

retired pay under section 1452 of title 10, United States Code.”

#### § 1453. Recovery of amounts erroneously paid

(a) RECOVERY.—In addition to any other method of recovery provided by law, the Secretary concerned may authorize the recovery of any amount erroneously paid to a person under this subchapter by deduction from later payments to that person.

(b) AUTHORITY TO WAIVE RECOVERY.—Recovery of an amount erroneously paid to a person under this subchapter is not required if, in the judgment of the Secretary concerned—

(1) there has been no fault by the person to whom the amount was erroneously paid; and

(2) recovery of such amount would be contrary to the purposes of this subchapter or against equity and good conscience.

(Added Pub. L. 92-425, §1(3), Sept. 21, 1972, 86 Stat. 710; amended Pub. L. 104-201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577; Pub. L. 104-316, title I, §105(a), Oct. 19, 1996, 110 Stat. 3830.)

#### AMENDMENTS

1996—Pub. L. 104-201 substituted “amounts” for “annuity” in section catchline and amended text generally. Prior to amendment, text read as follows: “In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by deduction from later payments to a person, of any amount erroneously paid to him under this subchapter. However, recovery is not required if, in the judgment of the Secretary concerned and the Comptroller General, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this subchapter or against equity and good conscience.”

Subsec. (b). Pub. L. 104-316 struck out “and the Comptroller General” after “judgment of the Secretary concerned” in introductory provisions.

#### § 1454. Correction of administrative errors

(a) AUTHORITY.—The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when the Secretary considers it necessary to correct an administrative error.

(b) FINALITY.—Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.

(Added Pub. L. 92-425, §1(3), Sept. 21, 1972, 86 Stat. 711; amended Pub. L. 101-189, div. A, title XIV, §1407(a)(10)(A), Nov. 29, 1989, 103 Stat. 1589; Pub. L. 104-201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577.)

#### AMENDMENTS

1996—Pub. L. 104-201 amended section generally. Prior to amendment, section read as follows: “The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.”

1989—Pub. L. 101-189 substituted “errors” for “deficiencies” in section catchline.

#### § 1455. Regulations

(a) IN GENERAL.—The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services.

(b) NOTICE OF ELECTIONS.—Regulations prescribed under this section shall provide that before the date on which a member becomes entitled to retired pay—

(1) if the member is married, the member and the member’s spouse shall be informed of the elections available under section 1448(a) of this title and the effects of such elections; and

(2) if the notification referred to in section 1448(a)(3)(E) of this title is required, any former spouse of the member shall be informed of the elections available and the effects of such elections.

(c) PROCEDURE FOR DEPOSITING CERTAIN RECEIPTS.—Regulations prescribed under this section shall establish procedures for depositing the amounts referred to in sections 1448(g), 1450(k)(2), and 1452(d) of this title.

(d) PAYMENTS TO GUARDIANS AND FIDUCIARIES.—

(1) IN GENERAL.—Regulations prescribed under this section shall provide procedures for the payment of an annuity under this subchapter in the case of—

(A) a person for whom a guardian or other fiduciary has been appointed; and

(B) a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed.

(2) AUTHORIZED PROCEDURES.—The regulations under paragraph (1) may include provisions for the following:

(A) In the case of an annuitant referred to in paragraph (1)(A), payment of the annuity to the appointed guardian or other fiduciary.

(B) In the case of an annuitant referred to in paragraph (1)(B), payment of the annuity to any person who, in the judgment of the Secretary concerned, is responsible for the care of the annuitant.

(C) Subject to subparagraphs (D) and (E), a requirement for the payee of an annuity to spend or invest the amounts paid on behalf of the annuitant solely for benefit of the annuitant.

(D) Authority for the Secretary concerned to permit the payee to withhold from the annuity payment such amount, not in excess of 4 percent of the annuity, as the Secretary concerned considers a reasonable fee for the fiduciary services of the payee when a court appointment order provides for payment of such a fee to the payee for such services or the Secretary concerned determines that payment of a fee to such payee is necessary in order to obtain the fiduciary services of the payee.

(E) Authority for the Secretary concerned to require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant and to pay for such bond out of the annuity.

(F) A requirement for the payee of an annuity to maintain and, upon request, to pro-

vide to the Secretary concerned an accounting of expenditures and investments of amounts paid to the payee.

(G) In the case of an annuitant referred to in paragraph (1)(B)—

(i) procedures for determining incompetency and for selecting a payee to represent the annuitant for the purposes of this section, including provisions for notifying the annuitant of the actions being taken to make such a determination and to select a representative payee, an opportunity for the annuitant to review the evidence being considered, and an opportunity for the annuitant to submit additional evidence before the determination is made; and

(ii) standards for determining incompetency, including standards for determining the sufficiency of medical evidence and other evidence.

