

(B) conditions of environment which (i) differ substantially from conditions of environment in the continental United States, and (ii) warrant an allowance as a recruitment incentive; or

(C) both of the factors specified in subparagraphs (A) and (B).

(3) An allowance under this subsection may not exceed the allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

(c) **ADDITIONAL ALLOWANCES AND BENEFITS FOR CERTAIN EMPLOYEES OF THE DEFENSE CLANDESTINE SERVICE.**—(1) Beginning on the date on which the Secretary of Defense submits the report under paragraph (3)(A), in addition to the authority to provide compensation under subsection (a), the Secretary may provide a covered employee allowances and benefits under paragraph (1) of section 9904 of title 5 without regard to the limitations in that section—

(A) that the employee be assigned to activities outside the United States; or

(B) that the activities to which the employee is assigned be in support of Department of Defense activities abroad.

(2) The Secretary may not provide allowances and benefits under paragraph (1) to more than 125 covered employees per year.

(3)(A) The Secretary shall submit to the appropriate congressional committees a report containing a strategy addressing the mission of the Defense Clandestine Service during the period covered by the most recent future-years defense program submitted under section 221 of this title, including—

(i) how such mission will evolve during such period;

(ii) how the authority provided by paragraph (1) will assist the Secretary in carrying out such mission; and

(iii) an implementation plan for carrying out paragraph (1), including a projection of how much the amount of the allowances and benefits provided under such paragraph compare with the amount of the allowances and benefits provided before the date of the report.

(B) Not later than December 31, 2020, and each year thereafter, the Secretary shall submit to the appropriate congressional committees a report, with respect to the fiscal year preceding the date on which the report is submitted—

(i) identifying the number of covered employees for whom the Secretary provided allowances and benefits under paragraph (1); and

(ii) evaluating the efficacy of such allowances and benefits in enabling the execution of the objectives of the Defense Intelligence Agency.

(C) The reports under subparagraphs (A) and (B) may be submitted in classified form.

(4) In this subsection:

(A) The term “appropriate congressional committees” means—

(i) the congressional defense committees; and

(ii) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(B) The term “covered employee” means an employee in a defense intelligence position who is assigned to the Defense Clandestine Service at a location in the United States that the Secretary determines has living costs equal to or higher than the District of Columbia.

(Added Pub. L. 104-201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2746; amended Pub. L. 116-92, div. A, title XI, §1108, Dec. 20, 2019, 133 Stat. 1597.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1603, added Pub. L. 97-89, title VII, §701(a)(1), Dec. 4, 1981, 95 Stat. 1160; amended Pub. L. 99-145, title XIII, §1302(a)(3), Nov. 8, 1985, 99 Stat. 738; Pub. L. 99-661, div. A, title XIII, §1343(a)(9), Nov. 14, 1986, 100 Stat. 3992, related to limits on pay to members of the Defense Intelligence Senior Executive Service, prior to repeal by Pub. L. 104-201, div. A, title XVI, §§1632(a)(3), 1635, Sept. 23, 1996, 110 Stat. 2745, 2752, effective Oct. 1, 1996.

Provisions similar to those in this section were contained in sections 1590(d) and 1604(b)(2), (d) of this title prior to repeal by Pub. L. 104-201, §§1632(a)(3), 1633(a).

##### AMENDMENTS

2019—Subsec. (c). Pub. L. 116-92 added subsec. (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

#### **§ 1604. Repealed. Pub. L. 104-201, div. A, title XVI, § 1632(a)(3), Sept. 23, 1996, 110 Stat. 2745]**

Section, added Pub. L. 98-618, title V, §501(a), Nov. 8, 1984, 98 Stat. 3301; amended Pub. L. 99-569, title V, §502, Oct. 27, 1986, 100 Stat. 3198; Pub. L. 100-178, title VI, §602(a), Dec. 2, 1987, 101 Stat. 1015; Pub. L. 101-193, title V, §503(b), Nov. 30, 1989, 103 Stat. 1708; Pub. L. 102-496, title IV, §401(a), Oct. 24, 1992, 106 Stat. 3183; Pub. L. 103-359, title V, §501(b)(1)(D), title VIII, §806(b)(1), Oct. 14, 1994, 108 Stat. 3428, 3442; Pub. L. 104-93, title V, §501, Jan. 6, 1996, 109 Stat. 970, related to civilian personnel management. See sections 1601 to 1603, 1607, and 1609 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

#### **§ 1605. Benefits for certain employees assigned outside the United States**

(a)(1) The Secretary of Defense may provide to civilian personnel described in subsection (d) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (5), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (5), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(2) The Secretary may also provide to any such civilian personnel special retirement ac-

crual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3518).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) Subsection (a) applies to civilian personnel of the Department of Defense who—

(1) are United States nationals;

(2) in the case of employees of the Defense Intelligence Agency, are assigned to duty outside the United States and, in the case of other employees, are assigned to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; and

(3) are designated by the Secretary of Defense for the purposes of subsection (a).

