

AVOIDING DUPLICATIVE AMENDMENTS

Pub. L. 101-231, §13(b), Dec. 13, 1989, 103 Stat. 1963, provided that: "If the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 [Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 87], is enacted before this Act [Dec. 13, 1989], and that Act makes the same amendment as is described in subsection (a) [amending this section], then subsection (a) shall not take effect. If, however, this Act is enacted before the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and that Act would make the same amendment as is made by subsection (a), then that amendment as proposed to be made by that Act shall not take effect."

REWARDS FOR INTERNATIONAL TERRORISTS

Pub. L. 99-399, title V, §501, Aug. 27, 1986, 100 Stat. 869, provided that: "It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards available under present law so that major international terrorist figures may be brought to justice."

§ 2708a. Award of Thomas Jefferson Star for Foreign Service**(a) Authority to award**

The President, upon the recommendation of the Secretary, may award a Thomas Jefferson Star for Foreign Service to any member of the Foreign Service or any other civilian employee of the Government of the United States who, while employed at, or assigned permanently or temporarily to, an official mission overseas or while traveling abroad on official business, incurred a wound or other injury or an illness (whether or not the wound, other injury, or illness resulted in death)—

- (1) as the person was performing official duties;
- (2) as the person was on the premises of a United States mission abroad; or
- (3) by reason of the person's status as a United States Government employee.

(b) Selection criteria

The Secretary shall prescribe the procedures for identifying and considering persons eligible for award of a Thomas Jefferson Star for Foreign Service and for selecting the persons to be recommended for the award.

(c) Award in the event of death

If a person selected for award of a Thomas Jefferson Star for Foreign Service dies before being presented the award, the award may be made and the star presented to the person's family or to the person's representative, as designated by the President.

(d) Form of award

The Secretary shall prescribe the design of the Thomas Jefferson Star for Foreign Service. The award may not include a stipend or any other cash payment.

(e) Funding

Any expenses incurred in awarding a person a Thomas Jefferson Star for Foreign Service may be paid out of appropriations available at the

time of the award for personnel of the department or agency of the United States Government in which the person was employed when the person incurred the wound, injury, or illness upon which the award is based.

(Aug. 1, 1956, ch. 841, title I, §36A, as added Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §321], Nov. 29, 1999, 113 Stat. 1536, 1501A-436; amended Pub. L. 107-228, div. A, title III, §311, Sept. 30, 2002, 116 Stat. 1377.)

AMENDMENTS

2002—Pub. L. 107-228 substituted "Thomas Jefferson Star for Foreign Service" for "Foreign Service star" in section catchline and wherever appearing in text.

§ 2709. Special agents**(a) General authority**

Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

- (1) conduct investigations concerning illegal passport or visa issuance or use;
- (2) obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;
- (3) protect and perform protective functions directly related to maintaining the security and safety of—

(A) heads of a foreign state, official representatives of a foreign government, and other distinguished visitors to the United States, while in the United States;

(B) the Secretary of State, Deputy Secretary of State, and official representatives of the United States Government, in the United States or abroad;

(C) members of the immediate family of persons described in subparagraph (A) or (B);

(D) foreign missions (as defined in section 4302(a)(4)¹ of this title) and international organizations (as defined in section 4309(b) of this title), within the United States;

(E) a departing Secretary of State for a period of up to 180 days after the date of termination of that individual's incumbency as Secretary of State, on the basis of a threat assessment; and

(F) an individual who has been designated by the President or President-elect to serve as Secretary of State, prior to that individual's appointment.²

(4) if designated by the Secretary and qualified, under regulations approved by the Attorney General, for the use of firearms, carry firearms for the purpose of performing the duties authorized by this section; and

(5) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

¹ See References in Text note below.

² So in original. The period probably should be a semicolon.