(H) Provisions for any other matter that the President considers appropriate in connection with the payment of an annuity in the case of a person referred to in paragraph (1).

(3) LEGAL EFFECT OF PAYMENT TO GUARDIAN OR FIDUCIARY.—An annuity paid to a person on behalf of an annuitant in accordance with the regulations prescribed pursuant to paragraph (1) discharges the obligation of the United States for payment to the annuitant of the amount of the annuity so paid.

(Added Pub. L. 92-425, §1(3), Sept. 21, 1972, 86 Stat. 711; amended Pub. L. 99-145, title VII, §724, Nov. 8, 1985, 99 Stat. 678; Pub. L. 102-190, div. A, title VI, §654(a), Dec. 5, 1991, 105 Stat. 1389; Pub. L. 104-201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577.)

#### AMENDMENTS

1996—Pub. L. 104-201 amended section generally, revising and restating provisions relating to regulations to carry out this subchapter.

1991—Subsecs. (a) to (d). Pub. L. 102-190 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

1985—Pars. (1), (2). Pub. L. 99-145 amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

“(1) provide that, when the notification referred to in section 1448(a) of this title is required, the member and his spouse shall, before the date the member becomes entitled to retired or retainer pay, be informed of the elections available and the effects of such elections; and

“(2) establish procedures for depositing the amounts referred to in section 1452(d) of this title.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by title VII of Pub. L. 99-145 effective Mar. 1, 1986, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99-145, set out as a note under section 1447 of this title.

#### [SUBCHAPTER III—REPEALED]

**[§§ 1456 to 1460b. Repealed. Pub. L. 108-375, div. A, title VI, §644(b)(2), Oct. 28, 2004, 118 Stat. 1961]**

Section 1456, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1580, related to sup-

plemental spouse coverage: establishment of plan; definitions.

Section 1457, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1580; amended Pub. L. 102-190, div. A, title VI, §653(b)(1), Dec. 5, 1991, 105 Stat. 1388; Pub. L. 103-337, div. A, title X, §1070(e)(5), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 108-375, div. A, title VI, §644(b)(1), Oct. 28, 2004, 118 Stat. 1960, related to supplemental spouse coverage: payment of annuity; amount.

Section 1458, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1581; amended Pub. L. 102-190, div. A, title VI, §653(c)(1), Dec. 5, 1991, 105 Stat. 1388; Pub. L. 108-136, div. A, title VI, §645(b)(2), Nov. 24, 2003, 117 Stat. 1519; Pub. L. 108-375, div. A, title X, §1084(d)(10), Oct. 28, 2004, 118 Stat. 2061, related to supplemental spouse coverage: eligible participants; elections of coverage.

Section 1459, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1584, related to former spouse coverage: special rules.

Section 1460, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1584; amended Pub. L. 102-190, div. A, title VI, §653(b)(2), Dec. 5, 1991, 105 Stat. 1388; Pub. L. 110-181, div. A, title IX, §906(c)(2), Jan. 28, 2008, 122 Stat. 277, related to supplemental spouse coverage: reductions in retired pay.

Section 1460a, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1585; amended Pub. L. 101-510, div. A, title XIV, §1484(k)(5), Nov. 5, 1990, 104 Stat. 1719, related to incorporation of certain administrative provisions.

Section 1460b, added Pub. L. 101-189, div. A, title XIV, §1404(a)(1), Nov. 29, 1989, 103 Stat. 1585, related to regulations.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 108-375, div. A, title VI, §644(b)(2), Oct. 28, 2004, 118 Stat. 1961, provided that the repeal of this subchapter by section 644(b)(2) is effective Apr. 1, 2008.

### CHAPTER 74—DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND

Sec.

1461.	Establishment and purpose of Fund; definition.
1462.	Assets of Fund.
1463.	Payments from the Fund.
[1464.]	Repealed.]
1465.	Determination of contributions to the Fund.
1466.	Payments into the Fund.
1467.	Investment of assets of Fund.

#### AMENDMENTS

2008—Pub. L. 110-181, div. A, title IX, §906(b)(1)(B), Jan. 28, 2008, 122 Stat. 277, struck out item 1464 “Board of Actuaries”.

#### **§ 1461. Establishment and purpose of Fund; definition**

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Military Retirement Fund (hereinafter in this chapter referred to as the “Fund”), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the Department of Defense under military retirement and survivor benefit programs.

(b) In this chapter, the term “military retirement and survivor benefit programs” means—

(1) the provisions of this title creating entitlement to, or determining the amount of, retired or retainer pay;

(2) the programs under the jurisdiction of the Department of Defense providing annuities