

39 USC 1005: Applicability of laws relating to Federal employees

Text contains those laws in effect on May 1, 2017

From Title 39-POSTAL SERVICE

PART II-PERSONNEL

CHAPTER 10-EMPLOYMENT WITHIN THE POSTAL SERVICE

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§1005. Applicability of laws relating to Federal employees

(a)(1) Except as otherwise provided in this subsection, the provisions of chapter 75 of title 5 shall apply to officers and employees of the Postal Service except to the extent of any inconsistency with-

- (A) the provisions of any collective-bargaining agreement negotiated on behalf of and applicable to them; or
- (B) procedures established by the Postal Service and approved by the Civil Service Commission.

(2) The provisions of title 5 relating to a preference eligible (as that term is defined under section 2108(3) of such title) shall apply to an applicant for appointment and any officer or employee of the Postal Service in the same manner and under the same conditions as if the applicant, officer, or employee were subject to the competitive service under such title. The provisions of this paragraph shall not be modified by any program developed under section 1004 of this title or any collective-bargaining agreement entered into under chapter 12 of this title.

(3) The provisions of this subsection shall not apply to those individuals appointed under sections 202, 204, and 1001(c) of this title.

(4)(A) Subchapter II of chapter 75 of title 5 shall apply-

- (i) to any preference eligible in the Postal Service who is an employee within the meaning of section 7511(a)(1)(B) of such title; and
- (ii) to any other individual who-
 - (I) is in the position of a supervisor or a management employee in the Postal Service, or is an employee of the Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity; and
 - (II) has completed 1 year of current continuous service in the same or similar positions.

(B)(i) The second sentence of paragraph (2) of this subsection applies with respect to the provisions of subparagraph (A) of this paragraph, to the extent that such provisions relate to preference eligibles.

(ii) The provisions of subparagraph (A) of this paragraph shall not, to the extent that such provisions relate to an individual under clause (ii) of such subparagraph, be modified by any program developed under section 1004 of this title.

(b)(1) Except as provided under paragraph (2), section 5941 of title 5 shall apply to the Postal Service. Except as provided under paragraph (2), for purposes of section 5941 of that title, the pay of officers and employees of the Postal Service shall be considered to be fixed by statute, and the basic pay of an employee shall be the pay (but not any allowance or benefit) of that officer or employee established in accordance with the provisions of this title.

(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009-

(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003(b) and (c) whose duty station is in a nonforeign area; and

(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of ¹ section 1916(b)(2) of that Act shall apply.

(c) Officers and employees of the Postal Service shall be covered by subchapter I of chapter 81 of title 5, relating to compensation for work injuries.

(d)(1) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of title 5. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83 and subchapter II of such chapter 84, respectively. The Postal Service shall pay into the Federal Retirement Thrift Savings Fund the amounts specified in or determined under subchapters III and VII of such chapter 84.

(2) The provisions of subsections (i) and (m)(2) of section 8344 and subsections (f) and (j)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions-

- (A) any reference in such provisions to the head of an Executive agency shall be considered a reference to the Postmaster General; and

(B) any reference in such provisions to an employee shall be considered a reference to an officer or employee of the Postal Service.

(e) Sick and annual leave, and compensatory time of officers and employees of the Postal Service, whether accrued prior to or after commencement of operations of the Postal Service, shall be obligations of the Postal Service under the provisions of this chapter.

(f) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title. Subject to the provisions of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and chapters 87, 89, 89A, and 89B of title 5 shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for, under this subsection. No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section, and as to officers and employees for whom there is a collective-bargaining representative, no such variation, addition, or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 731 ; Pub. L. 93–349, §2, July 12, 1974, 88 Stat. 354 ; Pub. L. 99–335, title III, §306, June 6, 1986, 100 Stat. 607 ; Pub. L. 100–90, §1(a), Aug. 18, 1987, 101 Stat. 673 ; Pub. L. 103–336, §3, Oct. 3, 1994, 108 Stat. 2661 ; Pub. L. 108–496, §5, Dec. 23, 2004, 118 Stat. 4011 ; Pub. L. 109–435, title X, §1010(g) (1), Dec. 20, 2006, 120 Stat. 3262 ; Pub. L. 111–84, div. A, title XI, §1122(d), title XIX, §1916(b)(1), Oct. 28, 2009, 123 Stat. 2509 , 2624; Pub. L. 111–383, div. A, title X, §1075(d)(22), Jan. 7, 2011, 124 Stat. 4374 .)

