

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

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

§ 8127. Representation; attorneys' fees

(a) A claimant may authorize an individual to represent him in any proceeding under this subchapter before the Secretary of Labor.

(b) A claim for legal or other services furnished in respect to a case, claim, or award for compensation under this subchapter is valid only if approved by the Secretary.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 773(b) (less last sentence). Oct. 14, 1949, ch. 691, §208 "Sec. 23(b) (less last sentence)", 63 Stat. 865.

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§ 8128. Review of award

(a) The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review, may—

- (1) end, decrease, or increase the compensation previously awarded; or
(2) award compensation previously refused or discontinued.

(b) The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—

- (1) final and conclusive for all purposes and with respect to all questions of law and fact; and
(2) not subject to review by another official of the United States or by a court by mandamus or otherwise.

Credit shall be allowed in the accounts of a certifying or disbursing official for payments in accordance with that action.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a): 5 U.S.C. 787. Sept. 7, 1916, ch. 458, §37, 39 Stat. 749. June 5, 1924, ch. 261, §1, 43 Stat. 389. Row (b): 5 U.S.C. 793 (penultimate sentence of 5th par.). July 28, 1945, ch. 328, §4 (penultimate sentence), 59 Stat. 504.

In subsection (a), the words "If the original claim for compensation has been made within the time specified in section 770 of this title" are omitted as surplusage. The words "an award for or against payment of compensation" are coextensive with and, for clarity and consistency with section 8124, substituted for "the

award". The second sentence of former section 787 is omitted as included in the penultimate sentence of former section 793, which is carried into subsection (b). The last sentence of former section 787 is omitted as executed.

In subsection (b), the word "official" is substituted for "officer" because of the definition of "officer" in section 2104 which excludes a member of a uniformed service.

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§ 8129. Recovery of overpayments

(a) When an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the adjustment is completed, adjustment shall be made by decreasing later benefits payable under this subchapter with respect to the individual's death.

(b) Adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when—

- (1) adjustment or recovery of the amount is waived under subsection (b) of this section; or
(2) adjustment under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 788. Sept. 7, 1916, ch. 458, §38, 39 Stat. 749. Oct. 14, 1949, ch. 691, §206, 63 Stat. 864.

In subsection (a), the words "Subject to the provisions of sections 786 and 787 of this title" and "if any" are omitted as surplusage.

In subsection (c), the word "official" is substituted for "officer" as the definition of "officer" in section 2104 excludes a member of a uniformed service.

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§ 8130. Assignment of claim

An assignment of a claim for compensation under this subchapter is void. Compensation and claims for compensation are exempt from claims of creditors.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 775.	Sept. 7, 1916, ch. 458, §25, 39 Stat. 747.

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

§ 8131. Subrogation of the United States

(a) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—

- (1) assign to the United States any right of action he may have to enforce the liability or any right he may have to share in money or other property received in satisfaction of that liability; or
- (2) prosecute the action in his own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required by the Secretary is not entitled to compensation under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of compensation payable for the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses thereof have been deducted.

(d) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in the Panama Canal Company to pay damages under the law of a State, a territory or possession of the United States, the District of Columbia, or a foreign country, compensation is not payable until the individual entitled to compensation—

- (1) releases to the Panama Canal Company any right of action he may have to enforce the liability of the Panama Canal Company; or
- (2) assigns to the United States any right he may have to share in money or other property received in satisfaction of the liability of the Panama Canal Company.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546; Pub. L. 90-83, §1(60), Sept. 11, 1967, 81 Stat. 211.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)-(c)	5 U.S.C. 776.	Sept. 7, 1916, ch. 458, §26, 39 Stat. 747. Sept. 13, 1960, Pub. L. 86-767, §207, 74 Stat. 908.

HISTORICAL AND REVISION NOTES—CONTINUED
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(d)	5 U.S.C. 791.	Sept. 7, 1916, ch. 458, §41, 39 Stat. 750.

In subsection (d), the first 45 words of section 41 of the Act of Sept. 7, 1916, are omitted as executed. The words "Panama Canal Company" are substituted for "Panama Railroad Company" on authority of the Act of Sept. 26, 1950, ch. 1049, §2(a) (2), 64 Stat. 1038.

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1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8131(c)	5 App.: 776 (proviso).	July 4, 1966, Pub. L. 89-488, §10(a), 80 Stat. 255.

REFERENCES IN TEXT

For definition of Panama Canal Company, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§ 8132. Adjustment after recovery from a third person

If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in a person other than the United States to pay damages, and a beneficiary entitled to compensation from the United States for that injury or death receives money or other property in satisfaction of that liability as the result of suit or settlement by him or in his behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation payable to him for the same injury. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States. The amount refunded to the United States shall be credited to the Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States for the same injury. However, the beneficiary is entitled to retain, as a minimum, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States.