

ducted by United States Government Agencies under sections 1942 to 1945 of this title,” in par. 2(A), and “, and sections 1942 to 1945 of this title,” in pars. (5) and (7), and repealed former subsec. (d) which related to the temporary continuation of certain statutory positions.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-424 effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as a note under section 2151 of this title.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Section 124(c) of Pub. L. 95-88 provided that: “The amendments made by this section [amending this section and section 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under this section] shall take effect on July 1, 1978.”

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

#### DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

#### ASSUMPTION OF DUTIES BY COORDINATOR FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Section 109(a)(6) of Pub. L. 95-105 provided that: “The individual holding the position of Coordinator for Human Rights and Humanitarian Affairs on the date of enactment of this section [Aug. 17, 1977] shall assume the duties of the Assistant Secretary of State for Human Rights and Humanitarian Affairs and shall not be required to be reappointed by reason of the enactment of this section.”

#### REPORT TO SPEAKER OF THE HOUSE AND CONGRESSIONAL COMMITTEES ON OFFICE OF ASSISTANT SECRETARY FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Section 109(a)(7) of Pub. L. 95-105, which required the Secretary of State, not later than Jan. 31, 1978, to transmit to the Speaker of the House of Representatives and the chairmen of the Senate Committee on Foreign Relations and the Senate Committee on the Judiciary a comprehensive report on the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, including its current mandate and operations, the mandate and operations of its predecessor offices, and proposals for the reorganization of the Department of State that would strengthen human rights and humanitarian considerations in the conduct of United States foreign policy and promote the ability of the United States to participate effectively in international humanitarian efforts, was repealed by Pub. L. 97-241, title V, § 505(a)(3), Aug. 24, 1982, 96 Stat. 299, and Pub. L. 98-164, title X, § 1011(a)(5), Nov. 22, 1983, 97 Stat. 1061.

#### ASSIGNMENT OF DUTIES AND RESPONSIBILITIES TO INSPECTOR GENERAL, FOREIGN SERVICE

Section 124(a)(2) of Pub. L. 95-88, which provided that the President (A) may assign to the Inspector General,

Foreign Service, any of the duties and responsibilities vested by such section 624(d) [subsec. (d) of this section] in the Inspector General, Foreign Assistance, and (B) may authorize the Inspector General, Foreign Service, to exercise such of the authorities granted by such section 624(d) [subsec. (d) of this section] to the Inspector General, Foreign Assistance, as the President determines are necessary to carry out any duties or responsibilities so assigned, was repealed by Pub. L. 96-465, title II, § 2205(11), Oct. 17, 1980, 94 Stat. 2160. See section 3929 of this title.

#### AGENCY FOR INTERNATIONAL DEVELOPMENT

For appointments under subsec. (a) to United States Agency for International Development, see section 1-200(b) and (c) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

### § 2385. Employment of personnel

#### (a) Authorization

Any agency or officer of the United States Government carrying out functions under this chapter is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this chapter.

#### (b) Appointments excepted from civil-service laws; supergrade positions; reinstatement

Of the personnel employed in the United States to carry out subchapter I of this chapter or coordinate subchapter I and subchapter II of this chapter, not to exceed one hundred and ten may be appointed, compensated, or removed without regard to the provisions of any law, of whom not to exceed fifty-one may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5, but not in excess of the highest rate of grade 18 of such general schedule: *Provided*, That, under such regulations as the President shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5.

#### (c) Additional supergrade positions

Of the personnel employed in the United States to carry out subchapter II of this chapter, or any Act superseding subchapter II of this chapter in whole or in part, not to exceed eight may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5, but not in excess of the highest rate of grade 18 of such general schedule. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5.

#### (d) Employment or assignment of officers and employees to perform functions outside United States

For the purpose of performing functions under this chapter outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of

officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980 [22 U.S.C. 3962, 3963], or under chapter 53 of title 5, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.]. Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act [22 U.S.C. 3950] for individuals appointed to the Foreign Service.

**(e) Repealed. Pub. L. 96-465, title II, § 2205(8), Oct. 17, 1980, 94 Stat. 2160**

**(f) Funds for personnel services**

Funds provided for in agreements with foreign countries for the furnishing of services under this chapter with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering subchapter I or II of this chapter) as well as personnel not employed by the United States Government.

