

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 chapters<sup>1</sup> 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

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

or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

**(b) Function of commissioned Service members**

Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

**(c) Limits of consular districts**

The Secretary of State shall define the limits of consular districts.

(Pub. L. 96-465, title I, § 312, Oct. 17, 1980, 94 Stat. 2087.)

SUBCHAPTER IV—COMPENSATION

**§ 3961. Salaries of chiefs of mission**

(a) Except as provided in section 3942(b) of this title, each chief of mission shall receive a salary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, except that the total compensation, exclusive of danger pay, for any chief of mission shall be subject to the limitation on certain payments under section 5307 of title 5 or the limitation under section 3962(a)(3) of this title, whichever is higher.

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed 50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

(Pub. L. 96-465, title I, § 401, Oct. 17, 1980, 94 Stat. 2087; Pub. L. 100-204, title I, § 177(a), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 102-138, title I, § 142(b), Oct. 28, 1991, 105 Stat. 668; Pub. L. 108-447, div. B, title IV, § 412(c), Dec. 8, 2004, 118 Stat. 2905.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-447, which directed the substitution of “shall be subject to the limitation on certain payments under section 5307 of title 5 or the limitation under section 3962(a)(3) of this title, whichever is higher” for “shall not exceed the annual rate of pay payable for level I of such Executive Schedule”, was executed by making the substitution for “shall not exceed the annual rate payable for level I of such Executive Schedule” to reflect the probable intent of Congress.

1991—Subsec. (a). Pub. L. 102-138 substituted “Except as provided in section 3942(b) of this title, each” for “Each” and “level I of such” for “level II of such”.

1987—Subsec. (a). Pub. L. 100-204 substituted “Each chief” for “Except as provided in section 3942(b) of this title, each chief”, and inserted before period at end “, except that the total compensation, exclusive of danger pay, for any chief of mission shall not exceed the annual rate payable for level II of such Executive Schedule”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-204 not applicable to salary of any individual serving under Presidential appointment under section 3942 of this title immediately before Dec. 22, 1987, during the period such individual continues to serve in such position, see section 177(c) of Pub. L. 100-204, set out as a note under section 3942 of this title.

**§ 3962. Salaries of Senior Foreign Service members**

**(a) Prescription by President; basic salary rates; adjustments; determinations by Secretary**

(1) The President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. The President shall also prescribe ranges of basic salary rates for each class. Except as provided in paragraph (3), basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5.

(2) The Secretary shall determine which basic salary rate within the ranges prescribed by the President under paragraph (1) shall be paid to each member of the Senior Foreign Service based on individual performance, contribution to the mission of the Department, or both, as determined under a rigorous performance management system. Except as provided in regulations prescribed by the Secretary and, to the extent possible, consistent with regulations governing the Senior Executive Service, the Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period.

(3) Upon a determination by the Secretary that the Senior Foreign Service performance appraisal system, as designed and applied, makes meaningful distinctions based on relative performance—

(A) the maximum rate of basic pay payable for the Senior Foreign Service shall be level II of the Executive Schedule; and

(B) the applicable aggregate pay cap shall be equivalent to the aggregate pay cap set forth in section 5307(d)(1) of title 5 for members of the Senior Executive Service.

**(b) Career appointees in Senior Executive Service accepting limited appointment in Senior Foreign Service; adjustment**

(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under section 5382 of title 5 and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid under section