

officers who may receive a special differential under subsection (a) of this section or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.”

§ 3973. Death gratuities

(a) Criteria; amount; payment deemed gift

The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee, who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year’s salary at level II of the Executive Schedule under section 5313 of title 5 at the time of death, except that for employees compensated under local compensation plans established under section 3968 of this title the amount shall be equal to the greater of either one year’s salary at the time of death, or one year’s basic salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) Other executive agencies

The head of an executive agency shall, pursuant to guidance issued under subsection (c), make a death gratuity payment authorized by this section to the survivors of any employee of that agency or of an individual in a special category serving in an uncompensated capacity for that agency, as identified in guidance issued under subsection (c), who dies as a result of injuries sustained in the performance of duty abroad while subject to the authority of the chief of mission pursuant to section 3927 of this title.

(c) Guidance

Not later than 60 days after January 17, 2014, the Secretary shall, in consultation with the heads of other relevant executive agencies, issue guidance with criteria for determining eligibility for, and order of payments to, survivors and beneficiaries of any employee or of an individual in a special category serving in an uncompensated capacity for that agency who dies as a result of injuries sustained in the performance of duty while subject to the authority of the chief of mission pursuant to section 3927 of this title.

(d) Eligibility to elect monthly compensation as condition to payment

A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(e) Definitions

As used in this section—

(1) the term “Foreign Service employee” means any member of the Service or United

States representative to an international organization or commission; and

(2) each of the terms “widow”, “widower”, “child”, and “parent” shall have the same meaning given each such term by section 8101 of title 5.

(Pub. L. 96-465, title I, §413, Oct. 17, 1980, 94 Stat. 2092; Pub. L. 113-76, div. K, title VII, §7082(a), Jan. 17, 2014, 128 Stat. 565.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-76, §7082(a)(1), substituted “at level II of the Executive Schedule under section 5313 of title 5, United States Code, at the time of death, except that for employees compensated under local compensation plans established under section 3968 of this title the amount shall be equal to the greater of either one year’s salary at the time of death, or one year’s basic salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death” for “at the time of death”.

Subsec. (b). Pub. L. 113-76, §7082(a)(2), (3), added subsec. (b) and redesignated former subsec. (b) as (d). Former subsec. (d) redesignated (e).

Subsec. (c). Pub. L. 113-76, §7082(a)(4), amended subsec. (c) generally. Prior to amendment, text read as follows: “A death gratuity payment under this section shall be made as follows:

“(1) First, to the widow or widower.

“(2) Second, to the child, or children in equal shares, if there is no widow or widower.

“(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

“If there is no survivor entitled to payment under this subsection, no payment shall be made.”

Subsecs. (d), (e). Pub. L. 113-76, §7082(a)(2), redesignated subsecs. (b) and (d) as (d) and (e), respectively.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-76, div. K, title VII, §7082(c), Jan. 17, 2014, 128 Stat. 567, provided that: “Notwithstanding any other provision of law, sections 413, 415, and 416 of the Foreign Service Act of 1980 [22 U.S.C. 3973, 3975, 3976], as amended or added by this section, shall apply in the case of a Foreign Service employee or executive branch employee subject to the authority of the chief of mission pursuant to section 207 of the Foreign Service Act (22 U.S.C. 3927), serving at a United States diplomatic or consular mission abroad, who died on or after April 18, 1983, as a result of injuries sustained in an act of terrorism, as defined in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 [probably means ‘1988 and 1989’] (22 U.S.C. 2656f(d)).”

§ 3974. Border equalization pay adjustment

(a) In general

An employee who regularly commutes from the employee’s place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization pay adjustment equal to the amount of comparability payments under section 5304 of title 5 that the employee would receive if the employee were assigned to an official duty station within the United States locality pay area closest to the employee’s official duty station.

(b) Employee defined

For purposes of this section, the term “employee” means a person who—

(1) is an “employee” as defined under section 2105 of title 5; and