

§ 5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive

(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the heads of agencies, travel and transportation described in subsection (d) may be provided for not more than 3 family members of an employee described in subsection (b).

(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the head of an agency may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in subsection (b) if the head of an agency determines—

(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the head of the agency; and

(B) no other family member who is eligible for travel and transportation under subsection (a) is able to serve as an attendant for the family member.

(3) If no family member of an employee described in subsection (b) is able to travel to the repatriation site of the employee, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the employee.

(b) COVERED EMPLOYEES.—An employee described in this subsection is an employee (as defined in section 2105 of this title) who—

(1) was held captive, as determined by the head of an agency concerned; and

(2) is repatriated to a site inside or outside the United States.

(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term “family member” has the meaning given the term in section 451(a) of title 37.

(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the employee is located.

(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 464 of title 37.

(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 452(d) of title 37.

(4) An allowance under this subsection may be paid in advance.

(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.

(Added Pub. L. 109-163, div. A, title XI, §1121(a), Jan. 6, 2006, 119 Stat. 3451; amended Pub. L. 112-81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117-263, div. A, title VI, §626(b)(3), Dec. 23, 2022, 136 Stat. 2628.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c). Pub. L. 117-263, §626(b)(3)(A), substituted “section 451(a)” for “section 481h(b)”.

Subsec. (d)(2). Pub. L. 117-263, §626(b)(3)(B)(i), substituted “section 464” for “section 474(d)”.

Subsec. (d)(3). Pub. L. 117-263, §626(b)(3)(B)(ii), substituted “section 452(d)” for “section 481h(d)(1)”.

2013—Subsecs. (c), (d)(2), (3). Pub. L. 112-239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, §631(f)(4)(B). See 2011 Amendment note below.

2011—Subsecs. (c), (d)(2), (3). Pub. L. 112-81, §631(f)(4)(B), as amended by Pub. L. 112-239, §1076(a)(9), substituted “481h(b)” for “411h(b)” in subsec. (c), “474(d)” for “404(d)” in subsec. (d)(2), and “481h(d)(1)” for “411h(d)(1)” in subsec. (d)(3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

§ 5761. Foreign language proficiency pay awards for the Federal Bureau of Investigation

The Director of the Federal Bureau of Investigation may, under regulations prescribed by the Director, pay a cash award of up to 10 percent of basic pay to any Bureau employee who maintains proficiency in a language or languages critical to the mission or who uses one or more foreign languages in the performance of official duties.

(Added Pub. L. 111-117, div. B, title II, §219(a), Dec. 16, 2009, 123 Stat. 3141.)

CHAPTER 59—ALLOWANCES

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Editorial Notes**AMENDMENTS**

2001—Pub. L. 107–107, div. A, title XI, § 1111(b), Dec. 28, 2001, 115 Stat. 1238, added item 5949.

1991—Pub. L. 102–190, div. A, title X, § 1092(a)(2), Dec. 5, 1991, 105 Stat. 1487, added item 5942a.

1983—Pub. L. 98–164, title I, § 127(b)(2), Nov. 22, 1983, 97 Stat. 1027, struck out item 5944 “Illness and burial expenses; native employees in foreign countries”.

1980—Pub. L. 96–465, title II, §§ 2310(b), 2311(b), Oct. 17, 1980, 94 Stat. 2166, added items 5927 and 5928.

1978—Pub. L. 95–603, § 2(b), Nov. 6, 1978, 92 Stat. 3020, added item 5948.

Pub. L. 95–426, title IV, § 411(b), Oct. 7, 1978, 92 Stat. 981, added item 5926.

1971—Pub. L. 91–656, §§ 6(c), 7(b), Jan. 8, 1971, 84 Stat. 1954, substituted “duty at remote worksites” for “duty on California offshore islands or at Nevada Test Site” in item 5942 and added item 5947.

1967—Pub. L. 90–83, § 1(40)(B), (42), Sept. 11, 1967, 81 Stat. 206, 207, added items 5902 and 5903, and inserted “or at Nevada Test Site” in item 5942.

SUBCHAPTER I—UNIFORMS**§ 5901. Uniform allowances**

(a) There is authorized to be appropriated annually to each agency of the Government of the United States, including a Government owned corporation, and of the government of the District of Columbia, on a showing of necessity or desirability, such sums as may be necessary to carry out this subchapter. The head of the agency concerned, out of funds made available by the appropriation, shall—

(1) furnish to each of these employees a uniform at a cost not to exceed \$400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902); or

(2) pay to each of these employees an allowance for a uniform not to exceed \$400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902).

The allowance may be paid only at the times and in the amounts authorized by the regulations prescribed under section 5903 of this title. When the agency pays direct to the uniform vendor, the head of the agency may deduct a service charge of not more than 4 percent.

(b) When the furnishing of a uniform or the payment of a uniform allowance is authorized under another statute or regulation existing on September 1, 1954, the head of the agency concerned may continue the furnishing of the uniform or the payment of the uniform allowance under that statute or regulation, but in that event a uniform may not be furnished or allowance paid under this section.

(c) An allowance paid under this section is not wages within the meaning of section 409 of title 42 or chapters 21 and 24 of title 26.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 508; Pub. L. 90–83, § 1(39), Sept. 11, 1967, 81 Stat. 206; Pub. L. 101–509, title V, § 529 [title II, § 202(a)], Nov. 5, 1990, 104 Stat. 1427, 1456; Pub. L. 102–378, § 2(50), Oct. 2, 1992, 106 Stat. 1353.)

HISTORICAL AND REVISION NOTES**1966 ACT**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a), (b)	5 U.S.C. 2131.	Sept. 1, 1954, ch. 1208, § 402, 68 Stat. 1114. May 13, 1955, ch. 40, 69 Stat. 49.
(c)	5 U.S.C. 2132 (less applicability to the Civil Service Retirement Act, as amended).	Sept. 1, 1954, ch. 1208, § 403 (less applicability to the Civil Service Retirement Act, as amended), 68 Stat. 1115.
(d)	5 U.S.C. 2133.	Sept. 1, 1954, ch. 1208, § 404, 68 Stat. 1115.

In subsection (a), the word “concerned” is substituted for “to which any such appropriation is made”.

In subsection (b), the words “in his discretion” are omitted as unnecessary in view of the permissive nature of the authority.

In subsections (b) and (d), the word “rules” is omitted as covered by the word “regulations”.

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

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5901(a)	5 App.: 2131.	Oct. 29, 1965, Pub. L. 89–301 § 13, 79 Stat. 1122. July 18, 1966, Pub. L. 89–504, § 407(a), 80 Stat. 299.

The amendment to the third sentence of subsection (a) of 5 U.S.C. 5901, and the deletion of subsection (d) thereof, reflect the recodification of subsection (d) in 5 U.S.C. 5903 by section 1(40)(A) of this bill. In the last sentence of subsection (a), the words “When” and “pays” are substituted for “In those instances where” and “makes reimbursement”, respectively.

Editorial Notes**AMENDMENTS**

1992—Subsec. (a)(1), (2). Pub. L. 102–378 substituted “5902” for “5902).”

1990—Subsec. (a). Pub. L. 101–509, § 529 [title II, § 202(a)(1)], substituted “such sums as may be necessary to carry out this subchapter.” for “an amount not to exceed \$125 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties and who are not being furnished with the uniform.”

Subsec. (a)(1), (2). Pub. L. 101–509, § 529 [title II, § 202(a)(2)], substituted “\$400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902).” for “\$125 a year”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

AVAILABILITY OF APPROPRIATIONS FOR UNIFORMS AND
UNIFORM ALLOWANCES

Pub. L. 102-394, title V, §504, Oct. 6, 1992, 106 Stat. 1825, provided that: “Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-170, title V, §504, Nov. 26, 1991, 105 Stat. 1141.

