TITLE 18 - CRIMES AND CRIMINAL PROCEDURE  
PART I - CRIMES  
CHAPTER 11 - BRIBERY, GRAFT, AND CONFLICTS OF INTEREST  

§ 202. Definitions  

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term “special Government employee” shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594 (c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member’s home district or State shall be classified as a special Government employee. Notwithstanding section 29(c) and (d) 1 of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms “officer or employee” and “special Government employee” as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.  

(b) For the purposes of sections 205 and 207 of this title, the term “official responsibility” means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.  

(c) Except as otherwise provided in such sections, the terms “officer” and “employee” in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.  

(d) The term “Member of Congress” in sections 204 and 207 means—  

(1) a United States Senator; and  

(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.  

(e) As used in this chapter, the term—  

(1) “executive branch” includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;  

(2) “judicial branch” means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and  

(3) “legislative branch” means—  

(A) the Congress; and  

(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress,
the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

Footnotes

1 See References in Text note below.


References in Text

Section 29(c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)), referred to in subsec. (a), was repealed and the provisions thereof were reenacted as sections 502, 2105 (d), and 5534, of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 278.

Prior Provisions

A prior section 202, act June 25, 1948, ch. 645, 62 Stat. 691, prescribed penalties for any officer or other person who accepted or solicited anything of value to influence his decision, prior to the general amendment of this chapter by Pub. L. 87–849, and is substantially covered by revised section 201.

Amendments


1994—Subsec. (e)(2). Pub. L. 103–337 substituted “Court of Appeals for the Armed Forces” for “Court of Military Appeals”.


1990—Subsec. (c). Pub. L. 101–280, § 5(a)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Except as otherwise provided in such sections, the terms ‘officer’ and ‘employee’ in sections 203, 205, 207, 208, and 209 of this title, mean those individuals defined in sections 2104 and 2105 of title 5. The terms ‘officer’ and ‘employee’ shall not include the President, the Vice President, a Member of Congress, or a Federal judge.”

Subsec. (d). Pub. L. 101–280, § 5(a)(2), substituted “means” for “shall include”.


Subsec. (e)(3)(A). Pub. L. 101–280, § 5(a)(3)(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a Member of Congress, or any officer or employee of the United States Senate or United States House of Representatives; and”.


1989—Subsecs. (c) to (e). Pub. L. 101–194 added subsecs. (c) to (e).

1987—Subsec. (a). Pub. L. 100–191 expanded definition of “special Government employee” to include an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594 (c) of title 28, regardless of the number of days of appointment.

1968—Subsec. (a). Pub. L. 90–578 substituted “a part-time United States commissioner, or a part-time United States magistrate” for “or a part-time United States Commissioner”.

Change of Name

Effective Date of 1992 Amendment

Effective Date of 1987 Amendment
Amendment by Pub. L. 100–191 effective Dec. 15, 1987, and applicable to independent counsel proceedings under 28 U.S.C. 591 et seq. pending on that date as well as to proceedings on and after that date, see section 6 of Pub. L. 100–191, set out as a note under section 591 of Title 28, Judiciary and Judicial Procedure.

Effective Date of 1968 Amendment
Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578, see section 403 of Pub. L. 90–578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

Effective Date
Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.