

“(1) IN GENERAL.—Notwithstanding the amendments made by this section [enacting this section and amending sections 133a, 134a, 136a, 138, and former 138a of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees], the individual serving in a position specified in paragraph (2) on the day before the date of the enactment of this Act [Oct. 28, 2009] may continue to serve in such position without the requirement for appointment by the President, by and with the advice and consent of the Senate, for a period of up to four years after the date of the enactment of this Act.

“(2) COVERED POSITIONS.—The positions specified in this paragraph are the following:

“(A) The Principal Deputy Under Secretary of Defense (Comptroller).

“(B) The Principal Deputy Under Secretary of Defense for Intelligence.”

#### TEMPORARY AUTHORITY FOR ADDITIONAL DUSDS

Pub. L. 111-383, div. A, title IX, §901(i)(2), Jan. 7, 2011, 124 Stat. 4323, provided that: “During the period beginning on the date of the enactment of this Act [Jan. 7, 2011] and ending on January 1, 2015, the Secretary of Defense may, in the Secretary’s discretion, appoint not more than five Deputy Under Secretaries of Defense in addition to the five Principal Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as amended by subsection (b)(3)).”

#### DELAYED LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE

Pub. L. 111-84, div. A, title IX, §906(a)(2), Oct. 28, 2009, 123 Stat. 2426, as amended by Pub. L. 111-383, div. A, title IX, §901(i)(1), Jan. 7, 2011, 124 Stat. 4323, which provided that, effective Jan. 1, 2015, the five Deputy Under Secretaries of Defense authorized by section 137a of title 10 would be the only Deputy Under Secretaries of Defense, was repealed by Pub. L. 113-291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467.

[Pub. L. 113-291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467, provided that section 901(i)(2), which repealed section 906(a)(2) of Pub. L. 111-84, formerly set out above, is effective on the effective date specified in section 901(i)(1) of Pub. L. 113-291, which is Jan. 1, 2015.]

### § 138. Assistant Secretaries of Defense

(a)(1) There are 13 Assistant Secretaries of Defense.

(2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) One of the Assistant Secretaries is the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j)<sup>1</sup> of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense. Subject to the authority, direction, and control of the Sec-

retary of Defense, the Assistant Secretary shall do the following:

(A) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces.

(B) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

(i) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

(ii) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

(iii) Such other matters as may be specified by the Secretary and the Under Secretary.

(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Legislative Affairs. He shall have as his principal duty the overall supervision of legislative affairs of the Department of Defense.

(4) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. The Assistant Secretary may communicate views on issues within the responsibility of the Assistant Secretary directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Assistant Secretary shall—

(A) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense;

(B) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title; and

(C) perform such additional duties as the Secretary may prescribe.

(5) One of the Assistant Secretaries is the Assistant Secretary of Defense for Space Policy. The principal duty of the Assistant Secretary shall be the overall supervision of policy of the Department of Defense for space warfighting.

(c) Except as otherwise specifically provided by law, an Assistant Secretary may not issue an order to a military department unless—

(1) the Secretary of Defense has specifically delegated that authority to the Assistant Secretary in writing; and

(2) the order is issued through the Secretary of the military department concerned.

(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Chief Management Officer of the Department of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Deputy Under Secretaries of Defense. The Assistant Secretaries take precedence among themselves in

<sup>1</sup> See References in Text note below.

the order prescribed by the Secretary of Defense.