Pub. L. 101-517, title V, §504, Nov. 5, 1990, 104 Stat. 2221.

Pub. L. 101-166, title V, §504, Nov. 21, 1989, 103 Stat. 1189.

Pub. L. 100-202, §101(h) [title V, §504], Dec. 22, 1987, 101 Stat. 1329-256, 1329-287.

Pub. L. 99-500, §101(i) [H.R. 5233, title V, §504], Oct. 18, 1986, 100 Stat. 1783-287, and Pub. L. 99-591, §101(i) [H.R. 5233, title V, §504], Oct. 30, 1986, 100 Stat. 3341-287.

Pub. L. 99-178, title V, §504, Dec. 12, 1985, 99 Stat. 1132.

Pub. L. 98-619, title V, §504, Nov. 8, 1984, 98 Stat. 3333.

Pub. L. 98-139, title V, §504, Oct. 31, 1983, 97 Stat. 889.

Pub. L. 97-377, title I, §101(e)(1) [title V, §504], Dec. 21, 1982, 96 Stat. 1878, 1904.

§ 5902. Increase in maximum uniform allowance

The Office of Personnel Management may, from time to time, by regulation adjust the maximum amount for the cost of uniforms and the maximum allowance for uniforms under section 5901.

(Added Pub. L. 90-83, §1(40)(A), Sept. 11, 1967, 81 Stat. 206; amended Pub. L. 101-509, title V, §529 [title II, §202(b)], Nov. 5, 1990, 104 Stat. 1427, 1456.)

HISTORICAL AND REVISION NOTES

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5902	5 App.: 2134.	July 18, 1966, Pub. L. 89-504, § 407(b), 80 Stat. 299.

The words “any other provision of” following “Notwithstanding” are omitted as unnecessary. The words “section 5901 of this title” are substituted for “this title” in three places to reflect the codification of that title in title 5, United States Code.

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-509 amended section generally. Prior to amendment, section read as follows: “Notwithstanding section 5901 of this title, each of the respective maximum uniform allowances in effect on April 1, 1966, for the respective categories of employees to whom uniform allowances are paid under section 5901 of this title are increased, subject to the maximum allowance authorized by section 5901 of this title, as follows:

“(1) If the maximum uniform allowance is \$100 or more, it is increased by 25 percent.

“(2) If the maximum uniform allowance is \$75 or more but less than \$100, it is increased by 30 percent.

“(3) If the maximum uniform allowance is \$50 or more but less than \$75, it is increased by 35 percent.

“(4) If the maximum uniform allowance is less than \$50, it is increased by 40 percent.

The maximum uniform allowances, as in effect on April 1, 1966, and as increased by this section, may not be reduced.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

§ 5903. Regulations

The Office of Personnel Management may prescribe such regulations as it considers necessary for the administration of this subchapter.

(Added Pub. L. 90-83, §1(40)(A), Sept. 11, 1967, 81 Stat. 206; amended Pub. L. 96-54, §2(a)(2), Aug. 14, 1979, 93 Stat. 381; Pub. L. 101-509, title V, §529 [title II, §202(b)], Nov. 5, 1990, 104 Stat. 1427, 1456.)

HISTORICAL AND REVISION NOTES

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5903	5: 5901(d).	[None.]

The regulatory authority contained in 5 U.S.C. 5901(d), the source statute for which was section 404 of the act of September 1, 1954, ch. 1208, 68 Stat. 1115, applies also to section 405 of that act (added by section 407 of the act of July 18, 1966, Public Law 89-504, 80 Stat. 299). Section 405 is codified as 5 U.S.C. 5902 by this bill.

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-509 amended section generally. Prior to amendment, section read as follows: “The President shall prescribe regulations necessary for the uniform administration of this subchapter.”

1979—Pub. L. 96-54 substituted “President” for “Director of the Bureau of the Budget”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

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.

SUBCHAPTER II—QUARTERS

§ 5911. Quarters and facilities; employees in the United States

(a) For the purpose of this section—

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

(2) “agency” means an Executive agency, but does not include the Tennessee Valley Authority;

(3) “employee” means an employee of an agency;

(4) “United States” means the several States, the District of Columbia, and the territories and possessions of the United States including the Commonwealth of Puerto Rico;

(5) “quarters” means quarters owned or leased by the Government; and

(6) “facilities” means household furniture and equipment, garage space, utilities, subsistence, and laundry service.

(b) The head of an agency may provide, directly or by contract, an employee stationed in the United States with quarters and facilities, when conditions of employment or of availability of quarters warrant the action.

(c) Rental rates for quarters provided for an employee under subsection (b) of this section or occupied on a rental basis by an employee or member of a uniformed service under any other provision of statute, and charges for facilities made available in connection with the occupancy of the quarters, shall be based on the reasonable value of the quarters and facilities to the employee or member concerned, in the circumstances under which the quarters and facilities are provided, occupied, or made available. The amounts of the rates and charges shall be paid by, or deducted from the pay of, the employee or member of a uniformed service, or otherwise charged against him in accordance with law. The amounts of payroll deductions for the rates and charges shall remain in the applicable appropriation or fund. When payment of the rates and charges is made by other than payroll deductions, the amounts of payment shall be credited to the Government as provided by law.

(d) When, as an incidental service in support of a program of the Government, quarters and facilities are provided by appropriate authority of the Government to an individual other than an employee or member of a uniformed service, the rates and charges therefor shall be determined in accordance with this section. The amounts of payment of the rates and charges shall be credited to the Government as provided by law.

(e) The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

(f) The President may prescribe regulations governing the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, necessary and appropriate to carry out this section. The head of each agency may prescribe regulations, not inconsistent with the regulations of the President, necessary and appropriate to carry out the functions of the agency head under this section.

(g) Subsection (c) of this section does not repeal or modify any provision of statute authorizing the provision of quarters or facilities, either without charge or at rates or charges specifically fixed by statute.

(h) A member of the uniformed service on a permanent change of duty station or temporary duty orders and occupying unaccompanied personnel housing—

(1) is exempt from the requirement of subsection (c) to pay a rental rate or charge based on the reasonable value of the quarters and facilities provided; and

(2) shall pay such lesser rate or charge as the Secretary of Defense establishes by regulation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 508; Pub. L. 99-145, title VIII, §809(c), Nov. 8, 1985, 99 Stat. 681.)

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. 3121.	Aug. 20, 1964, Pub. L. 88-459, §1, 78 Stat. 557.
(b)	5 U.S.C. 3122.	Aug. 20, 1964, Pub. L. 88-459, §2, 78 Stat. 557.
(c)	5 U.S.C. 3123.	Aug. 20, 1964, Pub. L. 88-459, §3, 78 Stat. 557.
(d)	5 U.S.C. 3124.	Aug. 20, 1964, Pub. L. 88-459, §4, 78 Stat. 557.
(e)	5 U.S.C. 3125.	Aug. 20, 1964, Pub. L. 88-459, §5, 78 Stat. 557.
(f)	5 U.S.C. 3126.	Aug. 20, 1964, Pub. L. 88-459, §6, 78 Stat. 558.
(g)	5 U.S.C. 3127.	Aug. 20, 1964, Pub. L. 88-459, §7, 78 Stat. 558.

In subsection (a)(2), the term “Executive agency” is coextensive with and substituted for “each executive department of the Government”, “each agency or independent establishment in the executive branch of the Government”, “each corporation owned or controlled by the Government”, and “the General Accounting Office” in view of the definition of “Executive agency” in section 105.

In subsection (a)(3), the term “employee” is substituted for “civilian officer or employee” in view of the definition of “employee” in section 2105.

Subsection (a)(7) of former section 3121 is omitted as unnecessary in view of the definition of “uniformed services” in section 2101.

