



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Tuesday, March 17, 2020
CPM 2020-06

MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: DALE CABANISS, DIRECTOR

Subject: Pay and Leave-Related Legislative Changes in the National Defense Authorization Act, FY 2020

This is to inform you of several legislative changes and extensions affecting Federal employee pay and certain benefits. The changes resulting from the enactment of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Public Law 116-92, December 20, 2019) are summarized below.

Section 611 – Reserve Income Replacement Program

Section 611(a) amends 37 U.S.C. 910(g) to extend the expiration date for the Reserve Income Replacement Program from December 31, 2019 to December 31, 2020.

The Reserve Income Replacement Program is administered by the U.S. Department of Defense (DOD) and provides income replacement payments for certain reserve component members experiencing extended and frequent mobilization for active duty service. (This amendment does not affect the reservist differential authority under 5 U.S.C. 5538, which is a separate program for Federal employees. A Federal employee who is entitled to a reservist differential may not receive payments under 37 U.S.C. 910 for the same period. Additional information on reservist differential is found at <http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/#url=Reservist-Differential>.)

Section 1104– 1-Year Extension of Discretionary Authority to Grant Allowances, Benefits, and Gratuities to Personnel on Official Duty in a Combat Zone

Section 1104 grants the head of an agency the discretionary authority until the end of **fiscal year 2021** (i.e., September 30, 2021), to provide an individual employed by, or assigned or detailed to, the agency, allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980. The employee must be on official duty in Pakistan or a combat zone, as defined by section 112(c) of the Internal Revenue Code of 1986.

Section 1104 amends section 1603(a)(2) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234, June 15, 2006), as added by section 1102 of the NDAA for FY 2009 (Public Law 110-417, October

14, 2008) and amended by section 1112 of the NDAA for FY 2012 (Public Law 112-81, December 31, 2011), section 1104 of the NDAA for FY 2013 (Public Law 112-239, January 2, 2013), section 1102 of the NDAA for FY 2014 (Public Law 113-66, December 26, 2013), section 1102 of the NDAA for FY 2015 (Public Law 113-291, December 19, 2014), section 1102 of the NDAA for FY 2016 (Public Law 114-92, November 25, 2015), section 1133 of the NDAA for FY 2017 (Public Law 114-328, December 23, 2016), section 1108 of the NDAA for FY 2018 (Public Law 115-91, December 12, 2017), and section 1115 of the NDAA for FY 2019 (Public Law 115-232, August 13, 2018).

Section 1105 – 1-Year Extension of Authority to Waive Premium Pay Limitations for Certain Federal Civilian Employees Working Overseas

Section 1105 extends to **calendar year 2020** the authority provided in section 1101 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417, October 14, 2008), as amended, for the head of an agency to waive the normally applicable premium pay cap established in 5 U.S.C. 5547. This waiver authority in 2020 applies to certain civilian employees who perform qualifying work while in an overseas location that (1) is in the area of responsibility of the United States Central Command (CENTCOM) or (2) was formerly in the CENTCOM area of responsibility but has been moved to the area of responsibility of the Commander of the United States Africa Command (AFRICOM). Based on the operation of current law, the annual limitation on basic pay and premium pay allowed under the waiver authority in calendar year 2020 is the officially established annual salary rate for the Vice President in 2020 under 3 U.S.C. 104 (\$253,300 in 2020). In addition, when an employee is granted a section 1101(a) waiver, any pay in addition to basic pay received for service during the waiver period is not counted as compensation in applying the aggregate limitation on pay under 5 U.S.C. 5307.

Section 1101(d) of Public Law 110-417 continues to provide the U.S. Office of Personnel Management (OPM) Director with the discretion to issue regulations for this waiver authority. OPM does not currently plan to issue regulations. However, each agency should establish policies for using this waiver authority if it has covered employees. To ensure agencies apply this discretionary authority consistently, we have developed the attached summary of key elements agencies should include in their policies implementing the waiver authority. The attached summary includes additional information on employee coverage, approval criteria, and special instructions on applying the waiver authority to employees working in Iraq.

Sections 7601-7606 – Federal Employee Paid Leave Act

The Federal Employee Paid Leave Act (Act) provides up to 12 weeks of paid parental leave in connection with the birth, adoption, or foster care placement of a child for employees covered by Family and Medical Leave Act (FMLA) provisions applicable to Federal civilian employees. For further information on the Act, please see <https://www.chcoc.gov/content/paid-parental-leave-federal-employees>.

Additional Information

Agency headquarters-level human resources offices may contact OPM at pay-leave-policy@opm.gov. Employees should contact their agency human resources office for further information on this memorandum.

Attachment (see 508-conformant PDF below)

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, and Human Resources Directors