

States, and who are designated by the Secretary of Defense for the purposes of this subsection,”, and designated second sentence of existing text as par. (2).

Subsec. (c). Pub. L. 104-93, § 502(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: “Regulations issued pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.”

Subsec. (d). Pub. L. 104-93, § 502(a)(3), added subsec. (d).

1993—Subsec. (a). Pub. L. 103-160 substituted “(50 U.S.C. 2153)” for “(50 U.S.C. 403 note)”.

1992—Subsec. (a). Pub. L. 102-496 substituted “the Central Intelligence Agency Retirement Act” for “the Central Intelligence Agency Retirement Act of 1964 for Certain Employees” and inserted “(50 U.S.C. 403r)” after “the Central Intelligence Agency Act of 1949”.

1989—Subsec. (a). Pub. L. 101-193 struck out “who are subject to chapter 84 of title 5,” after “such civilian personnel” in last sentence and inserted reference to section 18 of the Central Intelligence Agency Act of 1949.

1986—Subsec. (a). Pub. L. 99-569 inserted reference to par. (5) of section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081(5)).

Pub. L. 99-335 inserted provision authorizing the Secretary to provide to any civilian personnel subject to chapter 84 of title 5 special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

1985—Subsec. (a). Pub. L. 99-145, § 1302(a)(1)(A), (B), struck out references to Director of the Defense Intelligence Agency and to military personnel, substituted “sections 705 and 903” for “under sections 903, 705, and 2308”, and substituted “(22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.” for “(22 U.S.C. 4025; 22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13); 22 U.S.C. 4083; 5 U.S.C. 5924(4)).”

Subsec. (b). Pub. L. 99-145, § 1302(a)(1)(A), struck out reference to Director of the Defense Intelligence Agency.

Subsecs. (c), (d). Pub. L. 99-145, § 1302(a)(1)(C), struck out subsec. (c) which read as follows: “Members of the Armed Forces may not receive benefits under both subsection (a) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.”, and redesignated former subsec. (d) as (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as a note under section 1593 of this title.

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of Title 50, War and National Defense.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

#### § 1606. Defense Intelligence Senior Executive Service

(a) ESTABLISHMENT.—The Secretary of Defense may establish a Defense Intelligence Senior Executive Service for defense intelligence posi-

tions established pursuant to section 1601(a) of this title that are equivalent to Senior Executive Service positions. The number of positions in the Defense Intelligence Senior Executive Service may not exceed 594.

(b) REGULATIONS CONSISTENT WITH TITLE 5 PROVISIONS.—The Secretary of Defense shall prescribe regulations for the Defense Intelligence Senior Executive Service which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5, subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Defense Intelligence Senior Executive Service is entitled shall be held or decided pursuant to those regulations), and subchapter II of chapter 43 of such title. To the extent that the Secretary determines it practicable to apply to members of, or applicants for, the Defense Intelligence Senior Executive Service other provisions of title 5 that apply to members of, or applicants for, the Senior Executive Service, the Secretary shall also prescribe regulations to implement those provisions with respect to the Defense Intelligence Senior Executive Service.

(c) AWARD OF RANK TO MEMBERS OF THE DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Defense Intelligence Senior Executive Service. The award of such rank shall be made in a manner consistent with the provisions of that section.

(d) PERFORMANCE APPRAISALS.—(1) The Defense Intelligence Senior Executive Service shall be subject to a performance appraisal system which, as designed and applied, is certified by the Secretary of Defense under section 5307 of title 5 as making meaningful distinctions based on relative performance.

(2) The performance appraisal system applicable to the Defense Intelligence Senior Executive Service under paragraph (1) may be the same performance appraisal system that is established and implemented within the Department of Defense for members of the Senior Executive Service.