**(g) Repealed. Pub. L. 96-465, title II, § 2205(8), Oct. 17, 1980, 94 Stat. 2160**

**(h) Acceptance of compensation or other benefits from foreign countries; arrangements for reimbursement**

Notwithstanding any other provision of law, officers and employees of the United States Government performing functions under this chapter shall not accept from any foreign country any compensation or other benefits. Arrangements may be made by the President with such countries for reimbursement to the United States Government or other sharing of the cost of performing such functions.

**(i) Assignment based on competency**

To the maximum extent practicable officers and employees performing functions under this chapter abroad shall be assigned to countries and positions for which they have special competence, such as appropriate language and practical experience.

**(j) Reemployment of annuitants under the Civil Service Retirement System and the Federal Employees' Retirement System**

(1)(A) To facilitate the assignment of persons to Iraq, Pakistan, and Afghanistan or to posts vacated by members of the Service assigned to Iraq, Pakistan, and Afghanistan, the Administrator of the United States Agency for International Development may waive the application of the provisions of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant in a position in the United States Agency for International Development for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

(B) The authority of the Administrator under subparagraph (A) shall terminate on October 1,

2010. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

(2) The Administrator should prescribe procedures for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for a delegation of authority.

(3) An employee for whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter III of chapter 83, or chapter 84 of title 5.

(Pub. L. 87-195, pt. III, § 625, Sept. 4, 1961, 75 Stat. 449; Pub. L. 87-565, pt. III, § 302(c), Aug. 1, 1962, 76 Stat. 262; Pub. L. 87-793, § 1001(k), Oct. 11, 1962, 76 Stat. 865; Pub. L. 88-663, pt. III, § 302(a), Oct. 7, 1964, 78 Stat. 1014; Pub. L. 89-171, pt. III, § 302(c), Sept. 6, 1965, 79 Stat. 660; Pub. L. 90-137, pt. III, § 302(b)-(d), Nov. 14, 1967, 81 Stat. 460; Pub. L. 90-554, title III, § 302(c), Oct. 8, 1968, 82 Stat. 965; Pub. L. 93-189, § 16, Dec. 17, 1973, 87 Stat. 722; Pub. L. 95-88, title I, § 125, Aug. 3, 1977, 91 Stat. 542; Pub. L. 96-465, title II, §§ 2203(a), 2205(8), Oct. 17, 1980, 94 Stat. 2158, 2160; Pub. L. 97-113, title VII, § 703, Dec. 29, 1981, 95 Stat. 1544; Pub. L. 109-234, title I, § 1602(b)(2), June 15, 2006, 120 Stat. 442; Pub. L. 111-32, title XI, § 1115(c)(3), June 24, 2009, 123 Stat. 1905.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d), (f), (h), and (i), was in the original "this Act", meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (d), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§ 3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

AMENDMENTS

2009—Subsec. (j)(1)(A). Pub. L. 111-32 inserted "Pakistan," after "Iraq" in two places.

Subsec. (j)(1)(B). Pub. L. 111-32 substituted "2010" for "2008".

2006—Subsec. (j). Pub. L. 109-234 added subsec. (j).

1981—Subsec. (d). Pub. L. 97-113 substituted "or under chapter 53 of title 5, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980" for "together with allowances and benefits under that Act".

1980—Subsec. (d). Pub. L. 96-465, § 2203(a), substituted references to the Foreign Service Act of 1980, for references to the Foreign Service Act of 1946, and struck out provisions relating to the applicability of section 1005 of the Foreign Service Act of 1946 and relating to the utilization of Presidential authority under the Foreign Service Act of 1946 to carry out the functions of this chapter.

Subsec. (e). Pub. L. 96-465, § 2205(8), struck out subsec. (e) which set forth requirement of standards or other

criteria for maintenance of adequate performance levels for personnel. See sections 4007 and 4008 of this title.

Subsec. (g). Pub. L. 96-465, §2205(8), struck out subsec. (g) which related to competency in foreign languages. See section 4022 of this title.