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

1985—Subsec. (h). Pub. L. 99-145 added subsec. (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

GOVERNMENT LODGING PROGRAM

Pub. L. 113-291, div. A, title IX, §914, Dec. 19, 2014, 128 Stat. 3474, as amended by Pub. L. 115-91, div. A, title X, §1051(t)(2), Dec. 12, 2017, 131 Stat. 1566; Pub. L. 116-92, div. A, title VI, §642, Dec. 20, 2019, 133 Stat. 1431; Pub. L. 116-283, div. A, title VI, §642, Jan. 1, 2021, 134 Stat. 3684, provided that:

“(a) **AUTHORITY.**—Notwithstanding the provisions of section 5911 of title 5, United States Code, the Secretary of Defense may establish and carry out a Government lodging program to provide Government or commercial lodging for employees of the Department of Defense or members of the uniformed services under the Secretary’s jurisdiction performing duty on official travel, and may require such travelers to occupy adequate quarters on a rental basis when available.

“(b) **TEMPORARY EXCLUSION OF CERTAIN SHIPYARD EMPLOYEES.**—

“(1) **IN GENERAL.**—In carrying out a Government lodging program under subsection (a), the Secretary shall exclude from the requirements of the program employees who are traveling for the performance of mission functions of a public shipyard of the Department if the Secretary determines such requirements would adversely affect the purpose or mission of such travel.

“(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

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	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

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	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—

“(A) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual’s official duties as a qualified employee; and

“(B) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual’s official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding; and

“(5) notwithstanding the definition of the terms ‘supervisor’ and ‘management official’ under section 7103(a) of title 5, United States Code, the term ‘temporary fire line manager’ means an employee of the Forest Service or the Department of the Interior, whose duties include, as determined by the employing agency—

“(A) temporary supervision or management of personnel engaged in wildland or managed fire activities;

“(B) providing analysis or information that affects a decision by a supervisor or manager about a wildland or managed fire; or

“(C) directing the deployment of equipment for a wildland or managed fire.

“(d) **APPLICABILITY.**—The amendments made by this section [this note] shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and shall apply thereafter.”

[Pub. L. 110–161, div. F, title IV, § 429(b), Dec. 26, 2007, 121 Stat. 2152, provided that: “The amendment made by subsection (a) [amending section 101(f) [title VI, § 636] of Pub. L. 104–208, set out above] shall take effect on the date of enactment of this Act [Dec. 26, 2007].”]

[Pub. L. 106–58, title VI, § 642(b), Sept. 29, 1999, 113 Stat. 477, provided that: “The amendment made by subsection (a) [amending section 101(f) [title VI, § 636] of Pub. L. 104–208, set out above] shall take effect on October 1, 1999, or the date of the enactment of this Act [Sept. 29, 1999], whichever is later.”]

§ 5941. Allowances based on living costs and conditions of environment; employees stationed outside continental United States or in Alaska

(a) Appropriations or funds available to an Executive agency, except a Government controlled corporation, for pay of employees stationed outside the continental United States or in Alaska whose rates of basic pay are fixed by statute, are available for allowances to these employees. The allowance is based on—

(1) living costs substantially higher than in the District of Columbia;

(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

(3) both of these factors.

The allowance may not exceed 25 percent of the rate of basic pay. Except as otherwise specifically authorized by statute, the allowance is paid only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions, and classes of employees to which each rate applies. Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate

based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).

(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

(A) January 1, 2010; and

(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under paragraphs (2) and (3), respectively, of section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

(2)(A) In this paragraph, the term “applicable locality-based comparability pay percentage” means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under paragraph (1), (2), or (3) of section 1914 of Non-Foreign Area Retirement Equity Assurance Act of 2009.

(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

(ii) dividing the resulting percentage determined under clause (i) by the sum of—

(I) one; and

(II) the applicable locality-based comparability payment percentage expressed as a numeral.

(3) No allowance rate computed under paragraph (2) may be less than zero.

(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).

(d) An employee entitled to a cost-of-living allowance under section 5924 of this title may not be paid an allowance under subsection (a) of this section based on living costs substantially higher than in the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 111–84, div. A, title XIX, § 1912(b), Oct. 28, 2009, 123 Stat. 2620.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118h.	Apr. 20, 1948, ch. 219, § 207, 62 Stat. 194. June 30, 1948, ch. 775, § 104, 62 Stat. 1205.

The section is reorganized and restated for clarity and conciseness.

The word “allowances” is substituted for “additional compensation” as a more apt term and for consistency.

In subsection (a), the words “Executive agency” are substituted for “executive departments, independent establishments, and wholly owned Government corporations” in view of the definition of “Executive agen-

cy” in section 105. The exception of a “Government controlled corporation” is added to preserve the application to “wholly owned Government corporation”.

Subsection (b) is based on the second proviso of former section 118h and is restated to reflect the provisions of sections 511(b), (c)(7) and 521 of the Act of Sept. 6, 1960, Pub. L. 86-707, 74 Stat. 800-802. The reference to section 204 of the Act of Apr. 20, 1948, is omitted as obsolete, since the section was applicable only to fiscal year 1949.

The last proviso of former section 118h which provided the effective date of the section is omitted as executed.

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 date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (a), is the date of enactment of Pub. L. 111-84, which was approved Oct. 28, 2009.

Section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (c)(1)(B), (2)(A), is section 1914 of Pub. L. 111-84, which is set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-84, §1912(b)(1), inserted at end “Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).”

Subsecs. (b) to (d). Pub. L. 111-84, §1912(b)(2), (3), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-84 effective on the first day of the first applicable pay period beginning on or after Jan. 1, 2010, with transition and savings provisions, see sections 1914, 1915, and 1919(b) of Pub. L. 111-84, set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of this title.

PROHIBITION OF REDUCTION OF ALLOWANCE; STUDY AND REPORT ON ADJUSTING CALCULATION OF GEOGRAPHIC FACTORS

Pub. L. 102-141, title IV, §1, Oct. 28, 1991, 105 Stat. 861, as amended by Pub. L. 103-329, title V, §532, Sept. 30, 1994, 108 Stat. 2413; Pub. L. 104-52, title IV, §5, Nov. 19, 1995, 109 Stat. 490; Pub. L. 105-61, title V, §515, Oct. 10, 1997, 111 Stat. 1306, provided that: “The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 [set out below] as in effect on the date of the enactment of this Act [Oct. 28, 1991] may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 2000: *Provided*, That no later than March 1, 2000, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

“(1) an examination of the pay practices of other employers in the affected areas;

“(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to

take into account all cost of living in the geographic areas of the affected employee; and

“(3) an evaluation of the likely impact of the different approaches on the Government’s ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.”

Executive Documents

EX. ORD. NO. 10000. REGULATIONS GOVERNING ADDITIONAL COMPENSATION AND CREDIT GRANTED CERTAIN FEDERAL EMPLOYEES SERVING OUTSIDE THE UNITED STATES

Ex. Ord. No. 10000, Sept. 16, 1948, 13 F.R. 5453, as amended by Ex. Ord. No. 10636, Sept. 16, 1955, 20 F.R. 7025; Ex. Ord. No. 11938, Sept. 29, 1976, 41 F.R. 43383; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12510, Apr. 17, 1985, 50 F.R. 15535; Ex. Ord. No. 13207, Apr. 5, 2001, 66 F.R. 18399, provided:

By virtue of the authority vested in me by section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948 (Public Law 491, 80th Congress), as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948 (Public Law 862, 80th Congress), and by sections 303, 443, and 853 of the Foreign Service Act of 1946 (60 Stat. 1002, 1006, 1024), and as President of the United States, I hereby prescribe the following regulations (1) governing the payment of additional compensation to personnel of the United States employed outside the continental United States or in Alaska, under the provisions of the said section 207, as amended, (2) governing the payment of salary differentials to Foreign Service staff officers and employees serving at certain posts, pursuant to the said section 443, and (3) relating to unhealthful foreign posts, pursuant to the said section 853:

PART I—ADDITIONAL COMPENSATION IN FOREIGN AREAS

SECTION 101. DEFINITIONS. As used in this Part, (a) the words “foreign areas” mean all areas exclusive of (1) the forty-eight states of the United States, (2) the District of Columbia, and (3) non-foreign areas as defined in section 201 of this order, and (b) the words “section 207 of the Act” mean section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948, Public Law 491, 80th Congress, as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948, Public Law 862, 80th Congress.

