

that would be cognizable as a grievance under subchapter XI;

(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)” 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) 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 compensa-

tion 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 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 com-

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