(b) Agreements with Attorney General and Secretary of the Treasury and firearms regulations

(1) Agreement with Attorney General

The authority conferred by paragraphs (1) and (4) of subsection (a) of this section shall be exercised subject to an agreement between the Secretary and the Attorney General.

(2) Agreement with Attorney General and Secretary of the Treasury

The authority conferred by paragraphs (2) and (5) of subsection (a) of this section shall be exercised subject to an agreement among the Secretary, the Attorney General, and the Secretary of the Treasury.

(3) Firearms regulations

The Secretary of State shall prescribe regulations, which shall be approved by the Attorney General, with respect to the carrying and use of firearms by special agents under this section.

(c) Secret Service not affected

Nothing in subsection (a)(3) of this section shall be construed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 3056 or 3056A of title 18 at a level commensurate with protective requirements as determined by the United States Secret Service. The Secretary of State, the Attorney General, and the Secretary of the Treasury shall enter into an interagency agreement with respect to their law enforcement functions.

(Aug. 1, 1956, ch. 841, title I, §37, as added Pub. L. 99-93, title I, §125(a), Aug. 16, 1985, 99 Stat. 415; amended Pub. L. 101-246, title I, §113, Feb. 16, 1990, 104 Stat. 22; Pub. L. 103-236, title I, §139(1), Apr. 30, 1994, 108 Stat. 397; Pub. L. 106-553, §1(a)(2) [title IV, §406, formerly §407], Dec. 21, 2000, 114 Stat. 2762, 2762A-97, renumbered Pub. L. 106-554, §1(a)(4) [div. A, §213(a)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A-180; Pub. L. 107-228, div. A, title II, §202(a), (b), Sept. 30, 2002, 116 Stat. 1362; Pub. L. 109-177, title VI, §605(e)(2)(A), Mar. 9, 2006, 120 Stat. 255.)

REFERENCES IN TEXT

Section 4302 of this title, referred to in subsec. (a)(3)(D), was subsequently amended, and section 4302(a)(4) no longer defines the term “foreign mission”. However, such term is defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 37 of act Aug. 1, 1956, was renumbered section 38 by section 125(a) of Pub. L. 99-93, and subsequently renumbered, and was set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102-138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-177 substituted “section 3056 or 3056A of title 18” for “section 202 of title 3 or section 3056 of title 18”.

2002—Subsec. (a)(2). Pub. L. 107-228, §202(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “for the purpose of conducting such investigations—

“(A) obtain and execute search and arrest warrants,

“(B) make arrests without warrant for any offense concerning passport or visa issuance or use if the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and

“(C) obtain and serve subpoenas and summonses issued under the authority of the United States;”.

Subsec. (a)(3)(F). Pub. L. 107-228, §202(a)(2), inserted “or President-elect” after “President”.

Subsec. (a)(5). Pub. L. 107-228, §202(a)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028 of title 18—

“(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person—

“(i) has committed or is committing such violation; and

“(ii) is in or is fleeing from the immediate area of such violation; and

“(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent.”

Subsec. (b). Pub. L. 107-228, §202(b), substituted “Agreements with Attorney General and Secretary of the Treasury and firearms regulations” for “Agreement with Attorney General and firearms regulations” in heading, added pars. (1) and (2), struck out former par. (1), which related to agreement with the Attorney General, and redesignated former par. (2) as (3).

2000—Subsec. (a)(3)(E), (F). Pub. L. 106-553, as renumbered by Pub. L. 106-554, added subpars. (E) and (F).

1994—Subsec. (d). Pub. L. 103-236 struck out subsec. (d) which read as follows: “The Secretary of State shall transmit the regulations prescribed under this section to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 20 days before the date on which such regulations take effect.”

