. L. 101-246, title I, §151, Feb. 16, 1990, 104 Stat. 42, as amended by Pub. L. 107-273, div. C, title I, §11005, Nov. 2, 2002, 116 Stat. 1817; Pub. L. 116-260, div. B, title II, §221, Dec. 27, 2020, 134 Stat. 1266, provided that: “The Secretary of State may not deny a request by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the United States Marshals Service to authorize a danger pay allowance (under section 5928 of title 5, United States Code) for any employee of such agency.”

GREATER UTILIZATION OF DANGER PAY ALLOWANCE

Pub. L. 98-533, title III, §304, Oct. 19, 1984, 98 Stat. 2711, provided that: “In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.”

SUBCHAPTER IV—MISCELLANEOUS ALLOWANCES

Statutory Notes and Related Subsidiaries

ELIGIBILITY OF ADDITIONAL EMPLOYEES FOR REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE

Pub. L. 106-567, title IV, §406, Dec. 27, 2000, 114 Stat. 2849, as amended by Pub. L. 107-108, title IV, §404, Dec. 28, 2001, 115 Stat. 1404, provided that:

“(a) IN GENERAL.—Notwithstanding any provision of title VI, section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 [Pub. L. 104-208, div. A, title I, §101(f)] (5 U.S.C. prec. 5941 note), the Director of Central Intelligence may—

“(1) designate as qualified employees within the meaning of subsection (b) of that section appropriate categories of employees not otherwise covered by that subsection; and

“(2) use appropriated funds available to the Director to reimburse employees within categories so designated for 100 percent of the costs incurred by such employees for professional liability insurance in accordance with subsection (a) of that section.

“(b) REPORTS.—The Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of Intelligence of the House of Representatives a report on each designation of a category of employees under paragraph (1) of subsection (a), including the approximate number of employees covered by such designation and an estimate of the amount to be expended on reimbursement of such employees under paragraph (2) of that subsection.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of Na-

tional Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a) and (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.]

Pub. L. 106-346, §101(a) [title III, §348], Oct. 23, 2000, 114 Stat. 1356, 1356A-33, provided that: “In addition to the authority provided in section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as included in Public Law 104-208, title I, section 101(f), as amended [set out as a note below], beginning in fiscal year 2001 and thereafter, amounts appropriated for salaries and expenses for the Department of Transportation may be used to reimburse an employee whose position is that of safety inspector for not to exceed one-half the costs incurred by such employee for professional liability insurance. Any payment under this section shall be contingent upon the submission of such information or documentation as the Department may require.”

REIMBURSEMENTS RELATING TO PROFESSIONAL LIABILITY INSURANCE

Pub. L. 104-208, div. A, title I, §101(f) [title VI, §636], Sept. 30, 1996, 110 Stat. 3009-314, 3009-363, as amended by Pub. L. 105-277, div. A, §101(h) [title VI, §644], Oct. 21, 1998, 112 Stat. 2681-480, 2681-526; Pub. L. 106-58, title VI, §642(a), Sept. 29, 1999, 113 Stat. 477; Pub. L. 110-161, div. F, title IV, §429(a), Dec. 26, 2007, 121 Stat. 2151; Pub. L. 116-283, div. C, title XXXI, §3143, Jan. 1, 2021, 134 Stat. 4386, provided that:

“(a) AUTHORITY.—Notwithstanding any other provision of law, amounts appropriated by this Act (or any other Act for fiscal year 1997 or any fiscal year thereafter) for salaries and expenses shall be used to reimburse any qualified employee for not to exceed one-half the costs incurred by such employee for professional liability insurance. A payment under this section shall be contingent upon the submission of such information or documentation as the employing agency may require.

“(b) QUALIFIED EMPLOYEE.—For purposes of this section, the term ‘qualified employee’ means an agency employee whose position is that of—

“(1) a law enforcement officer;

“(2) a supervisor or management official; or

“(3) a temporary fire line manager.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘agency’ means an Executive agency, as defined by section 105 of title 5, United States Code, any agency or court in the Judicial Branch, and any agency of the Legislative Branch of Government including any office or committee of the Senate or the House of Representatives;

“(2) the term ‘law enforcement officer’ means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, detention, or supervision of individuals suspected or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of such title 5, any special agent under section 203 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4823), or any nuclear materials courier (as defined in section 8331(27) of such title 5);

“(3) the terms ‘supervisor’ and ‘management official’ have the respective meanings given them by section 7103(a) of such title 5, and, with regard to the Judicial Branch, mean a justice or judge of the United States as defined in 28 U.S.C. 451 in regular active service or retired from regular active service, other judicial officers as authorized by the Judicial Conference of the United States, and supervisors and managers within the Judicial Branch as authorized by the Judicial Conference of the United States;

“(4) the term ‘professional liability insurance’ means insurance which provides coverage for—