

clude payment of an allowance under this section, and that each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of action taken and circumstances justifying it.

#### EFFECTIVE DATE

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

#### DANGER PAY ALLOWANCE; DEA OR FBI EMPLOYEE

Pub. L. 101-246, title I, §151, Feb. 16, 1990, 104 Stat. 42, as amended by Pub. L. 107-273, div. C, title I, §11005, Nov. 2, 2002, 116 Stat. 1817, provided that: "The Secretary of State may not deny a request by the Drug Enforcement Administration or Federal Bureau of Investigation to authorize a danger pay allowance (under section 5928 of title 5, United States Code) for any employee of such agency."

#### GREATER UTILIZATION OF DANGER PAY ALLOWANCE

Pub. L. 98-533, title III, §304, Oct. 19, 1984, 98 Stat. 2711, provided that: "In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad."

### SUBCHAPTER IV—MISCELLANEOUS ALLOWANCES

#### ELIGIBILITY OF ADDITIONAL EMPLOYEES FOR REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE

Pub. L. 106-567, title IV, §406, Dec. 27, 2000, 114 Stat. 2849, as amended by Pub. L. 107-108, title IV, §404, Dec. 28, 2001, 115 Stat. 1404, provided that:

"(a) IN GENERAL.—Notwithstanding any provision of title VI, section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 [Pub. L. 104-208, div. A, title I, §101(f)] (5 U.S.C. prec. 5941 note), the Director of Central Intelligence may—

"(1) designate as qualified employees within the meaning of subsection (b) of that section appropriate categories of employees not otherwise covered by that subsection; and

"(2) use appropriated funds available to the Director to reimburse employees within categories so designated for 100 percent of the costs incurred by such employees for professional liability insurance in accordance with subsection (a) of that section.

"(b) REPORTS.—The Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of Intelligence of the House of Representatives a report on each designation of a category of employees under paragraph (1) of subsection (a), including the approximate number of employees covered by such designation and an estimate of the amount to be expended on reimbursement of such employees under paragraph (2) of that subsection."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a) and (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.]

Pub. L. 106-346, §101(a) [title III, §348], Oct. 23, 2000, 114 Stat. 1356, 1356A-33, provided that: "In addition to

the authority provided in section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as included in Public Law 104-208, title I, section 101(f), as amended [set out as a note below], beginning in fiscal year 2001 and thereafter, amounts appropriated for salaries and expenses for the Department of Transportation may be used to reimburse an employee whose position is that of safety inspector for not to exceed one-half the costs incurred by such employee for professional liability insurance. Any payment under this section shall be contingent upon the submission of such information or documentation as the Department may require."

#### REIMBURSEMENTS RELATING TO PROFESSIONAL LIABILITY INSURANCE

Pub. L. 104-208, div. A, title I, §101(f) [title VI, §636], Sept. 30, 1996, 110 Stat. 3009-314, 3009-363, as amended by Pub. L. 105-277, div. A, §101(h) [title VI, §644], Oct. 21, 1998, 112 Stat. 2681-480, 2681-526; Pub. L. 106-58, title VI, §642(a), Sept. 29, 1999, 113 Stat. 477; Pub. L. 110-161, div. F, title IV, §429(a), Dec. 26, 2007, 121 Stat. 2151, provided that:

"(a) AUTHORITY.—Notwithstanding any other provision of law, amounts appropriated by this Act (or any other Act for fiscal year 1997 or any fiscal year thereafter) for salaries and expenses shall be used to reimburse any qualified employee for not to exceed one-half the costs incurred by such employee for professional liability insurance. A payment under this section shall be contingent upon the submission of such information or documentation as the employing agency may require.

"(b) QUALIFIED EMPLOYEE.—For purposes of this section, the term 'qualified employee' means an agency employee whose position is that of—

- "(1) a law enforcement officer;
- "(2) a supervisor or management official; or
- "(3) a temporary fire line manager.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'agency' means an Executive agency, as defined by section 105 of title 5, United States Code, any agency or court in the Judicial Branch, and any agency of the Legislative Branch of Government including any office or committee of the Senate or the House of Representatives;

"(2) the term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, detention, or supervision of individuals suspected or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of such title 5, or under section 4823 of title 22, United States Code;

"(3) the terms 'supervisor' and 'management official' have the respective meanings given them by section 7103(a) of such title 5, and, with regard to the Judicial Branch, mean a justice or judge of the United States as defined in 28 U.S.C. 451 in regular active service or retired from regular active service, other judicial officers as authorized by the Judicial Conference of the United States, and supervisors and managers within the Judicial Branch as authorized by the Judicial Conference of the United States;

"(4) the term 'professional liability insurance' means insurance which provides coverage for—

"(A) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and

"(B) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in

the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding; and

“(5) notwithstanding the definition of the terms ‘supervisor’ and ‘management official’ under section 7103(a) of title 5, United States Code, the term ‘temporary fire line manager’ means an employee of the Forest Service or the Department of the Interior, whose duties include, as determined by the employing agency—

“(A) temporary supervision or management of personnel engaged in wildland or managed fire activities;

“(B) providing analysis or information that affects a decision by a supervisor or manager about a wildland or managed fire; or

“(C) directing the deployment of equipment for a wildland or managed fire.

“(d) APPLICABILITY.—The amendments made by this section [this note] shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and shall apply thereafter.”

[Pub. L. 110–161, div. F, title IV, §429(b), Dec. 26, 2007, 121 Stat. 2152, provided that: “The amendment made by subsection (a) [amending section 101(f) [title VI, §636] of Pub. L. 104–208, set out above] shall take effect on the date of enactment of this Act [Dec. 26, 2007].”]

[Pub. L. 106–58, title VI, §642(b), Sept. 29, 1999, 113 Stat. 477, provided that: “The amendment made by subsection (a) [amending section 101(f) [title VI, §636] of Pub. L. 104–208, set out above] shall take effect on October 1, 1999, or the date of the enactment of this Act [Sept. 29, 1999], whichever is later.”]

