

under section 4323(a)(1) of such title as in effect on such day, the court shall upon motion of the Attorney General, substitute the United States as the plaintiff in the action pursuant to such section as amended by subsection (a).

**SEC. 212. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) **DEFINITION OF EMPLOYEE.**—Section 4303(3) is amended by adding at the end the following new sentence: “Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.”.

(b) **FOREIGN COUNTRIES.**—(1) Subchapter II of chapter 43 is amended by inserting after section 4318 the following new section:

**“§ 4319. Employment and reemployment rights in foreign countries**

“(a) **LIABILITY OF CONTROLLING UNITED STATES EMPLOYER OF FOREIGN ENTITY.**—If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by such employer.

“(b) **INAPPLICABILITY TO FOREIGN EMPLOYER.**—This subchapter does not apply to foreign operations of an employer that is a foreign person not controlled by an United States employer.

“(c) **DETERMINATION OF CONTROLLING EMPLOYER.**—For the purpose of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

“(d) **EXEMPTION.**—Notwithstanding any other provision of this subchapter, an employer, or an entity controlled by an employer, shall be exempt from compliance with any of sections 4311 through 4318 of this title with respect to an employee in a workplace in a foreign country, if compliance with that section would cause such employer, or such entity controlled by an employer, to violate the law of the foreign country in which the workplace is located.”.

(2) The table of sections at the beginning of chapter 43 is amended by inserting after the item relating to section 4318 the following new item:

“4319. Employment and reemployment rights in foreign countries.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply only with respect to causes of action arising after the date of the enactment of this Act.

38 USC 4303  
note.

**SEC. 213. COMPLAINTS RELATING TO REEMPLOYMENT OF MEMBERS OF THE UNIFORMED SERVICES IN FEDERAL SERVICE.**

(a) **IN GENERAL.**—The first sentence of paragraph (1) of section 4324(c) is amended by inserting before the period at the end the following: “, without regard as to whether the complaint accrued before, on, or after October 13, 1994”.