(Added Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §136; amended Pub. L. 90-168, §2(1), (2), Dec. 1, 1967, 81 Stat. 521; Pub. L. 91-121, title IV, §404(a), Nov. 19, 1969, 83 Stat. 207; Pub. L. 92-215, §1, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92-596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, §3(a), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 96-107, title VIII, §820(a), Nov. 9, 1979, 93 Stat. 819; Pub. L. 98-94, title XII, §1212(a), Sept. 24, 1983, 97 Stat. 686; Pub. L. 99-433, title I, §§106, 110(d)(9), Oct. 1, 1986, 100 Stat. 997, 1003; Pub. L. 99-500, §101(c) [title IX, §9115(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-122, and Pub. L. 99-591, §101(c) [title IX, §9115(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-122; Pub. L. 99-661, div. A, title XIII, §1311(a), Nov. 14, 1986, 100 Stat. 3983; Pub. L. 100-180, div. A, title XII, §1211(a)(1), Dec. 4, 1987, 101 Stat. 1154; Pub. L. 100-453, title VII, §702, Sept. 29, 1988, 102 Stat. 1912; Pub. L. 100-456, div. A, title VII, §701, Sept. 29, 1988, 102 Stat. 1992; renumbered §138 and amended Pub. L. 103-160, div. A, title IX, §§901(a)(1), (c), 903(c)(1), 905, Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103-337, div. A, title IX, §§901(a), 903(b)(2), Oct. 5, 1994, 108 Stat. 2822, 2823; Pub. L. 104-106, div. A, title IX, §§902(a), 903(b), (e)(2), Feb. 10, 1996, 110 Stat. 401, 402; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 105-261, div. A, title IX, §§901(a), 902, Oct. 17, 1998, 112 Stat. 2091; Pub. L. 106-398, §1 [[div. A], title IX, §901], Oct. 30, 2000, 114 Stat. 1654, 1654A-223; Pub. L. 107-107, div. A, title IX, §901(c)(1), Dec. 28, 2001, 115 Stat. 1194; Pub. L. 107-314, div. A, title IX, §902(a), (c), (d), Dec. 2, 2002, 116 Stat. 2620, 2621; Pub. L. 109-364, div. A, title IX, §901(a), Oct. 17, 2006, 120 Stat. 2350; Pub. L. 111-84, div. A, title IX, §906(b)(2), Oct. 28, 2009, 123 Stat. 2426; Pub. L. 111-383, div. A, title IX, §901(b)(4), Jan. 7, 2011, 124 Stat. 4319; Pub. L. 112-81, div. A, title III, §314(a), Dec. 31, 2011, 125 Stat. 1357; Pub. L. 112-166, §2(c)(1)(A), Aug. 10, 2012, 126 Stat. 1283; Pub. L. 112-239, div. A, title X, §1076(f)(3), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113-291, div. A, title IX, §§901(f), (h)(1)-(3), (j)(2)(D), 902(a)(2), Dec. 19, 2014, 128 Stat. 3464, 3466, 3467, 3469; Pub. L. 114-92, div. A, title VIII, §829, title X, §1078(a), Nov. 25, 2015, 129 Stat. 911, 998; Pub. L. 114-328, div. A, title IX, §§901(e)(1), 922(a), Dec. 23, 2016, 130 Stat. 2342, 2354; Pub. L. 115-91, div. A, title IX, §§906(d)(2), 907, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1513, 1514, 1597; Pub. L. 115-232, div. A, title X, §1081(f)(1)(D), Aug. 13, 2018, 132 Stat. 1987; Pub. L. 116-92, div. A, title IX, §955(a), Dec. 20, 2019, 133 Stat. 1565.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)   | Source (Statutes at Large)   |
|-----------------|--|--|
| 136(a) .....    | 5:171c(c) (1st sentence).  | July 26, 1947, ch. 343, §202(c)(7) (less 1st 2 sentences); added Aug. 6, 1958, Pub. L. 85-599, §3(a) (8th par., less 1st 2 sentences), 72 Stat. 516.   |
| 136(b) .....    | 5:171c(c) (1st 18 words of 2d sentence).<br>5:171c-2 (less 1st sentence).<br>5:171n(a) (as applicable to 5:172). | July 26, 1947, ch. 343, §203(c); added Aug. 10, 1949, ch. 412, §6(a), (2d par.), 63 Stat. 581; redesignated Aug. 6, 1958, Pub. L. 85-599, §§9(a) (1st par., as applicable to §203(c)), 10(a), 72 Stat. 520, 521. |
| 136(c) .....    | 5:171a(c)(7) (3rd sentence).   |  |
| 136(d) .....    | 5:171a(c)(7) (less 1st 3 sentences).   |  |
| 136(e) .....    | 5:171c(c) (less 1st sentence and less 1st 18 words of 2d sentence).  |  |

## HISTORICAL AND REVISION NOTES—CONTINUED

| Revised section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
|                 |                    | July 26, 1947, ch. 343, §302 (less 1st sentence); restated Aug. 10, 1949, ch. 412, §10(b) (less 1st sentence) restated Aug. 10, 1956, ch. 1041, §21 (less 1st sentence), 70A Stat. 629. |
|                 |                    | July 26, 1947, ch. 343, §308(a) (as applicable to §401), 61 Stat. 509.  |
|                 |                    | July 26, 1947, ch. 343, §401; added Aug. 10, 1949, ch. 412, §11 (1st 2 pars.), 63 Stat. 585.  |

In subsection (b)(1), 5 U.S.C. 172(b) (last 13 words of 1st sentence) is omitted as surplusage, since they are only a general description of the powers of the Secretary of Defense under this title. 5 U.S.C. 171c-2 (less 1st sentence) is omitted as covered by 5 U.S.C. 171c(c) (1st 18 words of 2d sentence).