**§ 5941. Allowances based on living costs and conditions of environment; employees stationed outside continental United States or in Alaska**

(a) Appropriations or funds available to an Executive agency, except a Government controlled corporation, for pay of employees stationed outside the continental United States or in Alaska whose rates of basic pay are fixed by statute, are available for allowances to these employees. The allowance is based on—

(1) living costs substantially higher than in the District of Columbia;

(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

(3) both of these factors.

The allowance may not exceed 25 percent of the rate of basic pay. Except as otherwise specifically authorized by statute, the allowance is paid only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions, and classes of employees to which each rate applies. Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).

(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

(A) January 1, 2010; and

(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under paragraphs (2) and (3), respectively, of section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

(2)(A) In this paragraph, the term “applicable locality-based comparability pay percentage” means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under paragraph (1), (2), or (3) of section 1914 of Non-Foreign Area Retirement Equity Assurance Act of 2009.

(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

(ii) dividing the resulting percentage determined under clause (i) by the sum of—

(I) one; and

(II) the applicable locality-based comparability payment percentage expressed as a numeral.

(3) No allowance rate computed under paragraph (2) may be less than zero.

(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).

(d) An employee entitled to a cost-of-living allowance under section 5924 of this title may not be paid an allowance under subsection (a) of this section based on living costs substantially higher than in the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 512; Pub. L. 111–84, div. A, title XIX, §1912(b), Oct. 28, 2009, 123 Stat. 2620.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118h.	Apr. 20, 1948, ch. 219, §207, 62 Stat. 194. June 30, 1948, ch. 775, §104, 62 Stat. 1205.

The section is reorganized and restated for clarity and conciseness.

The word “allowances” is substituted for “additional compensation” as a more apt term and for consistency.

In subsection (a), the words “Executive agency” are substituted for “executive departments, independent establishments, and wholly owned Government corporations” in view of the definition of “Executive agency” in section 105. The exception of a “Government controlled corporation” is added to preserve the application to “wholly owned Government corporation”.

Subsection (b) is based on the second proviso of former section 118h and is restated to reflect the provisions of sections 511(b), (c)(7) and 521 of the Act of Sept. 6, 1960, Pub. L. 86–707, 74 Stat. 800–802. The reference to section 204 of the Act of Apr. 20, 1948, is omitted as obsolete, since the section was applicable only to fiscal year 1949.

The last proviso of former section 118h which provided the effective date of the section is omitted as executed.

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

#### REFERENCES IN TEXT

The date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (a), is the date of enactment of Pub. L. 111-84, which was approved Oct. 28, 2009.

Section 1914 of the Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (c)(1)(B), (2)(A), is section 1914 of Pub. L. 111-84, which is set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of this title.

#### AMENDMENTS

2009—Subsec. (a). Pub. L. 111-84, §1912(b)(1), inserted at end “Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).”

Subsecs. (b) to (d). Pub. L. 111-84, §1912(b)(2), (3), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-84 effective on the first day of the first applicable pay period beginning on or after Jan. 1, 2010, with transition and savings provisions, see sections 1914, 1915, and 1919(b) of Pub. L. 111-84, set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of this title.

#### PROHIBITION OF REDUCTION OF ALLOWANCE; STUDY AND REPORT ON ADJUSTING CALCULATION OF GEOGRAPHIC FACTORS

Pub. L. 102-141, title IV, §1, Oct. 28, 1991, 105 Stat. 861, as amended by Pub. L. 103-329, title V, §532, Sept. 30, 1994, 108 Stat. 2413; Pub. L. 104-52, title IV, §5, Nov. 19, 1995, 109 Stat. 490; Pub. L. 105-61, title V, §515, Oct. 10, 1997, 111 Stat. 1306, provided that: “The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 [set out below] as in effect on the date of the enactment of this Act [Oct. 28, 1991] may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 2000: *Provided*, That no later than March 1, 2000, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

“(1) an examination of the pay practices of other employers in the affected areas;

“(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to take into account all cost of living in the geographic areas of the affected employee; and

“(3) an evaluation of the likely impact of the different approaches on the Government’s ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.”

#### EX. ORD. NO. 10000. REGULATIONS GOVERNING ADDITIONAL COMPENSATION AND CREDIT GRANTED CERTAIN FEDERAL EMPLOYEES SERVING OUTSIDE THE UNITED STATES

Ex. Ord. No. 10000, Sept. 16, 1948, 13 F.R. 5453, as amended by Ex. Ord. No. 10636, Sept. 16, 1955, 20 F.R. 7025; Ex. Ord. No. 11938, Sept. 29, 1976, 41 F.R. 43383; Ex.

Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12510, Apr. 17, 1985, 50 F.R. 15535; Ex. Ord. No. 13207, Apr. 5, 2001, 66 F.R. 18399, provided:

By virtue of the authority vested in me by section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948 (Public Law 491, 80th Congress), as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948 (Public Law 862, 80th Congress), and by sections 303, 443, and 853 of the Foreign Service Act of 1946 (60 Stat. 1002, 1006, 1024), and as President of the United States, I hereby prescribe the following regulations (1) governing the payment of additional compensation to personnel of the United States employed outside the continental United States or in Alaska, under the provisions of the said section 207, as amended, (2) governing the payment of salary differentials to Foreign Service staff officers and employees serving at certain posts, pursuant to the said section 443, and (3) relating to unhealthful foreign posts, pursuant to the said section 853:

#### PART I—ADDITIONAL COMPENSATION IN FOREIGN AREAS

SECTION 101. DEFINITIONS. As used in this Part, (a) the words “foreign areas” mean all areas exclusive of (1) the forty-eight states of the United States, (2) the District of Columbia, and (3) non-foreign areas as defined in section 201 of this order, and (b) the words “section 207 of the Act” mean section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948, Public Law 491, 80th Congress, as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948, Public Law 862, 80th Congress.

SEC. 102. ADDITIONAL COMPENSATION BY REASON OF ENVIRONMENT. The Secretary of State shall from time to time, subject to applicable law, (a) designate places in foreign areas having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as “foreign post differential.”

SEC. 103. BASIS FOR FOREIGN POST DIFFERENTIAL. The Secretary of State may establish a foreign post differential for any place when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

SEC. 104. AGENCIES COVERED. Subject to the provisions of section 207 of the Act and of this Part, every executive department, independent establishment, and wholly owned Government corporation shall pay a foreign post differential fixed under section 102 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed.

SEC. 105. PERSONS ELIGIBLE TO RECEIVE FOREIGN POST DIFFERENTIAL. (a) In order that an employee be eligible to receive a foreign post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the foreign post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 105(a) hereof, the classes of persons eligible to receive the foreign post differentials fixed pursuant to section 102 hereof shall include:

(1) Persons recruited or transferred from the United States.

(2) Persons employed locally but (a) who were originally recruited from the United States and have been in substantially continuous employment by other Federal agencies, United States firms, interests, or organizations, international organizations in which the United States Government participates, or foreign governments, and whose conditions of employment provide for their return transportation to the United States, or (b) who were at the time of employment temporarily absent from the United States for purposes of travel or formal study and maintained residence in the United States during such temporary absence. When used in a geographical sense in section 105(b) hereof, "United States" includes the areas included within the definition of non-foreign areas as set forth in section 201 hereof.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

**SEC. 106. PAYMENT OF FOREIGN POST DIFFERENTIALS.**

(a) The following regulations shall govern the payment of foreign post differentials under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and the end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 102(c) hereof.

(3) Payments to persons serving on a part-time basis shall be pro-rated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

**SEC. 107. PERSONS SERVING UNDER CONTRACT.** Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a foreign post differential under this Part shall, if he is serving under contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive a foreign post differential.

**SEC. 108. PERIODIC REVIEW.** The Secretary of State shall periodically, but at least annually, review the places designated, the rates fixed, and the regulations prescribed pursuant to section 102 hereof, with a view to making such changes therein as will insure that the payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified.

**SEC. 109. ADDITIONAL LIVING COST COMPENSATION.** No executive department, independent establishment, or wholly owned Government corporation shall pay, pursuant to section 207 of the Act, additional compensation to any employee located in any foreign area by reason of living costs which are substantially higher than those in the District of Columbia: *Provided*, That this section shall not be construed to prevent any payment, under section 204 of said Independent Offices Appropriation Act, 1949, or under other appropriate authority.

**PART II—ADDITIONAL COMPENSATION IN NON-FOREIGN AREAS**

**SEC. 201. DEFINITION.** As used in this Part, the term "non-foreign areas" includes Alaska, Hawaii, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and such additional areas located outside the continental United States as the Secretary of State shall designate as being within the scope of the provisions of this Part[.]

**SEC. 202. ADDITIONAL COMPENSATION BY REASON OF ENVIRONMENT.** The Office of Personnel Management shall from time to time, subject to applicable law, (a) designate places in non-foreign areas having conditions of

environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "non-foreign area post differential."

**SEC. 203. BASIS FOR NON-FOREIGN AREA POST DIFFERENTIAL.** The Office of Personnel Management may establish a non-foreign area post differential for any place in the non-foreign areas when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

**SEC. 204. PERSONS ELIGIBLE TO RECEIVE NON-FOREIGN AREA POST DIFFERENTIAL.** (a) In order that an employee be eligible to receive a non-foreign area post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the non-foreign area post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 204(a) hereof, the classes of persons eligible to receive the non-foreign area post differentials fixed pursuant to section 202 hereof shall include:

(1) Persons recruited or transferred from outside the area concerned.

(2) Persons employed in the area concerned but (a) who were originally recruited from outside such area and have been in substantially continuous employment by other Federal agencies, contractors of Federal agencies, or international organizations in which the U. S. Government participates, and whose conditions of employment provide for their return transportation to places outside the area concerned, or (b) who were at the time of employment temporarily present in the area concerned for purposes of travel or formal study and maintained residence outside such area during the period so present.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

**SEC. 205. ADDITIONAL LIVING COST COMPENSATION.** The Office of Personnel Management shall from time to time, subject to applicable law, (1) designate places in non-foreign areas eligible to receive additional compensation by virtue of living costs that are substantially higher than in the Washington, D.C., area, (2) fix for each place so designated an additional rate or rates of compensation by reason of such higher living costs, and (3) prescribe by regulation such additional policies or procedures as may be necessary to administer such compensation. Additional compensation under this section is referred to as a "non-foreign area cost-of-living allowance".

**SEC. 206. COORDINATION.** The Office of Personnel Management shall define the extent to which and the conditions under which an employee serving within the non-foreign areas may receive both a non-foreign area post differential and a non-foreign area cost-of-living allowance, pursuant to section 207 of the Act. In carrying out its functions under this Part the Office may take due notice if any special allowances, other than under section 207 of the act, granted to personnel employed by the United States in non-foreign areas.

**SEC. 207. AGENCIES COVERED.** Subject to the provisions of section 207 of the Act and of this Part, every Executive department, independent establishment, and whol-

ly owned Government corporation shall pay (a) a non-foreign area post differential fixed under section 202 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed, and (b) a non-foreign area cost-of-living allowance fixed under section 205 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that allowance has been fixed.

SEC. 208. PAYMENT OF NON-FOREIGN AREA POST DIFFERENTIALS AND COST-OF-LIVING ALLOWANCES.

(a) The following regulations shall govern the payment of non-foreign area post differentials and non-foreign area cost-of-living allowances under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 202(c) hereof.

(3) Payments to persons serving on a part-time basis shall be prorated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

SEC. 209. PERSONS SERVING UNDER CONTRACT. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a non-foreign area post differential or a non-foreign area cost-of-living allowance under this Part shall, if he is serving under a contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive said differential and allowance.

