

Subpart G—Insurance and Annuities**CHAPTER 81—COMPENSATION FOR WORK INJURIES****SUBCHAPTER I—GENERALLY**

| | |
|--------|---|
| Sec. | |
| 8101. | Definitions. |
| 8102. | Compensation for disability or death of employee. |
| 8102a. | Death gratuity for injuries incurred in connection with employee's service with an Armed Force. |
| 8103. | Medical services and initial medical and other benefits. |
| 8104. | Vocational rehabilitation. |
| 8105. | Total disability. |
| 8106. | Partial disability. |
| 8107. | Compensation schedule. |
| 8108. | Reduction of compensation for subsequent injury to same member. |
| 8109. | Beneficiaries of awards unpaid at death; order of precedence. |
| 8110. | Augmented compensation for dependents. |
| 8111. | Additional compensation for services of attendants or vocational rehabilitation. |
| 8112. | Maximum and minimum monthly payments. |
| 8113. | Increase or decrease of basic compensation. |
| 8114. | Computation of pay. |
| 8115. | Determination of wage-earning capacity. |
| 8116. | Limitations on right to receive compensation. |
| 8117. | Time of accrual of right. |
| 8118. | Election to use annual or sick leave. ¹ |
| 8119. | Notice of injury or death. |
| 8120. | Report of injury. |
| 8121. | Claim. |
| 8122. | Time for making claim. |
| 8123. | Physical examinations. |
| 8124. | Findings and award; hearings. |
| 8125. | Misbehavior at proceedings. |
| 8126. | Subpenas; oaths; examination of witnesses. |
| 8127. | Representation; attorneys' fees. |
| 8128. | Review of award. |
| 8129. | Recovery of overpayments. |
| 8130. | Assignment of claim. |
| 8131. | Subrogation of the United States. |
| 8132. | Adjustment after recovery from a third person. |
| 8133. | Compensation in case of death. |
| 8134. | Funeral expenses; transportation of body. |
| 8135. | Lump-sum payment. |
| 8136. | Initial payments outside the United States. |
| 8137. | Compensation for noncitizens and non-residents. |
| 8138. | Minimum limit modification for noncitizens and aliens. |
| 8139. | Employees of the District of Columbia. |
| 8140. | Members of the Reserve Officers' Training Corps. |
| 8141. | Civil Air Patrol volunteers. |
| 8142. | Peace Corps volunteers. |
| 8143. | Job Corps enrollees; volunteers in service to America. |
| 8143a. | Members of the National Teacher Corps. |
| 8144. | Student-employees. |
| 8145. | Administration. |
| 8146. | Administration for the Panama Canal Commission and The Alaska Railroad. |
| 8146a. | Cost-of-living adjustment of compensation. |
| 8147. | Employees' Compensation Fund. |
| 8148. | Forfeiture of benefits by convicted felons. |
| 8149. | Regulations. |
| 8150. | Effect on other statutes. |
| 8151. | Civil service retention rights. |
| 8152. | Annual report. |

SUBCHAPTER II—EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

| | |
|-------|--|
| 8171. | Compensation for work injuries; generally. |
|-------|--|

| | |
|--|---|
| 8172. | Employees not citizens or residents of the United States. |
| 8173. | Liability under this subchapter exclusive. |
| SUBCHAPTER III—LAW ENFORCEMENT OFFICERS NOT EMPLOYED BY THE UNITED STATES | |
| 8191. | Determination of eligibility. |
| 8192. | Benefits. |
| 8193. | Administration. |

AMENDMENTS

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| 2008—Pub. L. 110-181, div. A, title XI, §1105(b), Jan. 28, 2008, 122 Stat. 349, added item 8102a. |
| 1995—Pub. L. 104-66, title I, §1102(b)(3)(B), Dec. 21, 1995, 109 Stat. 723, added item 8152. |
| 1994—Pub. L. 103-333, title I, §101(a)(2), Sept. 30, 1994, 108 Stat. 2547, added item 8148. |
| 1979—Pub. L. 96-70, title III, §3302(e)(12), Sept. 27, 1979, 93 Stat. 499, substituted "Panama Canal Commission" for "Canal Zone" in item 8146. |
| 1974—Pub. L. 93-416, §§12(b), 23(a), Sept. 7, 1974, 88 Stat. 1146, 1150, substituted "Notice of injury or death" for "Notice of injury; failure to give" in item 8119, and added item 8151. |
| 1968—Pub. L. 90-291, §1(b), Apr. 19, 1968, 82 Stat. 100, added subchapter III consisting of items 8191, 8192, and 8193. |
| 1967—Pub. L. 90-83, §1(59), (66)(B), (67)(B), (70), Sept. 11, 1967, 81 Stat. 211, 212, 213, inserted "hearings" in item 8124, added item 8143a relating to members of the National Teachers Corps and item 8146a relating to cost-of-living adjustment of compensation, and struck out item 8148 relating to reports. |