SEC. 102. ADDITIONAL COMPENSATION BY REASON OF ENVIRONMENT. The Secretary of State shall from time to time, subject to applicable law, (a) designate places in foreign areas having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as “foreign post differential.”

SEC. 103. BASIS FOR FOREIGN POST DIFFERENTIAL. The Secretary of State may establish a foreign post differential for any place when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

SEC. 104. AGENCIES COVERED. Subject to the provisions of section 207 of the Act and of this Part, every executive department, independent establishment, and wholly owned Government corporation shall pay a foreign

post differential fixed under section 102 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed.

SEC. 105. PERSONS ELIGIBLE TO RECEIVE FOREIGN POST DIFFERENTIAL. (a) In order that an employee be eligible to receive a foreign post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the foreign post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 105(a) hereof, the classes of persons eligible to receive the foreign post differentials fixed pursuant to section 102 hereof shall include:

(1) Persons recruited or transferred from the United States.

(2) Persons employed locally but (a) who were originally recruited from the United States and have been in substantially continuous employment by other Federal agencies, United States firms, interests, or organizations, international organizations in which the United States Government participates, or foreign governments, and whose conditions of employment provide for their return transportation to the United States, or (b) who were at the time of employment temporarily absent from the United States for purposes of travel or formal study and maintained residence in the United States during such temporary absence. When used in a geographical sense in section 105(b) hereof, "United States" includes the areas included within the definition of non-foreign areas as set forth in section 201 hereof.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

SEC. 106. PAYMENT OF FOREIGN POST DIFFERENTIALS.

(a) The following regulations shall govern the payment of foreign post differentials under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and the end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 102(c) hereof.

(3) Payments to persons serving on a part-time basis shall be pro-rated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

SEC. 107. PERSONS SERVING UNDER CONTRACT. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a foreign post differential under this Part shall, if he is serving under contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive a foreign post differential.

SEC. 108. PERIODIC REVIEW. The Secretary of State shall periodically, but at least annually, review the places designated, the rates fixed, and the regulations prescribed pursuant to section 102 hereof, with a view to making such changes therein as will insure that the payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified.

SEC. 109. ADDITIONAL LIVING COST COMPENSATION. No executive department, independent establishment, or wholly owned Government corporation shall pay, pur-

suant to section 207 of the Act, additional compensation to any employee located in any foreign area by reason of living costs which are substantially higher than those in the District of Columbia: *Provided*, That this section shall not be construed to prevent any payment, under section 204 of said Independent Offices Appropriation Act, 1949, or under other appropriate authority.

PART II—ADDITIONAL COMPENSATION IN NON-FOREIGN AREAS

SEC. 201. DEFINITION. As used in this Part, the term "non-foreign areas" includes Alaska, Hawaii, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and such additional areas located outside the continental United States as the Secretary of State shall designate as being within the scope of the provisions of this Part[.]

SEC. 202. ADDITIONAL COMPENSATION BY REASON OF ENVIRONMENT. The Office of Personnel Management shall from time to time, subject to applicable law, (a) designate places in non-foreign areas having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "non-foreign area post differential."

SEC. 203. BASIS FOR NON-FOREIGN AREA POST DIFFERENTIAL. The Office of Personnel Management may establish a non-foreign area post differential for any place in the non-foreign areas when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

SEC. 204. PERSONS ELIGIBLE TO RECEIVE NON-FOREIGN AREA POST DIFFERENTIAL. (a) In order that an employee be eligible to receive a non-foreign area post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the non-foreign area post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 204(a) hereof, the classes of persons eligible to receive the non-foreign area post differentials fixed pursuant to section 202 hereof shall include:

(1) Persons recruited or transferred from outside the area concerned.

(2) Persons employed in the area concerned but (a) who were originally recruited from outside such area and have been in substantially continuous employment by other Federal agencies, contractors of Federal agencies, or international organizations in which the U. S. Government participates, and whose conditions of employment provide for their return transportation to places outside the area concerned, or (b) who were at the time of employment temporarily present in the area concerned for purposes of travel or formal study and maintained residence outside such area during the period so present.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

SEC. 205. ADDITIONAL LIVING COST COMPENSATION. The Office of Personnel Management shall from time to time, subject to applicable law, (1) designate places in non-foreign areas eligible to receive additional com-

compensation by virtue of living costs that are substantially higher than in the Washington, D.C., area, (2) fix for each place so designated an additional rate or rates of compensation by reason of such higher living costs, and (3) prescribe by regulation such additional policies or procedures as may be necessary to administer such compensation. Additional compensation under this section is referred to as a "non-foreign area cost-of-living allowance".

SEC. 206. COORDINATION. The Office of Personnel Management shall define the extent to which and the conditions under which an employee serving within the non-foreign areas may receive both a non-foreign area post differential and a non-foreign area cost-of-living allowance, pursuant to section 207 of the Act. In carrying out its functions under this Part the Office may take due notice if any special allowances, other than under section 207 of the act, granted to personnel employed by the United States in non-foreign areas.

SEC. 207. AGENCIES COVERED. Subject to the provisions of section 207 of the Act and of this Part, every Executive department, independent establishment, and wholly owned Government corporation shall pay (a) a non-foreign area post differential fixed under section 202 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed, and (b) a non-foreign area cost-of-living allowance fixed under section 205 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that allowance has been fixed.

SEC. 208. PAYMENT OF NON-FOREIGN AREA POST DIFFERENTIALS AND COST-OF-LIVING ALLOWANCES.

(a) The following regulations shall govern the payment of non-foreign area post differentials and non-foreign area cost-of-living allowances under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 202(c) hereof.

(3) Payments to persons serving on a part-time basis shall be prorated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

SEC. 209. PERSONS SERVING UNDER CONTRACT. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a non-foreign area post differential or a non-foreign area cost-of-living allowance under this Part shall, if he is serving under a contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive said differential and allowance.

SEC. 210. PERIODIC REVIEW. The Office of Personnel Management shall periodically review the places designated, the rates fixed, and the regulations prescribed pursuant to this Part, with a view to making such changes therein as will insure that payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified: *Provided*, That the rate of such additional compensation may be reduced gradually.

PART III—INTERIM ARRANGEMENTS

SEC. 301. TEMPORARY REGULATIONS. During the period commencing with the date of this order or the effective date of section 207 of the Act (as defined in section 101 hereof), whichever shall occur earlier, and ending on a date or dates fixed by the Secretary of State and the Office of Personnel Management, respectively, as the effective dates of the designation of places and of the fixing of additional rates of compensation, under Parts

I and II of this order, but in no event later than January 1, 1949, and notwithstanding the provisions of Parts I and II of this order, the payment of salaries and compensation (including the payment of additional compensation) of persons subject to the provisions of said section 207 shall be governed by the regulations and practices in effect in the respective Executive departments, independent establishments, and wholly owned government corporations immediately prior to April 20, 1948. Executive Order No. 9962 of May 24, 1948 is hereby revoked.

PART IV—FOREIGN SERVICE SALARY DIFFERENTIALS

[Part IV relating to Foreign Service salary differentials terminated June 30, 1951, pursuant to section 404 of this Executive Order.]

PART V—UNHEALTHFUL POSTS

[Part V relating to Unhealthful Posts terminated June 30, 1951, pursuant to section 503 of this Executive Order.]