SEC. 210. PERIODIC REVIEW. The Office of Personnel Management shall periodically review the places designated, the rates fixed, and the regulations prescribed pursuant to this Part, with a view to making such changes therein as will insure that payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified: *Provided*, That the rate of such additional compensation may be reduced gradually.

PART III—INTERIM ARRANGEMENTS

SEC. 301. TEMPORARY REGULATIONS. During the period commencing with the date of this order or the effective date of section 207 of the Act (as defined in section 101 hereof), whichever shall occur earlier, and ending on a date or dates fixed by the Secretary of State and the Office of Personnel Management, respectively, as the effective dates of the designation of places and of the fixing of additional rates of compensation, under Parts I and II of this order, but in no event later than January 1, 1949, and notwithstanding the provisions of Parts I and II of this order, the payment of salaries and compensation (including the payment of additional compensation) of persons subject to the provisions of said section 207 shall be governed by the regulations and practices in effect in the respective Executive departments, independent establishments, and wholly owned government corporations immediately prior to April 20, 1948. Executive Order No. 9962 of May 24, 1948 is hereby revoked.

PART IV—FOREIGN SERVICE SALARY DIFFERENTIALS

[Part IV relating to Foreign Service salary differentials terminated June 30, 1951, pursuant to section 404 of this Executive Order.]

PART V—UNHEALTHFUL POSTS

[Part V relating to Unhealthful Posts terminated June 30, 1951, pursuant to section 503 of this Executive Order.]

PART VI—GENERAL PROVISIONS

SEC. 601. PUBLICATION. This order, and the places designated, the rates fixed, and the regulations prescribed by the Secretary of State and the Office of Personnel Management pursuant to Parts I and II of this order, shall be published in the Federal Register.

EXECUTIVE ORDER NO. 12070

Ex. Ord. No. 12070, June 30, 1978, 43 F.R. 28977, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which related to suspension of certain requirements in determination of cost of living allowance rates, was superseded by Ex. Ord. No. 12510, Apr. 17, 1985, 50 F.R. 15535.

§ 5942. Allowance based on duty at remote work-sites

(a) Notwithstanding section 5536 of this title, an employee of an Executive department or an independent establishment who is assigned to duty, except temporary duty, at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite, is entitled, in addition to pay otherwise due him, to an allowance of not to exceed \$10 a day. The allowance shall be paid under regulations prescribed by the President establishing the rates at which the allowance will be paid and defining and designating those sites, areas, and groups of positions to which the rates apply.

(b) Under procedures prescribed by the President, the maximum allowance specified in subsection (a) may be adjusted from time to time in the interest of recruiting and retaining employees for performance of duty at remote worksites.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 90-83, §1(41), Sept. 11, 1967, 81 Stat. 207; Pub. L. 91-656, §6(a), Jan. 8, 1971, 84 Stat. 1953; Pub. L. 101-510, div. A, title XII, § 1206(g), Nov. 5, 1990, 104 Stat. 1662.)

HISTORICAL AND REVISION NOTES  
1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 70c.	Aug. 31, 1964, Pub. L. 88-538, §1, 78 Stat. 745.

The words "of the United States" are omitted as unnecessary because of the definition of "employee" in section 2105.

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

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5942 .....	5 App.: 70c.	Mar. 31, 1966, Pub. L. 89-383, §1, 80 Stat. 98.

AMENDMENTS

1990—Pub. L. 101-510 designated existing provisions as subsec. (a) and added subsec. (b).

1971—Pub. L. 91-656 substituted "duty at remote worksites" for "duty on California offshore islands or at Nevada Test Site" in section catchline and assign-

ment to duty “at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite” for assignment to duty “on one of the California offshore islands or at the United States Atomic Energy Commission Nevada Test Site, including the Nuclear Rocket Development Station”, inserted reference to employee “of an Executive department or an independent establishment” and provision for designation by regulation of sites to which the rates apply.

#### EFFECTIVE DATE OF 1971 AMENDMENT

Section 6(b) of Pub. L. 91-656 provided that: “Notwithstanding section 5536 of title 5, United States Code, and the amendment made by subsection (a) of this section [amending this section], and until the effective date of regulations prescribed by the President under such amendment—

“(1) allowances may be paid to employees under section 5942 of title 5, United States Code, and the regulations prescribed by the President under such section, as in effect immediately prior to the effective date of this section [Jan. 8, 1971]; and

“(2) such regulations may be amended or revoked in accordance with such section 5942 as in effect immediately prior to the effective date of this section [Jan. 8, 1971].”

#### DELEGATION OF FUNCTIONS

Authority of President under this section to prescribe regulations establishing rates at which an allowance based on duty (except temporary duty) at remote work-sites will be paid and defining and designating sites, areas, and groups of positions to which rates apply delegated to Office of Personnel Management, see section 8(3) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

#### § 5942a. Separate maintenance allowance for duty at Johnston Island

(a) Notwithstanding section 5536 of this title, and under regulations prescribed by the President, an employee of an Executive agency (other than a Government corporation) who is assigned to a post of duty at Johnston Island, a possession of the United States in the Pacific Ocean, is entitled to receive a separate maintenance allowance if the head of the employing agency finds that—

(1) it is necessary for the employee to maintain the employee’s spouse or dependents, or both, at a location other than Johnston Island—

(A) by reason of dangerous or adverse living conditions at Johnston Island; or

(B) for the convenience of the Federal Government; and

(2) the allowance is needed to help the employee meet the additional expenses involved in maintaining the employee’s spouse or dependents, or both, at such other location rather than at the post.

(b) The regulations prescribed by the President shall include provisions for determining the rate at which an allowance under this section shall be paid.

(Added Pub. L. 102-190, div. A, title X, § 1092(a)(1), Dec. 5, 1991, 105 Stat. 1486.)

#### EFFECTIVE DATE

Section 1092(b) of Pub. L. 102-190 provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Dec. 5, 1991].”

#### DELEGATION OF FUNCTIONS

Authority of President under this section to prescribe regulations delegated to the Office of Personnel Management by section 8(4) of Ex. Ord. No. 11609, set out as a note under section 301 of Title 3, The President.

