(Added Pub. L. 95–454, title IV, § 404(b), Oct. 13, 1978, 92 Stat. 1166; amended Pub. L. 98–615, title III, § 303(b), Nov. 8, 1984, 98 Stat. 3217; Pub. L. 101–194, title V, § 506(b)(5), Nov. 30, 1989, 103 Stat. 1758; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(E)], Nov. 5, 1990, 104 Stat. 1427, 1441; Pub. L. 102–378, § 2(16), Oct. 2, 1992, 106 Stat. 1347; Pub. L. 107–296, title XIII, § 1321(a)(2)(C), Nov. 25, 2002, 116 Stat. 2297.)

REFERENCES IN TEXT

GS–15 of the General Schedule, referred to in subsec. (c)(1)(A), is set out under section 5332 of this title.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–296, § 1321(a)(2)(C)(i), inserted ''or'' at end.

Subsec. (b)(2). Pub. L. 107–296, § 1321(a)(2)(C)(ii), struck out ''or'' at end.

Subsec. (b)(3). Pub. L. 107–296, § 1321(a)(2)(C)(iii), struck out par. (3) which read as follows: ''is removed from the Senior Executive Service for failure to be recertified under section 3393a;''.

1992—Subsec. (c)(1)(A). Pub. L. 102–378 substituted ''section 5108,'' for ''section 5108,,''.

1990—Subsec. (c)(1)(A). Pub. L. 101–509 substituted ''at GS–15 of the General Schedule or classified above GS–15 pursuant to section 5108,'' for ''at GS–15 or above of the General Schedule''.

1989—Subsec. (b)(3). Pub. L. 101–194 added par. (3).

1984—Subsec. (b). Pub. L. 98–615 inserted provision relating to career appointees removed from the Senior Executive Service under section 3595(b)(4) or (5) of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

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 1989 AMENDMENT

Amendment by Pub. L. 101–194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101–194, set out as a note under section 3151 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98–615, set out as a note under section 3393 of this title.

§ 3595. Reduction in force in the Senior Executive Service

(a) An agency shall establish competitive procedures for determining who shall be removed from the Senior Executive Service in any reduction in force of career appointees within that agency. The competitive procedures shall be designed to assure that such determinations are primarily on the basis of performance, as determined under subchapter II of chapter 43 of this title.

(b)(1) This subsection applies to any career appointee who has successfully completed the probationary period prescribed under section 3393(d) of this title.

(2) Except as provided in paragraphs (4) and (5), a career appointee may not be removed from the Senior Executive Service due to a reduction in force within an agency.

(3) A career appointee who, but for this subsection, would be removed from the Senior Executive Service due to a reduction in force within an agency—

(A) is entitled to be assigned by the head of that agency to a vacant Senior Executive Service position for which the career appointee is qualified; or

(B) if the agency head certifies, in writing, to the Office of Personnel Management that no such position is available in the agency, shall be placed by the Office in any agency in any vacant Senior Executive Service position unless the head of that agency determines that the career appointee is not qualified for that position.

The Office of Personnel Management shall take all reasonable steps to place a career appointee under subparagraph (B) and may require any agency to take any action which the Office considers necessary to carry out any such placement.

(4) A career appointee who is not assigned under paragraph (3)(A) may be removed from the Senior Executive Service due to a reduction in force if the career appointee declines a reasonable offer for placement in a Senior Executive Service position under paragraph (3)(B).

(5) A career appointee who is not assigned under paragraph (3)(A) may be removed from the Senior Executive Service due to a reduction in force if the career appointee is not placed in another Senior Executive Service position under paragraph (3)(B) within 45 days after the Office receives certification regarding that appointee under paragraph (3)(B).

(c) A career appointee is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title whether the reduction in force complies with the competitive procedures required under subsection (a).

(d) For purposes of this section, ''reduction in force'' includes the elimination or modification of a position due to a reorganization, due to a lack of funds or curtailment of work, or due to any other factor.

(e) The Office shall prescribe regulations under which the rights accorded to a career appointee in the event of a transfer of function are comparable to the rights accorded to a competing employee under section 3503 of this title in the event of such a transfer.

(Added Pub. L. 97–35, title XVII, § 1704(a)(1), Aug. 13, 1981, 95 Stat. 756; amended Pub. L. 97–346, § 5(a), (b), Oct. 15, 1982, 96 Stat. 1650; Pub. L. 98–615, title III, §§ 303(c), (d), 304(b), Nov. 8, 1984, 98 Stat. 3218, 3219.)

PRIOR PROVISIONS

A prior section 3595, added Pub. L. 95–454, title IV, § 404(b), Oct. 13, 1978, 92 Stat. 1167, which related to prescribing regulations, was renumbered section 3596 by Pub. L. 97–35, title XVII, § 1704(a)(1), Aug. 13, 1981, 95 Stat. 756.

AMENDMENTS

1984—Subsec. (b)(3)(B). Pub. L. 98–615, § 303(c)(1), struck out the designation ''(i)'' before provisions relating to placement in any agency in any vacant Execu-

tive Service position, and struck out former cl. (ii), which had related to detailing by the Office of Personnel Management to any vacant Senior Executive Service position for which the Office deemed the employee to be qualified in any agency for a period not to exceed 60 days, and placement in such position by the Office after the period of such detail, unless the head of the agency determined that the career appointee was not qualified for such position.

