

(b) The Board shall be appointed by, and in accordance with regulations prescribed by, the Secretary of State, except that not less than five shall be career members of the Foreign Service and not less than seven shall be appointed as follows.

(1) not less than five shall be appointed by the heads of the agencies utilizing the Foreign Service personnel system;

(2) not less than one shall be a representative appointed by the Director of the Office of Personnel Management; and

(3) not less than one shall be a representative appointed by the Secretary of Labor.

(c) The Secretary of State shall designate from among the members of the Board a Chairman who is a member of the Service.

(d) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

SEC. 7. For the purpose of ensuring the accuracy of information used in the administration of the Foreign Service Retirement and Disability System, the Secretary of State may request from the Secretary of Defense and the Administrator of Veterans Affairs such information as the Secretary deems necessary. To the extent permitted by law: (a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10, United States Code; and, (b) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code. The Secretary, in consultation with the officials from whom information is requested, shall ensure that information made available under this Order is used only for the purpose authorized.

SEC. 8. The first seven Sections of this Order shall be effective as of February 15, 1981.

SEC. 9. (a) Pursuant to Section 210 of the Act there is established in the Department of State the Board of the Foreign Service (22 U.S.C. 3930).

(b) The Board shall be composed of the designated number of representatives of the heads of the following agencies:

(1) Department of State, four members, at least three of whom must be career members of the Senior Foreign Service;

(2) United States Information Agency, two members, one of whom must be a career member of the Senior Foreign Service;

(3) United States Agency for International Development, two members, one of whom must be a career member of the Senior Foreign Service;

(4) Department of Agriculture, two members, one of whom must be a career member of the Senior Foreign Service;

(5) Department of Commerce, two members, one of whom must be a career member of the Senior Foreign Service;

(6) Department of Labor, one member;

(7) Office of Personnel Management, one member;

(8) Office of Management and Budget, one member; and,

(9) Equal Employment Opportunity Commission, one member;

(c) The membership of the Board shall be selected from among officials who are knowledgeable in matters concerning the management of the Foreign Service. Except for the career members of the Senior Foreign Service from the Department of Agriculture, the Department of Commerce, the United States Information Agency, and the United States Agency for International Development, the members of the Board shall be selected from among those who have the rank of Assistant Secretary or higher or a position of comparable responsibility.

(d) The Secretary of State may from time to time request the heads of other agencies to designate representatives to participate in the functions of the Board on a regular or occasional basis.

(e) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

SEC. 10. Pursuant to Section 202(a)(2)(B) and (a)(3)(B) of the Act (22 U.S.C. 3922(a)(2)(B), (a)(3)(B)), it is hereby determined to be necessary, in order to enable the Department of Agriculture and the Department of Commerce to carry out functions which require service abroad, for the respective Secretaries, in consultation with the Office of Personnel Management and the Office of Management and Budget, to be able to utilize the Foreign Service personnel system with respect to personnel of the following:

(a) The Animal and Plant Health Inspection Service of the Department of Agriculture, not to exceed 125 positions, without the prior approval of the Director of the Office of Personnel Management;

(b) The United States Travel and Tourism Administration, and the International Trade Administration of the Department of Commerce, not to exceed 30 positions without the prior approval of the Director of the Office of Personnel Management, and providing that assignments to such positions be administered consistent with policies of the Foreign Commercial Service established under Executive Order No. 12188 [19 U.S.C. 2171 note].

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§ 3902. Definitions

As used in this chapter, the term—

(1) “abroad” means all areas not included within the United States;

(2) “agency” means an agency as defined in section 552(e)¹ of title 5;

(3) “chief of mission” means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 3982(c) of this title to be temporarily in charge of such a mission or office;

(4) “Department” means the Department of State, except that with reference to the exercise of functions under this chapter with respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency;

(5) “employee” (except as provided in section 4102(8) of this title) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) “function” includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) “Government” means the Government of the United States;

(8) “merit principles” means the principles set out in section 2301(b) of title 5;

(9) “principal officer” means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) “Secretary” means the Secretary of State, except that (subject to section 3921 of

¹ See References in Text note below.

this title) with reference to the exercise of functions under this Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) “Service” or “Foreign Service” means the Foreign Service of the United States; and

(12) “United States”, when used in a geographic sense, means the several States and the District of Columbia.

(Pub. L. 96-465, title I, §102, Oct. 17, 1980, 94 Stat. 2075; Pub. L. 98-164, title I, §130(a), Nov. 22, 1983, 97 Stat. 1027.)

REFERENCES IN TEXT

Section 552(e) of title 5, referred to in par. (2), was redesignated section 552(f) of title 5 by section 1802(b) of Pub. L. 99-570.

AMENDMENTS

1983—Pub. L. 98-164 struck out “(a)” before “As used in this chapter”, and struck out subsec. (b) which provided that references to Foreign Service officers in any provision be deemed to refer to, with respect to the United States Information Agency, Foreign Service Information officers.

§ 3903. Members of Service

The following are the members of the Service:

(1) Chiefs of mission, appointed under section 3942(a)(1) of this title or assigned under section 3982(c) of this title.

(2) Ambassadors at large, appointed under section 3942(a)(1) of this title.

(3) Members of the Senior Foreign Service, appointed under section 3942(a)(1) or 3943 of this title, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 3942(a)(1) of this title, who have general responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 3943 of this title, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 3943 of this title, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 3943 of this title by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

(Pub. L. 96-465, title I, §103, Oct. 17, 1980, 94 Stat. 2076.)

§ 3904. Functions of Service

Members of the Service shall, under the direction of the Secretary—

(1) represent the interests of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Convention on Diplo-

matic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

(Pub. L. 96-465, title I, §104, Oct. 17, 1980, 94 Stat. 2076.)

§ 3905. Personnel actions

(a) Merit principles; “personnel action” defined

(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

(2) For purposes of paragraph (1), the term “personnel action” means—

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this chapter which relates to any action referred to in subparagraph (A).

(b) Rules and regulations; discrimination; reprisals for disclosure of information; submission of reports, evaluations, or recommendations; freedom from prohibited personnel practices

The Secretary shall administer the provisions of this chapter and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, geographic or educational affiliation within the United States, or political affiliation, as prohibited under section 2302(b)(1) of title 5;

(2) are free from reprisal for—

(A) a disclosure of information by a member or applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department