#### § 5943. Foreign currency appreciation allowances

(a) The President, under such regulations as he may prescribe, may meet losses sustained by employees and members of the uniformed services while serving in a foreign country due to the appreciation of foreign currency in its relation to the American dollar. Allowances and expenditures under this section are not subject to income taxes.

(b) Annual appropriations are authorized to carry out subsection (a) of this section and to cover any deficiency in the accounts of the Secretary of the Treasury, including interest, arising out of the arrangement approved by the President on July 27, 1933, for the conversion into foreign currency of checks and drafts of employees and members of the uniformed services for pay and expenses.

(c) Payment under subsection (a) of this section may not be made to an employee or member of a uniformed service for a period during which his check or draft was converted into foreign currency under the arrangement referred to by subsection (b) of this section.

(d) The President shall report annually to Congress all expenditures made under this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 96-54, § 2(a)(37), Aug. 14, 1979, 93 Stat. 383.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118c.	Mar. 26, 1934, ch. 87, 48 Stat. 466. Aug. 14, 1937, ch. 627, 50 Stat. 641. Sept. 12, 1950, ch. 946, § 301(87), 64 Stat. 843.

The section is reorganized and restated for clarity and conciseness.

In subsection (a), the words “notwithstanding the provisions of any other Act” are omitted as unnecessary. The words “Secretary of the Treasury” are substituted for “Treasurer of the United States” on authority of 1950 Reorg. Plan No. 26 §§ 1, 2, eff. July 31, 1950, 64 Stat. 1280. The words “Provided, That such action as the President may take shall be binding upon all executive officers of the Government” 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.

#### AMENDMENTS

1979—Subsec. (a). Pub. L. 96-54, § 2(a)(37)(A), struck out provision relating to recommendation of the Director of the Bureau of the Budget to the President.

Subsec. (d). Pub. L. 96-54, § 2(a)(37)(B), substituted “President” for “Director of the Bureau of the Budget”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to make recommendations concerning meeting of losses sustained by employees and members of uniformed services while serving in a foreign country due to appreciation of foreign currency in its relation to American dollar and under subsec. (d) of this section to report annually to Congress on expenditures made under subsec. (d) of this section, delegated to Secretary of the Treasury, see section 2 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

[§ 5944. Repealed. Pub. L. 98-164, title I, § 127(b)(1), Nov. 22, 1983, 97 Stat. 1027]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513, authorized head of Executive department or military department which maintained a permanent staff of employees in foreign countries to pay burial expenses and expenses in connection with last illness and death of a native employee of his department in a country in which Secretary of State determined it was customary for employers to pay these expenses, and in foreign countries in which custom did not exist, on finding that immediate family of deceased was destitute, he could pay such of expenses as employee in charge of the office abroad in which deceased was employed considered proper. See section 3968(a)(1) of Title 22, Foreign Relations and Intercourse.

§ 5945. Notary public commission expenses

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia who is required to serve as a notary public in connection with the performance of official business is entitled to an allowance, established by the agency concerned, not in excess of the expense required to obtain the commission. Funds available to an agency concerned for personal services or general administrative expenses are available to carry out this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Rows show 5 U.S.C. 70a and 70b with corresponding dates and statute references.

In the first sentence, the words "to be incurred by them in order" are omitted as surplusage. The words "from and after January 1, 1955" are omitted as obsolete.

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

§ 5946. Membership fees; expenses of attendance at meetings; limitations

Except as authorized by a specific appropriation, by express terms in a general appropriation, or by sections 4109 and 4110 of this title, appropriated funds may not be used for payment of—

- (1) membership fees or dues of an employee as defined by section 2105 of this title or an in-

dividual employed by the government of the District of Columbia in a society or association; or

- (2) expenses of attendance of an individual at meetings or conventions of members of a society or association.

This section does not prevent the use of appropriations for the Department of Agriculture for expenses incident to the delivery of lectures, the giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the authorized work of the Department.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row shows 5 U.S.C. 83 with dates June 26, 1912 and Mar. 4, 1913.

The words "or by sections 4109 and 4110 of this title" are added on authority of former sections 2309 and 2318(b), which are carried into sections 4109 and 4110, respectively.

In the last sentence, the words "This section does not" are substituted for "That nothing contained in the Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June twenty-sixth, nineteen hundred and twelve, shall be so construed as to" appearing in the Act of Mar. 4, 1913, 37 Stat. 854.

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

§ 5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations

(a) An employee of the Corps of Engineers, Department of the Army, engaged in floating plant operations may be furnished quarters or subsistence, or both, on vessels, without charge, when the furnishing of the quarters or subsistence, or both, is determined to be equitable to the employee concerned, and necessary in the public interest, in connection with such operations.

(b) Notwithstanding section 5536 of this title, an employee entitled to the benefits of subsection (a) of this section while on a vessel, may be paid, in place of these benefits, an allowance for quarters or subsistence, or both, when—

- (1) adverse weather conditions or similar circumstances beyond the control of the employee or the Corps of Engineers prevent transportation of the employee from shore to the vessel; or

- (2) quarters or subsistence, or both, are not available on the vessel while it is undergoing repairs.

(c) The quarters or subsistence, or both, or allowance in place thereof, may be furnished or paid only under regulations prescribed by the Secretary of the Army.

(Added Pub. L. 91-656, §7(a), Jan. 8, 1971, 84 Stat. 1954.)

**§ 5948. Physicians comparability allowances**

(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section, section 5307, and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

(1) \$14,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

(2) \$30,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114<sup>1</sup> of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician.

(b) An allowance may not be paid pursuant to this section to any physician who—

(1) is employed on less than a half-time or intermittent basis,

(2) occupies an internship or residency training position,

(3) is a reemployed annuitant, or

(4) is fulfilling a scholarship obligation.

(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service.