PART VI—GENERAL PROVISIONS

SEC. 601. PUBLICATION. This order, and the places designated, the rates fixed, and the regulations prescribed by the Secretary of State and the Office of Personnel Management pursuant to Parts I and II of this order, shall be published in the Federal Register.

EXECUTIVE ORDER NO. 12070

Ex. Ord. No. 12070, June 30, 1978, 43 F.R. 28977, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which related to suspension of certain requirements in determination of cost of living allowance rates, was superseded by Ex. Ord. No. 12510, Apr. 17, 1985, 50 F.R. 15535.

§ 5942. Allowance based on duty at remote worksites

(a) Notwithstanding section 5536 of this title, an employee of an Executive department or an independent establishment who is assigned to duty, except temporary duty, at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite, is entitled, in addition to pay otherwise due him, to an allowance of not to exceed \$10 a day. The allowance shall be paid under regulations prescribed by the President establishing the rates at which the allowance will be paid and defining and designating those sites, areas, and groups of positions to which the rates apply.

(b) Under procedures prescribed by the President, the maximum allowance specified in subsection (a) may be adjusted from time to time in the interest of recruiting and retaining employees for performance of duty at remote worksites.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 90-83, §1(41), Sept. 11, 1967, 81 Stat. 207; Pub. L. 91-656, §6(a), Jan. 8, 1971, 84 Stat. 1953; Pub. L. 101-510, div. A, title XII, §1206(g), Nov. 5, 1990, 104 Stat. 1662.)

HISTORICAL AND REVISION NOTES 1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 70c.	Aug. 31, 1964, Pub. L. 88-538, §1, 78 Stat. 745.

The words “of the United States” are omitted as unnecessary because of the definition of “employee” in section 2105.

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

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5942	5 App.: 70c.	Mar. 31, 1966, Pub. L. 89-383, § 1, 80 Stat. 98.

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-510 designated existing provisions as subsec. (a) and added subsec. (b).

1971—Pub. L. 91-656 substituted “duty at remote worksites” for “duty on California offshore islands or at Nevada Test Site” in section catchline and assignment to duty “at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite” for assignment to duty “on one of the California offshore islands or at the United States Atomic Energy Commission Nevada Test Site, including the Nuclear Rocket Development Station”, inserted reference to employee “of an Executive department or an independent establishment” and provision for designation by regulation of sites to which the rates apply.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 91-656, § 6(b), Jan. 8, 1971, 84 Stat. 1954, provided that: “Notwithstanding section 5536 of title 5, United States Code, and the amendment made by subsection (a) of this section [amending this section], and until the effective date of regulations prescribed by the President under such amendment—

“(1) allowances may be paid to employees under section 5942 of title 5, United States Code, and the regulations prescribed by the President under such section, as in effect immediately prior to the effective date of this section [Jan. 8, 1971]; and

“(2) such regulations may be amended or revoked in accordance with such section 5942 as in effect immediately prior to the effective date of this section [Jan. 8, 1971].”

INCREASE IN ALLOWANCE BASED ON DUTY AT REMOTE WORKSITES

Pub. L. 117-81, div. A, title XI, § 1116, Dec. 27, 2021, 135 Stat. 1955, provided that:

“(a) **ASSESSMENT AND RATE.**—Not later than March 31, 2022, the Director of the Office of Personnel Management shall complete an assessment of the remote site pay allowance under section 5942 of title 5, United States Code, and propose a new rate of such allowance, adjusted for inflation, and submit such assessment and rate to the President and to Congress.

“(b) **APPLICATION.**—Beginning on the first day of the first pay period beginning after the date the Director submits the assessment and rate under subsection (a), such rate shall, notwithstanding subsection (a) of such section 5942, be the rate of such allowance.”

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under this section to prescribe regulations establishing rates at which an allowance

based on duty (except temporary duty) at remote worksites will be paid and defining and designating sites, areas, and groups of positions to which rates apply delegated to Office of Personnel Management, see section 8(3) 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.

§ 5942a. Separate maintenance allowance for duty at Johnston Island

(a) Notwithstanding section 5536 of this title, and under regulations prescribed by the President, an employee of an Executive agency (other than a Government corporation) who is assigned to a post of duty at Johnston Island, a possession of the United States in the Pacific Ocean, is entitled to receive a separate maintenance allowance if the head of the employing agency finds that—

(1) it is necessary for the employee to maintain the employee’s spouse or dependents, or both, at a location other than Johnston Island—

(A) by reason of dangerous or adverse living conditions at Johnston Island; or

(B) for the convenience of the Federal Government; and

(2) the allowance is needed to help the employee meet the additional expenses involved in maintaining the employee’s spouse or dependents, or both, at such other location rather than at the post.

(b) The regulations prescribed by the President shall include provisions for determining the rate at which an allowance under this section shall be paid.

(Added Pub. L. 102-190, div. A, title X, § 1092(a)(1), Dec. 5, 1991, 105 Stat. 1486.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 102-190, div. A, title X, § 1092(b), Dec. 5, 1991, 105 Stat. 1487, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Dec. 5, 1991].”

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under this section to prescribe regulations delegated to the Office of Personnel Management by section 8(4) of Ex. Ord. No. 11609, set out as a note under section 301 of Title 3, The President.

§ 5943. Foreign currency appreciation allowances

(a) The President, under such regulations as he may prescribe, may meet losses sustained by employees and members of the uniformed services while serving in a foreign country due to the appreciation of foreign currency in its relation to the American dollar. Allowances and expenditures under this section are not subject to income taxes.

(b) Annual appropriations are authorized to carry out subsection (a) of this section and to cover any deficiency in the accounts of the Secretary of the Treasury, including interest, arising out of the arrangement approved by the

President on July 27, 1933, for the conversion into foreign currency of checks and drafts of employees and members of the uniformed services for pay and expenses.

(c) Payment under subsection (a) of this section may not be made to an employee or member of a uniformed service for a period during which his check or draft was converted into foreign currency under the arrangement referred to by subsection (b) of this section.

(d) The President shall report annually to Congress all expenditures made under this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 96-54, § 2(a)(37), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118c.	Mar. 26, 1934, ch. 87, 48 Stat. 466. Aug. 14, 1937, ch. 627, 50 Stat. 641. Sept. 12, 1950, ch. 946, § 301(87), 64 Stat. 843.

The section is reorganized and restated for clarity and conciseness.

In subsection (a), the words “notwithstanding the provisions of any other Act” are omitted as unnecessary. The words “Secretary of the Treasury” are substituted for “Treasurer of the United States” on authority of 1950 Reorg. Plan No. 26 §§1, 2, eff. July 31, 1950, 64 Stat. 1280. The words “Provided, That such action as the President may take shall be binding upon all executive officers of the Government” 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

1979—Subsec. (a). Pub. L. 96-54, § 2(a)(37)(A), struck out provision relating to recommendation of the Director of the Bureau of the Budget to the President.

Subsec. (d). Pub. L. 96-54, § 2(a)(37)(B), substituted “President” for “Director of the Bureau of the Budget”.

Statutory Notes and Related Subsidiaries

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.

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to make recommendations concerning meeting of losses sustained by employees and members of uniformed services while serving in a foreign country due to appreciation of foreign currency in its relation to American dollar and under subsec. (d) of this section to report annually to Congress on expenditures made under subsec. (d) of this section, delegated to Secretary of the Treasury, see section 2 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.

[§ 5944. Repealed. Pub. L. 98-164, title I, § 127(b)(1), Nov. 22, 1983, 97 Stat. 1027]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513, authorized head of Executive department or military de-

partment which maintained a permanent staff of employees in foreign countries to pay burial expenses and expenses in connection with last illness and death of a native employee of his department in a country in which Secretary of State determined it was customary for employers to pay these expenses, and in foreign countries in which custom did not exist, on finding that immediate family of deceased was destitute, he could pay such of expenses as employee in charge of the office abroad in which deceased was employed considered proper. See section 3968(a)(1) of Title 22, Foreign Relations and Intercourse.

