

ployee's duty station may be paid or reimbursed to the employee, except that the amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage."

1999—Par. (4). Pub. L. 106-113 substituted "between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest locality where an adequate school is available," for "between that post and the nearest locality where adequate schools are available," in subpar. (A) and added subpar. (C).

1996—Par. (3). Pub. L. 104-201 struck out at end "Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term 'foreign area' includes the Republic of Panama."

1994—Par. (4)(A). Pub. L. 103-236, §176(a), inserted after first sentence "When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post."

Par. (4)(B). Pub. L. 103-236, §176(b), inserted "(or to and from a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the United States at which the dependent is enrolled, with the allowable travel expense not to exceed the cost of travel to and from the school in the United States)" after "in the United States".

1991—Par. (1). Pub. L. 102-138, §147(e)(1), substituted "Columbia, except that employees receiving the temporary subsistence allowance under section 5923(1) are ineligible for a post allowance under this paragraph" for "Columbia".

Par. (2). Pub. L. 102-138, §147(e)(2), in introductory provisions substituted "subsistence and other relocation expenses (including unavoidable lease penalties)" for "expenses", in subpar. (A) inserted "the Commonwealth of the Northern Mariana Islands," after "Puerto Rico," and in subpar. (B) substituted "after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned" for "between assignments to posts in foreign areas".

Par. (4). Pub. L. 102-138, §147(e)(3), in introductory provisions substituted "dependents (or, to the extent education away from post is involved, official assignment to service in such area or areas)" for "dependents", in subpar. (A) substituted "United States (including such educational services as are provided by the States under the Individuals with Disabilities Education Act)" for "United States", and in subpar. (B) substituted "postsecondary educational institution education (other than a program of post-baccalaureate education)" for "undergraduate college education" in two places and inserted at end provision defining "educational institution" for purposes of subpar. (B).

1990—Par. (3). Pub. L. 101-510 inserted at end "Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term 'foreign area' includes the Republic of Panama."

1986—Par. (2)(A). Pub. L. 99-251 inserted "its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements".

1982—Par. (4)(A). Pub. L. 97-258 substituted "section 3324(a) and (b)" for "section 529".

1980—Par. (3). Pub. L. 96-465, §2307, inserted "or authorized" after "compelled" and "or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents" after "of the Government".

Par. (4)(B). Pub. L. 96-465, §2308, substituted "one annual trip each way for each dependent" for "(i) in the

case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, of the Department of Justice, of the Agency for International Development, of the Central Intelligence Agency, or of the National Security Agency, or (ii) or one trip each way for each dependent of any other employee, for the purpose of obtaining each type of education".

1979—Par. (4)(B). Pub. L. 96-132 inserted reference to the Department of Justice.

Pub. L. 96-100 inserted provisions relating to applicability to dependents of employees of the Central Intelligence Agency and the National Security Agency.

Pub. L. 96-53 substituted "(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, or of the Agency for International Development, or (ii)" for "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or".

1975—Par. (2)(A). Pub. L. 94-141 expanded applicability to include costs incurred in the United States prior to departure for a post of assignment in a foreign area.

1974—Par. (4)(B). Pub. L. 93-475 substituted "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee," for "one trip each way for each dependent".

1973—Par. (4)(A). Pub. L. 93-126 inserted "kindergarten," before "elementary".

1971—Par. (3). Pub. L. 92-187 substituted "the employee's post" for "his post" and "the employee's spouse or" for "his wife or his".

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

## Executive Documents

### DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations governing travel expenses for dependents of certain employees, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

## § 5925. Post differentials

(a) A post differential may be granted on the basis of conditions of environment which differ substantially from conditions of environment in the continental United States and warrant additional pay as a recruitment and retention incentive. A post differential may be granted to an employee officially stationed in the United States who is on extended detail in a foreign area. A post differential under this subsection may not exceed 35 percent of the rate of basic pay.