(Added Pub. L. 104-201, div. A, title XVI, § 1632(b), Sept. 23, 1996, 110 Stat. 2747; amended Pub. L. 106-398, § 1 [[div. A, title XI, § 1142], Oct. 30, 2000, 114 Stat. 1654, 1654A-319; Pub. L. 107-107, div. A, title XI, § 1121, Dec. 28, 2001, 115 Stat. 1242; Pub. L. 108-375, div. A, title XI, § 1103(b), Oct. 28, 2004, 118 Stat. 2073; Pub. L. 109-163, div. A, title XI, § 1125, Jan. 6, 2006, 119 Stat. 3454.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1606 was renumbered section 1622 of this title.

Provisions similar to those in this section were contained in sections 1590(f), (g) and 1601(a)–(c) of this title prior to repeal by Pub. L. 104-201, §§ 1632(a)(3), 1633(a).

##### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 substituted “594” for “544”.

2004—Subsec. (d). Pub. L. 108-375 added subsec. (d).

2001—Subsec. (a). Pub. L. 107-107 substituted “544” for “517”.  
 2000—Subsec. (a). Pub. L. 106-398 substituted “517” for “492”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

#### § 1607. Intelligence Senior Level positions

(a) DESIGNATION OF POSITIONS.—The Secretary of Defense may designate as an Intelligence Senior Level position any defense intelligence position that, as determined by the Secretary—

- (1) is classifiable above grade GS-15 of the General Schedule;
- (2) does not satisfy functional or program management criteria for being designated a Defense Intelligence Senior Executive Service position; and
- (3) has no more than minimal supervisory responsibilities.

(b) REGULATIONS.—Subsection (a) shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

(c) AWARD OF RANK TO EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.

(Added Pub. L. 104-201, div. A, title XVI, § 1632(b), Sept. 23, 1996, 110 Stat. 2747; amended Pub. L. 107-306, title V, § 503, Nov. 27, 2002, 116 Stat. 2407.)

#### Editorial Notes

##### REFERENCES IN TEXT

Grade GS-15 of the General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

##### PRIOR PROVISIONS

A prior section 1607 was renumbered section 424 of this title.

Provisions similar to those in this section were contained in section 1604(f)(1), (3) of this title prior to repeal by Pub. L. 104-201, § 1632(a)(3).

##### AMENDMENTS

2002—Subsec. (c). Pub. L. 107-306 added subsec. (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

#### § 1608. Time-limited appointments

(a) AUTHORITY FOR TIME-LIMITED APPOINTMENTS.—The Secretary of Defense may by regulation authorize appointing officials to make time-limited appointments to defense intelligence positions specified in the regulations.

(b) REVIEW OF USE OF AUTHORITY.—The Secretary of Defense shall review each time-limited appointment in a defense intelligence position at the end of the first year of the period of the appointment and determine whether the appointment should be continued for the remainder of the period. The continuation of a time-limited appointment after the first year shall be subject to the approval of the Secretary.

(c) CONDITION ON PERMANENT APPOINTMENT TO DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—An employee serving in a defense intelligence position pursuant to a time-limited appointment is not eligible for a permanent appointment to a Defense Intelligence Senior Executive Service position (including a position in which the employee is serving) unless the employee is selected for the permanent appointment on a competitive basis.

(d) TIME-LIMITED APPOINTMENT DEFINED.—In this section, the term “time-limited appointment” means an appointment (subject to the condition in subsection (b)) for a period not to exceed two years.

(Added Pub. L. 104-201, div. A, title XVI, § 1632(b), Sept. 23, 1996, 110 Stat. 2748.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1608 was renumbered section 1623 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

#### § 1609. Termination of defense intelligence employees

(a) TERMINATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee in a defense intelligence position if the Secretary—

- (1) considers that action to be in the interests of the United States; and

(2) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

(b) FINALITY.—A decision by the Secretary of Defense to terminate the employment of an employee under this section is final and may not be appealed or reviewed outside the Department of Defense.

(c) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—Whenever the Secretary of Defense terminates the employment of an employee under the authority of this section, the Secretary shall promptly notify the congressional oversight committees of such termination.

(d) PRESERVATION OF RIGHT TO SEEK OTHER EMPLOYMENT.—Any termination of employment under this section does not affect the right of the employee involved to seek or accept employment with any other department or agency of