(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such

regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

(g) For the purpose of this section—

(1) “Government physician” means any individual employed as a physician or dentist who is paid under—

(A) section 5332 of this title, relating to the General Schedule;

(B) Subchapter VIII of chapter 53 of this title, relating to the Senior Executive Service;

(C) section 5371, relating to certain health care positions;

(D) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

(E) chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following), relating to the Foreign Service;

(F) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

(G) section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission;

(H) section 2 of the Act of May 29, 1959<sup>2</sup> (Public Law 86-36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency;

(I) section 5376, relating to certain senior-level positions;

(J) section 5377, relating to critical positions; or

(K) subchapter IX of chapter 53, relating to special occupational pay systems; and

(2) “agency” means an Executive agency, as defined in section 105 of this title, the Library of Congress, and the District of Columbia government.

(h)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81 or 87 of this title, or other benefits related to basic pay.

(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician’s basic pay is paid.

(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.

(j) Not later than June 30 of each year, the President shall submit to each House of Con-

<sup>1</sup> See References in Text note below.

<sup>2</sup> See References in Text note below.

gress a written report on the operation of this section. Each report shall include, with respect to the year covered by such report, information as to—

- (1) which agencies entered into agreements under this section;
- (2) the nature and extent of the recruitment or retention problems justifying the use of authority by each agency under this section;
- (3) the number of physicians with whom agreements were entered into by each agency;
- (4) the size of the allowances and the duration of the agreements entered into; and
- (5) the degree to which the recruitment or retention problems referred to in paragraph (2) were alleviated under this section.

(Added Pub. L. 95-603, §2(a), Nov. 6, 1978, 92 Stat. 3018; amended Pub. L. 96-166, §2, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97-141, §2, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98-168, title I, §102(a), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 98-615, title II, §204(a)(3), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 100-140, §1, Oct. 26, 1987, 101 Stat. 830; Pub. L. 101-420, §1(a), formerly §1, Oct. 12, 1990, 104 Stat. 908, renumbered §1(a), Pub. L. 103-114, §1(b)(2)(A), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 102-378, §2(51), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 103-89, §3(b)(1)(M), Sept. 30, 1993, 107 Stat. 982; Pub. L. 103-114, §§1(a)(1), 2(a), Oct. 26, 1993, 107 Stat. 1115, 1116; Pub. L. 105-61, title V, §517(a), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 105-266, §7(a), Oct. 19, 1998, 112 Stat. 2369; Pub. L. 106-554, §1(a)(1) [title II, §218(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-28; Pub. L. 106-571, §§2(a)(1), (b), 3(d), Dec. 28, 2000, 114 Stat. 3054, 3057.)

#### REFERENCES IN TEXT

Sections 4104 and 4114 of title 38, referred to in subsec. (a), were repealed by Pub. L. 102-40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 210, and a new section 4101 containing different subject matter was added. For provisions similar to those contained in sections 4104 and 4114 prior to repeal, see sections 7401 and 7405 to 7407 of Title 38, Veterans' Benefits.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title II of the Public Health Service Act is classified generally to subchapter I (§201 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Foreign Service Act of 1980, referred to in subsec. (g)(1)(E), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 4 of title I of the Act is classified generally to subchapter IV (§3961 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Section 1202 of the Panama Canal Act of 1979, referred to in subsec. (g)(1)(G), is classified to section 3642 of Title 22, Foreign Relations and Intercourse.

Section 2 of the Act of May 29, 1959 (Public Law 86-36, as amended, 50 U.S.C. 402 note), referred to in subsec. (g)(1)(H), was repealed by Pub. L. 104-201, div. A, title XVI, §1633(b)(1), Sept. 23, 1996, 110 Stat. 2751.

#### AMENDMENTS

2000—Subsec. (d). Pub. L. 106-571, §2(a)(1), struck out second sentence which read as follows: "No agreement shall be entered into under this section later than September 30, 2005, nor shall any agreement cover a period of service extending beyond September 30, 2007."

Pub. L. 106-554 amended second sentence generally. Prior to amendment, second sentence read as follows:

"No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002."

Subsec. (h)(1). Pub. L. 106-571, §3(d), substituted "chapter 81 or 87" for "chapter 81, 83, or 87".

Subsec. (j). Pub. L. 106-571, §2(b), in par. (1), substituted "(j)" for "(j)(1)", redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, in par. (5), substituted "paragraph (2)" for "subparagraph (B)", and struck out former par. (2) which read as follows: "In addition to the information required under paragraph (1), the last report due under this subsection before the expiration of the authority to enter into agreements under this section shall include—

"(A) recommendations as to whether or not such authority should be continued beyond September 30, 2000, and, if so, by what period of time; and

"(B) the reasons for those recommendations."

1998—Subsec. (a)(2). Pub. L. 105-266 substituted "\$30,000" for "\$20,000".

1997—Subsec. (d). Pub. L. 105-61, §517(a)(1), substituted "No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002." for "No agreement shall be entered into under this section later than September 30, 1997, nor shall any agreement cover a period of service extending beyond September 30, 1999."

Subsec. (j)(2)(A). Pub. L. 105-61, §517(a)(2), substituted "September 30, 2000" for "September 30, 1997".

1993—Subsec. (d). Pub. L. 103-114, §1(a)(1), amended second sentence generally. Prior to amendment, second sentence read as follows: "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995."

Subsec. (g)(1)(C) to (L). Pub. L. 103-89 redesignated subpars. (D) to (L) as (C) to (K), respectively, and struck out former subpar. (C) which read as follows: "chapter 54 of this title, relating to the performance management and recognition system;"

Subsec. (j). Pub. L. 103-114, §2(a), added subsec. (j).

1992—Subsec. (a). Pub. L. 102-378, §2(51)(A), inserted ", section 5307," after "provisions of this section" in first sentence.

Subsec. (g)(1)(D). Pub. L. 102-378, §2(51)(B)(i), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "section 5371 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;"

Subsec. (g)(1)(J) to (L). Pub. L. 102-378, §2(51)(B)(ii)-(iv), added subpars. (J) to (L).