In subsection (d), the following substitutions are made: "In carrying out subsection (c) and sections 3010, 3012(b) (last two sentences), 5011 (first two sentences), 5031(a) (last two sentences), 8010, and 8012(b) last two sentences of this title," for "In implementation of this paragraph"; and "members of the armed forces under the jurisdiction of his department" for "the military personnel in such department". The words "in a continuous effort" are omitted as surplusage.

## REFERENCES IN TEXT

Section 167(j) of this title, referred to in subsec. (b)(2), was redesignated section 167(k) of this title by Pub. L. 114-328, div. A, title IX, §922(c)(2)(A), Dec. 23, 2016, 130 Stat. 2356.

## CODIFICATION

The text of section 138a(b) and (c) of this title, which was transferred to subsec. (b)(7) of this section and amended by Pub. L. 113-291, §901(h)(1)(C)-(E), was based on Pub. L. 106-65, div. A, title IX, §911(b)(1), Oct. 5, 1999, 113 Stat. 718, §133b; renumbered §138a and amended Pub. L. 111-84, div. A, title IX, §906(b)(1), (c)(2)(D), Oct. 28, 2009, 123 Stat. 2426, 2427; Pub. L. 111-383, div. A, title IX, §901(b)(5), Jan. 7, 2011, 124 Stat. 4319.

The text of section 138b of this title, which was transferred to subsec. (b)(8) of this section and amended by Pub. L. 113-291, §901(h)(2), was based on Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §135; amended Pub. L. 92-596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, §2(a), Oct. 21, 1977, 91 Stat. 1172; Pub. L. 99-348, title V, §501(b)(1), (2), (e)(1), July 1, 1986, 100 Stat. 707, 708; Pub. L. 99-433, title I, §105, Oct. 1, 1986, 100 Stat. 997; Pub. L. 99-500, §101(c) [title X, §903(b)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, §101(c) [title X, §903(b)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-661, div. A, title IX, formerly title IV, §903(b)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §137 and amended Pub. L. 103-160, div. A, title IX, §§901(a)(1), 904(d)(1), Nov. 30, 1993, 107 Stat. 1726, 1728; Pub. L. 104-106, div. A, title IX, §903(c)(3), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106-65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; renumbered §139a, Pub. L. 107-314, div. A, title IX, §901(a)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 111-23, title I, §104(a)(1), May 22, 2009, 123 Stat. 1717; renumbered §138b and amended Pub. L. 111-383, div. A, title IX, §901(b)(6), (k)(1)(B), Jan. 7, 2011, 124 Stat. 4319, 4325; Pub. L. 112-239, div. A, title IX, §904(e)(1), Jan. 2, 2013, 126 Stat. 1867.

The text of section 138d of this title, which was transferred to subsec. (b)(10) of this section and amended by Pub. L. 113-291, §901(h)(3), was based on Pub. L. 100-180, div. A, title XII, §1245(a)(1), Dec. 4, 1987, 101 Stat. 1165, §141; renumbered §142, Pub. L. 103-160, div. A, title IX,

§901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 104-106, div. A, title IX, §§903(c)(4), 904(a)(1), Feb. 10, 1996, 110 Stat. 402, 403; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 110-417, [div. A], title IX, §905, Oct. 14, 2008, 122 Stat. 4568; renumbered §138d and amended Pub. L. 111-383, div. A, title IX, §901(b)(8), (k)(1)(D), Jan. 7, 2011, 124 Stat. 4320, 4325. Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### PRIOR PROVISIONS

A prior section 138 was renumbered section 139 of this title.

Another prior section 138 was renumbered by Pub. L. 99-433 as follows:

Section 138(a) was renumbered section 114(a) of this title.

Section 138(b) was renumbered successively as section 114(b) and section 115(a) of this title.

Section 138(c) was renumbered successively as section 114(c) and section 115(b) of this title.

Section 138(d) was renumbered successively as section 114(d) and section 115(c) of this title.