§ 5945. Notary public commission expenses

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia who is required to serve as a notary public in connection with the performance of official business is entitled to an allowance, established by the agency concerned, not in excess of the expense required to obtain the commission. Funds available to an agency concerned for personal services or general administrative expenses are available to carry out this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 70a.	July 11, 1956, ch. 554, § 1, 70 Stat. 519.
.....	5 U.S.C. 70b.	July 11, 1956, ch. 554, § 2, 70 Stat. 520.

In the first sentence, the words “to be incurred by them in order” are omitted as surplusage. The words “from and after January 1, 1955” are omitted as obsolete.

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

§ 5946. Membership fees; expenses of attendance at meetings; limitations

Except as authorized by a specific appropriation, by express terms in a general appropriation, or by sections 4109 and 4110 of this title, appropriated funds may not be used for payment of—

(1) membership fees or dues of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia in a society or association; or

(2) expenses of attendance of an individual at meetings or conventions of members of a society or association.

This section does not prevent the use of appropriations for the Department of Agriculture for expenses incident to the delivery of lectures, the giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the authorized work of the Department.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 83.	June 26, 1912, ch. 182, § 8, 37 Stat. 184. Mar. 4, 1913, ch. 145 (3d full par. on p. 854), 37 Stat. 854.

The words “or by sections 4109 and 4110 of this title” are added on authority of former sections 2309 and 2318(b), which are carried into sections 4109 and 4110, respectively.

In the last sentence, the words “This section does not” are substituted for “That nothing contained in the Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June twenty-sixth, nineteen hundred and twelve, shall be so construed as to” appearing in the Act of Mar. 4, 1913, 37 Stat. 854.

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

§ 5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations

(a) An employee of the Corps of Engineers, Department of the Army, engaged in floating plant operations may be furnished quarters or subsistence, or both, on vessels, without charge, when the furnishing of the quarters or subsistence, or both, is determined to be equitable to the employee concerned, and necessary in the public interest, in connection with such operations.

(b) Notwithstanding section 5536 of this title, an employee entitled to the benefits of subsection (a) of this section while on a vessel, may be paid, in place of these benefits, an allowance for quarters or subsistence, or both, when—

(1) adverse weather conditions or similar circumstances beyond the control of the employee or the Corps of Engineers prevent transportation of the employee from shore to the vessel; or

(2) quarters or subsistence, or both, are not available on the vessel while it is undergoing repairs.

(c) The quarters or subsistence, or both, or allowance in place thereof, may be furnished or paid only under regulations prescribed by the Secretary of the Army.

(Added Pub. L. 91-656, § 7(a), Jan. 8, 1971, 84 Stat. 1954.)

§ 5948. Physicians comparability allowances

(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section, section 5307, and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

(1) \$14,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

(2) \$30,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114¹ of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician.

(b) An allowance may not be paid pursuant to this section to any physician who—

(1) is employed on less than a half-time or intermittent basis,

(2) occupies an internship or residency training position,

(3) is a reemployed annuitant, or

(4) is fulfilling a scholarship obligation.

(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service.

(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

(g) For the purpose of this section—

(1) “Government physician” means any individual employed as a physician or dentist who is paid under—

¹ See References in Text note below.

(A) section 5332 of this title, relating to the General Schedule;

(B) Subchapter VIII of chapter 53 of this title, relating to the Senior Executive Service;

(C) section 5371, relating to certain health care positions;

(D) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

(E) chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following), relating to the Foreign Service;

(F) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j),¹ relating to the Central Intelligence Agency;

(G) section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission;

(H) section 2 of the Act of May 29, 1959 (Public Law 86-36, as amended, 50 U.S.C. 402 note),¹ relating to the National Security Agency;

(I) section 5376, relating to certain senior-level positions;

(J) section 5377, relating to critical positions; or

(K) subchapter IX of chapter 53, relating to special occupational pay systems; and

(2) “agency” means an Executive agency, as defined in section 105 of this title, the Library of Congress, and the District of Columbia government.

(h)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81 or 87 of this title, or other benefits related to basic pay.

(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician’s basic pay is paid.

(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.

(j) Not later than June 30 of each year, the President shall submit to each House of Congress a written report on the operation of this section. Each report shall include, with respect to the year covered by such report, information as to—

(1) which agencies entered into agreements under this section;

(2) the nature and extent of the recruitment or retention problems justifying the use of authority by each agency under this section;

(3) the number of physicians with whom agreements were entered into by each agency;

(4) the size of the allowances and the duration of the agreements entered into; and

(5) the degree to which the recruitment or retention problems referred to in paragraph (2) were alleviated under this section.

(Added Pub. L. 95-603, § 2(a), Nov. 6, 1978, 92 Stat. 3018; amended Pub. L. 96-166, § 2, Dec. 29, 1979, 93

Stat. 1273; Pub. L. 97-141, § 2, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98-168, title I, § 102(a), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 98-615, title II, § 204(a)(3), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 100-140, § 1, Oct. 26, 1987, 101 Stat. 830; Pub. L. 101-420, § 1(a), formerly § 1, Oct. 12, 1990, 104 Stat. 908, renumbered § 1(a), Pub. L. 103-114, § 1(b)(2)(A), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 102-378, § 2(51), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 103-89, § 3(b)(1)(M), Sept. 30, 1993, 107 Stat. 982; Pub. L. 103-114, §§ 1(a)(1), 2(a), Oct. 26, 1993, 107 Stat. 1115, 1116; Pub. L. 105-61, title V, § 517(a), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 105-266, § 7(a), Oct. 19, 1998, 112 Stat. 2369; Pub. L. 106-554, § 1(a)(1) [title II, § 218(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-28; Pub. L. 106-571, §§ 2(a)(1), (b), 3(d), Dec. 28, 2000, 114 Stat. 3054, 3057.)

Editorial Notes

REFERENCES IN TEXT

Sections 4104 and 4114 of title 38, referred to in subsec. (a), were repealed by Pub. L. 102-40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. Subsequently, section 2004 of Title 38, Veterans’ Benefits, was renumbered as section 4104 of Title 38 and a new section 4114 of Title 38 was added. The new sections 4104 and 4114 do not contain the same subject matter as the former sections. For provisions similar to those contained in former sections 4104 and 4114 prior to repeal, see sections 7401 and 7405 to 7407 of Title 38.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title II of the Public Health Service Act is classified generally to subchapter I (§ 201 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Foreign Service Act of 1980, referred to in subsec. (g)(1)(E), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071. Chapter 4 of title I of the Act is classified generally to subchapter IV (§ 3961 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

The Central Intelligence Agency Act of 1949, referred to in (g)(1)(F), is act June 20, 1949, ch. 227, 63 Stat. 208, which was formerly classified generally to section 403a et seq. of Title 50, War and National Defense, prior to editorial reclassification in chapter 46 (§ 3501 et seq.) of Title 50. Section 10 of the Act, which was renumbered as section 8 of that Act by Pub. L. 85-507, § 21(b)(2), July 7, 1958, 72 Stat. 337, is now classified to section 3510 of Title 50. For complete classification of this Act to the Code, see Tables.

Section 1202 of the Panama Canal Act of 1979, referred to in subsec. (g)(1)(G), is classified to section 3642 of Title 22, Foreign Relations and Intercourse.

Section 2 of the Act of May 29, 1959 (Public Law 86-36, as amended, 50 U.S.C. 402 note), referred to in subsec. (g)(1)(H), was formerly set out in a note under section 402 of Title 50, War and National Defense, prior to repeal by Pub. L. 104-201, div. A, title XVI, § 1633(b)(1), Sept. 23, 1996, 110 Stat. 2751. Another section 2 of Pub. L. 86-36 was added by Pub. L. 111-259, title IV, § 433, Oct. 7, 2010, 124 Stat. 2732, and has been editorially reclassified as section 3602 of Title 50.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106-571, § 2(a)(1), struck out second sentence which read as follows: “No agreement shall be entered into under this section later than September 30, 2005, nor shall any agreement cover a period of service extending beyond September 30, 2007.”