1990—Subsec. (d). Pub. L. 101-420 added second sentence and struck out former second sentence which read as follows: "No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992."

1987—Subsec. (a). Pub. L. 100-140, §1(a)(3), inserted last sentence.

Subsec. (a)(1). Pub. L. 100-140, §1(a)(1), substituted "\$14,000" for "\$7,000".

Subsec. (a)(2). Pub. L. 100-140, §1(a)(2), substituted "\$20,000" for "\$10,000".

Subsec. (d). Pub. L. 100-140, §1(b), substituted "September 30, 1990" for "September 30, 1987" and "September 30, 1992" for "September 30, 1989".

1984—Subsec. (g)(1)(C). Pub. L. 98-615 substituted "performance management and recognition system" for "Merit Pay System".

1983—Subsec. (d). Pub. L. 98-168 substituted "1987" for "1983", and "1989" for "1985".

1981—Subsec. (d). Pub. L. 97-141, §2(1), substituted "September 30, 1983, nor shall any agreement cover a period of service extending beyond September 30, 1985" for "September 30, 1981, nor shall any agreement cover a period of service extending beyond September 30, 1983".

Subsec. (g)(1). Pub. L. 97-141, §2(2), (3), reenacted provisions preceding subpar. (A) without change, and in subpar. (F), substituted ‘chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following)’ for ‘title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861-890)’.

1979—Subsec. (d). Pub. L. 96-166, §2(1), substituted ‘September 30, 1981’ for ‘September 30, 1979’ and ‘September 30, 1983’ for ‘September 30, 1981’.

Subsec. (g)(1). Pub. L. 96-166, §2(2)(A), directed the amendment of subsec. (g)(1) by inserting ‘or dentist’ after ‘physician’ which was executed by inserting the term after ‘employed as a physician’ in introductory phrase as the probable intent of Congress.

Pub. L. 96-166, §2(2)(B)–(E), redesignated subpars. (B) through (G) as (D) through (I), respectively, added subpars. (B) and (C), substituted in subpar. (D) as redesignated, ‘5371’ for ‘5361’, and substituted in subpar. (H) as redesignated, ‘section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission; or’ for ‘section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or’.

Subsec. (g)(2). Pub. L. 96-166, §2(3), inserted reference to the Library of Congress.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 517(c) of Pub. L. 105-61 provided that: ‘The amendments made by this section [amending this section and provisions set out as a note under this section] shall take effect on the date of enactment of this Act [Oct. 10, 1997].’

#### 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 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

#### EFFECTIVE DATE OF REPEAL

Section 3 of Pub. L. 95-603, as amended by Pub. L. 96-166, §4, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97-141, §3, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98-168, title I, §102(b), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 100-140, §1(c), as added Pub. L. 103-114, §1(b)(1), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 101-420, §1(b), as added Pub. L. 103-114, §1(b)(2)(B), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 103-114, §1(a)(2), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 105-61, title V, §517(b), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 106-554, §1(a)(1) [title II, §218(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-28, which provided that this section would be repealed, unless specifically extended by Act of Congress, effective on Sept. 30, 2007, was repealed by Pub. L. 106-571, §2(a)(2), Dec. 28, 2000, 114 Stat. 3054.

#### SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-571, §1, Dec. 28, 2000, 114 Stat. 3054, provided that: ‘This Act [amending this section and sections 8331, 8339, 8401, and 8415 of this title] may be cited as the ‘Federal Physicians Comparability Allowance Amendments of 2000’.’

#### SHORT TITLE OF 1983 AMENDMENT

Section 101 of title I of Pub. L. 98-168 provided that: ‘This title [amending this section, enacting provisions set out below, and amending provisions set out as a note above] may be cited as the ‘Federal Physicians Comparability Allowance Amendments of 1983’.’

#### SHORT TITLE OF 1981 AMENDMENT

Section 1 of Pub. L. 97-141 provided: ‘That this Act [amending this section and section 8344 of this title and

provisions set out below and enacting provisions set out as notes under this section and section 8344 of this title] may be cited as the ‘Federal Physicians Comparability Allowance Amendments of 1981’.’

#### SHORT TITLE OF 1979 AMENDMENT

Section 1 of Pub. L. 96-166 provided: ‘That this Act [amending this section and section 5383 of this title and provisions set out as a note under this section, and enacting provisions set out below] may be cited as the ‘Federal Physicians Comparability Allowance Amendments of 1979’.’

#### SHORT TITLE

Section 1 of Pub. L. 95-603 provided: ‘That this Act [enacting this section and provisions set out as notes under this section] may be cited as the ‘Federal Physicians Comparability Allowance Act of 1978’.’

#### CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105-266, §7(c), Oct. 19, 1998, 112 Stat. 2370, provided that: ‘Nothing in this section [amending this section and enacting provisions set out as a note below] shall be considered to authorize additional or supplemental appropriations for the fiscal year in which occurs the date of the enactment of this Act [Oct. 19, 1998].’

#### CONSTRUCTION OF 1993 AMENDMENT

Section 1(a)(4) of Pub. L. 103-114 provided that: ‘The amendments made by this subsection [amending this section and provisions set out above] shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending September 30, 1993.’

Section 1(c) of Pub. L. 103-114 provided that: ‘For purposes of applying the amendments made by this section [amending this section and enacting and amending provisions set out as notes above]—

‘(1) the provisions of subsection (b)(1) [enacting and amending provisions set out as notes above] shall be treated as having been enacted immediately before the provisions of subsection (b)(2) [enacting and amending provisions set out as notes above]; and

‘(2) the provisions of subsection (b)(2) shall be treated as having been enacted immediately before the provisions of subsection (a) [amending this section and enacting and amending provisions set out as notes above].’

#### MODIFICATION OF SERVICE AGREEMENTS IN EFFECT ON OCTOBER 19, 1998; LIMITATION

Pub. L. 105-266, §7(b), Oct. 19, 1998, 112 Stat. 2369, provided that:

‘(1) IN GENERAL.—Any service agreement under section 5948 of title 5, United States Code, which is in effect on the date of the enactment of this Act [Oct. 19, 1998] may, with respect to any period of service remaining in such agreement, be modified based on the amendment made by subsection (a) [amending this section].