Section 138(e) was renumbered successively as section 114(e) and section 116(a) of this title.

Section 138(f)(1) was renumbered successively as section 114(f)(1) and section 114(b) of this title.

Section 138(f)(2) was renumbered successively as section 114(f)(2) and section 116(b) of this title.

Section 138(g) was renumbered successively as section 114(g) and section 114(c) of this title.

Section 138(h) was renumbered successively as section 114(h) and section 113(i) of this title.

Section 138(i) was renumbered successively as section 114(i) and section 114(d) of this title.

#### AMENDMENTS

2019—Subsec. (b)(5). Pub. L. 116-92 added par. (5).

2018—Subsec. (d). Pub. L. 115-232 inserted “the Chief Management Officer of the Department of Defense,” after “the Deputy Secretary of Defense,” and struck out “the Deputy Chief Management Officer of the Department of Defense,” after “the Under Secretaries of Defense.”

2017—Subsec. (a)(1). Pub. L. 115-91, §907(a), substituted “13” for “14”.

Subsec. (b)(2) to (6). Pub. L. 115-91, §907(b), redesignated pars. (4) to (6) as (2) to (4), respectively, and struck out former pars. (2) and (3) which read as follows:

“(2) One of the Assistant Secretaries is the Assistant Secretary of Defense for Manpower and Reserve Affairs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Manpower and Reserve Affairs shall have as the principal duty of such Assistant Secretary the overall supervision of manpower and reserve affairs of the Department of Defense.

“(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense.”

Subsec. (d). Pub. L. 115-91, §1081(b)(1)(A), repealed Pub. L. 113-291, §901(j)(2)(D). See 2014 Amendment note below.

Pub. L. 115-91, §906(d)(2), struck out “Principal” before “Deputy Under Secretaries of Defense”.

2016—Subsec. (b)(4). Pub. L. 114-328, §922(a), inserted at end “Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

“(A) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces.

“(B) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

“(i) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

“(ii) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

“(iii) Such other matters as may be specified by the Secretary and the Under Secretary.”

Subsec. (b)(6) to (10). Pub. L. 114-328, §901(e)(1), redesignated par. (10) as (6) and struck out former pars. (6) to (9), which related to positions of Assistant Secretary of Defense for Acquisition, Assistant Secretary of Defense for Logistics and Materiel Readiness, Assistant Secretary of Defense for Research and Engineering, and Assistant Secretary of Defense for Energy, Installations, and Environment.

2015—Subsec. (b)(8). Pub. L. 114-92, §1078(a), substituted “shall periodically review and assess the technological maturity” for “shall—”, the designation for subpar. (A), and “review and assess the technological maturity”; substituted period at end for “; and”; and struck out subpar. (B) which read as follows: “submit to the Secretary of Defense and to the congressional defense committees by March 1 of each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense for which a Milestone B approval occurred during the preceding fiscal year.”

Subsec. (b)(8)(A). Pub. L. 114-92, §829(a), struck out “periodically” before “review and assess”, inserted “before the Milestone B approval for that program” after “Department of Defense”, and substituted “each major defense acquisition program” for “the major defense acquisition programs” and “such review and assessment” for “such reviews and assessments”.

Subsec. (b)(8)(B). Pub. L. 114-92, §829(b), inserted “for which a Milestone B approval occurred during the preceding fiscal year” after “Department of Defense”.

2014—Subsec. (b)(2). Pub. L. 113-291, §902(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “One of the Assistant Secretaries is the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.”

Subsec. (b)(7). Pub. L. 113-291, §901(h)(1)(D), (E), transferred section 138a(c) of this title to subsec. (b)(7) of this section, inserted it at end, and redesignated pars. (1) to (3) as subpars. (A) to (C), respectively. The redesignation was executed to reflect the probable intent of Congress, notwithstanding directory language referring to the text transferred by subparagraph (C) of section 901(h)(1) instead of subparagraph (D).

Pub. L. 113-291, §901(h)(1)(C), transferred section 138a(b) of this title to subsec. (b)(7) of this section and inserted it after first sentence.

Pub. L. 113-291, §901(h)(1)(A), (B), in first sentence, inserted “, who shall be appointed from among persons with an extensive background in the sustainment of major weapons systems and combat support equipment” after “Readiness” and struck out second sentence which read as follows: “In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Logistics and Materiel Readiness shall have the duties specified in section 138a of this title.”

