

**§ 707. Benefits for employees at overseas offices who are United States citizens**

(a) The Secretary may, under such rules and regulations as may be prescribed by the President or the President's designee, provide to personnel of the Department who are United States citizens and are assigned by the Secretary to the Department offices in the Republic of the Philippines allowances and benefits similar to those provided by the following provisions of law:

(1) Section 905 of the Foreign Service Act of 1980 (relating to allowances to provide for the proper representation of the United States).

(2) Sections 901(1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980 (relating to travel expenses).

(3) Section 901(13) of the Foreign Service Act of 1980 (relating to transportation of automobiles).

(4) Section 903 of the Foreign Service Act of 1980 (relating to the return of personnel to the United States on leave of absence).

(5) Section 904(d) of the Foreign Service Act of 1980 (relating to payments by the United States of expenses for treating illness or injury of officers or employees and dependents requiring hospitalization).

(6) Section 5724a(c) of title 5 (relating to subsistence expenses for 60 days in connection with the return to the United States of the employee and such employee's immediate family).

(7) Section 5724a(d) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).

(b) The authority in subsection (a) supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Department provided by title 5 and the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 395; amended Pub. L. 104-201, div. A, title XVII, §1723(a)(2), Sept. 23, 1996, 110 Stat. 2759.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Foreign Service Act of 1980, referred to in subsecs. (a)(1)-(5) and (b), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of Title 22, Foreign Relations and Intercourse. Sections 901, 903, 904(d), and 905 of the Foreign Service Act of 1980 are classified to sections 4081, 4083, 4084(d), and 4085, respectively of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

**PRIOR PROVISIONS**

Prior sections 707 and 708 were renumbered sections 1907 and 1908 of this title, respectively.

Provisions similar to those in this section were contained in section 235 of this title prior to repeal by Pub. L. 102-83, §2(a).

**AMENDMENTS**

1996—Subsec. (a)(6). Pub. L. 104-201, §1723(a)(2)(A), substituted “Section 5724a(c)” for “Section 5724a(a)(3)”.

Subsec. (a)(7). Pub. L. 104-201, §1723(a)(2)(B), substituted “Section 5724a(d)” for “Section 5724a(a)(4)”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104-201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104-201, set out as a note under section 5722 of Title 5, Government Organization and Employees.

**Executive Documents**

**EX. ORD. NO. 12228. ALLOWANCES FOR PERSONNEL ON FOREIGN DUTY**

Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, as amended by Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, provided:

By the authority vested in me as President of the United States of America by Sections 7 and 8 of the Defense Department Overseas Teachers Pay and Personnel Practices Act of 1959, as amended (20 U.S.C. 905-906), Section 235 [see 707] of Title 38 of the United States Code, and Section 301 of Title 3 of the United States Code, and in order to delegate authority with respect to allowances for Veterans Administration [now Department of Veterans Affairs] personnel and to update existing authorities, it is hereby ordered as follows:

1-101. Payment of the additional compensation authorized by Section 8(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act of 1959, as amended, shall be governed by the regulations contained in Executive Order No. 10000, as amended [set out as a note under section 5941 of Title 5, Government Organization and Employees], which govern the payment of additional compensation in foreign areas (referred to as foreign post differential), subject to the provisions of Section 8(b) of that Act (20 U.S.C. 906(a)(2) and (b)).

1-102. The following functions vested in the President are delegated to the Secretary of State:

(a) That part of the functions in Section 7(a) of the Defense Department Overseas Teachers Pay and Personnel Practices Act which consists of the authority to prescribe regulations relating to quarters and quarters allowances (20 U.S.C. 905(a)).

(b) The authority in Section 8(a)(1) of the Defense Department Overseas Teachers Pay and Personnel Practices Act to prescribe regulations relating to cost of living allowances (20 U.S.C. 906(a)(1)).

(c) The following authority in Section 235 [see 707] of Title 38 of the United States Code to prescribe rules and regulations:

(1) Section 235(2) [see 707(2)], except as that section pertains to an allowance similar to that provided for in Section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6));

(2) Section 235(3) [see 707(3)];

(3) Section 235(5) [see 707(5)];

(4) Section 235(6) [see 707(6)]; and

(5) Section 235(7) [see 707(7)].

