

ized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

(b) Salary limitations

The Inspector General of the United States Agency for International Development (USAID) shall limit the payment of special differentials to USAID Foreign Service criminal investigators to levels at which the aggregate of basic pay and special differential for any pay period would equal, for such criminal investigators, the bi-weekly pay limitations on premium pay regularly placed on other criminal investigators within the Federal law enforcement community. This provision shall be retroactive to January 1, 2013.

(c) Compensatory time off

Nothing in this chapter, or in subchapter V of chapter 55 of title 5 shall preclude the granting of compensatory time off for Foreign Service officers.

(Pub. L. 96-465, title I, § 412, Oct. 17, 1980, 94 Stat. 2092; Pub. L. 103-236, title I, § 139(6), Apr. 30, 1994, 108 Stat. 398; Pub. L. 114-323, title II, § 206, Dec. 16, 2016, 130 Stat. 1917.)

Editorial Notes

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-323 added subsec. (b).
 1994—Subsec. (b). Pub. L. 103-236 struck out subsec. (b) which read as follows: “Before implementing any proposal to limit either the number of Foreign Service 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 cat-

egory 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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

(2) is employed by the Department of State, the United States Agency for International Development, or the International Joint Commission of the United States and Canada (established under Article VII of the treaty signed January 11, 1909) (36 Stat. 2448), except that the term shall not include members of the Service (as specified in section 3903 of this title).

(c) Treatment as basic pay

An equalization pay adjustment paid under this section shall be considered to be part of basic pay for the same purposes for which comparability payments are considered to be part of basic pay under section 5304 of title 5.

(d) Regulations

The heads of the agencies referred to in subsection (b)(2) may prescribe regulations to carry out this section.

(Pub. L. 96-465, title I, § 414, as added Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title III, § 333(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-439.)

§ 3975. Group life insurance supplement applicable to those killed in terrorist attacks

(a) Foreign Service employees

(1) In general

Notwithstanding the amounts specified in chapter 87 of title 5, a Foreign Service em-

ployee who dies as a result of injuries sustained while on duty abroad because of an act of terrorism, as defined in section 2656f(d) of this title, shall be eligible for a special payment of \$400,000, which shall be in addition to any employer provided life insurance policy coverage. In the case of an employee compensated under a local compensation plan established under section 3968 of this title, the amount of such payment shall be determined by regulations implemented by the Secretary of State and shall be no greater than \$400,000. The group life insurance supplement employee benefit paid or scheduled to be paid pursuant to this section should not be used to reduce any other payment to which a recipient is otherwise eligible under Federal law.

(2) Designation of beneficiary

A payment made under paragraph (1) shall be made in accordance with the guidance issued under section 3973(c) of this title.

(b) Other executive agencies

The head of an executive agency shall provide the additional payment authorized by this section, consistent with the provisions set forth in subsection (a), with respect to any employee of that agency or of an individual in a special category serving in an uncompensated capacity for that agency who dies as a result of injuries sustained while on duty abroad because of an act of terrorism, as defined in section 2656f(d) of this title, while subject to the authority of the chief of mission pursuant to section 3927 of this title.

(Pub. L. 96-465, title I, § 415, as added Pub. L. 113-76, div. K, title VII, § 7082(b)(1), Jan. 17, 2014, 128 Stat. 565; amended Pub. L. 114-113, div. K, title VII, § 7034(d)(5)(A), Dec. 18, 2015, 129 Stat. 2763; Pub. L. 115-31, div. J, title VII, § 7034(k)(8), May 5, 2017, 131 Stat. 651.)

Editorial Notes

REFERENCES IN TEXT

Section 2656f(d) of this title, referred to in subsecs. (a)(1) and (b), was in the original “section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999”, and was translated as meaning “section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989”, to reflect the probable intent of Congress.

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-31, which directed amendment by adding “The group life insurance supplement employee benefit paid or scheduled to be paid pursuant to this section should not be used to reduce any other payment to which a recipient is otherwise eligible under Federal law.” in par. (1) without specifying a particular location, was executed by inserting the amendment at the end of par. (1) to reflect the probable intent of Congress.

2015—Subsec. (a)(1). Pub. L. 114-113 substituted “a special payment of \$400,000, which shall be in addition to any employer provided life insurance policy coverage” for “a payment from the United States in an amount that, when added to the amount of the employee’s employer-provided group life insurance policy coverage (if any), equals \$400,000”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable in the case of a Foreign Service or executive branch employee subject to the authority of