

eign Service Grievance Board under section 4137 of this title.

(Pub. L. 96-465, title I, § 306, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100-204, title I, § 181(c), Dec. 22, 1987, 101 Stat. 1363.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100-204 added subsec. (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 181(e) of Pub. L. 100-204 provided that: “The amendments made by this section [amending this section and sections 4010 and 4137 of this title] shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act [Dec. 22, 1987].”

§ 3947. Entry levels for Foreign Service officer candidates

A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 3964 of this title to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher salary class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

(Pub. L. 96-465, title I, § 307, Oct. 17, 1980, 94 Stat. 2086.)

§ 3948. Recall and reappointment of career members

(a) Retired career members

Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members

Former career members of the Service may be reappointed under section 3942(a)(1) or 3943 of this title, without regard to section 3946 of this title, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

(Pub. L. 96-465, title I, § 308, Oct. 17, 1980, 94 Stat. 2086.)

USAID OVERSEAS PROGRAM

Pub. L. 112-74, div. I, title VII, § 7057(a)-(e), Dec. 23, 2011, 125 Stat. 1244, provided that:

“(a) **AUTHORITY.**—Up to \$93,000,000 of the funds made available in title III of this Act [title III of div. I of Pub. L. 112-74, 125 Stat. 1175] to carry out the provisions of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading ‘Assistance for Europe, Eurasia and Central Asia’, may be used by the United States Agency for International Development (USAID) to hire and employ individuals in the United States and overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980 [22 U.S.C. 3948, 3949].

“(b) **RESTRICTIONS.**—

“(1) The number of individuals hired in any fiscal year pursuant to the authority contained in subsection (a) may not exceed 175.

“(2) The authority to hire individuals contained in subsection (a) shall expire on September 30, 2013.

“(c) **CONDITIONS.**—The authority of subsection (a) should only be used to the extent that an equivalent number of positions that are filled by personal services contractors or other non-direct hire employees of USAID, who are compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading ‘Assistance for Europe, Eurasia and Central Asia’, are eliminated.

“(d) **PROGRAM ACCOUNT CHARGED.**—The account charged for the cost of an individual hired and employed under the authority of this section shall be the account to which such individual’s responsibilities primarily relate: *Provided*, That funds made available to carry out this section may be transferred to, and merged with, funds appropriated by this Act in title II [title II of div. I of Pub. L. 112-74, 125 Stat. 1174] under the heading ‘Operating Expenses’.

“(e) **FOREIGN SERVICE LIMITED EXTENSIONS.**—Individuals hired and employed by USAID, with funds made available in this Act [div. I of Pub. L. 112-74, 125 Stat. 1164] or prior Acts making appropriations for the Department of State, foreign operations, and related programs [see similar provisions listed below], pursuant to the authority of section 309 of the Foreign Service Act of 1980 [22 U.S.C. 3949], may be extended for a period of up to 4 years notwithstanding the limitation set forth in such section.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111-117, div. F, title VII, § 7059(a)-(g), Dec. 16, 2009, 123 Stat. 3380, 3381.

Pub. L. 111-8, div. H, title VII, § 7059(a)-(g), Mar. 11, 2009, 123 Stat. 896.

Pub. L. 110-161, div. J, title VI, § 676, Dec. 26, 2007, 121 Stat. 2357.

Pub. L. 109-102, title V, § 577, Nov. 14, 2005, 119 Stat. 2231.

Pub. L. 108-447, div. D, title V, § 588, Dec. 8, 2004, 118 Stat. 3034.

Pub. L. 108-199, div. D, title V, § 525, Jan. 23, 2004, 118 Stat. 176, provided that: “Funds appropriated by this and subsequent appropriations Acts to carry out the provisions of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading ‘Assistance for Eastern Europe and the Baltic States’, may be made available to employ individuals overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980 [22 U.S.C. 3948, 3949]: *Provided*, That in fiscal years 2004, 2005, and 2006 the authority of this section may be used to hire not more than 85 individuals in each such year.”

§ 3949. Limited appointments

(a) A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in subsection (b) of this section, may not be extended or renewed. A limited appointment in the Serv-

ice which is limited by its terms to a period of one year or less is a temporary appointment.

(b) A limited appointment may be extended for continued service—

(1) as a consular agent;

(2) in accordance with section 3951(a) of this title;

(3) as a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under subchapter XI of this chapter;

(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency; and

(5) as a foreign national employee.

(Pub. L. 96-465, title I, § 309, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100-204, title I, § 176, Dec. 22, 1987, 101 Stat. 1361; Pub. L. 103-236, title I, § 180(a)(1), Apr. 30, 1994, 108 Stat. 415; Pub. L. 103-415, § 1(hh), Oct. 25, 1994, 108 Stat. 4303.)

AMENDMENTS

1994—Subsec. (b)(5). Pub. L. 103-236, as amended by Pub. L. 103-415, added par. (5).

1987—Pub. L. 100-204 designated existing provisions as subsec. (a), substituted “subsection (b) of this section” for “section 3951(a) of this title”, and added subsec. (b).

§ 3950. Reemployment rights following limited appointment

Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5.

(Pub. L. 96-465, title I, § 310, Oct. 17, 1980, 94 Stat. 2087.)

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 section 2385(d) of this title 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 the Foreign Assistance Act of 1961 (section 2151 et seq. of this title) 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 this section 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.

§ 3951. United States citizens hired abroad

(a) Appointment of family members

The Secretary, under section 3943 of this title, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.

(b) Family nexus as affirmative hiring factor

The fact that an applicant for employment in a position referred to in subsection (a) of this

section is a family member of a Government employee assigned abroad shall be considered an affirmative factor in employing such person.

(c) Compensation of family and non-family member employees

(1) Non-family members employed under this section for service at their post of residence shall be paid in accordance with local compensation plans established under section 3968 of this title.

(2) Family members employed under this section shall be paid in accordance with the Foreign Service Schedule or the salary rates established under section 3967 of this title.

(3) In exceptional circumstances, non-family members may be paid in accordance with the Foreign Service Schedule or the salary rates established under section 3967 of this title, if the Secretary determines that the national interest would be served by such payments.

(d) Non-family member employees ineligible for certain benefits

Nonfamily member United States citizens employed under this section shall not be eligible by reason of such employment for benefits under subchapter VIII of this chapter, or under chapters¹ 83 or 84 of title 5.

(Pub. L. 96-465, title I, § 311, Oct. 17, 1980, 94 Stat. 2087; Pub. L. 103-236, title I, § 180(a)(2), Apr. 30, 1994, 108 Stat. 415; Pub. L. 103-415, § 1(h)(1), Oct. 25, 1994, 108 Stat. 4300.)

AMENDMENTS

1994—Pub. L. 103-415 substituted “United States citizens hired abroad” for “Employment of family members of Government employees” as section catchline and inserted “by reason of such employment” after “eligible” in subsec. (d).

Pub. L. 103-236 amended section generally. Prior to amendment, section read as follows:

“(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 3968 of this title.

“(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions.”

§ 3952. Diplomatic and consular missions

(a) Recommendations by Secretary of State; appointment by President; vice consul; performance of official functions under commission

The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer

¹ So in original. Probably should be “chapter”.