Subsec. (b)(8). Pub. L. 113-291, §901(h)(2)(C)–(E), transferred section 138b(b)(1) and (2) of this title to subsec. (b)(8) of this section, inserted it at end, and realigned margins; redesignated pars. (1) and (2) as subpars. (A) and (B), respectively; in subpar. (A), struck out “The Assistant Secretary of Defense for Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, shall” before “periodically review” and substituted “; and” for period at end; and, in subpar. (B), struck out “The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall” before “submit”.

Pub. L. 113-291, §901(h)(2)(B), inserted “The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall—” after “Logistics may prescribe.”

Pub. L. 113-291, §901(h)(2)(A), inserted text of section 138b(a) of this title after first sentence of subsec. (b)(8) of this section and struck out at end: “In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Research and Engineering shall have the duties specified in section 138b of this title.”

Subsec. (b)(9). Pub. L. 113-291, §901(f), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the duties specified in section 138c of this title.”

Subsec. (b)(10). Pub. L. 113-291, §901(h)(3)(B), inserted text of section 138d(a) of this title at end of subsec. (b)(10) of this section, struck out “of Defense for Nuclear, Chemical, and Biological Defense Programs” before “shall—”, and redesignated pars. (1) to (3) as subpars. (A) to (C), respectively.

Pub. L. 113-291, §901(h)(3)(A), inserted text of section 138d(b) after first sentence of subsec. (b)(10) of this section and struck out at end: “In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall have the duties specified in section 138d of this title.”

Subsec. (d). Pub. L. 113-291, §901(j)(2)(D), which directed striking out “the Deputy Chief Management Officer of the Department of Defense,” was repealed by Pub. L. 115-91, §1081(b)(1)(A).

2013—Subsec. (c)(3). Pub. L. 112-239 transferred subsec. (c)(3), relating to responsibilities of the Assistant Secretary of Defense for Operational Energy Plans and Programs regarding alternative fuel, to section 138c(c)(3) of this title.

2012—Subsec. (a)(1). Pub. L. 112-166 substituted “14” for “16”.

Subsec. (c)(3). Pub. L. 112-81 added par. (3).

2011—Subsec. (a)(1). Pub. L. 111-383, §901(b)(4)(A)(i), substituted “16” for “12”.

Subsec. (a)(2). Pub. L. 111-383, §901(b)(4)(A)(ii), struck out subpar. (A) and subpar. (B) designation and substituted “The” for “The other”. Prior to amendment, subpar. (A) read as follows: “The Assistant Secretary of Defense referred to in subsection (b)(7) shall be appointed as provided in that subsection.”

Subsec. (b)(2) to (6). Pub. L. 111-383, §901(b)(4)(B)(i), substituted “Secretaries is” for “Secretaries shall be”.

Subsec. (b)(7). Pub. L. 111-383, §901(b)(4)(B)(ii), struck out “appointed pursuant to section 138a of this title” before period at end of first sentence.

Subsec. (b)(8) to (10). Pub. L. 111-383, §901(b)(4)(B)(iii), added pars. (8) to (10).

Subsec. (d). Pub. L. 111-383, §901(b)(4)(C), substituted “the Deputy Chief Management Officer of the Department of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Principal Deputy Under Secretaries of Defense” for “and the Director of Defense Research and Engineering”.

2009—Subsec. (a). Pub. L. 111-84, §906(b)(2)(A), added subsec. (a) and struck out former subsec. (a), which read as follows: “There are ten Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.”

Subsec. (b)(6), (7). Pub. L. 111-84, §906(b)(2)(B), added pars. (6) and (7).

2006—Subsec. (a). Pub. L. 109-364 substituted “ten” for “nine”.

2002—Subsec. (a). Pub. L. 107-314, §902(d), which directed the repeal of Pub. L. 107-107, §901(c), was executed by substituting “nine” for “eight” to reflect the probable intent of Congress. See 2001 Amendment note below.

Subsec. (b)(3). Pub. L. 107-314, §902(a), added par. (3).

Subsec. (b)(6). Pub. L. 107-314, §902(c), struck out par. (6) which read as follows:

“(6)(A) One of the Assistant Secretaries, as designated by the Secretary of Defense from among those Assistant Secretaries with responsibilities that include responsibilities related to combating terrorism, shall have, among that Assistant Secretary’s duties, the duty to provide overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism, including antiterrorism activities, counterterrorism activities, terrorism consequences management activities, and terrorism-related intelligence support activities.