1-103. The following functions vested in the President by Section 235 [see 707] of Title 38 of the United States Code are delegated to the Administrator of the Veterans Administration [now Secretary of Veterans Affairs]. The authority with respect to the allowances or benefits of paragraphs (1) and (4) of Section 235 [see 707(1), (4)] which are similar to the benefits and allowances provided in the sections of the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], designated in those paragraphs.

1-104. Executive Order No. 10853 [not classified to Code], as amended, is revoked. The rules and regulations which were prescribed by the Secretary of State or the Administrator of the Veterans Administration [now Secretary of Veterans Affairs] pursuant to Executive Order No. 10853, as amended, and which would be valid if issued pursuant to this Order, shall be deemed to have been issued under this Order.

### § 709. Employment restrictions

(a)(1) Notwithstanding section 3134(d) of title 5, the number of Senior Executive Service positions in the Department which are filled by non-career appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) The number of positions in the Department which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c)(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply—

(A) to the appointment of any person by the President under this title, other than the appointment of the Under Secretary for Health, the Under Secretary for Benefits, and the Inspector General; or

(B) to the appointment of any person to (i) a Senior Executive Service position as a non-career appointee, or (ii) a position that is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 395; amended Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

#### Editorial Notes

##### PRIOR PROVISIONS

Prior sections 709 and 710 were renumbered sections 1909 and 1910 of this title, respectively.

Provisions similar to those in this section were contained in section 12 of Pub. L. 100-527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102-83, §3(3).

##### AMENDMENTS

1992—Subsec. (c)(2)(A). Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director” and “Under Secretary for Benefits” for “Chief Benefits Director”.

### § 711. Grade reductions

(a) The Secretary may not implement a grade reduction described in subsection (b) unless the Secretary first submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a detailed plan for such reduction and a detailed justification for the plan. The report shall include a determination by the Secretary (together with

data supporting such determination) that, in the personnel area concerned, the Department has a disproportionate number of employees at the salary grade or grades selected for reduction in comparison to the number of such employees at the salary levels involved who perform comparable functions in other departments and agencies of the Federal Government and in non-Federal entities. Any grade reduction described in such report may not take effect until the end of a period of 90 calendar days (not including any day on which either House of Congress is not in session) after the report is received by the committees.

(b) A grade reduction referred to in subsection (a) is a systematic reduction, for the purpose of reducing the average salary cost for Department employees described in subsection (c), in the number of such Department employees at a specific grade level.

(c) The employees referred to in subsection (b) are—

(1) health-care personnel who are determined by the Secretary to be providing either direct patient-care services or services incident to direct patient-care services;

(2) individuals who meet the definition of professional employee as set forth in section 7103(a)(15) of title 5; and

(3) individuals who are employed as computer specialists.

(d) Not later than the 45th day after the Secretary submits a report under subsection (a), the Comptroller General shall, upon request of either of such Committees, submit to such committees a report on the Secretary's compliance with such subsection. The Comptroller General shall include in the report the Comptroller General's opinion as to the accuracy of the Secretary's determination (and of the data supporting such determination) made under such subsection.

(e) In the case of Department employees not described in subsection (c), the Secretary may not in any fiscal year implement a systematic reduction for the purpose of reducing the average salary cost for such Department employees that will result in a reduction in the number of such Department employees at any specific grade level at a rate greater than the rate of the reductions systematically being made in the numbers of employees at such grade level in all other agencies and departments of the Federal Government combined.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 396; amended Pub. L. 103-446, title XII, §1201(e)(5), Nov. 2, 1994, 108 Stat. 4685; Pub. L. 104-316, title I, §119, Oct. 19, 1996, 110 Stat. 3836.)

#### Editorial Notes

##### PRIOR PROVISIONS

Prior section 711 was renumbered section 1911 of this title.

Provisions similar to those in this section were contained in former section 210(b)(3) of this title prior to repeal by Pub. L. 102-83, §2(a).

##### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-316 inserted “, upon request of either of such Committees,” after “the Comptroller General shall” in first sentence.