

designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by 5 U.S.C. 5922(c) to prescribe regulations governing payments of allowances and differentials in foreign areas to the extent that the said authority is in respect of employees referred to in section 101 of this order whose rates of basic compensation from nonappropriated funds are fixed in accordance with regulations prescribed by the Secretary concerned.

SEC. 103. Regulations prescribed under authority delegated by the provisions of Section 102 hereof:

(a) Shall, so far as practicable, be uniform.

(b) In the case of regulations prescribed by the Secretaries of the military departments, shall require the approval of the Secretary of Defense.

(c) Shall not, with respect to any locality, authorize allowances or differentials which exceed those prescribed under Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], for other employees of the United States in the same locality.

SEC. 104. Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], is hereby modified to the extent of the definition and the delegations of authority contained in Sections 101 and 102 hereof.

#### PART II—COST OF LIVING ALLOWANCES IN CERTAIN NON-FOREIGN AREAS

SEC. 201. The Secretary of Defense with respect to the military departments, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by paragraph (2) of Section 912 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 912(2)), to approve the regulations there contemplated to the extent that the said regulations are in respect of the payment of cost-of-living allowances to employees, compensated from nonappropriated funds, of instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c), who are stationed outside the continental United States or in Alaska.

SEC. 202. Regulations approved under authority delegated by the provisions of Section 201 hereof:

(a) Shall, so far as practicable, be uniform.

(b) Shall not apply to employees who are stationed in either the Canal Zone or in any "foreign area" as defined in 5 U.S.C. 5921(6).

(c) Shall be limited to employees whose rates of basic compensation are fixed in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility to employees stationed in the continental United States, exclusive of Alaska.

(d) Shall not, with respect to any locality, authorize allowances which exceed those prescribed under Executive Order No. 10000 of September 16, 1948, as amended, for other employees of the United States in the same locality.

#### PART III—GENERAL PROVISIONS

SEC. 301. All actions heretofore taken by the President or his delegate with respect to the matters affected by this order, and in effect at the time of the issuance of this order, including any regulations prescribed or approved by the President or his delegate with respect to such matters, shall, except as they are inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to appropriate authority.

SEC. 302. This order, and the regulations prescribed or approved under the authority thereof, shall be published in the Federal Register.

#### § 5922. General provisions

(a) Notwithstanding section 5536 of this title and except as otherwise provided by this sub-

chapter, the allowances and differentials authorized by this subchapter may be granted to an employee officially stationed in a foreign area—

(1) who is a citizen of the United States; and

(2) whose rate of basic pay is fixed by statute or, without taking into consideration the allowances and differentials provided by this subchapter, is fixed by administrative action pursuant to law or is fixed administratively in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility in the continental United States.

To the extent authorized by a provision of statute other than this subchapter, the allowances and differentials provided by this subchapter may be paid to an employee officially stationed in a foreign area who is not a citizen of the United States.

(b) Allowances granted under this subchapter may be paid in advance, or advance of funds may be made therefor, through the proper disbursing official in such sums as are considered advisable in consideration of the need and the period of time during which expenditures must be made in advance by the employee. An advance of funds not subsequently covered by allowances accrued to the employee under this subchapter is recoverable by the Government by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned, under regulations of the President, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(c) The allowances and differentials authorized by this subchapter shall be paid under regulations prescribed by the President governing—

(1) payments of the allowances and differentials and the respective rates at which the payments are made;

(2) the foreign areas, the groups of positions, and the categories of employees to which the rates apply; and

(3) other related matters.

(d) When a quarters allowance or allowance related to education under this subchapter, or quarters furnished in Government-owned or controlled buildings under section 5912, would be furnished to an employee but for the death of the employee, such allowances or quarters may be furnished or continued for the purpose of allowing any child of the employee to complete the current school year at post or away from post notwithstanding the employee's death.

(e) When an allowance related to education away from post under this subchapter would be authorized with respect to an employee but for the evacuation or authorized departure status of the post, such an allowance may be furnished or continued for the purpose of allowing any dependent children of such employee to complete the current school year.