Pub. L. 106-554 amended second sentence generally. Prior to amendment, second sentence read as follows: “No agreement shall be entered into under this section

later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002.”

Subsec. (h)(1). Pub. L. 106-571, §3(d), substituted “chapter 81 or 87” for “chapter 81, 83, or 87”.

Subsec. (j). Pub. L. 106-571, §2(b), in par. (1), substituted “(j)” for “(j)(1)”, redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, in par. (5), substituted “paragraph (2)” for “subparagraph (B)”, and struck out former par. (2) which read as follows: “In addition to the information required under paragraph (1), the last report due under this subsection before the expiration of the authority to enter into agreements under this section shall include—

“(A) recommendations as to whether or not such authority should be continued beyond September 30, 2000, and, if so, by what period of time; and

“(B) the reasons for those recommendations.”

1998—Subsec. (a)(2). Pub. L. 105-266 substituted “\$30,000” for “\$20,000”.

1997—Subsec. (d). Pub. L. 105-61, §517(a)(1), substituted “No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002.” for “No agreement shall be entered into under this section later than September 30, 1997, nor shall any agreement cover a period of service extending beyond September 30, 1999.”

Subsec. (j)(2)(A). Pub. L. 105-61, §517(a)(2), substituted “September 30, 2000” for “September 30, 1997”.

1993—Subsec. (d). Pub. L. 103-114, §1(a)(1), amended second sentence generally. Prior to amendment, second sentence read as follows: “No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.”

Subsec. (g)(1)(C) to (L). Pub. L. 103-89 redesignated subpars. (D) to (L) as (C) to (K), respectively, and struck out former subpar. (C) which read as follows: “chapter 54 of this title, relating to the performance management and recognition system;”.

Subsec. (j). Pub. L. 103-114, §2(a), added subsec. (j).

1992—Subsec. (a). Pub. L. 102-378, §2(51)(A), inserted “, section 5307,” after “provisions of this section” in first sentence.

Subsec. (g)(1)(D). Pub. L. 102-378, §2(51)(B)(i), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “section 5371 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;”.

Subsec. (g)(1)(J) to (L). Pub. L. 102-378, §2(51)(B)(ii)–(iv), added subpars. (J) to (L).

1990—Subsec. (d). Pub. L. 101-420 added second sentence and struck out former second sentence which read as follows: “No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992.”

1987—Subsec. (a). Pub. L. 100-140, §1(a)(3), inserted last sentence.

Subsec. (a)(1). Pub. L. 100-140, §1(a)(1), substituted “\$14,000” for “\$7,000”.

Subsec. (a)(2). Pub. L. 100-140, §1(a)(2), substituted “\$20,000” for “\$10,000”.

Subsec. (d). Pub. L. 100-140, §1(b), substituted “September 30, 1990” for “September 30, 1987” and “September 30, 1992” for “September 30, 1989”.

1984—Subsec. (g)(1)(C). Pub. L. 98-615 substituted “performance management and recognition system” for “Merit Pay System”.

1983—Subsec. (d). Pub. L. 98-168 substituted “1987” for “1983”, and “1989” for “1985”.

1981—Subsec. (d). Pub. L. 97-141, §2(1), substituted “September 30, 1983, nor shall any agreement cover a period of service extending beyond September 30, 1985” for “September 30, 1981, nor shall any agreement cover a period of service extending beyond September 30, 1983”.

Subsec. (g)(1). Pub. L. 97-141, §2(2), (3), reenacted provisions preceding subpar. (A) without change, and in

subpar. (F), substituted “chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following)” for “title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861-890)”.

1979—Subsec. (d). Pub. L. 96-166, §2(1), substituted “September 30, 1981” for “September 30, 1979” and “September 30, 1983” for “September 30, 1981”.

Subsec. (g)(1). Pub. L. 96-166, §2(2)(A), directed the amendment of subsec. (g)(1) by inserting “or dentist” after “physician” which was executed by inserting the term after “employed as a physician” in introductory phrase as the probable intent of Congress.

Pub. L. 96-166, §2(2)(B)–(E), redesignated subpars. (B) through (G) as (D) through (I), respectively, added subpars. (B) and (C), substituted in subpar. (D) as redesignated, “5371” for “5361”, and substituted in subpar. (H) as redesignated, “section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission; or” for “section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or”.

Subsec. (g)(2). Pub. L. 96-166, §2(3), inserted reference to the Library of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Section 517(c) of Pub. L. 105-61 provided that: “The amendments made by this section [amending this section and provisions set out as a note under this section] shall take effect on the date of enactment of this Act [Oct. 10, 1997].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

EFFECTIVE DATE OF REPEAL

Section 3 of Pub. L. 95-603, as amended by Pub. L. 96-166, §4, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97-141, §3, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98-168, title I, §102(b), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 100-140, §1(c), as added Pub. L. 103-114, §1(b)(1), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 101-420, §1(b), as added Pub. L. 103-114, §1(b)(2)(B), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 103-114, §1(a)(2), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 105-61, title V, §517(b), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 106-554, §1(a)(1) [title II, §218(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-28, which provided that this section would be repealed, unless specifically extended by Act of Congress, effective on Sept. 30, 2007, was repealed by Pub. L. 106-571, §2(a)(2), Dec. 28, 2000, 114 Stat. 3054.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-571, §1, Dec. 28, 2000, 114 Stat. 3054, provided that: “This Act [amending this section and sections 8331, 8339, 8401, and 8415 of this title] may be cited as the ‘Federal Physicians Comparability Allowance Amendments of 2000’.”

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-168, title I, §101, Nov. 29, 1983, 97 Stat. 1105, provided that: “This title [amending this section, enacting provisions set out below, and amending provisions set out as a note above] may be cited as the ‘Federal Physicians Comparability Allowance Amendments of 1983’.”

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97-141, §1, Dec. 29, 1981, 95 Stat. 1719, provided: “That this Act [amending this section and section 8344

of this title and provisions set out below and enacting provisions set out as notes under this section and section 8344 of this title] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1981'."

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96-166, §1, Dec. 29, 1979, 93 Stat. 1273, provided: "That this Act [amending this section and section 5383 of this title and provisions set out as a note under this section, and enacting provisions set out below] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1979'."

SHORT TITLE

Pub. L. 95-603, §1, Nov. 6, 1978, 92 Stat. 3018, provided: "That this Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Federal Physicians Comparability Allowance Act of 1978'."

CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105-266, §7(c), Oct. 19, 1998, 112 Stat. 2370, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note below] shall be considered to authorize additional or supplemental appropriations for the fiscal year in which occurs the date of the enactment of this Act [Oct. 19, 1998]."

CONSTRUCTION OF 1993 AMENDMENT

Pub. L. 103-114, §1(a)(4), Oct. 26, 1993, 107 Stat. 1115, provided that: "The amendments made by this subsection [amending this section and provisions set out above] shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending September 30, 1993."

Pub. L. 103-114, §1(c), Oct. 26, 1993, 107 Stat. 1116, provided that: "For purposes of applying the amendments made by this section [amending this section and enacting and amending provisions set out as notes above]—

"(1) the provisions of subsection (b)(1) [enacting and amending provisions set out as notes above] shall be treated as having been enacted immediately before the provisions of subsection (b)(2) [enacting and amending provisions set out as notes above]; and

"(2) the provisions of subsection (b)(2) shall be treated as having been enacted immediately before the provisions of subsection (a) [amending this section and enacting and amending provisions set out as notes above]."