REFERENCES IN TEXT

The Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (b)(2), is subtitle B (§§1911–1919) of title XIX of div. A of Pub. L. 111–84, Oct. 28, 2009, 123 Stat. 2619 , also known as the Non-Foreign AREA Act of 2009, which is set out as a note under section 5304 of Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in subsec. (f), is July 1, 1971. See Effective Date note below.

AMENDMENTS

2011-Subsec. (b)(1). Pub. L. 111–383 made technical amendment to directory language of Pub. L. 111–84, §1916(b)(1)(B). See 2009 Amendment note below.

2009-Subsec. (b). Pub. L. 111–84, §1916(b)(1)(A), inserted par. (1) designation before "Section 5941".

Subsec. (b)(1). Pub. L. 111–84, §1916(b)(1)(C), substituted "Except as provided under paragraph (2), for purposes of section 5941 of that title," for "For purposes of such section,".

Pub. L. 111–84, §1916(b)(1)(B), as amended by Pub. L. 111–383, substituted "Except as provided under paragraph (2), section 5941" for "Section 5941".

Subsec. (b)(2). Pub. L. 111–84, §1916(b)(1)(D), added par. (2).

Subsec. (d)(2). Pub. L. 111–84, §1122(d), in introductory provisions, substituted "(m)(2)" for "(l)(2)" and "(j)(2)" for "(i)(2)".

2006-Subsec. (d)(2). Pub. L. 109–435 struck out "subsection (g) of section 5532," after "The provisions of" and substituted "8344" for "8344,".

2004-Subsec. (f). Pub. L. 108–496 substituted "chapters 87, 89, 89A, and 89B" for "chapters 87 and 89" in second sentence.

1994-Subsec. (d). Pub. L. 103–336 designated existing provisions as par. (1) and added par. (2).

1987-Subsec. (a)(4). Pub. L. 100–90 added par. (4).

1986-Subsec. (d). Pub. L. 99–335 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5 relating to civil service retirement. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such chapter. The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h) of title 5."

1974-Subsec. (d). Pub. L. 93–349 substituted requirement that the Postal Service pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h) of title 5, for requirement that the Postal Service pay to the Civil Service Commission upon request of the Civil Service Commission but not less frequently than annually the costs reasonably related to the administration of Fund activities for officers and employees of the Postal Service.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372 , provided that the amendment made by section 1075(d)(22) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111–84 as enacted.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1916(b)(1) of Pub. L. 111–84 effective Oct. 28, 2009, with transition and savings provisions, see sections 1914, 1915, and 1919(a) of Pub. L. 111–84, set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–496 effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as an Effective Date note under section 8951 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–90, §1(b)(1), Aug. 18, 1987, 101 Stat. 673 , provided that: "The amendment made by subsection (a) [amending this section] shall be effective after the expiration of the 30-day period beginning on the date of the enactment of this Act [Aug. 18, 1987]."

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–349, §3, July 12, 1974, 88 Stat. 354 , provided that: "The effective date of this Act [amending this section and section 8348 of Title 5, Government Organization and Employees] shall be July 1, 1971, except that the Postal Service shall not be required to make (1) the payments due June 30, 1972, June 30, 1973, and June 30, 1974, attributable to pay increases granted by the Postal Service prior to July 1, 1973, until such time as funds are appropriated to the Postal Service for that purpose, and (2) the transfer to the Civil Service Retirement and Disability Fund required by title II of the Treasury, Postal Service, and General Government Appropriation Act, 1974, Public Law 93–143 [which is not classified to the Code]."

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

TRANSFER OF FUNCTIONS

Functions vested by statute in United States Civil Service Commission or Chairman thereof transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

ABATEMENT OF ACTIONS

Pub. L. 100–90, §1(b)(2), Aug. 18, 1987, 101 Stat. 673 , provided that: "An action which is commenced under section 1005(a)(1)(B) of title 39, United States Code, before the effective date of the amendment made by subsection (a) [see Effective Date of 1987 Amendment note above] shall not abate by reason of the enactment of this Act [amending this section and enacting provisions set out as a note above]. Determinations with respect to any such action shall be made as if this Act had not been enacted."

¹ So in original. The word "of" probably should not appear.