Subsec. (j). Pub. L. 96-465, §2205(8), struck out subsec. (j) which related to appointment and compensation of an Inter-American Committee representative.

Subsec. (k). Pub. L. 96-465, §2205(8), struck out subsec. (k) which related to applicability, etc., of Foreign Service Retirement and Disability System. See sections 3922 and 4043 of this title.

1977—Subsec. (d)(2). Pub. L. 95-88 struck out a numerical limitation of fifty on the number of persons which the President may assign, at any one time, to duty within the United States for the purpose of preparation for assignments outside the United States.

1973—Subsec. (k). Pub. L. 93-189 added subsec. (k).

1968—Subsec. (c). Pub. L. 90-554 inserted “or any Act superseding subchapter II of this chapter in whole or in part” after “to carry out subchapter II of this chapter”.

1967—Subsecs. (b), (c). Pub. L. 90-137, §302(b), (c), substituted references to section 5332 of title 5 for former references to the Classification Act of 1949, as amended, and to section 5108 for former section 1105 of title 5.

Subsec. (d)(2). Pub. L. 90-137, §302(d), authorized an increase in the assignment of foreign personnel from forty to fifty persons.

1965—Subsec. (d)(2). Pub. L. 89-171 substituted “forty” for “twenty”.

1964—Subsec. (d)(2). Pub. L. 88-633, §302(a)(1), substituted “the assignment to such duty of more than twenty persons at any one time” for “more than thirty persons in the aggregate”.

Subsec. (j). Pub. L. 88-633, §302(a)(2), added subsec. (j).

1962—Subsec. (b). Pub. L. 87-793, §1001(k)(1), substituted “but not in excess of the highest rate of grade 18 of such general schedule” for “and of these, not to exceed eight may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of \$19,000 per year”.

Pub. L. 87-565, §302(c)(1), substituted “one hundred and ten” for “seventy-six”.

Subsec. (c). Pub. L. 87-793, §1001(k)(2), substituted “but not in excess of the highest rate of grade 18 of such general schedule” for “and of these, not to exceed three may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of \$19,000 per year”.

Subsec. (d)(2). Pub. L. 87-565, §302(c)(2), authorized the President to initially assign personnel, not exceeding 30 persons in the aggregate, for duty within the United States for a period not exceeding two years for preparation for duty outside the United States.

Subsec. (f). Pub. L. 87-565, §302(c)(3), inserted “with respect to specific projects”, and “agencies of”, and excluded services of employees of agencies primarily responsible for administering subchapter I or II of this chapter from the purview of this subsection.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment of subsec. (d) and repeal of subsecs. (e), (g), and (j) 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 this title.

Repeal of subsec. (k) by Pub. L. 96-465 effective Oct. 17, 1980, see section 2403(d)(1) of Pub. L. 96-465.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87-793.

#### DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

#### EXTENSION OF AUTHORITY

Pub. L. 112-74, div. I, title VII, §7034(m)(6), Dec. 23, 2011, 125 Stat. 1216, provided that: “Section 625(j)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(j)(1)) shall be applied by substituting ‘September 30, 2012’ for ‘October 1, 2010’ in subparagraph (B).”

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### ENTITLEMENT TO BENEFITS FOR SERVICES PERFORMED OUTSIDE UNITED STATES; SERVICE EXCEEDING THIRTY MONTHS

Persons appointed, employed, or assigned after May 19, 1959, under former section 1787(c) of this title or subsec. (d) of this section for the purpose of performing functions under the Mutual Security Act of 1954 (see Short Title note set out under section 1754 of this title) and this chapter, outside the United States, shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided for by section 3950 of this title in cases in which their service under the appointment, employment, or assignment exceeds thirty months, see Ex. Ord. No. 12163, §1-602(b), Sept. 29, 1979, 44 F.R. 56677, as amended, set out as a note under section 2381 of this title.

### § 2385a. Unified personnel system

#### (a) Establishment by regulations

Not later than May 1, 1979, the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.]. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

#### (b) Effective date of regulations

The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

#### (c) Force and effect of regulations

Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], notwithstanding and<sup>1</sup> inconsistent provision of law unless that provision of

<sup>1</sup> So in original. Probably should be “any”.