(Added Pub. L. 101–509, title V, § 529 [title I, § 104(a)(2)], Nov. 5, 1990, 104 Stat. 1427, 1446; amended Pub. L. 109–163, div. A, title VIII, § 847(f)(1), Jan. 6, 2006, 119 Stat. 3395; Pub. L. 111–350, § 5(a)(9), Jan. 4, 2011, 124 Stat. 3841.)

Editorial Notes

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(1), is set out in section 5315 of this title.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111–350, § 5(a)(9)(A), substituted ''section 7105(a)(2), (c)(2), or (d)(2) of title 41'' for ''section 8 of the Contract Disputes Act of 1978'' and ''section 7105(b)(2) of title 41'' for ''section 42 of the Office of Federal Procurement Policy Act''.

Subsec. (a)(2). Pub. L. 111–350, § 5(a)(9)(B), substituted ''section 7105(a)(1), (c)(1), or (d)(1) of title 41'' for ''section 8 of the Contract Disputes Act of 1978''.

2006—Subsec. (a)(1). Pub. L. 109–163 inserted ''or a member of the Civilian Board of Contract Appeals appointed under section 42 of the Office of Federal Procurement Policy Act'' after ''of 1978''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VIII, § 847(g), Jan. 6, 2006, 119 Stat. 3395, provided that: ''Section 42 of the Office of Federal Procurement Policy Act, as added by this section, and the amendments and repeals made by this section [enacting section 438 of Title 41, Public Contracts, amending this section and sections 601 and 607 of Title 41, and enacting provisions set out as a note under section 607 of Title 41], shall take effect 1 year after the date of the enactment of this Act [Jan. 6, 2006].''

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.

§ 5372b. Administrative appeals judges

(a) For the purpose of this section—

(1) the term ''administrative appeals judge position'' means a position the duties of which primarily involve reviewing decisions of administrative law judges appointed under section 3105; and

(2) the term ''agency'' means an Executive agency, as defined by section 105, but does not include the Government Accountability Office.

(b) Subject to such regulations as the Office of Personnel Management may prescribe, the head of the agency concerned shall fix the rate of basic pay for each administrative appeals judge position within such agency which is not classified above GS–15 pursuant to section 5108.

(c) A rate of basic pay fixed under this section shall be—

(1) not less than the minimum rate of basic pay for level AL–3 under section 5372; and

(2) not greater than the maximum rate of basic pay for level AL–3 under section 5372.

(Added Pub. L. 106–554, § 1(a)(3) [title VI, § 645(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

GS–15, referred to in subsec. (b), is contained in the General Schedule which is set out under section 5332 of this title.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 106–554, § 1(a)(3) [title VI, § 645(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–170, provided that: ''The amendment made by subsection (a)(1) [enacting this section] shall apply with respect to pay for service performed on or after the first day of the first applicable pay period beginning on or after—

''(1) the 120th day after the date of the enactment of this Act [Dec. 21, 2000]; or

''(2) if earlier, the effective date of regulations prescribed by the Office of Personnel Management to carry out such amendment.''

§ 5373. Limitation on pay fixed by administrative action

(a) Except as provided in subsection (b) and by the Government Employees Salary Reform Act of 1964 (78 Stat. 400) and notwithstanding the provisions of other statutes, the head of an Executive agency or military department who is authorized to fix by administrative action the annual rate of basic pay for a position or employee may not fix the rate at more than the rate for level IV of the Executive Schedule. This section does not impair the authorities provided by—

(1) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b)[1] and 21A(e)(4)[1] of the Federal Home Loan Bank Act, section 2A(i)[1] of the Home Owners' Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;

(2) section 831b of title 16;

(3) sections 403a–403c, 403e–403h, and 403j of title 50;[1] or

(4)[2] section 4802.

(4)[2] section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)).

(b) Subsection (a) shall not affect the authority of the Secretary of Defense or the Secretary of a military department to fix the pay of a civilian employee paid from nonappropriated funds, except that the annual rate of basic pay (including any portion of such pay attributable to comparability with private-sector pay in a locality) of such an employee may not be fixed at a rate greater than the rate for level III of the Executive Schedule.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, § 5363; renumbered § 5373, Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221; Pub. L. 96–70, title III, § 3302(e)(4), Sept. 27, 1979, 93 Stat. 498; Pub. L. 101–73, title VII, § 742(b), title XII, § 1209, Aug. 9, 1989, 103 Stat. 437, 523; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(H)], Nov.

[1] See References in Text note below.

[2] So in original. Two pars. (4) have been enacted.

5, 1990, 104 Stat. 1427, 1441; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(4), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 106–65, div. A, title XI, § 1102, Oct. 5, 1999, 113 Stat. 776; Pub. L. 107–123, § 8(d)(1)(C), Jan. 16, 2002, 115 Stat. 2399; Pub. L. 107–171, title X, § 10702(c)(3), May 13, 2002, 116 Stat. 517.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2212.	Aug. 14, 1964, Pub. L. 88–426, § 308, 78 Stat. 432. Oct. 6, 1964, Pub. L. 88–631, § 3(e), 78 Stat. 1008.

