

ment, par. (2) read as follows: “An employee shall be ineligible for benefits under this section if such employee occupies a position which—

“(A) is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(B) is not subject to subchapter III of this chapter.”

Subsec. (b)(1). Pub. L. 106-398, §1 [[div. A], title XI, §1122(b)(2)], struck out “professional, technical, or administrative” after “highly qualified”.

Subsec. (h). Pub. L. 106-398, §1 [[div. A], title XI, §1122(d)], added subsec. (h).

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XI, §1123(b), Nov. 24, 2003, 117 Stat. 1637, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2004.”

#### REGULATIONS

Pub. L. 106-398, §1 [[div. A], title XI, §1122(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-316, provided that:

“(1) Not later than 60 days after the date of the enactment of this Act [Oct. 30, 2000], the Director of the Office of Personnel Management shall issue proposed regulations under section 5379(g) of title 5, United States Code. The Director shall provide for a period of not less than 60 days for public comment on the regulations.

“(2) Not later than 240 days after the date of the enactment of this Act [Oct. 30, 2000], the Director shall issue final regulations.”

#### INSTITUTIONAL LOAN FORGIVENESS PROGRAMS

Pub. L. 110-315, title IX, §961, Aug. 14, 2008, 122 Stat. 3473, provided that: “Notwithstanding any other provision of law—

“(1) a public or private institution of higher education may provide an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, who is a current or former student of such institution, financial assistance for the purpose of repaying a student loan or providing forbearance of student loan repayment if—

“(A) such repayment or forbearance is provided to such officer or employee in accordance with a written, published policy of the institution relating to repaying or providing forbearance, respectively, for students or former students who perform public service; and

“(B) in the case of a former student of the institution of higher education, the policy described in subparagraph (A) was in effect at the institution of higher education on the day before the date such officer or employee graduated from or otherwise ceased being a student at such institution; and

“(2) an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia may receive repayment or forbearance permitted under paragraph (1).”

#### [§ 5380. Repealed. Pub. L. 102-378, § 8(a), Oct. 2, 1992, 106 Stat. 1359]

Section, added Pub. L. 101-510, div. A, title XII, §1206(i)(1), Nov. 5, 1990, 104 Stat. 1662, related to pay authority for critical positions. See section 5377 of this title. Pub. L. 102-378, §8(a), repealed Pub. L. 101-510, §1206(i)(1), and provided that this title shall read as if section 1206(i)(1) had not been enacted.

Pub. L. 101-510, §1206(i)(3), provided that (A) unless section 5380 of this title did not take effect as provided in subpar. (B), such section would cease to be in effect on the earlier of Oct. 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990 [Nov. 5, 1990], and (B) section 5380 of this title would not take effect if the Federal Employees Pay

Comparability Act of 1990 [Pub. L. 101-509] was enacted before the date of the enactment of this Act [Nov. 5, 1990]. Pub. L. 102-378, §8(a), repealed Pub. L. 101-510, §1206(i)(3), and provided that this title shall read as if section 1206(i)(3) had not been enacted.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.

#### SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

##### § 5381. Definitions

For the purpose of this subchapter, “agency”, “Senior Executive Service position”, “career appointee”, and “senior executive” have the meanings set forth in section 3132(a) of this title.

(Added Pub. L. 95-454, title IV, §407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 101-136, title VI, §625(b), Nov. 3, 1989, 103 Stat. 823.)

#### AMENDMENTS

1989—Pub. L. 101-136 inserted “‘career appointee’,” before “and”.

#### EFFECTIVE DATE

Section 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(a)(1), (b) of Pub. L. 95-454, set out as a note under section 3131 of this title.

##### § 5382. Establishment of rates of pay for the Senior Executive Service

(a) Subject to regulations prescribed by the Office of Personnel Management, there shall be established a range of rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates within the range, based on individual performance, contribution to the agency’s performance, or both, as determined under a rigorous performance management system. The lowest rate of the range shall not be less than the minimum rate of basic pay payable under section 5376, and the highest rate, for any position under this system or an equivalent system as determined by the President’s Pay Agent designated under section 5304(d), shall not exceed the rate for level III of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373.

(b) Notwithstanding the provisions of subsection (a), the applicable maximum shall be level II of the Executive Schedule for any agency that is certified under section 5307 as having a performance appraisal system which, as designed and applied, makes meaningful distinctions based on relative performance.

(c) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under subsection (b) to an agency with an applicable maximum rate of pay prescribed under subsection (a).

(Added Pub. L. 95-454, title IV, §407(a), Oct. 13, 1978, 92 Stat. 1171; amended Pub. L. 101-509, title V, §529 [title I, §101(b)(4)(B), (6)(A), (9)(I)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1440, 1442; Pub. L. 108-136, div. A, title XI, §1125(a)(2), Nov. 24, 2003, 117 Stat. 1638.)