

SEC. 5. *Staffing Differentials.* The Office of Personnel Management is hereby designated and empowered to exercise the authority of the President under section 209 of FEPCA [5 U.S.C. 5305 note] to establish staffing differentials.

SEC. 6. *Executive Assignment System.* (a) Civil Service Rule 9 (5 CFR Part 9), as established by Executive Order No. 11315, as amended, is revoked.

(b) The Office of Personnel Management shall take such actions as the Office may determine to be necessary to provide for the orderly termination of the Executive Assignment System.

SEC. 7. *Effective Dates.* (a) Except as otherwise provided by Public Law 101-509, the provisions of subchapter I of chapter 53 of title 5, United States Code, as amended by section 101 of FEPCA [this subchapter], and the provisions of sections 1 through 4 of this order shall take effect on February 3, 1991.

(b) Except as otherwise provided by Public Law 101-509, the remaining provisions of FEPCA and of this order shall take effect on May 4, 1991, except that the Office of Personnel Management may establish an earlier effective date, but not earlier than February 3, 1991, for any such provisions with respect to which the Office determines an earlier effective date is appropriate. [For effective dates of certain provisions of FEPCA as established by the Office of Personnel Management, see notices and rules issued by the Office of Personnel Management and published in the Federal Register at 56 F.R. 6212, 11059, 12833, 20339, and 20343.]

§ 5302. Definitions

For the purpose of this subchapter—

(1) the term “statutory pay system” means a pay system under—

(A) subchapter III, relating to the General Schedule;

(B) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or

(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);

(2) the term “ECI” means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics;

(3) the “base quarter” for any year is the 3-month period ending on September 30 of such year;

(4) the term “pay agent” means the agent designated by the President under section 5304(d)(1);

(5) the term “locality” or “pay locality” means any locality, as established or modified under section 5304;

(6) the term “pay disparity”, as used with respect to a locality, means the extent to which rates of pay payable under the General Schedule are generally lower than the rates paid for the same levels of work by non-Federal workers in the same locality; except as otherwise required in this subchapter, a pay disparity shall be expressed as a single percentage which, if uniformly applied to employees within the locality who are receiving rates of pay under the General Schedule, would cause the rates payable to such employees to become substantially equal (when considered in the aggregate) to the rates paid to non-Federal workers for the same levels of work in the same locality;

(7) the term “comparability payment” means a payment payable under section 5304;

(8) the term “rates of pay under the General Schedule”, “rates of pay for the General Schedule”, or “scheduled rates of basic pay” means the rates of basic pay under the General Schedule as established by section 5332, excluding pay under section 5304 and any other additional pay of any kind; and

(9) the term “General Schedule position” means any position to which subchapter III applies.

(Added Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1429; amended Pub. L. 102-378, §2(25), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 103-89, §3(b)(1)(E), Sept. 30, 1993, 107 Stat. 981; Pub. L. 108-411, title III, §301(a)(1), Oct. 30, 2004, 118 Stat. 2313.)

Editorial Notes

REFERENCES IN TEXT

Section 403 of the Foreign Service Act of 1980, referred to in par. (1)(B), is classified to section 3963 of Title 22, Foreign Relations and Intercourse.

PRIOR PROVISIONS

A prior section 5302, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458, provided for annual reports on pay comparability, prior to repeal by Pub. L. 91-656, §2(b)(1), Jan. 8, 1971, 84 Stat. 1946.

AMENDMENTS

2004—Par. (8). Pub. L. 108-411 added par. (8) and struck out former par. (8) which read as follows: “the term ‘rates of pay under the General Schedule’, ‘rates of pay for the General Schedule’, or ‘scheduled rates of basic pay’ means—

“(A) the rates of basic pay set forth in the General Schedule; and

“(B) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and”.

1993—Par. (8). Pub. L. 103-89, §3(b)(1)(E)(i), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “in the case of an employee covered by the performance management and recognition system, the rates of basic pay under chapter 54; and”.