SUBCHAPTER I—GENERALLY**§ 8101. Definitions**

For the purpose of this subchapter—

(1) "employee" means—

(A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;

(C) an individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(D) an individual employed by the government of the District of Columbia;

(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

(F) an individual selected pursuant to chapter 121 of title 28, and serving as a petit or grand juror; and

(G) an individual who is a System member of the National Urban Search and Rescue Response System during a period of appointment into Federal service pursuant to section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

¹ So in original. Does not conform to section catchline.

but does not include—

(i) a commissioned officer of the Regular Corps of the Public Health Service;

(ii) a commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(iii) a commissioned officer of the Environmental Science Services Administration; or
(iv) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521–535 of title 4, District of Columbia Code; and

(2) “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term “physician” includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(3) “medical, surgical, and hospital services and supplies” includes services and supplies by podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals within the scope of their practice as defined by State law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(4) “monthly pay” means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 8113 of this title with respect to any period;

(5) “injury” includes, in addition to injury by accident, a disease proximately caused by the employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eyeglasses and hearing aids would not be replaced, repaired, or otherwise compensated for, unless the damages or destruction is incident to a personal injury requiring medical services;

(6) “widow” means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion;

(7) “parent” includes stepparents and parents by adoption;

(8) “brother” and “sister” mean one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters;

(9) “child” means one who at the time of the death of the employee is under 18 years of age

or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children;

(10) “grandchild” means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support;

(11) “widower” means the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause or because of her desertion;

(12) “compensation” includes the money allowance payable to an employee or his dependents and any other benefits paid for from the Employees’ Compensation Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;

(13) “war-risk hazard” means a hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring in the country in which an individual to whom this subchapter applies is serving; from—

(A) the discharge of a missile, including liquids and gas, or the use of a weapon, explosive, or other noxious thing by a hostile force or individual or in combating an attack or an imagined attack by a hostile force or individual;

(B) action of a hostile force or individual, including rebellion or insurrection against the United States or any of its allies;

(C) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or individual;

(D) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(E) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities;

(14) “hostile force or individual” means a nation, a subject of a foreign nation, or an individual serving a foreign nation—

(A) engaged in a war against the United States or any of its allies;

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies; or

(C) engaged in a war or armed conflict between military forces of any origin in a country in which an individual to whom this subchapter applies is serving;

(15) “allies” means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(16) “war activities” includes activities directly relating to military operations;

(17) “student” means an individual under 23 years of age who has not completed 4 years of education beyond the high school level and

who is regularly pursuing a full-time course of study or training at an institution which is—

(A) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(B) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body;

(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(D) an additional type of educational or training institution as defined by the Secretary of Labor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 4 months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period;

(18) “price index” means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(19) “organ” means a part of the body that performs a special function, and for purposes of this subchapter excludes the brain, heart, and back; and

(20) “United States medical officers and hospitals” includes medical officers and hospitals of the Army, Navy, Air Force, Department of Veterans Affairs, and United States Public Health Service, and any other medical officer or hospital designated as a United States medical officer or hospital by the Secretary of Labor.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 532; Pub. L. 90-83, §1(4), (48), Sept. 11, 1967, 81 Stat. 196, 209; Pub. L. 93-416, §1, Sept. 7, 1974, 88 Stat. 1143; Pub. L. 96-499, title IV, §421(b), Dec. 5, 1980, 94 Stat. 2608; Pub. L. 97-463, §4, Jan. 12, 1983, 96 Stat. 2532; Pub. L. 102-54, §13(b)(1), June 13, 1991, 105 Stat. 274; Pub. L. 114-326, §2(b)(1), Dec. 16, 2016, 130 Stat. 1972.)