“(B) The Assistant Secretary designated under subparagraph (A) shall be the principal civilian adviser to the Secretary of Defense on combating terrorism and (after the Secretary and Deputy Secretary) shall be the principal official within the senior management of the Department of Defense responsible for combating terrorism.

“(C) If the Secretary of Defense designates under subparagraph (A) an Assistant Secretary other than the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, then the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict related to combating terrorism shall be exercised subject to subparagraph (B).”

2001—Subsec. (a). Pub. L. 107-107, which substituted “eight Assistant Secretaries of Defense” for “nine Assistant Secretaries of Defense”, was repealed by Pub. L. 107-314, §902(d). See 2002 Amendment note above.

2000—Subsec. (b)(6). Pub. L. 106-398 added par. (6).

1998—Subsec. (a). Pub. L. 105-261, §901(a), substituted “nine” for “ten”.

Subsec. (b)(3). Pub. L. 105-261, §902, struck out par. (3) which read as follows:

“(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

“(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

“(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.”

1996—Subsec. (a). Pub. L. 104-106, §902(a), substituted “ten” for “eleven”.

Subsec. (b). Pub. L. 104-106, §903(a), (b), which directed the general amendment of subsec. (b), eff. Jan. 31, 1997, designating par. (1) as entire subsec. and striking out pars. (2) to (5), was repealed by Pub. L. 104-201.

Subsec. (d). Pub. L. 104-106, §903(a), (e)(2), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting “and the Under Secretaries of Defense” for “the Under Secretaries of Defense, and the Director of Defense Research and Engineering”, was repealed by Pub. L. 104-201.

1994—Subsec. (a). Pub. L. 103-337, §901(a), substituted “eleven” for “ten”.

Subsec. (d). Pub. L. 103-337, §903(b)(2), struck out “and Comptroller” after “Under Secretaries of Defense”.

1993—Pub. L. 103-160, §901(a)(1), renumbered section 136 of this title as this section.

Subsec. (a). Pub. L. 103-160, §903(c)(1), substituted “ten” for “eleven”.

Subsec. (b)(5). Pub. L. 103-160, §905, added par. (5).  
 Subsec. (d). Pub. L. 103-160, §901(c), inserted “and Comptroller” after “Under Secretaries of Defense”.

1988—Subsec. (b)(3). Pub. L. 100-453 and Pub. L. 100-456 generally amended par. (3) identically. Prior to amendment, par. (3) read as follows: “One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.”

1987—Subsec. (b)(4). Pub. L. 100-180 inserted at end “The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.”

1986—Pub. L. 99-433, §110(d)(9), struck out “: appointment; powers and duties; precedence” at end of section catchline.

Subsec. (b)(2), (3). Pub. L. 99-433, §106(a)(1), (2), redesignated pars. (4) and (5) as pars. (2) and (3), respectively, and struck out former par. (2) relating to the Assistant Secretary of Defense for Health Affairs and former par. (3) relating to the Assistant Secretary of Defense for Manpower and Logistics.

Subsec. (b)(4). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661, amended subsec. (b) identically, adding par. (4).

Pub. L. 99-433, §106(a)(2), redesignated par. (4) as (2).  
 Subsec. (b)(5). Pub. L. 99-433, §106(a)(2), redesignated par. (5) as (3).

Subsec. (b)(6). Pub. L. 99-433, §106(a)(3), struck out par. (6) relating to Comptroller of Department of Defense. See section 135 of this title.

Subsec. (c)(1). Pub. L. 99-433, §106(c)(1)(A), substituted “the Assistant Secretary” for “him”.

Subsec. (c)(2). Pub. L. 99-433, §106(c)(1)(B), struck out “, or his designee” after “concerned”.

Subsecs. (d), (e). Pub. L. 99-433, §106(b), (c)(2), (3), redesignated subsec. (e) as (d), substituted “the Under Secretaries of Defense, and the Director of Defense Research and Engineering” for “and the Under Secretaries of Defense”, inserted sentence directing that the Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense, and struck out former subsec. (d) which directed the Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department to cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

1983—Subsec. (a). Pub. L. 98-94, §1212(a)(1), substituted “eleven” for “seven”.

Subsec. (b)(1). Pub. L. 98-94, §1212(a)(2)(A), designated existing first sentence as par. (1).