(b) Any employee granted a differential under subsection (a) of this section may be granted an additional differential for an assignment to a post determined to have especially adverse conditions of environment which warrant additional pay as a recruitment and retention incentive for the filling of positions at that post. An additional differential for any employee under this subsection—

- (1) may be paid for each assignment to a post determined to have such conditions;
- (2) may be paid periodically or in a lump sum; and
- (3) may not exceed 15 percent of the rate of basic pay of that employee for the period served under that assignment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 96-465, title II, §2309, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 108-199, div. D, title V, §591(a), Jan. 23, 2004, 118 Stat. 207; Pub. L. 109-140, §4(b), Dec. 22, 2005, 119 Stat. 2651.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3038.	Sept. 6, 1960, Pub. L. 86-707, §231, 74 Stat. 795.

In the last sentence, the words “Additional compensation paid as” are omitted as surplusage.

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

##### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-140 struck out “25 percent of the rate of basic pay or, in the case of an employee of the United States Agency for International Development,” after “may not exceed” in last sentence.

2004—Subsec. (a). Pub. L. 108-199 inserted “or, in the case of an employee of the United States Agency for International Development, 35 percent of the rate of basic pay” after “25 percent of the rate of basic pay”.

1980—Pub. L. 96-465 designated existing provisions as subsec. (a), inserted “under this subsection” before “may not exceed”, and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-199, div. D, title V, §591(c), Jan. 23, 2004, 118 Stat. 207, which provided that except for employees of the United States Agency for International Development stationed in Iraq and Afghanistan, the amendments made by subsections (a) and (b), amending this section and section 5928 of this title, would not take effect until the same authority was enacted for employees of the Department of State, was repealed by Pub. L. 109-140, §4(a), Dec. 22, 2005, 119 Stat. 2651.

##### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

##### CRITERIA

Pub. L. 109-140, §4(d), Dec. 22, 2005, 119 Stat. 2651, provided that: “The Secretary of State shall inform the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and

the Committee on Foreign Relations of the Senate of the criteria to be used in determinations of appropriate adjustments in post differentials under section 5925(a) of title 5, United States Code, as amended by subsection (b), and danger pay allowances under section 5928 of title 5, United States Code, as amended by subsection (c).”

#### EXTENSION OF FOREIGN POST DIFFERENTIALS TO CERTAIN FEDERAL EMPLOYEES WHO SERVED IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102-190, div. A, title X, §1093, Dec. 5, 1991, 105 Stat. 1487, provided that:

“(a) WAIVER OF REQUIREMENT THAT EMPLOYEE BE DETAILLED TO A POST FOR AN ‘EXTENDED’ PERIOD.—An individual who performed service of a type described in subsection (b) shall, upon appropriate written application, be granted the total amount to which such individual would have been entitled for such service under section 5925(a) of title 5, United States Code, disregarding any eligibility requirement relating to the minimum period of time for which an individual must serve at, or be detailed to, a post.

“(b) DESCRIPTION OF SERVICE INVOLVED.—This section applies with respect to any period of service if, or to the extent that—

“(1) it was performed as an employee—

“(A) in connection with Operation Desert Storm;

“(B) during the Persian Gulf conflict;

“(C) at a post within the area designated by the President, in Executive Order 12744 [26 U.S.C. 112 note], as a ‘combat zone’ for purposes of section 112 of the Internal Revenue Code of 1986 [26 U.S.C. 112]; and

“(D) while a differential under section 5925(a) of title 5, United States Code, was authorized with respect to such post; and

“(2) no differential under such section 5925(a) was granted to such employee for such service.

“(c) REGULATIONS.—The President may prescribe any regulations necessary to carry out this section.

“(d) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘employee’ has the meaning given such term by section 5921(3) of title 5, United States Code;

“(2) the term ‘Operation Desert Storm’ has the meaning given such term by section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 [Pub. L. 102-25] (10 U.S.C. 101 note); and

“(3) the term ‘Persian Gulf conflict’ means the period beginning on August 2, 1990, and ending on June 2, 1991.”

#### § 5926. Compensatory time off at certain posts in foreign areas

(a) Under regulations prescribed pursuant to this subchapter, and notwithstanding subchapter V of chapter 55 of this title or any other law, the head of an agency may, on request of an employee serving in a foreign area—

(1) at an isolated post performing functions required to be maintained on a substantially continuous basis, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work; or

(2) at a post in a locality that customarily observes irregular hours of work or where other special conditions are present, in order to cope with those special circumstances, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work for use during the pay period in which it is earned.

Credit for compensatory time off earned under paragraph (2) shall not form the basis for any additional compensation.