HISTORICAL AND REVISION NOTES
1966 ACT

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|------------------------|------------------|--|
| (1)-(5), (12)-(16). | 5 U.S.C. 790. | Sept. 7, 1916, ch. 458, §40, 39 Stat. 750. June 5, 1924, ch. 261, §2, 43 Stat. 389. May 31, 1938, ch. 293, 52 Stat. 586. Apr. 11, 1940, ch. 79, §1, 54 Stat. 105. |

HISTORICAL AND REVISION NOTES—CONTINUED
1966 ACT

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|--|--|
| | | July 1, 1944, ch. 373, §605(b), 58 Stat. 712. Aug. 13, 1946, ch. 958, §5, 60 Stat. 1049. Oct. 14, 1949, ch. 691, §108, 63 Stat. 860. July 30, 1956, ch. 779, §3(b), 70 Stat. 721. Aug. 1, 1956, ch. 837, §501(e), 70 Stat. 883. Aug. 8, 1958, Pub. L. 85-608, §302, 72 Stat. 539. Sept. 13, 1960, Pub. L. 86-767, §208, 74 Stat. 908. Sept. 4, 1964, Pub. L. 88-581, §4(b), 78 Stat. 919. |
| (6)-(10) | 5 U.S.C. 794 (1st sentence). [Uncodified]. | July 11, 1919, ch. 7, §11 (1st sentence), 41 Stat. 104. Aug. 25, 1958, Pub. L. 85-745, §1(b) (last sentence, as applicable to the Federal Employees' Compensation Act), 72 Stat. 838. |
| | 5 U.S.C. 760(H). | Sept. 7, 1916, ch. 458, §10(H), 39 Stat. 745. Feb. 12, 1927, ch. 110, §2, 44 Stat. 1087. |
| (11) | 5 U.S.C. 760(B) (last 23 words of 1st sentence). | Sept. 7, 1916, ch. 458, §10(B) (last 15 words of 1st sentence), 39 Stat. 744. Oct. 14, 1949, ch. 691, §106(c) “(B) (last 23 words of 1st sentence)”, 63 Stat. 859. |

Former section 790(a) is omitted as unnecessary in view of section 1 of title 1, United States Code.

Former section 790(c) is omitted as unnecessary as the term “commission” is not used in this subchapter.

Former section 790(i) is omitted as unnecessary as the title “Secretary of Labor” (substituted for “Federal Security Administrator” by 1950 Reorg. Plan No. 19, §1, eff. May 24, 1950, 64 Stat. 1271) is fully set out the first time it is used in each section.

In paragraph (1)(B), the words “to the United States” are substituted for “to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it)”.

In paragraph (1)(C), the words “subsequent to September 7, 1916” are omitted as obsolete.

In paragraph (1)(iv), the words “under sections 521-535 of title 4, District of Columbia Code” are substituted for “under the provisions of the District of Columbia Appropriation Act approved September 1, 1916”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

| <i>Section of title 5</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|---------------------------|---------------------------|--|
| 8101(17) | 5 App.: 760(M). | July 4, 1966, Pub. L. 89-488, §7(c), 14 “Sec. 43(c)”, 80 Stat. 254, 256. |
| 8101(18) | 5 App.: 793a(c)(1). | |
| 8101(19) | 5 App.: 793a(c)(2). | |

Paragraph (17) is reorganized and restated for clarity and to conform to the style of title 5, United States Code. In clause (D), the words “Secretary of Labor” are substituted for “Secretary” on authority of section 40(i) of the Federal Employees' Compensation Act.

In paragraph (19), the words “July 1966 and each later month” are substituted for “the month this section becomes effective and each month thereafter”. The words “section 8146a of this title” are substituted for “this section” to reflect the codification of section 43 in title 5.

REFERENCES IN TEXT

Act of August 25, 1958, 72 Stat. 838, referred to in par. (1)(E), is set out as a note under section 102 of Title 3, The President.

Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in par. (1)(G), is classified to section 5165f of Title 42, The Public Health and Welfare.

AMENDMENTS

2016—Par. (1)(D). Pub. L. 114-326, §2(b)(1)(A), struck out “and” after semicolon at end.

Par. (1)(F), (G). Pub. L. 114-326, §2(b)(1)(B)–(D), transferred subpar. (F) and inserted it between subpar. (E) and concluding provisions, struck out “United States Code,” after “title 28,” in subpar. (F), and added subpar. (G) after subpar. (F).