Par. (9). Pub. L. 103-89, §3(b)(1)(E)(ii), substituted “applies” for “applies (including any position under the performance management and recognition system)”.

1992—Par. (1)(C). Pub. L. 102-378, §2(25)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “chapter 73 of title 38, relating to the Veterans Health Services and Research Administration”.

Par. (8)(C). Pub. L. 102-378, §2(25)(B), added subpar. (C).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

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 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Feb. 3, 1991, see section 9(b)(5) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5303. Annual adjustments to pay schedules

(a) Effective as of the first day of the first applicable pay period beginning on or after January 1 of each calendar year, the rates of basic pay for each statutory pay system shall be increased by the percentage (rounded to the nearest one-tenth of 1 percent) equal to one-half of 1 percentage point less than the percentage by which the ECI for the base quarter of the year before the preceding calendar year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

(b)(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the pay adjustment which would otherwise be required by subsection (a) in any year to be inappropriate, the President shall—

(A) prepare and transmit to Congress before September 1 of the preceding calendar year a plan for such alternative pay adjustments as he considers appropriate, together with the reasons therefor; and

(B) adjust the rates of pay of each statutory pay system, in accordance with such plan, effective on the same day as the increase under subsection (a) would otherwise take effect.

(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including, but not limited to, the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

(3) The President shall include in the report to Congress under paragraph (1)(A) his assessment of the impact that the alternative pay adjustments under this subsection will have on the Government's ability to recruit and retain well-qualified employees.

(c) The rates of basic pay that take effect under this section—

(1) shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith, any prior rates of basic pay under the statutory pay system involved (as last adjusted under this section or prior provisions of law); and

(2) shall be printed in the Federal Register and the Code of Federal Regulations.

(d) An increase in rates of basic pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335.

(e) This section does not impair any authority pursuant to which rates of basic pay may be fixed by administrative action.

(f) Pay may not be paid, by reason of any provision of this section (disregarding any comparability payment payable), at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

(g) Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agency or agencies as the President may designate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 90-206, title II, §207, Dec. 16, 1967, 81 Stat. 631; Pub. L. 91-375, §6(c)(10), Aug. 12, 1970, 84 Stat. 776; Pub. L. 94-183, §2(16), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-465, title II, §2314(c)(2), Oct. 17, 1980, 94 Stat. 2167; Pub. L. 101-509, title V, §529 [title I, §101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1430.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1173.	Oct. 11, 1962, Pub. L. 87-793, § 504, 76 Stat. 842. Aug. 14, 1964, Pub. L. 88-426, § 123, 78 Stat. 412.

In subsection (a), the words “the provisions of this title governing appointment in the competitive service” are substituted for “the civil service laws and regulations”.

In subsections (a), (b), and (d), the word “agency” is substituted for “agency or agencies” because the singular imports the plural, see 1 U.S.C. 1.

In subsection (d), the word “officer” is omitted as included in “employee”, “agency” is substituted for “department”, and “rules” is omitted as included in “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.

Editorial Notes

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsection (f), is set out in section 5316 of this title.

AMENDMENTS

1990—Pub. L. 101-509 amended section generally, substituting provisions relating to annual adjustments to pay schedules for provisions relating to President's authority to set higher minimum rates of basic pay.

1980—Subsec. (a)(4). Pub. L. 96-465 substituted “section 403 of the Foreign Service Act of 1980” for “sections 867 and 870 of title 22”.

1978—Subsec. (a). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1975—Subsec. (c). Pub. L. 94-183 struck out “and section 3552 of title 39” after “of section 5335(a) of this title”.

1970—Subsec. (a)(2). Pub. L. 91-375 repealed cl. (2) making positions paid under provisions of part III of title 39 relating to employees in the postal field service subject to higher minimum rates established by the President.

1967—Subsec. (a). Pub. L. 90-206, §207(a), substituted “maximum pay rate” for “seventh pay rate”.

Subsec. (d). Pub. L. 90-206, §207(b), inserted provisions that permitted an initial adjustment to be made to statutory increases which become effective prior to, on, or after the date of enactment of the statute.

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,