

§ 2103. The excepted service

(a) For the purpose of this title, the “excepted service” consists of those civil service positions which are not in the competitive service or the Senior Executive Service.

(b) As used in other Acts of Congress, “unclassified civil service” or “unclassified service” means the “excepted service”.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 95-454, title IV, § 401(c), Oct. 13, 1978, 92 Stat. 1154.)

HISTORICAL AND REVISION NOTES

The section is supplied for convenience. The “excepted service” has come to mean all employees not in the competitive service, for whatever reason.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454 inserted reference to Senior Executive Service.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

§ 2104. Officer

(a) For the purpose of this title, “officer”, except as otherwise provided by this section or when specifically modified, means a justice or judge of the United States and an individual who is—

(1) required by law to be appointed in the civil service by one of the following acting in an official capacity—

- (A) the President;
- (B) a court of the United States;
- (C) the head of an Executive agency; or
- (D) the Secretary of a military department;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an authority named by paragraph (1) of this section, or the Judicial Conference of the United States, while engaged in the performance of the duties of his office.

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the Postal Regulatory Commission is deemed not an officer for purposes of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 91-375, § 6(c)(3), Aug. 12, 1970, 84 Stat. 775; Pub. L. 109-435, title VI, § 604(b), Dec. 20, 2006, 120 Stat. 3241.)

HISTORICAL AND REVISION NOTES

The section is supplied for convenience.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

1970—Subsec. (a). Pub. L. 91-375, § 6(c)(3)(A), (B), designated existing provisions as subsec. (a) and inserted in introductory text “as otherwise provided by this section or” after “except”.

Subsec. (b). Pub. L. 91-375, § 6(c)(3)(C), added subsec. (b).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 2105. Employee

(a) For the purpose of this title, “employee”, except as otherwise provided by this section or when specifically modified, means an officer and an individual who is—

(1) appointed in the civil service by one of the following acting in an official capacity—

- (A) the President;
- (B) a Member or Members of Congress, or the Congress;
- (C) a member of a uniformed service;
- (D) an individual who is an employee under this section;
- (E) the head of a Government controlled corporation; or
- (F) an adjutant general designated by the Secretary concerned under section 709(c) of title 32;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

(b) An individual who is employed at the United States Naval Academy in the midshipmen’s laundry, the midshipmen’s tailor shop, the midshipmen’s cobbler and barber shops, and the midshipmen’s store, except an individual employed by the Academy dairy (if any), and whose employment in such a position began before October 1, 1996, and has been uninterrupted in such a position since that date is deemed an employee.

(c) An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Navy Ships Stores Program, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—

- (1) laws administered by the Office of Personnel Management, except—
 - (A) section 7204;
 - (B) as otherwise specifically provided in this title;
 - (C) the Fair Labor Standards Act of 1938;
 - (D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or
 - (E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or

(2) laws administered by the Office of Personnel Management, except—

- (A) section 7204;
- (B) as otherwise specifically provided in this title;
- (C) the Fair Labor Standards Act of 1938;
- (D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or
- (E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or

(3) laws administered by the Office of Personnel Management, except—

- (A) section 7204;
- (B) as otherwise specifically provided in this title;
- (C) the Fair Labor Standards Act of 1938;
- (D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or
- (E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or

(4) laws administered by the Office of Personnel Management, except—