1990—Subsec. (a)(2). Pub. L. 101-246, §113(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(5). Pub. L. 101-246, §113(2), amended introductory provisions generally, substituting “970, or 1028” for “911, 970, 1001, 1028, 1541, 1542, 1543, 1544, 1545, or 1546”.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY

Pub. L. 107-228, div. A, title II, §202(c), Sept. 30, 2002, 116 Stat. 1362, provided that:

“(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities Act of 1956 [22 U.S.C. 2709(a)(2), (5)], as amended by subsection (a), may not be exercised until the date on which the Secretary—

“(A) submits the agreement required by subsection (b)(2) of section 37 of such Act [22 U.S.C. 2709(b)(2)] to the appropriate congressional committees; and

“(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

“(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act [Sept. 30, 2002], may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register.”

[For definitions of “Secretary” and “appropriate congressional committees” as used in section 202(c) of Pub. L. 107-228, set out above, see section 3 of Pub. L. 107-228, set out as a note under section 2651 of this title.]

§ 2710. Expenses relating to participation in arbitrations of certain disputes

(a) International agreements

The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations and other proceedings for the peaceful resolution of disputes under treaties or other international agreements.

(b) Contracts abroad

The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations arising under contracts authorized by law for the performance of services or acquisition of property, real or personal, abroad.

(c) Procurement of services

The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure personal and other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

(d) International Litigation Fund

(1) Establishment

In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the “ILF”). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.

(2) Reprogramming procedures

Funds credited to the ILF shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings. This paragraph shall not apply to the transfer of funds under paragraph (3).

(3) Transfers of funds

Funds received by the Department of State from another agency of the United States Government or pursuant to the Department of State Appropriations Act of 1937 (49 Stat. 1321,

22 U.S.C. 2661) to meet costs of preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, shall be credited to the ILF.

(4) Use of funds

Funds deposited in the ILF shall be available only for the purposes of paragraph (1).

(e) Retention of funds

(1) In general

To reimburse the expenses of the United States Government in preparing or prosecuting a proceeding before an international tribunal, or a claim against a foreign government or other foreign entity, the Secretary may retain 1.5 percent of any amount between \$100,000 and \$5,000,000, and one percent of any amount over \$5,000,000, received per claim under section 2668a of this title.

(2) Treatment

Amounts retained under the authority of paragraph (1) shall be deposited into the fund under subsection (d) of this section.

(Aug. 1, 1956, ch. 841, title I, § 38, as added Pub. L. 99-93, title I, § 128, Aug. 16, 1985, 99 Stat. 419; amended Pub. L. 103-236, title I, § 123, Apr. 30, 1994, 108 Stat. 392; Pub. L. 105-277, div. G, subd. B, title XXII, § 2212(b), Oct. 21, 1998, 112 Stat. 2681-812; Pub. L. 107-228, div. A, title II, § 203, Sept. 30, 2002, 116 Stat. 1362.)

REFERENCES IN TEXT

The Department of State Appropriations Act of 1937, referred to in subsec. (d)(3), probably means the Department of State Appropriation Act, 1937, which is title I of act May 15, 1936, ch. 405, 49 Stat. 1309. Provisions relating to acceptance by the Secretary of State of reimbursement for expenses incurred in pursuing certain private claims against foreign governments were added to that act by Pub. L. 100-204, title I, § 142(b), Dec. 22, 1987, 101 Stat. 1350, and are classified to section 2661 of this title.

Section 2668a of this title, referred to in subsec. (e)(1), was in the original “chapter 34 of the Act of February 27, 1896 (22 U.S.C. 2668a; 29 Stat. 32)”. Section 2668a of this title contains the only provisions of the Act which are classified to the Code.

PRIOR PROVISIONS

A prior section 38 of act Aug. 1, 1956, was renumbered section 39 by section 128 of Pub. L. 99-93, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102-138, title I, § 111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-228 added subsec. (e).
1998—Subsec. (c). Pub. L. 105-277 inserted “personal and” before “other support services” in first sentence.
1994—Subsecs. (c), (d). Pub. L. 103-236 added subsecs. (c) and (d).

§ 2711. Counterterrorism Protection Fund

(a) Authority

The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside