

tion 4054(a) of this title or except to the extent provided in section 4159 of this title, regarding rights of former spouses to receive survivor annuities under this subchapter, see section 2403(a) and (e) of Pub. L. 96-465, set out as a note under section 3901 of this title.

**TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES**

Pub. L. 100-204, title I, §158, Dec. 22, 1987, 101 Stat. 1355, provided that:

“(a) **TERMINATION.**—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

“(b) **WAIVER.**—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress.”

**TEMPORARY RETIREMENT CONTRIBUTIONS AND PROCEDURES FOR CERTAIN PARTICIPANTS**

For temporary provisions providing modified contributions and procedures for members of the Service participating in the Foreign Service Retirement and Disability System who are also required to pay employment taxes relating to benefits under title II of the Social Security Act, 42 U.S.C. 401 et seq., until they are covered by a new Government retirement system or Jan. 1, 1986, whichever is earlier, see title II of Pub. L. 98-168, set out as a note under section 8331 of Title 5, Government Organization and Employees.

**Executive Documents**

**DELEGATION OF FUNCTIONS**

Functions of President under this section delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

**§ 4042. Maintenance of Fund**

The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this part referred to as the “Fund”), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

(Pub. L. 96-465, title I, §802, Oct. 17, 1980, 94 Stat. 2102; Pub. L. 99-335, title IV, §402(a)(2), June 6, 1986, 100 Stat. 609.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 18 of the Act of May 24, 1924 (43 Stat. 144), referred to in text, which was classified to section 21 of this title, was repealed by act Aug. 13, 1946, ch. 957, title XI, §1131(44), 60 Stat. 1038.

**AMENDMENTS**

1986—Pub. L. 99-335 substituted “part” for “subchapter”.

**Statutory Notes and Related Subsidiaries**

**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 Effect-

tive Date note under section 8401 of Title 5, Government Organization and Employees.

**§ 4043. Participants**

**(a) Career appointees or candidates; chiefs of mission**

Except as provided in subsection (d), the following members of the Service (hereinafter in this part referred to as “participants”) shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 3946 of this title—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 4045 of this title.

**(b) Executive branch appointees**

Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

**(c) Binational Center Grantees**

In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 4045(d) or (f) of this title.

**(d) Exclusion**

An individual subject to the Foreign Service Pension System (described in part II) is not a participant in this System.

(Pub. L. 96-465, title I, §803, Oct. 17, 1980, 94 Stat. 2102; Pub. L. 99-335, title IV, §§402(a)(2), 414, June 6, 1986, 100 Stat. 609, 614.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Foreign Service Act of 1946, referred to in subsection (c), is act Aug. 13, 1946, ch. 957, titles I to X, 60 Stat. 999, which was classified principally to chapter 14 (§801 et seq.) of this title, and was repealed by Pub. L. 96-465, title II, 2205(1), Oct. 17, 1980, 94 Stat. 2159.

**AMENDMENTS**

1986—Subsec. (a). Pub. L. 99-335, §§402(a)(2), 414(1), substituted “Except as provided in subsection (d), the” for “The” and “part” for “subchapter” in provisions preceding par. (1).

Subsec. (d). Pub. L. 99-335, §414(2), added subsec. (d).

**Statutory Notes and Related Subsidiaries**

**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 Effect-