‘(2) LIMITATION.—A modification taking effect under this subsection in any year shall not cause an allowance to be increased to a rate which, if applied throughout such year, would cause the limitation under section 5948(a)(2) of such title (as amended by this section), or any other applicable limitation, to be exceeded.’

#### EFFECTIVENESS OF SERVICE AGREEMENTS LIMITED BY APPROPRIATION ACTS

Section 1(a)(3) of Pub. L. 103-114 provided that: ‘Any service agreement entered into on or after the date of the enactment of this Act [Oct. 26, 1993] pursuant to section 5948 of title 5, United States Code, as amended by paragraph (1), shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.’

#### DUE DATE FOR FIRST ANNUAL REPORT ON OPERATION OF SECTION

Section 2(b) of Pub. L. 103-114 provided that: ‘The first report under section 5948(j) of title 5, United

States Code, as amended by subsection (a), shall be due not later than June 30, 1994.”

PAY OF CERTAIN FEDERAL PHYSICIANS FOR FISCAL YEAR 1982

Section 103 of Pub. L. 98-168 provided that any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of this title is relieved of all liability to the United States for any amounts paid to such individual in excess of such limitation if, and to the extent that, such liability takes into account any allowance paid under this section, provided for repayment to individuals relieved from liability of amounts already paid, and defined the terms “aggregate pay”, “appropriate agency head”, and “agency”.

SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1981; ADVANCE AUTHORIZATION; FISCAL YEAR 1982

Section 4 of Pub. L. 97-141 provided that any service agreement entered into on or after Dec. 29, 1981, pursuant to this section, as amended by section 2 of Pub. L. 97-141, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts, and that the amendments made by Pub. L. 97-141 shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending Sept. 30, 1982.

SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1979; ADVANCE AUTHORIZATION

Section 5 of Pub. L. 96-166 provided that any service agreement entered into on or after Dec. 29, 1979, pursuant to this section, as amended by section 2 of Pub. L. 96-166, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

TIME OF ENTRY INTO ALLOWANCE AGREEMENTS AND FOR COMMENCEMENT OF ALLOWANCE

Section 2(c) of Pub. L. 95-603 provided that no agreement be entered into under this section before 60th day after Nov. 6, 1978, and that no agreement provide for payment of any allowance under such section for any pay period beginning before later of such 60th day, or Oct. 1, 1978.

EX. ORD. NO. 12109. DELEGATION OF AUTHORITY TO DIRECTOR OF OFFICE OF PERSONNEL MANAGEMENT

Ex. Ord. No. 12109, Dec. 28, 1978, 44 F.R. 1067, provided: By the authority vested in me as President of the United States of America by Section 5948 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. The Director of the Office of Personnel Management is hereby designated and empowered to exercise, in consultation with the Director of the Office of Management and Budget, the authority of the President under Section 5948 of Title 5 of the United States Code, to prescribe regulations, criteria, and conditions with regard to the payment of comparability allowances to recruit and retain certain Federal physicians.

1-102. Until the Office of Personnel Management is established (on or before January 1, 1979), pursuant to Reorganization Plan No. 2 of 1978 (43 FR 36037) [set out under section 1101 of this title], the Civil Service Commission shall exercise the authority delegated under this Order to the Director of the Office of Personnel Management.

JIMMY CARTER.

§ 5949. Hostile fire pay

(a) The head of an Executive agency may pay an employee hostile fire pay at the rate of \$150 for any month in which the employee was—

- (1) subject to hostile fire or explosion of hostile mines;

(2) on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other employees were subject to hostile fire or explosion of hostile mines; or

(3) killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

(b) An employee covered by subsection (a)(3) who is hospitalized for the treatment of his or her injury or wound may be paid hostile fire pay under this section for not more than three additional months during which the employee is so hospitalized.

(c) An employee may be paid hostile fire pay under this section in addition to other pay and allowances to which entitled, except that an employee may not be paid hostile fire pay under this section for periods of time during which the employee receives payment under section 5925 of this title because of exposure to political violence or payment under section 5928 of this title.

(Added Pub. L. 107-107, div. A, title XI, §1111(a), Dec. 28, 2001, 115 Stat. 1238.)

EFFECTIVE DATE

Pub. L. 107-107, div. A, title XI, §1111(c), Dec. 28, 2001, 115 Stat. 1238, as amended by Pub. L. 108-375, div. A, title X, §1084(h)(3), Oct. 28, 2004, 118 Stat. 2064, provided that: “Section 5949 of title 5, United States Code, as added by subsection (a), is effective as if enacted into law on September 11, 2001, and may be applied with respect to any hostile action that took place on or after that date.”

Subpart E—Attendance and Leave

CHAPTER 61—HOURS OF WORK

SUBCHAPTER I—GENERAL PROVISIONS

- Sec. 6101. Basic 40-hour workweek; work schedules; regulations.
- [6102. Repealed.]
- 6103. Holidays.
- 6104. Holidays; daily, hourly, and piece-work basis employees.
- 6105. Closing of Executive departments.
- 6106. Time clocks; restrictions.

SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

- 6120. Purpose.
- 6121. Definitions.
- 6122. Flexible schedules; agencies authorized to use.
- 6123. Flexible schedules; computation of premium pay.
- 6124. Flexible schedules; holidays.
- 6125. Flexible schedules; time-recording devices.
- 6126. Flexible schedules; credit hours; accumulation and compensation.
- 6127. Compressed schedules; agencies authorized to use.
- 6128. Compressed schedules; computation of premium pay.
- 6129. Administration of leave and retirement provisions.
- 6130. Application of programs in the case of collective bargaining agreements.
- 6131. Criteria and review.
- 6132. Prohibition of coercion.
- 6133. Regulations; technical assistance; program review.