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

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

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 SUPERSEDURE 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. 2356(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