Subsec. (b)(4). Pub. L. 98–615, § 303(c)(2), struck out ''and the civil service'' after ''removed from the Senior Executive Service'', struck out the designation ''(A)'' before ''the career appointee declines'', and substituted a period for the semicolon and ''or'' at the end thereof. Former subpar. (B) redesignated par. (5).

Subsec. (b)(5). Pub. L. 98–615, § 303(c)(2), redesignated former par. (4)(B) as (5), substituted ''A career appointee who is not assigned under paragraph (3)(A) may be removed from the Senior Executive Service due to a reduction in force if'' for ''subject to paragraph (5),'', substituted ''45 days'' for ''120 days'', and struck out former par. (5), which had provided that persons who were career appointees as of May 31, 1981, could only be removed from the Senior Executive Service and the civil service due to a reduction in force after the 120-day period if the Director of the Office of Personnel Management certified to certain Congressional committees that the Office had taken all reasonable steps to place the appointee but had been unable to do so due to the appointee's highly specialized skills and experience.

Subsec. (c). Pub. L. 98–615, § 303(d), struck out the designation ''(1)'' before ''whether the reduction'', and struck out pars. (2) and (3), which had provided, respectively, the right to appeal any removal under subsec. (b)(4)(A) and the right to appeal any nonappointment under subsec. (b)(3), and, in the event of such nonappointment, whether the Office of Personnel Management took all reasonable steps to achieve such placement and whether the agency correctly decided under subsec. (b)(3)(B) that the career appointee was not qualified for such placement.

Subsec. (e). Pub. L. 98–615, § 304(b), added subsec. (e).

1982—Subsec. (b)(3)(B). Pub. L. 97–346, § 5(a), designated as cl. (i) existing provisions relating to placement in any agency in any vacant Executive Service position, and added cl. (ii).

Subsec. (c)(3). Pub. L. 97–346, § 5(b), designated as subpar. (A) existing provisions relating to taking of all reasonable steps by Office of Personnel Management, and added subpar. (B).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 303(c), (d) of Pub. L. 98–615 effective following expiration of 90-day period beginning on Nov. 8, 1984, and amendment by section 304(b) of Pub. L. 98–615 effective Nov. 8, 1984, see section 307 of Pub. L. 98–615, set out as a note under section 3393 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 5(c) of Pub. L. 97–346 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 15, 1982].

''(2) The amendments made by this section [amending this section] shall apply to an individual who is a career appointee on or after September 30, 1982, except that any individual who is a career appointee on September 30, 1982, and who is described in section 3595(b)(3) of title 5, United States Code, may not be removed before December 15, 1982, due to a reduction in force, unless the removal is under section 3595(b)(4)(A) of such title on the grounds the individual declined a reasonable placement offer.''

EFFECTIVE DATE

Section 1704(e) of Pub. L. 97–35 provided that:

''(1) Subject to paragraph (2), the amendments made by this section [enacting this section, redesignating former section 3595 as section 3596 of this title, and amending sections 3393, 3593, 7542, and 7543 of this title] shall be effective as of June 1, 1981.

''(2)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to any career appointee removed from the civil service after May 31, 1981, and before the date of the enactment of this section [Aug. 13, 1981] if, not later than 14 days after such date of enactment, application therefor is made to the Office of Personnel Management and to the head of the Agency in which the appointee was employed.

''(B) The provisions of section 3595(a), as added by subsection (a)(1), shall take effect on the date of the enactment of this Act [Aug. 13, 1981].

''(3) The effectiveness of the amendments made by this section shall be subject to section 415(b) of the Civil Service Reform Act of 1978 [Pub. L. 95–454, title IV, Oct. 13, 1978, 92 Stat. 1154] (5 U.S.C. 3131 note) to the same extent and manner as the amendments made by title IV of that Act.''

§ 3595a. Furlough in the Senior Executive Service

(a) For the purposes of this section, ''furlough'' means the placement of a senior executive in a temporary status in which the senior executive has no duties and is not paid when the placement in such status is by reason of insufficient work or funds or for other nondisciplinary reasons.

(b) An agency may furlough a career appointee only in accordance with regulations issued by the Office of Personnel Management.

(c) A career appointee who is furloughed is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

(Added Pub. L. 98–615, title III, § 306(c)(1), Nov. 8, 1984, 98 Stat. 3220.)

EFFECTIVE DATE

Section effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98–615, set out as an Effective Date of 1984 Amendment note under section 3393 of this title.

§ 3596. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

(Added Pub. L. 95–454, title IV, § 404(b), Oct. 13, 1978, 92 Stat. 1167, § 3595; renumbered § 3596, Pub. L. 97–35, title XVII, § 1704(a)(1), Aug. 13, 1981, 95 Stat. 756.)

AMENDMENTS

1981—Pub. L. 97–35 renumbered section 3596 of this title as this section.

SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED APPOINTMENT IN THE FOREIGN SERVICE

§ 3597. Reemployment following limited appointment in the Foreign Service

An employee of any agency who accepts, with the consent of the head of that agency, a limited appointment in the Foreign Service under section 309 of the Foreign Service Act of 1980 is entitled, upon the expiration of that appointment, to be reemployed in that employee's former po-