

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).
 - (ii) The employee’s brothers.
 - (iii) The employee’s sisters.
- (D) The employee’s parents or persons in loco parentis, as prescribed by paragraph (3), in equal shares.
- (E) The employee’s brothers and sisters in equal shares.

Subparagraphs (C) and (E) of this paragraph include brothers and sisters of the half blood and those through adoption.

(2) Paragraph (1)(B) applies, without regard to age or marital status, to—

- (A) legitimate children;
- (B) adopted children;
- (C) stepchildren who were a part of the decedent’s household at the time of death;
- (D) illegitimate children of a female decedent; and
- (E) illegitimate children of a male decedent—

- (i) who have been acknowledged in writing signed by the decedent;
- (ii) who have been judicially determined, before the decedent’s death, to be his children;
- (iii) who have been otherwise proved, by evidence satisfactory to the employing agency, to be children of the decedent; or
- (iv) to whose support the decedent had been judicially ordered to contribute.

(3) Subparagraphs (C) and (D) of paragraph (1), so far as they apply to parents and persons in loco parentis, include fathers and mothers through adoption, and persons who stood in loco parentis to the decedent for a period of not less than one year at any time before the decedent became an employee. However, only one father and one mother, or their counterparts in loco parentis, may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent became an employee.

(4) A person covered by this section may designate another person to receive an amount payable under this section. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with subparagraphs (A) through (E) of paragraph (1).

(5) If a person entitled to all or a portion of a death gratuity under paragraph (1) or (4) dies before the person receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by paragraph (1).

(6) If a person covered by this section has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under this section, the head of the agency, or other entity, in which that person is employed shall provide notice of the designation to the spouse.

(e) DEFINITIONS.—(1) The term “contingency operation” has the meaning given to that term in section 1482a(c) of title 10, United States Code.