



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Thursday, February 18, 2016
CPM 2016-02

MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: BETH F. COBERT, ACTING DIRECTOR

Subject: Pay-Related Legislative Changes in the National Defense Authorization Act, FY 2016

This is to inform you of four legislative 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) 2016 (Public Law 114-92, November 25, 2015) are summarized below.

Section 611 – Reserve Income Replacement Program

Section 611(8) amends 37 U.S.C. 910(g) to extend the expiration date for the Reserve Income Replacement Program from December 31, 2015, to December 31, 2016.

The Reserve Income Replacement Program is administered by the 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 1102 – 1-Year Extension of Discretionary Authority to Grant Allowances, Benefits, and Gratuities to Personnel on Official Duty in a Combat Zone

Section 1102 grants the head of an agency the discretionary authority until the end of **fiscal year 2017** (i.e., September 30, 2017), to provide an individual employed by, or assigned or detailed to, such 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 1102 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), and section 1102 of the NDAA for FY 2015 (Public Law 113-291, December 19, 2014).

Section 1103 – Rate of Overtime Pay for Department of the Navy Employees Performing Work to Support the Nuclear Aircraft Carrier Forward Deployed in Japan

Section 1103 extends the authority provided under section 1105 of the NDAA, FY 2011 (Public Law 111-383, January 7, 2011) until **September 30, 2017**. Subsection 1105(a) of the NDAA, FY 2011, amended 5 U.S.C. 5542(a) by adding a new paragraph (6)(A) to provide the overtime hourly rate of pay for a qualifying employee of the Department of the Navy is an amount equal to one and one-half times the hourly rate of basic pay of the employee, notwithstanding the normally applicable cap on the overtime hourly rate. This provision applies only to an employee who (1) is assigned to temporary duty to perform work aboard, or dockside in direct support of, the nuclear aircraft carrier that is forward deployed in Japan and (2) would be nonexempt under the Fair Labor Standards Act but for the application of the foreign area exemption in 29 U.S.C. 213(f). Consistent with a recommendation in a March 2015 report to Congress, the Office of Personnel Management (OPM) plans to offer a legislative proposal to adopt a similar overtime rule for all employees who perform overtime work during a temporary duty assignment in a foreign area while maintaining an official duty station in the United States. This expansion provides for consistency and equity in treatment of similarly situated employees.

For further information on this extension, please see [CPM 2011-03](#).

Section 1108 – 1-Year Extension of Authority to Waive Pay Limitations for Certain Federal Civilian Employees Working Overseas

Effective January 1, 2016, section 1108 extends to **calendar year 2016** 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 2016 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 2016 will increase to **\$237,700** which is the annual salary rate for the Vice President in 2016 under 3 U.S.C. 104.

Section 1101(d) of Public Law 110-417 continues to provide the 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.

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 memo.

Attachment: Summary of Key Necessary Elements in Agency Policies Implementing Section 1101 of Public Law 110-417, as Amended, for Calendar Year 2016 (See PDF below)

cc: Chief Human Capital Officers, and Human Resources Directors