1991—Par. (20). Pub. L. 102-54 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1983—Par. (1)(F). Pub. L. 97-463 substituted “grand juror;” for “grand juror and who is otherwise an employee for the purposes of this subchapter as defined by paragraph (A), (B), (C), (D), and (E) of this subsection.”

1980—Pars. (19) to (21). Pub. L. 96-499 struck out par. (19) which defined “base month” as the month of July 1966 and each later month which was used as a basis for calculating an increase under section 8146a of this title, and redesignated pars. (20) and (21) as (19) and (20), respectively.

1974—Par. (1)(D). Pub. L. 93-416, §1(g), struck out “and” after the semicolon.

Par. (1)(F). Pub. L. 93-416, §1(a), added par. (1)(F).

Par. (2). Pub. L. 93-416, §1(b), expanded definition of “physician” to include podiatrists, dentists, clinical psychologists, optometrists, and chiropractors and inserted provision limiting the extent to which chiropractors are included.

Par. (3). Pub. L. 93-416, §1(c), included within “medical, surgical, and hospital services and supplies” those supplied by podiatrists, dentists, clinical psychologists, optometrists, and chiropractors and limited the reimbursable services of chiropractors.

Par. (5). Pub. L. 93-416, §1(d), added to definition of “injury” damage to or destruction of medical braces, artificial limbs, and other prosthetic devices and excepted eyeglasses and hearing aids unless damage or destruction is incidental to a personal injury requiring medical services.

Par. (11). Pub. L. 93-416, §1(e), substituted “the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause because of her desertion” for “one who, because of physical or mental disability, was wholly dependent for support on the employee at the time of her death” as definition of “widower”.

Pars. (20), (21). Pub. L. 93-416, §1(f), added pars. (20) and (21).

1967—Par. (1)(iii). Pub. L. 90-83, §1(4), substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”. See Historical and Revision Notes under section 2101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-499, title IV, §422, Dec. 5, 1980, 94 Stat. 2608, provided that: “The amendments made by section 421 [amending this section and section 8146a of this title] shall take effect on the date of the enactment of this Act [Dec. 5, 1980] with respect to any adjustments which are to be made on or after that date; except that the period specified in such section as extending from December to December shall, with respect to the adjustment to be made on March 1, 1981, extend instead from the last month in which the price index resulted in an adjustment prior to enactment to December of 1980.”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-416, §28(a), Sept. 7, 1974, 88 Stat. 1151, provided that: “Except as otherwise provided by this sec-

tion this Act [enacting section 8151 of this title, amending this section and sections 8103, 8104, 8107, 8110, 8111, 8113, 8116, 8117, 8118, 8119, 8121, 8122, 8132, 8135, 8142, 8143, 8146a of this title, repealing section 3315a of this title, and enacting provisions set out as notes under this section and section 8116 of this title] shall take effect on the date of enactment [Sept. 7, 1974] and be applicable to any injury or death occurring on or after such effective date [Sept. 7, 1974]. The amendments made by sections 1(b) and (c) [amending this section], 2 [amending section 8103 of this title], 3 [amending section 8104 of this title], 7(a) and (b) [amending section 8111 of this title], 8(a) [amending section 8113 of this title], 8(b) [amending section 8143 of this title], 9 [amending section 8116 of this title], 16(a) [amending section 8133 of this title], 16(b) [amending section 8135 of this title], 17 [amending section 8133 of this title], 19 [amending section 8135 of this title], 20 [amending section 8135 of this title], 21 [amending section 8146a of this title], 22 [enacting section 8151 of this title], 24 [amending section 8146a of this title], and 25 [amending section 8147 of this title], shall be applicable to cases where the injury or death occurred prior to the date of enactment [Sept. 7, 1974] but the provisions of these sections shall be applicable only to a period beginning on or after the date of enactment [Sept. 7, 1974].”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-534, §1, Nov. 7, 1990, 104 Stat. 2352, provided that: “This Act [amending section 8111 of this title and enacting provisions set out as a note under section 8111 of this title] may be cited as the ‘Attendant Allowance Adjustment Act’.”