The words ''head of an Executive agency or military department'' are coextensive with and substituted for ''head of any executive department, independent establishment, or agency in the executive branch'' because of the definitions in sections 102 and 105.

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

Editorial Notes

REFERENCES IN TEXT

The Government Employees Salary Reform Act of 1964 (78 Stat. 400), referred to in subsec. (a), is Pub. L. 88–426, Aug. 14, 1964, 78 Stat. 400. For complete classification of this Act to the Code, see Tables.

Level IV of the Executive Schedule, referred to in subsec. (a), is set out in section 5315 of this title.

Section 206 of the Bank Conservation Act, referred to in subsec. (a)(1), is classified to section 206 of Title 12, Banks and Banking.

Sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, referred to in subsec. (a)(1), were classified to former sections 1422b(b) and 1441a(e)(4), respectively, of Title 12, Banks and Banking. Section 1422b of Title 12 was repealed by Pub. L. 110–289, div. A, title II, § 1204(1), July 30, 2008, 122 Stat. 2786. Section 1441a of Title 12 was repealed by Pub. L. 111–203, title III, § 364(b), July 21, 2010, 124 Stat. 1555.

Section 2A(i) of the Home Owners' Loan Act, referred to in subsec. (a)(1), probably should be a reference to section 3(g) of the Home Owners' Loan Act, act June 13, 1933, ch. 64, as amended by Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 278, which was classified to section 1462a(g) of Title 12, Banks and Banking, prior to repeal by Pub. L. 111–203, title III, § 369(3)(B), July 21, 2010, 124 Stat. 1558.

Sections 5.11 and 5.58 of the Farm Credit Act of 1971, referred to in subsec. (a)(1), are classified to sections 2245 and 2277a–7, respectively, of Title 12, Banks and Banking.

Sections 403a–403c, 403e–403h, and 403j of title 50, referred to in subsec. (a)(3), were editorially reclassified to sections 3501 to 3503, 3505, 3323, 3506, 3507, 3508, and 3510, respectively, of Title 50, War and National Defense. Section 403e–1 of Title 50, included within the reference to sections 403e–403h of Title 50, was enacted by Pub. L. 98–215, title IV, § 402, Dec. 9, 1983, 97 Stat. 1477, after subsec. (a)(3) was enacted, and subsequently editorially reclassified to section 3323 of Title 50.

Level III of the Executive Schedule, referred to in subsec. (b), is set out in section 5314 of this title.

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107–171, § 10702(c)(3)(A), which directed amendment of par. (2) by striking ''or'' at end, could not be executed because the word ''or'' did not appear at the end. See below.

Pub. L. 107–123, § 8(d)(1)(C)(i), struck out ''or'' at end.

Subsec. (a)(3). Pub. L. 107–171, § 10702(c)(3)(B), which directed substitution of ''; or'' for the period at the end, could not be executed because there was no period at the end. See below.

Pub. L. 107–123, § 8(d)(1)(C)(ii), substituted ''; or'' for the period at the end.

Subsec. (a)(4). Pub. L. 107–171, § 10702(c)(3)(C), added par. (4) relating to section 2(a)(7) of the Commodity Exchange Act.

Pub. L. 107–123, § 8(d)(1)(C)(iii), added par. (4) relating to section 4802.

1999—Pub. L. 106–65 designated existing provisions as subsec. (a), substituted ''(a) Except as provided in subsection (b) and'' for ''Except as provided'', and added subsec. (b).

1996—Pub. L. 104–201 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''section 1202 of the Panama Canal Act of 1979;''.

1990—Pub. L. 101–509 substituted ''rate for level IV of the Executive Schedule.'' for ''maximum rate for GS–18.''

1989—Par. (2). Pub. L. 101–73, § 1209, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''sections 248, 481, 1437, 1439, and 1819 of title 12;''.

Pub. L. 101–73, § 742(b), inserted references to sections 1437 and 1439 of title 12.

1979—Par. (1). Pub. L. 96–70 substituted ''section 1202 of the Panama Canal Act of 1979'' for ''section 121 of title 2, Canal Zone Code (76A Stat. 15)''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–123 effective Oct. 1, 2001, see section 11 of Pub. L. 107–123, set out as a note under section 78ee of Title 15, Commerce and Trade.

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. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 5374. Miscellaneous positions in the executive branch

The head of the agency concerned shall fix the annual rate of basic pay for each position in the executive branch specifically referred to in, or covered by, a conforming change in statute made by section 305 of the Government Employees Salary Reform Act of 1964 (78 Stat. 422), or other position in the executive branch for which the annual pay is fixed at a rate of $18,500 or more under special provision of statute enacted before August 14, 1964, which is not placed in a level of the Executive Schedule set forth in subchapter II of this chapter, at a rate equal to the pay rate of a grade and step of the General Schedule set forth in section 5332 of this title. The head of the agency concerned shall report each action taken under this section to the Office of Personnel Management and publish a notice thereof in the Federal Register, except when the President determines that the report and publication would be contrary to the interest of national security.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473, § 5364; renumbered § 5374 and amended Pub. L. 95–454, title VIII, § 801(a)(3)(A)(ii), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224.)