(Added Pub. L. 98–215, title V, §501(a), Dec. 9, 1983, 97 Stat. 1478, §192; renumbered §1605 and amended Pub. L. 99–145, title XIII, §1302(a)(1), Nov. 8, 1985, 99 Stat. 737; Pub. L. 99–335, title V, §507(b), June 6, 1986, 100 Stat. 628; Pub. L. 99–569, title V, §501, Oct. 27, 1986, 100 Stat. 3198; Pub. L. 101–193, title V, §505(a), Nov. 30, 1989, 103 Stat. 1709; Pub. L. 102–496, title VIII, §803(d), Oct. 24, 1992, 106 Stat. 3253; Pub. L. 103–160, div. A, title XI, §1182(a)(3), Nov. 30, 1993, 107 Stat. 1771; Pub. L. 104–93, title V, §502(a), Jan. 6, 1996, 109 Stat. 972; Pub. L. 104–201, div. A, title XVI, §1633(c)(1), Sept. 23, 1996, 110 Stat. 2751; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 113–291, div. A, title X, §1071(c)(11), Dec. 19, 2014, 128 Stat. 3509.)

### Editorial Notes

#### AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–291 substituted “(50 U.S.C. 3518)” for “(50 U.S.C. 403r)”.

1999—Subsec. (c)(2). Pub. L. 106–65 substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Pub. L. 104–201 substituted “assigned outside the United States” for “of the Defense Intelligence Agency” in section catchline.

Subsec. (a). Pub. L. 104–93, §502(a)(1), designated first sentence of existing text as par. (1) and substituted “described in subsection (d)” for “of the Department of Defense who are United States nationals, who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States, and who are designated by the Secretary of Defense for the purposes of this subsection,” and designated second sentence of existing text as par. (2).

Subsec. (c). Pub. L. 104–93, §502(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: “Regulations issued pursuant to subsection (a) shall be submitted to the Committee on Armed Services and

the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.”

Subsec. (d). Pub. L. 104–93, §502(a)(3), added subsec. (d).

1993—Subsec. (a). Pub. L. 103–160 substituted “(50 U.S.C. 2153)” for “(50 U.S.C. 403 note)”.

1992—Subsec. (a). Pub. L. 102–496 substituted “the Central Intelligence Agency Retirement Act” for “the Central Intelligence Agency Retirement Act of 1964 for Certain Employees” and inserted “(50 U.S.C. 403r)” after “the Central Intelligence Agency Act of 1949”.

1989—Subsec. (a). Pub. L. 101–193 struck out “who are subject to chapter 84 of title 5,” after “such civilian personnel” in last sentence and inserted reference to section 18 of the Central Intelligence Agency Act of 1949.

1986—Subsec. (a). Pub. L. 99–569 inserted reference to par. (5) of section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081(5)).

Pub. L. 99–335 inserted provision authorizing the Secretary to provide to any civilian personnel subject to chapter 84 of title 5 special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

1985—Subsec. (a). Pub. L. 99–145, §1302(a)(1)(A), (B), struck out references to Director of the Defense Intelligence Agency and to military personnel, substituted “sections 705 and 903” for “under sections 903, 705, and 2308”, and substituted “(22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.” for “(22 U.S.C. 4025; 22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13); 22 U.S.C. 4083; 5 U.S.C. 5924(4)).”

Subsec. (b). Pub. L. 99–145, §1302(a)(1)(A), struck out reference to Director of the Defense Intelligence Agency.

Subsecs. (c), (d). Pub. L. 99–145, §1302(a)(1)(C), struck out subsec. (c) which read as follows: “Members of the Armed Forces may not receive benefits under both subsection (a) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.”, and redesignated former subsec. (d) as (c).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1635 of Pub. L. 104–201, set out as a note under section 1593 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as a note under section 2001 of Title 50, War and National Defense.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

### § 1606. Defense Intelligence Senior Executive Service

(a) ESTABLISHMENT.—The Secretary of Defense may establish a Defense Intelligence Senior Executive Service for defense intelligence positions established pursuant to section 1601(a) of this title that are equivalent to Senior Executive Service positions. The number of positions in the Defense Intelligence Senior Executive Service may not exceed 594.

(b) REGULATIONS CONSISTENT WITH TITLE 5 PROVISIONS.—The Secretary of Defense shall pre-