Subsec. (b)(2). Pub. L. 98-94, §1212(a)(2)(B), designated existing second and third sentences as par. (2).

Subsec. (b)(3). Pub. L. 98-94, §1212(a)(2)(C), (D), designated existing fourth and fifth sentences as par. (3) and substituted “Logistics” for “Reserve Affairs” and “logistics” for “reserve component”.

Subsec. (b)(4), (5). Pub. L. 98-94, §1212(a)(2)(E), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 98-94, §1212(a)(2)(F), designated existing sixth sentence as par. (6), substituted “One of the Assistant Secretaries” for “In addition, one of the Assistant Secretaries”, redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, redesignated former subpars. (A) to (D) as cls. (1) to (4), respectively, and in subpar. (E) substituted “clauses (A) through (D)” for “clauses (1)–(4)”.

Subsec. (f). Pub. L. 98-94, §1212(a)(3), struck out subsec. (f) which provided for appointment of a Deputy Assistant Secretary of Defense for Reserve Affairs within the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs. See subsec. (b)(4) of this section.

1979—Subsec. (a). Pub. L. 96-107 substituted “seven” for “nine”.

1977—Subsec. (e). Pub. L. 95-140 inserted “of Defense” after “Secretary” and substituted “Secretary of Defense” for “Secretaries of Defense” and “, and the Under Secretaries of Defense” for “, and the Director of Defense Research and Engineering”.

1972—Subsec. (e). Pub. L. 92-596 substituted “Deputy Secretaries” for “Deputy Secretary”.

1971—Subsec. (a). Pub. L. 92-215 substituted “nine” for “eight”.

1969—Subsec. (a). Pub. L. 91-121, §404(a)(1), substituted “eight” for “seven”.

Subsec. (b). Pub. L. 91-121, §404(a)(2), provided for an Assistant Secretary of Defense for Health Affairs having as his principal duty the overall supervision of health affairs of Department of Defense.

1967—Subsec. (b). Pub. L. 90-168, §2(1), inserted provisions for an Assistant Secretary of Defense for Manpower and Reserve Affairs with principal duty of overall supervision of manpower and reserve component affairs of Department of Defense.

Subsec. (f). Pub. L. 90-168, §2(2), added subsec. (f).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(D) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113-291, which was Feb. 1, 2017, was repealed by Pub. L. 115-91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title XII, §1212(e), Sept. 24, 1983, 97 Stat. 687, provided that: “The amendments made by this section [amending this section, sections 175, 3013, and 5034 of this title, and section 5315 of Title 5, Government Organization and Employees] shall take effect on October 1, 1983.”

#### EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90-168, §7, Dec. 1, 1967, 81 Stat. 526, provided that: “The provisions of this Act [see Short Title of 1967 Amendment note below] shall become effective on the first day of the first calendar month following the date of enactment [Dec. 1, 1967].”

#### SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-168, §1, Dec. 1, 1967, 81 Stat. 521, provided: “That this Act [amending this section, sections 175, 262, 264, 268, 269, 270, 511 [now 12103], 3014, 5034, 8014, and 8850 of this title, section 502 of Title 32, National Guard, and section 404 of Title 37, Pay and Allowances of the Uniformed Services, enacting sections 3021 [now 10302], 3038, 8021 [now 10305], and 8038 of this title, enacting provisions set out as notes under this section and section 8212 of this title, and amending provisions set out as a note under section 113 of this title] may be cited

as the ‘Reserve Forces Bill of Rights and Vitalization Act.’”

DEADLINE FOR COMPLETION OF FULL IMPLEMENTATION OF REQUIREMENTS IN CONNECTION WITH ORGANIZATION OF THE DEPARTMENT OF DEFENSE FOR MANAGEMENT OF SPECIAL OPERATIONS FORCES AND SPECIAL OPERATIONS

Pub. L. 115-232, div. A, title IX, §917, Aug. 13, 2018, 132 Stat. 1925, provided that: “The Secretary of Defense shall ensure that the implementation of section 922 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2354) [enacting section 139b of this title and amending this section and section 167 of this title] and the amendments made by that section is fully complete by not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018].”

LIMITATION ON MAXIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES OF DEFENSE

Pub. L. 115-91, div. A, title IX, §908, Dec. 12, 2017, 131 Stat. 1514, provided that: “The maximum number of Deputy Assistant Secretaries of Defense after the date of the enactment of this Act [Dec. 12, 2017] may not exceed 48.”

