

(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant.

(D) Subject to subparagraphs (E) and (F), 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.

(E) 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.

(F) 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.

(G) A requirement for the payee of an annuity to maintain and, upon request, to provide to the Secretary concerned an accounting of expenditures and investments of amounts paid to the payee.

(H) In the case of an annuitant referred to in paragraph (1)(B) or (1)(C)—

(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;

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

(iii) procedures for determining when annuity payments to a supplemental or special needs trust shall end based on the death or marriage of the dependent child for which the trust was established.

(I) 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, FIDUCIARY, OR TRUST.**—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; Pub. L. 113-291, div. A, title VI, §624(b), Dec. 19, 2014, 128 Stat. 3404.)

#### AMENDMENTS

2014—Subsec. (d). Pub. L. 113-291, §624(b)(1), substituted “, FIDUCIARIES, AND SPECIAL NEEDS TRUSTS” for “AND FIDUCIARIES” in heading.

Subsec. (d)(1)(C). Pub. L. 113-291, §624(b)(2), added subpar. (C).

Subsec. (d)(2)(C). Pub. L. 113-291, §624(b)(3)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (d)(2)(D). Pub. L. 113-291, §624(b)(3)(A), (C), redesignated subpar. (C) as (D) and substituted “subparagraphs (E) and (F)” for “subparagraphs (D) and (E)”.

Subsec. (d)(2)(E) to (G). Pub. L. 113-291, §624(b)(3)(A), redesignated subpars. (D) to (F) as (E) to (G), respectively. Former subpar. (G) redesignated (H).

Subsec. (d)(2)(H). Pub. L. 113-291, §624(b)(3)(A), (D), redesignated subpar. (G) as (H), inserted “or (1)(C)” after “(1)(B)” in introductory provisions, and added cl. (iii).

Subsec. (d)(2)(I). Pub. L. 113-291, §624(b)(3)(A), redesignated subpar. (H) as (I).

Subsec. (d)(3). Pub. L. 113-291, §624(b)(4), substituted “, FIDUCIARY, OR TRUST” for “OR FIDUCIARY” in heading.

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 supplemental 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 for survivors of members and former members of the armed forces, including chapter 73 of this title, section 4 of Public Law 92-425, and section 5 of Public Law 96-402; and
- (3) the authority provided in section 1408(h) of this title.

(Added Pub. L. 98-94, title IX, § 925(a)(1), Sept. 24, 1983, 97 Stat. 644; amended Pub. L. 101-189, div. A, title XVI, § 1622(e)(7), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 102-484, div. A, title VI, § 653(b)(1), Oct. 23, 1992, 106 Stat. 2428.)

#### REFERENCES IN TEXT

Section 4 of Public Law 92-425, referred to in subsec. (b)(2), is set out as a note under section 1448 of this title.

Section 5 of Public Law 96-402, referred to in subsec. (b)(2), is set out as a note under section 1448 of this title.

#### AMENDMENTS

1992—Subsec. (b)(3). Pub. L. 102-484 added par. (3).  
1989—Subsec. (b). Pub. L. 101-189 inserted “the term” after “In this chapter,”.

#### § 1462. Assets of Fund

There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

- (1) Amounts paid into the Fund under section 1466 of this title.
- (2) Any amount appropriated to the Fund.
- (3) Any return on investment of the assets of the Fund.

(Added Pub. L. 98-94, title IX, § 925(a)(1), Sept. 24, 1983, 97 Stat. 645.)

#### TRANSFER OF APPROPRIATIONS

Pub. L. 98-94, title IX, § 925(b)(3), Sept. 24, 1983, 97 Stat. 648, required transfer into the Fund on Oct. 1, 1984, of any unobligated balances of appropriations made to the Department of Defense that had been currently available for retired pay, and provided that amounts so transferred would be deemed part of the assets of the Fund.

#### § 1463. Payments from the Fund

(a) There shall be paid from the Fund—

(1) retired pay payable to members on the retired lists of the Army, Navy, Air Force, and Marine Corps and payments under section 1413a, 1414, or 1415 of this title paid to such members;

(2) retired pay payable under chapter 1223 of this title to former members of the armed forces (other than retired pay payable by the Secretary of Homeland Security);

(3) retainer pay payable to members of the Fleet Reserve and Fleet Marine Corps Reserve;

(4) benefits payable under programs under the jurisdiction of the Department of Defense that provide annuities for survivors of members and former members of the armed forces, including chapter 73 of this title, section 4 of Public Law 92-425, and section 5 of Public Law 96-402; and

(5) amounts payable under section 1408(h) of this title.

(b) The assets of the Fund are hereby made available for payments under subsection (a).

(Added Pub. L. 98-94, title IX, § 925(a)(1), Sept. 24, 1983, 97 Stat. 645; amended Pub. L. 101-189, div. A, title VI, § 651(c), Nov. 29, 1989, 103 Stat. 1460; Pub. L. 102-484, div. A, title VI, § 653(b)(2), Oct. 23, 1992, 106 Stat. 2428; Pub. L. 103-35, title II, § 202(a)(4), May 31, 1993, 107 Stat. 101; Pub. L. 104-106, div. A, title XV, § 1501(c)(18), Feb. 10, 1996, 110 Stat. 499; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-136, div. A, title VI, § 641(c)(2), Nov. 24, 2003, 117 Stat. 1515; Pub. L. 108-375, div. A, title X, § 1084(d)(11), Oct. 28, 2004, 118 Stat. 2062; Pub. L. 114-92, div. A, title VI, § 633(a)(3), Nov. 25, 2015, 129 Stat. 850.)

#### REFERENCES IN TEXT

Section 4 of Public Law 92-425, referred to in subsec. (a)(4), is set out as a note under section 1448 of this title.

Section 5 of Public Law 96-402, referred to in subsec. (a)(4), is set out as a note under section 1448 of this title.