(f)(1) If an employee dies at post in a foreign area, a transfer allowance under section

5924(2)(B) may be granted to the spouse or dependents of such employee (or both) for the purpose of providing for their return to the United States.

(2) A transfer allowance under this subsection may not be granted with respect to the spouse or a dependent of the employee unless, at the time of death, such spouse or dependent was residing—

- (A) at the employee's post of assignment; or
- (B) at a place, outside the United States, for which a separate maintenance allowance was being furnished under section 5924(3).

(3) The President may prescribe any regulations necessary to carry out this subsection.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510; Pub. L. 102-138, title I, §147(c), Oct. 28, 1991, 105 Stat. 669; Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §335], Nov. 29, 1999, 113 Stat. 1536, 1501A-441.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 3033.	Sept. 6, 1960, Pub. L. 86-707, §201, 74 Stat. 793.
(b) .....	5 U.S.C. 3034.	Sept. 6, 1960, Pub. L. 86-707, §202, 74 Stat. 793.
(c) .....	5 U.S.C. 3035.	Sept. 6, 1960, Pub. L. 86-707, §203, 74 Stat. 793.

In subsection (a), the word "only" is omitted as surplusage.

In subsection (b), the words "disbursing official" are substituted for "disbursing officer" because of the definition of "officer" in section 2104 which excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

- 1999—Subsec. (f). Pub. L. 106-113 added subsec. (f).
- 1991—Subsecs. (d), (e). Pub. L. 102-138 added subsecs. (d) and (e).

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

§ 5923. Quarters allowances

(a) When Government owned or rented quarters are not provided without charge for an employee in a foreign area, one or more of the following quarters allowances may be granted when applicable:

(1) A temporary subsistence allowance for the reasonable cost of temporary quarters (including meals and laundry expenses) incurred by the employee and his family—

- (A) for a period not in excess of 90 days after first arrival at a new post of assignment in a foreign area or a period ending with the occupation of residence quarters, whichever is shorter; and
- (B) for a period of not more than 30 days immediately before final departure from the post after the necessary evacuation of residence quarters.

(2) A living quarters allowance for rent, heat, light, fuel, gas, electricity, and water,

without regard to section 3324(a) and (b) of title 31.

(3) Under unusual circumstances, payment or reimbursement for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred in initial repairs, alterations, and improvements to the privately leased residence of an employee at a post of assignment in a foreign area, if—

- (A) the expenses are administratively approved in advance; and
- (B) the duration and terms of the lease justify payment of the expenses by the Government.

(b) The 90-day period under subsection (a)(1)(A) and the 30-day period under subsection (a)(1)(B) may each be extended for not more than 60 additional days if the head of the agency concerned or his designee determines that there are compelling reasons beyond the control of the employee for the continued occupancy of temporary quarters.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 511; Pub. L. 97-258, §3(a)(15), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 102-138, title I, §147(d), Oct. 28, 1991, 105 Stat. 669.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3036.	Sept. 6, 1960, Pub. L. 86-707, §211, 74 Stat. 793.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

- 1991—Pub. L. 102-138 designated existing provisions as subsec. (a), substituted "subsistence" for "lodging" and inserted "(including meals and laundry expenses)" after "quarters" in par. (1), substituted "90 days" for "3 months" in par. (1)(A), substituted "30 days" for "1 month" in par. (1)(B), and added subsec. (b).
- 1982—Par. (2). Pub. L. 97-258 substituted "section 3324(a) and (b)" for "section 529".

§ 5924. Cost-of-living allowances

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

(1) A post allowance to offset the difference between the cost of living at the post of assignment of the employee in a foreign area and the cost of living in the District of Columbia, except that employees receiving the temporary subsistence allowance under section 5923(1) are ineligible for a post allowance under this paragraph.

(2) A transfer allowance for extraordinary, necessary, and reasonable subsistence and other relocation expenses (including unavoidable lease penalties), not otherwise compensated for, incurred by an employee incident to establishing himself at a post of assignment in—

- (A) a foreign area (including costs incurred in the United States, its territories or possessions, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the areas and installations in the