REDESIGNATION OF ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS

Pub. L. 113-291, div. A, title IX, §902(a)(1), Dec. 19, 2014, 128 Stat. 3469, provided that: “The position of Assistant Secretary of Defense for Reserve Affairs is hereby redesignated as the Assistant Secretary of Defense for Manpower and Reserve Affairs. The individual serving in that position on the day before the date of the enactment of this Act [Dec. 19, 2014] may continue in office after that date without further appointment.”

DECREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Pub. L. 112-166, §2(c)(1)(B)–(D), Aug. 10, 2012, 126 Stat. 1283, provided that:

“(B) ADMINISTRATION OF REDUCTION.—The Assistant Secretary of Defense positions eliminated in accordance with the reduction in numbers required by the amendment made by subparagraph (A) [amending this section] shall be—

“(i) the Assistant Secretary of Defense for Networks and Information Integration; and

“(ii) the Assistant Secretary of Defense for Public Affairs.

“(C) CONTINUED SERVICE OF INCUMBENTS.—Notwithstanding the requirements of this paragraph, any individual serving in a position described under subparagraph (B) on the date of the enactment of this Act [Aug. 10, 2012] may continue to serve in such position without regard to the limitation imposed by the amendment in subparagraph (A).

“(D) PLAN FOR SUCCESSOR POSITIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to the congressional defense committees on his plan for successor positions, not subject to Senate confirmation, for the positions eliminated in accordance with the requirements of this paragraph.”

CHARTER OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Pub. L. 100-180, div. A, title XII, §1211(a)(2)–(5), Dec. 4, 1987, 101 Stat. 1154, 1155, provided that:

“(2) The Secretary of Defense shall publish a directive setting forth the charter of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987]. The directive shall set forth—

“(A) the duties and responsibilities of the Assistant Secretary;

“(B) the relationships between the Assistant Secretary and other Department of Defense officials;

“(C) any delegation of authority from the Secretary of Defense to the Assistant Secretary; and

“(D) such other matters as the Secretary considers appropriate.

“(3) On the date that such directive is published, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

“(A) a copy of the directive; and

“(B) a report explaining how the charter of the Assistant Secretary fulfills the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), that provide that the Assistant Secretary—

“(i) exercises overall supervision of special operations activities and low intensity conflict activities of the Department of Defense;

“(ii) is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters; and

“(iii) is the principal special operations and low intensity conflict official (after the Secretary and Deputy Secretary) within the senior management of the Department of Defense.

“(4)(A) Until the office of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict is filled for the first time by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of the Army shall carry out the duties and responsibilities of that office.

“(B) Throughout the period of time during which the Secretary of the Army is carrying out the duties and responsibilities of that office, he shall submit to the Committees on Armed Services of the Senate and House of Representatives a monthly report on the administrative actions that he has taken and the policy guidance that he has issued to carry out such duties and responsibilities. Each such report shall also describe the actions that he intends to take and the guidance that he intends to issue to fulfill the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), along with a timetable for completion of such actions and issuance of such guidance. The first such report shall be submitted not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987].

“(5) Until the first individual appointed to the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict by the President, by and with the advice and consent of the Senate, leaves that office, that Assistant Secretary (and the Secretary of the Army when carrying out the duties and responsibilities of the Assistant Secretary) shall, with respect to the duties and responsibilities of that office, report directly, without intervening review or approval, to the Secretary of Defense personally or, as designated by the Secretary, to the Deputy Secretary of Defense personally.”

TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Pub. L. 100-180, div. A, title XIII, §1311, Dec. 4, 1987, 101 Stat. 1174, provided that until Jan. 20, 1989, the number of Assistant Secretaries of Defense authorized under subsec. (a) of this section and the number of positions at level IV of the Executive Schedule are each increased by one (to a total of 12).

**[§§ 138a, 138b. Repealed. Pub. L. 113-291, div. A, title IX, §901(h)(4), Dec. 19, 2014, 128 Stat. 3467]**

Section 138a, added Pub. L. 106-65, div. A, title IX, §911(b)(1), Oct. 5, 1999, 113 Stat. 718, §133b; renumbered §138a and amended Pub. L. 111-84, div. A, title IX, §906(b)(1), (c)(2)(D), Oct. 28, 2009, 123 Stat. 2426, 2427; Pub. L. 111-383, div. A, title IX, §901(b)(5), Jan. 7, 2011,