TRANSFER OF FUNCTIONS

Environmental Science Services Administration in Department of Commerce, including offices of Administrator and Deputy Administrator thereof, abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created National Oceanic and Atmospheric Administration in Department of Commerce and transferred personnel, property, records, and unexpended balances of funds of Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. Components of Environmental Science Services Administration thus transferred included Weather Bureau [now National Weather Service], Coast and Geodetic Survey [now National Ocean Survey], Environmental Data Services, National Environmental Satellite Center, and ESSA Research Laboratories.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508 of Title 20, Education.

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

Pub. L. 93-198, title II, §204(e), Dec. 24, 1973, 87 Stat. 783, provided that: “All functions of the Secretary under chapter 81 of title 5 of the United States Code, with respect to the processing of claims filed by employees of the government of the District for compensation for work injuries, are transferred to and shall be exercised by the Commissioner, effective the day after the day on which the District establishes an independent personnel system or systems.” An independent per-

sonnel system was established for the District by D.C. Law 2-139, Mar. 3, 1979, 25 DCR 5740.

STUDY AND REPORT TO CONGRESS BY SECRETARY OF LABOR OF PROVISIONS AND PROGRAMS UNDER SUBCHAPTER

Pub. L. 93-416, §27, Sept. 7, 1974, 88 Stat. 1150, directed Secretary of Labor to conduct a study of the provisions of this subchapter and its programs which was to include: hearings, research, and other activities necessary to formulate recommendations; an examination of need for authority to increase allowances for services of attendants above the maximum fixed by section 8111 of this title in exceptional circumstances; an examination of the effectiveness of this subchapter; and recommendations as to survivor benefits; report results of the study together with his findings and recommendations not later than 12 months after Sept. 7, 1974.

§ 8102. Compensation for disability or death of employee

(a) The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty, unless the injury or death is—

- (1) caused by willful misconduct of the employee;
- (2) caused by the employee's intention to bring about the injury or death of himself or of another; or
- (3) proximately caused by the intoxication of the injured employee.

(b) Disability or death from a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual, suffered by an employee who is employed outside the continental United States or in Alaska or in the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), is deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he was taken by the hostile force or individual. This subsection does not apply to an individual—

- (1) whose residence is at or in the vicinity of the place of his employment and who was not living there solely because of the exigencies of his employment, unless he was injured or taken while engaged in the course of his employment; or
- (2) who is a prisoner of war or a protected individual under the Geneva Conventions of 1949 and is detained or utilized by the United States.

This subsection does not affect the payment of compensation under this subchapter derived otherwise than under this subsection, but compensation for disability or death does not accrue for a period for which pay, other benefit, or gratuity from the United States accrues to the disabled individual or his dependents on account of detention by the enemy or because of the same disability or death, unless that pay, benefit, or gratuity is refunded or renounced.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 534; Pub. L. 96-70, title I, §1231(d), Sept. 27, 1979, 93 Stat. 470.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|--|
| | 5 U.S.C. 751. | Sept. 7, 1916, ch. 458, §1, 39 Stat. 742. Aug. 8, 1958, Pub. L. 85-608, §301, 72 Stat. 538. |

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 3(a) of the Panama Canal Act of 1979, referred to in subsec. (b), is classified to section 3602(a) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-70 substituted “areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)” for “Canal Zone”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 8102a. Death gratuity for injuries incurred in connection with employee's service with an Armed Force

(a) DEATH GRATUITY AUTHORIZED.—The United States shall pay a death gratuity of up to \$100,000 to or for the survivor prescribed by subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation.

(b) RETROACTIVE PAYMENT IN CERTAIN CASES.—At the discretion of the Secretary concerned, subsection (a) may apply in the case of an employee who died, on or after October 7, 2001, and before the date of enactment of this section, as a result of injuries incurred in connection with the employee's service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom.

(c) RELATIONSHIP TO OTHER BENEFITS.—The death gratuity payable under this section shall be reduced by the amount of any death gratuity provided under section 413 of the Foreign Service Act of 1980, section 1603 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, or any other law of the United States based on the same death.

(d) ELIGIBLE SURVIVORS.—

(1) Subject to paragraph (5), a death gratuity payable upon the death of a person covered by subsection (a) shall be paid to or for the living survivor highest on the following list:

- (A) The employee's surviving spouse.
- (B) The employee's children, as prescribed by paragraph (2), in equal shares.
- (C) If designated by the employee, any one or more of the following persons:

- (i) The employee's parents or persons in loco parentis, as prescribed by paragraph (3).