MODIFICATION OF SERVICE AGREEMENTS IN EFFECT ON OCTOBER 19, 1998; LIMITATION

Pub. L. 105-266, §7(b), Oct. 19, 1998, 112 Stat. 2369, provided that:

"(1) IN GENERAL.—Any service agreement under section 5948 of title 5, United States Code, which is in effect on the date of the enactment of this Act [Oct. 19, 1998] may, with respect to any period of service remaining in such agreement, be modified based on the amendment made by subsection (a) [amending this section].

"(2) LIMITATION.—A modification taking effect under this subsection in any year shall not cause an allowance to be increased to a rate which, if applied throughout such year, would cause the limitation under section 5948(a)(2) of such title (as amended by this section), or any other applicable limitation, to be exceeded."

EFFECTIVENESS OF SERVICE AGREEMENTS LIMITED BY APPROPRIATION ACTS

Pub. L. 103-114, §1(a)(3), Oct. 26, 1993, 107 Stat. 1115, provided that: "Any service agreement entered into on or after the date of the enactment of this Act [Oct. 26, 1993] pursuant to section 5948 of title 5, United States Code, as amended by paragraph (1), shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts."

DUE DATE FOR FIRST ANNUAL REPORT ON OPERATION OF SECTION

Pub. L. 103-114, §2(b), Oct. 26, 1993, 107 Stat. 1116, provided that: "The first report under section 5948(j) of title 5, United States Code, as amended by subsection (a), shall be due not later than June 30, 1994."

PAY OF CERTAIN FEDERAL PHYSICIANS FOR FISCAL YEAR 1982

Pub. L. 98-168, title I, §103, Nov. 29, 1983, 97 Stat. 1105, provided that any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of this title is relieved of all liability to the United States for any amounts paid to such individual in excess of such limitation if, and to the extent that, such liability takes into account any allowance paid under this section, provided for repayment to individuals relieved from liability of amounts already paid, and defined the terms "aggregate pay", "appropriate agency head", and "agency".

SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1981; ADVANCE AUTHORIZATION; FISCAL YEAR 1982

Pub. L. 97-141, §4, Dec. 29, 1981, 95 Stat. 1719, provided that any service agreement entered into on or after Dec. 29, 1981, pursuant to this section, as amended by section 2 of Pub. L. 97-141, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts, and that the amendments made by Pub. L. 97-141 shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending Sept. 30, 1982.

SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1979; ADVANCE AUTHORIZATION

Pub. L. 96-166, §5, Dec. 29, 1979, 93 Stat. 1273, provided that any service agreement entered into on or after Dec. 29, 1979, pursuant to this section, as amended by section 2 of Pub. L. 96-166, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

TIME OF ENTRY INTO ALLOWANCE AGREEMENTS AND FOR COMMENCEMENT OF ALLOWANCE

Pub. L. 95-603, §2(c), Nov. 6, 1978, 92 Stat. 3020, provided that no agreement be entered into under this section before 60th day after Nov. 6, 1978, and that no agreement provide for payment of any allowance under such section for any pay period beginning before later of such 60th day, or Oct. 1, 1978.

Executive Documents

EX. ORD. NO. 12109. DELEGATION OF AUTHORITY TO DIRECTOR OF OFFICE OF PERSONNEL MANAGEMENT

Ex. Ord. No. 12109, Dec. 28, 1978, 44 F.R. 1067, provided: By the authority vested in me as President of the United States of America by Section 5948 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. The Director of the Office of Personnel Management is hereby designated and empowered to exercise, in consultation with the Director of the Office of Management and Budget, the authority of the President under Section 5948 of Title 5 of the United States Code, to prescribe regulations, criteria, and conditions with regard to the payment of comparability allowances to recruit and retain certain Federal physicians.

1-102. Until the Office of Personnel Management is established (on or before January 1, 1979), pursuant to Reorganization Plan No. 2 of 1978 (43 FR 36037) [set out under section 1101 of this title], the Civil Service Commission shall exercise the authority delegated under this Order to the Director of the Office of Personnel Management.

JIMMY CARTER.

§ 5949. Hostile fire pay

(a) The head of an Executive agency may pay an employee hostile fire pay at the rate of \$150 for any month in which the employee was—

- (1) subject to hostile fire or explosion of hostile mines;
- (2) on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other employees were subject to hostile fire or explosion of hostile mines; or
- (3) killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

(b) An employee covered by subsection (a)(3) who is hospitalized for the treatment of his or her injury or wound may be paid hostile fire pay under this section for not more than three additional months during which the employee is so hospitalized.

(c) An employee may be paid hostile fire pay under this section in addition to other pay and allowances to which entitled, except that an employee may not be paid hostile fire pay under this section for periods of time during which the employee receives payment under section 5925 of this title because of exposure to political violence or payment under section 5928 of this title.

(Added Pub. L. 107–107, div. A, title XI, §1111(a), Dec. 28, 2001, 115 Stat. 1238.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Pub. L. 107–107, div. A, title XI, §1111(c), Dec. 28, 2001, 115 Stat. 1238, as amended by Pub. L. 108–375, div. A, title X, §1084(h)(3), Oct. 28, 2004, 118 Stat. 2064, provided that: “Section 5949 of title 5, United States Code, as added by subsection (a), is effective as if enacted into law on September 11, 2001, and may be applied with respect to any hostile action that took place on or after that date.”

Subpart E—Attendance and Leave**CHAPTER 61—HOURS OF WORK****SUBCHAPTER I—GENERAL PROVISIONS**

Sec.	
6101.	Basic 40-hour workweek; work schedules; regulations.
[6102.]	Repealed.]
6103.	Holidays.
6104.	Holidays; daily, hourly, and piece-work basis employees.
6105.	Closing of Executive departments.
6106.	Time clocks; restrictions.

SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

6120.	Purpose.
6121.	Definitions.
6122.	Flexible schedules; agencies authorized to use.
6123.	Flexible schedules; computation of premium pay.
6124.	Flexible schedules; holidays.
6125.	Flexible schedules; time-recording devices.
6126.	Flexible schedules; credit hours; accumulation and compensation.
6127.	Compressed schedules; agencies authorized to use.

Sec.	
6128.	Compressed schedules; computation of premium pay.
6129.	Administration of leave and retirement provisions.
6130.	Application of programs in the case of collective bargaining agreements.
6131.	Criteria and review.
6132.	Prohibition of coercion.
6133.	Regulations; technical assistance; program review.

Editorial Notes**AMENDMENTS**

1982—Pub. L. 97–221, §2(b), July 23, 1982, 96 Stat. 233, inserted “SUBCHAPTER I—GENERAL PROVISIONS” before item 6101 and inserted “SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES” and items 6120 to 6133 after item 6106.

1972—Pub. L. 92–392, §7(b), Aug. 19, 1972, 86 Stat. 573, struck out item 6102 “Eight-hour day; 40-hour work week; wage-board employees”.

SUBCHAPTER I—GENERAL PROVISIONS**Editorial Notes****AMENDMENTS**

1982—Pub. L. 97–221, §2(a)(1), July 23, 1982, 96 Stat. 227, added subchapter I heading so as to designate existing provisions as “SUBCHAPTER I—GENERAL PROVISIONS”.

§ 6101. Basic 40-hour workweek; work schedules; regulations

(a)(1) For the purpose of this subsection, “employee” includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title, except as specifically provided under this paragraph.

(2) The head of each Executive agency, military department, and of the government of the District of Columbia shall—

(A) establish a basic administrative workweek of 40 hours for each full-time employee in his organization; and

(B) require that the hours of work within that workweek be performed within a period of not more than 6 of any 7 consecutive days.

(3) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

(A) assignments to tours of duty are scheduled in advance over periods of not less than 1 week;

(B) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(C) the working hours in each day in the basic workweek are the same;